YEARBOOK
ON
HUMAN RIGHTS
FOR 1955

UNITED NATIONS, NEW YORK, 1957

UNITED NATIONS PUBLICATION
Sales No.: 1958. XIV. 1

Price: $ (U.S.) 4.50; 32/– stg.; Swiss francs 19.50
(or equivalent in other currencies)

CONTENTS

PART III

INTERNATIONAL INSTRUMENTS

PART IV

A. THE UNITED NATIONS AND HUMAN RIGHTS

INTRODUCTION

In this tenth volume, the *Yearbook on Human Rights* has again four parts, entitled "States", "Trust and Non-Self-Governing Territories", "International Instruments" and "The United Nations and Human Rights". Part I surveys constitutional, legislative and judicial developments relating to human rights in seventy-eight States, and Part II similar events in various Trust and Non-Self-Governing Territories under the administration of eight States. The remaining parts include activities of the United Nations, the International Labour Organisation, the Organization of American States and the Council of Europe, and a report upon the judgement of the International Court of Justice in the *Nottebohm Case* (Liechtenstein *v.* Guatemala), which concerns aspects of the right to nationality. A new feature in Part III is a tabulation giving certain information concerning twenty-nine selected multilateral instruments adopted in or since 1946, and bearing on human rights; the States which had become parties to each instrument up to the end of 1954 and the States which became parties during 1955 are identified, and it is recorded whether the instrument was in force by the end of 1955 and, if so, when it entered into force.

The Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948 [1] continues to be the basis of selection of material for inclusion in the *Yearbook*. Once again, governments and correspondents have had this in mind in preparing their contributions, and some have related developments in their countries to various articles of the Declaration. Further instances of the impact of the Declaration upon national and international events are recorded in the present volume. In addition to being cited in a number of resolutions of the United Nations General Assembly and Economic and Social Council, the Declaration was referred to in the judgement of the Court of First Instance of Courtrai, Belgium, of 14 July 1955, in a case involving the freedom to change one's nationality; in legislative decree No. 3937, of 20 January 1955, of Bolivia, according to which national education in that country was to be inspired by the Declaration; in the report of a commission of experts for the study of the question of the application of humanitarian principles in the event of internal disturbances, convened by the International Committee of the Red Cross, which met in Geneva from 3 to 8 October 1955; in the Final Communiqué of the Asian-African Conference, Bandung, Indonesia, 18 to 24 April 1955; and in the Franco-Tunisian General Convention and Franco-Tunisian Convention on the Status of Individuals, both signed in Paris on 3 June 1955, in the former of which Tunisia undertook to grant to all persons resident in its territory the rights and personal guarantees proclaimed in the Declaration, and both of which elaborated upon the implications of this undertaking. The Declaration was also cited by Judge *ad hoc* Guggenheim in a dissenting opinion in the *Nottebohm Case*. The preamble to legislative decree No. 1664, of 22 October 1955, of Argentina affirmed that provisions purporting to deprive anyone of his nationality as a measure of political persecution were contrary to human rights as proclaimed by the General Assembly of the United Nations.

No attempt will be made in the present introduction to review the whole content of this volume, but mention may be made at the outset of constitutional changes bearing on human rights and of some other developments of a more general interest from the human rights point of view. Certain articles of the State Treaty for the Re-establishment of an Independent and Democratic Austria, dated 15 May 1955, contain provisions concerning human rights. New or revised constitutions were adopted in 1955 in the Dominican Republic and Ethiopia, and with the establishment of constitutions for the Netherlands Antilles and Surinam, their territorial laws were brought into conformity with the new constitutional order set up by the Charter for the Kingdom of the Netherlands.[2] Other constitutional changes dealt with in this *Yearbook* took place in Austria, Ceylon (1954), India, Nicaragua and Peru and in the following Trust or Non-Self-Governing Territories: the Trust Territory of Togoland under French administration, the Trust Territory of Somaliland, the Trust Territory of Tanganyika, Aden Colony, Gold Coast (now the independent State of Ghana), Nyasaland and Singapore. The Act to Confirm the Administration of New Guinea Decree also included a number of human rights provisions. In the Trust Territory of Togoland under British administration, an order-in-council of 1955 made arrangements for the holding of a plebiscite to ascertain which

[1] See the text in *Yearbook on Human Rights for 1948*, pp. 446–8.

[2] See *Yearbook on Human Rights for 1954*, pp. 209–11.

of two alternatives would be preferred by the people of the territory upon the relinquishment by the United Kingdom of responsibility for the Gold Coast; the order-in-council included a definition of the persons entitled to take part in the plebiscite, and also provided for the possibility of lodging petitions in the event of disputes concerning the results of the voting.

Particular mention may also be made of the Civil Liberties Act, 1955, of Nepal, which concerned a wide range of human rights and freedoms. Of more general codifications made in 1955 reference may be made to legislative decree No. 50: Charter of Labour Guarantees, of Honduras, and the Criminal Procedure Act, 1955, of the Union of South Africa.

In addition, it has been thought that it may be useful, as in the 1954 *Yearbook*, to draw attention to the guidance offered by the contents of the present volume in the solution of some of the problems faced by States in the protection of human rights. It is generally recognized that the rights of one individual or group may require limitation in the interests of the protection of the rights of other individuals or groups, and the remainder of the present introduction is devoted to a brief examination of some of the techniques adopted, principally in 1955, in the attempt to make the necessary adjustments in some of the main areas in which conflicts of rights or interests arise. These adjustments of rights are frequently re-made as attitudes change, and the problems which this process poses arise in most — if not all — States, and some are not essentially affected by the adoption of one or other of the principal prevailing political, social or economic systems. This is one reason why this topic has been thought appropriate for treatment; another is the fact that the year 1955 saw some particularly interesting developments in areas where these problems arise. It may be added that relationships of the community in general with individuals or groups are necessarily excluded from the present discussion, except to the extent that the community is the source of legislative and judicial power.

Problems of the type to be discussed arise in particular in relation to the right to freedom of opinion and expression, the exercise of which by one person may conflict with the right of another to privacy, or to honour and reputation, or with his rights in literary, artistic or scientific work of his creation, or with the rights of children to a special social protection, or with the right of an accused to a fair trial. Examples of approaches to the solution of some of these problems are mentioned in pages xvi–xvii of the introduction to the 1954 *Yearbook*.

To what is said in those pages concerning the protection of privacy it may be added that in Egypt Act No. 97, of 2 March 1955, amended the Criminal Code so as to punish the causing of a nuisance to an individual by telephone, and that Act No. 98 of the same date provided that, if there is a strong presumption that a particular telephone has been used for such nuisance, it may, at the request of the victim, be placed under surveillance.

Articles 64(5) and 386 of the Criminal Procedure Act, 1955, of the Union of South Africa, placed certain restrictions on the publication by radio or in any document of information relating to preparatory examinations or trials involving certain offences against or in connexion with persons, without the consent of the magistrate, judge or presiding officer, after his having consulted the person in question or, in the case of a child, the guardian; and the laws of some countries have forbidden or restricted the reporting of evidence in certain types of cases, including affiliation, divorce, separation or maintenance proceedings, trials for abortion and actions for defamation. These various provisions may operate to protect the right to privacy or the right to honour and reputation against unwarranted publicity.

The present volume contains examples of the protection of the right to honour and reputation against what has been regarded in the legislation or jurisprudence in question as abuse of the right to freedom of opinion and expression, in several connexions: in the press, in electoral propaganda, in the field of entertainment, and in purely personal relationships. Articles 20–21 of Act No. 443–9512, of 15 August 1955, of Iran, concerning the press, provided for the prosecution of attacks upon the honour and reputation of individuals, while article 12 of Act No. 460 on the press, of the Saar, which entered into force on 23 July 1955, forbade the press to publish any report concerning the private life of an individual and tending to damage his reputation, unless the particulars affected the public interest. Decree No. 2783, of 5 October 1955, of Ecuador, which put new electoral provisions into force, included in its article 53 provision for the protection of private persons, among others, against abuse in written electoral propaganda, while article 61 prohibited any electoral propaganda involving abuse of candidates or their supporters. Article 14 of regulation No. 995 concerning public entertainments and radio broadcasts of 13 July 1955, of the Dominican Republic, forbade performers in public entertainments to make remarks regarding, or expressly addressed to, a member of the audience in a manner capable of bringing him into ridicule or of prejudicing his good repute; article 61 prohibited the broadcasting by radio of any remarks affecting the reputation and good name of

persons. In the case of *Benni* v. *the Attorney-General*, the Supreme Court of Israel, sitting as Court of Criminal Appeal, on 15 March 1955 upheld the conviction on a charge of threatening injury to reputation of a man who had threatened a woman that, unless she paid him a sum of money, he would tell her husband that she had committed adultery.

Means of adjusting disputes in this sphere include, in addition to civil or criminal procedures, the exercise of the right of reply or correction. According to the laws of a considerable number of countries, a newspaper or other periodical may be compelled to insert free of charge a reply to, or a correction of, material having appeared in it, on the request of a person entitled by law to make such a request (usually the person referred to in the original item). An analysis of laws on the right of reply or correction has appeared in a study by the Secretary-General entitled "Legal Aspects of the Rights and Responsibilities of the Media of Information" (*United Nations Economic and Social Council, Official Records, nineteenth session, Annexes*, agenda item 15, document E/2698), paragraphs 177–207, 266–7 and 284. Examples of this type of provision quoted in the present *Yearbook* are article 9 of Act No. 443 — 9512, of 15 August 1955 on the press, of Iran, and article 13 of Act No. 460 on the press, of the Saar. Citing article 10 (on the right to freedom of expression) of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950,[1] the Land Court of Mannheim, Federal Republic of Germany, decided on 12 August 1955 that a civil action can be brought under the Act on freedom of the press, of 1 April 1949, of Württemberg-Baden to enforce publication in a newspaper or periodical of a reply by a person attacked therein.

A person's right to freedom of opinion and expression is also limited in practice by laws relating to copyright, the purpose of which is to protect the rights of authors in literary, artistic or scientific work of their creation. The regulation of this conflict of rights is the subject not only of a considerable body of national legislation, but also of a number of multilateral and bilateral agreements between States.[2] Indexed under the heading "Authors', Inventors' and Performers' Rights, Protection of" the present *Yearbook* contains a number of references to relevant national legal developments, including action specifically applying one or other of the international agreements just mentioned. The Universal Copyright Convention, adopted on 6 September 1952 by the Inter-Governmental Copyright Conference, convened jointly by UNESCO and the Swiss Government,[3] entered into force in 1955.

The definition of the extent of an author's rights over his own creations becomes increasingly complex as the means of communication become more diverse. In Switzerland, a federal Act of 24 June 1955 substituted a more elaborate definition of copyright for that previously contained in the federal Act of 7 December 1922 on the rights of authors of literary and artistic works. Aspects of the meaning of copyright are also illustrated in Act No. 2415, of 9 February 1955, of Brazil. In a decision of 17 January 1955, the Italian Court of Cassation confirmed the decision of the Florence Court of Appeal of 12 August 1953 — dealt with on pages 172–3 of the 1954 *Yearbook* — though on different grounds. The case concerned the rights of a person who had translated a play but could not prove having secured permission of the author to publish the translation, and whose work was used by another person in the making of a translation of the play which he then published. In a case described on page 106 of the 1954 *Yearbook*, the Federal Court of Justice of the Federal Republic of Germany laid down that personal papers of a confidential nature were entitled to the same kind of protection as copyright works.

Of relevance to the means of protection of copyright is decree No. 199, of 20 May 1955, of Romania, which included disputes concerning the payment of copyright charges amongst the types of legal action which it rendered exempt from the payment of stamp duties. In many jurisdictions, violation of copyright is a possible subject for either civil or criminal proceedings.

Most of the provisions limiting the right to freedom of opinion and expression in the light of the right of children to special social protection are so worded as to protect children as a group, usually so as to guard them against undesirable influences in publications which may fall into their hands.

Such legislation, in so far as it concerns publications, has had to attempt the difficult task of defining at least in general terms the types of publication, or of items in publications, which are to be regarded as illegal, and of doing so without unduly restricting freedom of expression, or the

---

[1] See *Yearbook on Human Rights for 1950*, pp. 420–6.

[2] See *Copyright Laws and Treaties of the World*, prepared by the secretariat of UNESCO in collaboration with the United States Copyright Office and the Industrial Property Department of the United Kingdom Board of Trade and published by UNESCO.

[3] See *Yearbook on Human Rights for 1952*, pp. 398–403.

access of the public to news and published opinion.[1] The problem of interpreting the law, and of deciding in individual cases what is permissible and what is not, is sometimes left to the courts, or it may be made the function, at least in the first instance, of special administrative or other machinery.

An example of the first approach is the Children and Young Persons (Harmful Publications) Act, 1955, of the United Kingdom.[2] An example of the second is the Colombian decree No. 0609, of 11 March 1955, on the protection of the moral and mental health of Colombian children, which provided for the appointment of a board for the purpose of periodically certifying the nature and contents of all literary or illustrated publications intended for children or adolescents and of examining applications for registration under the decree, without which no children's periodical could be imported or freely sold in Colombia. The Objectionable Literature Act of 1954 of Queensland, Australia, and the Objectionable Publications Act, 1954, of Tasmania, Australia (which were not limited in their application to children's publications) [3] empowered boards of review to prohibit the distribution in the state in question of certain types of publications which were, in the opinion of the board of the state, objectionable within the meaning of the Acts. Appeal to a court of law was provided for in the Queensland law. Under Act No. 4033, of 13 January 1955, regulating the circulation of magazines and publications for children and adolescents, of the Dominican Republic,[4] such magazines and publications, whether published in the Dominican Republic or abroad, had to be authorized for circulation by a National Commission for Children's and Juvenile Literature which was to apply the standards laid down in the Act. In Spain, the decree of 24 January 1955 to enact regulations governing children's and juvenile publications [4] established an advisory board for children's publications whose functions were to include reporting upon applications for authorizations relating to new children's publications and to the circulation of foreign publications and preparing draft rules and instructions concerning such publications.[5]

The correspondent of France has drawn attention to two laws of 1955 in connexion with the protection of the moral health of young people. Act. No. 55-1054, of 6 August 1955, made it an offence to exhibit on the public highway or in public places any pictorial representations repugnant to public decency. Act No. 55-1552, of 28 November 1955, made it unlawful to publish in the press, in newsreels, or over the radio any information or photographs disclosing the identity of minors having either run away from home or committed suicide. The correspondent points out that the reason for the second Act was that the publication of particulars of such occurrences tended to have a contagious psychological effect.

Laws of some countries have also restricted the activities of cinematographic, radio or television enterprises in the interests of children. It is quite common for an official authority to have the function of deciding whether films are suitable for display to persons below a certain age, or whether they are suitable for display to such persons when not accompanied by an adult: display in violation of these decisions usually makes the violator liable to criminal sanctionsor withdrawal of licence to exhibit, or both.[6]

---

[1] For instances of such laws additional to those described in the following paragraphs, see the Austrian federal Act, of 31 March 1950, concerning the suppression of obscene publications and the protection of young persons against moral danger (*Yearbook on Human Rights for 1950*, pp. 25–27), the ordinance of 15 September 1955 for the protection of youth, of the German Democratic Republic (described in this *Yearbook*), the Italian Act No. 47, of 8 February 1948, on provisions regarding the press (*Yearbook on Human Rights for 1948*, p. 120) and the Yugoslav law on the press, of 8 July 1946 (*Yearbook on Human Rights for 1947*, p. 362).

[2] This Act is briefly described in the present *Yearbook*, and a full summary appears in *International Review of Criminal Policy*, No. 10, of July 1956 (United Nations publication, Sales No.: 1957. IV. 2).

[3] The Act of Tasmania is dealt with in the present *Yearbook* and that of Queensland in *Yearbook on Human Rights for 1954*, p. 9.

[4] Summarized in *International Review of Criminal Policy*, No. 10, of July 1956 (United Nations publication, Sales No.: 1957. IV. 2).

[5] Attention is also drawn to the powers of the committee whose establishment was envisaged by the French Juvenile Publications Act, of 16 July 1949, the decree of 1 February 1950, and the orders of 4 February 1950 implementing the Act (*Yearbook on Human Rights for 1949*, pp. 70–2, and *for 1950*, p. 89), of the supervisory and control committees to be established under the Juvenile Publications Act as extended to the Overseas Territories (*Yearbook on Human Rights for 1954*, p. 331), of the Federal Censorship Bureau under the Act of 9 June 1953 of the Federal Republic of Germany (*Yearbook on Human Rights for 1953*, pp. 99–100), of the Land Review Board to Combat Obscene Matter under Act No. 378, of 7 July 1953 concerning protection of youth from obscene matter, of the Saar (*Yearbook on Human Rights for 1953*, pp. 243–4) and of the Ministry of Education of the People's Republic of Yugoslavia under the Yugoslav law of 1 April 1947 on the publication and distribution of literature and printed matter for young persons and children (*Yearbook on Human Rights for 1947*, p. 365).

[6] See, for instance, legislative decree No. 168, of 4 July 1953, of Chile (*Yearbook on Human Rights for 1953*, pp. 50–1).

Regulation No. 995, of 13 July 1955, for the regulation of public entertainments and radio broadcasts, of the Dominican Republic, provided in its article 37 against the showing to children under sixteen of previews, portions or shortened versions of films not themselves approved for such minors. The same regulation, in its article 87, provided that television programmes which show scenes, situations, titles, or dialogue capable of perverting the morals of children, and programmes the details, dances or subject of which set before the children a pernicious example or an experience unsuited to their age, may not be televised until after 9 p.m.

To be distinguished from these provisions protecting children as a group are certain enactments aimed at protecting the specific child in relation to whom the exercise of the right to freedom of opinion and expression may be harmful. Section 6 of the Law of Evidence Revision (Protection of Children) Act, of 7 June 1955, of Israel, made it an offence to publish anything calculated to reveal the identity of a child who has been examined as to an offence against morality or has testified in connexion with such an offence before a court, save with the permission of the court. The Protection of Children Act, 1955, of Burma, empowered the courts to restrict attendance at and reporting on trials involving children. In Turkey, Act No. 6550, of 4 May 1955, amending article 33 of Act No. 5680 on the press, made it an offence to publish news and photographs revealing the identity of victims of a number of offences, including corruption of minors.[1]

Conflicts between the right to a fair trial and the right to seek, receive and impart information or comment concerning trials may also arise in connexion with judicial proceedings. For example, some laws prohibit the publication of some types of material before a certain stage has been reached in the proceedings.[2]

In general, public trial is usually regarded as contributing to the guarantee to an accused of a fair trial. To the extent that this involves publication of the proceedings, however, the law sometimes limits the rights of the accused in the interests of persons involved in an offence other than the accused, as in the above-mentioned provisions of the Criminal Procedure Act, 1955, of the Union of South Africa, and the Law of Evidence Revision (Protection of Children) Act, 1955, of Israel. In its section 156 (4), the former further permitted the general public to be excluded from trials at the request of the alleged victims of certain offences under trial.

The general right of a member of the public to seek and receive information, with specific reference to judicial proceedings, is limited by the various provisions permitting or requiring proceedings to be held behind closed doors in the interests of juvenile accused or witnesses or where a case involves certain types of offences; an example is section 156 (4) of the Criminal Procedure Act, 1955, of the Union of South Africa. It is also limited by legislation existing in many countries forbidding or limiting the taking of photographs or sound recordings in the court room or the broadcasting of trials.

Attention is now turned away from problems involved in the exercise of freedom of opinion and expression and towards certain aspects of adoption and guardianship of children. The application of laws concerning adoption and guardianship may involve consideration of the interests of several parties — namely, the child and the adults having conflicting claims in the matter.[3]

The Government of New Zealand has pointed out that the general purpose of the Adoption Act, 1955, of that country is the greater protection of the adopted child side by side with attention to the rights of the adopting and the natural parents. In the case of *A.* v. *C. S. (1955)*, the Supreme Court of Victoria, Australia, stressed the interest of the mother of a child whose consent to the adoption of her child had been dispensed with on the ground that, according to medical evidence, she was at the time mentally incapable of giving her consent and was unlikely to recover her sanity; the court held that she, or someone on her behalf, should have been heard before the adoption was

---

[1] See also article 14 of Act No. 51–687, dated 24 May 1951, of France, amending the Ordinance of 2 February 1945 on juvenile delinquency (*Yearbook on Human Rights for 1951*, p. 96), the Children and Young Persons Act, 1933, of the United Kingdom (*Yearbook on Human Rights for 1946*, p. 320) and article 434 of the Criminal Procedure Code of Yugoslavia, which entered into force in January 1954 (*Yearbook on Human Rights for 1954*, p. 308).

[2] See, for instance, the Press Decree No. 24, of 1954, of Iraq, article 22 (*Yearbook on Human Rights for 1954*, p. 154).

[3] In addition to the developments of 1955 described in the paragraphs that follow, see decision TAI/SHANG/323 of 1954 of the Supreme Court of the Republic of China (*Yearbook on Human Rights for 1954*, p. 56), the case In re *O'Brien, an infant*, decided upon by the Supreme Court of Justice of Ireland on 3 February 1953 (*Yearbook on Human Rights for 1953*, p. 146), article 66 of the Family Code of Romania (*Yearbook on Human Rights for 1954*, p. 243), and two Swedish cases of 1953 reported on in *Yearbook on Human Rights for 1953*, p. 254, and *for 1954*, pp. 252–3. On adoption, see also *Study on Adoption of Children* (United Nations publication, Sales No.: 1953. IV. 19) and *Comparative Analysis of Adoption Laws* (United Nations publication, Sales No.: 1956. IV. 5).

approved. Act No. 1065, of 9 November 1955, of Italy had the effect of strengthening the claim of persons having adopted foundlings, in the event of claim to parental authority by the natural father. In the case of *Hershkovitz* v. *Grinberger*, the Supreme Court of Israel sitting as Court of Appeal held that the paramount consideration in cases of adoption, as in all cases concerning the custody of or guardianship over infants, is the welfare of the child; and only where the best interests of the infant are equally well safeguarded when in the custody of a stranger or when in the custody of a relative is the relative to be preferred. The Supreme Court held further that cases like the present should not be decided simply upon the weight of the evidence produced by the parties; the orphan in question had become a ward of the court and the court should if necessary make its own inquiries.

In two guardianship cases decided in 1955, the Supreme Courts of Israel and New Zealand decided, in the interests of the children in question, to place guardianship in the hands of a person other than a surviving parent. In *Steiner* v. *Attorney-General*, the Supreme Court of Israel sitting as Court of Appeal held that, while the Equal Rights of Women Act, 1951, provides that father and mother jointly are the natural guardians of their infant children, and that, in the event of the death of either of them, the survivor remains natural guardian, it also lays down that the court may nevertheless determine any matter concerning the guardianship of infants, taking into consideration only the welfare of the infant. The court reiterated that when the welfare of the child collides with a right of guardianship the former must prevail. In *Miller et Uxor* v. *Pickens*, the Supreme Court of New Zealand exercised its equitable jurisdiction to act for the protection of infants, and treated as a mere presumption a statutory provision that, on the death of an infant's father, the mother shall be the guardian. The court appointed a person other than the mother to be guardian in the present case.

Finally, attention is turned to several areas in which problems of discrimination or segregation arise out of relations between individuals, or between business enterprises or trade unions and individuals, and where the law in many countries is in a state of evolution as a result of changing social attitudes. In these areas the claim to certain freedoms in the sphere of economic activities — including the provision of paid employment, the provision of accommodation and services to the general public for profit and the disposal of one's property — is regulated in the interest of the right to work, the right to just and favourable remuneration, the right to an adequate standard of living, and the over-all right not to suffer discrimination.

The claim of an employer to freedom in his choice of employees is sometimes limited on behalf of certain defined groups (for instance, disabled persons), and also sometimes in the sense that discrimination on certain grounds is prohibited. The second limitation is sometimes furthered by the inclusion of appropriate provisions in government contracts,[1] but some laws apply it generally.

The Fair Employment Practices Act, 1955, of Nova Scotia, Canada, made it illegal for a person or organization employing five or more employees for purposes of private profit to refuse to employ or to continue to employ, or otherwise discriminate against, any person in regard to employment or any term or condition of employment because of his race, national origin, colour or religion, and contained various other provisions aimed at preventing discrimination in regard to employment on the grounds stated. The Act also set up machinery for the receipt and investigation of alleged violations of its provisions and for the making by the Minister of Labour of orders arising out of such investigations.[2] During 1955, laws designed to prevent discrimination in employment on account of race, colour, religion or national origin were enacted in three further states[3] of the United States of America: Michigan, Minnesota and Pennsylvania. Under these laws, fair employment practices commissions were empowered to make orders, enforceable in the courts, requiring private employers with a certain minimum number of employees to take action, including the hiring, reinstatement or upgrading of an employee, where discrimination has been practised.[4]

---

[1] Examples in Canadian and United States federal experience are described in, respectively, *Yearbook on Human Rights for 1952*, pp. 19 and 22, and *Yearbook on Human Rights for 1951*, p. 374.

[2] Elsewhere in Canada, similar provisions were contained in the Fair Employment Practices Acts adopted in 1951 and 1953 in Ontario and Manitoba respectively (*Yearbook on Human Rights for 1951*, pp. 37 and 38–9 and *for 1953*, p. 39). See also section 8 of the Bill of Rights Act, 1947, of Saskatchewan, Canada (*Yearbook on Human Rights for 1947*, p. 73) and the Canada Fair Employment Practices Act, 1953 (*Yearbook on Human Rights for 1953*, pp. 38 and 41–3).

[3] See also *Yearbook on Human Rights for 1947*, pp. 345–6 and 348; *for 1948*, p. 244; *for 1949*, p. 238; *for 1950*, p. 335; *for 1951*, p. 374; *for 1952*, p. 312; and *for 1953*, p. 291.

[4] See also Act No. 1390, of 3 July 1951, of Brazil (*Yearbook on Human Rights for 1951*, p. 26), article 3 of the Labour Standards Act, of 5 April 1947 of Japan (*Yearbook on Human Rights for 1953*, p. 171) and article 5 of the Labour Standards Act, of 15 May 1953, of Korea (*Yearbook on Human Rights for 1953*, p. 179).

The Employment Service Act, 1955, of Malta, forbade an employer to refuse to engage an applicant submitted to him by the employment service operated under the Act on the grounds of the applicant's being a member of a trade union.[1]

The movement towards the payment of equal remuneration to men and women for work of equal value constitutes a further limitation upon the freedom of action of employers in the economic sphere. By the end of 1955, ten States had ratified the Equal Remuneration Convention, 1951, of the ILO,[2] which entered into force on 23 May 1953. In 1955, resolutions on equal remuneration were adopted by the United Nations Economic and Social Council, the Textiles Committee of the ILO and the Inter-American Commission of Women. Legislative decree No. 50: Charter of Labour Guarantees, of 16 February 1955, of Honduras, laid down the right to equal pay for equal work performed in identical conditions, while the adoption of equal pay laws by the states of Arkansas, Colorado and Oregon brought to seventeen the total number of jurisdictions of the United States of America having laws prohibiting wage differentials based on sex. In the Federal Republic of Germany, wage agreements inconsistent with the right of men and women to equal pay for equal work were declared unconstitutional in 1955.

Legislation in a number of jurisdictions has rendered it unlawful for persons offering various types of accommodation or service to the general public for profit to withhold them from certain groups.

The Untouchability (Offences) Act, 1955, of India, made it an offence to enforce against any person, on the grounds of "untouchability", any disability with regard to access to any shop, public restaurant, hotel or place of public entertainment, or the use of, or access to, any public conveyance; or, on the grounds of "untouchability", to refuse to sell any goods or to render any service to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business. In addition to the imposition of fines or imprisonment, or both, the courts were empowered to cancel or suspend any licence in respect of any profession, trade, calling or employment when the offence of refusal to sell goods or render services has been committed in relation to such profession, trade, calling or employment. When any act constituting an offence under the Act is committed in relation to a member of a scheduled caste as defined in clause 24 of article 366 of the Constitution, the court was to presume, unless the contrary was proved, that such an act was committed on the grounds of "untouchability".[3]

In 1955, the United States Interstate Commerce Commission promulgated orders under the Interstate Commerce Act putting an end to racial segregation on interstate trains and buses and in public waiting rooms servicing such traffic. This is the instance most recently reported in the *Yearbook* of legislation adopted in various jurisdictions of the United States aimed at preventing the practice of discrimination or segregation on various grounds when extending accommodations or services to the public.[4]

In some countries, owners of real property do not have an unlimited right of freedom of choice of tenants. The Untouchability (Offences) Act, 1955, of India, made it an offence to boycott any person by reason of his having exercised any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution; boycotting was so defined as to include the refusal to let to any such person any house or land or refusal to do so on the terms on which such letting would commonly be done in the ordinary course of business.[5]

---

[1] See also section 8 of the Labor Management Relations Act, 1947, of the United States (*Yearbook on Human Rights for 1947*, pp. 329 and 336). In 1950, Puerto Rico adopted legislation against discrimination in employment because of political affiliation (*Yearbook on Human Rights for 1950*, p. 335).

[2] See *Yearbook on Human Rights for 1951*, pp. 469–70.

[3] See also article 15 (2), (3) and (4) of the Constitution of India as amended by the Constitution (First Amendment) Act, 1951 (*Yearbook on Human Rights for 1951*, p. 147).

[4] See also *Yearbook on Human Rights for 1949*, pp. 239 and 243 (Connecticut); *for 1950*, p. 332 (Massachusetts and the Virgin Islands, and Supreme Court interpretation of the Interstate Commerce Act); *for 1951*, p. 376 (Wisconsin); *for 1952*, p. 314 (Michigan); *for 1953*, p. 295 (Connecticut, Massachusetts, Oregon, Washington and the District of Columbia); and *for 1954*, p. 284 (Guam).

See further Act No. 1390, of 3 July 1951, of Brazil (*Yearbook on Human Rights for 1951*, p. 26), the Fair Accommodation Practices Act, 1954, of Ontario, Canada (*Yearbook on Human Rights for 1954*, pp. 42 and 44–5), section 11 of the Saskatchewan Bill of Rights Act, 1947 (*Yearbook on Human Rights for 1947*, p. 73) and the Liberian Act of 19 January 1951 defining the misdemeanour of criminal discrimination (*Yearbook on Human Rights for 1953*, p. 189).

[5] See also section 10 of the Saskatchewan Bill of Rights Act, 1947 (*Yearbook on Human Rights for 1947*, p. 73). In the United States, various techniques have been used to prevent discrimination in housing by making the grant of public funds, loans, tax exemptions or other assistance to building projects subject to appropriate restrictions. (See, for instance, *Yearbook on Human Rights for 1949*, pp. 237 and 241; *for 1950*, p. 332; and *for 1954*, p. 289.) In the Union of South Africa, legislation giving effect to the policies of *apartheid* has tended to restrict a landowner's freedom of choice of tenants in a different way.

Freedom of association has in a sense been limited in certain countries in furtherance of equality in the exercise of the same right. In addition to the purpose already stated, the above-mentioned Fair Employment Practices Acts of 1951, 1953 and 1955, of Ontario, Manitoba and Nova Scotia respectively, and the Canada Fair Employment Practices Act, 1953, were aimed at preventing discrimination in regard to membership of trade unions. The above-mentioned laws of 1955 of Michigan, Minnesota and Pennsylvania also prohibited discrimination by labour unions as well as employers, fair employment practices commissions being empowered to order admittance or restoration of a person to union membership. Discrimination by unions was also forbidden by some of the laws mentioned in footnote 3 on page (xviii).[1]

[1] See also article 12 of the Saskatchewan Bill of Rights Act, 1947, and the Trade Union Act No. 174, of 1 June 1949, of Japan (*Yearbook on Human Rights for 1953*, p. 172).

PART I

STATES

AFGHANISTAN

NOTE[1]

International Conventions and Agreements

A unanimous decision of the National Assembly and the Senate regarding the accession of Afghanistan to the Convention on Genocide[2] was confirmed by His Majesty the King on 9 August 1955.

An agreement has been entered into between Afghanistan and Iran mutually abrogating visa duties.

Education and Culture

New centres for basic education and eradication of illiteracy have been organized. A monthly revue, called *Read and Know*, has been founded for the benefit of the participants in this basic education. The number of primary schools and "village schools" has been increased, and some of the primary schools for boys and girls have been made into junior secondary schools. Special attention has been paid to the development of vocational education.

An Institute of Education has been founded in order to enable teachers and instructors to increase their competence and improve their methods of teaching. For the same purpose, special courses for teachers and instructors have been arranged during the winter vacations.

Statutes for Anjuman-i Tarbiyya-i Afkar (an association for humanitarian and ideological education) have been adopted. The aim of this association, of which the Press Department is patron, is to a large extent to promote the knowledge of the principle of human rights. The association has started publishing a monthly revue called *Payam-i Haqq* ("The Message of Truth").

Regulations regarding the establishing and the activities of theatres and cinemas and regarding the production of films in Afghanistan have been approved.

Public Health

Contributions of WHO have enabled the Afghan Government to a very great extent to eradicate malaria from Afghanistan. The Tuberculosis Control and Training Centre in Kabul has continued its work with the assistance of WHO.

The efforts towards expanding the health services into the provinces have continued. In Kandahar and Herat maternal clinics have been started. A centre for training midwives has been founded in Kandahar. A dental clinic has been opened in Mazar-i Sharif.[3]

Social Organizations

Co-operatives of wood-producers have been formed with a view to providing the producers in the west of the country with means of modernizing their work and avoiding deforestation. For the purpose of improving the economic activities and the social conditions of the astrakhan breeders, special co-operatives have been formed.

---

[1] Note kindly furnished by the Royal Afghan Ministry for Foreign Affairs.

[2] See *Yearbook on Human Rights for 1948*, pp. 484–6.

[3] For details regarding the development of health services, see *A Report on Public Health Engineering in Kabul* by R. E. Bartlett, WHO adviser (WHO, 1955).

ALBANIA

DECREE No. 2064 ON POPULAR EDUCATION

of 6 June 1955

SUMMARY[1]

Decree No. 2064 of the Presidium of the People's Assembly, of 6 June 1955, governs the provision of education in the People's Republic of Albania, which comprises pre-school education, general education, vocational training, higher education and adult education.

Pre-school education is provided in kindergartens and children's homes, general education in primary, seven-year and secondary schools, and vocational training in teacher-training schools, specialized secondary schools, man-power reserve schools and other vocational training or special schools and through the provisional courses for the training or further training of skilled workers which have been established under special legislation. Higher education is given in higher educational institutions which train specialists of superior rank for the various branches of the national economy and culture. Adult education is provided through evening and correspondence schools, which enable workers to continue their studies without giving up their employment.

The decree makes primary and seven-year schooling compulsory for all children between seven and sixteen years of age. Education is free at all levels. In addition, with a view to facilitating the education of the sons and daughters of urban and rural workers, the decree provides for the grant of full or partial state scholarships for attendance at schools and at higher educational establishments in Albania and abroad.

[1] Summary based on information received through the courtesy of the Minister for Foreign Affairs.

ARGENTINA

NOTE

Freedom of Association [1]

Legislative decree No. 7760/55, of 30 December 1955 (*Boletin Oficial* No. 18065, of 11 January 1956), repealed Act No. 14295 of 17 December 1953 on employers' associations [2] and certain decrees issued thereunder, and dissolved the General Economic Confederation, the Confederations of Commerce, Industry and Production, and the National Institute of Productivity and Social Welfare, so that the industrial and commercial establishments belonging to them might freely organize their own representative bodies.

Legislative decree No. 3383/55, of 21 November 1955 (*Boletin Oficial* of 1 December 1955), repealed Act No. 14348 on associations of professional workers.[2]

Right to Nationality

Legislative decree No. 1664, of 22 October 1955 (*Boletin Oficial* No. 18015, of 1 November 1955), repealed Act No. 14031, which had deprived a certain individual of his Argentinian citizenship; the preamble to the legislative decree affirmed, *inter alia*, that provisions purporting to deprive anyone of his nationality as a measure of political persecution were contrary to human rights as proclaimed by the General Assembly of the United Nations.

Freedom of Opinion and Expression

Legislative decree No. 4360, of 30 November 1955 (*Boletin Oficial* No. 18042, of 9 December 1955) repealed Act No. 14021, adopted on 12 April 1951, whereby the property which constituted the assets of the corporation La Prensa was expropriated [3] and decree No. 12869, of 2 July 1951, which implemented Act No. 14021. The return of all property expropriated under Act No. 14021 was ordered.

Legislative decree No. 3855, of 24 November 1955 (*Boletin Oficial* No. 18043, of 12 December 1955), declared dissolved Peronist men's and women's political parties throughout the country.

Social Security

Act No. 14397, of 20 December 1954, which entered into force on 1 January 1955 (*Cámara de Diputados*, Serie Legislativa, Período 1954, No. 90), set up a compulsory social insurance system for the self-employed and for professional workers, and repealed Act No. 14094 of 1951.[4]

[1] The information on freedom of association was kindly made available by the Permanent Mission of Argentina to the United Nations.

[2] See *Yearbook on Human Rights for 1954*, p. 5.

[3] See *Yearbook on Human Rights for 1951*, p. 4.

[4] See *Yearbook on Human Rights for 1951*, p. 5.

AUSTRALIA

HUMAN RIGHTS IN AUSTRALIA IN 1955 [1]

In the field of legislation related to human rights in Australia in 1955, the Social Services Act 1955 (No. 1) extended the benefits of the Commonwealth Rehabilitation Service for physically handicapped people, and the Objectionable Publications Act 1954 of Tasmania was brought into force. This Act enables a board to prohibit the distribution of injurious publications, but excludes from its operation newspapers and official, religious, professional and scholastic publications.

Court decisions were given during 1955 relating to the fair treatment of persons before the courts, by police officers and under laws relating to objectionable literature and trade unions.

I. LEGISLATION

Freedom of Expression: Right to a Fair Hearing

The Objectionable Publications Act 1954 (Tasmania) provides for a Publications Board of Review with power to declare any publication to be an objectionable publication and to prohibit its distribution in the state. "Publication" is defined by the Act as any book, pamphlet, magazine, or printed paper, but the term does not include (*a*) a newspaper, or (*b*) a publication that is of a purely official, religious, professional, or scholastic character.

The Board, having regard to certain specified matters, may determine a publication to be objectionable which, in its opinion, consists in substantial part of pictures and is of an indecent nature or suggests indecency, or portrays, describes, or suggests acts or situations of a violent, horrifying, criminal or immoral nature. The matters to which the Board is to have regard, in determining a publication to be objectionable, are the nature of the publication, the persons, classes of persons, and age groups to or amongst whom or which the publication is intended or is likely to be distributed; the tendency of the publication to corrupt those persons, classes or age groups, notwithstanding that other persons, classes or age groups may not be similarly affected thereby; the nature and circumstances in which the publication is distributed in the state, and the literary, scientific, or artistic merit or importance of the publication. Before making an order prohibiting the distribution of a publication, the Board must publicly notify its intention to make the order. A person may, within fourteen days, lodge an objection to the making of the order, and is entitled to appear before the Board and adduce evidence and to examine witnesses appearing before the Board on the hearing of the objection. A person may, at such a hearing, appear and adduce evidence in support of the proposed order and examine witnesses appearing before the Board on the hearing.

Rehabilitation of Physically Handicapped Persons

The Social Services Act 1955 (No. 1) (Commonwealth) widens the activities of the rehabilitation service provided by the Commonwealth for physically handicapped persons. The following extracts from the second-reading speech of the Minister for National Development, in introducing the measure in the Senate of the Commonwealth Parliament on 24 May 1955, give a brief history of the Commonwealth Rehabilitation Service and indicate some relevant features of the legislation:

"The word 'rehabilitation', in its application to this legislation, may be defined as the restoration of the physically handicapped, through treatment and vocational training, to the fullest physical, mental and economic usefulness of which they are capable. It seeks to develop the latent ability and special aptitude of the handicapped individual, to restore his confidence in his ability to return to work, and so enable him to live a life independent of financial assistance from the community.

"After the war, the Department of Social Services was given responsibility for the rehabilitation of physically handicapped ex-servicemen ineligible for repatriation benefits. The success of the scheme led to the introduction of legislation, in 1948, to provide for the civilian rehabilitation service for invalid pensioners and recipients of sickness benefits.

"This bill makes a big step forward in the provision of a complete service of rehabilitation in co-operation with state authorities and private organizations.

"Possibly the greatest advertisement for this scheme, and the most cogent reason why such strong representations have been made from so many organisations in Australia to broaden the scope of the service, are the thousands of men and women happily restored to gainful occupation and a normal life.

[1] Note prepared by Mr. H. F. E. Whitlam, former Crown Solicitor, Canberra, government-appointed correspondent of the *Yearbook on Human Rights*.

"The most important amendment relates to young persons between the ages of fourteen and sixteen years. These young people are not eligible under the Social Services Act for an invalid pension. For this reason, they have been excluded in the past from consideration for treatment or training. Under this bill, services such as medical and ancillary treatment, artificial appliances and vocational assessment and training, will be available to these young people. This earlier treatment will increase the prospects of ultimate cure.

"This bill introduces an entirely new and important development in rehabilitation. It is the provision of a loan of up to £200 for disabled persons who, after treatment and/or training provided by the service, are unable to enter employment under normal industrial conditions, but could be satisfactorily established in self-employment at home, if finance for necessary plant, equipment and other requirements is available. Employment in industry remains the firm objective of the scheme but there are cases where complete mobility cannot be restored and self-employment at home is the best solution of the employment problem. Not all persons will be suitable for such ventures, but where it is fully justified the Government thinks that this final step should be taken.

"The bill also provides for an increase in certain allowances paid when the vocational stage of rehabilitation has been reached. They are the training allowances, living-away-from-home allowances, and the allowance for books and other equipment required for training."

II. COURT DECISIONS

Right to a Fair Trial: Onus of Proof of Guilt

May v. *O'Sullivan (1955)*

High Court of Australia [1]

The court in this case pointed out that the rule that the prosecution, in a criminal trial, must prove the guilt of the accused beyond reasonable doubt, is not necessarily satisfied where the prosecution has made out a "*prima facie* case" against the accused and the accused makes no answer. An unanswered "*prima facie* case" may not in all cases amount to proof beyond reasonable doubt.

The court said:

"The question which is actually raised is whether, when the prosecution has made out what is called a '*prima facie* case' or a 'case to answer', the burden of proof shifts to the shoulders of the accused person or defendant, with the consequence that, if he fails to displace that *prima facie* case by denial or explanation, he ought to be convicted. It is, of course, clear that there is no such shifting of the burden in such a case. The burden of proving guilt beyond reasonable doubt rests on the prosecution from first to last, and, even though the defendant remains silent after a *prima facie* case has been launched against him, it may very well be that he ought to be acquitted. A magistrate who has decided that there is a 'case to answer' may quite consistently, if no evidence is called for the defendant, refuse to convict on the evidence of the prosecution. The prosecution may have made a '*prima facie* case', but it does not follow that in the absence of a 'satisfactory answer' the defendant should be convicted."

Freedom from Arbitrary Arrest: Statu ory Protection of Police Officer

Trobridge v. *Hardy (1956)*

High Court of Australia [2]

A provision incorporated into the Police Act 1892–1952 (Western Australia) provides that no action shall be taken against an officer of police on account of any act done in carrying the Act into effect against any parties offending or suspected of offending against the Act unless there is direct proof of corruption or malice.

A police officer, in an over-officious and boorish manner, impetuously accused a taxi-driver in terms of crude insult and offensiveness of the minor offence of cruising for hire. Realizing that the taxi-driver had in fact been hailed from the kerb by passengers who expressed their willingness to give evidence to that effect, and that therefore no offence had been committed, he surlily demanded the taxi-driver's name and address. The taxi-driver complied at once by stating his surname orally and handing the officer his card. The police officer took the card, but did not read it. The taxi-driver proceeded to ask and write down the names of his passengers, lest a charge should be laid against him and he should need the passengers as witnesses, but he informed the police officer that as soon as he had taken the names he would tell him anything further he wished to know. The police officer interrupted the taxi-driver, grabbing him by the shoulder, and arrested him for failing to give his name and address. He threatened to handcuff him, though there was no reason for thinking that so extreme a step was called for, put him in a police vehicle and took him to a police station. Protests by the stranded passengers and by other members of the public were treated by the officer with rudeness and contempt. At the police station the officer formally charged the taxi-driver with refusing to give his name and address, compelled him to remove his shoes, socks and tie, and had him put in a lock-up, where he was detained for two hours with other prisoners in circumstances of considerable indignity, humiliation and discomfort, before being granted release on bail.

The charge against the taxi-driver of refusing to give his name and address was subsequently heard and dismissed.

[1] *Argus Law Reports* 671.

[2] *Argus Law Reports* 15.

In an action by the taxi-driver against the police officer for the recovery of damages for false imprisonment, the defendant relied upon the provision incorporated into the Police Act, referred to above.

The High Court held, on appeal, that, on the facts found at the trial and summarized above, the only reasonable inference was that the defendant's acts were not done with the intention of carrying the Police Act into effect, within the meaning of the provision referred to, but to punish the plaintiff for some fancied affront, and the provision referred to was therefore not available as a defence. The defendant had acted, not in pursuance of a bona fide intention of discharging his duty under an Act of Parliament, but wantonly and in abuse of his power. The provision referred to only protected a man intending and trying to do his duty, but labouring under some misapprehension of fact or of law. Nothing could be more remote from such a conception than the conduct of the defendant in this case.

The court was prepared to hold, if it had been necessary to decide the case on that ground, that the conduct of the defendant had been malicious within the meaning of the provision.

Right to a Fair Trial

R. v. *Miles (1955)*

Supreme Court of Queensland [1]

Where, in a criminal trial, the accused had pleaded not guilty, the Crown had begun to present its case, and it was then discovered, during the trial, that the accused was temporarily incapable of understanding the proceedings, the trial was adjourned until the following day, when, the accused having recovered, the trial was allowed to proceed at the stage which it had reached at the adjournment.

Right of Party to be heard

A. v. *C.-S. (1955)*

Supreme Court of Victoria [2]

A child had been adopted by Mr. and Mrs. C.-S. In making the adoption order, the learned county court judge had dispensed with the consent of the natural mother of the child on the ground that she was incapable of giving her consent. Evidence before him suggested that she was unlikely to recover her sanity. In fact, however, she recovered shortly after the adoption order was made. At her instance, application was made by the Attorney-General under section 13 of the Adoption of Children Act 1928 for the discharge of the adoption order. The court dismissed the application. The mother appealed to the Full Court of the Supreme Court, which set aside the order dismissing the application and ordered a re-hearing of the Attorney-General's application.

In the course of his judgement, the Chief Justice of the Supreme Court (Herring, C. J.) referred to "that universal principle of justice which prohibits any tribunal from deciding against a party without giving him an opportunity of hearing what is alleged against him". His Honour went on to say:

"Similar considerations apply to the case of an unfortunate woman like the appellant, though her case for being heard may be said to be an *a fortiori* one. For no misconduct is alleged against her; it is merely contended that she is incapable of giving her consent and will continue so indefinitely. Surely here is an issue of the gravest character, on which the woman, or someone on her behalf, should be heard before her consent is dispensed with as the basic step in a proceeding that will deprive her for all time of the child she loves. It seems hardly the sort of question that should be settled upon the untested evidence by affidavit of one doctor, of whose qualifications with regard to mental disorders nothing whatever is known. An examination of the file in the county court also emphasizes the need for the appellant to be represented, if justice is to be done. For it would appear from that file that the learned judge was never informed of the history of the appellant's nervous trouble; nor was he told that she was devoted to the child and had brought her up and cared for her for the first three and a half years of her life and that the child had been in her care only five months before the application was made. In fact, his Honour, after reading the affidavit of the man who had become the appellant's husband when the child was born and who was interested in having the child adopted, might well have assumed that the child had been from birth in the care of relatives other than her mother.

"The result of proceeding without giving the appellant, or someone on her behalf, an opportunity of being heard has brought about in the present case a grave injustice. To my mind it is terrible to think that such a thing could happen in our community, and I can only hope that nothing of the sort will ever occur again; and that if it is necessary, to prevent a recurrence, that some amendment of the rules of procedure be made, the amendment required will be made without any delay. In England, apparently, under the Adoption of Children (County Court) Rules, a parent is not only served with notice of the application, but is also made a respondent in the proceedings. And under the Adoption of Children (High Court) Rules 1950 a parent, although not made a party to the application, receives notice of it and is entitled to appear... So too the Adoption of Children (Supreme Court) Rules in this State require applications for adoption to be served on the parents of the child. In the Adoption of Children (County Court) Rules adopted in 1949 this requirement was omitted, and in view of what has happened in this case it seems eminently desirable that it should be immediately restored."

[1] 48 *Queensland Weekly Notes*, No. 29.

[2] *Argus Law Reports* 943.

Freedom of Expression: Suppression of Objectionable Literature

Literature Board of Review v. *Invincible Press, Ex parte Invincible Press and Truth and Sportsman, Ltd. (1955)*

Supreme Court of Queensland [1]

The Objectionable Literature Act of 1954, of the State of Queensland, provides for the establishment of a Literature Board of Review, with power to examine and review literature, subject to certain exceptions, with the object of preventing, by its order, the distribution in Queensland of literature which is "objectionable".[2]

Section 11 of the Act enables a person who feels aggrieved by an order made by the Board in respect of any literature to appeal to a court against the Board's order. The court is to determine as an issue in the appeal the matter of whether or not the literature in question is "objectionable" within the meaning of the Act.

It was held by the Supreme Court of Queensland, in the course of its judgement upon the hearing of such an appeal, that the onus of establishing before the court, on appeal, that the literature in question is objectionable rests upon the Board. The appellant does not have to prove that the literature is not objectionable.

Section 5 (1) of the Act defines "objectionable" literature as literature which, having regard, *inter alia*, to its tendency to deprave or corrupt persons or classes of persons amongst whom it is intended or is likely to be distributed, is objectionable in that it (i) unduly emphasizes matters of sex, horror, crime, cruelty, or violence, or (ii) is blasphemous, indecent, obscene or likely to be injurious to morality, or (iii) is likely to encourage depravity, public disorder or any indictable offence, or (iv) is otherwise calculated to injure the citizens of the state.

The Supreme Court held that literature is not objectionable within the meaning of the Act merely because it falls within one or more of the categories contained in the definition in section 5 (1) of the Act. It must be established, *inter alia*, as a fact that the literature has a tendency to deprave or corrupt.

Trade Union Rules: Tyrannical and Oppressive

Kenney v. *Operative Painters' and Decorators' Union (1955)*

Commonwealth Court of Conciliation and Arbitration [3]

This was an application by a trade unionist, under section 80 of the Conciliation and Arbitration Act 1904–1952 of the Commonwealth, for an order that certain rules of the trade union to which the applicant belonged should be disallowed as tyrannical and oppressive and imposing unreasonable conditions on the membership of members of the union. In disallowing various rules, the court held that union rules are tyrannical and oppressive which give a general power to fine but do not specify or provide for the specification of the acts or omissions for which a member may be penalized, and that a rule which is unlimited as to the amount and extent of penalties and forfeitures, and vague and uncertain as to the acts or omissions which are offences — e.g., which gives power to fine for "conduct inimical to the interests of the organization" — is tyrannical or oppressive. The court held also that it is tyrannical and oppressive that the council of a union should have power to fix "levies or other dues" unlimited in amount and for no specified purpose to be paid by "all or any section of the members of the union".

[1] *State Reports (Queensland)* 525.

[2] See *Yearbook on Human Rights for 1954*, p. 9.

[3] *Law Book Company's Industrial Arbitration Service, Current Review* 68.

AUSTRIA

HUMAN RIGHTS IN AUSTRIA IN 1955 [1]

I. LEGISLATION

A. Fundamental Rights and Freedoms

1. *General*

Articles 6, 7, 8 and 12 of the State Treaty for the re-establishment of an independent and democratic Austria, dated 15 May 1955 (*BGBl.* (*Bundesgesetzblatt*) No. 152), contain fundamental rules concerning human rights, the rights of minorities and political rights. Similarly, articles 25 *et seq.* and 34 *et seq.* of the Military Service Act (*BGBl.* No. 181/1955) contain rules on human rights and fundamental freedoms, or rules affecting such rights and freedoms. Specific reference will here be made only to such of these legislative provisions as substantially affect individual aspects of human rights.

2. *Equality before the Law*

(*a*) Under the Federal Act concerning the treatment by the Republic of Austria, under administrative law, of South Tyroleans and Kanaltaler employed in the public service (*BGBl.* No. 97/1955), certain groups of persons who are not Italian-speaking are granted equal status, for the purposes of administrative law, with Austrian citizens who are employed in the public service.

(*b*) Article 6 [2] of the State Treaty (*BGBl.* No. 152/1955), which treaty became part of municipal law in accordance with article 50 of the Federal Constitution, reaffirmed the principle of the equality of all citizens before the law. At the same time, however, by virtue of article 12 of the State Treaty, former members of National Socialist organizations were placed on an unequal footing *vis-à-vis* other Austrian citizens, so far as liability to military service is concerned.

(*c*) Under article 7 of the State Treaty, Austrian citizens belonging to the Slovene and Croat minorities in Carinthia, Burgenland and Styria enjoy the same rights as all other Austrian citizens.

(*d*) The Military Service Act (*BGBl.* No. 181/1955) makes all male citizens between the ages of eighteen and fifty years liable to military service. Their liability involves a certain period of service with the armed forces. Articles 25 *et seq.* nevertheless allow certain exemptions: thus, persons who, owing to genuine religious beliefs or for reasons of conscience, decline the use of armed force in all circumstances, declare themselves opposed to the personal use of such force and can produce satisfactory proof of their convictions, will be exempted from service involving the use of weapons. This provision, which is based on the principle of freedom of belief and conscience, places "conscientious objectors" on an unequal footing *vis-à-vis* other persons liable to military service. In addition, there is an inherent, and in several respects remarkable, inequality as between a member of the armed forces, who is in a special status of subordination, and other citizens.

(*e*) The Federal Constitutional Act (*BGBl.* No. 261/1955) and certain federal Acts of 1955 (*BGBl.* Nos. 262, 283 and 285) abolished special courts and state measures which formerly affected members of the National Socialist Party or persons belonging to certain Nazi organizations, thereby restoring such persons to a position of equality with other citizens.

3. *Freedom of the Person*

In consequence of the abolition of the people's courts by the Act (*BGBl.* No. 285/1955), the right to the protection of personal freedom has been fully restored, and simultaneously the State Fundamental Act (*BGBl.* No. 87/1867) has once again become fully applicable to all citizens.

4. *Freedom of Movement*

(*a*) By virtue of an ordinance (*BGBl.* No. 117/1955) issued by the Federal Ministry of the Interior, ordinances *BGBl.* No. 194/1945, concerning identity cards and *BGBl.* No. 33/1946, concerning aliens' passes, were repealed.

---

[1] Survey prepared by Dr. Felix Ermacora, senior officer in the Federal Chancellery, Vienna, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] "*Art. 6. Human Rights:*

"1. Austria shall take all measures necessary to secure to all persons under Austrian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

"2. Austria further undertakes that the laws in force in Austria shall not, either in their content or in their application, discriminate or entail any discrimination between persons of Austrian nationality on the ground of their race, sex, language or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter."

(*b*) Ordinance *BGBl.* No. 161/1955 provides that nationals of the United States of America, the French Republic and the United Kingdom no longer require visas for journeys to Austria.

(*c*) Article 16 of the Military Service Act requires all persons liable to military service to complete a supplementary registration form in respect of their residence; it empowers the authorities to order, when military reasons so require, that men in the classes liable to service must obtain an official permit before they can leave Austrian territory. Under article 33, paragraph 2, of the same Act, members of the reserve who are liable to service are under a duty to report particulars of residence and other material circumstances.

5. *Right to Freedom of Belief and Conscience*

(*a*) Under article 25 of the Military Service Act persons liable to military service may be exempted, on application, from service that involves the use of weapons (*cf.* A, 2 (*d*) above).

(*b*) Article 6 of the State Treaty also refers to freedom of religious worship.

(*c*) Lastly, article 36, paragraph 5, of the Military Service Act states that no restriction shall be placed on the religious observances of members of the armed forces.

6. *Freedom to own Property*

(*a*) The Restitution Act (*BGBl.* No. 53/1955) enacts regulations concerning the compensation of persons whose material possessions were commandeered by the former occupation Powers in Austria.

(*b*) The first, second and third ordinances issued pursuant to the First Nationalization Compensation Act (*BGBl.* Nos. 115/1955, 116/1955 and 166/1955, respectively) enact more particular provisions concerning the mode of awarding compensation in respect of property affected by nationalization measures.

(*c*) Part IV of the State Treaty (*BGBl.* No. 152/1955) contains detailed provisions concerning the waiver by Austria and its citizens of property claims against Germany (article 23), against the Allies (article 24) — in so far as such claims relate to compensation for damage sustained as a result of allied action — and against the Federal People's Republic of Yugoslavia (article 27).

(*d*) The State Treaty also provides, in article 22, for the transfer of "former German assets" to the ownership of the Republic of Austria.

(*e*) The basic principle of the protection of property receives recognition in articles 24 to 26 of the State Treaty.

(*f*) Federal Act *BGBl.* 101/1955 extends the validity of the Dwellings Requisitioning Act until 31 December 1955.

(*g*) For the purpose of giving effect to article 26 of the State Treaty (*cf.* para. (*e*) above), a Federal Act (*BGBl.* 269/1955), which includes provisions on the application of that article to ecclesiastical property rights, and the ordinance pursuant to the Act (*BGBl.* 287/1955), were enacted.

7. *Freedom of Association and Assembly, and Freedom of Speech*

(*a*) Under article 7 of the State Treaty (*BGBl.* 152/1955) the freedom of association, assembly and the press of Austrian citizens of the Slovene and Croat minorities is guaranteed.

(*b*) Article 9 of the State Treaty places certain restrictions on freedom of association and assembly in the case of Fascist activities.

(*c*) Under article 36 of the Military Service Act freedom of assembly is subject to certain restrictions affecting persons undergoing military service, in that members of the armed forces in uniform are not allowed to attend public meetings.

B. Cultural Rights

(*a*) Ordinance *BGBl.* 5/1955 amends the regulations governing internal elections in the universities (*BGBl.* 222/1950).

(*b*) Ordinance *BGBl.* 123/1955 defines the parochial boundaries of the Jewish community of Vienna.

(*c*) Under the Universities Organization Act (*BGBl.* 154/1955) the universities are granted autonomy in the administration of their research and teaching functions. This autonomy guarantees academic freedom.

(*d*) The Compulsory Schools (Maintenance) Act (*BGBl.* 163/1955) lays down principles to ensure, in practice, the maintenance of certain public schools. It is the responsibility of the Länder to make detailed regulations to give effect to these principles.

(*e*) By virtue of ordinance *BGBl.* 229/1955, the adherents of the sect known as the Church of Jesus Christ of the Latter-day Saints (Mormons) were recognized as a religious community.

(*f*) The Federal Act regulating the treatment, for pension purposes, of university professors and their transfer to the status of professor *emeritus* (*BGBl.* 236/1955), also serves, *inter alia*, to maintain continuity of teaching activities at the universities.

(*g*) The Federal Act concerning the organization of the university institution known as the Academy of Fine Arts (Akademie der bildenden Künste) (*BGBl.* 237/1955) enacts provisions ensuring the autonomy of the Academy which are similar to the terms of the Act cited in (*c*) above. In this way, academic freedom is strengthened by a guarantee contained in statutory provisions.

(*h*) The remarks in paras. (*c*) and (*g*) above are equally applicable to the enactment laying down the "qualifying standard" (*BGBl.* 232/1955), which

governs the admission and the teaching activity of lecturers at universities.

(*i*) Federal Acts *BGBl.* 227 and 228/1955 amend the provisions of the Public Holidays (Cessation of Work) Act in that the day of 8 December (Immaculate Conception) is added to the list of public holidays; Good Friday is also included, for members of the Evangelical Churches of the Augsburg and Swiss Confessions, the Old Catholic Church and the Methodist Church.

C. Rights of Minorities

Article 7 of the State Treaty (*BGBl.* No. 152/1955) contains specific provisions concerning the rights of the Slovene and Croat minorities in Carinthia, Styria and Burgenland in the matter of instruction in the minority languages at elementary and secondary schools, the use of the minority languages before the courts and administrative authorities, and other cultural interests.

D. Democratic Rights

The State Treaty guarantees Austria's democratic institutions, in particular the right of all citizens to free, equal and universal suffrage, as well as equal access to public office.[1]

E. Social Rights

(*a*) The Federal Family Liabilities Equalization Act (*BGBl.* No. 18/1955) makes provision for financial assistance (family allowances) to facilitate the founding and maintenance of a family.

(*b*) The Wages Attachment Act (*BGBl.* No. 51/1955) re-promulgates provisions for the protection of wages from attachment, in view of the repeal of former relevant German legislation.

(*c*) Provisions on the keeping of labour record cards having their origin in German law are repealed by Federal Act *BGBl.* No. 71/1955.

(*d*) The Housing Act (*BGBl.* No. 153/1954) was supplemented by more detailed regulations made pursuant to the Act (*BGBl.* No. 6/1955).

(*e*) Ordinance *BGBl.* No. 78/1955 makes regulations concerning the protection of the life and health of employees in iron and steel plants.

(*f*) Ordinance *BGBl.* No. 111/1955 lays down more detailed regulations concerning the welfare services attached to juvenile courts, the federal institutions for persons in need of education, and matters relating to the protection of young persons.

(*g*) Ordinance *BGBl.* No. 113/1955 extends to further groups of persons the provisions of the Act (*BGBl.* No. 177/1948), concerning the arrangements to be made pursuant to social insurance legislation on entry into or termination of an appointment which is governed by the provisions of public law.

(*h*) The Unemployment Insurance (Amendment No. 7) Act (*BGBl.* No. 138/1955) increases the amount of unemployment benefit.

(*i*) Article 41 of the Military Service Act (*BGBl.* No. 181/1955) states that regulations are to be made to safeguard the employment position of conscripts during their call-up period. (The regulations were issued in 1956.)

(*j*) The Federal Act *BGBl.* No. 187/1955 provides for the re-entry into force of the Act concerning the payment of compensation to building workers in the event of bad weather.

(*k*) The Federal Act *BGBl.* No. 188/1955 amends certain provisions of the Act *BGBl.* No. 115/1953 concerning the old-age pensions arrangements of the Chamber of Commerce.

(*l*) Federal Act *BGBl.* No. 189/1956 enacts regulations setting forth the fundamental principles governing social insurance (the Act contains 546 clauses).[2]

(*m*) Ordinance *BGBl.* No. 209/1955 extends sickness insurance under the Federal Salaried Employees Sickness Insurance Act to veterinary surgeons employed by the districts of the Länder.

(*n*) Under the Federal Act *BGBl.* No. 270/1955, as an exceptional measure, extra payments additional to social insurance payments are made to war victims, to the recipients of pensions under the War Victims Protection Act and to the recipients of small pensions (Kleinsentner).

F. Legislation relating to Economic Questions

In the course of the year, legislation was enacted to extend the validity of the Price Control Act, which has been mentioned in previous *Yearbooks*, and the Dwellings Requisitioning Act, as well as such economic legislation as the Milk Marketing Act, the Cattle Trading Act, the Fat Stock Promotion Act and the Raw Materials Act — all the subject of earlier references.

II. JUDICIAL DECISIONS

A. Equality before the Law

(*a*) In several judgements the Constitutional Court continued to elaborate its jurisprudence concerning the principle of equality (article 7 of the Federal Constitution).[3] In its decision of 12 October 1955

---

[1] Article 8 of the State Treaty provides:

"*Art. 8. Democratic Institutions*

"Austria shall have a democratic government based on elections by secret ballot and shall guarantee to all citizens free, equal and universal suffrage, as well as the right to be elected to public office without discrimination as to race, sex, language, religion or political opinion."

[2] See International Labour Office: *Legislative Series* 1955, Aus. 3.

[3] See *Yearbook on Human Rights for 1947*, p. 9.

(B 138/55), it held that an infringement of the right to equality could be deemed to have occurred only if in a particular case an authority gave a ruling different from that which it gave in other cases of the same kind and if this ruling was based on considerations which are irrelevant — i.e., based on personal attributes which under article 7 of the Federal Constitution may not be taken into consideration.

(*b*) In its decision of 15 October 1955 (B 136/55), the Constitutional Court again held that the principle of equality was also binding on the ordinary legislator.

(*c*) The Court's decision of 16 December 1955 (B 81/55) emphasizes that the principle of equality is not infringed if differential treatment of citizens is motivated by material considerations.

B. Freedom of the Person

(*a*) In its decision of 23 March 1955 (B 7/55), the Constitutional Court again declared that the term "arrest" must be so interpreted as to include other immediate restrictions on freedom, even where these are not formally ordered as arrest.

(*b*) In its decision of 13 October 1955 (B 153/55), the Constitutional Court makes detailed comments on the implications of "detention pending investigation" (Untersuchungshaft) and on the pertinent provisions of the Act respecting the protection of personal freedom (*Reichsgesetzblatt*. No. 87/1862).

C. Right to Freedom of Movement

(*a*) According to the decision of the Constitutional Court dated 1 July 1955 (B 26/55), the right of the citizen to freedom of movement covers only the freedom to move within the territory of the State.

(*b*) According to the decision of the Constitutional Court dated 16 December 1955 (B 81/55), the fundamental right in question extends not only to the freedom of movement of the person, but also to the freedom of movement of things within the territory of the State.

D. Freedom of Belief and Conscience — Freedom of Religious Observances; Autonomy of the Churches and Religious bodies recognized by Law

By virtue of its decision of 19 December 1955 (G 9/55, G 17/55), the Constitutional Court declared inoperative article 67 of the Status of the Person Act of 3 November 1937 (*Deutsches Reichs-Gesetzblatt*, I, p. 1146). That article had declared it unlawful to perform a religious ceremony of marriage before the civil ceremony. The court considered this provision to be in conflict with the freedom of religious observances and also with the right of churches and religious bodies recognized by law to arrange their own internal affairs and to be administratively independent.

E. Freedom of Residence

In its decision of 28 June 1955 (B 61/55), the Constitutional Court considered the right of aliens to freedom of residence within the meaning of article 6 *StGG* (State Fundamental Act of 21 December 1867). The court stated that an alien does not enjoy this right to the same extent as an Austrian citizen, but only within the limits laid down by the Aliens Regulation Act. The Constitutional Court added: "This means that an alien cannot exercise this right except in so far as he is allowed to reside in Austrian territory at all."

III. INTERNATIONAL AGREEMENTS

A. General

The State Treaty for the re-establishment of an independent and democratic Austria (*BGBl.* No. 152/1955) contains a number of provisions relating to human rights in general, to fundamental freedoms and to minorities and their rights (see section I, above).

B. Social Rights

(*a*) *BGBl.* No. 52/1955 contains the text of the treaty between Austria and Italy concerning social insurance, dated 18 October 1952.

(*b*) The supplementary agreement, dated 14 May 1955, to the agreement between the Republic of Austria and the Federal Republic of Germany dated 23 November 1951 concerning guest workers, was published in *BGBl.* 74/1955.

(*c*) A further agreement between the Republic of Austria and the Federal Republic of Germany concerning unemployment insurance, likewise dated 14 May 1955, was published in *BGBl.* No. 248/1955.

C. Freedom of Movement

(*a*) During the year, Austria entered into international agreements for the abolition of the compulsory visa requirement with the following countries: Sweden (*BGBl.* No. 193/1955), Denmark (*BGBl.* No. 192/1955), the Federal Republic of Germany (*BGBl.* No. 247/1955), Turkey (*BGBl.* No. 194/1955), Norway (*BGBl.* No. 174/1955), Monaco (*BGBl.* No. 215/1955), Chile (*BGBl.* No. 173/1955) and Portugal (*BGBl.* No. 175/1955).

(*b*) A notice by the office of the Federal Chancellor (*BGBl.* No. 73/1955) states that, in pursuance of an exchange of notes between Austria and Yugoslavia, certain additions have been made to the agreement regulating local frontier traffic between the Republic of Austria and the Federal People's Republic of Yugoslavia (*BGBl.* No. 96/1953).

BELGIUM

NOTE[1]

I. LAWS AND REGULATIONS

Right to Life

The Act of 20 July 1955 (*Moniteur belge* of 12 August 1955, p. 4902) forbids performances of music-hall or circus aerial acrobatics without a protective net. Organizers of public performances who do not take steps to ensure compliance with this provision are liable to imprisonment for eight days to six months, or to a fine, or to both penalties.

Right of Association

The royal order of 20 June 1955 (*Moniteur belge* of 22 June 1955, pp. 4020–54), which replaces the regent's order of 11 July 1949, as amended, refers to staff associations of public service officials. Part I of the royal order defines its scope: with certain specific exceptions, members of the home civil service, staff members of state educational establishments, and civilian personnel of numerous public agencies may, if legal requirements are fulfilled, organize or join staff associations. Part II deals with the formalities of official recognition of these staff associations, and the various powers of the associations to act in the collective interest of the staff as a whole or in the occupational interest of an individual. Under the provisions of part III, joint consultative bodies, half of whose members are appointed by recognized staff associations, are to be consulted in advance on all proposals relating to staff rules, departmental organization, the organization of work, and safety, health and amenities in work places. Part IV, which contains provisions applying to persons participating in staff association work, provides in particular that responsible officials of staff associations shall be given leave if they act regularly and continuously as staff representatives. As representatives, they remain holders of their posts. The staff associations will pay the Administration a sum equal to the total amount of salaries and allowances paid by the State or public agencies to staff association officials.

General Provisions on Social Security

The Act of 14 July 1955 (*Moniteur belge* of 7 August 1955, pp. 4828–9) amends and amplifies certain provisions of the legislative order of 28 December 1944, concerning social security of workers. This Act provides for an increase of 1 per cent in the contribution paid by employers. Under the previous regime, the portion of the wages in excess of five thousand francs a month had not been taken into account in calculating the contributions of both employers and employees. The new Act provides that that limit will vary to some extent in proportion to the movements of the retail price index, so as to keep allowances in line with the fluctuations in the cost of living. Lastly, the Act provides severe penalties for employers who fraudulently apply the social security provisions to one or more persons.

Housing

The royal orders of 10 and 11 February 1955 (*Moniteur belge* of 16 February 1955, pp. 737–40) concerning elimination of insanitary housing, authorize grants to encourage property owners to demolish their insanitary buildings. In addition, an allowance for moving expenses is to be granted to any head of a household who moves from an insanitary dwelling to a healthy one.

An instruction from the Minister of Public Health, dated 26 March 1955 (*Moniteur belge* of 26 March 1955, pp. 1773–6), outlines the objectives of an intensified slum clearance policy.

Protection against Unemployment

Several royal orders have amended and amplified the regent's order of 26 May 1945 concerning the National Placement and Unemployment Office. The orders of 1 July and 18 November 1955 (*Moniteur belge* of 3 July 1955, pp. 4253–9), and of 24 November 1955, pp. 7716–7) set up general or special training courses which unemployed women may be called on to follow. The order of 21 November 1955 (*Moniteur belge* of 24 November 1955, pp. 7719–21) increases the daily unemployment allowance by 20 per cent under certain conditions.

Sickness and Invalidity Insurance

The royal order of 22 September 1955 (*Moniteur belge* of 25, 26 and 27 September 1955, pp. 5762–5801),[2] which rescinds the regent's order of 21 March 1945, as amended, revises the administration of sickness and invalidity insurance.

[1] This note has been drafted on the basis of texts and information received through the courtesy of Mr. Edmond Lesoir, Honorary Secretary-General of the International Institute of Administrative Science, Brussels, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Several ministerial orders dated 22 September 1955 (*Moniteur belge* of 29 September 1955, pp. 5850–6074) contain regulations for the application of this royal order.

In virtue of Article 113 of this royal order, subject to the application of international conventions, sickness and invalidity insurance will apply to workers who have been gainfully employed for a certain period and have actually worked for a certain number of days during that period. The workers must also regularly present the necessary documents and vouchers to the insurance authorities.

Part II defines the benefits in kind or in cash available to insured persons. Any insured worker, and those of his children in respect of whom family allowances are paid and other members of his household (this term to be defined by regulation), are entitled to receive medical care for the following purposes: continuous inspection with a view to maintaining and improving health; the discovery and exact diagnosis of any abnormal state; the treatment necessary for any pathological condition; and all useful measures conducive to functional and vocational education and re-education. This medical care is also provided, under certain conditions, for workers in receipt of a disability benefit or an old-age pension, and for the widows of the insured persons.

In addition to the usual medical care, the benefits include pharmaceutical supplies; surgical treatment; hospitalization; maternity care; preventive examinations; diagnosis and treatment of cancer, tuberculosis, poliomyelitis and mental diseases; supply of spectacles and prosthetic devices; dental care, and vocational education and re-education. The beneficiary must pay a part of the costs for ordinary medical care, the purchase of pharmaceutical supplies, and dental care. He is free to choose the practitioner who treats him, as well as the establishment where he is to be hospitalized, provided the hospital and the medical specialists are approved by the competent authority.

An allowance, equal to a certain percentage of the remuneration lost, is granted to an insured person who has completely stopped work, and whose functional injuries and defects are deemed to reduce his earning capacity, to a degree equal to or less than a third of what a person in the same circumstances and with the same training could earn by working in a similar trade or profession. This is called "compensation for primary incapacity" during the six-month period following the date when the incapacity began; it becomes an "invalidity pension" when the incapacity continues beyond the above-named period.

An allowance called a "maternity benefit" is paid for a period of six weeks before and six weeks after confinement to an insured woman who interrupts her work because of pregnancy, beginning not sooner than the fifth month of pregnancy.

The order also contains detailed provision on the financing, administration and operation of insurance authorities (part I), the supervision of benefits, the institution of a national vocational rehabilitation service (to be regulated by an order), state inspection, and administrative penalties (part III).

Retirement of Workers and Benefits granted to their Widows

The Act of 21 May 1955 (*Moniteur belge* of 19 June 1955, pp. 3972–80), revises the system of workers' retirement pensions and death benefits for their widows.

Education

The Act of 14 May 1955 (*Moniteur belge* of 26 June 1955, pp. 4128–30) refers to art instruction. It provides that this instruction, which comprises courses at the secondary and higher levels, must respect the pupil's personality and recognize his complete freedom in the process of artistic creation. Art instruction is given either at the expense of the State in institutions established by the Crown (chapter I) or in institutions established by provinces, communities, intercommunity groups or private individuals (chapter II). The Crown may authorize and subsidize establishments in the latter category, under certain conditions; for example, determination of the basis for subsidies and minimum rates applicable to staff members; obligation to undergo inspection by the State; application of a minimum educational programme; minimum attendance requirements for students; and determination of the academic qualifications required for the director and teaching staff.

II. INTERNATIONAL INSTRUMENTS [1]

On 13 January 1955, Belgium ratified the following international labour conventions: No. 82, convention concerning social policy in Non-Metropolitan Territories; No. 84, convention concerning the right of association and the settlement of labour disputes in non-metropolitan territories; and No. 85, convention concerning labour inspectorates in non-metropolitan territories. (*Moniteur belge* of 5 February 1955.)

III. JUDICIAL DECISIONS

1. A decision of the Assize Court, which has become final, rejected the petition of an accused person who, hoping to prove his innocence, requested an examination utilizing modern psychiatric techniques (analysis while under the influence of drugs, cardiazol shock, and so on). Since the use of such methods of investigation is not provided for by law, the judge could not grant such petitions even if the person concerned agreed to submit to the experiment in full awareness of the risks and to accept the consequences. (Decision of the Limbourg Assize Court, sitting at Tongres, of 30 November 1955.) [2]

[1] See also pp. 344 and 346.

[2] See *Revue de droit pénal et de criminologie* No. 4, January 1956, pp. 440 *et seq.*, Brussels; comment appears in the *Journal des Tribunaux*, 18 December 1955, pp. 732–3, Brussels.

2. In a decision which has become final, a court of first instance ruled that a foreigner may, at his own request, be granted Belgian nationality, if he meets the requirements of Belgian law in that respect, even if the laws of his country contain a provision of perpetual allegiance precluding any change of nationality, or subordinate his right to choose another nationality to an authorization arbitrarily given or refused by the authorities of his native country. In support of its decision, the court stated, *inter alia*, that "the trend in modern law is to recognize that a person whose ties with his native country have become weakened, or who has never been closely bound by such ties, may change his nationality to acquire another . . . and this idea has been explicitly sanctioned by the Universal Declaration of Human Rights" (Judgement of the Court of First Instance of Courtrai, of 14 July 1955).[1]

[1] This judgement has not been published.

BOLIVIA

SUPREME DECREE No. 4017 ON THE RIGHTS OF THE BOLIVIAN CHILD of 11 April 1955 [1]

VICTOR PAZ ESTENSSORO, President of the Republic,

Considering

That the Nationalist Revolutionary Government has enacted provisions protecting the family, and in particular the child, either by grants or through social welfare agencies;

That the Educational Reform Code establishes the new system for educating future generations of Bolivians as an integral part of Bolivian development, and that it must be complemented by social regulations establishing the position of the child in relation to the environment in which he lives;

That one of the basic tenets of the Nationalist Revolution is to protect the child as the most important human possession in the new structure of the country by establishing principles of social justice as a basis for the policy of protection and welfare of minors;

That it is important to keep the child out of bad company by watching closely over him in the streets, public or private places, and wherever he may be exposed to the dangers of physical or moral neglect;

Acting in council with his ministers

DECREES:

Art. 1. The Nationalist Revolutionary Government recognizes and proclaims the following principles as the Rights of the Bolivian Child:

(*a*) The right to be born in proper surroundings, with the best possible hygienic and medical care.

(*b*) The right to know his parents and to bear a name which will not be prejudicial to him as a person nor constitute a social stigma causing him to be shunned by society.

(*c*) The right to full opportunities in life from birth to the time of complete development.

(*d*) The right to be fed, helped, taught and educated sufficiently to enable him to enjoy the prerogatives of all human beings.

(*e*) The right not to be morally or physically maltreated by his family or by any member of the community.

(*f*) The right to equality, social relationships and contact with all other children.

(*g*) The right to respect for his religious beliefs.

(*h*) The right to choose whatever games and pastimes he wishes and freedom to choose his life's work.

(*i*) The prior right over other members of society to protection and assistance.

(*j*) The right to all social welfare and social security measures.

(*k*) The right of complaint against any exploitation of his work by the State, his parents, guardians or proxies.

(*l*) The right to have his dignity respected by others and to enjoy all that is best in life.

(*m*) The right to full protection of his life.

The twelfth day of April is hereby proclaimed as Rights of the Child day.

Art. 2. Approval is hereby given to the Minors' Protection and Police Bureau [Sección Tutelar y Policía de Menores] which was organized prior to this decree as part of the National Department of Minors and Child Protection under the Ministry of Labour and Social Welfare.

Art. 3. The Minors' Protection and Police Bureau shall perform the following functions, to the exclusion of any other police authority:

(*a*) It shall carry out such measures as may be necessary for the assistance of children and for compliance with the rights laid down in article 1 of this decree, and report persons violating these provisions and the laws for the protection of minors to the authorities concerned with minors or social welfare, or to the ordinary courts of justice.

(*b*) It shall intervene on behalf of minors of eighteen years of age who may be involved in criminal law cases.

(*c*) It shall deal with all cases of physical neglect or moral danger.

(*d*) It shall inspect and keep watch over all public places where there may be minors in a state of physical or moral neglect or in physical or moral danger.

Art. 4. Minors may not be arrested by members of the uniformed police, who shall intervene only if they discover minors *in flagrante delicto*, when they

[1] Text published in *Anales de Legislación Boliviana*, Vol. 25 of April – June 1955. Translation by the United Nations Secretariat.

shall immediately notify the Department of Minors Child Protection, and shall also report any cases of and irregular conduct among minors.

The Minister of State for Labour and Social Welfare shall be responsible for the execution and enforcement of this decree.

LEGISLATIVE DECREE No. 3937

of 20 January 1955

SUMMARY[1]

This Act establishes a comprehensive national system of education for Bolivia. Its preamble reaffirms the principle of equality of opportunity for all Bolivians, without any discrimination, and lays down that national education should be inspired by the Universal Declaration of Human Rights.

The Act states that education in Bolivia must be considered as a right of the people and that the State is therefore under the obligation to support, guide and control it. Education is to be universal, free and compulsory; and also democratic and unified, co-educational, progressive and scientific. As one of its objectives as enumerated in the Act, the Bolivian system of education is to incorporate the masses of the rural areas into the national life of the country.

Freedom of religious training is recognized. The religion of the Roman Catholic Church is to be taught in all schools financed by the Government. Parents or guardians who do not want their children to be given religious instruction must present a written statement to this effect at the time of registration.

Private education is entitled to support by the State. The right of the members of the teaching profession to form unions is recognized. Employment of children so as to interfere with their compulsory education is prohibited. Pupils are to have the right to be treated without discrimination on grounds of race, social class, economic position or religious or political belief.

The educational system is to cover four broad areas:

1. Regular education, which comprises six cycles: pre-school, primary, secondary, vocational, technical-professional and university.

2. Adult education.

3. Special education for those with physical or mental defects who cannot follow the regular courses of study.

4. Extra-curricular education, given in a general way to all the population and directed towards the improvement of the cultural level of the community.

The pre-school cycle, attended by children of six years of age or under, is to give education and hygienic and social care to children until they are ready to attend primary school. Primary school constitutes the fundamental basis of the education of citizens and is designed for children of over six years of age. Secondary education is intended to continue the education of the student by raising him to a higher cultural level. The purpose of vocational, technical and professional education is to prepare the masses of the population for useful work.

The Act also contains provisions governing other aspects of education, including workers' education and the education to be given to the population in the rural areas. The State's duty to organize a systematic programme designed towards the elimination of illiteracy is laid down. The obligation is placed upon every illiterate resident of the country to learn to read and write, for which purpose he is to enjoy the proper facilities. The Act also contains provisions concerning vocational guidance.

---

[1] Text published in *Anales de Legislación Boliviana*, Vol. No. 24, of January – March 1955. Summary by the United Nations Secretariat.

BRAZIL

NOTE

The text of Act No. 2415 of 9 February 1955 and extracts from Act No. 2550 of 25 July 1955 appear below.

Legislative decree No. 123 of 1955 (*Diário Oficial* of 1 December 1955) approved the Convention on the Political Rights of Women.[1]

[1] See *Yearbook on Human Rights for 1952*, pp. 375–6.

ACT No. 2415 AMENDING DECREES No. 18527 OF 10 DECEMBER 1928 AND No. 20493 OF 24 JANUARY 1946

of 9 February 1955 [1]

Art. 1. It shall be the exclusive right of the author himself, or of a society legally constituted for the protection of copyright, of which the author is a member or with which he has been registered in the form prescribed in article 105, paragraph 1, of decree No. 20493 of 24 January 1946, to grant a licence for performances and public recitals in Brazilian territory, as well as radio and television broadcasts, as specified in article 42, and article 43, paragraph 1, of decree No. 18527 of 10 December 1928 and article 88 of decree No. 20493 of 24 January 1946.

Art. 2. All provisions contrary to the above are hereby repealed.

[1] Portuguese text in *Diário Oficial* No. 39, of 16 February 1955, received through the courtesy of Dr. Carlos Medeiros Silva, Legal Adviser to the Brazilian Government, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

ACT No. 2550 AMENDING THE ELECTORAL CODE AND OTHER PROVISIONS

of 25 July 1955 [1]

Art. 38. If a voter fails to vote without giving a valid reason to the electoral judge within thirty days of the holding of the election, he shall be liable to a fine of not less than one hundred cruzeiros nor more than one thousand cruzeiros, imposed by the electoral judge, and recoverable by order of the tax authorities.

Paragraph 1. Unless he establishes that he voted in the previous election, or that he paid the fine imposed or adduced as sufficient reason as required, a voter shall not be entitled:

(*a*) To register for an examination or test for any public office or functions, or assume or take possession of such functions or office;

(*b*) To receive a salary, remuneration or wage in respect of public employment or office, or pension benefits, as from the second month following that during which the election was held;

(*c*) To take part in any public or administrative competition organized by the Union, the states, the territories, the Federal District, the municipalities or public administration belonging to any of them;

(*d*) To obtain loans from any federal or state economic fund, social insurance institute or fund, or other credit institution which is maintained by the Government, or in the administration of which the latter participates;

(*e*) To perform any act for which a certificate is required showing that the holder has performed his military service or paid his income tax.

Paragraph 2. The provisions of the foregoing paragraph regarding public employment or office

[1] Portuguese text in *Diário Oficial* No. 171, of 28 July 1955, received through the courtesy of Dr. Carlos Medeiros Silva, Legal Adviser to the Brazilian Government, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

shall apply similarly to employment or office in a public administration or in any corporation jointly financed by public and private interests.

Art. 39. Persons who are Brazilian nationals by birth or naturalization and are over the age of eighteen years, with the exception of the persons specified in article 3 and article 4, paragraph I of the Electoral Code,[1] shall not be entitled to perform any of the acts mentioned in article 38, paragraph 1, of this Act, unless they establish that they have the right to vote.

. . .

Art. 58. A candidate shall not be allowed to register, if he has publicly or openly been a member or supporter of a political party the registration of which has been cancelled under the provisions of article 141, paragraph 13, of the Federal Constitution.[2]

. . .

[1] See *Yearbook on Human Rights for 1951*, p. 21.

[2] See *Yearbook on Human Rights for 1946*, p. 45.

BULGARIA

NOTE ON THE DEVELOPMENT OF LEGISLATION RELATING TO HUMAN RIGHTS IN 1955 [1]

1. *Electoral Law*

In this field, reference should be made to the Act concerning the election of people's judges and jurors (*Journal of the Presidium of the National Assembly* No. 90, of 8 November 1955). This Act introduced new regulations governing the election of judges and jurors of the people's courts, based on the Constitution and the principle of universal, equal and direct suffrage by secret ballot. As in the election of deputies and councillors to organs of local government, the administration takes absolutely no part in the electoral procedure. Elections are prepared by and take place under the direction of the electoral committees, which are made up of voters. Nominations for judges and jurors are presented by public organizations and cultural associations.

2. *Defence of Civic Rights and Freedoms against Unlawful Acts by the Administration*

The Decree on the People's Militia (*Journal* No. 25, of 29 March 1955) repealed the People's Militia Act which had been in force until that date and introduced provision for judicial appeal against penalties imposed by organs of the militia (article 25).

3. *Compulsory Services*

The following amendments were introduced in 1955, with a view to reducing the compulsory services for which Bulgarian citizens had been liable:

(*a*) The decree amending and supplementing the Decree on Military Service in the People's Republic of Bulgaria (*Journal* No. 90, of 8 November 1955) reduced the period of compulsory military service from three to two years.

(*b*) The decree amending the Decree on the Performance of Compulsory Labour (*Journal* No. 86, of 25 October 1955) introduced the same reduction in respect of the performance of compulsory labour (which in certain cases is substituted for military service).

(*c*) The decree published in the *Journal of the Presidium of the National Assembly* No. 50, of 21 June 1955 repealed the Labour Mobilization Act (*Official Journal* No. 50, of 2 March 1948), under which the Council of Ministers was authorized to mobilize persons or undertakings for urgent reasons of State. The decree regularized the existing situation, the labour mobilization system having already fallen into disuse.

4. *Family Law*

The Act amending the Persons and Family Act and the Code of Civil Procedure (*Journal of the Presidium of the National Assembly* No. 90, of 8 November 1955) repealed article 24(1) and article 75(3) of the Persons and Family Act, under which any Bulgarian citizen, before contracting marriage with a foreign national or being adopted by a foreign national, was required to obtain the authorization of the President of the Presidium of the National Assembly. The transitional provisions of the Act amending the Persons and Family Act and the Code of Civil Procedure (paragraphs 13 and 14) provide that marriages and adoptions which had already taken place without the authorization of the President of the Presidium of the National Assembly are to be considered valid.

5. *Social Benefits. Public Assistance designed to improve the Standards of Living and ensure the Cultural Development of the People*

In this field, the development and improvement of the legislation already broadly outlined in previous years is continuing. The most important fundamental laws on the subject enacted in 1955 were the following:

(*a*) Regulations concerning urban and non-urban pioneers' camps and school camps (*Journal* No. 61, of 29 July 1955);

(*b*) Regulations concerning classrooms (*Journal* No. 61);

(*c*) Regulations concerning special schools and attached communities (*Journal* No. 63, of 5 August 1955).

These acts deal with state assistance for the general upbringing and education of children. Special attention is given to some categories of children, in particular those whose parents are employed in the national economy, or whose families are in financial difficulty.

(*d*) Regulations to give effect to the decree concerning the raising of the birth rate and the encouragement of large families (*Journal* No. 74, of 13 September 1955).

[1] Note prepared by Mr. Anguel Anguéloff, Professor at the University of Sofia and Legal Adviser to the Ministry of Foreign Affairs, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

These deal with the same subject-matter as the regulations of 1951 under the same title (*Journal* No. 72, of 7 September 1951). The new regulations introduce wider facilities for the allocation of lump-sum maternity benefits to unmarried mothers, and provide for such benefits to be received at the date of birth. In addition, section 4 of the regulations authorizes the executive committees of People's Councils to pay lump-sum benefits to large families in difficult circumstances, such benefits being drawn from social assistance funds. Large families are defined as families with not less than three living children.

BURMA

NOTE[1]

Social Security

The Social Security Act, No. 67 of 1954, approved on 22 October 1954 (*Burma Gazette*, 6 November 1954), which was amended by the Social Security (Amendment) Act, No. 50 of 1955, approved on 12 October 1955 (*Burma Gazette*, 12 October 1955), envisages the gradual establishment of a social security scheme providing against sickness, maternity, death and employment injury. The benefits to be derived from the scheme were to be medical care and cash payments. The scheme was to be financed by contributions from employers, employees and the State.

Translations into English and French of the Act of 1954 and the amending Act of 1955 appear in International Labour Office: *Legislative Series*, 1954 — Bur. 1 and 1955 — Bur. 1, respectively.

Protection of Children

The Children Act, 1955, which was to extend to such areas of Burma as the President may direct, made provisions concerning the trial of children (persons under 16); the treatment of juvenile offenders (children found to have committed offences); training schools, voluntary homes and remand homes; care and protection of destitute, neglected or victimized children; and various other aspects of the care of children. The courts were empowered to restrict attendance at, and reporting on, trials involving children.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

NOTE[1]

The equality of citizens, irrespective of ethnic origin and race, in all spheres of economic, state, cultural and public and political life is the irrevocable law of the Byelorussian Soviet Socialist Republic.

The economic and social development of the Byelorussian SSR in 1955, as in previous years, was determined and directed by the State economic plan, with a view to increasing the national wealth and ensuring a constant rise in the material and cultural standard of living of the workers.

[1] Note and texts received through the courtesy of the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations, acting on behalf of the Minister for Foreign Affairs of the Byelorussian Soviet Socialist Republic. Translation by the United Nations Secretariat.

ACT CONCERNING THE STATE BUDGET OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC FOR 1955

(EXTRACTS)

Art. 1. The state budget of the Beylorussian SSR for 1955, submitted by the Council of Ministers of the Byelorussian SSR, together with the amendments accepted on the basis of the report of the Budget Commission of the Supreme Soviet of the Byelorussian SSR, is hereby approved as follows: total revenue — 4,135,545,000 roubles; total expenditure — 4,135,545,000 roubles.

Art. 4. The total sum of 2,825,598,000 roubles shall be appropriated for social and cultural activities in the state budget of the Byelorussian SSR for 1955. Expenditure on the different branches of social and cultural activity shall be apportioned as follows:

(*a*) *Education and culture.* Expenditure on primary, seven-year and secondary general education schools, technicums and other specialized secondary education establishments; higher education institutions and scientific and research establishments; workshop and factory apprenticeship schools; courses and other activities designed to raise the qualifications of workers, collective farm workers and engineering and technical workers; libraries, halls and homes for cultural activities, clubs, theatres, the press and other educational and cultural activities: a total of 1,844,206,000 roubles;

(*b*) *Health and physical culture.* Expenditure on hospitals, dispensaries, maternity homes, creches, sanatoria and other establishments for the medical care of the population; sport and physical culture: a total of 785,444,000 roubles;

(*c*) *Social security and social insurance.* Expenditure on pensions and assistance for disabled workers and their families and recipients of personal and other pensions; the maintenance of homes for the disabled; lump-sum benefits for disabled veterans of the Patriotic War and their families and the provision of prosthetic appliances: a total of 195,948,000 roubles.

REPORT OF THE STATISTICAL BOARD OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC ON THE FULFILMENT OF THE STATE PLAN FOR THE DEVELOPMENT OF THE NATIONAL ECONOMY OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC IN 1955

(EXTRACTS)

... The 1955 plan for gross output of industry as a whole in the territory of the Byelorussian SSR was fulfilled to the extent of 103 per cent....

The gross output of industry as a whole increased by 13 percent in 1955 as compared with 1954....

The development of industry in 1955 was characterized by a further expansion in the heavy industrial sectors. The year 1955 saw a considerable increase over 1954 in the output of electric power, in turf extraction and in the output of tractors, motor-cars,

metal-cutting lathes, cement, slate, bricks, lime and other products manufactured by heavy industrial enterprises.

Considerable progress was achieved in the consumer-goods industries. The output of sewing-machines, bicycles, wireless sets, rugs and carpets, woollen and linen fabrics, leather footwear, hosiery, knitted outerwear, meat, sausage products, animal fats, tinned goods, sugar and other foodstuffs and industrial products was greater in 1955 than in 1954.

In 1955, the sown area of winter and summer corn harvested increased by 118,000 hectares as compared with 1954. . . .

In 1955, further progress was made in developing the culture and health of the population of the Byelorussian SSR.

With the development of secondary education in towns and rural districts, the number of secondary schools continued to expand. The number of pupils graduating from secondary schools, including schools for young workers, and of pupils obtaining matriculation certificates was 28 per cent greater in 1955 than in 1954 (36 percent greater in rural areas).

The number of young specialists graduating from higher education institutions and technicums in 1955 was 13 per cent greater than in the preceding yaer. . . .

In 1955, the number of kindergartens and creches was expanded, and the number of children in kindergartens administered by the Ministry of Education of the Byelorussian SSR was 9 per cent greater than in 1954. The number of places in permanent creches increased by 10 per cent.

In 1955, new hospitals, maternity homes and other curative establishments were brought into service. The number of doctors increased. The number of beds in hospital establishments was 6 percent greater in 1955 than in 1954, and supplies of the latest medical apparatus, equipment and instruments to curative establishments were improved.

In 1955, the number of sanatoria and rest homes in the Republic increased. The number of beds in sanatoria increased by 10 per cent as compared with 1954 and the number of beds in rest homes by 5 per cent.

CAMBODIA

NOTE[1]

1. The Act of 29 November 1955 (No. 54 NS) reduces court charges and simplifies the procedure for obtaining legal aid.

2. The Act of 18 May 1955 (No. 6 NS) provides for a substantial reduction in the period of imprisonment (pending the satisfaction of a payment ordered by the court) in criminal cases.

3. The Act of 22 September 1955 (No. 42 NS) defines the rights of the defence in preliminary investigations before military tribunals.

4. The Act of 30 November 1954 liberalizes the law relating to the acquisition of Cambodian nationality.

5. The Act of 24 June 1954 (No. 873 NS) introduces the employment record.

The employment record is intended to benefit the employee; for example, article 3 of the Act provides:

"The employment record is intended to establish the identity of the holder, the nature of the occupation in which he is skilled, the duration of the employment, the wage agreed on and the method of payment, and subsequent employments.

"The employer is not permitted, in any circumstances, to write his comments on the record when the worker or servant leaves his employ. Any person who contravenes this provision shall be liable to treble the lowest penalty applicable."

[1] Note based on information kindly supplied by the Minister of Foreign Affairs of Cambodia.

6. The Act of 12 March 1954 (No. 858 NS) establishes family allowances for civil servants.

7. The Act of 24 August 1955 establishes family allowances for all wage-earners.

8. The Interprofessional Equalization Fund for family allowances was established by royal decree No. 3 of 25 April 1955 (No. 3 NS). Every employer, whatever his nationality, must join this fund, from which allowances are paid to wage-earners with families. The Fund has, at the present time, 1,698 affiliated members. The number of wage-earners employed by the affiliated undertakings is 9,159, of whom 3,489 are receiving allowances.

Between June 1955 and November 1956, the wage-earners covered by this fund received the sum of 10,018,707 riels, or a monthly average of 589,347 riels, distributed among 2,871 wives and 5,254 children.

9. The Act of 15 February 1955 (No. 931 NS) deals with measures for the prevention and punishment of begging; it also provides for the re-education and material and moral care of persons in need of assistance.

10. The Act of 30 May 1955 (No. 10 NS) prohibits the use, sale and transport of opium and the cultivation of the opium poppy.

11. The Act of 28 May 1954 (No. 869 NS) establishes scholarships for needy students not holding administrative posts.

CANADA

HUMAN RIGHTS IN CANADA IN 1955 [1]

In 1955, the federal legislation which in Canada constitutes the chief means of protecting "the right to security in the event of unemployment" was given a thorough revision in Parliament; in one of the provincial legislatures a new law was passed to prohibit discrimination in employment on grounds of race, religion, colour or national origin; and in another province a new method was devised for securing periodic redistribution of seats in the provincial legislature in accordance with population changes. Several developments in legislation aimed at securing more favourable working conditions are also reported.

I. FEDERAL LEGISLATION

Social Security

Unemployment Insurance

The Unemployment Insurance Act was replaced by a new Act [2] at the 1955 session of Parliament.

Canada has had a national system of unemployment insurance in effect since 1941. It is a contributory system, under which employers and employees contribute equally to an unemployment insurance fund according to a scale of rates related to the employee's earnings, and the Government contributes an amount equal to one-fifth of the combined employer-employee contributions and assumes the cost of administration. Benefits are payable to insured persons who are capable of and available for work and unable to obtain suitable employment, at rates related to the employee's average weekly contributions and for a period of time related to the number of contributions. The rate is higher for a person with one or more dependants.

The new Act did not alter the basic principles of the system, but it made some substantial changes. The stamp system for contributions was continued, but on a weekly rather than a daily basis; that is, stamps will be based on weekly earnings without reference to any specific number of days. The benefit rates were increased. The scale of benefit rates is intended to bear a relationship to ordinary rates of earnings and, the relationship having been altered as a result of the rise of wage rates, benefits were increased so as to restore the relationship. The new maximum for a person with a dependant is $30 per week instead of $24, and for a single person $23 per week instead of $17.10. Supplementary benefits payable during the period 1 January to 15 April, when seasonal unemployment is highest in Canada, are continued in the new Act, the rates now being the same as ordinary benefits but the conditions for eligibility being less stringent. Other changes were made to encourage persons on benefit to take casual employment when it is available. Under the new Act they are allowed to earn a specified amount without loss of benefit, excess earnings over the allowable amount being deducted from the benefit payable.

The duration of the benefit period was reduced from a year to 36 weeks, a period considered sufficiently long to meet the requirements of insured people who are genuinely capable of and available for employment.

Blind Persons' Allowances

Amendments to the Blind Persons' Act, legislation which provides for federal-provincial agreements to be made to grant allowances to needy blind persons, lowered the age of eligibility for a blind person's allowance from 21 to 18 and increased the maximum income allowed.[3]

II. PROVINCIAL LEGISLATION

Labour Legislation

Fair Employment Practices

The Legislature of the Province of Nova Scotia passed a Fair Employment Practices Act [4] prohibiting discrimination by employers with regard to employment and by trade unions with regard to membership on grounds of race, colour, religion or national origin. The text appears below.

Compensation for Accidents

The legislation dealing with compensation for industrial accidents was amended in seven provinces to give increased protection to workers injured in the course of employment. The percentage of earnings on which compensation is based was increased in two provinces; [5] in another province the ceiling on earnings which may be taken into account for com-

[1] Note received through the courtesy of Mr. A. H. Brown, Deputy Minister of Labour, Ottawa.

[2] *Statutes of Canada*, 1955, c. 50.

[3] *Statutes of Canada*, 1955, c. 26.

[4] *Statutes of Nova Scotia*, 1955, c. 5.

[5] *Statutes of New Brunswick*, 1955, c. 81; *Statutes of Quebec*, 1955–56, c. 7.

pensation purposes was raised because of higher prevailing average earnings;[1] in three provinces monthly allowances to dependants of deceased workmen (which are set at fixed amounts not directly related to earnings) were increased because of the decline of the real value of the allowances since the amounts were fixed;[2] and in two provinces the groups eligible for widows' and children's pensions at the current rate were widened.[3]

Minimum Wages

A minimum wage was set for the first time for women in the Province of Newfoundland by an order which came into effect on 15 June 1955.[4] In Ontario, the rates for women workers were increased, this being the first revision since 1947.[5] In British Columbia, where minimum rates are set on an industry basis, new orders were issued for the construction and logging industries.[6]

Safety

Legislation setting out requirements for the safe operation of boilers was substantially revised in three provinces,[7] and regulation and inspection of gas installations and gas equipment for consumers and the compulsory certification of persons engaging in the trade of gas-fitter were provided for in a new Gas Protection Act in Alberta.[8] Regulations to deal with the hazards involved in the use of explosive-actuated tools were issued in British Columbia.[9]

Representation in Legislative Assemblies

Four provinces passed legislation in 1955 dealing with representation in their legislative assemblies. These measures were passed by virtue of the authority given each province under the British North America Act to revise its own constitution. In British Columbia,[10] Alberta[11] and Newfoundland[12] the number of members in each legislative assembly was increased and some changes were made in existing electoral districts to take account of changes in population.

In Manitoba[13] an amendment to the legislation establishing the electoral districts from which the members of the Legislative Assembly for the province are elected made provision for a regular review of electoral divisions at ten-yearly intervals, established a commission to report to the legislature on what changes ought to be made, and set out the principles which the commission is to follow in making its recommendations, including the requirement to hold public hearings. Up to this point the review of representation in Manitoba, as in other provinces, had been effected by an Act of the legislature at such time as it seemed necessary to the Government in power, sometimes based on the report of an *ad hoc* committee composed of members of the legislature.

The commission established in Manitoba consists of the incumbents of the following positions: the Chief Justice of the province, the President of the University of Manitoba, and the Chief Electoral Officer. In the year 1956 and every ten years thereafter the commission is to prepare a report recommending the area that should be contained in, the boundaries that should delimit and the name of each of the electoral divisions of the province. The report is to be submitted to the President of the Executive Council who is required to place it before the Legislative Assembly. Extracts from the amendment setting out the governing factors which the commission is to apply in making its recommendation appear below.

The area and boundaries of each electoral division will be fixed by an Act of the legislature after it has considered the report of the commission.

III. JUDICIAL DECISION

Allowing an appeal from a judgement of the Quebec Court of Queen's Bench, the Supreme Court of Canada on 15 November 1955 held that three members of the Quebec Provincial Police Force acted erroneously and wrongfully in breaking up a peaceful religious meeting in a private home and were liable for damages of $2,000, together with costs of the action throughout. The damages awarded by the court to the apellant, the owner of the house, were "moral" damages under the Quebec Civil Law, which are exclusively of a compensatory character, as distinct from punitive damages.

The court was of the opinion that in preventing the carrying on of the service by ordering the minister,

---

[1] *Statutes of Prince Edward Island*, 1955, c. 35.

[2] *Statutes of British Columbia*, 1955, c. 91; *Statutes of Prince Edward Island*, 1955, c. 35; *Statutes of Saskatchewan*, 1955, c. 64.

[3] *Statutes of Manitoba*, 1955, c. 84; *Statutes of Ontario*, 1955, c. 93.

[4] Minimum Wage Order No. 3 (Female), 1955, 23 May 1955, made under Newfoundland Minimum Wage Act, R.S. 1952, c. 260.

[5] O. Reg. 4/55, 14 January 1955, made under Ontario Minimum Wage Act, R.S.O. 1950, c. 235.

[6] Male Minimum Wage Order 12 (1955), 22 March 1955, and Male and Female Minimum Wage Order 1 (1955), 9 May 1955, made under Male Minimum Wage Act R.S. 1948, c. 220 and Female Minimum Wage Act, R.S. 1948, c. 221.

[7] *Statutes of Alberta*, 1955, c. 65; *Statutes of British Columbia*, 1955, c. 5; *Statutes of Newfoundland*, 1955, c. 37.

[8] *Statutes of Alberta*, 1955, c. 33.

[9] Accident-prevention Regulations for Explosive-actuated Tools effective 1 February 1955, made under British Columbia Workmen's Compensation Act, R.S. 1948, c. 370.

[10] *Statutes of British Columbia*, 1955, c. 11.

[11] *Statutes of Alberta*, 1955, c. 62.

[12] *Statutes of Newfoundland*, 1955, c. 25.

[13] *Statutes of Manitoba*, 1955, c. 17.

a member of Jehovah's Witnesses, to stop reading from the Bible, in seizing the Bible and other literature, in dispersing those attending and in ejecting the minister, the policemen acted in violation of the Criminal Code.[1]

The police action could not be justified, the court ruled, merely because it occurred after the decision of the Quebec Court of Appeal in *Boucher* v. *the King* and before its reversal by the Supreme Court. Because a particular pamphlet had been held in that case to be seditious, a pamphlet not among those seized from the appellant's premises, it could not be presumed that all the religious meetings of the sect had a seditious intent. Neither was it held to be a defence that the police action was taken on the orders of a superior officer for, the court stated, when a subordinate realized that the facts that brought about an order were ill-founded, he should not carry it out. The policemen saw or heard nothing of a seditious or illegal character in the conduct of the meeting, and they had no legal right to interrupt and end it.

It was further emphasized in the reasons for decision that all religions are on an equal footing in Canada and persons adhering to the various religious denominations enjoy the most complete liberty of thought. The opinion of a minority is entitled to the same respect as that of the majority, and the fact that views were expressed which may have been opposed to the views of the majority of the citizens of the locality was not a ground for interfering with the meeting. Moreover, the appellant, as a resident of the Province of Quebec, was entitled to freedom of religious exercise under the Freedom of Worship Act, a Quebec statute.[2] His right to enjoy those privileges and to maintain his good name were "absolute and very precious rights" for which he was entitled to recover substantial general damages. *Chaput* v. *Romain* (1956) 1 D.L.R. (2d), 241–272.

[1] *Statutes of Canada*, 1953–54, c. 51, s. 161 (1) (a), (b).

[2] See *Yearbook on Human Rights for 1954*, pp. 43–4.

Provincial Legislation

NOVA SCOTIA

THE FAIR EMPLOYMENT PRACTICES ACT[1]

AN ACT TO PREVENT DISCRIMINATION IN REGARD TO EMPLOYMENT AND MEMBERSHIP IN TRADE UNIONS BY REASON OF RACE, NATIONAL ORIGIN, COLOUR OR RELIGION

2. In this Act:

(*a*) "Commission" means an Employment Practices Commission;

(*b*) "Director" means the officer of the Department of Labour designated by the Minister to receive and deal with complaints under this Act;

(*c*) "Employee" means any person employed by an employer;

(*d*) "Employer" means a person who employs five or more employees, and includes any person acting on behalf of an employer, but does not include an exclusively charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for private profit, or an organization that is operated primarily to foster the welfare of a religious or racial group and is not operated for private profit;

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

(*f*) "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;

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

(*h*) "Person" includes employment agency, trade union and employers' organization;

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

3. (1) No employer shall refuse to employ or to continue to employ, or otherwise discriminate against any person in regard to employment or any term or condition of employment because of his race, national origin, colour or religion.

(2) No employer shall use, in the hiring or recruitment of persons for employment, an employment agency that discriminates against persons seeking employment because of their race, national origin, colour or religion.

(3) No trade union shall exclude any person from full membership or expel or suspend or otherwise discriminate against any of its members or discriminate against any person in regard to his em-

[1] *Statutes of Nova Scotia*, 1955, c. 5.

ployment by any employer, because of that person's race, national origin, colour or religion.

(4) No employer or trade union shall discharge, expel or otherwise discriminate against any person because he has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Act.

(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 in connexion with employment that expresses either directly or indirectly any limitation, specification or preference as to race, national origin, colour or religion.

4. (1) Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Director on a form prescribed by the Director, and the Director may instruct an officer of the Department of Labour or any other person to inquire into the complaint.

(2) The officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matters complained of.

(3) If the officer is unable to effect a settlement of the matters complained of, the Minister may refer the matters involved in the complaint to a Commission, consisting of one or more persons, to be appointed by the Minister and to be known as an "Employment Practices Commission", for investigation with a view to the settlement of the complaint.

(4) Immediately following its appointment, a commission shall inquire into the matters referred to it and shall give full opportunity to all parties to present evidence and make representations and, in the case of any matter involved in a complaint in which settlement is not effected in the meantime, if it finds that the complaint is supported, shall recommend to the Minister the course that ought to be taken with respect to the complaint, which may include reinstatement, with or without compensation, for loss of employment.

(5) If the commission is composed of more than one person, the recommendations of the majority constitute the recommendations of the commission.

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

(7) Upon receipt of the recommendations of a commission, the Minister shall furnish a copy thereof to each of the persons affected and, if he considers it advisable, shall publish the same in such manner as he considers fit.

(8) The Minister may issue whatever order he considers necessary to carry the recommendations of the commission into effect.

(9) Every person in respect of whom an order is made under this section shall comply with such order.

(10) A commission may determine its own procedure and may receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it considers fit, whether admissible in a court or not.

(11) A commission shall have the power of summoning before it any witnesses and of requiring them to give evidence on oath, or on solemn affirmation, if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as the commission deems requisite to the full investigation and consideration of the matters referred to it, but the information so obtained from such documents shall not, except as the commission considers expedient, be made public.

(12) A commission shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases.

(13) A commission or any person who has been authorized for such purpose in writing by a commission may, at any time, enter a building, ship, vessel, factory, workshop, place, or premises of any kind wherein work is being or has been done or commenced by employees or in which an employer carries on business or any matter or thing is taking place or has taken place, concerning the matters referred to the commission, and may inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such place, matter or thing hereinbefore mentioned; and no person shall hinder or obstruct the commission or any person authorized as aforesaid in the exercise of a power conferred by this section or refuse to answer an interrogation made as aforesaid.

(14) The Minister may provide a commission with a secretary, stenographer, and such clerical or other assistance as to the Minister seems necessary for the performance of its duties and fix their remuneration.

(15) The chairman and the other members of a commission shall each be paid such remuneration as the Minister determines and his actual and reasonable travelling expenses for each day he is absent from his place of residence in connexion with the work of the commission.

(16) Nothing in this section restricts the right of any aggrieved person to initiate proceedings under any other provisions of this Act before a court, judge or magistrate against any person for an alleged contravention of this Act.

5. Every person who does anything prohibited by this Act or who refuses or neglects to do anything required by this Act, except where some other penalty is by this Act provided for the act, refusal or neglect, is liable to summary conviction

(*a*) If an individual, to a fine not exceeding one hundred dollars; and

(*b*) If a corporation, trade union, employers' organization or employment agency, to a fine not exceeding five hundred dollars.

6. Where any employer is convicted for violation of section 5 by reason of his having suspended, transferred, laid off or discharged an employee contrary to this Act, the convicting court, judge or magistrate, in addition to any other penalty, may order the employer to pay compensation for loss of employment to the employee not exceeding such sum as in the opinion of the court, judge or magistrate, as the case may be, is equivalent to the wages, salary or remuneration that would have accrued to the employee up to the date of conviction but for such suspension, transfer, lay off or discharge, and may order the employer to reinstate the employee in his employ at such date as in the opinion of the court, judge or magistrate is just and proper in the circumstances in the position the employee would have held but for such suspension, transfer, lay off or discharge.

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

8. (1) No prosecution for an offence under this Act shall be instituted without the consent in writing of the Minister.

(2) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.

9. Where the Minister considers it expedient he may undertake or cause to be undertaken such inquiries and other measures as appear advisable to him to promote the purpose of the Act.

10. Nothing in this Act shall be construed to require a person to employ anyone or to do or refrain from doing any other thing contrary to any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interests of the safety or security of Canada or any state allied or associated with Canada.

11. The Governor in Council may make regulations to carry out the purposes and provisions of this Act.

12. This Act shall come into force on and not before the first day of January 1956.

MANITOBA

ACT TO AMEND THE ELECTORAL DIVISIONS ACT [1]

2. The Act is amended by adding thereto, immediately after section 6 thereof, the following sections:

6 A. . . .

(6) Subject to section 6 D, the commission, in determining the area to be included in, and in fixing the boundaries of, any electoral division, shall take into consideration

(*a*) The community or diversity of interests of the population thereof;

(*b*) The means of communication between the various parts thereof;

(*c*) The physical features thereof; and

(*d*) All other similar and relevant factors;

and, in so far as possible, shall include the whole area of each municipality in the same electoral division.

. . .

6 D. (1) In establishing the total number of rural electoral divisions and urban electoral divisions respectively, the number of each shall be so computed that

(*a*) The number of rural electoral divisions shall be the same proportion of the total number of electoral divisions that one-quarter of the population of the rural area bears to the total of one-quarter of the population of the rural area and one-seventh of the population of the urban area; and

(*b*) The number of urban electoral divisions shall be the same proportion of the total number of electoral divisions that one-seventh of the population of the urban area bears to the total of one-quarter of the population of the rural area and one-seventh of the population of the urban area.

(2) In making the computation required by subsection (1), if the total number of rural or urban electoral divisions resulting from the computation includes a fractional number, that total number

[1] *Statutes of Manitoba*, 1955, c. 17.

shall be increased or decreased to the next whole number according as the fraction is greater or less than one-half; and if the fraction is exactly one-half, the number of rural electoral divisions and the number of urban electoral divisions respectively shall be so fixed that the result makes the least departure from the number of rural electoral divisions and the number of urban electoral divisions, respectively, as they exist at the time the commission makes its report.

(3) The population quota for a rural electoral division shall be obtained by dividing the number of the population of the rural area by the number of rural electoral divisions as so established.

(4) The population quota for an urban electoral division that includes the city of Brandon or part thereof shall be obtained by dividing the number of the population of the urban area by the number of urban electoral divisions as so established.

(5) The population quota for an urban electoral division in Greater Winnipeg shall be obtained by dividing the number of the population of Greater Winnipeg by the result obtained by deducting the number of electoral divisions comprising the city of Brandon as so established from the number of urban electoral divisions as so established.

(6) Subject to the other subsections of this section, the area of the several electoral divisions shall be so fixed, and the boundaries thereof so drawn that

(*a*) The population included in each rural electoral division shall be, as nearly as possible, the same as the population in each other rural electoral division;

(*b*) The population included in each urban electoral division shall be, as nearly as possible, the same as the population included in each other urban electoral division; and

(*c*) For every four persons of the population included in each rural electoral division there shall be seven persons in the population included in each urban electoral division.

(7) In applying sub-sections (1) and (2) to determine the area and boundaries of, and population included in, any individual electoral division in the rural area or in Greater Winnipeg, a variation, greater or less, of not more than five per centum of the number established as the population quota of a rural electoral division or an urban electoral division in Greater Winnipeg, as the case may be, is allowable.

(8) Wherever in this section or section 6 C there is a reference to the population of any area in the province, it means the population of that area as determined by the latest census taken under the Statistics Act (Canada).

6 E. (1) Before making any final determination of the area and boundaries of the several electoral divisions, the commission shall appoint such times and places as it may deem necessary and suitable as the times when, and places where, it will hear representations from any person as to the area and boundaries of any electoral division; and at the times and places so appointed the commission shall sit and hear such representations from all persons desiring to be heard.

(2) The commission shall give reasonable public notice of the times and places at which it will sit and hear representations as provided in sub-section (1).

6 F. The area and boundaries of the several electoral divisions of the province shall be fixed by an Act of the legislature after consideration by it of the report of the commission.

CEYLON

NOTE

Nationality

The Citizenship (Amendment) Act, No. 13 of 1955, assented to on 12 April 1955 (printed separately at the Government Press), amended the Citizenship Act, No. 18 of 1948 [1] (previously amended by the Citizenship (Amendment) Act, No. 40 of 1950),[2] by:

(i) The deletion of sub-paragraph (b) (ii) of sub-section (1) of section 11, and a consequential change in the cross-reference made in paragraph (*a*) of sub-section (2).[3]

(ii) The insertion of the following new section 11A:

". . . 11A (1) Subject to the other provisions of this part, no person who is the spouse, or the widow or widower, of a citizen of Ceylon by descent or registration, shall be registered as a citizen of Ceylon under this Act, except in accordance with the succeeding provisions of this section.

"(2) A person who desires to be registered as a citizen of Ceylon under this section shall send an application in the prescribed form and manner to the prescribed officer.

"(3) After the receipt of the application under sub-section (2), the prescribed officer shall send the application to the Minister, if he is satisfied that the applicant has the following qualifications:

(*a*) That the applicant has the qualifications specified in paragraphs (*a*) and (*c*) of sub-section (1) of section 11;

(*b*) That the applicant has been resident in Ceylon throughout a period of one year immediately preceding the date of the application of such applicant; and

(*c*) That the applicant is the spouse, or the widow or widower, of a citizen of Ceylon by descent or registration.

"(4) The Minister may refuse an application sent to him under sub-section (3), if he is satisfied that it is not in the public interest to grant the application.

"(5) Where the Minister grants an application for registration made under this section by any person, such person shall be registered as a citizen of Ceylon.

"(6) The Minister's refusal under sub-section (4) of this section to allow the application of any person for registration as a citizen of Ceylon shall be fina and shall not be contested in any Court."

(iii) The addition of "or section 11A" after "section 11", and the addition of "section 11A or" before "section 12", in sections 12 and 16 respectively.[4]

(iv) The substitution of "section 11 or section 11A or section 12, the Minister may" for "section 11 or section 12, the Minister shall" in section 13, sub-section (2).[4]

(v) The substitution of the following for section 22: [5]

"22. (1) Where the Minister is satisfied that a person who is a citizen of Ceylon by registration –

(*a*) Has been convicted of an offence under this Act; or

(*b*) Has been convicted of any offence under chapter VI of the Penal Code; or

(*c*) Was registered as a citizen of Ceylon by means of fraud, false representation, or the concealment of material circumstances or by mistake; or

(*d*) Has, within five years after the date of registration as a citizen of Ceylon, been sentenced in any court to imprisonment for a term of twelve months or more; or

(*e*) Has, since the date of his becoming a citizen of Ceylon by registration, been for a period of not less than two years ordinarily resident in a foreign country of which he was a national or citizen at any time prior to that date, and has not maintained a substantial connexion with Ceylon; or

(*f*) Has taken an oath or affirmation of, or made a declaration of, allegiance to a foreign country; or

(*g*) Has so conducted himself that his continuance as a citizen of Ceylon is detrimental to the interests of Ceylon,

the Minister may by order declare that such person shall cease to be such a citizen, and thereupon the person in respect of whom the order is made shall cease to be a citizen of Ceylon by registration.

"(2) Before the Minister makes any order in relation to a person to whom paragraph (*g*) of sub-section (1) of this section applies, he shall refer that person's case for inquiry by one or more persons

---

[1] See *Yearbook on Human Rights for 1948*, pp. 31–4.

[2] See *Yearbook on Human Rights for 1950*, pp. 44–6.

[3] See *Yearbook on Human Rights for 1948*, p. 32.

[4] See *Yearbook on Human Rights for 1948*, p. 33.

[5] See *Yearbook on Human Rights for 1948*, p. 34.

appointed by him, with such qualifications as may be prescribed. The person or persons who have been authorized to make an inquiry under the preceding provisions of this section shall, as soon as the inquiry is completed, make a written report to the Minister. He shall not make any order under sub-section (1) of this section without carefully considering such report.

"(3) Where a person ceases to be a citizen of Ceylon under sub-section (1) of this section, the Minister may by order direct that all or any of the persons specified in the following paragraphs shall cease to be citizens of Ceylon, and thereupon they shall cease to be citizens: –

(*a*) All or any of the minor children of such person who have been included in the certificate of registration issued to him at the time of his registration, and

(*b*) The spouse, widow or widower of such person, if such spouse, widow or widower was registered under this Act."

Official Secrets

The Official Secrets Act, No. 32 of 1955, assented to on 1 September 1955 (printed separately at the Government Press) was designed to restrict access to official secrets and secret documents and to prevent their unauthorized disclosure. The Act included provisions regulating the power to arrest, and the power to search, offenders under the Act or persons suspected of being such offenders.

Section 24 of the Act provides:

"24. In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings, if, in the course of any preliminary proceedings before a court against any person for an offence under this Act, or in the course of the trial of a person for an offence under this Act, or in the course of the hearing of an appeal in any such case, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings, trial or hearing would be prejudicial to the safety or interests of the State, that all or any portion of the public shall be excluded during any part of the proceedings, trial or hearing, the court may make an order to that effect; but in every case where a sentence has to be passed, such sentence shall be passed in public:

"Provided that, except in case of gross misconduct, no advocate or proctor appearing for the accused shall be excluded."

Prevention of Stay-in Strikes

The Stay-in Strikes Act, No. 12 of 1955, assented to on 12 April 1955 (Supplement to *Ceylon Government Gazette*, part II, of 22 April 1955), made it an offence for a person taking part in a strike in any industry to remain, in furtherance of that strike, in the premises in which that industry is carried on. It was further provided that any person committing the offence might be arrested without warrant and be ejected from the premises by any police officer not below the rank of inspector of police.

Religious Rights

The Ceylon (Constitution) Amendment Act, No. 29 of 1954, assented to on 6 July 1954 (Supplement to *Ceylon Government Gazette*, part II, of 9 July 1954), amended section 29, sub-section (2), of the Ceylon (Constitution) Order in Council, 1946;[1] section 29, sub-sections (1) and (2) then read:

"29. (1) Subject to the provisions of this order, Parliament shall have power to make laws for the peace, order and good government of the island.

"(2) No such law shall:

(*a*) Prohibit or restrict the free exercise of any religion; or

(*b*) Make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or

(*c*) Confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or

(*d*) Alter the constitution of any religious body except with the consent of the governing authority of that body, so, however, that in any case where a religious body is incorporated by law, no such alteration shall be made except at the request of the governing authority of that body:

"Provided, however, that the preceding provisions of this sub-section shall not apply to any law making provision for, relating to, or connected with, the election of Members of the House of Representatives, to represent persons registered as citizens of Ceylon under the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949."[2]

It was provided further that the proviso appearing in the amended sub-section would cease to have effect on a date to be fixed by the Governor-General.

---

[1] For section 29, sub-section (2) before amendment, see *Yearbook on Human Rights for 1947*, p. 76.

[2] Concerning the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949, and representation of persons registered as citizens of Ceylon thereunder, see *Yearbook on Human Rights for 1952*, p. 27 and *Yearbook on Human Rights for 1954*, p. 46.

CHILE

NOTE[1]

Chilean legislation on human rights in 1955 was as usual applied in a normal manner, and further improvements were made.

The increasing cultural needs of the population resulted in the adoption of the following supplementary legislative and executive measures:

Act No. 11765 (*Diario Oficial* No. 23040, of 6 January 1955) provides for the payment of long-service bonuses to members of the National Merchant Marine.

Act No. 11773 (*Diario Oficial* No. 23055, of 24 January 1955) grants an amnesty to persons guilty of offences or violations punishable under Act No. 8987, regarding the Permanent Defence of Democracy.[2]

Act No. 11934 (*Diario Oficial* No. 23283, of 27 October 1955) establishes the Social Workers Society.

Decree No. 586 (*Diario Oficial* No. 23064, of 3 February 1955) approves an agreement regulating the operation of a Chilean regional office of the Food and Agriculture Organization of the United Nations (FAO).

Decree No. 139 (*Diario Oficial* No. 23157, of 27 May 1955) orders the entry into force, as a law of the republic, of the agreement concluded with the United Nations and the World Health Organization for the provision of technical assistance concerning the Inter-American Centre of Biostatistics, signed at Santiago, on 21 August 1952.

Decree No. 74 (*Diario Oficial* No. 23202, of 21 July 1955) orders the entry into force, as a law of the republic, of the Inter-American Convention on the rights of the author in literary, scientific, and artistic works.

Decree No. 200 (*Diario Oficial* No. 23203, of 22 July 1955) orders the entry into force, as a law of the republic, of the Convention on literary and artistic copyright concluded at Buenos Aires at the Fourth International Conference of American States.

Decree No. 75 (*Diario Oficial* No. 23206, of 26 July 1955) orders the entry into force, as a law of the republic, of the Universal Copyright Convention.[3]

[1] Note kindly prepared by Mr. Julio Arriagada Augier, former Under-Secretary of Public Education, government-appointed correspondent of the *Yearbook on Human Rights*. Translation from the Spanish text by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1948*, pp. 36–42.

[3] See *Yearbook on Human Rights for 1952*, pp. 398–402.

COLOMBIA

DECREE No. 0609 OF 1955 CONTAINING CERTAIN PROVISIONS FOR THE PROTECTION OF THE MORAL AND MENTAL HEALTH OF COLOMBIAN CHILDREN

of 11 March 1955 [1]

Art. 1. As from the date of issue of the present decree, no children's periodicals may be imported or freely sold in the national territory unless previously registered with the Ministry of Education.

Art. 2. All children's periodicals, booklets, magazines known as comic strips and stories which are of a pornographic nature or which emphasize lascivious or manifestly erotic topics, are strictly prohibited.

Similarly, all stories of a morbid nature liable to harm child readers by giving examples of mental cruelty, brutality or glorified violence are prohibited.

All publications for children which tend to divert the child's mind from reality, without substantially enriching its imagination are also debarred from circulation.

. . .

Art. 4. The Government shall appoint a board for the purpose of periodically certifying the nature and contents of all literary or illustrated publications intended for children or adolescents, and to examine applications for registration as envisaged in article 1 of the present decree.

. . .

[1] Published in *Diario Oficial* No. 28716, of 25 March 1955. Translation by the United Nations Secretariat.

DECREE No. 2535 SETTING FORTH PROVISIONS RELATING TO THE PRESS

of 21 September 1955 [1]

The President of the Republic of Colombia, by virtue of the legal authority vested in him, particularly under article 121 of the National Constitution, and

Considering that decree No. 3518, of 9 November 1949,[2] declares public order to have been disturbed and proclaims a state of national emergency,

DECREES AS FOLLOWS:

Art. 1. It shall be unlawful to publish information, news, commentaries, cartoons, drawings or photographs which, directly or indirectly, indicate a lack of respect for the President of the republic or the chief of state of a friendly nation or gravely impair the normal development of the international relations of Colombia.

Art. 2. It shall likewise be unlawful to publish reports on events concerning public order, directly or indirectly characterizing or attempting to characterize incidents involving violence as the product of sectarianism or political passion, or to provoke or foment a breach of public order or political violence.

Art. 3. It shall further be unlawful to publish any information partly or wholly false, exaggerated or tendentious which endangers the national economy or the public credit or which causes alarm or panic in the markets.

. . .

Art. 6. If the information is published in a newspaper, the director of the newspaper or the author of the article shall be liable to a fine or, if the offence is committed in a radio broadcast, the fine shall be imposed on the broadcaster or the writer of the script, the owner of the broadcasting station, or his manager or legal representative, or the director of the radio programme concerned.

. . .

Art. 9. The provisions set out above do not affect the authority vested in the Director of the State Office of Information and Propaganda under decrees Nos. 3521 of 1949 and 1723 [3] and 1896 of 1953; it is understood, however, that they shall not be applied if that office has, in respect of any of the offences mentioned, imposed any of the measures which it is authorized to impose under the aforementioned decrees.

If the violation constitutes an offence under the Penal Code, appropriate action shall be taken in

[1] Published in *Diario Oficial* No. 28859, of 22 September 1955. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1949*, p. 38.

[3] See *Yearbook on Human Rights for 1953*, p. 53.

accordance with the normal procedure; however, if sentence is imposed, it shall be reduced by such penalty as may have been inflicted in giving effect to the provisions of the present decree.

These provisions likewise do not affect the authority vested in the Ministry of Communications, with regard to radio broadcasts, under Decree No. 3418 of 1954.

. . .

DECREE No. 2238 OF 1955 CONCERNING MEETINGS OF INDUSTRIAL ASSOCIATIONS

of 13 August 1955 [1]

The President of the Republic of Colombia, acting in virtue of the powers conferred on him by article 121 of the National Constitution, and

Considering

That by decree No. 3518 of 9 November 1949 [2] the public order was declared to have been disturbed and a state of national emergency was proclaimed;

That it is desirable to facilitate the meeting of industrial organizations, in order that they may better discharge their functions and duties;

DECREES:

Art. 1. In order to hold any meeting of an industrial nature, it shall be sufficient for the organization concerned to give prior notice to the National Department for the Supervision of Industrial Associations [Departamento Nacional de Supervigilancia Sindical] five (5) days in advance.

Art. 2. The prior notice referred to in the foregoing article shall be given in writing by the legal representative of the industrial organization concerned, and shall contain the agenda of the meeting.

Art. 3. The National Department for the Supervision of Industrial Associations shall immediately give notice of the meeting to the appropriate brigade headquarters or battalion, which may prevent the meeting from being held or close it in the interests of public order.

Art. 4. The present decree shall take effect on the date of its promulgation, and shall supersede decree No. 1479, of 1 July 1952.

[1] Published in *Diario Oficial* No. 28835, of 25 August 1955. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1949*, p. 38.

COSTA RICA

ACT No. 1948
of 4 October 1955

SUMMARY

Act No. 1948 (*La Gaceta* No. 225, of 8 October 1955) amended article 153 of the Labour Code, promulgated by Act No. 2 of 27 August 1943. The amended article entitled every employee to annual holidays with pay amounting to at least two weeks for every 50 weeks of continuous service for the same employer. Unpaid leave, rest periods granted by law and certified sick leave were specified as not interrupting the continuity of service for the purpose of the Act. These provisions were not to apply to agricultural work or cattle raising, for which special arrangements were laid down.

A complete translation of the Act in English and French is contained in International Labour Office *Legislative Series* 1955-C.R. 1.

CUBA

NOTE[1]

The legal provisions of greatest interest from the point of view of the development of human rights in Cuba in 1955 are outlined below.

1. *International Communism*

With regard to measures enacted by the Government of Cuba for the suppression of communism, legislative decree No. 1975 of 27 January 1955, published in the *Gaceta Oficial* of 29 January 1955, amended in certain respects the provisions of legislative decree No. 1170 of 30 October 1953 and legislative decree No. 1456 of 6 June 1954[2] in the light of the experience gained in their enforcement.

Under article 1 of legislative decree No. 1975, the interventionist political activity of international communism is declared to be unlawful as a threat to the democratic system of government of the Republic and to the integrity of national sovereignty; and all organizations, whether constituted as bodies corporate or not and, if bodies corporate irrespective of the nature of their constitution, which aid or encourage or have aided or encouraged the interventionist political activity of international communism in Cuba, are therefore prohibited.

The legislative decree authorized the Ministry of the Interior to take such measures as may be necessary to give effect to these provisions by ordering the suspension of the activities of organizations covered by the legislative decree, and by placing them under the supervision of a representative of the Ministry.

Article 3 of the legislative decree provides, as a corollary to the declaration of illegality, that any person engaging in communist activities of any description shall be disqualified for employment in the public service or in executive or policy-making posts in organizations of employers or employees.

The legislative decree lays down the procedure in cases of the separation from the public service of persons so disqualified. The procedure, which is designed to safeguard the rights of the person concerned, is as follows:

(*a*) The judge appointed to deal with the case shall immediately transmit to the person concerned the decision stating the reasons for the suspension of his employment and pay and shall allow him three days in which to reply to the charge and submit any relevant evidence.

(*b*) If the person concerned fails to reply to the charge within the specified time-limit, the proceedings shall be continued. On completion of the preliminary proceedings, the judge shall recommend to the authority which ordered the proceedings to be instituted such decision as he may deem proper, and the decision shall be communicated to the person concerned within the prescribed time-limit.

(*c*) The person concerned may avail himself, within five days, of the remedies provided by existing legislation.

In cases in which the disqualification relates to executive or policy-making posts in organizations of employers or employees, the competent organs of the organization in question shall remove the person concerned from office or deprive him of the right to take part in the meetings of executive or policy-making bodies.

The legislative decree provides that the immigration authorities shall not authorize the entry into the national territory of alien propagandists and agents of international communism. The Government is authorized to declare undesirable, and order, in the manner prescribed by law, the expulsion from the national territory of aliens who engage in communist propaganda in Cuba, or receive orders or instructions to those ends from abroad.

A permanent Bureau for the Suppression of Communist Activities was established within the Ministry of the Interior by presidential decree No. 1307 of 18 April 1955 with a view to the enforcement of legislative decree No. 1975. The Bureau is responsible for advising the Minister in connexion with the official investigation of international communism, and the forms, methods, procedures and tactics used to infiltrate state, provincial or municipal institutions or agencies, autonomous agencies, economic corporations, public or private financial agencies, organizations of employers and employees and undertakings whose activities, because of their importance or for other reasons, are of public interest, such as radio, television, publishing and advertising undertakings. The Bureau is empowered to recommend the measures necessary for the enforcement of the law.

2. *Amnesty Laws*

Legislative decree No. 1991, of 27 January 1955, published in the *Gaceta Oficial* of 28 January 1955,

[1] Note prepared by Dr. José Manuel Cortina Corrales, Ambassador and First Counsellor to the Ministry of State, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1954*, p. 66.

granted amnesty for all offences under the Code of Social Defence committed after 4 June 1954.

The legislative decree also granted amnesty for offences, contraventions, violations and administrative and disciplinary offences under the electoral code. The amnesty included the restoration of electoral rights where the latter had been lost by reason of the offence, contravention, violation or administrative offence in question.

The legislative decree extends the amnesty to any persons convicted of or charged with offences or contraventions of any kind whatsoever motivated by, or directly or indirectly caused by, the elections of November 1954, the counting of the votes at those elections, the reorganization of political parties, or the registration of voters at the last population census.

Act No. 2 and Act No. 3 were enacted by the Congress of the Republic on 6 May 1955 and published in the special *Gaceta Oficial* of 7 May 1955.

Article 3 of Act No. 2, which relates to the amnesty for offences under the Code of Social Defence, provides that the amnesty shall not extend to offences whose object or direct or indirect purpose was to promote the interventionist political activity of international communism or to further its aims or objectives.

Amnesty was also granted in respect of offences and acts alleged to be offences, whether in the nature of a wilful or negligent act, and whether classified as minor offences or contraventions, committed or alleged to have been committed by members of the Army, the Navy, the national police, the secret and judicial police or any other body subordinate to any other ministry or state, provincial or municipal agency responsible for investigating and prosecuting offences or contraventions committed before 15 April 1955.

The benefits of the amnesty were also extended to the officials, employees and subordinate staff of any government agency or autonomous agency in cases where grounds for their dismissal or for disciplinary action existed.

Act No. 3 also grants amnesty for offences or violations of an essentially or typically military or naval character established by the military Penal Code and committed by members of the armed forces of the republic.

3. *Immigration Regulations*

Legislative decree No. 2095, attaching the Department of Immigration to the Ministry of Foreign Affairs, was issued on 27 January 1955.

Decree No. 2816 of 29 August 1955 was issued to regulate the procedure for granting legal residence status in Cuba to aliens. The decree lays down the rules to be followed by the immigration authorities in granting legal residence in Cuba to aliens who are free from contagious disease and whose legal entry into Cuba is not prohibited by the legislation in force. The decree applies to aliens in the following categories: aliens who can prove that they are joining their Cuban parents, children or spouses; aliens who have lived more than two years in Cuba, provided they were admitted to the national territory in accordance with the provisions in force; aliens who have acquired real property in Cuba or who can prove that they own property or industrial or commercial undertakings or have an adequate income; *aliens who have sought refuge or asylum in Cuba for political reasons*; and other aliens not included in the foregoing categories, provided that it is considered reasonable to grant them residence status on the grounds claimed. In the last-mentioned case residence will be authorized by the Minister of Foreign Affairs with the approval of the Council of Ministers.

4. *Right of Assembly*

Legislative decree No. 1907, of 18 January 1955, applies article 37 of the Constitution of the Republic relating to the right of assembly. Under the decree, persons wishing to organize a meeting or function in a public place, or a procession, of whatsoever nature, must apply for and obtain the permission of the Ministry of the Interior.

Applications, which must be submitted to the Ministry at least three days in advance, must be signed by the persons concerned and state the reason for, and character of, the function, meeting or procession and the date, hour and place at which it is to be held.

The Ministry of the Interior is required to grant permission except in cases in which it is considered essential to reject the application or impose restrictions to ensure public order.

Notwithstanding the foregoing, the mayors of municipalities may issue permits for the holding of dances, private celebrations, sporting events, religious ceremonies and meetings of the executive committees of duly registered associations.

5. *Prevention of Discrimination*

Legislative decree No. 1933, of 22 January 1955, published in the *Gaceta Oficial* of 24 January 1955, added an article to book II, title III, of the Code of Social Defence, "Offences against individual rights". The new article provides that any person committing acts of discrimination against others, based on sex, race, colour or class, or any other form of discrimination contrary to the dignity of the human person, shall be liable to a fine.

It is also provided that where the offence is repeated or social peace or public order is gravely impaired, the penalty shall be imprisonment for a term of not less than one or more than thirty-one days. If the offence tends to impede or restrict the right of a citizen to have access to employment or education or the proper use of public services and places, the penalty shall be increased by one-third.

CZECHOSLOVAKIA

NOTE[1]

State Plan for the Development of the National Economy for 1955

The basic law which determines the development of the national economy and the consequent increase in the standard of living of all the population is Act No. 12/1955 *Sb.* (*Sbírka zákonů*) of 23 March 1955 on the State Plan for the Development of the National Economy of the Czechoslovak Republic for 1955.

Because of its fundamental character, the following provisions of the Act are quoted:

"*Art. 1.* In order to ensure the balanced development of the national economy, to secure the further growth of the material and cultural standard of living of the population, and to strengthen the defence capacity of the republic, the State Plan of Development of the National Economy for 1955 sets the following main tasks:

(*a*) To accelerate the development of agricultural production, especially by raising the hectare yields as well as the yields of farm animals;

(*b*) To raise coal production and the output of electric power, and to take measures for a further expansion of fuel, power and ore base;

(*c*) To develop and improve further the engineering industry with the aim of raising the technical level of industry, agriculture and other branches of the national economy, of strengthening the defence of the country, and of contributing substantially to the development of foreign trade;

(*d*) To raise the production and to improve the quality of consumer goods, and to improve services to the population;

(*e*) To raise substantially the level of railway automobile traffic;

(*f*) Throughout the national economy to strengthen the strictest regime of economy, especially to lower substantially real costs, and to increase the productivity of labour;

(*g*) To expand further economic co-operation with the Soviet Union and with the people's democratic states, and to extend trade relations with other countries on the basis of equality and mutual advantage.

"*Art. 2.* The main trends in the development of industrial production are defined as follows:

"(1) In the sphere of fuels and power, coal production shall increase by more than 5 per cent, and through an increase in the output of electrical power by nearly 10 per cent the supply of industry and of households with electrical power shall improve. . . . For the purpose of securing permanent manpower, the construction of housing for the miners shall be increased also in the future. . . .

"(2) In the metallurgical industry the output of non-ferrous metallurgy shall increase, and its volume, especially in the basic products, shall be nearly doubled. The production of iron ores shall increase by nearly 15 per cent. . . . The increase of ore production shall be achieved by a further mechanization of the mines. . . .

"(3) In the chemical industry the production of fertilizers shall increase by one-third, and the production of artificial fibres for light industry shall increase by more than one-third. The production of consumer goods in the chemical industry shall increase by more than one-fifth. . . .

"(4) In the engineering industry the production of agricultural machines and equipment shall nearly double. . . . The production of consumer articles such as refrigerators, washing and sewing machines, motor-cycles, and aluminium utensils shall be raised very substantially. . . .

"(5) In the sphere of the production of building materials, the production of basic types of building materials shall increase by more than one-fourth. The production of pre-fabricated panels of all types shall also increase.

. . .

"(7) In light industry the production of consumer goods shall continue to increase, especially the production of silks, cottons and knitted goods. Their quality shall improve and the variety of textile, leather and glass articles shall be extended. The production of new kinds of textiles shall be introduced. . . .

"(8) In the food-processing industry. . . . the output of dairy products shall increase by more than 10 per cent, and that of fish products by 25 per cent; the production of new kinds of foodstuffs shall be introduced . . . and the output of semi-finished foodstuffs shall be increased.

"(9) In local industries and in producers' co-operatives the output of articles of broad consumption shall increase and their variety shall be greater . . . repair and maintenance services shall improve and expand.

[1] Note kindly furnished by the Permanent Mission of Czechoslovakia to the United Nations. See also p. 343.

"*Art. 3.* (1) In the field of vegetable production the area of arable land shall increase by 120,000 hectares. The hectare yields of the principal grains shall increase by one-fifth, of the main oleaginous crops by more than 30 per cent, and of hops by nearly 10 per cent. . . .

"(2) In the field of animal production the average yield of farm animals shall continue to rise . . . the production of meat animals, cattle and pigs, for the market shall increase by more than 10 per cent; the number of reared calves shall increase, and the average milk yield per cow shall increase by 12 per cent.

"(4) Substantial increase shall be achieved in the state investment build-up. . . . as well as in the credit granted for the building-up of unified agricultural co-operatives.

"(5) Agriculture shall be strengthened . . . mainly by young workers. Special attention shall be paid to securing skilled labour for machine and tractor stations. . . .

"*Art. 4.* In the field of forestry the extent of young tree plantations shall increase by more than 12 per cent.

"*Art. 5.* (1) In the field of railway traffic the transporting of goods shall increase by 5.4 per cent. . . .

"(3) Bus transport shall be improved by increasing the number of buses. . . .

"(5) The number of local telephone stations shall further increase and the extension of the rural telephone network shall continue.

"(6) Additional communities shall be connected to the wire broadcasting network. By the construction of a television transmitter at Ostrava a further development of television broadcasting shall be achieved.

. . .

"*Art. 8.* (1) The growth of the national income in 1955 shall be secured by increased productivity of labour, as well as by a substantial reduction of real costs . . . personal consumption shall further increase.

"(3) The increase of the productivity of labour shall be achieved primarily by the introduction and a more intensive use of new techniques. . . .

"(6) The number of shops, especially of shops with industrial articles, shall be increased in the rural areas. . . .

"(7) The number of beds in health institutions shall increase, the increase in hospitals and maternity hospitals being 2.2 per cent. The number of physicians' posts shall increase by 6.5 per cent, and the capacity of creches by 3.3 per cent.

"(8) The construction of schools of general education shall increase substantially, and the number of kindergartens in areas where the employment of women has increased shall be expanded.

. . .

"*Art. 10.* The development of foreign trade shall secure the imports necessary for the growth of production and for the further raising of the living standard of the population. . . ."

Budget Act for 1955

The counterpart to the economic plan is the financial plan which is embodied in the Budge Act for 1955, of 23 March 1955, Act No. 13/1955 *Sb.* Its basic provisions are as follows:

"*Art. 1.* The financial resources defined in the state budget, the basic financial plan of the State, the sources of which are primarily the socialist production and the construction effort of the working people, shall serve the further development of production, the securing and constant raising of the material and cultural standard of living of the working people, and the promotion of the effort to maintain peace. . . .

"*Art. 2.* (1) The total receipts of the state budget shall be fixed in the amount of 86,209,424,000 kcs, and the total expenditure in the amount of 86,039,452,000 kcs, so that there shall be a surplus of 169,972,000 kcs.

"(2) The state budget includes the budgets of the national committees, the receipts and expenditures of which amount to 15,523,742,000 kcs. . . .

"*Art. 4.* The Government and each member of the Government, the heads of the other central offices and the councils of the regional national committees shall be responsible for the strictest economy in the fulfilment of the planned tasks of management. . . ."

Public Health

(*a*) Legal provision of the Presidium of the National Assembly No. 9/1955 *Sb.*, of 24 February 1955, concerning paid holidays in 1955, lays down that the provisions of Act No. 3/1954 *Sb.* of 20 January 1954 concerning paid holidays shall continue in force in 1955.

(*b*) Legal provision of the Presidium of the National Assembly No. 23/1955 *Sb.*, of 31 March 1955, concerning poisons and substances harmful to health, regulates the manufacture, preparation, processing, purchase and sale of poisons and substances harmful to health, and in its article 9 lays down expressly the principle of protection of life and health of the citizens:

"In the manufacture, processing, preparation and sale of poisons, as well as in their storage, shipment and use, such administrative and control measures shall be taken as will prevent the life and health of the citizens from being endangered, as well as to make impossible the misuse of such poisons. The

stocks of poisons are to be clearly arranged, marked and safely stored, always separately from other objects, especially from foodstuffs."

Article 10 states that the preceding "provision of article 9 shall apply similarly to the manufacture, processing, sale, marking, safekeeping, shipment and use of preparations containing poison in quantities harmful to health and not listed in the list of poisons, as well as to chemical preparations harmful to health."

(*c*) Ordinance of the Minister of Health No. 40/1955 *Sb.*, of 18 August 1955, concerning the fight against contagious diseases, implements certain provisions of Act No. 4/1952 *Sb.* concerning hygienic and anti-epidemic measures,[1] and Act No. 103/1951 *Sb.* concerning unified prevention and treatment services.[2]

According to the provisions of article 1 of this ordinance, "the fight against contagious diseases is planned, organized, directed, supervised and carried out by the organs of the hygienic and anti-epidemic service. In the fight against contagious diseases the organs of the hygienic and anti-epidemic service closely co-operate with the institutions and workers of preventive and therapeutic care, who have been directly entrusted with the implementation of certain hygienic and anti-epidemic measures, especially those concerning tuberculosis and venereal diseases.

"In the fight against animal diseases communicable to man the organs of the Hygienic and Anti-epidemic Service work in co-operation with the organs of the Veterinary Service; in so doing, the organs of the Veterinary Service proceed in accordance with the stipulations of the organs of the Hygienic and Anti-epidemic Service."

The provisions of article 2 then specifically enumerate which diseases, suspected diseases and deaths must be reported in time and recorded in the interest of a systematic and effective fight against contagious diseases. It also provides for the obligations of persons liable to report, the manner of reporting, mandatory medical examination and treatment, epidemiological examination, mandatory anti-epidemic measures, the obligations of the carriers of disease germs, the manner of transportation of sick persons, and other necessary related measures.

(*d*) Directives of the Ministry of Health concerning compulsory periodical medical examinations of workers employed at working places where risk is involved were issued in a circular letter of the Ministry of Health, No. 119/1955 of the Instructions for the Executive Organs of the National Committees.

The purpose of the directives is to prevent workers who in the exercise of their profession are exposed to harmful effects of various substances or of the working environment in general from falling ill. This is done by compulsory periodical expert medical examinations and by special care for cases of ascertained diseases.

(*e*) A further extension of the participation of the working people in the administration of public affairs is secured by ordinance of the Prime Minister No. 65/1955 *Sb.*, of 21 December 1955, by which the measure adopted by the Central Council of Trade Unions concerning changes in the organization and execution of sickness insurance of employees is promulgated. Under this measure a broad authority to grant sickness allowances has been conferred upon the national insurance commissions of the local trade union organizations of the Revolutionary Trade Union Movement, elected by the working people in the factories and enterprises.

(*f*) The basic law securing the most effective possible utilization of natural mineral resources, Act No. 43/1955 *Sb.*, of 30 August 1955, concerning Czechoslovak spas and mineral springs, states as follows in its preamble:

"*Art. 1.* (1) The natural spas and natural mineral springs in which the Czechoslovak Republic is especially rich are, because of their healing power, a very important factor in the care for the health of the people. . . .

"(2) In order that the natural spas and natural mineral springs may be fully utilized for these purposes, a special protection shall be given to them and the most favourable conditions for their development shall be created."

Further important provisions secure the protection of natural spas as well as the protection and utilization of mineral springs themselves:

"*Art. 9.* (1) For each spa, special spa regulations shall be issued. In the spa regulations the extent of the spa area shall be specified and the necessary protective measures at the spa, as well as the conditions securing the proper execution of the spa treatment shall be determined; in particular it shall be determined therein what activity is limited or prohibited in the spa and in what way, and what kind of establishments shall not be allowed to be opened.

"(2) Should it be necessary for the protection of natural mineral springs, further protective measures shall be determined for preventing any harmful activity . . . or, if necessary, protective zones around the spa shall be created . . .

"*Art. 11.* . . .

"(2) As from the day on which a natural mineral spring is declared medicinal, it shall become the property of the nation."

Care of Children

(*a*) Legal Provision of the Presidium of the National Assembly No. 57/1955 *Sb.* of 22 November 1955, on the expeditious collection of debts for covering the personal needs of minor children, states in its

[1] See *Yearbook on Human Rights for 1952*, p. 45.

[2] See *Yearbook on Human Rights for 1951*, pp. 65–6.

preamble that: "ensuring the protection of children requires the paying of greater attention to the continuous provision of the personal needs of children in cases where the fulfilment of the obligation of maintenance has to be enforced by the State. For this reason the procedure provided for enforcing the provision of personal needs of minor children in the Code of Civil Procedure shall be simplified and expedited."

This is to be achieved by determining precisely the obligation of the debtor as well as of his employer under various circumstances. Non-observance of these obligations may result in criminal prosecution.

(*b*) Legal Provision of the Presidium of the National Assembly No. 58/1955 *Sb.* of 22 November 1955, concerning children's allowances and protective upbringing of children, secures new forms of care for children whose upbringing is not provided for sufficiently otherwise.

The substance of the new regulation is clear from the following:

"*Art. 1.* (1) To children who are not sufficiently provided for otherwise, especially by collective care, the executive organs of the district national committees may grant a children's allowance. . . .

"(2) The allowance may be granted to a child until he has reached sixteen years of age. If a child older than sixteen years prepares for his future career by studies . . . the allowance may be granted until he has reached twenty-five years of age.

"*Art. 4.* (1) The protective upbringing of children ordered by the court shall be carried out in educational institutions; if the state of health of the child requires, it shall be carried out in a medical institution.

"(2) Educational facilities through which the protective upbringing of children is carried out . . . shall be children's homes providing increased pedagogical care.

"*Art. 5.* (1) The educational facilities . . . shall be opened and closed by the Ministry of Education which shall also exercise central inspection over them.

"(2) The direct management of educational facilities, and their maintenance and control shall be carried out by the executive organs of the regional national committees.

"*Art. 6.* Protective upbringing shall last as long as it is required, but not beyond the eighteenth year of age of the inmate. . . ."

Professional Training of Workers

Notice of the Ministry of Education No. 20/1955 *Ú.l.* (*Úřední list*), of 17 February 1955, concerning the working privileges of participants in special types of study and their economic security, applies to participants in various special types of study at schools of all kinds.

The notice provides working privileges and other privileges which their employers must afford to these persons. It further provides for their economic security in the event of unpaid leave, in the form of scholarships, which are also granted by the employer; it ensures their participation in the national insurance scheme and reductions of fares when they are travelling to examinations, consultations or short-term courses in boarding-schools.

Administrative Procedures

The purpose of government ordinance No. 20/1955 *Sb.*, of 22 March 1955, on rules of administrative procedure is expressed in its preamble as being: "To regulate proceedings in administrative matters so as to enable in the highest degree the fulfilment of the tasks of the people's democratic state administration, so that it may contribute to the protection of the public interests, and of the rights and legitimate interests of the working people and of socialist organizations; that it may assist in the strengthening of socialist legality and state discipline, and that it may lead to conscientious discipline."

The basic rules concerning proceedings are as follows:

"*Art. 3.* (1) The administrative organs shall use proceedings to strengthen their ties with the people and to strengthen the confidence of the working people in the people's democratic state apparatus. In the proceedings they shall act in close co-operation with the working people, promote their initiative and rely on their help and suggestions.

"(2) The administrative organs shall deal with any matter with conscientiousness and responsibility and without any bureaucratic, negligent or haughty attitude. They shall settle the matter with the knowledge that their main task is to serve the working people, to take care of their needs and provide in all respects for their welfare."

Other important provisions of these rules include the following:

"*Art. 7.* (1) The administrative organ shall ensure that participants in proceedings shall actively cooperate. It shall see to it that the participants are not prejudiced in the proceedings through lack of knowledge of the rules, and shall give them the necessary advice and assistance.

"(2) The participants shall always be given the opportunity to assert their views in the proceedings and to defend effectively their rights and legitimate interests."

All other procedural provisions set out in these rules follow constantly the purpose defined above.

DENMARK

NOTE[1]

National Minorities: Right to Education

As reported in the *Yearbook on Human Rights for 1952* at p. 47, Act No. 412 of 12 July 1946, as amended in 1952, on private schools in Southern Jutland (North Slesvig) using German as the language of teaching, contained a provision in its article 4 according to which such schools were not entitled to hold state-controlled examinations.

By Act No. 165 of 24 May 1955 (*Lovtidende A 1955*, No. XXII, of 31 May 1955) this article has been repealed. Consequently, these schools, like private schools using Danish as the language of teaching, may be authorized by the Minister of Education to hold state-controlled examinations.

General Minority Rights

As a result of negotiations between the Government of Denmark and the Federal Republic of Germany regarding the status of national minorities in the provinces on both sides of the Danish-German frontier, each of the two governments made unilateral, but substantially identical, declarations to their national parliaments regarding the status of the German or Danish minorities in the country concerned.

The Danish declaration, approved by Parliament on 19 April 1955, regarding the general rights of persons belonging to the German minority in Southern Jutland (*Statstidende* of 11 June 1955) is as follows:

"*Desiring* to promote peaceful living together among the population on either side of the Danish-German frontier and thereby also to promote the general development of friendly relations between the Kingdom of Denmark and the Federal Republic of Germany, and

"*Referring* to article 14 of the European Convention on Human Rights according to which all rights and freedoms set forth in the Convention shall be secured to everybody without discrimination on the ground of association with a national minority,[2]

"*The Royal Danish Government*, in confirmation of the legal principles already applying to the German Minority in North Slesvig — as also expressed in the declaration made by the then Danish Prime Minister Hans Hedtoft on 27 October 1949 to representatives of that minority (the so-called Copenhagen Note).

"DECLARES AS FOLLOWS:

I

"Under Danish law — the Constitution of the Kingdom of Denmark of 5 June 1953,[3] and supplementary legislation — every citizen, and consequently everybody belonging to the German minority, irrespective of his language, enjoys the following rights and freedoms:

1. Inviolability of personal liberty,
2. Equality before the law,
3. Freedom of creed and conscience,
4. Freedom of expression and of the press,
5. Freedom of assembly and association,
6. The right freely to choose occupation and place of work,
7. Inviolability of the dwelling,
8. The right freely to form political parties,
9. Equal access for everybody to public employment according to merit, suitability and professional qualifications, which implies that in matters relating to civil servants, employees, and workers in public service no distinction must be made between persons belonging to the German minority and other citizens,
10. General, direct, equal, free and secret franchise, applying also in municipal elections,
11. The right of anybody who believes that his rights have been violated by the authorities to invoke the protection of the courts of law,
12. The right to equal treatment, which means that nobody may suffer prejudice or be favoured because of his descent, language, origin or political opinion.

II

"In consequence of these principles of law, it is hereby established as follows:

"1. Profession of German nationality and German culture is free and must not be challenged or examined by the authorities.

---

[1] Note kindly furnished by Professor Max Sørensen, University of Aarhus, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] See *Yearbook on Human Rights for 1950*, p. 422.

[3] See *Yearbook on Human Rights for 1953*, pp. 62–7.

"2. Persons belonging to the German minority and their organizations may not be prevented from using, orally or in writing, the language which they prefer. Use of the German language before the tribunals and administrative authorities is subject to the legislative provisions on the matter.

"3. In virtue of the principle of freedom of education which applies in Denmark, schools for general education, folk high-schools (including vocational) and kindergartens may be established by the German minority pursuant to law.

"4. When the legislation on local government makes the method of proportional representation applicable to the appointment of committees of municipal councils, representatives of the German minority take part in the work of committees in proportion to their numbers.

"5. The Danish Government recommends that, within the framework of the rules which may at any time apply to the use of the state broadcasting system, reasonable regard shall be paid to the German minority.

"6. With respect to subventions and other grants from public funds which are allocated at discretion, no distinction will be made between persons belonging to the German minority and other citizens.

"7. When public notices are made, reasonable regard shall be had to the daily press of the German minority.

"8. The special interest of the German minority in cultivating their religious, cultural and professional relations with Germany is recognized."

Genocide

By Act No. 132, of 29 April 1955 (*Lovtidende A 1955*, No. XIX, of 2 May 1955), the necessary provisions were adopted to give effect to the obligations of Denmark under the Genocide Convention.[1] The Act is worded as follows:

"*Art. 1.* Whoever, with the intent to destroy in whole or in part a national, ethnical, racial or religious group as such,

(*a*) Kills members of the group,

(*b*) Causes serious bodily or mental harm to members of the group,

(*c*) Deliberately inflicts on the group conditions of life calculated to bring about its physical destruction in whole or in part,

(*d*) Imposes measures intended to prevent births within the group, or

(*e*) Forcibly transfers children of the group to another group,

is punishable for genocide by imprisonment for life or for a time up to sixteen years.

"*Art. 2.* Attempt and complicity in the acts enumerated in Article 1 are punishable according to chapter 4 of the Criminal Code for Civilians."

[1] See *Yearbook on Human Rights for 1948*, pp. 484–6.

DOMINICAN REPUBLIC

NOTE[1]

Constitution

Extracts from the Constitution of the Dominican Republic proclaimed on 1 December 1955 appear below.

Legislation

The following Acts or presidential decrees concerning human rights were promulgated during 1955:

Act No. 4063 (*Gaceta Oficial* of 9 March 1955) amending various articles of Act No. 1683 (Naturalization Act).

Act No. 4142 (*Gaceta Oficial* of 14 March 1955) which, during the year of the Benefactor (1956) or during the period of the "Free World Peace and Brotherhood Fair", declares an amnesty in respect of all persons guilty of offences against the security of the State.

Act No. 4133 (*Gaceta Oficial* of 30 April 1955) requiring employers to pay wages to workers on specified non-working days.

Act No. 4150 (*Gaceta Oficial* of 18 May 1955) making further changes in article 1, sections 34-a and 35-a of Act No. 2565 concerning identity cards.

Act No. 4301 of 15 October 1955 setting forth the need for amending the Constitution by the addition of new articles and clauses convening a Review Assembly.

Act No. 4308 (*Gaceta Oficial* No. 7901, of 25 October 1955) concerning the surname or given name required on identity cards and also setting forth other provisions in this connexion.

Presidential decree No. 671 (*Gaceta Oficial* No. 7809, of 2 March 1955) granting pardon to various individuals.

Presidential decree No. 674 (*Gaceta Oficial* No. 7809, of 2 March 1955) restoring the exercise of civil, civic and political rights.

[1] Note prepared on the basis of information kindly furnished by Dr. Rafael O. Galván, Alternate Representative of the Dominican Republic to the United Nations, government-appointed correspondent of the *Yearbook on Human Rights*.

CONSTITUTION OF THE DOMINICAN REPUBLIC

Proclaimed on 1 December 1955[1]

PART I

Section 1

THE NATION AND ITS GOVERNMENT

Art. 1. The people of Santo Domingo form a nation organized as a free and independent State under the name of the Dominican Republic.

Art. 2. The form of government of the Dominican Republic is essentially civil, republican, democratic and representative.

The government is divided into a legislature, an executive and a judiciary. These three powers are independent of one another for the purpose of the exercise of their several functions. The persons entrusted with the several functions are answerable for their actions and may not delegate their authority, which is exclusively as specified in this constitution and in legislative provisions.

. . .

Art. 4. It is hereby declared that communism, which imperils the sovereignty of States and the essential attributes of the human person, is incompatible with the fundamental principles proclaimed in this constitution. Accordingly, legislation shall be enacted to penalize persons or groups upholding doctrines or programmes of a communist character.

. . .

PART II

HUMAN RIGHTS

Art. 8. The main purpose of the State shall be the proper protection of the rights of the human person and the establishment and maintenance of means enabling him to improve his life gradually under a regime of individual liberty and social justice and in a manner compatible with public order, the

[1] Text published in an *Official Edition*, 1955, kindly made available by the Government of the Dominican Republic. Translation by the United Nations Secretariat.

general welfare and the rights of all. To secure these ends, the following rules are laid down:

1. Inviolability of life. The penalty of death may not be established, nor any other penalty involving physical injury to the individual. The law may, however, pronounce the death penalty against persons who, in connexion with legitimate defensive action against a foreign State, are guilty of offences endangering the armed forces of the nation, or of treason or espionage in favour of the enemy.

2. Individual security. Therefore:

(*a*) No person shall be subjected to bodily restraint for a debt which does not arise from a violation of the penal laws;

(*b*) Except in cases of *flagrante delicto*, no person shall be imprisoned or have his freedom restricted unless a written order setting forth the reasons is issued by a competent judicial authority;

(*c*) If a person is deprived of his liberty without cause or without due process of law or in circumstances other than those for which the law provides, he shall be released immediately at his own or any other person's request. Summary procedure in such cases shall be in accordance with the *Habeas Corpus* Act;

(*d*) If a person is deprived of his liberty, he shall be brought before the competent judicial authority within forty-eight hours of his arrest, or released;

(*e*) A person who has been arrested shall be either released or committed to prison within forty-eight hours after he has been brought before the competent judicial authority, and shall be notified within that time-limit of the decision made in his case;

(*f*) No person shall be tried twice for the same offence;

(*g*) No person shall be compelled to testify against himself;

(*h*) No person shall be convicted without having been heard or summoned before the court in due form, and unless the procedures established by law to ensure an impartial trial and the exercise of the right of defence have been observed. Hearings shall be public, except in the cases prescribed by law where publicity might be contrary to public policy or propriety.

3. Freedom of labour. The law may, if it is in the public interest, make provision for a maximum working day, days of rest and vacation, minimum wages and salaries and mode of payment of wages and salaries, social insurance, participation by nationals of the Dominican Republic in all types of work, and, in general, all measures of state protection and assistance considered necessary for the benefit of the workers.

4. Freedom of enterprise. Monopolies may be established only for the benefit of the State or of state institutions. Such monopolies shall be set up and organized by legislative decree issued by the Executive.

5. Freedom of conscience and worship, subject to the exigencies of public order and propriety.

6. Freedom of teaching. Primary education shall be compulsory both for children of school age and for persons who for any reason have previously been unable to enjoy the right to education. It shall be the duty of the State to make fundamental education available to all the inhabitants of the national territory and to take steps to eradicate illiteracy or to prevent its resurgence. Both primary education and the instruction given in vocational schools and schools of art, commerce, handicrafts and domestic science shall be free. The duty of the State in this respect implies a corresponding duty on the part of the inhabitants of the republic to attend national educational establishments and to acquire at least an elementary education. The State shall endeavour to propagate knowledge and culture as widely as possible and shall take appropriate measures to ensure that all persons enjoy the benefits of scientific progress.

7. The right to express one's thoughts without prior censorship. The law shall determine the penalties applicable to persons who impugn the honour of others or disturb the peace or the social order.

8. Freedom of association and of assembly for peaceful ends.

9. The right of property. Property may, however, be taken over on duly established grounds of public utility or social importance, subject to prior payment of fair compensation. In cases of public calamity, compensation may be paid subsequently. General confiscation of property is prohibited, except as a penalty against persons guilty of treason or espionage in favour of the enemy at a time of legitimate defensive action against a foreign State.

10. Inviolability of correspondence and other private documents, which may not be seized or examined except by court order in connexion with matters being investigated by the law courts. The secrecy of telegraphic, telephonic and cable communication is likewise inviolable.

11. Inviolability of the home. No house search may be carried out except in cases specified by the law and subject to the formalities therein prescribed.

12. Freedom of movement, except for restrictions arising from sentences pronounced by the courts, or from police, immigration and health regulations.

13. The exclusive ownership, for such period and in such manner as the law may prescribe, of inventions and discoveries, as well as of scientific, artistic and literary productions.

14. The family shall receive the maximum protection from the State with the aim of increasing its stability and welfare, and its moral, religious and cultural well-being. The law shall make provision for the necessary measures to safeguard motherhood

and, in particular, to protect mothers for a reasonable period before and after childbirth. The steady reduction of child mortality, and the healthy development of children are declared to be among the chief aims of the social policy of the State. Likewise, the family homestead is declared to be an institution of the greatest social importance. The State shall encourage family savings and the establishment of co-operatives for credit, production, distribution and consumption, or for any other useful purpose.

15. The State shall continue to promote the progressive development of the social security system so that everyone may enjoy proper protection against unemployment, disease, disability and old age.

16. The State shall provide protection and assistance to the aged in the manner determined by law, so as to safeguard their health and ensure their well-being.

17. The State shall provide social relief to the poor, in the form of food and clothing and, wherever possible, proper housing.

18. The State shall take measures for the improvement of nutrition, housing, health services and sanitary conditions in places of work; it shall furnish the means for preventing and treating epidemic, endemic and other diseases, and it shall provide medical and hospital services free of charge to persons whose limited financial resources warrant this.

19. Husband and wife shall be free to determine by agreement their property relations, or to choose any arrangement covered by the law. The separate property system shall regularly apply, and the law shall specify the property relationship in the absence of special stipulations. The following characteristics are inherent in the separate property system: (*a*) Each of the spouses shall retain the ownership, administration, enjoyment and free disposal of his or her property; (*b*) if the wife has entrusted the administration of her property to her husband, she cannot validly renounce her right to resume it; and (*c*) if one of the spouses dies after ten years of marriage under the separate property system, the creditors, heirs and legatees of the deceased, or other claimants, shall not be entitled to make any claim whatsoever against the surviving spouse for restitution or return of property.

20. Every person shall have the right, subject to a court declaration of unfitness to inherit, to disinherit any descendant or descendants whose conduct is patently calculated to affect his reputation or dignity, or who commit acts contrary to public or private morals and likely to besmirch the family good name.

Paragraph I. The law may specify further grounds of unfitness. It shall stipulate that appeal will in no case be allowed from the relevant decision of the court of first instance, and also that the father may, by a subsequent authenticated deed or testamentary provision, render the court decision null and void.

Paragraph II. The law shall lay down the procedure to be followed for attaining a court declaration of unfitness to inherit.

Art. 9. No person may be compelled to do what the law does not require, or be prevented from doing what the law does not prohibit.

Art. 10. The rights listed in article 8 are not exhaustive, and the existence of other rights of the same kind is therefore not precluded.

. . .

PART IV

POLITICAL RIGHTS

Section I

NATIONALITY

Art. 12. The following persons are Dominican nationals:

1. Persons who enjoy that status at present by virtue of previous constitutions and laws;

2. Persons born in the territory of the republic, with the exception of legitimate children of aliens residing in the republic as diplomatic representatives or passing through the country;

3. Persons born abroad of a Dominican father or mother, provided they have not acquired a foreign nationality in accordance with the laws of the country of birth or, if they have done so, declare their intention of retaining Dominican nationality by transmitting to the executive a sworn statement made in the presence of a competent official after reaching voting age and at the latest within a year of coming of age under civil law, both ages as specified in Dominican legislation;

4. Naturalized persons. The law shall specify the requirements and procedure for naturalization, and shall establish a special system for aliens who are deemed to justify waiving the naturalization formalities required in the Dominican Republic.

Paragraph. A Dominican national may not claim the status of an alien by reason of naturalization or on any other grounds. The law may prescribe penalties to be imposed on Dominican nationals claiming to possess a foreign nationality. A Dominican woman married to an alien may, however, acquire the nationality of her husband.

Section II

CITIZENSHIP

Art. 13. Dominican nationals of both sexes over eighteen years of age, as well as those who have not yet reached that age, but are or have been married, are citizens.

Art. 14. Citizens have the following rights:

(1) The right to vote; and

(2) Eligibility for elective office subject to the limitations set forth in this constitution.

Art. 15. The following circumstances entail loss of rights of citizenship:

(1) Taking up arms against the republic or lending assistance in any attack upon it;

(2) Participation in any act or operation designed to overthrow the legally constituted government or making attempts against the person of the chief of State or of any dignitary who, according to the law, enjoys the same prerogatives;

3) Sentence for a criminal offence, until rehabilitation;

(4) Judicial interdiction, until such time as it is revoked;

(5) Acceptance, without prior authorization by the executive, of office or employment in Dominican territory with a foreign government; or

(6) Adoption of a foreign nationality.

Paragraph. In the last two cases, rights of citizenship may be regained if the law so provides, and in such manner as the law may indicate.

. . .

PART VI

Section I

THE LEGISLATURE

Art. 17. All legislative powers conferred by the present constitution are vested in the Congress of the Republic, comprising a Senate and a Chamber of Deputies.

Art. 18. Senators and deputies shall be elected by direct vote.

. . .

Section II

THE SENATE

. . .

Art. 23. To be eligible for election as a senator, a person must be a Dominican national in full possession of civil and political rights, and must have attained the age of twenty-five.

Paragraph. A naturalized citizen may not be elected as senator until five years after acquiring Dominican nationality and unless he has resided continuously in the country during the two years previous to his election.

. . .

Section III

THE CHAMBER OF DEPUTIES

. . .

Art. 26. To be eligible for election as a deputy, a person must be a Dominican national in full possession of civil and political rights, and must have attained the age of twenty-five years.

Paragraph. A naturalized citizen may not be elected as deputy for five years after acquiring Dominican nationality and unless he has resided continuously in the country during the two years previous to his election.

. . .

PART VII

CONGRESS

Art. 38. Congress has the following powers:

. . .

7. In the event of a disturbance of public order or a public calamity, to declare a state of siege and to suspend, in the affected localities and for the duration of such contingency, the exercise of the human rights proclaimed in article 8, paragraphs 2 (*b*), 2 (*c*), 2 (*d*), 2 (*e*), 7, 8, 9 and 12.

8. If the sovereignty of the nation is threatened by grave and imminent peril, Congress may declare that a state of national emergency exists and suspend the exercise of human rights, except for the inviolability of human life as set forth in article 8, paragraph 1, of this constitution. If Congress is not in session, the President of the republic may make such a declaration and shall convene Congress to inform it of the state of emergency and of the measures adopted.

. . .

PART VIII

THE ENACTMENT OF LAWS

. . .

Art. 45. All laws, decrees, regulations and other measures not in accordance with the present constitution shall be *ipso jure* null and void.

. . .

Art. 47. The laws are not retroactive in their effect, except where their provisions benefit an accused on trial or a person serving a sentence.

. . .

PART IX

Section I

THE EXECUTIVE

Art. 49. The executive powers shall be vested in the President of the republic, who shall be elected every five years by direct vote.

Art. 50. The President of the republic must fulfil the following conditions:

(1) He must be Dominican by birth, born of a father or mother who is likewise Dominican by birth;

(2) He must have attained the age of twenty-five;

(3) He must have resided in the country during the five years immediately preceding his election; and

(4) He must be in full possession of civil and political rights.

Art. 51. A Vice-President of the republic shall be elected at the same time, in the same manner and

for the same term of office as the President. The eligibility requirements for Vice-President shall be the same as for President.

. . .

Art. 54. The President of the republic is head of the state administration and supreme commander of all the armed forces of the republic.

The President of the republic shall have power:

. . .

7. In the event of a disturbance of public order or a public calamity, if the Congress is not in session, to proclaim by decree a state of siege in the affected localities and to suspend the exercise of those human rights which Congress is empowered to suspend under article 38, paragraph 7, of this constitution; he may also, if the sovereignty of the nation is threatened by grave and imminent peril, declare a state of national emergency with the effects and subject to the conditions specified in article 38, paragraph 8.

Section II

THE MINISTERS

Art. 60. Public administration shall be conducted through ministries instituted by the present constitution and set up by the President of the republic. Ministers and under-secretaries of State must be Dominican nationals in full possession of civil and political rights and must have attained the age of twenty-five except as provided in the final paragraph of article 58.

Paragraph. A naturalized person may not be appointed Minister or Under-Secretary of State until five years after his naturalization.

. . .

PART X

Section I

THE JUDICIARY

Art. 62. Judicial powers shall be vested in the Supreme Court of Justice and the other judicial bodies set up by this constitution and by legislative provisions.

Paragraph. Officers of the judiciary may not hold any other public office or employment, except as provided in article 104.

Section II

THE SUPREME COURT OF JUSTICE

. . .

Art. 64. A judge of the Supreme Court of Justice must fulfil the following conditions:

1. He must be Dominican by birth;

2. He must be in full possession of civil and political rights;

3. He must be a Bachelor or Doctor of Laws; and

4. He must have practised as a lawyer for eight years or have occupied for a like period the office of judge of a court of appeal, court of first instance or land court, or representative of the Ministerio Público with such courts. Periods of law practice and judicial office may be combined for the purposes of this provision.

. . .

Section III

APPEAL COURTS

. . .

Art. 68. A judge of an appeal court must fulfil the following conditions:

1. He must be a Dominican national;

2. He must be in full possession of civil and political rights;

3. He must be a Bachelor or a Doctor of Laws; and

4. He must have practised as a lawyer for four years or have occupied for a like period the office of judge of first instance or judge of original jurisdiction of the Land Court, or representative of the Ministerio Público with courts of first instance. Periods of law practice and judicial office may be combined for the purposes of this provision.

. . .

Section IV

THE LAND COURTS

Art. 71. . . .

Paragraph. The president and the judges of the Higher Land Court must fulfil the same conditions as judges of an appeal court. The same conditions shall be required of judges of original jurisdiction as of judges of courts of first instance.

Section V

COURTS OF FIRST INSTANCE

. . .

Art. 73. Judges of courts of first instance must be Dominican nationals in full possession of civil and political rights, and must hold the degree of Bachelor or Doctor of Laws.

Art. 74. Procuradores Fiscales and examining judges must fulfil the same conditions as judges of courts of first instance.

Section VI

MAGISTRATES' COURTS

. . .

Art. 76. Magistrates and assistant magistrates must be Dominican nationals in full possession of civil and political rights.

. . .

PART XI

THE COURT OF AUDIT

. . .

Art. 80. Members of the Court of Audit must be Dominican nationals in full possession of civil

and political rights and must have attained the age of twenty-five.

. . .

PART XIII

ADMINISTRATION OF THE PROVINCES

Art. 84. . . .

Paragraph. Governors must be Dominican nationals over twenty-five years of age and in full possession of civil and political rights.

. . .

PART XIV

THE ELECTORATE

Art. 86. All citizens have the right to vote, with the following exceptions:

(1) Those who have lost their rights of citizenship by virtue of article 15 of this constitution; and

(2) Members of the armed forces and the police.

. . .

PART XVI

GENERAL PROVISIONS

. . .

Art. 106. The organization of political parties and associations in accordance with the law is free, provided their aims are in keeping with the principles set out in article 2 of this constitution.

Paragraph. The Dominican Party, made up originally of elements drawn from the old political associations and parties which disintegrated for want of a constructive patriotic purpose, is recognized as having exercised and continuing to exercise a civilizing influence upon the Dominican people, which has made progress in the social field towards consciousness of labour rights, the introduction of the rights of women into the political and civil life of the republic and other great social achievements.

. . .

Art. 111. No title establishing a differentiation among Dominican citizens shall be recognized in the republic. However, honorary titles which have been or may be granted by the National Congress to citizens who render or have rendered distinguished services to the republic, ensuring its peace and well-being, or enabling it to strengthen or regain its freedom or independence, shall be lawful and shall be held for life.

. . .

PART XVII

REVISION OF THE CONSTITUTION

. . .

Art. 117. No revision of the Constitution may be such as to change the form of government, which shall at all times be civil, republican, democratic and representative.

. . .

REGULATION No. 995 CONCERNING PUBLIC ENTERTAINMENTS AND RADIO BROADCASTS

of 13 July 1955 [1]

Art. 1. The expression "public entertainment" means any performance or meeting whose object is to provide recreation or diversion for the public and to contribute to the emotional or intellectual stimulation of the public. The expression includes any performance held in a theatre, cinema, stadium, concert hall, circus or, generally, in any building or premises to which the public has access.

Art. 2. All the buildings, places and premises which come within the terms of the preceding article shall be subject to the provisions of this general regulation, without prejudice to the application of the provisions of article 14 of the Sanitary Code, or of other legislative provisions or regulations.

Art. 3. Every undertaking to which the foregoing provisions apply shall be required to report to the National Public Entertainments and Broadcasting Commission at Ciudad Trujillo or to the competent provincial sub-commission (which in turn shall inform the National Commission) particulars of its installation, operation, commercial name, equipment (if the place of entertainment is a cinema) and capacity, the full name of the director or manager, and an indication of the type of entertainment to be provided. Every undertaking which provides public entertainment shall have a representative with whom the authority shall deal directly.

Art. 4. No public entertainment may take place, regardless of its type or nature, without a licence issued by the National Public Entertainments and Broadcasting Commission or the competent provincial sub-commission. In addition, public entertainments shall be subject to the provisions of the Police Act and to any other statutory regulation that may be applicable.

. . .

Art. 5. The National Public Entertainments and Broadcasting Commission shall maintain a register of all public entertainments held in the country,

[1] This regulation was published in *Gaceta Oficial* No. 7863, of 23 July 1955. Translation by the United Nations Secretariat.

indicating the name of the performance; its gross receipts, tabulated daily; taxes payable; the name of the distributor or representative; the number of spectators; and any other particulars which are necessary for the purposes of the effective and strict supervision of public entertainments. A similar register shall be maintained by the competent provincial and municipal public entertainments subcommissions, which shall at the end of each month report the relevant information to the National Public Entertainments and Broadcasting Commission, so that the latter may request the Executive Power to prepare the yearly classification of the country's theatres and places of entertainment for the purpose of the apportionment of taxes and of licence fees in respect of public entertainments, on an equitable basis, in accordance with their receipts, under the provisions of Act No. 2376, of 12 May 1950. The National Public Entertainments and Broadcasting Commission may furnish any report concerning public entertainment activities requested of it by embassies and legations accredited in the Dominican Republic, and by recognized cinematographic or theatrical companies, for the purpose of avoiding fraud and concealment of receipts from public entertainments.

. . .

Art. 9. No public entertainment undertaking or representative of such an undertaking may announce the appearance of a performer unless proof has first been produced to the National Public Entertainments and Broadcasting Commission showing that the performer has signed a contract or, failing that, that his authorization has been duly obtained for advertising purposes. Similarly, a performer shall be liable to penalties if, having authorized an undertaking to conduct an advertising campaign or having signed a contract for his appearance, he refuses to appear in public.

. . .

Art. 14. Performers may not make remarks regarding, or expressly addressing, any member of the audience during the performance of any entertainment, in a manner capable of bringing the member of the audience into ridicule or of prejudicing his good repute. Similarly, members of the audience may not attract the attention of performers by means of gestures, words or any other means of expression.

. . .

Art. 26. The National Public Entertainments and Broadcasting Commission shall issue whatever directions or instructions are necessary for the purpose of the inspection and operation of all entertainments, the examination of films, records and radio programmes, and all matters within the scope of its authority, and it may request the co-operation of the national police for the purpose of securing compliance with its decisions and instructions.

Paragraph. If the National Public Entertainments and Broadcasting Commission should issue any direction by virtue of this article which is not provided for in this regulation, it shall notify the Secretariat of State for Education and Fine Arts, for information purposes, and the latter shall have power to make whatever objections it considers proper.

Art. 27. If after the beginning of a theatrical performance or showing which is based on a script or text approved by the National Commission, that script or text is departed from by the incidental inclusion of passages which were not authorized, any member of the National Public Entertainments and Broadcasting Commission may, if the case is serious, order the suspension of the performance, require the undertaking to return the money to the spectators, and cause judicial proceedings to be instituted so that the proper penalty may be imposed. In certain cases any such violation shall be punishable by the suspension of the performers for a specified period.

Paragraph. Likewise, a programme or part of a programme may be ordered to be suspended if, in the Commission's opinion, it presents any danger to the performers or to the public. This authority to supervise performances shall extend to those in which minors participate, in contravention of the legislation governing social welfare and public health and hygiene.

. . .

Prior Examination of Theatrical Works and Cinematographic Films

Art. 29. The National Public Entertainments and Broadcasting Commission shall previously examine the complete scripts of theatrical works, irrespective of their nature or type, and also any type of libretto, announcement or advertisement relating to public entertainments. The Commission shall likewise examine, prior to exhibition, all cinematographic films imported into the country, though this provision shall not apply to films imported by the Dominican Government or its agencies for educational or other purposes.

Paragraph. The expression "cinematographic film" means any scene taken on celluloid containing 500 feet or more of film, including titles, subjects, details, etc., whether on 16 mm. or 35 mm. film. All cinematographic material falling within the specifications of this article shall be subject to prior examination by the National Public Entertainments and Broadcasting Commission.

. . .

Art. 33. An appeal against the decisions of the National Public Entertainments and Broadcasting Commission shall lie in the province of a review board composed as follows: an Under-Secretary of State for Education and Fine Arts, chairman, and an Under-Secretary of State for Social Welfare and Assistance, both to be selected by the secretaries of State concerned; the President of the Administrative Council of the District of Santo Domingo

or, in his absence, the Vice-President of the said Council; the Chief of the National Police or, if he is unable to act, a senior official designated by the Chief of Police; the Director-General of Communications; the Director-General of Fine Arts; and the Vicar-General of the Archdiocese of Santo Domingo. The person holding the post of senior official of the Secretariat of State for Education and Fine Arts shall serve as secretary *ex officio* of this board.

. . .

Paragraph II. The Secretary of State for Education and Fine Arts shall have power to direct that an appeal be instituted against a decision whereby any theatrical performance, radio programme or cinematographic film was approved by the National Public Entertainments and Broadcasting Commission, the appeal to be initiated by three officials in his department, who shall appear on behalf of the said Secretary of State; the latter shall be authorized to appoint the said officials in the light of their educational and cultural qualifications and competence. The National Public Entertainments and Broadcasting Commission shall issue a card to the three officials in question granting them free access to public performances.

. . .

Art. 34. Every company, every manager of variety shows, revues and theatrical performances in general and every theatrical undertaking shall be required to furnish to the Commission, not less than twenty-four hours in advance, the libretti, texts of announcements and other material subject to examination before the public exhibition of the performance in question.

Art. 35. In variety shows offered to the public at theatres, night-clubs and other places of entertainment in which foreign performers appear, the appearance of performers who are nationals of the Dominican Republic shall be obligatory.

Art. 36. No film performed in a language other than Spanish may be exhibited unless there are Spanish sub-titles.

Paragraph I. The foregoing provision shall not apply to films which consist wholly or mostly of the presentation of operas, operettas or music. In the case of such films it shall suffice to publish a summary of the subject for the proper information of the public.

Paragraph II. The foregoing provision shall likewise not apply to films and documentaries having cultural, religious or educational purposes.

Art. 37. The exhibition or presentation of cinematographic films, theatrical works or radio programmes which are, owing to their character, type, language, situations, episodes or scenes, offensive to public decency and morality, or which are of a tendentious or inflammatory character or disseminate subversive ideas or doctrines or are in any way opposed to the constitutional regime shall not be permitted.

Paragraph. In cinematographic projections or theatrical performances declared to be suitable for minors under the age of sixteen years, it shall be absolutely prohibited to show previews, portions or shortened versions of films which have not themselves been approved as suitable for the said minors.

Art. 38. The National Public Entertainments and Broadcasting Commission shall not on any account grant permission to films and theatrical works which offend, ridicule or criticize, or which are derogatory to, hold up to international scorn, or defame, friendly nations or the head of State of the Dominican Republic or foreign heads of State, or which tend to distort facts or misplace emphasis or which tend in an excessive or misleading manner to misrepresent the habits and customs of other countries maintaining good relations with the Dominican Republic.

. . .

Art. 42. During performances of theatrical works the participating performers may not change the spirit or letter of the script on which the work is based. If the theatrical performance is not governed by any script or programme, the participating performers may not make gestures, commit immoral acts or utter words which offend public decency and morality. Similarly, the representative or director of the entertainment shall be required to furnish the National Public Entertainments and Broadcasting Commission with a list of the performers who will participate in each public performance, with full particulars of their names, the number of the card which accredits them as performers or announcers, and address.

Art. 43. No Dominican or foreign performer may appear in the Dominican Republic without the due authorization of the National Public Entertainments and Broadcasting Commission. For the purposes of this authorization, in the case of performers who are nationals of the Dominican Republic, the said Commission shall issue an identity card accrediting them as Dominican radio and theatrical performers, and for this purpose it shall be necessary to produce a certificate of good conduct to the Commission; furthermore, if the applicant is an actor, it shall be necessary to produce a certificate duly signed by the Director-General of Fine Arts and the Director of the Theatre School, stating that he is a person possessing the necessary qualifications for the purposes in question. If the performer is a singer or reciter, a certificate from the Director of the National Conservatory shall be required; and if he is a dancer, he must give proof of his talent which satisfies a panel consisting of one or more members of the National Public Entertainments Commission, the Director-General of Fine Arts, the Director of the Theatre School and a teacher of choreographic dances.

Art. 44. Foreign performers engaged by Dominican undertakings shall be exempted from the provision contained in the preceding article if they produce to the National Public Entertainments and Broadcasting Commission a card accrediting them as performers, issued in their native country or in the country whence they come, or if they are internationally famous; if these conditions are not fulfilled, they shall not be permitted to appear.

Paragraph. An identity card shall be issued to foreign performers if they reside in the Dominican Republic, on the same conditions as are stipulated in the preceding article of this regulation or on the production of documents certifying their status as performers.

. . .

RADIO BROADCASTING

Art. 48. For the purposes of the supervision of radio broadcasts of all kinds made in the Dominican Republic, the nomenclature of the Act in force concerning means of communication and the nomenclature of the international conventions on radio communications and protocols thereto to which the Dominican Republic is a signatory are maintained.

Art. 49. The expression "radio broadcast" [1] means any programme, speech, announcement, theatrical episode of any nature or description, any intermezzo, any international or national commentary whatsoever, news broadcast, news bulletins and in general any matter transmitted through the microphones or means of radiophonic publicity of a broadcasting station, public amplifier system or public announcement system, whether by means of transmitter or not.

Art. 50. Radio broadcasts shall be subject to the rules laid down in the Acts concerning means of communication, international conventions, and any other provisions enacted in pursuance of Act No. 1951, which established the National Public Entertainments and Broadcasting Commission.

Art. 51. Any commercial, cultural or political broadcasting station which broadcasts programmes of the types enumerated in the present regulation shall be required to submit to the National Public Entertainments and Broadcasting Commission, at least two days in advance, an application in an original and two copies for the transmission of the programmes, at the end of every month. In the interior of the country the application shall be submitted to the provincial sub-commission, which will send a copy to the National Commission. The application shall contain particulars of the programme, time and duration of programme, announcers, speakers, performers or persons taking part, their nationality, domicile and residence, number of the performer's or announcer's card, and any information required for the proper identification of the programme.

Paragraph I. If any change, whatever its nature, is made in the programme during this thirty-day period, the change shall be notified at least two hours before the changed programme is broadcast, so that a fresh authorization may be obtained from the National Commission or the provincial sub-commission which can be produced to the supervisors and inspectors of entertainments, or to any other competent authority, if they should request its production for inspection purposes. The supervisors and inspectors shall make immediate representations to the director of any station which violates the provisions of this article.

Art. 52. For the purposes of the re-broadcasting of programmes of other stations, whether foreign or Dominican, it shall be necessary to produce to the National Public Entertainments and Broadcasting Commission the prior authorization of the station in which the programme originates, and it shall be the duty of the stations which re-broadcast the programme to indicate the name and origin of the station concerned, before and after the re-broadcast.

Paragraph. The director of the station making the re-broadcast shall be absolutely responsible for the re-broadcast.

Art. 53. The management of the broadcasting stations which are covered by this regulation shall supervise the performance of programmes authorized as aforesaid and shall be answerable to the National Public Entertainments and Broadcasting Commission for any change made in the programmes without the due authorization of the said commission or of the provincial sub-commission, as the case may be, and the Commission (sub-commission) shall also supervise the programmes so authorized.

. . .

Art. 58. National and international news bulletins quoted from Dominican newspapers shall not require previous examination by the National Public Entertainments and Broadcasting Commission, but the directors of the stations shall be required to file the newspaper from which the bulletins were extracted, indicating the date on which the particular bulletin was broadcast, the exact time, and the full name and the card number of the announcer who was in charge of broadcasting it, in order that the said Commission can be supplied with any information if it should so request.

Paragraph. The same procedure shall apply to all news bulletins or programmes in general which originate in an official department of the Dominican State.

. . .

Art. 61. It shall be absolutely prohibited to broadcast by radio any remarks which affect the reputation and good name of persons or institutions, and to broadcast false, misleading or tendentious warnings and news.

Art. 62. The use of codes and any improper language that may be considered a code shall be prohibited in broadcasts.

. . .

[1] Or, in this translation, "broadcast".

Art. 66. Every station shall also be required to include among its daily programmes a cultural and educational programme based on topics and subjects suitable for this purpose, and in planning this programme station directors may request the co-operation of the Secretariat of State for Education and Fine Arts and of any other official body concerned with the development of culture and education. These programmes shall be given at hours convenient for listeners, so that they are broadcast at the times when they are most likely to be assured of an audience.

. . .

Art. 68. For the purpose of participating in broadcasts on sports events, the sports commentators, commercial announcers, commentators, analysts or supervisors must be nationals of the Dominican Republic.

. . .

Art. 83. In any programme in which stories are broadcast by a radio station, at least 70 per cent of the actors, announcers, narrators or participants must be nationals of the Dominican Republic.

Paragraph. For every story that is broadcast on magnetophonic film or by any other similar system, the broadcasting station must broadcast a story with Dominican performers.

Art. 84. The directors of broadcasting stations must be nationals of the Dominican Republic of full age, resident in the country and in full possession of their civic and political rights, and they must be registered with the National Public Entertainments and Broadcasting Commission.

. . .

Art. 86. The owners of broadcasting stations shall file, in chronological order, the original scripts of all broadcast plays, dramas, comedies, intermezzos, revues, musical programmes and news bulletins transmitted from their studios over a period of three years, with a view to providing any certified copy of the same which may be requested by the National Public Entertainments and Broadcasting Commission or by the provincial sub-commission.

Art. 87. Television programmes which show scenes, situations, titles, or dialogue capable of perverting the morals of children, and programmes the details, dances or subject of which set before the children a pernicious example or an experience unsuited to their age, may not be televised until after 9 p.m.

. . .

EXAMINATION OF GRAMOPHONE RECORDS

Art. 89. All individuals and bodies corporate that import gramophone records, works, songs, stories, advertising matter or other recorded material shall place the same at the disposal of the National Public Entertainments and Broadcasting Commission for examination purposes before they can be put on sale or advertised.

. . .

Art. 91. Gramophone records, works, songs or other recorded material containing expressions offensive to public decency and morality, and material containing sentences and expressions offensive to a friendly country or to a head of State, must not be issued.

Paragraph. If, after examining a gramophone record, the National Public Entertainments and Broadcasting Commission decides to make a prohibition order, such order may prohibit the broadcasting of that record, or its distribution for sale, or it may prohibit its issue altogether; the terms of the order shall be settled in the decision which follows the examination, in conformity with the view of the majority of the members of the said Commission.

Art. 92. If the director of a radio broadcasting station or an announcer or an importer of gramophone records makes any statement which is untruthful, or gives any false or inaccurate information or particulars, in connexion with the formalities required by this regulation, the person in question shall be deemed to have violated the terms of the regulation and shall be liable to be prosecuted by the competent authority.

. . .

Art. 96. Violations of this regulation shall be punishable in accordance with the terms of article 10 of Act No. 1951, of 2 March 1949.[1]

Art. 97. The provisions of this general regulation relating to the National Public Entertainments and Broadcasting Commission supersede and repeal all the provisions of regulation No. 5906, issued by the Executive Power on 5 July 1949,[2] governing public entertainments and radio broadcasts, as well as any other national or municipal regulations inconsistent with the regulation first above mentioned.

---

[1] See *Yearbook on Human Rights for 1949*, p. 59.

[2] *Ibid.*, pp. 59–60.

ECUADOR

DECREE No. 2783 GIVING FORCE TO NEW ELECTORAL REGULATIONS of 5 October 1955 [1]

Art. 1. Executive decree No. 885, of 7 May 1952, giving force to the regulations of 2 May 1952, governing electoral proceedings and organs, is here by repealed.

Art. 2. The new regulations governing electoral proceedings and organs laid down by the Supreme Electoral Tribunal on 20 September 1955 are hereby declared in force.

. . .

REGULATIONS GOVERNING ELECTORAL PROCEEDINGS AND ORGANS

Chapter I

Art. 1. The right to vote is a political right and a civic duty. Its exercise shall be subject to the provisions of the Electoral Law [2] and these regulations.

Art. 2. Every Ecuadorian, male or female, over eighteen years of age, able to read and write, in full possession of his citizenship rights and fulfilling the requirements of the law, is an elector. Subject to these conditions, voting is obligatory for men and optional for women.

In accordance with article 22 of the Constitution, the integrity of the electoral function is guaranteed by the public forces, which have no right of vote in universal suffrage and whose representation shall be functional.

Art. 3. The status of elector confers the right to elect and to be elected. Possession of the appropriate registration card shall be deemed to imply that status.

Art. 4. There shall be direct and indirect elections. All citizens entered in the appropriate electoral register shall vote in the former, and the National Congress, electoral colleges, organizations enjoying functional representation and such bodies of public or private law as are qualified to do so by the Constitution or the law shall vote in the latter.

Art. 5. The following shall be elected by popular, direct and secret ballot: the President and the Vice-President of the republic; provincial senators and deputies to the National Congress; provincial councillors; municipal councillors and mayors.

Functional senators, and other functionaries and officials shall, as provided by law, be elected by indirect vote.

Chapter II

THE ELECTORAL ORGANS

Art. 6. The electoral organs are as follows:

(1) The Supreme Electoral Tribunal;

(2) The provincial electoral tribunals;

(3) The parochial registration boards; and

(4) The electoral polling boards.

Art. 7. Service on the tribunals, registration boards and electoral boards is obligatory, and the only excuses admissible for not performing such service are those set forth in the Constitution and the Electoral Law.

Persons failing to accept or perform such functions without sufficient grounds shall be liable to suspension of their rights of citizenship for one year, as prescribed in article 10, paragraph 2 of the Electoral Law.

. . .

Art. 10. A member of an electoral tribunal or board must be an Ecuadorian by birth, be in full possession of the rights of citizenship, and have completed twenty-five years of age, and may not be an employee whose appointment and termination are at the discretion of the Executive Power.

. . .

Chapter III

THE ELECTORAL REGISTER AND PAROCHIAL REGISTRATION BOARDS

Art. 13. An electoral register shall be established in each parish for the registration of citizens in order that they may exercise their right to vote.

Art. 14. All citizens, with the exception of members of the Army and the Civil Guard, shall be entered in the electoral register of the parish in which they are domiciled. If they have more than one domicile, they shall be entered in the register of one of them.

The registration of a citizen in any other parish shall be null and void.

Officials and public servants shall be entered in the parish in which they reside or in which they perform their duties. If the official or public servant moves to another parish in connexion with his duties,

---

[1] Published in *Registro Oficial* No. 941, of 7 October 1955. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1947*, pp. 89–92.

he shall be entered in that parish and have the previous registration cancelled.

. . .

Art. 17. The requirements for registration are as follows:

(*a*) To be an Ecuadorian;

(*b*) To be at least eighteen years of age; and

(*c*) To be able to read and write the Spanish language.

. . .

Chapter IV

POLITICAL PARTIES

Art. 40. Freedom of organization and operation is guaranteed to political groups and parties whose programmes and activities do not conflict with the principles and regulations set forth in the Constitution and Laws of the Republic.

Art. 41. For electoral purposes, political parties must be entered in the Register of Parties, which shall be maintained by the Supreme Electoral Tribunal.

Art. 42. Any political organization wishing to be entered in the Register of Parties of the Supreme Electoral Tribunal, must prove that it is regularly organized on a nation-wide basis and that it has devoted a period of not less than five years to activities in defence of democratic ideals and the well-being of the nation.

Art. 43. To be entered in the Register of Parties, each party shall further submit to the Supreme Electoral Tribunal:

(*a*) An application signed by not less than 2,000 members; and

(*b*) A copy of its programme.

Each of the pages bearing the signatures of the members shall contain the text of the original application or a summary thereof.

Each signatory shall give the number of his identity card, electoral card and party membership card.

. . .

Chapter V

ELECTORAL PROPAGANDA

Art. 49. Electoral propaganda may be carried out freely, and is guaranteed protection, provided it is in accordance with the Constitution and the laws of the republic, and in particular with title II, chapter I, of the Penal Code, concerning offences in connexion with the exercise of the suffrage,[1] and with the provisions of the present regulations.

Art. 50. Electoral propaganda may be conducted collectively, orally, in writing, pictorially, by radio or by any other means not forbidden by law.

Art. 51. Citizens are free to meet in public places such as squares, streets, etc., or in privately owned places such as theatres, arenas, etc., for purposes of electoral propaganda.

The provincial tribunals may prohibit electoral committees and clubs from operating in the vicinity of schools, colleges, clinics, hospitals, churches, military barracks or depots. Electoral clubs may also be prohibited from operating at the request of other public service bodies or institutions, at the discretion of the tribunal. Such a decision shall be carried out through the competent police authorities, which shall ensure immediate compliance.

Any delay or negligence in complying with this order shall be punishable by the provincial tribunal with the penalties provided in article 175, paragraph 2, of the Electoral Law.

Propaganda activities to be carried on outside the premises or buildings occupied by electoral clubs or political parties shall be subject to the provisions of article 61 of the Electoral Law. If permission is granted, the police authorities shall immediately comply with the requirements of article 62 of the same law.

If the authorities refuse permission, appeal may be made to the provincial tribunal, which shall decide the case with due despatch. A negative decision shall be conveyed in brief and summary form and must contain the sworn declarations of at least two persons of known solvency, and the

---

[1] PENAL CODE

TITLE II

CHAPTER I. — OFFENCES IN CONNEXION WITH THE EXERCISE OF THE SUFFRAGE

Art. 143. Persons preventing one or more citizens, by means of rioting, violence or threats, from exercising their political rights shall be liable to a term of imprisonment of one to three years and a fine of 40 to 100 sucres.

Art. 144. Any member of the municipal councils and electoral boards or any other public official or body legally appointed to supervise the counting of votes in an election, who removes or alters ballot papers or partially or totally annuls an election, contrary to the express provisions of the law, shall be liable to a term of imprisonment of three to five years and to deprivation of political rights for two years.

Art. 145. If an offence under the two preceding articles was committed with intent to extend its effects throughout the whole republic, or a number of cantons, punishment shall be a term of imprisonment of six to nine years and deprivation of political rights for two years.

Art. 146. Any person found removing ballot papers from electors by trick or violence, fraudulently substituting another ballot paper for that held by the elector, attempting to vote under an assumed name, or voting in two or more parishes, shall be liable to a term of imprisonment of six months to one year and deprivation of political rights for one year.

Art. 147. Persons disturbing popular election on alleged religious grounds, either for the benefit of their own candidates or to the detriment of opposing candidates, shall be liable to a term of imprisonment of thirty to ninety days.

Art. 148. Any person receiving a consideration for his vote, or giving or promising a consideration for the vote of another person, shall be liable to a term of imprisonment of six months to one year and deprivation of political rights for the same period.

report of the police authorities which refused the permission.

In order to decide such appeal, the president of the tribunal may directly summon the alternate members, in the absence of the regular members, for the purpose of obtaining a quorum and holding an immediate sitting.

Decisions pronounced by the provincial tribunal shall have executive force, and all police agents and authorities shall be obliged to comply with them; if they fail to do so, they shall incur penalties as provided in the third paragraph of this article.

The provincial tribunal shall notify the Supreme Tribunal of all action taken in the case in order that the latter, if it deems necessary, may request the dismissal of the official or officials incurring penalties.

Art. 52. All propaganda activities and public manifestations must cease at 6 a.m. on the day of the election. On that day, radio stations may broadcast information on the progress of the elections, provided that they refrain from all propaganda in favour of candidates, electoral lists, political parties or groups.

The electoral tribunals shall provide the radio stations with information bulletins on the progress of the election.

Art. 53. Written propaganda shall be conducted in newspapers or magazines which are already established in the country or which may be established for that purpose under a responsible manager or editor. If it is issued in the form of pamphlets, the name of the publisher or printer shall be stated.

Pamphlets which fail to comply with this provision shall be confiscated immediately by the police, and if they contain threats to public order or abuse against officials, private persons, candidates or public bodies, their distributors shall be arrested pending investigation and punishment of those responsible.

Art. 54. Pictorial propaganda may be conducted in newspapers, magazines, posters, placards, etc., provided it does not contravene the municipal laws and regulations.

Art. 55. Radio propaganda may be conducted by means of transmitters established in accordance with the appropriate law and provided that it complies with the requirements of article 60 of the Electoral Law.

Radio stations may not conduct electoral propaganda for any candidate until the relevant tariffs have been approved by the competent electoral tribunal. If this provision is contravened, the electoral tribunals may request the competent ministry to close down the radio station. The same request may be made if the radio stations fail to comply with the other requirements contained in article 60 of the same law.

Art. 56. Counter-demonstrations do not constitute electoral propaganda and shall consequently not be allowed.

Art. 57. Propaganda from vehicles with loud-speakers is prohibited in cities.

This rule covers the use of loud-speakers in premises or buildings occupied by clubs, electoral committees, political parties, etc., on election day until 5 p.m.

Art. 58. Electoral propaganda is prohibited in the public offices of the fiscal, municipal and provincial administrations, in educational establishments, churches and, in general, any place frequented by persons who in virtue of the law or their religious faith are subordinate to a higher authority.

Art. 59. No authority, whether civil, military, ecclesiastical, administrative, educational, fiscal or municipal, may take part in propaganda activities.

This rule applies also to functionaries and officials, members and employees of the municipal councils, provincial councils, state monopolies, and, in general, all persons directly subordinate to the aforesaid authorities.

Art. 60. Neither the law nor the present regulations shall in any way affect the full and indisputable freedom of the Catholic Church to preach, expound and defend its dogma and its moral doctrine.

Art. 61. In propaganda activities, any abuse of other candidates or their supporters is prohibited.

. . .

Chapter XV

The Functional Senators

Art. 166. Public education, private teaching, journalism, the scientific and literary academies and societies, agriculture, commerce, industry, manual workers and the police shall have functional representation in Congress, and for this purpose shall elect senators in accordance with the provisions of article 42 of the Constitution.

. . .

Chapter XXIV

Electoral Guarantees

Art. 231. No authority, of whatsoever nature, may interfere directly or indirectly with the functioning of electoral boards or tribunals. Agents of the police may only do so in compliance with the orders of the presidents of electoral boards or tribunals.

Any authority infringing this provision shall be liable to a fine of 500 to 1,000 sucres under article 175 of the Electoral Law.

Art. 232. The president of the electoral board or of any of the tribunals shall refuse to allow any interference of the police, or of any official, with the

free exercise of the rights of citizens or of the functions of the aforesaid electoral organs.

. . .

Chapter XXVI

GENERAL PROVISIONS

Art. 242. As soon as the final count of votes has been taken in an election, the provincial tribunals shall compile a list of persons who failed to vote in the aforesaid election, and shall immediately apply the appropriate penalties, this action to be completed within three months.

Art. 243. No authority, official or public servant, or owner of a private enterprise, may require his subordinates or workers to join any party or contribute financially to its support, nor suggest that they should vote for particular candidates or lists.

Infringements of this regulation shall be punishable by a fine of 500 to 1,000 sucres and a term of imprisonment of two to six months, to be imposed by the appropriate provincial tribunal in accordance with article 201 of the Electoral Law.

In such cases, the electoral tribunal may proceed, *proprio motu* if necessary, to establish whether a punishable offence has been committed, for the purpose of imposing the due penalty.

. . .

EGYPT

NOTE[1]

I. LEGISLATION

Prohibition of Degrading Treatment

Act No. 57, of 2 February 1955 (*Official Journal* No. 10 *bis*), amended legislative decree No. 180, of 29 December 1949, on the management of prisons. This Act, which is directly related to article 5 of the Universal Declaration of Human Rights, prohibited the degrading treatment envisaged in article 3 of legislative decree No. 180 of 1949, according to which the feet of persons condemned to forced labour had to be chained. Henceforth, they were not to have their feet chained, either in or out of the prison, unless there were reasonable grounds for fearing escape.

Equality before the Law

Act No. 462 of 11 September 1955 (*Official Journal* No. 73 *bis* 13) abolished the *shari'ah* and *millet* courts, and transferred cases in progress to the national courts.

It is well known that every right proclaimed in the Universal Declaration of Human Rights may be enjoyed only to the extent to which justice is properly administered. As regards the personal status of Egyptians, there used to exist the *shari'ah* courts, competent to deal with cases of Mohomedans, and the *millet* courts for non-Mohomedans. This multiplicity of judicial organs (the *millet* courts themselves had fourteen divisions) often gave rise to conflicting decisions, not to mention overlapping of jurisdictions or the loss of rights resulting from the prevailing confusion. The Act was promulgated to remedy this state of affairs, to unify the system of courts and to eliminate all religious discrimination.

Protection of Privacy, Honour and Reputation

Act No. 97 of 2 March 1955 (*Official Journal* No. 18 *bis*) added new articles 166 *bis* and 308 *bis* to the Criminal Code, to punish, respectively, causing a nuisance by telephone and defamation by telephone. These articles are closely related to article 12 of the Universal Declaration of Human Rights; they guarantee the protection of the individual against any act of interference by telephone with his private life, family, honour or reputation. Before the addition of these provisions to the Criminal Code, it was impossible adequately to punish a person responsible for such acts unless they were made publicly, and this was difficult if the telephone was used since the secrecy of telephonic communication is protected.

Act No. 98, of 2 March 1955 (*Official Journal* No. 18 *bis*), added an article 95 *bis* to the Code d'Instruction Criminelle, to the effect that, if there is a strong presumption that a person who has violated the new articles 166 *bis* or 308 *bis* of the Penal Code has used a particular telephone, the president of the court of first instance may, at the request of the victim of the violation, order the telephone to be placed under surveillance for a period fixed by the president.

Freedom of Expression

Act No. 568, of 23 November 1955 (*Official Journal* No. 94 *bis*), amended certain provisions of criminal law.

In its article 1, the Act amended article 188 of the Criminal Code, which had provided for the punishment of anyone who in bad faith spread false reports if an infringement of public security or order resulted. Since it had been found that this article did not sufficiently protect the national interest, it was amended.

The amended article reads:

"Whoever spreads false reports by one of the same means [by words or shouts uttered in public, by actions or gestures performed in public, by writings, designs, paintings, photographs, emblems or any other kind of representation made public, or by any other means of publicity], or documents which are fabricated, forged or falsely attributed to third persons, shall be sentenced to imprisonment for not more than one year, or a fine of between 20 and 100 Egyptian pounds, or both, if these reports or documents concern the public tranquillity or the public interest and the accused cannot show good faith.

"If the act in question results in an infringement of public tranquillity or the public interest, or is calculated to do so, the penalty shall be imprisonment for not more than two years, or a fine of between 50 and 200 Egyptian pounds, or both."

Proclamation No. 91, of 10 May 1954,[2] was amended on 21 May 1955 by Proclamation No. 120 (*Official Journal* No. 40 *bis*), which added the following

[1] Note based partly upon information kindly furnished by Mr. Adel El Tahri, *Délégué* of the Conseil d'Etat, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] See *Yearbook on Human Rights for 1954*, p. 80.

paragraph: "Censorship may not be applied, in accordance with the preceding paragraph, to any newspaper in matters relating to the system of government proposed to follow the period of transition."

Freedom of Assembly

Order No. 139, of 6 June 1955 (*Official Journal* No. 44), defined the circumstances and conditions under which the police may use fire-arms to disperse demonstrators and public meetings involving five or more persons, when they endanger the public safety.

Freedom of Association

Act No. 143, of 16 March 1955 (*Official Journal* No. 22 *bis* A), amended article 5 of legislative decree No. 319, of 8 December 1952.[1] The article had provided that if the members of the union of an undertaking constituted three-fifths of the total number of workers, all the workers were deemed to be members of the union. The amendment specified that this provision was not to apply to workers who have joined an industrial or craft union, and that any member of a union organized in an undertaking was to be permitted to join an industrial or craft union, thereby automatically withdrawing from the union of the undertaking.

Social Security

Act No. 419, of 31 August 1955 (*Official Journal* No. 67 *bis* C), amended by Act No. 597, of 7 December 1955 (*Official Journal* No. 95 *bis* A), created insurance fund and provident fund schemes for workers in Egypt, and was to be applicable in Cairo and Alexandria as from 1 April 1956 and be gradually extended to other parts of the country. The scheme will cover, in general, all employees except non-career public employees, agricultural workers and casual or temporary employees. It will not apply immediately to persons working in establishments employing less than fifty persons, but will be extended to such persons within five years.

II. INTERNATIONAL CONVENTIONS [2]

1. Act No. 132 of 1955 ratified the Convention on the International Right of Correction (*Official Journal* No. 20 *bis*, of 10 March 1955).

2. Act No. 510 of 1955 ratified International Labour Convention No. 29, concerning forced or compulsory labour (*Official Journal* No. 81 *bis*, of 23 October 1955).

3. An order of the Council of Ministers promulgated International Labour Convention No. 11, concerning the rights of association and combination of agricultural workers (meeting of 12 January 1955; published in the *Legislative Bulletin* for January 1955).

4. An order of the Council of Ministers promulgated International Labour Convention No. 52 concerning annual holidays with pay (meeting of 12 January 1955; published in the *Legislative Bulletin* for January 1955).

[1] See *Yearbook on Human Rights for 1952*, pp. 53–4.

[2] See also pp. 343 and 345.

ETHIOPIA

THE REVISED CONSTITUTION OF THE EMPIRE OF ETHIOPIA of 4 November 1955 [1]

CHAPTER II

THE POWERS AND PREROGATIVES OF THE EMPEROR

. . .

Art. 29. The Emperor reserves the right, with the advice and consent of Parliament, to declare war. . . . He has, further, the right to declare a state of siege, martial law, or a national emergency, and to take such measures as are necessary to meet a threat to the defence or integrity of the empire and to assure its defence and integrity.

. . .

Art. 36. The Emperor, as sovereign, has the duty to take all measures that may be necessary to ensure, at all times, the defence and integrity of the empire; the safety and welfare of its inhabitants, including their enjoyment of the human rights and fundamental liberties recognized in the present constitution; and the protection of all his subjects and their rights and interests abroad. Subject to the other provisions of this constitution, he has all the rights and powers necessary for the accomplishment of the ends set out in the present article.

CHAPTER III

RIGHTS AND DUTIES OF THE PEOPLE

Art. 37. No one shall be denied the equal protection of the laws.

Art. 38. There shall be no discrimination amongst Ethiopian subjects with respect to the enjoyment of all civil rights.

Art. 39. The law shall determine the conditions of acquisition and loss of Ethiopian nationality and of Ethiopian citizenship.

Art. 40. There shall be no interference with the exercise, in accordance with the law, of the rites of any religion or creed by residents of the empire, provided that such rites be not utilized for political purposes or be not prejudicial to public order or morality.

Art. 41. Freedom of speech and of the press is guaranteed throughout the empire in accordance with the law.

Art. 42. Correspondence shall be subject to no censorship, except in time of declared national emergency.

Art. 43. No one within the empire may be deprived of life, liberty or property without due process of law.

Art. 44. Everyone has the right, within the limits of the law, to own and dispose of property. No one may be deprived of his property except upon a finding by ministerial order issued pursuant to the requirements of a special expropriation law enacted in accordance with the provisions of articles 88, 89 or 90 of the present constitution,[2] and except upon payment of just compensation determined, in the absence of agreement by judicial procedures established by law. Said ministerial order, to be effective, shall be approved by the Council of Ministers and published in the *Negarit Gazeta.*

Art. 45. Ethiopian subjects shall have the right, in accordance with the conditions prescribed by law, to assemble peaceably and without arms.

Art. 46. Freedom to travel within the empire and to change domicile therein is assured to all subjects of the empire, in accordance with the law.

Art. 47. Every Ethiopian subject has the right to engage in any occupation and, to that end, to form or join associations, in accordance with the law.

Art. 48. The Ethiopian family, as the source of the maintenance and development of the empire and the primary basis of education and social harmony, is under the special protection of the law.

Art. 49. No Ethiopian subject may be banished from the empire.

Art. 50. No Ethiopian subject may be extradited to a foreign country. No other person shall be extradited except as provided by international agreement.

Art. 51. No one may be arrested without a warrant issued by a court, except in case of flagrant or serious violation of the law in force. Every arrested person shall be brought before the judicial authority within forty-eight hours of his arrest. However, if the arrest takes place in a locality which is removed from the court by a distance which can be traversed only on foot in not less than forty-eight hours, the court

[1] The Revised Constitution was promulgated by proclamation No. 149 of 1955, and appeared in Amharic and in English in *Negarit Gazeta*, 15th year, No. 2, of 4 November 1955.

[2] Articles 88–90 are general provisions governing the procedure for the adoption of legislation.

shall have discretion to extend the period of forty-eight hours. The period of detention shall be reckoned as a part of the term of imprisonment imposed by sentence. No one shall be held in prison awaiting trial on a criminal charge the sole penalty for which is a fine.

Art. 52. In all criminal prosecutions, the accused, duly submitting to the court, shall have the right to a speedy trial and to be confronted with the witnesses against him, to have compulsory process, in accordance with the law, for obtaining witnesses in his favour, at the expense of the Government and to have the assistance of counsel for his defence, who, if the accused is unable to obtain the same by his own efforts or through his own funds, shall be assigned and provided to the accused by the court.

Art. 53. No person accused of and arrested for a crime shall be presumed guilty until so proved.

Art. 54. Punishment is personal. No one shall be punished except in accordance with the law and after conviction of an offence committed by him.

Art. 55. No one shall be punished for any offence which has not been declared by law to be punishable before the commission of such offence, or shall suffer any punishment greater than that which was provided by the law in force at the time of the commission of the offence.

Art. 56. No one shall be punished twice for the same offence.

Art. 57. No one shall be subjected to cruel and inhuman punishment.

Art. 58. No one shall be imprisoned for debt, except in case of legally proved fraud or of refusal either to pay moneys or property adjudged by the court to have been taken in violation of the law, or to pay a fine, or to fulfil legal obligations of maintenance. This provision shall not have the effect of releasing the debtor from his obligations.

Art. 59. No sentence of death shall be executed unless it be confirmed by the Emperor.

Art. 60. Confiscation of property as a penalty shall not be imposed except in cases of treason, as defined by law, against the Emperor or the empire; sequestration of property as a penalty shall not be imposed except in cases of property belonging to persons residing abroad and conspiring against or engaging in deliberately hostile acts, as defined by law, against the Emperor or the empire. Attachment proceedings covering the whole or part of the property of a person, made under judicial authority, to cover payment of civil liability, or liability arising out of the commission of an offence, or to meet taxes or fines, shall not be deemed a confiscation of property.

Art. 61. All persons and all private domiciles shall be exempt from unlawful searches and seizures.

Art. 62. (*a*) In accordance with tradition and the provisions of article 4 of this constitution, no one shall have the right to bring suit against the Emperor.

(*b*) Any resident of the empire may bring suit, in the courts of Ethiopia, against the Government, or any ministry, department, agency or instrumentality thereof, for wrongful acts resulting in substantial damage. In the event that the courts shall find that such suit has been brought maliciously or without foundation, the Government, or any ministry, department, agency, instrumentality, or official thereof against whom or which such suit was brought, shall have a right of action against such resident for such malicious or unfounded suit, and the court shall, in such case, decree remedies or penalties according to the law.

Art. 63. Everyone in the empire shall have the right to present petitions to the Emperor.

Art. 64. Everyone in the empire has the duty to respect and obey the Constitution, laws, decrees, orders and regulations of the empire. Ethiopian subjects, in addition, owe loyalty to the Emperor and to the empire, and have the duty of defending the Emperor and the empire against all enemies, foreign and domestic, to perform public services, including military services, when called upon to do so, and to exercise the right of suffrage which is conferred upon them by the Constitution.

Art. 65. Respect for the rights and freedoms of others and the requirements of public order and the general welfare, shall alone justify any limitations upon the rights guaranteed in the foregoing articles of the present chapter.

. . .

CHAPTER V

THE LEGISLATIVE CHAMBERS

. . .

Section II. — The Chamber of Deputies

. . .

Art. 95. All Ethiopian subjects by birth, of twenty-one years of age or more, who are regularly domiciled or habitually present in any electoral district and who possess the qualifications required by the electoral law, shall have the right to vote in such electoral district for the candidates from such district, as members of the Chamber of Deputies. The system of voting shall be secret and direct. Details of procedure shall be prescribed by law.

Art. 96. To be eligible as a deputy, a person must be, by birth, an Ethiopian subject who:

(*a*) Has reached the age of twenty-five years;

(*b*) Is a *bona fide* resident and owner of property in the electoral district, to the extent required;

(*c*) Is not disqualified under any provision of the electoral law.

. . .

CHAPTER VI

THE JUDICIAL POWER

Art. 108. The judicial power shall be vested in the courts established by law and shall be exercised by the courts in accordance with the law and in the name of the Emperor. Except in situations declared in conformity with the provisions of article 29 of the present constitution, no persons, except those in active military service, may be subject to trial by military courts.

Art. 109. There shall be a Supreme Imperial Court and such other courts as may be authorized or established by law. The jurisdiction of each court shall be determined by law.

Art. 110. The judges shall be independent in conducting trials and giving judgements in accordance with the law. In the administration of justice, they submit to no other authority than that of the law.

Art. 111. The judges shall be appointed by the Emperor. They shall be of the highest character and reputation and shall be experienced and skilled in the law which they may be called upon to apply. Their nomination, appointment, promotion, removal, transfer and retirement shall be determined by special law governing the judiciary.

Art. 112. Judges shall sit in public, except that in cases which might endanger public order or affect public morals, they may sit *in camera.*

. . .

FINLAND

NOTE[1]

I. LEGISLATION

1. According to Act No. 61, of 4 February 1955, on disability relief (*Suomen Asetuskokoelma*, hereinafter referred to as *AsK* — Official Gazette of Finland — No. 61/1955), a person born after 1883 and living in Finland who has reached the age of 18 and who needs relief because of inability to work is entitled to a certain disability relief which is granted according to the same entitlement rules as is the additional pension provided in the People's Pension Act of 1937.

The scheme is operated by the People's Pension Institute.

2. Act No. 212, of 6 May 1955, on trial without costs (*AsK* No. 212/1955), provides that, if a Finnish citizen who is a party in legal proceedings, civil or criminal, cannot pay the costs of the proceedings without losing what he needs for his own maintenance or for fulfilling his maintenance liabilities, a trial without costs shall be granted to him.

The law is the same for foreigners if it is so provided in an international convention or agreement.

Petition for a trial without costs shall be submitted, orally or in writing, to the court before which the case has been brought. The petition shall be followed by a written statement of the financial standing of the petitioner, certified by a proper public authority.

If a person to whom such a trial has been granted is considered to be in need of legal assistance, the court may, at his request, order a practising lawyer to assist him at the proceedings. The lawyer's fee shall be paid from public funds.

The grant of trial without costs is effective also in the Court of Appeal and in the Supreme Court if the case is appealed to those courts.

3. The purpose of Act No. 469, of 2 December 1955, on pension funds (*AsK* No. 469/1955), is to make it possible for business establishments and corporations to arrange for pensions for their retired workers. The pension funds are under the supervision of the Ministry of Social Affairs.

II. RATIFICATION OF INTERNATIONAL AGREEMENTS[2]

Act No. 207 of 21 January 1955 (*AsK* No. 207/1955) brought into force for Finland the Geneva convention for the amelioration of the condition of the wounded and sick in armed forces in the field, of 12 August 1949.[3]

[1] Note prepared by the Finnish Branch of the International Law Association, designated by the Government of Finland to prepare the contribution of Finland to the *Yearbook on Human Rights*, and forwarded by its honorary secretary, Mr. Voitto Saario.

[2] See also p. 347.

[3] See *Yearbook on Human Rights for 1949*, pp. 299–301.

FRANCE

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1955 [1]

The progress of civilization in nations may be likened to the practice of virtue in individuals, in that it is a conquest to be won afresh daily. So the development of human rights in a particular country may not be marked by spectacular decisions, and yet continue to be a matter of constant concern both to the government and to the responsible bodies of the nations.

These considerations should perhaps be borne in mind in order that the following observations on the development of human rights in France during 1955 may appear in their true perspective. There have been many refinements of detail or finishing touches to a body of institutions already built up on a solid framework, but there have been few major innovations and still fewer revolutionary upheavals.

I. LEGISLATION AND JUDICIAL DECISIONS

Civil and Personal Rights

Alongside proposals for the reform of criminal procedure as a whole, it is interesting to note a judicial decision concerning *prosecution of the same person for the same acts*. On the basis of an amendment to article 359 of the Code of Criminal Procedure, introduced by the Act of 25 November 1941 (substitution of the words "for the same acts" for the words "for the same act"), the court of Douai held that, on account of the hardship caused to the accused and of the excessive accumulation of costs for which he is made responsible, it is unlawful to institute successive prosecutions of the same person for the same acts, even though in law they may be classed as different.[2] This decision is an application of the maxim *non bis in idem*.

More important is the reform made this year in the system of *local banishment (interdiction de séjour)*. Local banishment is, in French law, either an accessory penalty or a penalty supplementing a sentence imposed for a crime. The rules relating to local banishment were first enacted by the Act of 27 May 1885, which was supplemented in 1935; it involved, so far as released prisoners were concerned, a ban on their presence or residence in various places and a duty to report periodically to the police authorities. This system was introduced with the dual purpose of protecting society and rehabilitating released convicts, but in practice it was extremely burdensome and harassing to the person concerned. Because he had to carry a police identification card instead of ordinary identity papers, and because so many places were out of bounds for him, he was considerably handicapped in his progress to rehabilitation, the first requirement of which is an opportunity of finding employment. The old system was accordingly open to criticism on several grounds: the localities declared out of bounds were specified according to an immutable list (which included, quite indiscriminately, most of the industrial centres), the protected areas were excessively vast, the penalty was automatic and possibly unsuitable for the individual concerned, it was difficult in law to enforce the penalty, and, lastly, it was largely ineffective in practice as a means of dealing with the most dangerous individuals. In short, the old system seemed in every case to fail in its purpose of rehabilitating released prisoners.

For some years there has been a movement in France in favour of a reform of the penitentiary system along lines which would make the rehabilitation of offenders and their reintegration into society the overriding consideration; this movement has stimulated some parallel reflections concerning the reform of the system of local banishment. Its outright abolition had at one time been contemplated, but in the event an intermediate view prevailed with the consequence that local banishment is now to be regarded as a means of rehabilitation, intended to be applied solely for that purpose and to that extent. This is the idea underlying Act No. 55-304, of 18 March 1955 (*Journal officiel de la République française*, 19 March 1955, p. 2812).

The essential elements of local banishment are maintained — namely, the ban on entering specified localities and the duty to submit to surveillance. But the spirit of the institution has undergone a change; the Act considerably reduces the number of cases in which the penalty may be applied; it is henceforth a supplementary penalty which is optional in all cases and applicable solely and exclusively in the discretion of the judge; the duration has been reduced. Moreover, the penalty has been individualized in that the judge decides, in the light of the circumstances of the offence and of all the considerations relating specifically to the convicted person, what localities are to be declared out of

[1] This note was prepared by Mr. E. Dufour, Maître des requêtes to the Conseil d'Etat, Paris, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] Douai Court of Appeal, 29 June 1955, *Semaine juridique*, Ed. G, 1955, II.8895.

bounds, so that it is possible in each particular case to adjust the onerousness of a ban which, while no doubt necessary, is still humiliating. Finally, the most original feature of the new system lies perhaps in the replacement of police surveillance by measures of "supervised assistance" to be applied by voluntary associations which help the offender in his rehabilitation in society and in the family, suggest at the appropriate time measures to lighten the penalty, and in short act as protectors of the offender. On this emphasis on the rehabilitation of the individual, and on the creation of the appropriate means, will depend the success of the reform, which is naturally expected to yield great results.

The *operation of the machinery of justice* as a whole always requires improvements in detail. The Minister of Justice recently drew the attention of the presidents of courts of first instance and appellate courts to a vexatious practice for which the litigants themselves and the court officers are really responsible. He was referring to the practice of successive adjournments of hearings at counsel's request, which lead to considerable loss of time and to a regrettable delay of trials. The Minister of Justice requests that "the court officers and the litigants themselves should be urged to show greater diligence and dispatch" so that long pending cases would at last come to trial or else that cases which had been successively deferred on grounds not justified by procedure should be removed from the list. He adds that the courts have statutory powers and invites them to use those powers to achieve a better administration of justice.[1]

So far as *individual liberties* are concerned, case law continues to reflect the desire of the courts to reconcile the needs of public order with protection of democratic liberalism in its widest form. *Public meetings or political demonstrations* having given rise to the prosecutions of their organizers on the grounds of "incitement to unlawful assembly", the Court of Cassation ruled that incitement to unlawful assembly or to demonstration by speeches or by written documents is not punishable, even if the demonstration was prohibited by the administrative authorities, unless the assembly is armed, or is by its nature liable to disturb the peace (the judicial authority being competent to decide in its discretion whether a threat to the peace exists).[2]

The Conseil d'Etat also made several rulings affecting individual liberties; these are briefly reported below:

In a case where the Government had at first refused the *extradition* of a person, after the normal procedure had been observed, it had subsequently granted that extradition in reliance on fresh criminal legislation enacted in the country requesting the extradition. The Conseil d'Etat set aside that decision, which had been taken without a reopening of the proceedings and without consultation with the Grand Jury (Chambre des mises en accusation).[3]

All *air and sea traffic* having been banned between Madagascar and the islands of Reunion and Mauritius, owing to an epidemic of poliomyelitis in those islands, the Conseil d'Etat declared the ban unlawful on the grounds that it was not supported by any legislative provision in force and that, owing to its interference with individual liberty, it could not have been ordered except in the case of imminent and extremely serious peril, which did not in that particular case seem to exist.[4]

The obligations attaching to the public service have their counterpart in a *special protection of the officials with respect to the public authority*. Thus, resisting a recent trend in the administration, the Conseil d'Etat reaffirmed the rule that an official guilty of misappropriation cannot be compelled to restore the assets misappropriated by the use of the special and direct procedure known as *arrêté de débet* (decision declaring the person concerned a debtor to the Treasury) if he is not in law or in fact a "public accounts officer".[5]

The Conseil d'Etat also set aside certain decisions in which officials had been held responsible for deficiencies (even though not attributable to their personal fault) in the cash accounts of establishments in their charge and decisions which had required them to make good some prejudice suffered by the State by reason of acts constituting a professional but not a personal fault on the part of the officials in question.[6]

The measures taken by any country to protect the *moral health of its young people*, even when those measures are restrictive, have their place alongside measures designed to promote the harmonious development of the personality. As a supplement to an already abundant legislation, Act No. 55-1054 of 6 August 1955 (*Journal officiel*, 9 August 1955, p. 7980) makes it an offence to exhibit on the public highway or in public places any pictorial representations which are repugnant to public decency. Secondly, Act No. 55-1552 of 28 November 1955 (*Journal officiel*, 1 December 1955, p. 11644) makes it unlawful to publish in the press, in newsreels or over the radio any information or photographs disclosing the identity of minors who have either run away from home or committed suicide. The

[1] Minister of Justice, circular issued after consultation with the *Conseil supérieur de la magistrature*, of 8 July 1955. *Semaine juridique*, Ed. G, 1955, III.20446.

[2] Court of Cassation, criminal division, 23 May 1955. *Semaine juridique*, Ed. G, 1955, II.8816.

[3] Conseil d'Etat, Petalas case, 18 November 1955. *Recueil des décisions du Conseil d'Etat*, 1955, p. 548, Sirey.

[4] Conseil d'Etat, case of Sté. Lucien Joseph et Cie., 20 May 1955. *Recueil des décisions du Conseil d'Etat*, 1955, p. 276.

[5] Conseil d'Etat, case of Mr. Martin, 4 March 1955, *Recueil des décisions du Conseil d'Etat*, 1955, p. 125, Sirey.

[6] Conseil d'Etat, case of Mr. Bizet, 12 July 1955, *Recueil des décisions du Conseil d'Etat*, 1955, p. 415.

reason for the Act was that it had been noted that the publication of particulars of such occurrences tended to produce a contagious psychological effect.

With regard to *freedom of worship*, it has been laid down that a judge's liberalism should be tempered by the concern not to favour indirectly any particular form of worship. In two specific cases in 1955 the Conseil d'Etat reaffirmed the principles of its case law. While considering, firstly, that the establishment of a chaplain's service in a Paris secondary school was not indispensable for the purpose of enabling the pupils freely to exercise their particular form of worship,[1] and secondly, that the refusal to set aside a special place for Catholic services in a hospital was not illegal under the circumstances,[2] the Conseil recalled the State's obligations to allow in its public institutions the free and effective exercise of every form of worship, and, in the particular case of the hospital, did not reject the appeal until it had been satisfied that in fact the chaplains had access to the patients or aged persons in the hospital, that the patients were able to attend a neighbouring church, and that finally, premises had been set aside in the establishment itself for the holding of religious services.

Economic and Social Rights

All efforts to define human rights in law would be unavailing if they were not constantly accompanied by endeavours to improve the material standards of living and to secure the social betterment of the citizens. Civil liberty is but a relative asset for a person who is, by reason of his health, housing conditions, wages or working conditions, in a position of inferiority to his neighbour. But the field of economic and social rights is so varied and ill-defined that we cannot do more than select for mention in this report a few of the outstanding events or enactments of the year.

Housing, as the indispensable foundation of a normal life for the individual and his family, once again engaged the attention of the authorities. Several decrees were enacted on 20 May 1955. One of them amends the Act of 1 September 1948 concerning the relationship between landlord and tenant (decree No. 55–559 of 20 May 1955, *Journal officiel*, 21 May 1955, p. 5038). Other decrees are intended to simplify the administrative formalities connected with housing construction,[3] to facilitate the operation of building societies,[4] to promote the purchase of land for building either by, or with the assistance of, the communes,[5] and to promote slum clearance schemes.[6]

Measures for *safeguarding public health* are among those properly resorted to by a civilized country for the purpose of protecting the human person. Accordingly, a number of decrees were enacted on 20 May 1955 [7] to supplement the legislation against alcoholism. For example, decree No. 55–569 of 20 May 1955 authorizes anti-alcoholic associations to institute civil proceedings, on the basis of the general principles of responsibility, in connexion with acts contravening the Alcoholism Code. In this way the assistance of these particularly vigilant bodies is enlisted in support of state action to curb alcoholism.

The Public Health Code was revised in the course of the year, and as a consequence of the revision certain provisions were rearranged or corrected while new ones were added (decree No. 55–512 of 11 May 1955. *Journal officiel*, 12 May 1955, p. 4711). In particular, provisions were added under which a "personal trustee" (curateur à la personne) may be appointed for persons confined in mental institutions. This trustee is specifically responsible for seeing that the patient's funds are applied towards the treatment necessitated by his mental condition, and that the patient is restored to the free exercise of his rights as soon as his health permits. The provisions of the Act of 15 April 1954 concerning the treatment of dangerous alcoholics [8] have been incorporated in the new edition of the Code. Similarly, the provisions for strengthening the measures to combat the production of, and the traffic in, narcotic drugs now form part of the Public Health Code.

On the whole, the year 1955 was marked by a certain degree of price stability, an improvement in the general conditions of production, and consequently by an upswing in general economic prosperity. This economic climate was favourable to an *improvement in conditions for workers and the wage system*. Early in the year, the Government restored, for the benefit of the miners (nationalized coal-mines), the principle of wages "tied" to the price index of certain items, a principle which had been abolished by the Act of 11 February 1950. The base wages are "tied", at intervals of 5 per cent steps, to the movement of the price index of 213 items. After an acrimonious dispute, an escalator clause was also introduced in the dockers' wage system.

In the field of private social relations, many *wage agreements* were signed during the year. The most

[1] Conseil d'Etat, case of Messrs. Aubrun and Villechenoux and Mrs. Baudet, 28 January 1955. *Recueil des décisions du Conseil d'Etat*, 1955, p. 51, Sirey.

[2] Conseil d'Etat, case of the Association professionnelle des aumôniers de l'enseignement public, 28 January 1955, *ibid.*

[3] Decree No. 55–560 of 20 May 1955. *Journal officiel*, 21 May 1955, p. 5039.

[4] Decree No. 55–563 of the same date. *Ibid.*, 21 May 1955, p. 5044.

[5] Decree No. 55–562 of the same date. *Ibid.*, 21 May 1955, p. 5043.

[6] Decree No. 55–560 of 20 May 1955. *Ibid.*, 21 May 1955, p. 5039.

[7] Decrees Nos. 55–569 and 55–570 of 20 May 1955. *Ibid.*, 21 May 1955, pp. 5066–5067.

[8] See *Yearbook on Human Rights for 1954*, p. 88.

remarkable, both by reason of the conditions under which it was signed (proposals put forward by the employers in the absence of any threat of a strike) and by reason of the scope of its provisions, was signed by the Régie Renault with three large trade unions. The agreement provides for three weeks' holiday with pay (instead of two), the principle of a retirement benefit, a retirement system supplementing the social security scheme, compensation for days of sick leave, a benefit payable on the death of the employee and an immediate 4 per cent wage increase. But the most unusual clause is the undertaking that employees should benefit, in steps, from the foreseeable increases in the productivity of the company through wage increases of at least 4 per cent in two years. In this case, the escalator clause is not tied to a price index — in other words, not to the needs of the workers — but, anticipating those needs, allows the workers to share in the company's prosperity.

Signed in September 1955, the Renault agreement had originally been strongly opposed by the Confédération générale du Travail, which was, however, compelled to change its attitude by the favourable reactions of public opinion. The agreement itself set an example, and was reproduced or imitated, before the close of the year 1955, by a food products company, several large metallurgical companies (engineering, automobiles) in the provinces and then by the entire metallurgical industry of the Paris region. By the end of the year, 300,000 workers were "covered" by a wage system on the lines of the Renault agreement.

These agreements most decidedly act as a stimulus. In practice, they revive the idea of giving to employees an interest in the productivity of the companies employing them. With the object of encouraging efforts in this direction, the Government has granted considerable tax relief to companies which give bonuses to their staff on the basis of increased productivity. (Decree No. 55-1223 of 17 September 1955, *Journal officiel*, 18 September 1955, p. 9243.)

The courts, for their part, are concerned with the protection of the *status of the worker in his relations with his employer*. But very few notable decisions were given during the year. Mention should be made, however, of the compensation awarded by the courts for wrongful dismissal in cases where the employer, without showing genuine ill-will, was nevertheless guilty of irresponsibility. Compensation was awarded, for instance, in one case in which an employee had been dismissed without prior notice while on sick-leave,[1] and in another which involved the dismissal of a worker whose sole fault had been that he had started to operate a complicated piece of machinery when the overseer was not there, but at a time when he would normally have resumed his work.[2]

A more significant innovation in the legislation and practice can be discerned in the progress of *mediation proceedings for the settlement of collective labour disputes*. At the time when the Act of 11 February 1950 relating to conciliation and arbitration for the settlement of collective labour disputes was being drafted, the legislature, influenced by objections from within the industry, had once again rejected the principle of compulsory arbitration.

But the events which have occurred since that time, the meagre results obtained through conciliation and a certain mistrust with regard to optional arbitration have brought about a change of mind, while at the same time, several writers have drawn attention to the successful operation of the American system of using "fact-finding boards". Voluntary recourse to the services of a "mediator" (voluntary, that is, because not required by statute) had produced a quick settlement in two important disputes, one between the tug officers of a large port and the owner of the firm and the other between the dockers and their employers. The success of those experiments during the first part of the year doubtless influenced the Government's decision to use its special powers to encourage recourse to this procedure in the future. Without waiting for Parliament to complete its examination of various bills on the subject, it issued decrees dated 5 May [3] and 11 June 1955 [4] which define the scope of a new procedure which ought to produce very satisfactory results.

An arbitrator is a judge, and his award is enforceable whether or not it is acceptable to the parties, and that is why the arbitration procedure is not popular. A mediator is primarily a diplomat, a conciliator; it is his duty to obtain mutual concessions and, ultimately, agreement between the parties. He does not encounter so much prejudice.

The mediation procedure instituted by the decree of 5 May 1955 is in the nature of an experiment. It is to be resorted to only in disputes concerning the fixing of wages in connexion with the renewal of collective agreements and wage agreements. It does not as yet apply in other fields. On the other hand, recourse to mediation is not purely optional; it does not necessarily have to be preceded by an agreement between the two parties to resort to mediation. At the request of one of the parties, or on his own initiative, the Minister of Labour may direct that the services of a mediator shall be employed. Mediation may lead either to agreement

[1] Court of Cassation, Social Division, 11 February 1955. *Bulletin des arrêts de la Cour de Cassation*, IVième partie, no. 118, p. 84.

[2] Court of Cassation, Social Division, 12 May 1955. *Bulletin des arrêts de la Cour de Cassation*, IVième partie, no. 395, p. 294.

[3] Decree No. 57-478 of 5 May 1955. *Journal officiel*, 6 May 1955, p. 4493.

[4] Decree to issue official administrative regulations, No. 55-784 of 11 June 1955. *Journal officiel*, 12 June 1955, p. 5923.

between the parties or to a report from the mediator containing recommendations. This report may be made public. The success of the experiment will depend to a great extent on the character and skill of the mediators appointed.

Act No. 55–437, of 18 April 1955 (*Journal officiel*, 20 April 1955, p. 4024), extends to the overseas departments (Guadeloupe, Guiana, Martinique, Réunion) certain provisions of the *social legislation relating to agricultural occupations applicable in metropolitan France*, particularly as regards holidays with pay.

II. INTERNATIONAL INSTRUMENTS

The French *Journal officiel* published the Universal Copyright Convention, signed at Geneva on 6 September 1952 (decree No. 55–1540 of 18 November 1955. *Journal officiel*, 30 November 1955, p. 11587) and Parliament authorized the President of the republic to ratify the draft Constitution of the Inter-Governmental Committee for European Migration, adopted on 19 October 1953 (Act No. 55–921, of 7 July 1955. *Journal officiel*, 12 July 1955, p. 6956).

The European Cultural Convention of 19 December 1954 was published in the *Journal officiel*, by decree No. 55–537, of 28 April 1955 (*Journal officiel*, 17 May 1955, p. 4904).

The International Labour Conventions No. 82, concerning social policy in non-metropolitan territories; No. 84, concerning the right of association and the settlement of labour disputes in non-metropolitan territories; and No. 85, concerning labour inspectorates, were published in the *Journal officiel* by decrees Nos. 55–1011, 55–1012, and 55–1013, of 27 June 1955 (*Journal officiel*, 31 July 1955, pp. 7666–7671).

GERMAN DEMOCRATIC REPUBLIC

NOTE[1]

I. ECONOMIC PROTECTION OF HUMAN RIGHTS

The most important particulars relating to economic development in the German Democratic Republic are contained in the following extracts from the report by the Central State Statistical Office concerning the fulfilment of the first Five-year Plan, 1951–1955.

"*VII. Development of the Cultural Standards and Health of the Population*

"In consequence of the great increase in industrial and agricultural production and of improved productivity in agriculture, communications and trade, national income in 1955 rose to a level of 162 per cent above the 1950 figure.

"During the years covered by the Five-year Plan, an average of 13 per cent of the total national income was applied to capital formation. Thus, by far the greater part of the national income was available for individual and social consumption. The wages bill for persons employed in the German Democratic Republic increased to 168 per cent of the 1950 figure. The income of agricultural workers rose to some 180 per cent of the 1950 figure.

"The turnover of goods in 1955 rose to the following percentages of that of 1950 (at prices for those years):

	Per cent
Total	183
Foodstuffs and stimulants	172
Foodstuffs	177
Stimulants (tea, coffee, tobacco, spirits, etc.)	165
Industrial goods	199
Footwear	225
Textiles and clothing	216
Other industrial goods	188

"The price reductions effected in individual years saved the population a total of 13,000 million East German marks. Retail prices were reduced by 32 per cent on the average as compared with 1950 figures.

"The index numbers given below reflect the (quantitative) rise in the supply of consumer goods through retail trade, works canteens, etc., in 1955, as compared with 1950:

	(1950 = 100)
Meat and meat products	221
Fish and fish products	228
Fats, total	211
Milk and cream	163
Sugar	123
Eggs	280
Leather footwear	276
Knitted outer garments (including track suits)	425
Knitted undergarments	213

"The funds applied, under the state budget, to cultural and social purposes are to a great extent responsible for the rise in the population's standard of living. Thus, during the period of the Five-year Plan, expenditure on education, science and culture alone accounted for 12,600 million East German marks, a further 25,400 million East German marks being spent on social insurance, the protection of employees, and recreational, welfare and social clubs. The sum of 14,700 million East German marks was applied to the construction or reconstruction of health institutions, such as tuberculosis hospitals and clinics, polyclinics, convalescent homes, sanatoria, therapeutical spas, creches and children's homes.

"The targets of the Five-year Plan in the fields of culture and health were attained, and even in part exceeded. Whereas there were in 1950 only twenty-one universities and colleges, the number had risen to forty-seven by 1955.

"The number of students at universities and colleges increased from 27,660 to 60,150; the number of external students increased from 2,300 to 14,600.

"The proportion of children of workers and peasants at universities and colleges rose from 38.6 per cent in 1950 to 55 per cent at the end of 1955.

"In 1951, there were 48,500 full-time students at the vocational, technical and professional schools and colleges; by the end of 1955 their number had increased to 66,300. In addition there were about 20,800 evening students and 19,000 external students.

"The State awards scholarships to about 87 per cent of all students.

"There was a striking rise in the figures relating to the publication of books and pamphlets. In the last three years alone, 26,000 titles with printings totalling 320.6 million copies have been published, special importance being attached to the supply of instructive reading matter for young people to counteract the pernicious influence or pornographic and other sub-standard literature.

[1] Information received through the courtesy of the Ministry of Foreign Affairs of the German Democratic Republic. Translation by the United Nations Secretariat.

"An especially gratifying development that should be mentioned occurred in the arrangements for maternal and child welfare. The number of places in creches and permanent homes for infants and small children rose from 8,542 to 59,500 in 1955.

"The extensive measures taken in maternal and child welfare made it possible to reduce infant mortality from 7.2 per cent in 1950 to 4.9 per cent in 1955.

"The holiday services of the trade unions improved steadily, so that in 1955 more than a million employed persons spent their holidays in trade-union hostels.

"The cost of a fourteen-day vacation in a trade-union hostel was reduced from 70 East German marks to 30 East German marks in the course of the Five-year Plan.

"There are now 80,000 places available for the accommodation of the aged and of persons in need of care in the old-age and welfare homes. During the last three years a large number of places were newly provided in these homes."

II. PROTECTION OF HUMAN RIGHTS BY LEGISLATION

1. *Labour Law*

The basic provisions of labour legislation having been laid down before 1955, the following provisions dating from 1955 are merely supplementary in character.

(*a*) One of the measures enacted during the year for the protection of the right to social security (article 22 of the Universal Declaration of Human Rights) is the decree of the Council of Ministers of the German Democratic Republic of 3 February 1955 respecting the plan for the advancement of youth (*GBl.* I, p. 117). This plan encourages the development of youth programmes. For example, 161,000 young persons are to be placed in apprenticeship posts. Long-term contracts for more advanced vocational training are to be concluded with the young persons in question and the necessary number of vacancies are placed at their disposal for training purposes.

(*b*) The right to work and the right to protection against unemployment (article 23 of the Universal Declaration) are guaranteed even for citizens who have served a penal sentence; this is the effect of the order of the Minister of the Interior, dated 27 December 1955, respecting the reintegration of discharged prisoners in employment (*GBl.* I, p. 57). This order requires *Kreis* councils to afford to discharged prisoners every assistance in obtaining employment in keeping with their vocational qualifications and to direct them to suitable jobs. No one has the right to reproach these persons about their past or to place them at a disadvantage in comparison with other workers in the matter of finding employment.

(*c*) In the field of the protection of employees, a number of additional legislative provisions were enacted in 1955 to improve safety at work in all undertakings; one such enactment is the ordinance respecting the setting up of labour protection and technical safety inspectorates, dated 22 December 1955 (*GBl.* I, 1956, p. 9), which provides for the more efficient organization of the inspection system.[1] The number of industrial accidents per thousand employed persons fell in 1955 by 10 per cent as compared with 1954.

(*d*) The seventh order, dated 23 June 1955, making regulations to give effect to the decree to make further provision for the improvement of the conditions of employment and living conditions of the workers and to protect the rights of the trade unions (*GBl.* I, p. 502), is a further contribution towards the realization of the right to an adequate standard of living (article 25 of the Universal Declaration). An employed person who, by reason of his age, the nature of his employment or other circumstances, is in danger of suffering damage to his health is entitled for the protection of his health to be placed under permanent medical supervision at his place of work.

The medical supervision begins with an examination upon appointment and is continued throughout the entire period of employment in the form of periodic examinations (re-examinations).

The following persons may be placed under permanent medical supervision:

(*a*) All young persons up to the age of eighteen years;

(*b*) All persons employed on work which is physically arduous or dangerous to health;

(*c*) Pregnant women whose health may be impaired by their work by reason of their pregnancy.

The periodic examinations are carried out by the state institutions of the Industrial Health Authority under medical direction (industrial polyclinics), or by other mobile or stationary agencies of that authority designated by the medical officer. The expenditure arising from the carrying-out of the periodic examinations is defrayed by the State Health Authority. The employed persons themselves incur no cost whatever for this service.

The Ministry of Health has catalogued the examination methods to be effectively applied in the light of the health hazards in each case and has made certain partial examinations mandatory (such as X-ray photographs of the lungs and blood analyses) and specified the chronological sequence of the examinations. The use of the prescribed or suggested methods of examination does not relieve the physician

[1] Translations into English and French appear in International Labour Office: *Legislative Series* 1955 – Ger. D.R.2.

from his duty as a doctor to take such further diagnostic steps as are medically indicated in individual cases.

Each worker examined at a periodic examination must be advised of any medical treatment which the result of an examination indicates as necessary. Any treatment that may be necessary is carried out under the general arrangements for medical treatment.

(*e*) The order of 29 March 1955 (*GBl.* I, p. 157) makes provision for persons convalescing from tuberculosis; the object is to give them special protection when they resume work and to avoid relapses due to unsuitable or premature employment. In cases where such persons are no longer able to carry on the occupation for which they had been trained or to continue in their previous employment after their discharge from the hospital, provision is made for training them in some other occupations in a suitable undertaking, on the proposal of the Tuberculosis Advisory Centre acting in consultation with the *Kreis* council. Persons who have recovered from tuberculosis may not be employed on night work, overtime, special assignments or shift work except with the authorization of the medical officer of the Tuberculosis Advisory Centre. As a special measure for the protection of persons suffering from tuberculosis, it is provided that the contract of employment of such a person must not be terminated except with the previous written consent of the labour and vocational department of the competent *Kreis* council, one month's notice being required.

(*f*) In 1955, workers were granted a total of 479,606 special periods of leave for treatment, convalescence and rest (on medical advice), paid for by social insurance, in addition to their normal holidays; the corresponding figure for 1950 was 238,038.

2. *Civil Law and Procedure*

(*a*) In conformity with the terms of article 23, paragraph 3, of the Universal Declaration of Human Rights, which guarantees the right to favourable remuneration and to an existence worthy of human dignity through the necessary social measures of protection, provision has to be made for protecting wages against the rigorous enforcement of attachment orders. This is the object of the ordinance respecting the attachment of wages, dated 9 June 1955 (*GBl.* I, p. 429).[1] This ordinance defines the amount of net income that may be attached (articles 2, 3 and 4) in such terms that all social benefits and additions to wages designed to preserve the ability to work are immune to attachment. In addition, a minimum of 150 East German marks per month is declared immune from attachment and this minimum is increased by fifty East German marks in respect of the spouse and of every additional person for whose maintenance the debtor is by statute responsible (article 5). In this way, the enactment, in conformity with article 23, paragraph 3, of the Declaration, protects the existence of the debtor and his family and his ability to work. For the purpose of protecting certain rightful claims (e.g., monthly maintenance payments), another clause (article 6) makes provision for extended liability to attachment.

(*b*) Articles 7 and 30 of the Constitution of the Democratic Republic[2] give effect to the provisions of article 16 of the Universal Declaration of Human Rights which guarantee equal rights for women as to marriage and family. The ordinance of 24 November 1955 respecting marriage and divorce (*GBl.* I, p. 849), which supersedes the Control Council Law of 20 February 1946 respecting marriage, enacts more particular provisions safeguarding this principle. The preamble to the ordinance lays down the fundamental rules of the law relating to matrimonial matters in these terms:

"In the German Democratic Republic, marriage is a community between husband and wife entered into for life which, being founded on equality of rights, and on mutual love and respect, contributes to the common development of the spouses and to the education of the children in the spirit of democracy, socialism, patriotism and friendship among peoples. Marriage and the family are under the special protection of the Constitution. The authority of the workers and peasants in the German Democratic Republic protects and confirms the development of a healthy marriage and family. A frivolous attitude towards marriage conflicts with the moral views of the workers."

These purposes are reflected not only in the provisions regarding the conditions and formalities to be fulfilled by persons proposing to contract marriage, but also, and principally, in the new provisions relating to divorce. "A marriage may be dissolved only if there are serious reasons and if the court determines by means of a thorough inquiry that the marriage has lost its meaning for the spouses, for the children and for society" (article 8). Article 9 provides for a thorough inquiry into all the circumstances of such a family and for a comprehensive consideration of all the consequences of the divorce applied for; it provides that the court must also determine in its decree of divorce which spouse is to assume parental responsibility for the children, who is to be responsible for the maintenance of the children and what sum is to be contributed as maintenance. This provision expressly stipulates that the decisive consideration is the welfare of the children.

The principle of the equality of women's rights receives expression in the provisions which stipulate

[1] Translations into English and French appear in International Labour Office: *Legislative Series* 1955 – Ger. D.R.1.

[2] See *Yearbook on Human Rights for 1949*, pp. 73–8.

that maintenance after divorce depends not on a fact of indebtedness, but exclusively on the earning capacity and financial circumstances of the party claiming maintenance (articles 13 and 14).

3. *Education*

(*a*) In 1955, the important ordinance of 15 September for the protection of youth (*GBl.* I, p. 641) was enacted in response to a demand from broad circles of the population, in particular the parents of children of all ages. It lays a duty upon all citizens, but especially on those responsible for education and on the members of the staffs of state organs and democratic organizations, to protect young persons against any influence that is potentially deleterious to their physical, moral and political development (article 1). Morally undesirable and pornographic products must not be manufactured, imported or distributed in the German Democratic Republic (article 3).

The ordinance also provides for the following protective measures (among others): prohibition of the sale and delivery of alcohol to children and adolescents under the age of sixteen years; restriction of the presence of children and adolescents in inns, saloons, etc., and in amusement parks; and prohibition of the presence of children and adolescents under the age of sixteen years in places where public dances are held (article 8).

The ordinance also contains provisions (enacted in the interests of juveniles) which relate to visits to the theatre, cinema, variety shows and musical performances (article 7). Offences against the ordinance are punishable by penalties or disciplinary action (articles 10 and 11).

This ordinance gives effect to article 26 of the Universal Declaration of Human Rights and to the resolutions adopted by the International Association of Juvenile Court Judges at its fourth congress at Brussels.

(*b*) The participation of parents in the school education of their children is the subject of a new ordinance of 14 October 1955, which deals with the functions of the Parents' Advisory Council in schools of general education (*GBl.* I, p. 689). The ordinance extends and defines the functions, and therefore also the rights and duties, of the bodies representing the parents in the schools in conformity with the requirements of article 26, paragraph 3, of the Universal Declaration of Human Rights.

In particular, it is provided that it is the function of the Parents' Advisory Council to advise and support the school:

(i) In bringing up and educating the pupils in such a way that they will become fully developed personalities and citizens conscious of their duty towards the State;

(ii) In improving the standards of performance of the pupils;

(iii) In observing and carrying out the Compulsory Education Act and the ordinance for the protection of youth;

(iv) In the improvement of hygiene and the training of children to live a healthy life;

(v) In vocational instruction and guidance;

(vi) In the constant improvement of physical conditions in the school.

(*c*) On 14 July 1955, the ordinance to introduce improved school meals (*GBl.* I, p. 517) and on 26 November 1955 a second ordinance containing a school meals regulation (*GBl.* I, p. 854) were enacted. They provide for the supply of school meals to a maximum total of 1,057,000 portions. Each portion consists of one hot meal per day. School meals are provided for certain categories of children, in particular for children of school age whose mothers are in employment, children whose parents have at least three children of elementary school age or below school age (if a social need exists), children of school age whose parents are receiving assistance from public funds, the children of pensioners, all pupils and children in residential institutions and hostels, and all children in pre-school educational establishments which are state-maintained (kindergartens); in addition, school meals are provided for the teachers, instructors and technical staff of schools and public educational institutions. In each district, 15 per cent of the total number of school meal portions are provided free of charge.

As in previous years, holiday recreation and walking tours were organized in summer for all children in 1955.

(*d*) In the course of the year measures were enacted to give effect to the right to participation in cultural life proclaimed in article 27, paragraph 1, of the Universal Declaration.

For the first time, non-professional artistic activity received the official recognition of the State by the ordinance of 18 May 1955 to establish a prize for popular artistic creative work (*GBl.* I, p. 365). A prize is awarded by the State for outstanding original works of art, artistic interpretations, scientific research work pointing the way to further progress or other distinguished contributions advancing cultural policy which have materially promoted the democratic evolution of the German Democratic Republic. This state prize for popular artistic creation may be awarded to amateur or professional artists and to other persons contributing to cultural advancement, and it may be awarded to individuals or to popular art groups or circles.

The ordinance of 3 February 1955 respecting the people's music schools in the German Democratic Republic (*GBl.* I, p. 122) provides for the establishment of musical training centres for amateurs which

offer a musical education for such persons regardless of their private financial circumstances. The function of these schools is to teach gifted children, adolescents and adults a broad range of musical subjects and to instruct them in technique; above all, the schools are intended to ensure that the musical talents of the people are recognized at an early age and properly developed by training. The ordinance provides for the establishment of state schools divided into separate departments for children and adolescents and for adults, and for the formation of branch schools in rural areas.

In this way, in the field of musical development, the ordinance does a great deal to give effect to the right of everyone to an education in accordance with his ability, regardless of income.

III. THE AFFIRMATION OF HUMAN RIGHTS IN THE CASE-LAW OF THE SUPREME COURT OF THE GERMAN DEMOCRATIC REPUBLIC

1. *Judgements in Civil Cases*

Ever since its establishment, the Supreme Court of the German Democratic Republic has regarded it as one of its most important tasks to pay the strictest regard in its decisions to the principle of equality before the law in all its consequences, in conformity with articles 1, 2 and 7 of the Universal Declaration of Human Rights and in conformity with the principles of article 6, paragraph 1, article 7 and article 30 of the Constitution of the German Democratic Republic.

(*a*) The principle of the equality of rights during marriage and at its dissolution (article 16, paragraph 1, of the Universal Declaration) was upheld by a decision in which the Supreme Court ruled that a married woman whose active contribution, even though restricted to household duties, facilitated her husband's acquisition of property, has a claim to compensation upon the dissolution of the marriage. During 1955 the court decided that where appropriate this claim should be secured by an interim order (corresponding approximately to an injunction in English law) directing that her claim constitutes a registrable charge against the real property of the husband (judgement in 1 *Zz* 92/54, of 15 March 1955, and 2 *Zz* 57/55, of 16 June 1955).

(*b*) The guarantee of equal social protection for all children, whether born in wedlock or not (article 25, paragraph 2, of the Declaration; article 33 of the Constitution of the German Democratic Republic) requires that the determination of paternity in maintenance cases should not be unnecessarily complicated and delayed by frivolous applications for evidence which cannot, owing to technical reasons (e.g., heredity tests), be produced without considerable loss of time. To prevent such undesirable practices, the Supreme Court has issued its interpretative decision No. 6, of 6 June 1955 (*GBl.* 1955 II, pp. 264 *et seq.*).[1] In this decision, it is stated that the court, before calling for scientific tests (which have undoubted probative value in their proper context), must first inquire into the facts by the examination of the parties and witnesses; "the heredity test is the last auxiliary means of determining, in conjunction with other evidence, that a particular person manifestly cannot be the father of a particular child. . . . The heredity test is based on the comparison of similarities, and hence, for the purposes of the proof of a child's paternity, cannot yield more than elements of probability. It is therefore incapable, by itself, of being used as evidence yielding some positive or negative result on which the judge may base his decision concerning the 'manifest impossibility' [of paternity]. Proof by heredity test is permissible only if other elements of evidence have produced facts which make it appear probable that a particular proved intercourse or repeated intercourse by the mother did not cause the conception."

In another case (judgement 2 *Zz* 101/55, of 24 November 1955) it was argued before the Supreme Court that an illegitimate child could not claim maintenance for the past or for a period in the past because maintenance had already been provided by its mother, the Government or some other source and because the defendant thought himself to be in danger of being sued for restitution by the party which had maintained the child. The court declined to accept this argument. It would operate to the detriment of the child (the court said) if the law could be used in this way for what is in effect a transfer of responsibilities and it would be inconsistent with the child's right to equality under the Constitution if the law were to develop on those lines.

(*c*) In the field of labour law the Supreme Court, through its interpretative decision No. 5, of 31 January 1955 (*GBl.* 1955, II, pp. 47 *et seq.*), halted certain malpractices which had occurred in connexion with the termination of contracts of employment and which, if unchecked, might have caused a material deterioration of working conditions. Despite the extensive protection against unjustified dismissal afforded by articles 9 and 19 of the ordinance respecting the law on dismissal of 7 June 1951 (*GBl.*, p. 550), the view had appeared in the decisions of a number of labour tribunals that, in cases where the circumstances did not justify summary dismissal, but where the employee had in fact broken the disciplinary regulations, summary dismissal could be interpreted as a regular notice of dismissal. Since such an interpretation would considerably worsen the legal position of the dismissed person (for, conceivably, the works

[1] Interpretative decisions are binding interpretations of legislation by the Supreme Court. They correspond more or less to the "judge's rules" in English law, but may also deal with substantive law. They are issued by the full bench of the Supreme Court.

council would have withheld its statutory consent if it had learnt that, contrary to its earlier assumption, the breach of discipline was relatively trivial) the Supreme Court ruled:

"1. Any modification or interpretation of a termination without notice to make it appear as a dismissal with due notice is illegal.

"2. Notice of dismissal given because summary dismissal would not be justified is without legal effect.

"3. Cases in which the validity of a summary dismissal is in issue must be dealt with by the labour tribunals with especial dispatch. On no account may the proceedings in any particular stage last longer than four weeks. Delays must be justified; the reasons for them must be stated in writing."

The Supreme Court has also ruled against other attempts to circumvent the protection against wrongful dismissal; for example, in judgment 1 *Za* 119/55 of 8 September 1955, it decided that so-called dismissal agreements — i.e., arrangements entered into by mutual consent of employer and employee concerning the termination of the contract of employment, are permissible but must be in writing with the signatures of both parties.

2. *Judgements in Criminal Cases: Procedural Guarantee of Civil Rights (article 11 of the Universal Declaration of Human Rights)*

(*a*) In a decision of 8 July 1955 – 3 *Ust* II 57/55 (reprinted in *Neue Justiz* 1955, p. 571) the Supreme Court reversed a decision of a district court and ruled that the reading of the record of a witness's statement in the preliminary proceedings cannot replace the examination of the witness in the main trial. The defendant must have the opportunity to put questions to the witnesses. The fact that the witness has gone away on holiday is no reason for dispensing with the summons directing him to appear at the main trial.

(*b*) By its judgement of 25 August 1955 – 2 *Zst* III 66/55 – the Supreme Court set aside the decision of a *Kreis* court on the grounds that in the latter the proceedings had been conducted (in part) in the absence of the defendant, the statutory conditions governing proceedings *in absentia* not being fulfilled.

(*c*) In a judgement of 13 January 1955 – 2 *Ust* II 127/54 – the Supreme Court laid down, in unambiguous terms, the principle that the onus is not on the defendant to prove his innocence, but rather that proof of his guilt must be produced in court; the Supreme Court reversed a judgement of the district court.

(*d*) The rule against *reformatio in peius* was affirmed by the Supreme Court (judgement of 16 December 1955 – 1 *b Ust* 370/55), which held that the rule also applied in cases in which the contested decision has to be reversed by the appellate court because of the improper composition of the lower court and in which the matter must be referred back to the lower court for a completely new trial; in these circumstances, the court said, no effective proceedings had actually as yet taken place.

(*e*) In another case, the Supreme Court (judgement of 2 September 1955 – 1 *b Ust* 251/55) affirmed the right of the defendant under article 22 of the Code of Criminal Procedure, to challenge a judge on grounds of prejudice; it is mandatory (said the court) that, at the beginning of the main trial, there should be publicly announced not only the names of the judge and lay judges composing the court, but also the name of the judge who, pursuant to article 189 of the Code, is directed by the presiding judge to attend the proceedings from the very beginning (in trials of considerable duration) so that, if a judge should drop out of the trial owing to illness, the judge so designated may substitute for the latter.

3. *The Execution of Penal Sentences*

Pursuant to article 137 of the Constitution [1] and to the Decree of the Council of Ministers of 10 June 1954, the Minister of the Interior issued directive No. 51/55 of 15 September 1955. This directive offers prisoners the opportunity of earning a remission of part of their sentence by means of good work performance in certain branches of industry.

In the event of excellent work performance, prisoners may, for one day's work, receive as much as three days' credit to be applied against their sentence, so that, for example, a three years' sentence could theoretically be served in the space of one year. In addition, prisoners receive a wage corresponding to the work they have performed, according to a scale laid down in the directive; the wage may rise to a maximum of 50 per cent of the income of a person engaged in the same occupation or possessing the same qualifications. The relevant clause in directive No. 51/55 provides:

"7. Prisoners shall receive, in accordance with the work they have performed, a wage the amount and use of which shall be specified by the authority responsible for enforcing the penalty."

Prisoners are free to dispose of such wages; they may use the money for the purpose of buying additional food, helping their families, or accumulating savings.

Prisoners also receive bonuses for excellent work performance and for the development of new techniques to increase productivity; these bonuses do not differ in amount from those paid to ordinary employees by people's enterprises in respect of efficient performance. Directive No. 51/55 states in this connexion:

[1] Article 137 of the Constitution reads: "The execution of penal sentences is based on the conception of the educative influence of common productive work on those capable of improvement."

"8. The prisoners in question may freely dispose of bonuses which are remitted by the management [of the undertaking] to the competent offices in recognition of outstanding performance."

Great importance is attached to preventive medical care for prisoners. Periodic examinations, X-ray examinations, etc., make it possible to recognize incipient diseases during the formative stage. The most modern remedies and an ample supply of medicaments are available to the patients.

"If a prisoner has worked for at least one year in pursuance of this directive, he shall be entitled to a period of rest. The ordinance respecting vacation leave of 7 June 1951 (*GBl.*, p. 547), particularly articles 6 (basic leave) and 15 (compensation for leave), shall be applicable, subject to the terms of the sentence." (line 12 of directive No. 51/55)

"The legislative provisions enacted for the protection of labour, particularly the ordinance respecting the protection of labour of 23 October 1951 (*GBl.*, p. 957) and the provisions relating to safety at work, shall be applicable *mutatis mutandis* to the employment of prisoners." (line 11 of directive No. 51/55)

FEDERAL REPUBLIC OF GERMANY

THE PROTECTION OF HUMAN RIGHTS IN 1955 [1]

A SURVEY OF FEDERAL AND LAND LEGISLATION, JUDICIAL DECISIONS AND INTERNATIONAL AGREEMENTS

CONTENTS

---

[1] Report prepared by Mr. Karl Doehring, lawyer, Referent at the Max Planck Institute for Foreign Public Law and International Law, Heidelberg, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

ABBREVIATIONS

BGBl	*Bundesgesetzblatt* (the official gazette of the Federal Republic; references are to section and page)
BGHSt	*Entscheidungen des Bundesgerichtshofs in Strafsachen* (decisions of the Federal Court of Justice in criminal cases)
BGHZ	*Entscheidungen des Bundesgerichtshofs in Zivilsachen* (decisions of the Federal Court of Justice in civil actions)
BVerfGE	*Entscheidungen des Bundesverfassungsgerichts* (decisions of the Federal Constitutional Court)
BVerwGE	*Entscheidungen des Bundesverwaltungsgerichts* (decisions of the Federal Administrative Court)
DöV	*Die öffentliche Verwaltung* (Public Administration)
DVBl	*Deutsches Verwaltungsblatt* (German Journal of Administration)
GBl	*Gesetzblatt (der Länder)* (official gazette (of *Länder*)
GVBl	*Gesetz- und Verordnungsblatt (der Länder)* (journal of legislative provisions, regulations, etc., of *Länder*)
JR	*Juristische Rundschau*
NJW	*Neue Juristische Wochenschrift*
VWRspr	*Verwaltungsrechtsprechung in Deutschland* (ed. G. Ziegler) (decisions concerning administrative law in Germany)

I. FEDERAL AND LAND LEGISLATION AND JUDICIAL DECISIONS [1]

1. Inviolability of Human Dignity

(Universal Declaration of Human Rights,[2] article 1; Basic Law, article 1)

Respect for human dignity is in the final analysis the aim of all fundamental rights. The significance of the special mention of human dignity in the Constitution becomes clear, however, in particular cases in which none of the fundamental rights expressly specified is immediately applicable but in which there seems nevertheless to be an infringement of individual rights. The enumeration of human rights and fundamental freedoms — like any other enumeration — is not exhaustive and needs to be supplemented by some general principle, such as that laid down in article 1 of the Universal Declaration and article 1 of the Basic Law. The scope of these provisions is reflected in the cases cited below.

The Berlin Administrative Court (11 February 1955, *NJW* 1955, p. 964) ruled that it was a violation of the Constitution to preserve — despite his proved innocence — data relating to the identity of an accused person. Any person who has become innocently involved in a pre-trial inquiry, as a result of action by the police or the public prosecutor, has a right, in the court's opinion, to claim that all material used for establishing his identity (fingerprints, photographs, etc.) shall be destroyed. Since the Constitution does not create a specific right in this respect, the court relied on the principle of inviolability of human dignity.

In one case, the issue to be decided by the Federal Court was whether the statement that a person belonged to a particular race or religious community constituted a violation of human dignity and so could be said to be defamatory (29 November 1955, *BGHSt*, vol. 8, p. 325). In general, such a statement is not calculated to bring a person into disrepute, since all persons are equal before the law, and thus in principle religion or race cannot be used for purposes of defamation. If, however, attention is drawn to a particular individual's belief or race in conjunction with other allegations, the combination of the statement and the allegations may, in the court's opinion, support proceedings for defamation.

Continuing technical progress has given rise to the question how far it is permissible to make tape recordings of conversations without the knowledge and consent of the person concerned. The Court of Appeal (Kammergericht) (3 June 1955, *NJW* 1956, p. 26) holds that such conduct is an infringement of personal rights and a wrongful violation of human dignity. In principle, the person affected has a right to the return or destruction of the tape recordings or, alternatively, a good claim for damages. The retention of a tape recording by its maker may be justified, however, if the purpose is to secure evidence and the owner of the recording is acting in furtherance of interests which have the support of the law. In that case, however, the securing of evidence by such means confers only the authority to submit the recording to a court; its submission to third parties not concerned with the case is in any event inadmissible.

In a case which came before the Bavarian Constitutional Court it was argued that the Bavarian Act under which all persons are required to undergo an X-ray examination as part of the anti-tuberculosis campaign is a violation of human dignity and that such physical interventions are permissible only with the consent of the person concerned. The court rejected this view (13 January 1955, *VWRspr* 1955, p. 912). In a State whose social system is based on the rule of law, it is the unquestionable duty of the citizen to submit to such examination, and the community is entitled to demand that he shall do so. The possibility that the examination may disclose the presence of diseases other than those for which the test is conducted is equally no argument against the legality of the examination; in such cases the admitted right to the free choice of a doctor must yield. The primary purpose of these tests is, after all, to determine the presence of diseases. The ethics of the medical profession will protect the patient against any improper public disclosure of diseases from which he is found to be suffering. The Higher Administrative Court of Lüneburg (18 May 1955, *DVBl* 1955, p. 539) gave a similar decision with regard to compulsory vaccination. Although the court affirmed the right to physical integrity, it did not regard the essence of that right as being injured by a vaccination against the will of the individual concerned. The vaccination was urgently necessary, the court said, for the protection of the individual as a member of the community.

2. Right to the Free Development of Personality

(Universal Declaration, articles 1 and 22; Basic Law, article 2)

As in the case of the principle of respect for human dignity, this is a principle which is implicit in many other fundamental rights. The following paragraphs refer to the rights which appear to be particular manifestations of the right to the free development of personality.

---

[1] In the text which follows, the term "Basic Law" means the Constitution of the Federal Republic of Germany, 1949 and "Federal Republic" means the Federal Republic of Germany. Extracts from the Constitution of the Federal Republic appear in *Yearbook on Human Rights for 1949*, pp. 79–84.

[2] The text of the Universal Declaration appears in *Yearbook on Human Rights for 1948*, pp. 466–8.

(*a*) *Right to the Free Expression of Opinion, Freedom of the Press and Information* (Universal Declaration, article 19; Basic Law, article 5)

Under article 93 of the German Penal Code it is a punishable offence to manufacture or distribute printed matter the purpose of which is to endanger the existence of the Federal Republic or to undermine the democratic freedoms. According to the Federal Court of Justice (23 November 1955, *BGHSt*, vol. 8, p. 245), the answer to the question whether such printed matter is unconstitutional in this sense does not depend solely on the subjective intention of the manufacturer or distributor. It must also be shown that the content of the document advocates the prohibited aims in a manner which is clear for all to see. The origin of the document — for example, its distribution by the Communist Party of a State in the eastern *bloc* — is not *per se* decisive. While the origin may, of course, be taken into account in conjunction with the contents, the reader must himself be able to recognize the anti-constitutional purpose of the publication.

Under the Württemberg-Baden Act on freedom of the press, dated 1 April 1949, the editor of any newspaper or periodical is under a duty to print a reply by any person who has been attacked in the publication. The Act does not state, however, by what methods the person who has been attacked can assert his right. There is, indeed, a provision which makes non-compliance (i.e., failure to publish the reply) by a newspaper a punishable offence, but over and above this the Land Court of Mannheim (12 August 1955, *NJW* 1956, p. 384) has declared that civil proceedings — i.e., an action demanding satisfaction of the claim — can also be brought. The court cites article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, dated 4 November 1950, which guarantees the right to free expression of opinion.[1] If this right is to be effective, said the court, then it must also be possible to make an interim court order. The right to secure the publication of a reply cannot, however, be enforced if the reply does not confine itself to strict essentials. The editor has authority to decline to publish the entire reply if it does not observe these limits — i.e., if it contains more than the answer to the attack. The editor himself is under no obligation to write a rectification which exceeds these limits.

(b) *Freedom of Assembly* (Universal Declaration, article 20; Basic Law, article 8)

Under the Act of 6 August 1955 (Public Meetings (Restricted Areas) Act, *BGBl* 1955, I, p. 504) the holding of public open-air meetings, demonstrations and processions was prohibited in a certain area surrounding the Parliament building in Bonn and the Federal Constitutional Court in Karlsruhe. The Act provides that permission to hold such gatherings may be granted by the Federal Minister of the Interior, with the consent of the Speaker of the Parliament or the President of the Constitutional Court.

The principle of free assembly is guaranteed by article 8 of the Basic Law. The exceptional cases in which a meeting may nevertheless be prohibited are specified in the Act of 24 July 1953 (*Yearbook on Human Rights for 1953*, p. 109). Under this Act a meeting may be banned if the association which wishes to hold the meeting is itself prohibited because it has violated the criminal laws or is in conflict with the constitutional order or the concept of international understanding (Basic Law, article 9). If the association is prohibited by a unilateral act of the authorities (i.e., if the association did not receive a hearing), then the ban is unlawful; since the order prohibiting the association was made unlawfully, the ban on the meeting cannot be upheld on the basis of that order (Regensburg Administrative Court, 25 May 1955, *NJW* 1955, p. 1126).

A participant in a political meeting, who had been repeatedly excluded from the discussion by the chairman, lodged a complaint with the Administrative Court on the grounds that in the meeting the right to free expression of opinion had been violated. The Higher Administrative Court at Lüneburg (13 June 1955, *VWRspr*, vol. 8, p. 507) rejected the complaint as unjustified. The right to free assembly and expression of opinion (the court said) is maintainable exclusively *vis-à-vis* the public authorities, which in the particular case had not been involved at all. If the chairman of a meeting of a political party prevents a participant from speaking or even closes the meeting altogether, he (the chairman) is not violating any statutory rights. The right to the free expression of opinion and the right of assembly mean only that everyone, including the plaintiff, is entitled to call a meeting himself.

(c) *Freedom of Conscience and Religious Belief* (Universal Declaration, article 18; Basic Law, article 4)

In principle, no person can be compelled to disclose his faith or his membership of a religious community. The Higher Administrative Court at Münster (13 September 1955, *VWRspr*, Vol. 8, p. 700), while recognizing this right, nevertheless declared that there was no justification for a person's refusal to state his religious affiliation when registering a change of residence with the police. If some obligation under public law — for example, the duty to pay church tax — depends on the reporting of such particulars, then (said the court) there must be some means of obtaining the particulars. It depends on the form in which the State is organized what authority is qualified to ask for particulars concerning religious affiliations. If some authority not so qualified were to ask — wrongfully — for these particulars, then a complaint to the Administrative Court would be admissible and justified.

[1] See *Yearbook on Human Rights for 1950*, p. 421.

In the opinion of the Bavarian Constitutional Court (13 January 1955, *VWRspr* 1955, p. 912) compulsory X-ray examinations in connexion with the anti-tuberculosis campaign do not violate the right to freedom of religious belief even if the person concerned belongs to a religious community whose teaching proclaims that healing may only be sought by spiritual means. Only measures and laws which interfere with the practice of these religious views are prohibited. In conducting the X-ray examination (the court said) the State has no intention of impeding such practice, but is only using the powers conferred upon it for the protection of the general public.

(d) *Right to Education* (Universal Declaration, article 26; Basic Law, article 7)

In 1955, a number of Länder enacted new and more elaborate legislation relating to the right and duty to attend school and to participate in instruction. The duty to receive instruction frequently has its counterpart in the State's duty to defray the cost of schools and educational equipment. But efforts are also being made to introduce free education in the secondary schools, where attendance is voluntary.

In Schleswig-Holstein, compulsory school attendance for nine years from the age of six was laid down in the Act of 5 December 1955 (*GVBl* 1955, p. 169). The duty may also be discharged by attendance at approved private schools. A three-year period of attendance at a vocational school is compulsory. In the Rhineland Palatinate, the Act of 2 December 1955 (*GVBl* 1955, p. 115) also introduced certain innovations as compared with the Acts of 1938 and 1952. School attendance is now obligatory for all young persons ordinarily resident or domiciled in the Land. The effect of this provision is to make school attendance compulsory not only for German nationals, but also for others. The provisions had become necessary owing to the large number of stateless aliens present in the Land. The general rules of international law (e.g., those relating to extra-territoriality) and special international treaties remain unaffected by the provision.

The object of the Elementary Schools Act of the Rhineland Palatinate, dated 4 February 1955 (*GVBl* 1955, p. 1), is to bring the law relating to education into line with the corresponding provisions of the Land Constitution. School attendance is compulsory for all children, and as a general rule any commune with a sufficient number of children of school age is entitled to have its own school premises and equipment. For the purpose of supervising the application of these provisions, a committee is to be formed in every commune. In addition, a parents' council is to be elected in every commune to advise the headmaster and teaching staff. The construction or reconstruction of schools may be demanded by the parents of children of school age if the number of children reaches a certain minimum.

The objects of the Baden-Württemberg Act of 31 January 1955 (*GBl* 1955, p. 38) are similar. The Act further provides for exemption from school fees and from charges in respect of books and other equipment and for the payment of education allowances. These facilities and benefits had been contemplated by article 14 of the Constitution (see *Yearbook on Human Rights for 1953*, p. 112). Similarly, in Lower Saxony, the Act of 20 February 1955 (*GVBl* 1955, p. 53) makes provisions for exemption from school fees. The non-admission of a child to a secondary school is regarded as an act of the authorities, and it has been undisputed for some time that in case of such non-admission proceedings may be instituted in the Administrative Court. According to a ruling of the Higher Administrative Court at Lüneburg (15 April 1955, *VWRspr*, vol. 8, p. 399), a provision making admission to a secondary school contingent upon an examination is compatible with the Constitution. The parents' right to secure the child's participation in school instruction is in all cases qualified by a proviso concerning the child's aptitude. Since, for technical reasons alone, not all children can participate (the court proceeded) a selection must necessarily be made. The principle of equal treatment is not thereby infringed, since the selection is not arbitrary. The remedy against possible malpractices on the part of the examiners is an application to the Administrative Court.

There are so many judicial decisions in which it has been held that final school examinations may be challenged that it would exceed the scope of this report to itemize them.

(e) *Freedom of Movement: the Law relating to Passports* (Universal Declaration, article 13; Basic Law, article 11)

Under article 11 of the Basic Law, every German national has the right to sojourn or settle in any part of Germany. A Bavarian Act of 6 November 1946 provides that only those lawyers who have passed their examinations in Bavaria may be admitted to practise before the Bavarian courts. In a case which came before the Federal Administrative Court, the issue was whether this provision infringed article 11 of the Basic Law (21 June 1955, *BVerwGE*, vol. II, p. 151). The court held that no violation of the Constitution had taken place. The right to freedom of movement (the court said) does not include the right to practise one's chosen profession in any place. Nor is this rule in conflict with the right to the free choice of profession, since under article 12 of the Basic Law the practice, as distinct from the choice, of a profession may be regulated by legislation. If the person concerned is not admitted to practise the law in Bavaria, it is open to him (the court proceeded) to exercise his profession in another Land, so that he is not excluded from such exercise altogether. Nor can it be said that the principle of equal treatment is infringed, since the

statute is applicable equally to all persons who have not passed their examination in Bavaria.

Under the Passports Act of 4 March 1952 the issue of a passport may be refused in certain cases. Since, however, every person has in principle the right to a passport, it would be unconstitutional, in the opinion of the Higher Administrative Court at Münster (25 January 1955, *DöV* 1956, p. 380), if the reasons for refusal given in the Act were interpreted extensively. It is clearly the court's intention that, as in criminal law, analogies which are unfavourable to the applicant should not be admitted.

(f) *Freedom of Contract*

The right to enter freely into contracts under civil law is not expressly included as one of the fundamental rights guaranteed by the German Constitution. It is, however, regarded as part of the fundamental right to the free development of the personality (Basic Law, article 2), and the courts have frequently had occasion to refer to the resulting legal situation.

The Federal Administrative Court (18 February 1955, *JR* 1955, p. 352) has nevertheless emphasized that every freedom, including the freedom of contract, may on occasion have to suffer some restriction. The unfettered development of individual freedom in society is permissible only in so far as the rights of others are not thereby infringed; mutual consideration is necessary. Respect for public morality and for the constitutional order has been held at all times to qualify the freedom of contract.

It was the government price controls which gave the courts their principal opportunity to determine the limits of freedom of contract. The Federal Administrative Court declared the Act of 29 October 1936, which empowered the authorities to fix binding price limits, to be unconstitutional (20 May 1955, *NJW* 1955, p. 1693). The Act was held to restrict freedom of contract and to conflict with other principles which are inherent in a social order governed by law, because it gave the authorities an unlimited power to fix prices. Unless the extent of the authority's rights in such matters is clearly determined (the court said) the authority becomes a kind of legislator, with the consequence that the principle of the separation of powers would be violated. The result would be uncertainty of the law, and the constitutional guarantees would be frustrated, since naturally judicial review would cease to be possible.

3. Protection against Discriminatory Treatment

(Universal Declaration, article 7; Basic Law, article 3)

The fundamental right which is most frequently invoked is probably the right to equal treatment. Only the most important of the numerous judicial decisions concerning this right can be cited here.

(a) *Equal Treatment in General*

A person cannot plead, in justification of his own disregard of a legislative provision, that a similar violation of the law by some other person was tolerated. In conformity with this principle, the Administrative Court of the Land Hesse (6 April 1955, *DVBl* 1955, p. 742) ruled expressly that the guarantee of equality is not *per se* violated if the building authorities take action against an infringement of the building laws, even though it tolerated a similar infringement in another case. In individual cases (the court said) the authorities often have discretion to waive compliance with a law. If, however, the authorities waive compliance with a law in many similar cases, it is possible that misfeasance and a violation of the principle of equality can be claimed to exist if they suddenly insist on compliance with the law.

Under article 187 of the German Penal Code, persons who are actively engaged in public life enjoy special protection under criminal law against insult and defamation. This provision was held to be incompatible with the equality of citizens. The Federal Constitutional Court, on the other hand, was of the opinion that the principle of equality had not been violated (30 November 1955, *BVerfGE*, vol. 4, p. 352). It said that the right to special protection of personal reputation could be invoked only if the insult was connected with the political activity of the injured person; the protection was not given to the latter in his capacity as an individual. It went on to say that the purpose of the article was to protect the high standards of public life and the freedom of political action. Accordingly, the distinction drawn by the legislator was not an arbitrary one.

(b) *Equal Treatment of the Sexes*

Men and women have the right to equal pay for equal work (Federal Labour Court, 15 January 1955, *NJW* 1955, p. 684). Parties to wage agreements are also bound by this rule, so that any wage agreement which is inconsistent with it is unconstitutional. Nor can a reduction of women's wages in the wage scales be justified by provisions for the protection of women (maternal welfare, pregnancy leave, etc.). Within these limits, wage contracts have the effect of laws. (On the subject of equal treatment of men and women in wage legislation, see also Federal Labour Court decision of 6 April 1955, *NJW* 1955, p. 1005 and decision of 2 March 1955, *ibid.* 1955, p. 688.)

The Federal Court of Justice has also re-defined its position towards the equal treatment of the sexes. Under former legislation, it was primarily against the father that a child could claim maintenance rights; only in the event of the father's default could the child claim such rights against the mother. The Federal Court of Justice considers this rule unconstitutional and allows equal claims against

both parents (13 June 1955, *BGHZ*, vol. 17, p. 360). The court likewise declared unconstitutional an earlier provision under which a female civil servant could qualify for a children's allowance only if her husband was not in a position to pay the necessary sum. Of course, if both parents are civil servants, there is only one claim to the children's allowance.

Under former legislation, only the father had a right to administer the child's property. He alone was permitted to represent the child for all the purposes of the law. Henceforth, however, this right can be exercised only by the parents jointly (Land High Court at Stuttgart, 29 June 1955, *NJW* 1955, p. 1721). The same rule applies if the parents are divorced, unless the court has expressly decreed otherwise.

4. Protection of Personal Freedom

(Universal Declaration, article 9; Basic Law, article 104)

In Baden-Württemberg, the Act of 16 May 1955 (*GBl* 1955, p. 87) makes provision for the institutional care of the mentally infirm and of addicted persons. The regular court decides in which cases it is proper to make an order committing a person to an institution. This enactment had become necessary because for a long time the administrative courts had also been considered competent to make such orders.

In a case which came before the Federal Court of Justice it was held that, if a person who has attained the age of majority is duly declared by the guardianship court not to be *capax juris*, then the appointed guardian does not require any further special judicial decision in order to commit his ward to an institution (30 March 1955, *BGHZ*, vol. 17, p. 108). The only purpose of article 104 of the Basic Law, which stipulates that a person must not be deprived of his liberty without judicial proceedings, is to protect persons from being deprived of their liberty by the public authorities. Although the guardian is appointed under public law, it is his power under private law — comparable to parental authority — which is paramount. In the opinion of the Federal Court of Justice, the general power of review vested in the guardianship court affords a sufficient guarantee of the rights of the individual.

In one case, the Federal Court of Justice had decided that the order of 1 December 1938 for the control of communicable diseases was no longer applicable, since under article 104 of the Basic Law persons could be deprived of their freedom only by virtue of a "formal" law, a simple order being insufficient for this purpose (see *Yearbook on Human Rights for 1954*, p. 109). This interpretation is challenged by the Bavarian Administrative Court (29 September 1955, *VWRspr* vol. 8, p. 394). Although a "formal" law is required under article 104 of the Basic Law, the order in question dates from the time before the promulgation of the Basic Law, and therefore (says the Bavarian Court) the only important point is whether its substance is reconcilable with the Basic Law. The substance of the order of 1938 is not inconsistent with the present legal position. The Higher Administrative Court at Münster has given a similar decision (2 March 1955, *VWRspr*, 1955, p. 835).

A similar legal question came up for decision in connexion with the police ordinance concerning aliens of 22 August 1938, under which an alien can be arrested for purposes of deportation. The Administrative Court at Freiburg declared this ordinance unconstitutional, on the ground that it is not a "formal law" within the meaning of article 104 of the Basic Law. At the same time, however, it said that the arrest of an alien for the purpose of his deportation was not unlawful. The court based its opinion on the International Convention relating to the Status of Refugees of 28 July 1951, which states that aliens may be deported for reasons of national security.[1] Since this convention was ratified by Parliament by the Act of 1 September 1953, the particular provision of that instrument has become part of German municipal law. If, therefore, deportation is permissible, it cannot be unlawful to implement that deportation — i.e., to arrest the person concerned. The Act ratifying the Convention is a "formal law" within the meaning of the Basic Law (27 April 1955, *VWRspr*, vol. 8, p. 472). In the opinion of the Coblenz Administrative Court (26 October 1955, *NJW* 1956, p. 198), the Act of 11 May 1937, which authorized the police ordinance of 1938, can be said to be a "formal law", even within the meaning of artiele 104 of the Basic Law, and so to constitute a valid basis for the arrest.

Reference has already been made above (see I, 1 last paragraph) to the decision of the Bavarian Constitutional Court of 13 January 1955 (*VWRspr* 1955, p. 912), according to which compulsory general X-ray examinations cannot be considered an unwarrantable restriction of freedom.

5. Protection of Property

(Universal Declaration, article 17; Basic Law, article 14)

(a) *Legislation and Guarantees respecting Property*

Under article 14 of the Basic Law, acts interfering with personal property are only admissible if adequate compensation is paid. Laws enacted after the Basic Law and, in effect, making provision for expropriation without promising any compensation are unconstitutional and therefore void (Federal Constitutional Court, 21 July 1955, *BVerfGE*, vol. 4, p. 219). No court may enforce such a law; nor may it of its own authority prescribe a suitable compensation. Any court which has doubts as to whether

[1] See *Yearbook on Human Rights for 1951*, p. 586.

a law which it is called upon to enforce involves expropriation must refer this question to the Federal Constitutional Court. It is also the responsibility of the Federal Constitutional Court to decide whether a deprivation of public rights (in contrast to private rights) gives rise to a claim for compensation. Compensation can be awarded only if the public law has placed the injured party in a position similar to that of a property owner.

Since the repeal of certain laws concerning ceiling prices, it has become impossible, in the opinion of the Federal Court of Justice, to rely on these former price regulations for the purpose of assessing compensation in the case of expropriation of real property (25 November 1955, *BGHZ*, vol. 19, p. 139). Under the Basic Law, "adequate" compensation is payable, the decisive factor being the value of the expropriated property at the time when notice of the expropriation order is received. Accordingly, the Federal Court of Justice held the Reconstruction Act of the Land Hesse of 25 October 1948 to be unconstitutional, because it laid down the general rule that compensation for expropriated property was to be assessed by reference to the value of the real property as on 1 January 1935.

In a case which came before the Land High Court at Karlsruhe it was held not to be incompatible with the Basic Law to stipulate a right of pre-emption in the form of a statutory provision entitling the State to substitute itself, on the terms of a contract entered into between private persons, for the party which has agreed to purchase real property under that contract (21 December 1955, *NJW*, 1956, p. 918). There is no compulsion to alienate the property, and therefore, in the opinion of the court, there is no expropriation. The Government's right of pre-emption must yield in the case of contracts between relatives.

(b) *Expropriation and Building Regulations*

The legal relationships which have developed between private land-owners and the authorities with respect to the planning of private and public buildings are of great importance, because the authorities have a legitimate interest in guiding urban reconstruction plans along desirable lines. The loss of buildings in wartime has provided a unique opportunity to plan reconstruction in the light of the needs of the future.

The Federal Administrative Court (26 March 1955, *NJW* 1955, p. 1245) considers the expropriation of land for "precautionary" purposes inadmissible. If the public authorities have not yet completed their building plan, so that it is by no means certain that a privately owned building will interfere with it, any expropriation of such a building at this early date is unlawful. In this case, the public authorities themselves are reckoning with the possibility that a plan will be worked out which will dispense with the necessity of expropriation altogether; and (said the court) expropriation is not admissible if the desired purpose can be achieved in some other way which involves a less far-reaching interference with the rights of the individual. Hence, the court said, expropriation is unconstitutional so long as it has not been proved to be the only effective way of accomplishing the desired purpose.

There is no expropriation in cases where a building project is not approved because it violates the building regulations, for all real property owners are equally affected by the building regulations. If, however, a building licence is refused on the grounds that a new building law has been drafted but has not yet come into force, such refusal constitutes an interference with property rights for which compensation must be paid (Federal Court of Justice, 24 October 1955, *BGHZ*, vol. 19, p. 1).

Government building plans are not subject to judicial review as regards their technical merits. Thus, if the particular route chosen for a street requires the expropriation of property, the matter is not open to judicial review unless there is reason to assume that the authorities have made an error of judgement (Freiburg Administrative Court, 5 December 1955, *VWRspr* vol. 8, p. 683). However, a particular route cannot be said to be the result of an error of judgement merely because it involves the expropriation of an especially valuable piece of property; the special value of the property will have to be taken into consideration in fixing the a mount of compensation.

In an action for damages which came before the Federal Court of Justice, it was argued that the preliminary building plans of a city district made it appear likely that a certain property would be expropriated and that for that reason the property owner was no longer able to let it on favourable terms. The Federal Court of Justice dismissed the case (28 March 1955, *BGHZ*, vol. 17, p. 96), on the grounds that no interference with property rights had yet occurred that called for compensation.

If a public authority issues a building licence, even though not obliged to do so under the building laws, there is no expropriation, in the opinion of the Federal Administrative Court, if the licence is issued subject to certain conditions and stipulations (13 January 1955, *VWRspr* 1955, p. 868). Inasmuch as the public authority was not under any obligation to issue the licence, even a refusal to do so cannot be regarded as interference with property rights, nor can the granting of a licence subject to certain conditions be so regarded. The legal position is the same if a public authority at first tolerates a certain building project, while reserving the right to prohibit it in the future (Federal Administrative Court, 8 December 1955, *BVerwGE*, vol. 3, p. 28). When the building authorities tolerate the construction

of a building in this way, they also have the right to prohibit its use for some specific purpose. Since they could have forbidden construction of the building in the first place, their order prohibiting its use for some specific purpose (e.g., for commercial purposes) does not constitute expropriation.

(c) *Expropriation by Foreign States*

The Federal Court of Justice reaffirmed the rule that measures of expropriation and confiscation ordered by a foreign State cannot exceed the limits of that State's sovereignty. Thus, the expropriation of a firm in the German Democratic Republic does not affect property of that firm which is located in the Federal Republic of Germany (Federal Court of Justice, 10 May 1955, *BGHZ*, vol. 17, p. 209). This applies, in any case, to expropriation without compensation. In the opinion of the Federal Court of Justice, a firm's right to its name cannot, by reason of its special nature as a right attaching to the personality of the firm, be expropriated at all.

In connexion with the expropriation in Czechoslovakia of German trade marks, which under international treaties are also recognized in other States, the Federal Court of Justice had to decide whether only the Czechoslovak court was competent to rule on the legality and extent of the expropriation. The court held that the validity of the trade marks in the Federal Republic could be tested by means of an application to the West German courts (7 June 1955, *NJW* 1955, p. 1435). This decision is a welcome one, for its purpose is to facilitate the access of the individual to the courts. In a case which came before the Land High Court at Cologne it was held that, if private rights have been infringed not by some German authority but by a foreign State, the injured party cannot claim damages from the German Government (20 May 1955, *NJW* 1955, p. 1635). Furthermore, the court added, an individual cannot base any claim on an international treaty under which the Federal Rpublic of Germany has assumed the obligation to pay compensation, since the international treaty only creates rights as between States.

(d) *Compensation for State Interference with Property Rights*

The police have authority to intervene, and even to infringe private rights, in any case in which such action is necessary for the purpose of forestalling some danger. The rule that compensation is payable for such police action if the person affected is not at fault has been reconfirmed by the new Police Act of Baden-Württemberg of 21 November 1955 (*GBl* 1955, p. 249). The right to compensation of a person whose rights have been infringed but who is not responsible for the dangerous situation which led to that infringement had been recognized earlier by the Prussian Police Administrative Act of 1931. Any dispute concerning the grounds for compensation and the amount of such compensation is decided by the regular court.

Under German law, a person has a right to compensation if in consequence of acts on the part of public authorities he sustained a particular loss for the sake of the common welfare. This rule applies even if the authorities did not act wrongfully, and, in certain circumstances, even if they acted according to law (the so-called "voluntary sacrifice" claim). For that reason, in one exceptional case in which a person sustained bodily injury in the course of a general, compulsory vaccination campaign, the Federal Court of Justice admitted his claim to adequate compensation, although there was no evidence of medical error. In case of death, a corresponding right vests in the person for whose maintenance the deceased was responsible (for example, a child or wife). The Federal Court of Justice relies for this opinion on the principle of social justice on which the State is founded and on the principle of the protection of the family which is guaranteed by the Constitution (17 October 1955, *BGHZ*, vol. 18, p. 286).

Nevertheless, the general rule concerning compensation for state interference should not be unduly extended. Thus, the Federal Court of Justice dismissed a claim for compensation which had been brought by the family of a convict who had been murdered by fellow convicts, there being no evidence of negligence on the part of the guards. The court said that, as a result of his former way of life, the deceased convict had placed himself in a position which necessarily exposed him to certain risks; contrasting this case with that in which compensation was awarded to a person who had suffered injuries through vaccination, the court said that the latter had behaved in a law-abiding manner (2 May 1955, *BGHZ* vol. 17, p. 172).

A claim against the State for compensation is also admissible if a civil servant is derelict in the performance of his official duty towards a third party. Such a dereliction of official duty may exist if a public authority fails, in carrying out some action which interferes with the property rights of private persons, to keep this action within the bounds of what is unavoidably necessary (Federal Court of Justice, 27 October 1955, *BGHZ*, vol. 18, p. 366). The State is similarly liable to pay compensation if the public authority fails to do everything in its power to protect the rights of the injured party and fails to minimize as far as possible the consequences of its act. In the particular case, a German public authority had neglected to recover and to restore to its lawful owner a motor vehicle which had been requisitioned by the occupying Power.

The State also incurs responsibility if a civil servant, in neglect of his duty, gives misleading information to a private person, irrespective of whether the information was given voluntarily or whether there was any legal duty to give the information (Federal Court of Justice, 5 May 1955, *NJW* 1955, p. 1835).

6. The Guarantee of Due Process

(Universal Declaration, articles 10 and 11; Basic Law, article 19, paragraph 4)

(a) *Judicial Proceedings in General*

In the Land Lower Saxony the Act of 31 March 1955 (*GVBl* 1955, p. 141) established a State Constitutional Court (Staatsgerichtshof) pursuant to article 42 of the Land Constitution. The court's functions are to interpret the Constitution and to lay down general principles of law (such decisions being binding on other Land courts) (abstrakte Normenkontrolle); in addition it has certain other statutory functions. The members of the Court are elected by the Landtag (Diet); three of them must be jurists and six must be laymen. Representation by counsel is not compulsory.

In a case which came before the Federal Constitutional Court the issue was when an administrative agency was to be regarded as a "court" and when as an "authority", within the meaning of the Constitution (9 November 1955, *BVerfGE*, vol. IV, p. 331). The distinction is of importance, for on it depends the answer to the question whether the decisions of an administrative agency can be challenged. It was held that an agency can be regarded as a "court" only if its members are independent and subject exclusively to the law and are in no way bound by the instructions of higher administrative authorities. A judge may not be removed from office or transferred to other functions against his will. Subordinate judicial officers may be employed only in so far as necessary for their training. The court took the view that, since a judge whose appointment is revocable may consider his independence to be jeopardized, there is bound to be a certain diffidence on the part of those seeking justice. Consequently, where this independence is not present, the agency in question is not a court, but an administrative authority. The Essen Disciplinary Senate for Judges also held that the independence of the judiciary as guaranteed by the Basic Law is a condition of due process (1 June 1955, *DöV* 1956, p. 26). At the same time, the conduct of the judge outside his professional activity is subject to the supervision of the competent disciplinary body, whereas in the exercise of his judicial functions his actions are reviewable solely by a higher appellate court.

Under section 50 of the Württemberg-Baden Administrative Justice Act of 16 October 1946, the Administrative Court of Justice (Verwaltungsgerichtshof), which is the supreme administrative court of the Land, is to act as the court of first and final instance in any complaints against acts of ministers. The new Constitution of the Land of 11 November 1953 stipulates, however, that all measures by the public authorities must be capable of review by two judicial instances. Consequently, the State Constitutional Court (Staatsgerichtshof) declared that particular provision of the Administrative Justice Act to be unconstitutional (29 October 1955, *DöV*, p. 697). Henceforth, accordingly, the lower administrative court decides in the first instance on complaints against ministerial acts. In that connexion, the State Constitutional Court had to consider whether the relevant provision of the Constitution was not merely a statement of principle. It decided, however, that the provision already had the force of law, on the grounds that the intention to give immediate effect to the rights and freedoms which it guaranteed was inherent in a modern democratic constitution.

In some circumstances, the exercise even of an expressly recognized right may be unlawful. In one case, for example, the Federal Court of Justice held that a denunciation was immoral (even though objectively truthful) on the ground that there were special circumstances which made it appear reprehensible and contrary to the sense of common decency. (25 May 1955, *BGHZ*, vol. 17, p. 327). The court took the view that such a denunciation is especially inadmissible if it would have the result of delivering the person denounced into the control of a State whose authorities suppress by force, and in disregard of human dignity, any utterance or idea unfavourable to themselves.

(b) *Due Process in Criminal Law*

There was some doubt whether and to what extent tape recordings were admissible as evidence in criminal proceedings. The Federal Court of Justice (1 December 1955, *NJW* 1956, p. 558) does not reject such evidence outright, since it is by its very nature capable of convincing a court of law that a certain sequence of events has taken place. The court held, however, that where a tape recording was obtained through trickery, its use even for that purpose may be incompatible with the principles which prevail in a State subject to the rule of law. In the particular case it was said that the police officer, while interrogating an accused person, had given the latter the impression that the interrogation was over and had begun a casual conversation. Without the knowledge of the accused, the conversation was recorded. The Federal Court of Justice held that the recording was admissible as evidence in so far only as it shed light on the manner in which the interrogation had been carried out. It held further that such procedures may be open to objection because, if the interrogation had been carried out in an unlawful manner, its content would nevertheless come to the knowledge of the court.

In a trial for treason the Federal Court of Justice declined to accept counsel for the defence (15 November 1955, *BGHSt*, vol. 8, p. 194) because the counsel resided outside the territory of the Federal Republic. Since it was to be expected that in a treason trial there would be evidence which would have to be kept secret, the court took the view that there was no guarantee that the counsel would not disclose

state secrets. While the court conceded the counsel's intention to maintain secrecy, it did not exclude the possibility that once he was in foreign territory, he might disclose these secrets under pressure. Despite the fundamental right to the free choice of defence counsel, the court nevertheless thought it justified, in a trial for espionage, to reject a counsel originating from a territory which was under the control of the presumed principal.

In criminal proceedings, the accused may challenge an expert on the grounds of prejudice (section 74 of the German Code of Criminal Procedure). The court rules on the challenge. The Federal Court of Justice held that the grounds for the challenge should not only be examined singly but that it should also be considered whether, taken jointly, they were weighty enough to justify on the part of the accused a suspicion of partiality (1 November 1955, *BGHSt*, vol. 8, p. 226).

Where the accused is inexperienced or requires help because of his age, it is the duty of the court itself to bring to his attention all the various forms of protection afforded to him by the law. The Land High Court of Hamburg considers it mandatory to draw the attention of such an accused to the fact that he may ask for the evidence to be produced (17 August 1955, *NJW* 1955, p. 1938).

It is generally considered that some extenuating circumstances may be said to exist in the case of an offender acting from conviction, as, for example, in the case of a political crime. According to a ruling of the Federal Court of Justice the plea of extenuating circumstances in the case of a political offence cannot be entertained, however, if the offender's convictions are not consonant with the general law of public decency (28 July 1955, *BGHSt*, vol. 8, p. 162). A mode of conduct which is regarded by society as reprehensible cannot serve as an excuse for the offender. Leniency would only be appropriate if the offender openly expressed his convictions before or during the offence (this is particularly important in a case where he enlisted others as accomplices). This decision seems to be of highly problematical value, inasmuch as a political offender acting from conviction will hardly ever be able to acknowledge his purposes openly without thereby rendering illusory the very deed he contemplates.

The judge in a criminal court has authority to suspend sentence and to place the offender on probation (section 23 of the Penal Code). However, suspension of sentence must not be ordered if to do so would harm the public interest. Nevertheless, the Federal Court of Justice rejected the interpretation (12 May 1955, *JR* 1955, p. 303) that the deterrent effect on society constitutes in itself a "public interest" in this sense. The claim that the "public interest" is involved has to be supported by weighty reasons applying to the specific case. The Land High Court of Cologne had, it is true, recognized in an earlier case (8 March 1955, *NJW* 1955, p. 802) that the deterrent effect upon society is a valid purpose of punishment, but it had also stated that this consideration should not prejudice the decision in a specific case of suspension of sentence and placement on probation. The Land High Court of Brunswick, on the contrary (4 March 1955, *NJW* 1955, p. 879), had held that the deterrent effect upon society constituted a sufficient reason for denying suspension of sentence, even if the specific case did not *per se* offer a compelling reason for denying the suspension (the view of the Federal Court of Justice is shared by the Land High Court at Celle, decision dated 20 July 1955, *NJW* 1955, p. 1450).

In certain specified cases (e.g., if publicity would endanger the security of the State or be detrimental to public decency) it is permissible under the German Code of Criminal Procedure to exclude the public from the proceedings. If the court directs that the public be excluded during part only of the hearing of evidence, then the public must be readmitted for the remaining part of the hearing of evidence. The Federal Court of Justice (24 February 1955, *NJW* 1955, p. 759) attaches great importance to the principle of publicity and wishes it to be strictly observed as one of the most valuable procedural safeguards. Consequently, it held that failure to make the proceedings public in good time constitutes an absolute ground for review.

A person who is related to the accused (up to a certain degree of relationship) may refuse to testify. If there are several accused persons in the case and the witness is related to only one of them, he is entitled to refuse to testify during the entire proceedings, though in this event it is a condition that the offences of the various accused must be so closely connected that they cannot be treated separately (Federal Court of Justice, 3 February 1955, *JZ* 1955, p. 510).

Under the Immunity from Prosecution Act of 1954, certain specified offences are no longer subject to prosecution. However, the Act provides that such an amnesty shall not apply if the offender has given proof of particularly "evil intent". The Land High Court at Hamm held (25 January 1955, *NJW* 1955, p. 644) that, when there is any doubt in the matter — in other words, when "evil intent" has not been fully proved — the maxim *in dubio pro reo* applies. In other words, the burden is not on the accused to prove that he had no such intent.

A criminal court orders an acquittal either if the innocence of the defendant has been demonstrated or if his guilt has not been proved owing to lack of evidence. In the opinion of the Federal Court of Justice, a defendant who has been acquitted cannot in either case appeal (18 January 1955, *NJW* 1955, p. 639). In the first case, there can be no doubt that the defendant has not been prejudiced in any way by the acquittal. The court holds, however, that the same is true in the second case. The court admits that an acquittal on the grounds of insufficient evidence of guilt does not fully restore the honour

of the defendant; yet such a verdict cannot cause him any prejudice. While the defendant's desire to demonstrate his innocence in a second trial is understandable, he has no valid claim to a second trial. The court holds that both types of acquittal should have the same effect, for if an appeal were permitted, all those who at the second trial were still unable to prove their innocence would suffer. The decision is not altogether satisfactory, as under the German Code of Criminal Procedure the costs of the trial are not reimbursed to the accused except in the case of conclusive proof of innocence (cf. in the same sense a decision by the Federal Court of Justice of 1 March 1955, *NJW* 1955, p. 997).

Under German criminal law, if a defendant appeals against a sentence, the penalty ordered by the court of second instance must not be more severe in type or magnitude than the first penalty (rule against *reformatis in peius*). However, if the defendant was convicted on several charges, and a compounded penalty was imposed, then, if the court of second instance finds him not guilty of one of the offences, the total compound penalty may nevertheless be maintained unaltered (Federal Court of Justice, 7 January 1955, *NJW* 1955, p. 600). The total compound penalty for the remaining offences must not exceed — but does not have to be less than — that imposed by the lower court. In the view of the Federal Court of Justice, the purpose of the rule against *reformatis in peius* is merely to ensure that the defendant will not refrain from lodging an appeal for fear of more severe punishment.

In a case which came before the Federal Constitutional Court the right to a hearing in criminal proceedings was held to have been violated in the following circumstances: an interim court order had been made which was favourable to the accused; the prosecution lodged an interlocutory application against this order; the accused was notified of this action on the part of the prosecution, but did not receive an opportunity to present a reply to the application. This constitutes a violation of his rights, said the court (7 July 1955, *BVerfGE*, vol. 4, p. 190).

(c) *Due Process in Proceedings before Administrative Authorities*

It is generally recognized that an administrative authority which denies an application has a duty to inform the person concerned of the reasons for the decision so that he can gather what considerations of law and of fact the authority relied on in reaching its decision. This is necessary if he is to be in a position to contest the decision in the Administrative Court, with suitable argument, within the proper time limit. If, however, the person concerned is sufficiently familiar with the authority's reasons from earlier proceedings, he cannot contest the administrative act on the ground that he had not been informed of the reasons for it a second time. For example, in the case of an expropriation which has been the subject of protracted negotiations, it is not necessary that the expropriation order should reiterate the reasons for the expropriation (Freiburg Administrative Court, 5 December 1955, *VWRspr*, vol. 8, p. 683).

The right to a hearing is exercisable before the administrative authorities in the same way as before the courts. According to a ruling of the Federal Administrative Court the right to a hearing is infringed not only if the person concerned has in fact been prevented from stating his views, but also if, owing to insufficient knowledge of the facts and of the evidence, he has not had an opportunity to present his case. For example, the plaintiff in a pension claim asked the authority for a copy of the medical certificate testifying to his loss of earning power. The certificate was not sent to him, and he was too poor to make the journey to the office of the authority for the purpose of inspecting the certificate. The decision denying the pension claim was set aside by the Federal Administrative Court (25 November 1955, *DöV* 1956, p. 213).

The duty to grant a hearing includes the duty to inform and instruct persons living outside the territory of the Federal Republic concerning the provisions in force in that territory, so that they can form their own judgement of the stage and legality of the proceedings (Land High Court at Celle, 21 November 1955, *NJW* 1956, p. 268).

In the view of the Administrative Court for Baden-Württemberg (10 June 1955, *VWRspr*, vol. 8, p. 477), the right to a hearing in proceedings before an administrative authority is less extensive than the right to a hearing in court proceedings. The reason is (it was said) that in administrative proceedings there is such variety of measures capable of affecting the individual, and often they have to be ordered so promptly, that it is not always possible to grant a prior hearing to the person affected. The rights of the citizen are not in any danger of prejudice, for in all cases there is the remedy of recourse to the administrative courts *ex post facto*. In the view of the Münster Higher Administrative Court, the right to a hearing does not imply the right to an oral hearing unless the legislation expressly so provides (25 January 1955, *VWRspr* 1955, p. 1005). This court held that the express guarantee of the right to a hearing under article 103 of the Basic Law applies to judicial proceedings only; hence, in the case of extra-judicial proceedings it must be regarded as sufficient if the administrative authority takes notice of written statements.

One consequence of the principle that the administrative authorities are subject to the law is that any encroachment by those authorities upon the rights of individuals is admissible only if the conditions governing such administrative action are laid down in the statute law. The Bavarian Administrative Court (18 February 1955, *DVBl* 1955, p. 253) draws the inference that where the law makes the grant

of a licence contingent on the fulfilment of certain specified conditions, then, if those conditions are fulfilled, there is in principle a rightful claim to the grant of the licence.

In one of its decisions the Federal Court of Justice said that it is a principle of administrative law that any administrative action affecting the private sector must cease if the circumstances which gave rise to the action have disappeared (7 January 1955, *NJW* 1955, p. 420). It is, however, possible for the law to provide otherwise, and indeed in the law relating to expropriation different provision is very common.

In certain specified cases, if an official is called as a witness in judicial proceedings, the authority employing him may refuse to allow him to testify. In the view of the Berlin Higher Administrative Court, the grounds for such a refusal may themselves be inquired into by the administrative court concerned (30 May 1955, *NJW* 1955, p. 1940).

7. The Right to take Part in Political Activities

(Universal Declaration, article 21)

(a) *The Suffrage*

New legislation relating to elections to the *Landtag* was enacted in several Länder in 1955. In Baden-Württemberg, under the Act of 9 May 1955 (*GBl* 1955, p. 71), representatives are elected according to a procedure which combines the direct election of individual candidates with the principles of proportional representation. There are seventy election districts, which elect 120 representatives. Every district elects one representative directly. The remaining representatives are elected on the basis of proportional representation. The new Elections Act of Bremen of 22 April 1955 (*GBl* 1955, p. 63) does not differ materially from its predecessor of 1951. A new text had become necessary because as a result of a number of amendments, the old Act was no longer very clear. The new Elections Act of Schleswig-Holstein of 31 May 1955 (*GVBl* 1955, p. 124) amends the earlier legislation in favour of the Danish minority, in the interest of peace among the population living on either side of the German-Danish frontier. Under this Act, the Danish minority party is exempted from the restrictions which apply to the other political parties. For the purpose of being represented in the Landtag, this party requires neither a directly elected representative nor the 5 per cent of all the valid votes cast in the Land which is the normal requirement. Its representation is computed according to the principles of proportional representation.

In Lower Saxony, the Act of 6 March 1955 (*GVBl* 1955, p. 87) contains provisions regarding the verification of election results. Legislation had become necessary because under the Constitution the verification of elections is one of the functions of the Landtag. Election results are verified only upon application and only in respect of contested returns. An election verification committee, which meets in public, drafts the decisions of the Landtag. An appeal against the Landtag's decisions lies to the State Constitutional Court. Substantially similar legislation was enacted in Baden-Württemberg (7 November 1955, *GBl* 1955, p. 231). Under the Basic Law, the validity of elections of representatives to the Bundestag (Federal Diet) is also subject to verification, Parliament itself being the verifying body; only if the Parliament's decision is challenged can the Federal Constitutional Court be asked to adjudicate. This court has ruled that the verification procedure is admissible only if the error complained of is capable of influencing the distribution of seats filled by direct election (21 December 1955, *BVerfGE*, vol. 4, p. 370). In the case of all other errors (the court said) no interest is involved that requires the safeguard of an appellate remedy.

The Basic Law provides that in parts of the territory which have been transferred from one Land to another since 1945 a referendum may be carried out if one-tenth of the electors express the desire for association with another Land. The regulations governing such referenda were established by the Act of 23 December 1955 (*BGBl* 1955, I, p. 835).

(b) *Prohibition of Unconstitutional Parties and Associations*

The Lüneburg Higher Administrative Court held that, if a political party which has been prohibited by the Federal Constitutional Court because it threatened the fundamental democratic order was a party to a lawsuit before the prohibition, that prohibition does not deprive it of its right to continue the suit (14 February 1955, *VWRspr* 1955, p. 887). Although the consequence of the prohibition is the dissolution of the party, the court nevertheless considers that, when the circumstances warrant such an order, the dissolved party may be ordered to pay the costs of the proceedings on the ground that the party continues to exist "in liquidation"; while it may no longer engage in political activity, it must nevertheless be regarded as still in being for financial purposes. In considering that the police acted properly in banning a meeting of that party, the court states that it takes this view not merely because the party was later prohibited by the [Federal Constitutional] Court. If proceedings are instituted to contest such a police ban, but the decision is not rendered until after the party has been prohibited, so that a decision in the action contesting the ban is no longer required, then nevertheless the costs of the proceedings should be ordered to be payable by the prohibited party. Although the subsequently prohibited party need not have accepted the police ban of its meeting without demur, it has since been established that the party had anti-democratic objectives. It must therefore bear the consequences of its conduct. The decision regarding the costs of the proceedings should be made on an equitable basis.

According to section 90 (*a*) of the German Penal Code, a person who founds an association designed to overthrow the constitutional order of the Federal Republic is punishable. If the organizational framework of a party which had recently been prohibited by the Federal Constitutional Court is used for the purpose of founding a new association with virtually the same membership, then, in the opinion of the court, the act of founding the new association is punishable only if the founders were aware of the anti-constitutional objectives of the earlier party (7 January 1955, *NJW* 1955, p. 428). If, however, the organization and cohesion of the prohibited party remain essentially intact, then the participants, if aware of the anti-constitutional objectives of the prohibited party, may be punishable even if they maintain that they now pursue other objectives. The reason for this conclusion is that the purpose of prohibiting the party was precisely to do away with an organization and coherent group regarded as dangerous to the State.

8. Safeguards relating to the Conditions governing Professions and Occupations and Employment

Owing to the post-war economic reconstruction of the Federal Republic and to continued economic progress, the courts have dealt with an increasing number of cases involving the fundamental right to the free choice of a profession or occupation and the protection of employees.

(a) *The Right to the Free Choice and Exercise of a Profession or Occupation* (Universal Declaration, article 23; Basic Law, article 12)

If the law governing permission to exercise a profession stipulates special conditions, then, according to a ruling of the Federal Administrative Court, a candidate has a rightful claim to be admitted to the practice of that profession if he fulfils those conditions (29 November 1955, *BVerwGE*, vol. 2, p. 349). Former regulations governing professions, under which (despite the fulfilment of all the conditions) admission to practice was entirely within the discretion of the administrative authorities, conflict with the principles which now apply in a State governed by the rule of law.

In the opinion of the Federal Court of Justice, it is incompatible with the fundamental right to make the free choice of an occupation if a person wishing to engage in the independent exercise of a particular manual trade is required, without exception, to produce a certificate of qualification for all types of manual trades. Proof of qualification should be required only in the case of those manual trades in which (but for such a certificate) the general public might be exposed to some hazard. Since, under article 19 of the Basic Law, no basic right may be infringed in its essential content, the exercise of a profession may only be regulated by law in so far as this is necessary for the general welfare. In the absence, therefore, of compelling reasons based on overriding considerations, the fundamental right to the free exercise of a profession or occupation must not be infringed (17 October 1955, opinion for the Federal Constitutional Court, *VWRspr*, vol. 8, p. 98). The Federal Administrative Court held that the requirement of a certificate of qualification for the independent exercise of a manual trade was not, in principle, unconstitutional (18 August 1955, opinion for the Federal Constitutional Court, *NJW* 1955, p. 1773). If permission to exercise a profession is made dependent on possession of a certain degree of professional skill, it is open to the applicant to acquire this skill independently (cf. in the same sense Federal Administrative Court of 17 November 1955, *DöV* 1956, p. 155; 3 November 1955, *NJW* 1956, p. 196, Rhineland-Palatinate Higher Administrative Court, 1 February 1955, *VWRspr* 1955, p. 735).

Under the German Code of Civil Procedure (section 157, paragraph 3), the judicial authorities may refuse to admit attorneys to the bar if a sufficient number of lawyers have already been admitted. The Federal Administrative Court held that this regulation was not unconstitutional. Every basic right, including the right to the free choice of a profession, depends on the stability of the national community by which it is guaranteed. In a State based on the rule of law, the administration of justice is so important that for its own protection admission to the profession may be controlled by law (10 May 1955, *VWRspr*, vol. 8, p. 159; 27 October 1955, *BVerwGE*, vol. 2, p. 276; similarly, Federal Administrative Court, 10 May 1955, *VWRspr*, vol. 8, p. 365). Under the Freight Traffic Act of 17 October 1952, the Minister of Transport has power to prescribe the maximum number of trucks which may be licensed. The Coblenz Higher Administrative Court decided that the right to the free exercise of a profession or occupation was not unduly restricted by that enactment. The purpose of the Act was to ensure traffic safety, and not to encourage private competition (20 September 1955, *DöV* 1956, p. 90). Likewise, under the Passenger Transport Act of Baden-Württemberg permission for private individuals to establish new transport facilities may be refused if the current volume of traffic can be carried satisfactorily by existing transport facilities. However, the Baden-Württemberg Administrative Court held this Act unconstitutional, since it constituted an absolute general bar to persons wishing to engage in the business of transporting passengers (29 November 1955, *VWRspr*, vol. 8, p. 738).

A provision which requires a person who wishes to carry on a particular trading activity to prove a specified minimum volume of business is unconstitutional (according to a ruling of the Higher Administrative Court at Münster), for the interests of the general public are not affected and such a restriction of the freedom to exercise an occupation is therefore inadmissible (31 August 1955, *DöV* 1956, p. 86).

According to a ruling by the Celle Land High Court it is equally improper to make the conversion of a business from one type of commercial activity to another contingent on official authorization. An authorization is not required (said the court) unless the goods to be dealt in may expose the public to some hazard (e.g., pharmaceuticals) (28 September 1955, *NJW* 1955, p. 1691; cf. in the same sense Federal Administrative Court, 17 November 1955, *BVerwGE*, vol. 2, p. 345).

The Federal Administrative Court emphasized that the basic right to the free choice of a profession is at all times subject to the proviso that the choice of that profession does not violate any other laws. If a person wishes to operate a place of amusement, he must not engage in that occupation if it is his intention to permit games of chance which are forbidden by the criminal law (17 May 1955, *BVerwGE*, vol. 2, p. 110).

(b) *Protection of Employment*

Although, thanks to a generally high level of employment, there is often a lack of workers rather than a surplus, protection against wrongful dismissal has frequently been the subject of judicial decisions. Under current labour legislation (the Act to provide Protection against Unwarranted Dismissal of 10 August 1951) a person who has been employed for a considerable time must not be dismissed by his employer unless there are no objections to such dismissal from the social point of view. Employees may be dismissed for urgent reasons connected with plant efficiency. If, however, the employer wishes to base the dismissal on urgent reasons of that kind, he must first grant a hearing to the works council which represents the employees (Federal Labour Court, 27 June 1955, *NJW* 1955, p. 1374). Under the current legislation concerning contracts of employment, dismissal without notice is only permissible for a "valid reason" (section 626 of the Civil Code). The question: "Is the reason 'valid' in the particular case?" has to be answered in the light of all the circumstances which ought reasonably to be taken into account; the decisive factor is whether in view of all those circumstances, and in particular in view of the interests of both parties, the employer ought to be expected to continue to employ the person concerned (Federal Labour Court, 3 November 1955, *NJW* 1956, p. 239; 3 November 1955, *NJW* 1956, p. 240).

In the opinion of the Court of Appeal (Kammergericht), the statutory provision forbidding work in bakeries between the hours of 9 p.m. and 4 a.m. does not infringe the fundamental freedom to exercise a profession or occupation, for in a State based on the principle of social justice the protection of the employee is more important than the unrestricted freedom of the employer (16 February 1955, *JZ* 1955, p. 545; cf. in the same sense, Federal Court of Justice, 12 December 1955, *NJW* 1956, p. 353).

The Works Organization Act lays down the duties and powers of the works council which is elected by the employees. Works meetings are to be held for the purpose of discussing the interests of the employees. However, the Federal Labour Court states that it is not permissible to discuss general political questions — as distinct from mere questions of party politics — at these meetings (4 May 1955, *NJW* 1955, p. 1126). This rule is necessary in the interests of good relations between labour and management. It is the duty of the members of the works council to see to it that this rule is observed. A member of the works council who acts in contravention of this rule may be ordered by the Labour Court to be expelled from the council.

Under article 12, paragraph 2, of the Basic Law, no one may be compelled to perform a particular kind of work except within the scope of a customary general compulsory public service equally applicable to all. The question whether a certain kind of work is "customary" or not is a legal question to be decided by the court and not merely a question within the discretion of the public authorities (Federal Administrative Court, 9 November 1955, *BVerwGE*, vol. 2, p. 313). Thus, manual services and the provision of teams of draught animals may be required only in rural communities where the majority of the population is engaged in farming.

Employees in the public service are now also in a position to elect representatives to protect their interests. The Federal Employees Representation Act of 5 August 1955 (*BGBl* 1955, I, p. 477) provides that a staff council composed of several members is to be elected in the administrative departments of the Federal Republic. This council should give proportionate representation to professional, clerical and general service personnel. There should also be proportionate representation for men and women. Members are elected by direct, secret ballot. Service on the staff council is honorary and it is not permissible to make any wage deduction in respect of the time taken up by service on the council, even in the case of administrative personnel. A meeting of all members of the department is convened on special occasions. The duty of the staff representatives is to co-operate with the authorities in questions of labour law. Labour disputes, particularly strikes, are not permissible, but this provision does not affect the right of trade unions to strike. It is the joint duty of the staff council and the department to maintain good relations between labour and management, to guarantee, in particular, equal treatment for all employees, and to prevent any discrimination on grounds of racial and social origin, sex, religion, nationality, and political activity or belief. The staff council sees to it that the regulations, wage scales and laws are observed, hears complaints, and has the right, in so far as necessary, to inspect personnel files. The staff council itself is protected against dismissal and must not suffer any prejudice

in its work or by reason of its activities. It must not disclose anything of a confidential nature which comes to its notice. If in any particular matter agreement cannot be reached between the department and the staff council, the matter is referred to the conciliation board of the next highest government office. The staff council is consulted on any action concerning the grant of benefits and social allowances, on measures to increase efficiency, on the appointment of confidential physicians, on housing questions, the prevention of accidents and the maintenance of order in the department. In addition, it is consulted on the questions of working hours, the period of leave, professional training, recruitment, promotions, transfers and dismissals. The elections to the staff council, and its procedure and terms of reference, are subject to judicial review. The regulations governing the elections under this Act were issued on 4 November 1955 (*BGBl* 1955, I, p. 709).

The Act concerning the Provisional Legal Status of Volunteers for the Armed Forces was promulgated on 23 July 1955 (*BGBl* 1955, I, p. 449). Employers may not terminate the employment status of recruits during their probationary service period.

(c) *The Right to Strike*

The question whether the right to strike is a constitutional right is left undecided by the Federal Labour Court (28 January 1955, *JZ* 1955, p. 386). However, the court assumes that in labour law there is a rule of custom which is the basis of the right to engage freely in labour conflicts, so that strikes cannot be regarded as an unlawful violation of the contract of employment. These principles apply only to strikes having economic, not political objectives. Since strikes are not unlawful, employers do not, in the opinion of the Federal Labour Court, possess any right to dismiss individual strikers without notice for breach of contract. However, since employers and employees possess equal rights with respect to labour disputes, it is also not unlawful for employers to "lock out" all strikers collectively without notice. Just as the employer is free to re-employ the employees, so it is open to the latter to resume work. Accordingly, it is only the "lock out" of individual strikers which is unlawful.

In another case which came before the Federal Labour Court, it decided that a firm's claim to be indemnified by a trade union for damage caused by a strike depends on whether or not the strike was unlawful (4 May 1955, *NJW* 1955, p. 1373). The court considers a strike permissible if its purpose is to compel the employer to provide working conditions which are consistent with the prevailing labour legislation. However, if a strike is organized for purposes which are not approved by the law, the strikers are liable for damages.

Under section 80 of the German Penal Code, anyone who attempts to overthrow the existing constitutional system by violence is punishable for the offence of high treason. In a case tried by the Federal Court of Justice, the question was whether mass strikes and demonstrations should be regarded as "violence" within the meaning of the statute (4 June 1955, *BGHSt*, vol. 8, p. 102). It is not invariably correct (said the court) to think of strikes and demonstrations as typically non-violent means of action, for they are capable of causing serious public disturbances and of disrupting supplies.

In a case which came before the Bavarian Land High Court the question was whether penalties should be imposed for coercion and breach of the peace in a case where strike pickets had forcibly prevented volunteer workers from entering a factory. The court stated that the strike was, in principle, a lawful weapon in labour conflicts and that strikers could not be prevented from using pickets to urge volunteer workers to respect the strike. However, such pickets must leave access to the plant free and unimpeded and are not allowed to resort to force. The court added that the right to strike did not automatically place other persons under an obligation to strike (7 October 1955, *NJW* 1955, p. 1806).

(d) *Protection of Agriculture*

The purpose of the Federal Agricultural Occupations Act of 5 September 1955 (*BGBl* 1955 I, p. 565) is to place farm workers on a footing of equality with workers in other more prosperous sectors of the economy. The most important object of the Act is to improve the social position of persons employed in agriculture and to assimilate them to other occupational groups.

9. Social Assistance

In 1955, too, it was necessary to enact measures providing special social assistance for the purpose of repairing losses, damage and injuries caused by the war.

(a) *Assistance to Disabled Persons*

The Act respecting the Employment of Disabled Persons of 1953 provides that disabled persons should be given employment which will enable them to develop and make full use of their ability and knowledge. The Bavarian Administrative Court expressly pointed out that this provision is not a mere recommendation or statement of general policy but that it confers upon disabled persons a genuine claim to such employment which can be enforced by the courts (5 April 1955, *DVBl* 1955, p. 465). Blind persons, in particular, have by reason of their disability a right to assistance in securing gainful employment and a right to be trained for a suitable occupation (Federal Administrative Court, 1 July 1955, *VWRspr*, vol. 8, p. 244).

(b) *Measures in Favour of Refugees*

The purpose of the order of 19 January 1955 (*BGBl* 1955 I, p. 33) concerning the re-settlement

of expellees and refugees from overcrowded Länder is to restore the balance of population among the German Länder and in particular to reunite families. Preference for re-settlement is to be given to disabled persons and applicants from areas with a high level of unemployment. Preference is also given to persons who are desirous of re-settlement in order to give their children better educational opportunities.

The Federal Act of 6 August 1955 (*BGBl* 1955 I, p. 498) provides for assistance to persons who had been imprisoned for political reasons in areas outside the Federal Republic and the western sector of Berlin. The Act grants certain privileges to German citizens or ethnic Germans who suffered imprisonment after 8 May 1945 in other countries for political reasons which are incompatible with the standards of democracy and liberty. Assistance is also provided for relatives and survivors. A person has no claim to these benefits if he was politically active in foreign territory on behalf of the local regime, or if he himself violated the laws of humanity or contravened the principles which govern all States based on principles of justice, or if he has been sentenced to more than three years' imprisonment by a West German court, or if he engages in espionage in the Federal Republic.

Political refugees enjoy certain advantages if they left their country because of political coercion. Such benefits are not granted if they themselves were responsible for bringing about that coercion. The Federal Administrative Court does not assume that a person is personally responsible for such coercion if he held a public office of no political significance in a foreign State, and if, by opposing practices which are inconsistent with the principles of a State based on justice, he brought consequences upon himself far more serious than could have been expected in the case of similar conduct in a State based on the rule of law (30 September 1955, *NJW* 1956, p. 393). In the view of the Hamburg Higher Administrative Court, the fact that the person in question was persecuted because of membership in the National Socialist party is not a reason for denying such privileges. Only if he was an active National Socialist can such a person be said to be personally responsible for his persecution and so to have lost the right to be treated as a refugee (2 March 1955, *VWRspr* 1955, p. 932; cf. in the same sense, Hamburg Higher Administrative Court, 28 February 1955, *DVBl* 1955, p. 534). If a person mistakenly believed himself to be in danger, in circumstances in which any reasonable person would likewise have believed himself in danger, then, in the opinion of the Stuttgart Administrative Court, the situation is deemed to be one of coercion, with the consequence that the person in question has a right to be treated as a refugee (12 May 1955, *DöV* 1955, p. 447).

Persons who were residing in western Germany at the time of the occupation and did not return to the east out of fear of personal danger, although their usual place of residence was there, are also eligible for the benefits granted to refugees, in the same way as persons who fled to escape some personal danger. In such cases the Federal Administrative Court has ruled that proof of the existence of the danger must be produced; a purely subjective assumption that the danger existed is not sufficient (9 December 1955, *BVerwGE*, vol. 3, p. 40).

Under the Act for the Emergency Admission of Germans of 22 August 1950, persons who fled from the German Democratic Republic for political reasons have a right to be admitted to the Federal Republic. As in the case of other benefits granted to refugees, the admission of such persons is subject to proof of coercion. According to a decision of the Federal Administrative Court it is not necessary to prove that the individual concerned was actually threatened (25 February 1955, *NJW* 1955, p. 962). The person in question will be admitted as a refugee if he had valid reason to expect such threats. At the same time, however, evidence is required to show that the coercion was of a special kind and not merely coercion of the type which virtually all inhabitants of the German Democratic Republic have to reckon with. The court stated that the same benefits extend to relatives, for one of the purposes of the Act is to reunite families and to preserve family unity.

Many regulations have been made since January 1955, just as in former years, defining the rights of civil servants who lost their official positions in 1945, or became refugees, or whose employment came to an end because the government offices of Prussia and of the German Reich ceased to exist (article 131 of the Basic Law).

(c) *Compensation for Damage caused by Occupying Authorities*

The Federal Act of 1 December 1955 (*BGBl* 1955 I, p. 734) provides for compensation for damage caused in western Germany between 1 August 1945 and 5 May 1955 by the authorities or armed forces of the occupying Powers. The Act covers damage attributable to the following measures: reparations, restitution, demobilization, surrender of property under occupation law, infringement of patent and copyright, decartelization, restrictions on the exercise of professions, property controls, requisitions, and the non-fulfilment of obligations arising out of contract, family law or other provisions of private law.

10. Right to Nationality

(Universal Declaration, article 15; Basic Law, article 16)

Because of the alterations of the German national boundaries since 1938, and especially after 1945, it appeared necessary to reformulate the law concerning nationality in many respects. A Federal Nationality Act was accordingly promulgated on 22 February 1955 (*BGBl* 1955 I, p. 65). The Act deals with the

citizenship status of ethnic Germans who acquired German citizenship between 1938 and 1945 by collective naturalization. It covers all those persons who were summarily granted German citizenship by the following instruments: the treaty with Czechoslovakia of 20 November 1938 (*RGBl* 1938, II, p. 895), the treaty with Lithuania of 8 July 1939 (*RGBl* 1939, II, p. 999), the decree concerning the acquisition of German citizenship by former Czech nationals of German ethnic origin of 20 April 1939 (*RGBl* 1939, I, p. 815), the decree regulating questions of nationality with respect to the Protectorate of Bohemia and Moravia of 6 June 1941 (*RGBl* 1941, I, p. 308), the decree concerning German nationality and the register of ethnic Germans in the eastern territories of 4 March 1941 (*RGBl* 1941, I, p. 118), the decree of 14 October 1941 (*RGBl* 1941, I, p. 648) concerning the acquisition of German citizenship in Lower Styria, Carinthia and Carniola, the decree of 19 May 1943 (*RGBl* 1943, I, p. 321) concerning the acquisition of nationality by entry in the register of ethnic Germans in the Ukraine. All these persons are regarded as German nationals if they do not renounce that nationality. The same applies to the wives and children of persons entitled to renounce German nationality, in so far as the nationality of the former follows, under German law, the nationality of the latter. A married woman who possessed German nationality retains this nationality even if her husband renounces it.

In addition, the Act regulates the nationality status of those persons who, without formally possessing German nationality, are deemed to be Germans under article 116, paragraph 1, of the Basic Law. The persons in question are refugees and expellees of German ethnic stock — i.e., national minorities from territories formerly occupied by the German Reich. If they apply for naturalization, the application must be granted unless the internal or external security of the Federal Republic would be jeopardized by their naturalization. Any such person who has left German territory again for the purpose of resuming residence in the State from which he had been expelled loses his claim to naturalization.

An ethnic German who is not within the terms of article 116, paragraph 1, of the Basic Law, but who has taken up permanent residence in the Federal Republic and who cannot be expected to return to his former country likewise has a right to naturalization. Service in the German armed forces does not by itself provide sufficient grounds for the acquisition of German nationality unless the individual concerned was already naturalized before. Likewise, an ethnic German who is at present residing abroad may apply for naturalization if he was formerly a member of the German armed forces, has not acquired another nationality and is not claimed by a State whose nationals became Germans between 1938 and 1945 as the result of collective naturalization (e.g., Austria). A married person does not require his (her) spouse's approval for the purpose of applying for or renouncing German nationality.

The question of the German nationality of Austrians having been the subject of a number of conflicting decisions, the Federal Constitutional Court gave a clarifying ruling (9 November 1955, *BVerfGE*, vol. 4, p. 322). According to this ruling, all persons who would, if the Austrian law relating to nationality had remained in force uninterruptedly, have been Austrian citizens on 27 April 1945 are deemed to have lost, on that date, the German nationality which they had acquired by virtue of the *Anschluss*. This ruling was given in connexion with extradition proceedings, since article 16 of the Basic Law prohibits the extradition of German nationals. It was conceded that the effect of the *Anschluss* had been to confer German nationality; yet, upon the restoration of Austria, that nationality had lapsed. Already in an earlier case the Lüneburg Higher Administrative Court (15 March 1955, *DVBl* 1955, p. 634) had decided, differing from a ruling of the Federal Administrative Court (30 October 1954, *DVBl* 1955, p. 58, see *Yearbook on Human Rights for 1954*, pp. 115–16), that persons who had acquired German nationality as a result of the annexation of Austria in 1938 automatically lost that nationality upon the restoration of Austria. The court decisions are based primarily on occupation law, for (they said) the restoration of the Austrian State was one of the Allied war aims and no other legal consequence can follow under international law.

Under article 16 of the Basic Law, persons may not be deprived of German nationality by administrative action; they cannot lose that nationality except by virtue of statute law, and, if the person concerned does not consent, it is a condition of the loss of German nationality that he must not become stateless as a result. The Federal Court of Justice has emphasized that the intention to renounce German nationality must be clearly expressed (14 December 1955, *BGHZ*, vol. 19, p. 267). It is not necessary that the person concerned should expressly state his desire to retain his nationality. The desire to retain the nationality is assumed. A German national who married after the entry into force of the Basic Law, but who did not by that marriage acquire the nationality of her husband, remained a German national and did not become stateless if she did not expressly renounce her German nationality. This question became irrelevant after 1 April 1953, for since that date men and women have been placed on an equal footing: the position now is that a woman cannot in any case lose her German citizenship by the mere fact of marriage.

Decisions concerning applications for naturalization fall within the jurisdiction of the courts. The Lüneburg Higher Administrative Court has refused to recognize an executive act concerning naturalization which is not reviewable by the courts (4 April 1955, *NJW* 1956, p. 238). In view of the comprehensive

constitutional guarantee of due process, it is debatable whether there is any executive act whatsoever which is not subject to judicial control.

11. The Rights of Aliens and the Right of Asylum

(Universal Declaration, article 14; Basic Law, article 16, paragraph 2)

In Hamburg, legislation was enacted to facilitate the acquisition of real property by aliens (Act of 20 May 1955, *GVBl* 1955, p. 166).

The legal basis for forbidding an alien to take up residence in Germany is the police ordinance concerning aliens of 22 August 1938. In so far as it does not conflict with the Basic Law, this ordinance is still regarded as valid law today. The ordinance provides that aliens have no judicial redress against deportation orders. The Federal Administrative Court declared this provision unconstitutional (15 December 1955, *DöV* 1956, p. 378). It ruled that although an alien has no fundamental right to reside in Germany, he has a right not to be deported arbitrarily. The court added that an alien may also claim the benefit of the constitutional guarantee of due process if the authorities, in exercising their discretion, failed to comply with their statutory duties. In an earlier case, the Stuttgart Administrative Court had given a decision on the same lines (2 September 1955, *VWRspr*, vol. 8, p. 355).

Aliens who are the victims of political persecution enjoy the right of asylum under article 16, paragraph 2, of the Basic Law. This right, whether regarded as a right vested in the individual or merely as a duty of the State, may not be denied for the reason that the person concerned did not originally enter the territory of the Federal Republic in quest of asylum and that he did not apply for asylum until he had resided in Germany for some time (Federal Court of Justice, 12 July 1955, *BGHSt*, vol. 8, p. 59). The German Extradition Act forbids extradition for political crimes or for offences connected with political crimes. This rule is, however, subject to the exception that in the case of offences against the person (if not committed in open combat) political motive is not a defence to extradition. In a trial before the Federal Court of Justice the question was whether in the latter case asylum was to be granted by reason of the constitutional guarantee (Basic Law, article 16) and despite the provisions of the Extradition Act. The court answered this question in the negative, on the ground that the Basic Law does not provide any greater measure of protection than the Extradition Act.

In the opinion of the Münster Higher Administrative Court, if an alien or stateless person has left a foreign State for political reasons and through fear of arrest, he may not be forcibly deported to that State, for such action would be inhumane and contrary to articles 3 *et seq.* of the European Convention for the Protection of Human Rights and Fundamental Freedoms,[1] as well as contrary to article 1 of the Basic Law (13 September 1955, *DöV* 1956, p. 381).

Although German nationals must not be extradited to a foreign State, the Federal Constitutional Court considered that the extradition of a German national to the Saar authorities did not constitute extradition to "a foreign State", even though at the time the Saar was not yet incorporated in the Federal Republic (6 October 1955, *BVerfGE*, vol. 4, p. 299). The court ruled that the Saar was still a part of Germany, despite the fact that its judicial system was separate from that of Germany. In the past, the terms "national territory" and "foreign territory" had been construed chiefly in the light of what constituted a single, uniform area of jurisdiction. In view of the special situation, the Federal Constitutional Court obviously felt that it was prevented from applying that earlier view.

II. INTERNATIONAL AGREEMENT

Some of the international agreements signed in 1954 actually entered into force in 1955; these agreements were mentioned in the report relating to the year 1954.

1. Political Agreements to re-define the International Status of the Federal Republic of Germany

By the Act of 24 March 1955, Parliament approved the Protocol on the Termination of the Occupation Regime in Western Germany (*BGBl*, II, p. 213). The provisions of the Protocol which are pertinent in this context were cited in the *Yearbook on Human Rights for 1954*, p. 102. A few changes, which have no essential bearing on fundamental human rights, have been made in the agreements of 26 May 1952 between the Federal Republic and the three Powers. The Federal Government announced on 5 May 1955 that the Protocol had come into force on that date.

The accession of the Federal Republic of Germany to the treaty of 17 March 1948 for collaboration in economic, social and cultural matters and for collective self-defence (Brussels Agreement), as amended by the protocol signed on 23 October 1954 (Western European Union) and by the further protocols signed in Paris on 23 October 1954, was approved by Parliament by the Act of 24 March 1955 (*BGBl* 1955, II, p. 256). Parliament also approved the accession of the Federal Republic of Germany to the North Atlantic Treaty of 4 April 1949, as amended on 15 October 1951. On 9 May 1955, the Federal Government announced that the date of entry into force of these instruments was 6 May 1955 (*BGBl* 1955, II, p. 630).

By the Act of 24 March 1955 (*BGBl* 1955, II, p. 295), Parliament ratified the agreement concerning the

[1] See *Yearbook on Human Rights for 1950*, p. 420.

international status of the Saar which had been signed by the Federal Republic of Germany and France on 23 October 1954. Although this agreement has since been superseded by the referendum of the Saar population, it is pertinent to recall its principal provisions.[1] The Agreement provided that the Saar should have a European status within the Western European Union, subject however to the approval of the Saar population as expressed in a referendum. According to an announcement of the Federal Government of 9 May 1955, the agreement entered into force on 5 May 1955. This agreement was later the subject of a decision by the Federal Constitutional Court (4 May 1955, *BVerfGE*, vol. 4, p. 157). The court, ruling against the applicants, declared the Saar agreement to be in conformity with the Basic Law.

2. The European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950

On 4 November 1955 the Federal Government announced (*BGBl* 1955, II, p. 919) that the European Commission established under article 19 of the Convention had been exercising its functions under article 25 thereof since 5 July 1955. The Federal Government recognized the competence of the Commission by a declaration of 1 July 1955 (*BGBl* 1955, II, p. 914).[2]

3. Other European Conventions

Pursuant to an announcement by the Federal Government dated 19 December 1955 (*BGBl* 1955, II, p. 1128) the European Cultural Convention signed on 9 December 1954 entered into force on 17 November 1955. (Concerning the contents of the convention, see *Yearbook* for 1954, p. 102.)

The European Convention on the Equivalence of Diplomas leading to Admission to Universities, signed in Paris on 11 December 1953, took effect in the Federal Republic on 3 March 1955 (announcement of the Federal Government dated 2 April 1955, *BGBl* 1955, II, p. 599). The purpose of the convention is to promote common action by the member States in cultural affairs and to give young persons unimpeded access to the cultural values of the contracting countries.

By the Act of 25 August 1955 (*BGBl* 1955, II, p. 837), Parliament ratified the treaty of 21 December 1954 defining the relationships between Great Britain and the European Coal and Steel Community. The purpose of the treaty is to promote closer economic co-operation. The treaty contains detailed provisions concerning the nature of the association.[3] As stated in an announcement of the Federal Government dated 10 October 1955 (*BGBl* 1955, II, p. 896), the treaty came into force on 23 September 1955.

4. Freedom of Information

Parliament ratified the International Telecommunication Convention (Buenos Aires, 22 December 1952) by the Act of 27 January 1955 (*BGBl* 1955, II, p. 9). Among the purposes of the convention are the extension of international co-operation and the development of technical facilities with a view to making them generally available to the public. The contracting parties accord to all persons the right to make use of public international telecommunication services. However, every State has the right to stop the transmission of telegrams or to cut off telephone communications if its own security is endangered or if the interests of public order so require. The contracting parties undertake to provide for the maintenance of secrecy. Messages concerning safety of life and communications between States are entitled to priority in transmission.[4]

On 25 December 1954 Parliament approved the Federal Republic's accession to the Universal Postal Convention signed on 11 July 1952, and the Federal Republic's instrument of accession was deposited with the Belgian Government on 21 March 1955; the convention came into force with respect to the Federal Republic on 21 March 1955 (announcement of the Federal Government of 17 May 1956, *BGBl* 1956, II, p. 653).

5. Prevention of Genocide, Slavery and White Slave Traffic

The Convention on the Prevention and Punishment of the Crime of Genocide[5] came into force with respect to the Federal Republic on 22 February 1955, after Parliament had approved accession to the Convention by the Act of 9 August 1954, the instrument of accession having been deposited with the Secretary-General of the United Nations on 24 November 1954 (announcement of the Federal Government dated 14 March 1955, *BGBl* 1955, II, p. 210).

Agreements were entered into with a number of States concerning the reciprocal revalidation of the Slavery Convention signed at Geneva on 25 September 1926. The revalidation became effective on 1 January 1955 *vis-à-vis* Egypt and France (*BGBl* 1955, II, p. 884), Greece (*BGBl* 1955, II, p. 626), Haiti (*BGBl* 1955, II, p. 699), India (*BGBl* 1955, II, p. 919), Yugoslavia (*BGBl* 1955, II, p. 926), Canada (*BGBl* 1955, II, p. 699), Mexico (*BGBl* 1955, II, p. 908), New Zealand (*BGBl* 1955, II, p. 626), Austria (*BGBl* 1955, II, p. 187). The reciprocal revalidation *vis-à-vis* Turkey became effective on 10 October 1955 (*BGBl* 1956, II, p. 377).

The International Agreement for the Suppression of the "White Slave Traffic", signed in Paris on

---

[1] Concerning which see, further, *Yearbook on Human Rights for 1954*, p. 401.

[2] See, further, below, p. 334.

[3] See, further, the *Yearbook on Human Rights for 1952*, p. 84, and *for 1954*, p. 102.

[4] See also *Yearbook on Human Rights for 1948*, p. 417, and *for 1952*, p. 406.

[5] See *Yearbook on Human Rights for 1948*, pp. 484–6.

18 March 1904 for the purpose of securing effective protection against the traffic in women, was revalidated as between the Federal Republic and the Union of South Africa with effect from 1 January 1956. At the same time, the International Agreement for the suppression of the White Slave Traffic of 4 May 1910 was also revalidated (announcement of the Federal Government dated 15 December 1955, II, p. 1134).

6. Protection of Health

By the Act of 21 December 1955, Parliament approved the accession of the Federal Republic to the Agreement on International Sanitary Regulations of 25 May 1951 (International Sanitary Regulations, World Health Organization Regulations No. 2) (*BGBl* 1955, II, p. 1060).

The Federal Republic concluded agreements with a number of States concerning the revalidation of the International Opium Convention of 23 January 1912. As between the Federal Republic and the Republic of Venezuela the revalidation became effective on 2 March 1955. The Convention of 19 February 1925 of the Second Opium Conference and the international Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 13 July 1931 were similarly revalidated between the same parties (announcement of the Federal Government of 31 March 1955, *BGBl* 1955, II, p. 599). The International Opium Convention of 1912 was revalidated as between the Federal Republic and Liberia with effect from 9 August 1955 (*BGBl* 1956, II, p. 550). These instruments were revalidated as between the Federal Republic and Costa Rica with effect from 1 July 1955 (announcement of the Federal Government of 21 May 1955, *BGBl* 1955, II, p. 696).

7. Safety at Sea

The Federal Government announced on 28 November 1955 (*BGBl* 1955, II, p. 905) that the International Convention for the Safety of Life at Sea of 31 May 1929 had been denounced by notice dated 10 November 1954 and would therefore cease to be effective with respect to the Federal Republic on 10 November 1955. Between 1953 and 1956, the Convention had become inoperative *vis-à-vis* twenty-eight other States.

Under an agreement concluded between the Italian Government and the Federal Government, the convention of 23 September 1910 for the unification of certain rules of law respecting assistance and salvage at sea is deemed to have been revalidated as between the two countries with effect from 1 November 1953 (announcement of the Federal Government of 16 June 1955, *BGBl* 1955, II, p. 698).

8. International Labour Conventions

By the Act of 14 February 1955, Parliament ratified convention No. 17 of 10 June 1925, concerning workmen's compensation for accidents (*BGBl* 1955, II, p. 93). Each party to this convention undertakes to grant compensation, medical aid and other assistance to nationals of the other parties. Provisions to give effect to this convention are to be enacted in national laws or regulations. The convention came into force with respect to the Federal Government on 14 June 1955 (announcement of the Federal Government of 31 August 1955, *BGBl* 1955, II, p. 893).

By the Act of 22 February 1955, Parliament ratified convention No. 62 of 23 June 1937 concerning safety provisions in the building industry (*BGBl* 1955, II, p. 178). The contracting States undertake to embody safety provisions in their national laws and regulations. Pursuant to an announcement by the Federal Government dated 27 November 1956, the convention came into force in the Federal Republic on 14 June 1956 (*BGBl* 1956, II, p. 1584).

By the Act of 23 December 1955, Parliament approved the accession of the Federal Republic to convention No. 98 of 1 July 1949 concerning the application of the principles of the right to organize and to bargain collectively [1] (*BGBl* 1955, II, p. 1122). The convention guarantees protection to workers' and employers' organizations.

The Federal Government announced on 1 November 1955 that convention No. 88 of 9 July 1948 concerning the organization of the employment service had come into effect with respect to the Federal Republic on 22 June 1955 (*BGBl* 1955, II, p. 927).

Convention No. 81 of 11 July 1947 concerning labour inspection in industry and commerce was ratified by Parliament by the Act of 24 March 1955 (*BGBl* 1955, II, p. 584). Each contracting State undertakes to arrange for the inspection of industrial and commercial establishments to verify compliance with the regulations concerning conditions of work and protection of workers, working hours, wages, safety and the employment of children. The convention specifies the powers and legal status of labour inspectors. The convention came into force on 14 June 1956 (announcement of the Federal Government of 29 November 1956, *BGBl* 1956, II, p. 1583).

By the Act of 4 April 1955, Parliament ratified convention No. 42 of 21 June 1934 concerning workmen's compensation for occupational diseases (*BGBl* 1955, II, p. 577). A schedule appended to the convention enumerates the diseases deemed to be "occupational diseases" and the occupations capable of causing such diseases. Provision is made for the payment of compensation to incapacitated persons and to their surviving dependants.

9. Social Security

A convention concerning unemployment insurance between the Federal Republic and the Netherlands had been signed on 29 October 1954. This convention

[1] See *Yearbook on Human Rights for 1949*, pp. 291–2.

was ratified by Parliament in an Act dated 31 October 1955 (*BGBl* 1955, II, p. 909).

By the Act of 4 May 1955, Parliament also ratified the agreement of 31 October 1953 between the Federal Government and Austria concerning unemployment insurance (*BGBl* 1955, II, p. 609). This agreement supplements the agreement of 19 May 1951. As stated in an announcement of the Federal Government dated 2 November 1955, the agreement came into force on 1 November 1955 (*BGBl* 1955, II, p. 944).

10. Protection of Industrial Rights and Copyright

The Universal Copyright Convention of 6 September 1952 [1] was ratified by Parliament by the Act of 24 February 1955 (*BGBl* 1955, II, p. 101). As stated in an announcement by the Federal Government dated 26 September 1955, the convention came into force with respect to the Federal Republic on 3 June 1955.

The Federal Republic has entered into agreements with a number of States concerning the revalidation of earlier conventions on industrial rights or the conclusion of new conventions.

As stated in an announcement of the Federal Government dated 15 November 1955 (*BGBl* 1955, II, p. 942), the agreement of 30 April 1952 between the Federal Republic and Italy concerning the protection of industrial rights entered into force definitively on 2 November 1955. The agreement had been in effect provisionally since 30 April 1952.

The agreement of 20 February 1925 between the Federal Republic and Bolivia with regard to the reciprocal protection of trade marks was revalidated with effect from 20 April 1955 (announcement of the Federal Government of 29 June 1955, *BGBl* 1955, II, p. 747).

The agreement of 21 July 1954 between the Federal Republic and Yugoslavia concerning the protection of certain classes of industrial rights and copyright was ratified by Parliament in an Act of 2 February 1955 (*BGBl* 1955, II, p. 89). The agreement concerns the revival of earlier rights and the protection thereof after reregistration. As stated in an announcement of the Federal Government dated 11 June 1956, the agreement came into force on 29 May 1955 (*BGBl* 1956, II, p. 742).

An agreement concerning the protection of industrial rights was signed between the Federal Republic and Lebanon on 8 March 1955. The purpose of the agreement is to suspend the operation of restrictive provisions in force in Lebanon and to provide for the reciprocal application of the Paris International Convention of 20 March 1883 for the protection of industrial property, the Madrid Agreement of 14 April 1891 for the prevention of false indications of origin on goods, the Berne International Convention of 9 September 1886 relative to the Protection of Literary and Artistic Works and of all subsequent amendments to those instruments. Parliament ratified the agreement by the Act of 27 October 1955 (*BGBl* 1955, II, p. 897).

The treaty of 4 November 1954 between the Federal Republic and Mexico concerning the protection of copyright in works of music vested in their nationals [2] was ratified by Parliament by the Act of 27 October 1955 (*BGBl* 1955, II, p. 903).

11. Miscellaneous Bilateral Agreements

An announcement of the Federal Government dated 23 September 1955 (*BGBl* 1955, II, p. 886) reported the signature of a cultural agreement between the Government of the Federal Republic and the Government of France. The agreement came into force on 28 July 1955, after the exchange of the instruments of ratification. The purpose of the agreement is to promote cultural and intellectual exchanges between the peoples of Germany and France. The agreement provides for study courses at universities and other institutions of learning, for the establishment of joint cultural institutions, for the granting of exchange fellowships for professors, teachers, students and pupils and for the reciprocal recognition of examinations.

On 22 November 1952, the Federal Government and the Government of Ceylon signed a protocol concerning trade between the two States. The protocol provides for most-favoured-nation treatment to nationals of both States in the matter of trade, entry, work and sojourn, for protection of patents, copyright and trade marks and for the discontinuance of war-time measures. The protocol was ratified by Parliament by the Act of 16 March 1955 (*BGBl* 1955, II, p. 189).

The Trade and Navigation Agreement of 11 May 1953 between the Federal Republic and Cuba was ratified by Parliament by the Act of 23 December 1955 (*BGBl* 1955, II, p. 1055). The agreement deals with the reciprocal right of establishment of nationals of the two States, the grant of facilities and most-favoured-nation treatment in commerce and industry in respect of privileges, immunities and benefits. As stated in an announcement of the Federal Government dated 13 August 1956, the agreement came into force on 15 May 1956 (*BGBl* 1956, II, p. 901).

---

[1] See *Yearbook on Human Rights for 1952*, pp. 398–403.

[2] See, further, below, p. 172.

GREECE

NOTE[1]

I. LEGISLATION

Legislative decree No. 3075/54 (*Official Gazette* No. 242, of 9 October 1954), amending the law concerning the courts of assize enabled Greek women to serve on juries and to express their opinion in full equality with men in the administration of justice. Act No. 3192/55 concerned public offices exercised by women and their appointment to government posts.[2]

Act No. 3312/55 (*Official Gazette* No. 203, of 1 August 1955) introduced in Greece the system of open corrective institutions. This system contributes to the prevention of criminality, the improvement and maintenance of the bodily and mental health of the detainees, the establishment of discipline and the improvement of their living conditions.

Act No. 3252/55 (*Official Gazette* No. 142, of 3 June 1955) amended the law relating to the setting up and administration of the employment service and the unemployment insurance system, with a view to facilitating the speedy engagement by employers of suitable personnel and to enabling workers to find suitable employment, in default of which they were to receive the prescribed unemployment benefit. Legislative decree No. 2961/54 (*Official Gazette* No. 197, of 25 August 1954) was also intended to promote the creation of employment possibilities for workers, while Act No. 2765/54 (*Official Gazette* No. 38, of 4 March 1954) aimed at securing the disposal of articles manufactured by the blind.

Act No. 2855/54 (*Official Gazette* No. 109, of 2 June 1954) supplemented and amended various other labour laws, for the benefit of the workers.

Act No. 3239/55 (*Official Gazette* No. 125, of 20 May 1955) provided for, *inter alia*, the setting up of a tripartite National Advisory Council on Social Policy. The aim of the legislator was that, through this organ, there would be elaborated a planned social policy in keeping with the views of employers and workers, prevailing economic trends and current opinion on social matters. The Council is, for instance, to be consulted before the Minister of Labour exercises his power to declare binding on all employers and workers in the trade and district in question any collective agreement already binding upon the employers of three-fifths of the workers in a trade.

Legislative decree No. 3084/54 (*Official Gazette* No. 247, of 11 October 1954) aimed at restricting drug smuggling. Act No. 3310/55 provided for the control of venereal diseases, especially from the preventive point of view, and for the restriction of prostitution. Legislative decree No. 3369/55 (*Official Gazette* No. 258, of 23 September 1955) aimed at the control of leprosy. Legislative decree No. 3340/55 (*Official Gazette* No. 240, of 3 September 1955) established a blood-donation service in Greece.

Act No. 2781/54 (*Official Gazette* No. 45, of 18 March 1954) made provision for the housing of the homeless or badly housed inhabitants of frontier settlements, for the assistance and improvement of these populations and for the protection of their property. Legislative decree No. 3090/54 (*Official Gazette* No. 250, of 12 October 1954) related to the free grant of sites for the erection of houses for disabled soldiers and war victims and economic assistance to populations stricken by natural calamities in restoring their homes. Law No. 3289/55 (*Official Gazette* No. 169, of 4 July 1955) aimed also at granting assistance to these populations, through the rationing of foodstuffs and other necessities. Legislative decree No. 2963/54 (*Official Gazette* No. 195, of 24 August 1954) attacked the problem of cheap and healthy housing for salaried workers. Royal decrees of 28 February and 18 August 1955 (*Official Gazette* No. 48, of 28 February 1955 and No. 220, of 18 August 1955, respectively) extended rent control for two years to protect in particular the poor.

By Act No. 2793/54 (*Official Gazette* No. 52, of 29 March 1954) provision was made for the setting up of bodies entrusted with the task of assisting the juvenile magistrates, either by supplying facts on the personality and environment of juveniles or by supervising juveniles under the magistrate's direction.

Legislative decree No. 2968/54 (*Official Gazette* No. 201, of 28 August 1954) set into operation the service for the protection of maternity and child welfare in rural areas.

II. INTERNATIONAL AGREEMENTS[3]

Laws Nos. 3249/55 (*Official Gazette* No. 139, of 2 June 1955), 3250/55 (*Ibid.*), 3248/55 (*Official Gazette* No. 138, of 2 June 1955) and 3251/55 (*Official Gazette* No. 140, of 2 June 1955) ratified International Labour Conventions Nos. 81, 88, 95 and 102 respectively. These are, in the same order, the convention con-

[1] Note based upon information received through the courtesy of the Permanent Mission of Greece to the United Nations.

[2] See text quoted on p. 101.

[3] See also p p. 344 and 345.

cerning labour inspection in industry and commerce, 1947, the convention concerning the organization of the employment service, 1948, the convention concerning the protection of wages, 1949 and the convention concerning minimum standards of social security, 1952. The first relates to the organization and functioning of labour inspection services, the second to the maintenance of a free public service for the finding of employment, as a means of organizing the labour market and securing high levels of employment, the third to the methods and time of payment of wages and the fourth to minimum rates of social insurance, for the protection of persons who, due to illness, maternity, injury, disablement, old age or unemployment, cannot work and their dependants who do not work.[1]

Act No. 2930/54 (*Official Gazette* No. 161, of 26 July 1954) ratified the agreement on the importation of educational, scientific and cultural materials, signed at Lake Success on 22 November 1950,[2] which aimed at the free exchange of ideas and knowledge between member countries.

[1] See *Yearbook on Human Rights for 1952*, pp. 377–389.

[2] See *Yearbook on Human Rights for 1950*, pp. 411–415.

Legislative decree No. 2964/54 (*Official Gazette* No. 196, of 25 August 1954) ratified the friendship agreement between Greece and the Philippines, laying down the obligation of keeping permanent peace and according favourable treatment to each other's nationals in the carrying on of trade, industry and other lawful pursuits.

Act No. 3164/55 (*Official Gazette* No. 75, of 28 March 1955) ratified the educational agreement between Greece and Ethiopia signed on 31 July 1954, which provides for the development of good relations in the educational, training, scientific and artistic fields, for the encouragement of artistic manifestations, through exhibitions, concerts, lectures and educational exchanges, in the sphere of cinematograph, radio and sports, and, generally speaking, for the strengthening of spiritual and moral ties between the two countries.

Act No. 3294/55 (*Official Gazette* No. 177, of 11 July 1955) ratified the agreement signed by Greece, Yugoslavia and Turkey for the setting up of a Balkan Consultative Assembly to consider means of facilitating the development of co-operation among the three countries in relation both to the maintenance of peace and to the well-being of their peoples.

ACT No. 3192 CONCERNING PUBLIC OFFICES EXERCISED BY WOMEN AND THEIR APPOINTMENT TO GOVERNMENT POSTS

of 21 April 1955 [1]

Art. 1. Women may exercise all public functions, except ecclesiastical ones, and be appointed to all posts as civil servants of the State or of public corporations, on equal terms with men.

Art. 2. 1. In the armed forces of the land, sea and air forces, the gendarmerie, city police, harbour corps, fire brigade, forest service and coast guard, women may occupy auxiliary posts, as determined through royal decrees to be issued on the proposal of the competent Ministers.

2. They may also act as trustees and take part as witnesses in the drawing up of wills, all other provisions of civil and commercial law remaining in force.

Art. 3. 1. The regulations in force concerning qualifications for occupying a state post or one with a public corporation apply also to women, except those relating to military service.

2. The citizenship of women is established by means of a certificate of the competent mayor or community president attesting to their registration in the General Register (of citizens) and their age is ascertained under the terms of law 1811/1951 on the code relating to the status of administrative civil servants.

Art. 4. 1. The provisions of legislative decree 3075/1954, amending and supplementing law 5026 concerning courts of assize, remain in force.

2. Any other general or special provision conflicting with the present Act is abrogated.

Art. 5. The present Act enters in force as from its publication in the *Official Gazette*.

. . .

[1] Greek text in *Official Gazette* No. 95, of 21 April 1955. Translation by the United Nations Secretariat.

GUATEMALA

NOTE[1]

General

During 1955, the Republic of Guatemala was governed by the political statute promulgated on 10 August 1954[2] to serve as a temporary constitutional text pending the enactment of the new Political Constitution of the Republic which was being discussed by the National Constituent Assembly convened for the purpose. 1955 therefore cannot be regarded as a normal year in Guatemala from the political point of view. The National Constituent Assembly met throughout 1955, but did not adopt the new Constitution until February 1956.

In the circumstances, having regard to the fact that the fundamental human rights which were to be recognized as such in the Republic of Guatemala, and duly guaranteed in the new Constitution, had not been defined in 1955 by the National Constituent Assembly, it is proposed in this *Yearbook* only to refer to the more important legal measures taken during the year.

Entry into and Departure from Guatemala (Universal Declaration of Human Rights, article 13)

Under presidential decree No. 420 of 30 September 1955 (Official Gazette, *El Guatemalteco*, 3 October 1955) any person entering or leaving Guatemalan territory without presenting himself to the migration authorities is liable to a sentence of six months' imprisonment (arresto mayor), which may not be commuted. Proceedings are instituted on a complaint lodged by the Ministry of Foreign Affairs; if the Ministry does not elect to institute proceedings before the courts, it is required to fine the offender not less than twenty or more than one thousand quetzales, except in the case of *force majeure*.

An order of the Guatemalan Ministry of Foreign Affairs of 25 October 1955 (Official Gazette, *El Guatemalteco*, 31 October), "taking into account the strong sense of Central American solidarity in the countries of the isthmus, and with a view to facilitating the work of the Central American Office and official relations generally between the Central American States", authorized the Foreign Ministers of the Central American Republics, the Ambassadors of El Salvador, Honduras, Nicaragua and Costa Rica accredited to any Central American country, and officials of the Central American Office (General Secretariat of the Organization of Central American States), to enter or leave Guatemalan territory, without passport or visa, on presentation of any identifying document.

Right of Asylum (Universal Declaration of Human Rights, article 14)

In the course of 1955, the Government of Guatemala, recognizing the right of asylum, granted safe conduct to leave the country to eight persons who had taken asylum in the embassies of the Argentine Republic, Costa Rica and Mexico and had been recognized as political refugees by the Governments of those countries, in accordance with the Havana and Montevideo Conventions on Asylum.

Also in 1955, the Governments of Bolivia and Brazil, in accordance with the conventions, granted safe-conduct to leave the country to five persons who had sought political asylum in the Guatemalan embassies in their countries. Four of the persons concerned had taken asylum in the Guatemalan embassy in Bolivia and one in the Guatemalan embassy in Brazil. (Information supplied by the Guatemalan Ministry of Foreign Affairs.)

Change of Nationality (Universal Declaration of Human Rights, article 15)

Presidential decree No. 245, which partially amended the Aliens Act, laid down the requirements for the naturalization of aliens in Guatemala.

In connexion with article 15 of the Universal Declaration of Human Rights and the right to change nationality, reference may be made to the Judgement of the International Court of Justice of 6 April 1955 in the Nottebohm Case (Liechtenstein *v.* Guatemala).[3]

Convention on the International Right of Correction (Universal Declaration of Human Rights, articles 18 and 19)

Decree No. 11 of the National Constituent Assembly, of 5 September 1955, (Official Gazette, *El Guatemalteco*, 20 September 1955) approved the Convention on the Right of Correction which was opened to signature by resolution 630 (VII) of the United Nations General Assembly[4] and was signed by the Permanent Representative of Guatemala to the United Nations on 1 April 1953.

[1] Note kindly furnished by Dr. Carlos García Bauer, Guatemala City, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1954*, pp. 121–2.

[3] See below, pp. 361–3.

[4] See *Yearbook on Human Rights for 1952*, pp. 373–5 and 432.

Commercial Activities of Central Americans (Universal Declaration of Human Rights, article 23)

Under Presidential decree No. 419 of 30 September 1955 (Official Gazette, *El Guatemalteco*, 3 October 1955) nationals of any of the Central American Republics and aliens married to Guatemalan wives or having Guatemalan children under their parental authority are exempted from the prohibitions from engaging in trade referred to in government decree No. 2326 (*Recopilación de Leyes*, volume 58, p. 200). Decree No. 419 provides that Central Americans and aliens in the categories mentioned may engage in any lawful activity, including trade, provided they apply for the required authorization.

Labour Law (Universal Declaration of Human Rights, articles 23, 24 and 25)

Presidential decree No. 216 of 31 January 1955 (Official Gazette, *El Guatemalteco*, 2 February 1955) repealed decrees Nos. 526, 623 and 915 of the Congress of the Republic which amended various articles of the Labour Code. The repeal of these decrees restored the original text of the Labour Code as promulgated in 1947 by decree No. 330 of the National Congress.[1]

[1] See *Yearbook on Human Rights for 1947*, pp. 134–136.

PRESIDENTIAL DECREE No. 469
of 18 November 1955 [1]

Art. 1. Article 4 of decree No. 48, issued by the Government Junta on 10 August 1954, is hereby repealed.[2]

Art. 2. Political parties may be formed and carry on their activities without restriction, provided that they do not advocate the communist ideology or any other totalitarian system or identify themselves with their methods or tactics.

Art. 3. This decree shall enter into force on the date of its publication in the *Diario Oficial.*

[1] Published in *El Guatemalteco-Diario Oficial* No. 88, of 18 November 1955. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1954*, pp. 122–3.

DECREE No. 18 OF THE NATIONAL CONSTITUENT ASSEMBLY
of 24 November 1955 [1]

Art. 1. The Congress of the republic shall be composed of deputies elected by universal suffrage on a single day and shall convene at such time and in conformity with such procedure as may be prescribed by the Constitution of the republic promulgated by this Assembly.

. . .

Art. 4. The elections shall be held on the day appointed by decrees Nos. 15, 16 and 17 of the National Constituent Assembly.

Art. 5. The vote is personal and may not be delegated. Literate citizens shall cast their vote in secret and illiterate citizens in public.

The following shall have the right to vote:

1. Male Guatemalans over eighteen years of age;
2. Guatemalan women over eighteen years of age who are able to read and write.

Art. 6. The qualifications for a deputy are as follows:

1. He must be a Guatemalan citizen by birth and over twenty-one years of age;
2. He must possess civic rights;
3. He must be a layman;
4. He must have no claims outstanding against the State or any municipality in the republic on any grounds whatsoever;
5. He must not be a party or surety for a party to a contract relating to public works or projects financed out of state or municipal funds.

Art. 7. The following are disqualified from serving as deputies:

1. Officials in any executive department or judicial organ and employees of any state agency, except teachers and professional workers in social welfare establishments;
2. Relatives of the President of the republic to the fourth degree of consanguinity or second degree of affinity;
3. Persons who have administered or held public funds and fail to obtain final discharge in respect thereof before the date of election;
4. Serving members of the armed forces;
5. Persons who represent the interests of or act as counsel for any body corporate or individual operating a public service.

[1] Published in *El Guatemalteco-Diario Oficial* No. 94, of 25 November 1955. Translation by the United Nations Secretariat.

The seat of any person who has been elected while under any of the disqualifications set forth in this article shall be deemed vacant. A person in any of the above-mentioned categories may choose between his employment and the post of deputy. The election of any official with jurisdiction in the electoral district in which he is a candidate shall be null and void.

. . .

Art. 9. Any person who does not possess civic rights or is serving in the Army or the National or Special Police shall be prohibited from voting.

. . .

Art. 12. Every elector shall attend before an electoral Board, during working hours, with a written list of the candidates for whom he wishes to vote; if the list represents a political party list, it must be printed.

Art. 13. After the list has been presented and the board has verified the qualifications as specified in article 6 of this decree, the voter, if literate, shall place his vote in a ballot box suitably situated to ensure the secrecy of the ballot. Where a voter is illiterate, the chairman of the board shall read aloud the list presented by him and ask him whether he wishes to vote for the persons whose names appear therein; agreement on the part of the voter shall be deemed to constitute a valid vote.

With a view to ensuring the secrecy of the ballots cast by literate persons, voters shall separately mark the list for which they are voting with a cross or "X" and deposit the list in a ballot-box situated in an appropriate place some distance from the board.

. . .

Political Parties

Art. 30. Only such political parties as are organized and registered in conformity with the law may present candidates for election as deputies to the National Congress.

Political parties must be registered with the Electoral Tribunal. In order to qualify for registration they must:

(*a*) Present an authenticated copy of the party constitution;

(*b*) Adduce similarly authenticated documentary evidence that the number of party members exceeds 5,000.

Every duly registered political party shall have the right to appoint a representative to each electoral board.

Art. 31. The registration of parties which spread the communist ideology or advocate any other totalitarian system and of the organizations dissolved as active participants in the communist front shall be prohibited.

. . .

Art. 38. All propaganda activities shall be prohibited within a radius of 100 metres of an electoral board.

Art. 39. The provisions of this decree shall apply solely to elections of deputies and local government officers held by this National Constituent Assembly.

Art. 40. This decree shall enter into force on the day of its publication in the *Diario oficial.*

HAITI

NOTE[1]

I. LEGISLATION

1. Act of 16 August 1955 to enact new regulations concerning the retail trade (*Le Moniteur* No. 76, of 29 August 1955). This Act amends the earlier legislation, by virtue of article 16 of the Constitution of 25 November 1950 now in force,[2] which forbids all importers, commission agents and manufacturers' agents, whether nationals of Haiti or aliens, to engage in retail trade, even through an intermediary, except as otherwise provided by statute. The object of this provision of the Constitution is to prevent the concentration of wholesale and retail trade in the hands of one and the same person, for such concentration would deprive those less favourably placed of a means of livelihood. At the same time, however, this provision gives the ordinary legislator discretionary power to waive the ban, in certain circumstances or in respect of certain commodities, in cases in which the public interest demands that the wholesale and retail trade should both be carried on by the same person.

2. Act of 14 July 1955 to provide a pension for the parents and unmarried wives of workers who have died as a result of employment injuries (*Le Moniteur* No. 74, of 22 August 1955). This act is an eminently humanitarian enactment. It is adapted to present social conditions in a country where it frequently happens that a worker, though not actually married, lives with a woman in a quasi-marital union and has children by her; at times he also maintains his own or his wife's aged parents. Although, according to the statistics, the number of marriages has been gradually increasing, the children born out of wedlock still far outnumber legitimate children. Because of this fact, and by reason of the same humanitarian considerations as underlie this Act, the Haitian lawmaker as long ago as 1944 granted equal rights of succession, under certain conditions, to all children, whether legitimate or born out of wedlock.

This Act amends article 46 of the Act of 12 September 1951 concerning social insurance. If an employment injury results in the death of the insured person, the beneficiaries receive the following benefits:

(*a*) A funeral grant equal to one month's basic wage of the insured person;

(*b*) The lawful widow receives a pension equal to 50 per cent of the basic pension which would have been granted in the event of total permanent incapacity resulting from an employment injury;

(*c*) Where there is no lawful wife, the woman who has lived with the insured man as his wife for at least one year preceding his death receives 40 per cent of the said basic pension;

(*d*) A pension equal to 30 per cent of the basic pension for total permanent incapacity is paid to each of the insured person's acknowledged illegitimate children under sixteen years, until they reach that age;

(*e*) A pension equal to 40 per cent of the basic pension for total permanent incapacity is paid to the parents for whom the insured person was providing, if he left no children.

3. Act of 17 August 1955 to establish a collective insurance institution in the Haitian Army (*Le Moniteur* No. 79, of 5 September 1955). The object of this new institution, which supplements the military pension, is to protect members of the Army — officers, enlisted men and civilian employees — against certain anxieties liable to influence their efficiency.

This institution offers both life and accident insurance. Its funds are supplied by the premiums paid by each officer, recruit or civilian employee. The premium is one dollar per thousand, depending on the amount of the policy. For officers, the insurance policy may vary from $1,000 to a maximum of $5,000; for enlisted men and civilian employees, it is $1,000. The Army Pension Fund (Caisse des pensions de l'armée) will be responsible for operating the collective insurance scheme until such time as the institution's own reserve and operating fund has been built up. In the event of death, the principal sum assured by the policy is paid to the heirs, and in case of accident, a benefit varying from 5 to 75 per cent of that sum is paid, depending on the degree of incapacity resulting from the accident.

II. INTERNATIONAL INSTRUMENTS[3]

In the course of the year, the United States of America and Haiti, through the exchange of letters and notes, entered into four agreements for implementing co-operative programmes in the fields of sanitation, health and rural education, and concerning

[1] Note prepared by Dr. Clovis Kernisan, Dean of the Faculty of Law at the University of Port-au-Prince, correspondent to the *Yearbook on Human Rights* designated by the Government of Haiti. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1950*, p. 117.

[3] See also p. 346.

the assistance given to Haiti by the United States in connexion with hurricane "Hazel". The four agreements in question are:

(1) The agreement extending the co-operative programme of health and sanitation until 30 June 1960, resulting from the exchange of letters dated 28 January, from the American Ambassador at Port-au-Prince, and 3 February 1955, from the Haitian Secretary of State for Foreign Affairs (*Le Moniteur* No. 12, of 10 February 1955);

(2) The agreement concerning a contribution to the programme of rural education, entered into by exchange of letters between the two Parties, of the same date as the preceding (*Le Moniteur* No. 12, of 10 February 1955);

(3) The additional agreement relating to the co-operative health programme in Haiti, of 7 February 1955 (*Le Moniteur* No. 13, of 14 February 1955);

(4) The agreement concluded by the exchange of notes dated 22 March, from the United States, and 1 April 1955, from the Haitian Chancellery, relating to the emergency relief assistance provided to Haiti by the United States in connexion with the damage caused by hurricane "Hazel" (*Le Moniteur* No. 68, of 4 August 1955).

III. JUDICIAL DECISION

A decision involving human rights is also worth mentioning. This decision is unique in the legal annals of Haiti. The case concerned a request submitted on 21 March 1955 by the Dominican Government to the Haitian Government under the Bustamente Code of Private International Law, which had been ratified by both countries, to secure the extradition of two Dominicans who had fled to Haiti. They were accused of embezzlement of funds of a Dominican company, but they maintained that they were being prosecuted for political reasons. Under the Haitian Act of 27 August 1912, a request for extradition by a foreign Government to the Haitian Government must first be examined by the competent judicial authority (the civil court). The parties may be represented by counsel throughout the proceedings. If the court decides that the fugitives should be handed over to the applicant country, the Government is at liberty to refuse to surrender them in view of the political circumstances. If, on the other hand, the judicial examination finds against extradition, the Government is bound to fall in with the court's decision. Thus the legislation on this matter ensures the greatest possible protection of human rights. The civil court of Port-au-Prince, to which the Dominican request was referred, devoted several hearings to its examination, and they were followed with great interest and excitement by a large audience. After hearing the case for the prosecution put by the State Counsel Department, which brought out certain analogies between ordinary offences and political acts, and after the counsel for the defence had made a brilliant speech in favour of the fugitives, the court rendered its decision on 14 July 1955, rejecting the request for extradition and ordering the immediate release of the two fugitives under the protection of the laws of Haiti. (For the case, see the weekly legal journal *Les Débats*, issue of 19 July 1955.)

HONDURAS

LEGISLATIVE DECREE No. 29

of 24 January 1955 [1]

Art. 1. A person may be a Honduran national by birth or by naturalization.

The following shall be deemed Honduran nationals by birth:

(*a*) Any person born in Honduran territory, except a child of a diplomatic agent or of an alien temporarily in such territory; or

(*b*) Any child born abroad to a Honduran father or mother, from the moment when he takes up residence in Honduras, or in any other circumstances where he is deemed to be a Honduran national by the law of the country of his birth or where having the right to do so, he opts for Honduran nationality. The provisions of this paragraph may be varied by treaty.

The following shall be deemed Honduran nationals by naturalization.

(*a*) Any Spaniard or Latin American who has resided in Honduras for two years; or

(*b*) Any other alien who has resided in Honduras for more than four consecutive years.

In each case, the applicant shall first be required to renounce his existing nationality before the competent authority, and declare his desire to adopt Honduran nationality.

Art. 2. The following persons are Honduran citizens:

(*a*) Men and women over the age of twenty-one years;

(*b*) Men and women who are over the age of eighteen years and married;

(*c*) Men and women over the age of eighteen years who can read and write.

Art. 3. A person who is a citizen has the following rights:

The right to vote;

The right to be a candidate for public office, subject to the conditions prescribed by the law.

Art. 4. The exercise of the franchise is a public duty which is obligatory for and cannot be renounced by men and optional for women.

Art. 5. The suffrage conferred on Honduran women by this legislative decree will be exercised for the first time in the electoral campaigns and the voting for the election of representatives to the National Constituent Assembly which will be convened in such form and at such time as the Head of State may see fit.

. . .

[1] The legislative decree was published in *La Gaceta* No. 15503, of 26 January 1955. Translation by the United Nations Secretariat.

LEGISLATIVE DECREE No. 50: CHARTER OF LABOUR GUARANTEES

of 16 February 1955 [1]

SUMMARY

The Charter of Labour Guarantees is divided into 17 chapters dealing with the following matters: Dignity of Labour, Freedom of Labour, The Right to Work, Trade Union Freedom, Collective Bargaining, Right of Strike and Lockout, Conciliation and Arbitration, Labour Courts, Right to Remuneration, Rules of Employment, Protection of the Family, Vocational Training, Social Security, Workers' Housing, Protection of the Middle Classes and Self-Employed Persons, Administration of Labour Legislation, and Transitional Provisions.

No person is to be compelled to work without just remuneration or without his full consent, except in the case of a sentence of a court of law.

The State is to use all available means to provide work to the unemployed and to ensure for every worker the material conditions necessary to enable him to lead an existence befitting human dignity.

Employers and workers, without distinction, are to be entitled, without prior authorization, to form or join occupational associations, with the object of defending and promoting their social, economic, cultural and moral interests. Such associations are

[1] The Legislative decree appears in *La Gaceta* No. 15526, of 22 February 1955.

to retain their independence of political parties and religious groups. They are to be dissolved or suspended only by court order and only for carrying on activities outside their legal spheres. No worker may be compelled to leave, or not to join, a trade union as a condition for obtaining employment or be dismissed or otherwise prejudiced by reason only of trade union membership or lawful activities. No one may be forced to join or leave an association by threats or violence.

The legislative decree lays down the right of every worker to a minimum wage sufficient to meet the material, moral and intellectual requirements of his home and family, with equal pay for equal work performed in identical conditions.

Hours of work are not normally to exceed eight per day or 48 per week, every seventh day (normally Sunday) being a rest day. Every worker is entitled to an annual holiday with pay. Every employer is to maintain the best conditions of hygiene and safety of work in his enterprise.

It is provided that the State shall afford special protection to the family and to employed women and young persons. Every female worker is entitled to paid maternity leave before and after confinement, with full rights of reinstatement.

The State is to encourage vocational training, as also the construction of low-cost workers' dwellings. A social security scheme for workers is to be established progressively, the risks to be covered including accidents, sickness, maternity, disablement, old age and death. For the purpose of raising the standard of living of handicraft workers and peasants, the State is to encourage the establishment of producers' and consumers' co-operative societies and banking and credit services for handicrafts and farming.

The legislative decree may not be invoked to alter such existing conditions of work as are more favourable than those guaranteed in it.

A full translation of the legislative decree in English and French appears in International Labour Office: *Legislative Series* 1955 – Hon.1.

LEGISLATIVE DECREE No. 101 ON EMPLOYERS' AND WORKERS' ASSOCIATIONS

of 6 June 1955 [1]

SUMMARY

The legislative decree lays down and defines the right of employers and workers to form or join employers' or workers' associations. Persons over eighteen years of age, or over fourteen with the authorization of their parents or guardians, may exercise this right.

No person may belong to more than one such occupational association, or be obliged to join, or prevented from joining or resigning from, such an association.

An occupational association is lawfully established and has legal personality as from its registration with the Department of Labour.

The aim of an occupational association shall be to study, promote and defend the social, economic, cultural and moral interests of its members. Associations may unite to form federations which may, in turn, form confederations.

Occupational associations may not indulge in political or religious activities or carry on activities contrary to the democratic way of life. Federations and confederations may not declare strikes or lockouts. No association, federation or confederation may affiliate with an international organization without consulting the Department of Labour.

An occupational association may only be dissolved if it has engaged in activities outside its legal sphere and only by a court of law.

A full translation of the legislative decree in English and French appears in International Labour Office: *Legislative Series* 1955 – Hon.2.

[1] The legislative decree appears in *La Gaceta* No. 15611, of 7 June 1955.

HUNGARY

NOTE

I. LEGISLATION

Legislative decree No. 18 of 1955 on associations (*Magyar Közlöny* of 9 June 1955) defines the status of various types of associations other than workers' trade unions, concerning which provisions are made elsewhere. The legislative decree repeats the guarantee of the right of organization contained in article 56 (1) of the Constitution of the Hungarian People's Republic [1] and provides that an association may be set up when at least ten persons mutually so decide, provided that they draw up its constitution and rules in writing, set up an executive committee and representative organs and register it with the appropriate public authority. That authority then has a supervisory function, including the power to disallow any resolution which is opposed to the interests of the workers and to dissolve any association whose activities constitute a breach of the public, social or economic order of the People's Republic or jeopardize the interests of the members of the association.

[1] See *Yearbook on Human Rights for 1949*, p. 96.

II. INTERNATIONAL AGREEMENTS [2]

By virtue of the promulgation of the decree laws indicated, the following international agreements were put into effect in 1955:

1. Convention on the political rights of women, opened for signature at New York, 31 March 1953 [3] (legislative decree No. 15 of 1955).
2. Convention on the prevention and punishment of the crime of genocide, opened for signature at New York, 9 December 1948 [4] (legislative decree No. 16 of 1955).
3. Protocol on the prohibition of the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare, opened for signature at Geneva, 17 June 1925 (legislative decree No. 20 of 1955).
4. Convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others, opened for signature at New York, 21 March 1950 [5] (legislative decree No. 34 of 1955).

[2] Information received through the courtesy of the Ministry for Foreign Affairs of the Hungarian People's Republic.

[3] See *Yearbook on Human Rights for 1952*, pp. 375–376.

[4] See *Yearbook on Human Rights for 1948*, pp. 484–486.

[5] See *Yearbook on Human Rights for 1949*, pp. 388–391.

INDIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

I. AMENDMENT OF THE CONSTITUTION

The Constitution (Fourth Amendment) Act, 1955,[2] was the most important measure affecting human rights passed by the Parliament of India in 1955.

The Constitution (First Amendment) Act, 1951,[3] amended the Constitution of India [4] so as to secure fully the constitutional validity of certain pieces of social welfare legislation relating to agrarian reform which were challenged on the ground that they were inconsistent with the fundamental rights guaranteed under articles 14, 19 and 31 of the Constitution.[5] But serious difficulties arose in the way of having other important pieces of social welfare legislation adopted by reason of certain subsequent judicial decisions interpreting articles 14, 19 and 31. It was therefore considered necessary further to amend the Constitution of India with a view: (*a*) to making the Legislature the final arbiter as to the quantum of compensation to be paid on the acquisition or the requisitioning of property for a public purpose; (*b*) to distinguishing the compulsory acquisition or requisitioning of property from deprivation of property by the operation of regulatory or prohibitory laws; and (*c*) to removing certain other categories of social welfare legislations affecting property rights from the purview of articles 14, 19 and 31, and to validating specifically certain laws falling within those categories.

The Constitution (Fourth Amendment) Act, 1955 accordingly amended articles 31 and 31-A of the Constitution. It further amended the ninth schedule to the Constitution by the inclusion therein of seven more laws in order to validate these laws specifically.

The Amending Act of 1955 also amended article 305 of the Constitution so as to remove the doubts which were raised by certain judicial decisions as to the authority of Parliament or of a state legislature to make laws introducing state monopoly into any particular sphere of trade or commerce.

The relevant provisions of the Constitution of India, as amended by the Constitution (Fourth Amendment) Act, 1955, read as follows:

Part III

FUNDAMENTAL RIGHTS

. . .

31. (1) No person shall be deprived of his property save by authority of law.

(2) (*as amended in 1955*).[6] No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given; and no such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate.

(2A) (*as added in 1955*). Where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property.

. . .

31A. (1) (*as amended in 1955*).[7] Notwithstanding anything contained in article 13, no law providing for –

---

[1] Note prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 183–5, of 28 April 1955.

[3] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 203–6, of 18 June 1951.

[4] See *Yearbook on Human Rights for 1951*, pp. 143 and 147–9.

[5] See *Yearbook on Human Rights for 1949*, pp. 100, 101 and 103 and *Yearbook on Human Rights for 1951*, pp. 147–8.

[6] The former text reads as follows:

"(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorizing the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined and given."

[7] The former text reads as follows:

"(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."

(*a*) The acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(*b*) The taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(*c*) The amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(*d*) The extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or

(*e*) The extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

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, article 14, article 19, or article 31:

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 *and in the states of Madras and Travancore-Cochin, any janmam right;* [1]

(*b*) The expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, *raiyat, under-raiyat* [1] or other intermediary and any rights or privileges in respect of land revenue.

. . .

Part XIII

TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA

. . .

305 (*as amended in 1955*).[2] Nothing in articles 301 [3] and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise direct; and nothing in article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1955, in so far as it relates to, or prevent Parliament or the legislature of a state from making any law relating to any such matter as is referred to in sub-clause (ii) of clause (6) of article 19.

. . .

NINTH SCHEDULE [4]

(Article 31B)

. . .

14. The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 (Bihar Act XXXVIII of 1950).[5]

15. The United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 (U.P. Act XXVI of 1948).[5]

16. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Act LX of 1948).[5]

17. Sections 52A to 52G of the Insurance Act, 1938 (Act IV of 1938), as inserted by section 42 of the Insurance (Amendment) Act, 1950 (Act XLVII of 1950).[5]

18. The Railway Companies (Emergency Provisions) Act, 1951 (Act LI of 1951).[5]

19. Chapter III-A of the Industries (Development and Regulation) Act, 1951 (Act LXV of 1951), as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953).[5]

20. The West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948), as amended by West Bengal Act XXIX of 1951.[5]

II. OTHER LEGISLATION

A. LEGAL STATUS OF INDIVIDUALS — RIGHT TO NATIONALITY

The Citizenship Act, 1955 [6]

(Act No. 57 of 1955)

Articles 5 to 9 of the Constitution of India [7] contain provisions as to who are or are deemed to be citizens of India at the commencement of the Constitution. The Constitution does not, however, contain any provision with respect to the acquisition of citizenship after its commencement except in the case of certain persons residing outside India referred to in article 8.[8] Neither does it contain any provision with respect to the termination of citizenship or other

[1] Words in italics have been inserted by the Constitution (Fourth Amendment) Act, 1955.

[2] The former text reads as follows:

"Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise provide."

[3] See *Yearbook on Human Rights for 1949*, p. 108.

[4] See *Yearbook on Human Rights for 1951*, p. 149.

[5] Added by the Constitution (Fourth Amendment) Act, 1955, s. 5.

[6] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 561–71, of 30 December 1955.

[7] See *Yearbook on Human Rights for 1949*, pp. 99–100.

[8] *Ibid.*, p. 100.

matters relating to citizenship. Article 11 of the Constitution has left all such matters to be regulated by Parliament by law.[1]

The Citizenship Act, 1955, accordingly was passed by the Parliament of India to supplement the provisions of the Constitution.

The Act provides for the acquisition of citizenship by birth, descent, registration, naturalization and incorporation of territory. It contains also provisions for the termination and deprivation of citizenship under certain circumstances and avoids dual citizenship to a certain extent. The Act gives recognition to Commonwealth citizenship and also authorizes the Government of India to make provisions on a basis of reciprocity for the conferment of all or any of the rights of a citizen of India on the citizens of other Commonwealth countries and the Republic of Ireland.

Extracts from the Citizenship Act, 1955, appear below.

B. Equality and the Principle of Non-discrimination

The Untouchability (Offences) Act, 1955[2]

(Act No. 22 of 1955)

Under article 17 of the Constitution of India,[3] "Untouchability" is abolished and its practice in any form is forbidden. That article also provides that the enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law. Sub-clause (ii) of clause (*a*) of article 35 of the Constitution[4] requires such law to be enacted by Parliament. The Untouchability (Offences) Act, 1955 has accordingly been enacted by the Parliament of India. The Act prescribes punishment for the practice of "Untouchability" and for the enforcement of any disability arising therefrom. In addition to the imposition of the normal penalty for an offence, the court has been empowered to cancel or suspend any licence in respect of any profession, trade, calling or employment when an offence is committed under the Act in relation to such profession, trade, calling or employment. All offences under the Act have been made cognizable, and provision has been also included in the Act for enhanced punishment in the case of a second or subsequent offence. It has been further provided in the Act that when an offence under the Act is committed in relation to a member of a scheduled caste, the burden of proof will shift from the prosecution to the accused, as in the past "Untouchability" was practised mostly in relation to members of the scheduled castes.

Extracts from the Untouchability (Offences) Act, 1955 appear below.

C. Certain Aspects of Family Rights

The Hindu Marriage Act, 1955[5]

(Act No. 25 of 1955)

This Act, passed by the Parliament of India, codifies the law relating to marriage among Hindus and also introduces certain new provisions by way of reform. It applies not only to persons who profess the Hindu religion in any of its forms, but also to (i) any person who is a Buddhist, Jaina or Sikh by religion; and (ii) any other person who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that such person would not have been governed by the Hindu law of marriage if this Act had not been passed.

The Act lays down in a simplified form the requirements for a valid marriage. It does not prescribe any special ceremony for a valid marriage. The marriage may be solemnized in accordance with the customary rights and ceremonies of either party thereto. The Act has left open the question whether marriages should be registrable or not, including whether such registration should be compulsory or optional to the state governments. It has, however, been provided in the Act that omission to register a marriage will not render it invalid even when registration is made compulsory by any state government, but will only render the person contravening the rule liable to a small fine.

One of the special features of this Act is that it has made bigamy an offence. The Act also contains provisions with regard to restitution of conjugal rights, judicial separation and void and voidable marriages.

The most important change introduced by this Act in the existing Hindu law is the provision for divorce, for the Hindu law as it stood before did not recognize divorce except in the cases in which divorce was permitted by custom among certain classes or under the laws passed by certain states. The Act now makes provision for divorce on certain specified grounds in the case of all marriages, whether solemnized before or after its commencement. It has, however, been provided in the Act that no petition for divorce will be entertained during the first three years after marriage except for special reasons, so as to give a fair trial to every marriage.

The Act also contains a provision which ensures legitimacy of children in the case where a decree of nullity is granted in respect of any marriage. It provides that any child begotten or conceived before such decree is made, who would have been the legitimate child of the parties to the marriage if it

[1] See *Yearbook on Human Rights for 1949*, pp. 99–100.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 227–34, of 11 May 1955.

[3] See *Yearbook on Human Rights for 1949*, p. 100.

[4] *Ibid.*, p. 103.

[5] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 269–81, of 18 May 1955.

had been dissolved instead of having been declared null and void or annulled by a decree of nullity, shall be deemed to be their legitimate child notwithstanding the decree of nullity. Such children have been legitimatized with respect to succession to the property of their parents but the provision has not conferred on them any rights in respect of the property of any other person where they would otherwise be debarred from such rights by reason of the illegitimacy.

D. Personal Freedom

The Abducted Persons (Recovery and Restoration) Continuance Act, 1955 [1]

(Act No. 30 of 1955)

This Act of the Parliament of India extended the life of the Abducted Persons (Recovery and Restoration) Act, 1949 [2] (Act No. LXV of 1949) which was due to expire on 31 May 1955 up to 30 November 1956, to enable the work of recovery of abducted persons to be continued for a further period.

E. Right to Respect for the Physical Integrity of the Person

The Abolition of Whipping Act, 1955 [3]

(Act No. 44 of 1955)

Some of the penal laws of India had provided whipping as a possible punishment for certain categories of offences. It was considered undesirable to retain it as a form of punishment as it had hardly any reformative value and had a pernicious effect on juvenile delinquents. This Act was accordingly passed by the Parliament of India to abolish whipping as a form of punishment for criminal offences in India.

F. Legal Guarantees of the Rights of the Individual

The Saurashtra Prevention of Excommunication Act, 1955, [4] *passed by the Saurashtra Legislature*

(Saurashtra Act No. 5 of 1955)

There is a practice prevailing among certain communities in the state of Saurashtra of excommunicating their members, which results in their being deprived of their legitimate rights and privileges. The Act in question was enacted to prohibit this practice. It declared that any excommunication so practised shall be invalid and of no effect. It further provided a penalty for every such act of excommunication. Any person who does any act which amounts to or is in furtherance of the excommunication of any member of a community shall, on conviction under the Act, be punished with a fine which may extend to one thousand rupees.

III. JUDICIAL DECISIONS

(1) Equality before the Law and Equal Protection of the Laws — Test of Permissible Classification — Constitution of India, Article 14

BUDHAN CHOUDHRY AND OTHERS
v. THE STATE OF BIHAR

Supreme Court of India [5]

2 December 1954

The facts. The appellants were tried on charges under sections 366 and 143 of the Indian Penal Code by a magistrate of the first class exercising powers under section 30 of the Code of Criminal Procedure (Act V of 1898) in the district of Hazaribagh in the state of Bihar, and each of them was convicted and sentenced to rigorous imprisonment for five years. The case had been transferred to the file of the section 30 magistrate for trial under the orders of the Deputy Commissioner, Hazaribagh.

The appellants thereafter preferred an appeal to the High Court at Patna which was heard by a bench of two judges. There was, however, a difference of opinion as to the constitutionality of section 30 of the Code of Criminal Procedure between the two judges, one of whom took the view that section 30 offended against the provisions of article 14 of the Constitution,[6] while the other was of the opinion that it did not. The matter was therefore placed before the Chief Justice, who agreed with the view that section 30 did not contravene the provisions of article 14. The conviction was upheld by the Chief Justice, but he reduced the sentence. The appellants thereupon presented an appeal to the Supreme Court under article 132 (1) of the Constitution.

Section 28 of the Code of Criminal Procedure contains a general provision that an offence may be tried by the High Court, or by the court of session, or by such other court as is specified in this behalf in the second schedule to the Code. Section 30 of the said code, however, provides that in certain states (specified in that section) and also in those parts of the other states in which there are deputy commissioners or assistant commissioners, the state government may, notwithstanding the aforesaid general provision of the Code, invest the district magistrate or any magistrate of the first class with power to try as a magistrate all offences not punishable with death. The grievance of the appellants was that trial by a court of session with the aid of

[1] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 426–7, of 19 September 1955.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 203–5, of 30 December 1949. See also *Yearbook on Human Rights for 1954*, pp. 144–5.

[3] Published in the *Gazette of India Extraordinary*, part II, section 1, p. 497, of 12 December 1955.

[4] Published in the *Saurashtra Government Gazette Extraordinary*, part II, pp. 26–9, of 4 February 1955.

[5] (1955) 1 S.C.R. 1045.

[6] Article 14 provides: "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 jury or assessors was more advantageous to accused persons than a trial by a magistrate exercising powers under section 30 of the Code, for a magistrate so exercising powers would try the case under the warrant procedure which was different from the procedure followed by a court of session. Further, the investing of magistrates with powers under section 30 of the Code might bring about a discrimination between persons accused of offences of the same kind, for one such person might be sent for trial to a section 30 magistrate while another might be sent to a magistrate who could commit him to the court of session. It was therefore contended by the appellants that there had been an infraction of the fundamental rights guaranteed to them under article 14 of the Constitution and that their trial was therefore invalid.

Held. That the appeal should be dismissed. Section 30 of the Code of Criminal Procedure did not infringe the fundamental right guaranteed under article 14 of the Constitution.

The court said: "It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled — namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases — namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this court that article 14 condemns discrimination not only by a substantive law, but also by a law of procedure. The contention now put forward as to the invalidity of the trial of the appellants has therefore to be tested in the light of the principles so laid down in the decisions of this court."

After reviewing the applicable provisions of the Code of Criminal Procedure and recalling that section 30 thereof "empowers the state government in certain areas to invest the district magistrate or any magistrate of the first class with power to try as a magistrate all offences not punishable with death", the court said: "There is an obvious classification on which this section is based — namely, that such power may be conferred on specified magistrates in certain localities only and in respect of some offences only — namely, all offences other than those punishable with death. The legislature understands and correctly appreciates the needs of its own people, which may vary from place to place. As already observed, a classification may be based on geographical or territorial considerations. An instance of such territorial classification is to be found in the Abducted Persons (Recovery and Restoration) Act, 1949, which came up for discussion before this court and was upheld as valid in *The State of Punjab* v. *Ajaib Singh*.[1] S. K. Das, J., and the learned Chief Justice have in their respective judgements referred to certain circumstances — e.g., the distance between the place of occurrence and the headquarters where the court of session functions at considerable intervals, the inconvenience of bringing up witnesses from the interior, the difficulty of finding in the backward or out of the way places sufficient number of suitable persons to act as jurors or assessors — all of which make this classification quite a reasonable one. In this sense, the section itself does not bring about any discrimination whatever. The section authorizes the state government only to invest certain magistrates with power to try all offences not punishable with death, and this authority the state can exercise only in the specified places. If the state invests any magistrate with powers under section 30, anybody who commits any offence not punishable with death and triable by a court of session under section 28 read with the second schedule is also liable to be tried by the section 30 magistrate. The risk of such liability falls alike upon all persons committing such an offence. Therefore there is no discrimination in the section itself."

The court then dealt with the contention "that although the section itself may not be discriminatory, it may lend itself to abuse bringing about a discrimination between persons accused of offences of the same kind, for the police may send up a person accused of an offence under section 366 to a section 30 magistrate and the police may send another person accused of an offence under the same section to a magistrate who can commit the accused to the court of session." A survey of procedural alternatives set out by the court in its judgement made it "clear that the ultimate decision as to whether a person charged under section 366 should be tried by the court of session or by a section 30 magistrate does not depend merely on the whim or idiosyncracies of the police or the executive Government, but depends ultimately on the proper exercise of judicial discretion by the magistrate concerned."

To the suggestion "that discrimination may be brought about either by the legislature or the executive or even the judiciary and the inhibition of article 14 extends to all actions of the state denying equal protection of the laws whether it be the action of any one of the three limbs of the state", the court replied that "The judicial decision must of necessity depend on the facts and circumstances of each particular case, and what may superficially appear to be an unequal application of the law may not necessarily amount to a denial of equal protection of law unless there is shown to be present in it an element

[1] (1953) 4 S.C.R. 254.

of intentional and purposeful discrimination." No such discrimination had been alleged in the present case. The court added that "the discretion of judicial officers is not arbitrary and the law provides for revision by superior courts of orders passed by the subordinate courts. In such circumstances, there is hardly any ground for apprehending any capricious discrimination by judicial tribunals."

(2) RULES RELATING TO ADMISSION TO MEDICAL COLLEGE — DISCRIMINATION BASED ON RESIDENCE — VALIDITY — CONSTITUTION OF INDIA, ARTICLES 14 AND 15 [1]

D. P. JOSHI *v.* THE STATE OF MADHYA BHARAT AND ANOTHER

Supreme Court of India [1]

27 January 1955

The facts. The petitioner, a resident of Delhi, was admitted in July 1952 as a student of a medical college at Indore known as the Mahatma Gandhi Memorial Medical College, run by the state of Madhya Bharat. This institution, which had had its origin in private enterprise, had been under the management of a committee. The committee had raised funds for the institution on a promise that any one who contributed Rs 7,000 would be entitled to nominate one student for admission to the college. According to the rules relating to admission to the college, the students were divided into two groups — namely, (i) nominees (that is, students nominated for admission into the college by the donors) and (ii) other students selected from eligible applicants on the basis of merit who were called self-nominees. The Madhya Bharat Government had taken over the administration of the college in March 1951. They had revised the rules relating to admission to the college and made the following new rule in place of an old rule made by the committee with regard to the payment of capitation fees by the students:

"For all students who are bona fide residents of Madhya Bharat no capitation fee should be charged. But for other non-Madhya Bharat students the capitation fee should be retained as at present at Rs 1,300 for nominees and at Rs 1,500 for others."

"Bona fide resident" for the purpose of this rule was defined as:

"one who is

(*a*) A citizen of India whose original domicile is in Madhya Bharat, provided he has not acquired a domicile elsewhere, or

(*b*) A citizen of India, whose original domicile is not in Madhya Bharat, but who has acquired a domicile in Madhya Bharat and has resided there for not less than five years at the date on which he applies for admission, or

(*c*) A person who migrated from Pakistan before September 30, 1948 and intends to reside in Madhya Bharat permanently, or

(*d*) A person or class of persons or citizens of an area or territory adjacent to Madhya Bharat or to India in respect of whom or which a declaration of eligibility has been made by the Madhya Bharat Government."

The petitioner applied to the Supreme Court under article 32 of the Constitution of India [2] praying for a writ prohibiting the respondent from collecting from him the capitation fee for the current year (1954–55) and directing a refund of Rs 3,000 collected from him as capitation fee for the first two years on the ground that the new rule discriminated in the matter of fees between students who were residents of Madhya Bharat and those who were not, and that this was in contravention of articles 14 and 15 (1) of the Constitution.[3]

Held. That the petition should be dismissed. The rule imposing capitation fee on some of the students and not on others did not offend against the provisions of article 14 of the Constitution, because it proceeded on a classification based on a ground which has a reasonable relation to the subject matter of the legislation. Neither did the impugned rule infringe the fundamental right guaranteed by article 15 (1) of the Constitution, for article 15 (1) which prohibits discrimination based on the place of birth cannot be read as prohibiting discrimination based on domicile or residence.

Venkatarama Ayyar, J., delivering the majority judgement, said the following of the contention that the rule contravened article 14:

"It thus proceeds on a classification based on residence within the state, and the only point for decision is whether the ground of classification has a fair and substantial relation to the purpose of the law, or whether it is purely arbitrary and fanciful.

"The object of the classification underlying the impugned rule was clearly to help to some extent students who are residents of Madhya Bharat in the prosecution of their studies, and it cannot be disputed that it is quite a legitimate and laudable objective for a state to encourage education within its borders. Education is a state subject, and one of the directive principles declared in part IV of the Constitution is that the state should make effective provisions for education within the limits of its economy. (*Vide* article 41.) The state has to contribute for the upkeep and the running of its educational institutions. We are in this petition concerned with a medical college, and it is well known that it requires considerable finance to maintain

[1] (1955) 1 S.C.R. 1215.

[2] See *Yearbook on Human Rights for 1949*, p. 103.

[3] Article 14 is quoted on p. 113, note 6, above. Article 15 (1) reads: "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them."

such an institution. If the state has to spend money on it, is it unreasonable that it should so order the educational system that the advantage of it would to some extent at least enure for the benefit of the state? A concession given to the residents of the state in the matter of fees is obviously calculated to serve that end, as presumably some of them might, after passing out of the college, settle down as doctors and serve the needs of the locality. The classification is thus based on a ground which has a reasonable relation to the subject matter of the legislation, and is in consequence not open to attack. It has been held in *The State of Punjab* v. *Ajaib Singh and another*[1] that a classification might validly be made on a geographical basis. Such a classification would be eminently just and reasonable, where it relates te education which is the concern primarily of the state. The contention, therefore, that the rule imposing capitation fee is in contravention of article 14 must be rejected."

(3) RIGHT TO CARRY ON TRADE OR BUSINESS — RESTRICTIONS THEREON — CONSTITUTION OF INDIA, ARTICLE 19

RAI SAHIB RAM JAWAYA KAPUR AND OTHERS *v.* THE STATE OF PUNJAB

Supreme Court of India[2]

12 April 1955

The facts. The petitioners purported to carry on the business of preparing, printing, publishing and selling textbooks for different classes in the schools of Punjab. Their complaint was that the Education Department of the Punjab Government had, since 1950, issued a series of notifications regarding the printing, publication and sale of those textbooks which had not only placed unwarranted restrictions on their right to carry on their business but had virtually ousted them from the business. In the state of Punjab, all recognized schools are required to follow the course of studies approved by the Education Department of the Government, and the use, by the pupils, of the textbooks prescribed or authorized by the department is a condition precedent to the granting of recognition to a school. Prior to 1950 the textbooks for recognized schools were prepared by the publishers with their own money and under their own arrangements and they were then submitted for approval of the Government. The Education Department, after scrutiny, selected a certain number of books on each subject as alternative textbooks, leaving it to the discretion of the head masters of the different schools to select any one of the alternative textbooks on a particular subject out of the approved list. The Government fixed the prices as well as the size and contents of the books, and thereafter it was left to the publishers to print, publish and sell the books to the pupils of different schools according to the choice made by their respective head masters. Authors who were not publishers could also submit books for approval, and after any of their books had been approved they used to get them published by one of the publishers already carrying on this business. In 1950 the Punjab Government issued certain notifications introducing various changes in this method of selecting books which was commonly known as the alternative method. The textbooks on certain subjects, including agriculture, history and social studies, were prepared and published by the Government without inviting them from the publishers. With respect to the other subjects, offers were still invited from "publishers and authors", but in place of the alternative system one textbook on each subject for each class was selected. The Government also started charging, as royalty, 5 per cent on the sale prices of all the approved textbooks. By the introduction of these changes the Government virtually took upon themselves the monopoly of publishing the textbooks on some of the subjects and with regard to the rest they reserved for themselves a certain royalty on the sale proceeds. In 1952 certain further changes which were of a more drastic character were introduced. The Education Department issued a notification on 9 August 1952 omitting the word "publishers" altogether and inviting only the "authors and others" to submit books for the approval of the Government. These "authors and others" whose books were selected had to enter into agreements with the Government that the copyright in these books would vest absolutely in the Government and that the "authors and others" would get a royalty at the rate of only 5 per cent on the sale prices of the textbooks. Thus the Government took the work of publishing, printing and selling textbooks exclusively into their own hands and the private publishers were altogether ousted from this business.

The petitioners applied to the Supreme Court under article 32 of the Constitution of India[3] praying for the issue of writs directing the Punjab Government to withdraw the notifications which had affected their rights. They contended, *inter alia*, that no restrictions could be imposed upon their right to carry on the trade which is guaranteed under article 19 (1) (g) of the Constitution[4] by mere executive orders without proper legislation and that the legislation, if any, must conform to the requirements of clause (6) of article 19 of the Constitution.[5]

[1] (1953) 4 S.C.R. 254.

[2] (1955) 2 S.C.R. 225.

[3] See *Yearbook on Human Rights for 1949*, p. 103.

[4] Article 19 (1) (g) reads:

"All citizens shall have the right:

. . .

"(*g*) To practise any profession, or to carry on any occupation, trade, or business."

[5] Article 19 (6) reads:

"Nothing in sub-clause (*g*) of the said clause [clause 1] shall affect the operation of any existing law in so far as

Held. That the action of the Government did not amount to an infringement of the fundamental right guaranteed by article 19 (1) (g) of the Constitution.

The Court was unable to agree with the contention "that the carrying on of the business of printing and publishing textbooks was beyond the competence of the executive Government without a specific legislation sanctioning such course." On the constitutional issue the court said:

"The petitioners claim fundamental right under article 19 (1) (g) of the Constitution, which guarantees, *inter alia*, to all persons the right to carry on any trade or business. The business which the petitioners have been carrying on is that of printing and publishing books for sale, including textbooks used in the primary and middle classes of the schools in Punjab. Ordinarily it is for the school authorities to prescribe the textbooks that are to be used by the students, and if these textbooks are available in the market the pupils can purchase them from any bookseller they like. There is no fundamental right in the publishers that any of the books printed and published by them should be prescribed as textbooks by the school authorities, or that if they are once accepted as textbooks they cannot be stopped or discontinued in future. With regard to the schools which are recognized by the Government, the position of the publishers is still worse. The recognized schools receive aid of various kinds from the Government, including grants for the maintenance of the institutions, for equipment, furniture, scholarships and other things; and the pupils of the recognized schools are admitted to the school final examinations at lower rates of fees than those demanded from the students of non-recognized schools. Under the school code, one of the main conditions upon which recognition is granted by Government is that the school authorities must use as textbooks only those which are prescribed or authorized by the Government. So far as the recognized schools are concerned, therefore — and we are concerned only with these schools in the present case — the choice of textbooks rests entirely with the Government, and it is for the Government to decide in which way the selection of these textbooks is to be made. The procedure hitherto followed was that the Government used to invite publishers and authors to submit their books for examination and approval by the Education Department; and, after selection was made by the Government, the size and contents, as well as the prices, of the books were fixed, and it was left to the publishers or authors to print and publish them and offer them for sale to the pupils. So long as this system was in vogue, the only right which publishers, like the petitioners, had was to offer their books for inspection and approval by the Government. They had no right to insist on any of their books being accepted as textbooks. So the utmost that could be said is that there was merely a chance or prospect of any or some of their books being approved as textbooks by the Government. Such chances are incidental to all trades and businesses and there is no fundamental right guaranteeing them. A trader might be lucky in securing a particular market for his goods, but if he loses that field because the particular customers for some reason or other do not choose to buy goods from him, it is not open to him to say that it was his fundamental right to have his old customers for ever. On the one hand, therefore, there was nothing but a chance or prospect which the publishers had of having their books approved by the Government; on the other hand, the Government had the undisputed right to adopt any method of selection it liked and if it ultimately decided that after approving the textbooks it would purchase the copyright in them from the authors and others, provided the latter were willing to transfer the same to the Government on certain terms, we fail to see what right of the publishers to carry on their trade or business is affected by it. Nobody is taking away the publishers' right to print and publish any books they like and to offer them for sale, but if they have no right that their books should be approved as textbooks by the Government it is immaterial so far as they are concerned whether the Government approves of textbooks submitted by other persons who are willing to sell their copyright in the books to them, or choose to engage authors for the purpose of preparing the textbooks which they take upon themselves to print and publish. We are unable to appreciate the argument . . . that the Government, while exercising its undoubted right of approval, cannot attach to it a condition which has no bearing on the purpose for which the approval is made. We fail to see how the petitioners' position is in any way improved thereby. The action of the Government may be good or bad. It may be criticized and condemned in the houses of the legislature or outside, but this does not amount to an infraction of the fundamental right guaranteed by article 19 (1) (g) of the Constitution.

As in our view the petitioners in the present case have no fundamental right which can be said to have been infringed by the action of the Government, the petition is bound to fail on that ground. . . . As the petitioners have no fundamental right under

---

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 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) 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."

article 19 (1) (g) of the Constitution, the question whether the Government could establish a monopoly without any legislation under article 19 (6) of the Constitution is altogether immaterial. Again, a mere chance or prospect of having particular customers cannot be said to be a right to property or to any interest in an undertaking within the meaning of article 31 (2) of the Constitution, and no question of payment of compensation can arise because the petitioners have been deprived of the same."

THE CITIZENSHIP ACT, 1955

No. 57 of 1955, of 30 December 1955

2. (1) In this Act, unless the context otherwise requires,

(*a*) "A Government in India" means the Central Government or a state government;

(*b*) "Citizen", in relation to a country specified in the first schedule, means a person who, under the citizenship or nationality law for the time being in force in that country, is a citizen or national of that country;

(*c*) "Citizenship or nationality law", in relation to a country specified in the first schedule, means an enactment of the legislature of that country which, at the request of the government of that country, the central government may, by notification in the *Official Gazette*, have declared to be an enactment making provision for the citizenship or nationality of that country:

Provided that no such notification shall be issued in relation to the Union of South Africa except with the previous approval of both houses of Parliament;

. . .

(*e*) "Minor" means a person who has not attained the age of eighteen years;

. . .

(*b*) "Undivided India" means India as defined in the Government of India Act, 1935, as originally enacted.

. . .

Acquisition of Citizenship

3. (1) Except as provided in sub-section (2) of this section, every person born in India on or after the 26th January 1950, shall be a citizen of India by birth.

(2) 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 suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and is not a citizen of India; or

(*b*) His father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

4. (1) A person born outside India on or after the 26th January 1950, shall be a citizen of India by descent if his father is a citizen of India at the time of his birth:

Provided that if the father of such a person was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless

(*a*) His birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(*b*) His father is, at the time of his birth, in service under a government in India.

(2) If the Central Government so directs, a birth shall be deemed for the purposes of this section to have been registered with its permission, notwithstanding that its permission was not obtained before the registration.

(3) For the purposes of the proviso to sub-section (1), any male person born outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution shall be deemed to be a citizen of India by descent only.

5. (1) Subject to the provisions of this section and such conditions and restrictions as may be prescribed, the prescribed authority may, on application made in this behalf, register as a citizen of India any person who is not already such citizen by virtue of the Constitution or by virtue of any of the other provisions of this Act and belongs to any of the following categories:

(*a*) Persons of Indian origin who are ordinarily resident in India and have been so resident for six months immediately before making an application for registration;

(*b*) Persons of Indian origin who are ordinarily resident in any country or place outside undivided India;

(*c*) Women who are, or have been, married to citizens of India;

(*d*) Minor children of persons who are citizens of India; and

(*e*) Persons of full age and capacity who are citizens of a country specified in the first schedule: [1]

[1] That is to say, the United Kingdom of Great Britain and Northern Ireland, "and all Colonies"; Canada; the Commonwealth of Australia, including "the territories of Papua and the territory of Norfolk Island"; New Zealand; the Union of South Africa; Pakistan; Ceylon; the Federation of Rhodesia and Nyasaland; and the Republic of Ireland.

Provided that in prescribing the conditions and restrictions subject to which persons of any such country may be registered as citizens of India under this clause, the Central Government shall have due regard to the conditions subject to which citizens of India may, by law or practice of that country, become citizens of that country by registration.

Explanation. For the purposes of this sub-section, a person shall be deemed to be of Indian origin if he, or either of his parents, or any of his grandparents, was born in undivided India.

(2) No person being of full age shall be registered as a citizen of India under sub-section (1) until he has taken the oath of allegiance in the form specified in the second schedule.

(3) No person who has renounced, or has been deprived of, his Indian citizenship, or whose Indian citizenship has terminated, under this Act shall be registered as a citizen of India under sub-section (1) except by order of the Central Government.

(4) The Central Government may, if satisfied that there are special circumstances justifying such registration, cause any minor to be registered as a citizen of India.

. . .

6. (1) Where an application is made in the prescribed manner by any person of full age and capacity who is not a citizen of a country specified in the first schedule for the grant of a certificate of naturalization to him, the Central Government may, if satisfied that the applicant is qualified for naturalization under the provisions of the third schedule, grant to him a certificate of naturalization:

Provided that, if in the opinion of the Central Government, the applicant is a person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in the third schedule.

(2) The person to whom a certificate of naturalization is granted under sub-section (1) shall, on taking the oath of allegiance in the form specified in the second schedule, be a citizen of India by naturalization as from the date on which that certificate is granted.

7. If any territory becomes a part of India, the Central Government may, by order notified in the *Official Gazette*, specify the persons who shall be citizens of India by reason of their connexion with that territory; and those persons shall be citizens of India as from the date to be specified in the order.

Termination of Citizenship

8. (1) If any citizen of India of full age and capacity, who is also a citizen or national of a nother country, makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority; and, upon such registration, that person shall cease to be a citizen of India:

Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(2) Where a male person ceases to be a citizen of India under sub-section (1), every minor child of that person shall thereupon cease to be a citizen of India:

Provided that any such child may, within one year after attaining full age, make a declaration that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India.

(3) For the purposes of this section, any woman who is, or has been, married shall be deemed to be of full age.

9. (1) Any citizen of India who by naturalization, registration or otherwise voluntarily acquires, or has at any time between the 26th January 1950 and the commencement of this Act voluntarily acquired, the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India:

Provided that nothing in this sub-section shall apply to a citizen of India who, during any war in which India may be engaged, voluntarily acquires the citizenship of another country, until the Central Government otherwise directs.

. . .

10. (1) A citizen of India who is such by naturalization or by virtue only of clause (*c*) of article 5 of the Constitution [1] or by registration otherwise than under clause (*b*) (ii) of article 6 of the Constitution [1] or clause (*a*) of sub-section (1) of section 5 of this Act shall cease to be a citizen of India, if he is deprived of that citizenship by an order of the Central Government under this section.

(2) Subject to the provisions of this section, the Central Government may, by order, deprive any such citizen of Indian citizenship, if it is satisfied that –

(*a*) The registration or certificate of naturalization was obtained by means of fraud, false representation or the concealment of any material fact; or

(*b*) That citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India as by law established; or

(*c*) That citizen has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(*d*) That citizen has, within five years after registration or naturalization, been sentenced in

[1] See *Yearbook on Human Rights for 1949*, p. 99.

any country to imprisonment for a term of not less than two years; or

(*e*) That citizen has been ordinarily resident out of India for a continuous period of seven years and, during that period, has neither been at any time a student of any educational institution in a country outside India or in the service of a government in India or of an international organization of which India is a member, nor registered annually in the prescribed manner at an Indian consulate his intention to retain his citizenship of India.

(3) The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that that person should continue to be a citizen of India.

[Sub-sections (4)-(6) of section 10 relate to procedure in cases of deprivation of citizenship, including safeguards for the person involved.]

. . . .

THE THIRD SCHEDULE

(See section 6 (1))

Qualifications for Naturalization

The qualifications for naturalization of a person who is not a citizen of a country specified in the first schedule are:

(*a*) That he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalization;

(*b*) That, if he is a citizen of any country, he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government;

(*c*) That he has either resided in India or been in the service of a government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application;

(*d*) That during the seven years immediately preceding the said period of twelve months, he has either resided in India or been in the service of a government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than four years;

(*e*) That he is of good character;

(*f*) That he has an adequate knowledge of a language specified in the eighth schedule to the Constitution; and

(*g*) That in the event of a certificate of naturalization being granted to him, he intends to reside in India, or to enter into, or continue in, service under a government in India or under an international organization of which India is a member or under a society, company or body of persons established in India:

Provided that the Central Government may, if in the special circumstances of any particular case it thinks fit,

(i) Allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of clause (*c*) above, as if it had immediately preceded that date;

(ii) Allow periods of residence or service earlier than eight years before the date of the application to be reckoned in computing the aggregate mentioned in clause (*d*) above.

THE UNTOUCHABILITY (OFFENCES) ACT, 1955

No. 22 of 1955, of 8 May 1955 [1]

2. In this Act, unless the context otherwise requires –

(*a*) "Hotel" includes a refreshment room, a boarding-house, a lodging-house, a coffee house and a cafe;

(*b*) "Place" includes a house, a building, a tent, and a vessel;

(*c*) "Place of public entertainment" includes any place to which the public are admitted and in which an entertainment is provided or held.

Explanation. "Entertainment" includes any exhibition, performance, game, sport and any other form of amusement;

(*d*) "Place of public worship" means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by, persons professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein; and includes all lands and subsidiary shrines appurtenant or attached to any such place;

(*e*) "Shop" means any premises where goods are sold either wholesale or by retail or both wholesale and by retail and includes a laundry, a hair cutting saloon and any other place where services are rendered to customers.

3. Whoever on the ground of "untouchability" prevents any person

[1] The Act, which according to its section 1 extended to the whole of India, came into force on 1 June 1955.

(*a*) From entering any place of public worship which is open to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(*b*) From worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring or watercourse, in the same manner and to the same extent as is permissible to other persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation. For the purposes of this section and section 4, persons professing the Buddhist, Sikh or Jaina religion or persons professing the Hindu religion in any of its forms or developments including Virashaivas, Lingayats, Adivasis, followers of Brahmo, Prarthana, Arya Samaj and the Swaminarayan Sampraday shall be deemed to be Hindus.

4. Whoever on the ground of "untouchability" enforces against any person any disability with regard to –

(i) Access to any shop, public restaurant, hotel or place of public entertainment; or

(ii) The use of any utensils, and other articles kept in any public restaurant, hotel, *dharmshala*, *sarai* or *musafirkhana* for the use of the general public or of persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person; or

(iii) The practice of any profession or the carrying on of any occupation, trade or business; or

(iv) The use of, or access to, any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person, have a right to use or have access to; or

(v) The use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of state funds or dedicated to the use of the general public, or persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person; or

(vi) The enjoyment of any benefit under a charitable trust created for the benefit of the general public or of persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(vii) The use of, or access to, any public conveyance; or

(viii) The construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or

(ix) The use of any *dharmshala*, *sarai* or *musafirkhana* which is open to the general public, or to persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(x) The observance of any social or religious custom, usage or ceremony or taking part in any religious procession; or

(xi) The use of jewellery and finery;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

5. Whoever on the ground of "untouchability" –

(*a*) Refuses admission to any person to any hospital, dispensary, educational institution or any hostel attached thereto, if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or

(*b*) Does any act which discriminates against any such person after admission to any of the aforesaid institutions;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

6. Whoever on the ground of "untouchability" refuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

7. (1) Whoever –

(*a*) Prevents any person from exercising any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution;[1] or

(*b*) Molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or

(*c*) By words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practise "untouchability" in any form whatsoever; shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

---

[1] See *Yearbook on Human Rights for 1949*, p. 101.

Explanation. A person shall be deemed to boycott another person who

(*a*) Refuses to let to such other person or refuses to permit such other person to use or occupy any house or land or refuse to deal with, work for, hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms on which such things would be commonly done in the ordinary course of business; or

(*b*) Abstains from such social, professional or business relations as he would ordinarily maintain with such other person

(2) Whoever

(i) Denies to any person belonging to his community or any section thereof any right or privilege to which such person would be entitled as a member of such community or section, or

(ii) Takes any part in the excommunication of such person, on the ground that such person has refused to practise "untouchability" or that such person has done any act in furtherance of the objects of this Act, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

[Section 8 permits the cancellation or suspension of licences of persons convicted under section 6. Section 9 permits the suspension or resumption of the whole or part of any grant of land or money made by the Government to any place of public worship of which the manager or trustee is convicted of an offence under the Act.]

. . .

12. Where any act constituting an offence under this Act is committed in relation to a member of a scheduled caste as defined in clause (24) of article 366 of the Constitution, the court shall presume, unless the contrary is proved, that such act was committed on the ground of "untouchability".

13. . . .

(2) No court shall, in adjudicating any matter or executing any decree or order, recognize any custom or usage imposing any disability on any person on the ground of "untouchability".

[Section 14 deals with responsibility for offences committed by companies.]

15. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 –

(*a*) Every offence under this Act shall be cognizable; and

(*b*) Every such offence may, with the permission of the court, be compounded.

16. Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any court or other authority.

. . .

INDONESIA

ACT No. 12 OF 1954, EXTENDING TO THE WHOLE OF INDONESIA THE APPLICATION OF ACT No. 4 OF 1950, PROCLAIMING THE FUNDAMENTAL PRINCIPLES GOVERNING EDUCATION AND INSTRUCTION IN SCHOOLS

of 18 March 1954 [1]

The President of the Republic of Indonesia,

. . .

Art. 1. Resolves, with the approval of Parliament, to repeal all provisions which conflict with the said Act [Act No. 4 of 1950] and to approve the Act to extend the application of Act No. 4 of 1950 to the whole of Indonesia.

Art. 2. This Act shall enter into force on the day of its promulgation.[2]

[1] Indonesian text of Act No. 12 of 1954 and Act No. 4 of 1950 in *Collection of State Laws of the Republic of Indonesia*, No. 38 of 1954. Translation by the United Nations Secretariat.

[2] The Act was promulgated on 18 March 1954.

ACT No. 4 OF 1950, PROCLAIMING THE FUNDAMENTAL PRINCIPLES GOVERNING EDUCATION AND INSTRUCTION IN SCHOOLS

CHAPTER I

GENERAL PROVISIONS

Art. 1. 1. This Act applies to education and instruction in schools.

2. The expression "education and instruction in schools" means the collective education and instruction of ten or more pupils.

Art. 2. 1. This Act does not apply to education and instruction in religious schools, or to mass education.

2. Education and instruction in religious schools and mass education shall be governed by other legislative provisions.

CHAPTER II

PURPOSES OF EDUCATION AND INSTRUCTION

Art. 3. The purpose of education and instruction is to form decent, capable and democratic citizens with a sense of responsibility for the welfare of society and of devotion to their fatherland.

CHAPTER III

FUNDAMENTAL PRINCIPLES GOVERNING EDUCATION AND INSTRUCTION

Art. 4. Education and instruction shall be based on the principles enunciated in the "Five Principles" (the *Pantja Sila*) and in the Constitution of the Republic of Indonesia, and on Indonesia's national culture.

CHAPTER IV

LANGUAGE

Art. 5. 1. Indonesian, as the common language, shall be the medium of instruction at schools throughout the Republic of Indonesia.

2. The local language may be used as the medium of instruction at kindergartens and in the first three classes of primary schools.

CHAPTER V

TYPES OF EDUCATION AND INSTRUCTION, AND THEIR PURPOSES

Art. 6. 1. The various types of education and instruction are as follows:

(*a*) Kindergarten education and instruction;

(*b*) Primary education and instruction;

(*c*) Secondary education and instruction;

(*d*) Higher education and instruction.

2. Special education and instruction shall be provided in accordance with the purpose for which they are required.

Art. 7. 1. The object of education and instruction in kindergartens is to promote the mental and physical development of the children before they enter primary school.

2. The objects of education and instruction in primary schools are to promote the mental and

physical development of the children, to give them an opportunity to develop their individual talents and capacity for enjoyment, and to endow them with basic knowledge and with mental and physical skill and fitness.

3. The objects of education and instruction in secondary schools (public and technical) are to continue and broaden the education and instruction given in primary schools in a way which will develop the pupils' initiative and leadership as members of society and enhance their skills in all special fields in accordance with their individual aptitudes, the needs of society and (where applicable) their preparation for higher education and instruction.

4. The object of higher education and instruction is to provide opportunities for students to become individuals capable of giving leadership to the community and promoting progress in science and social life.

5. The object of special education and instruction is to give education and instruction to defective persons and to correct their physical and mental defects so that they can lead an adequate outward and inward life.

Art. 8. The regulations governing each type of education and instruction shall be contained in separate legislative provisions.

CHAPTER VI

PHYSICAL TRAINING

Art. 9. Physical training designed to promote balanced physical and mental development and having the object of producing a healthy and strong Indonesian nation shall be given in all types of school.

CHAPTER VII

COMPULSORY EDUCATION

Art. 10. 1. All children who have completed their sixth year may attend school, and all children who have completed their eighth year must attend school for a period of at least six years.

2. Education in religious schools approved by the Minister of Religious Affairs shall be deemed to satisfy the provisions relating to compulsory education.

3. The regulations relating to compulsory education shall be contained in separate legislative provisions.

[Articles 11–12 deal with administrative matters.]

CHAPTER IX

PRIVATE SCHOOLS

Art. 13. 1. By virtue of the fundamental freedom of all citizens to profess a particular religious creed or philosophic belief, opportunities shall be provided without restriction for education in private schools and for the maintenance of such schools.

2. The regulations governing private schools shall be contained in separate legislative provisions.

Art. 14. 1. Private schools which fulfil the conditions laid down are eligible for government grants towards their expenses.

2. The conditions referred to in paragraph 1 and the rules governing the said grants shall be laid down in regulations to be promulgated by the Government.

CHAPTER X

TEACHERS

[Article 15 deals with teachers' qualifications.]

Art. 16. Teachers in schools must respect all religious creeds and philosophic beliefs.

CHAPTER XI

PUPILS

Art. 17. Every citizen of the Republic of Indonesia has an equal right to become a pupil in a particular school if he fulfils the conditions laid down for education and instruction in that school.

Art. 18. The regulations setting forth the conditions governing the admission, rejection and expulsion of pupils shall be promulgated by the Minister of Education, Instruction and Culture.

Art. 19. 1. Pupils of proved ability who are unable to pay school fees may qualify for government assistance under provisions to be promulgated by the Minister of Education, Instruction and Culture.

2. In the case of certain types of school, regulations may be promulgated authorizing the grant of assistance to pupils on the condition that they undertake to enter government service for a specified period on completing their studies.

CHAPTER XII

RELIGIOUS INSTRUCTION IN STATE SCHOOLS

Art. 20. 1. Religious instruction shall be given in state schools, the parents having the right to decide what religious instruction their child shall receive.

2. The procedure for providing religious instruction in state schools shall be set forth in regulations to be promulgated by the Minister of Education, Instruction and Culture in conjunction with the Minister of Religious Affairs.

CHAPTER XIII

CO-EDUCATION AND SEPARATE EDUCATION

Art. 21. 1. State schools shall admit both male and female pupils, an exception being made in the

case of technical training (specialized) schools reserved for one sex.

2. In any case in which the circumstances so require, male and female pupils shall receive their education in separate establishments.

[Articles 22–25 deal with financing of education, article 26 with school attendance days and holidays and articles 27–28 with inspection.]

CHAPTER XVII

FINAL PROVISIONS

[Article 29 repeals any existing regulations concerning education and instruction which conflict with the Act. Article 30 relates to entry into force.]

IRAN

PUBLIC SECURITY ACT

of 31 August 1955 [1]

Art. 1. For the preservation of order and public security a commission, to be known as the Public Security Commission, shall be formed in respect of each *farmandari* (provincial subdivision) consisting of the following members: the *Farmandar* (head of provincial subdivision) (chairman), the judge of the circuit court (or in the absence of such a court, the representative of the State Counsel), the police chief and the chief of gendarmerie.

Art. 2. The duties of the said Commission are:

(*a*) To investigate cases in which persons in towns and villages, by incitement to dissension among the people, cause unrest and disorder;

(*b*) To investigate cases in which persons incite farmers to refuse to deliver to the land-owner his share in the produce, or incite them not to cultivate the land, or to deny the land-owner access to his land, or to prevent the land-owner from exercising the rights of ownership on his land, or to commit acts directed against government employees.

Art. 3. In any case arising under article 2 the Public Security Commission shall conduct an investigation immediately, and the accused person shall be ordered to be exiled in a place to be specified by the Commission, such place not having a bad climate, for not less than two months nor more than six months.

Art. 4. The accused person shall be notified immediately of the decision of the Commission and he shall have the right to appeal against the decision, within ten days after being notified as aforesaid, to the appellate court of the district in which the action has taken place.

The appellate court shall consider the complaint of the accused person, who shall not be present, in a special session to be convened immediately, and give its ruling. If the presence of the accused person should be necessary for the purpose of obtaining additional information, he shall be summoned.

The procedure of the hearing, except the summoning of the accused person, shall be governed by the general provisions. The ruling of the appellate court is final.

Art. 5. A person convicted by a final ruling may, after expiration of the term of correction, apply for a pardon. If such an application is made the documents in the case shall be referred to the appellate court competent to deal with applications for a pardon. The ruling of the appellate court is final.

Art. 6. The Ministries of Justice and of the Interior shall be responsible for carrying these provisions into effect.

[1] Persian text kindly furnished by Dr. A. Matine-Daftary, President of the Iranian Association for the United Nations, Professor in the Faculty of Law of the University of Teheran, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat. The Act was adopted on 31 August 1955 by a joint committee of the two houses of the Iranian legislature and thereby came provisionally into force pending ratification or rejection by the legislature.

ACT No. 443–9512 ON THE PRESS

of 15 August 1955 [1]

CHAPTER I

DEFINITION OF THE FUNCTIONS OF NEWSPAPERS AND MAGAZINES, AND PROVISIONS GOVERNING THEIR ETABLISHMENT

Art. 1. Newspapers and periodicals are publications which appear regularly and the object of which is to inform public opinion on social, political, technical (artistic), scientific and literary matters, to increase the standard of knowledge of the people, to provide the people with news and information and to make just and fair comment on public affairs.

[1] Published in *Official Gazette* No. 3073, of 29 August 1955, kindly furnished by Dr. A. Matine-Daftary, President of the Iranian Association for the United Nations, Professor in the Faculty of Law of the University of Teheran, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat. The Act was adopted on 15 August 1955 by a joint committee of the two houses of the Iranian legislature and thereby came provisionally into force pending ratification or rejection by the legislature.

Appendix. Only regularly published newspapers and periodicals have the right to publish extra editions.

Art. 2. Persons wishing to establish a newspaper or periodical must obtain a permit from the Ministry of the Interior.

Art. 3. An applicant for a permit must possess the following qualifications:

(*a*) He must be an Iranian citizen;

(*b*) He must not be under the age of thirty years;

(*c*) He must not have a criminal record or suffer from any legal disability or other incapacities;

(*d*) He must have at least the degree of licenciate or be one of the learned people or a scientist whose academic qualifications are certified by the Council of Higher Education;

(*e*) He must be of good repute, possess the moral qualities fitting him for newspaper work and be recognized as a just and trustworthy person;

(*f*) He must be in a financial position enabling him to publish a newspaper or periodical for not less than three months; evidence of his financial position must be produced to the satisfaction of the board mentioned in article 5 of this Act.

Appendix 1. In Teheran the board mentioned in article 5 of this Act, which carries out the function described in paragraph (*e*), shall request the Ministry of the Interior for particulars and, after investigation, state its opinion. In other towns, the Governor or *Farmandar* [head of a provincial sub-division] shall form a commission to investigate information received and to state its opinion.

The commission's members shall be:

The Governor or *Farmandar*, the State Counsel or his representative, the chief of the local Board of Education and two members of the town council, or, in the absence of a town council, two trustworthy men of the town.

Appendix 2. If a person who has established a newspaper or periodical ceases to fulfil any of the conditions laid down in paragraphs (*a*) or (*c*), the Ministry of the Interior shall revoke his permit; if he ceases to fulfil any of the conditions laid down in other provisions of this Act, the matter shall, in Teheran, be referred for investigation to the Board mentioned in article 5, and elsewhere to the commission mentioned in appendix 1. If the board decides to revoke the permit, the person affected may appeal to the appellate court. The ruling of the appellate court is final.

Appendix 3. Permits granted to newspapers and periodicals before the date of this Act shall remain in force, provided that the Board mentioned in article 5 of this Act is satisfied concerning the integrity of the person who established the newspaper or periodical in question and that the latter has been published regularly for not less than one year within the last four years. The decision of the board is final.

Appendix 4. The manager or editor of a newspaper or periodical must fulfil at least the conditions laid down in paragraphs (*a*), (*b*), (*c*), (*d*) and (*e*); in the event of non-fulfilment of a condition laid down in paragraph (*a*), (*c*) or (*e*) of this article, the provisions of appendix 2 of this article shall apply.

Government employees, offices established by government funds and employees of municipal authorities may receive permits only in respect of scientific, literary, technical and artistic periodicals.

Art. 4. In addition to the required documents, each applicant shall submit a written declaration to the Ministry of the Interior at Teheran or, in other provinces, to the *Farmandar*. This declaration must contain the following particulars:

1. The full name and home address of the person establishing the newspaper or periodical and the full name and home address of the manager or editor, if the latter is not identical with the said person;
2. The address of the offices of the newspaper or periodical;
3. The name and address of the printing establishment in which the publication is printed;
4. The name of the newspaper or periodical and the frequency of publication, whether daily, weekly or otherwise;
5. The circulation of the publication;
6. The principal objects of the publication.

Appendix 1. The publisher must obtain the consent of the Ministry of the Interior to any subsequent change in the particulars reported under paragraphs 1, 4 and 6.

Appendix 2. The place of business of the newspaper or periodical shall constitute the address of the owner and any notice served at the said address shall be deemed to be proper notice.

Art. 5. Applications for the establishment of newspapers or periodicals shall be examined by the Press Board. The membership of the said Board shall be constituted of the following persons:

1. A senior representative of the Ministry of the Interior;
2. A senior representative of the Ministry of Education;
3. The Chief State Counsel;
4. A university professor chosen by the president of the university for two years;
5. A newspaper editor who has published a newspaper regularly for at least five years, to be chosen by the Ministry of the Interior. After the establishment of a newspaper association recognized by the Government, the said association shall designate a newspaper representative.

Appendix 1. Applications for the establishment of newspapers or periodicals shall be examined by the said board. The board may grant or reject an application pursuant to article 3 and in the light of an investigation, conducted in whatever manner the board considers desirable, regarding the moral integrity of the applicant.

If the application is granted, the Ministry of the Interior shall grant a permit authorizing the publication of the newspaper or periodical in question. The board is required to announce its decision, whether favourable or not, within three months. If the application is rejected, the

applicant may complain to the appellate court in Teheran, whose decision shall be final.

Appendix 2. The permit of the applicant shall in the first place be valid for six months. A permit shall be revoked if the newspaper or periodical to which it relates ceases publication within one year.

Appendix 3. The Ministry of the Interior shall establish a register of newspapers and periodicals for which permits as aforesaid have been granted. The register shall also contain other relevant particulars.

Appendix 4. No permit shall be granted if the proposed name is already in use by some other publication or is of an obscene character. Additional information together with the necessary documents may be requested in connexion with an application. If it is proposed to use a name which is that of a newspaper published formerly, then the applicant shall not request authority to use the said name without first obtaining the consent of the owner of that newspaper.

Appendix 5. Not more than one permit may be issued to a person establishing a newspaper or periodical, but publishers of daily newspapers may publish weekly or monthly periodicals or annuals under the same name. Weekly periodicals may also publish monthly periodicals or annuals.

Art. 6. Every issue of a newspaper or a magazine must show the full name of the owner; if the owner is not also the editor or manager, the name of the latter must also appear, together with the name and address of the printing establishment.

Appendix. The manager of a newspaper or periodical is required to send one copy of each publication, whether a newspaper or a periodical, to each of the following: the State Counsel in the city; the *Farmandar*; in Teheran, to the Department of Publications of the Ministry of the Interior; the local Board of Education (in the capital, Office of Publications of the Ministry of Education); the National Library of Teheran; and the libraries of both houses of the legislature.

Art. 7. No person may transfer a permit relating to a newspaper or periodical to any other unless such other person is qualified and the board mentioned in article 5 approves the transfer.

Art. 8. On the death of the owner of a newspaper or periodical, the permit shall pass to a qualified heir, subject to the written approval of the other heirs or beneficiaries. If these circumstances do not apply, the name of the newspaper or periodical shall be reserved until such time as a qualified heir requests the permit. The heirs may avail themselves of the provisions of article 7.

CHAPTER II

RIGHT OF REPLY AND PROFESSIONAL REGULATION OF THE PRESS

Art. 9. Any government or public institution, or any individual, whether a government employee or not, that is falsely accused or unjustly criticized in a newspaper or periodical shall have the right to send a written reply to the newspaper or periodical in question. The reply or explanation must be reproduced without delay on the same page and in the same size of type as the original accusation or allegation; it shall deal strictly with that accusation or allegation and shall not be more than twice the length of the latter. If a newspaper or magazine has committed itself to further discussion of the reply, the complainant shall have the right to answer additional statements or explanation in the manner described above.

Art. 10. The Ministry of the Interior, the Ministry of Education and the Ministry of Justice shall arrange for the preparation of draft regulations concerning printing establishments, advertisements, the distribution and sale of newspapers and periodicals and the rights and privileges of newspaper correspondents and reporters and press photographers. These regulations shall be submitted to the Council of Ministers.

In drafting these regulations the question of the distribution and sale of newspapers and periodicals published abroad in a foreign language or in Persian shall be taken into account.

CHAPTER III

PRESS OFFENCES

Art. 11. A person who by the publication of articles or the fabrication of news commits the following offences: (*a*) open incitement to sabotage, arson, murder or looting, (*b*) open incitement of military personnel to disaffection and insubordination, shall be sentenced to imprisonment for a term of not less than six months nor more than two years.

If the incitement or provocation leads to actual disaffection the offender shall be prosecuted as provided in the Penal Code as an accessory to the crime of disaffection.

Art. 12. A person who publishes confidential military orders or military news or plans of military forts or fortifications shall be sentenced, in time of war, to solitary confinement for a term of not less than two nor more than five years, and in peacetime for a term of not less than six months nor more than two years.

Art. 13. A person who publishes articles harmful to the Islamic religion shall be sentenced to imprisonment for a term of not less than one year nor more than three years.

Art. 14. A person who openly urges and incites the people in newspapers, magazines or books to commit offences against the internal or external security of the country, as defined in the Penal Code, shall, if such offences are actually committed, be sentenced as an accessory to the offence as provided in the Penal Code; if an offence is not actually committed the person inciting others thereto shall be sentenced to imprisonment for a term of not less

than one nor more than three months and to the payment of a fine of not less than 2,000 nor more than 20,000 rials.

Art. 15. Any person who encourages or supports in the press any of the offences enumerated in the foregoing articles, or who commits such offence, shall be liable to a fine of not less than 5,000 nor more than 50,000 rials.

Art. 16. Any person who in a newspaper or periodical makes statements derogatory to the Crown or to the person of the Shah or Queen or Crown Prince shall be sentenced to imprisonment for not less than one year nor more than three years.

Appendix 1. The penalty for making statements derogatory to members of the Royal Family (father, mother, children, brother and sister of the Shah) shall be imprisonment for not less than three months and not more than one year.

Art. 17. If a newspaper, periodical or other publication publishes an article or material, whether in the form of an original contribution or as a report, which is derogatory to or defamatory of the head of a religion or religious leaders, then both the newspaper editor and the writer shall be held responsible and each shall be sentenced to imprisonment for a term of not less than one year and not more than five years. In any such case, proceedings may be instituted even in the absence of a complaint lodged by the person defamed.

Art. 18. Any person who publishes in the press insults to the Head of a friendly foreign government or the diplomatic envoy of such government shall be sentenced as prescribed in article 81, paragraph 2, of the Penal Code, provided that reciprocity is observed in similar cases in the country concerned.

Art. 19. Any person who commits any of the following offences:

(*a*) Publication of articles offensive to public decency;

(*b*) Publication of offensive photographs;

(*c*) Publication of advertisements or photographs harmful to moral decency, national customs or traditions;

(*d*) Publication of the secret proceedings of courts not released for publication

shall be liable to a fine and costs amounting to not less than 1,000 nor more than 10,000 rials.

Art. 20. Any person, whether a government employee or not, who is the subject of derogatory or defamatory statements or accusations made in the press concerning his private life or his honour and good repute may institute proceedings against the writer or publisher concerned. The person responsible shall be sentenced to imprisonment for a term of not less than two nor more than six months and shall be liable for damages of not less than 1,000 nor more than 50,000 rials.

If the complainant withdraws his complaint the case shall be dismissed.

Appendix 1. In all the above-mentioned cases, the plaintiff may bring an action for the recovery of damages in respect of the moral and material injury sustained as a result of the publication of the material in question. The court shall hear the case, assess the amount of damages and give its decision accordingly.

Appendix 2. If offensive material is published concerning a deceased person, with the object of vilifying his relatives, each of the heirs may, in accordance with this article and the appendices thereto, institute proceedings for the recovery of damages.

Art. 21. Any person who defames the honour and good repute of an individual or threatens him with the disclosure of confidential matter with the object of material gain or of compelling him to perform, or to refrain from performing, some specific act, shall be sentenced to imprisonment for a term of not less than three months nor more than one year and shall become liable for the payment of costs of not less than 1,000 nor more than 50,000 rials.

Art. 22. If slanderous statements or accusations are published in the press regarding the Council of Ministers or the deputies of either house of the legislature or the Council of Judges, then proceedings shall be instituted against the person responsible for the publication even in the absence of a complaint. If slanderous statements or accusations are published regarding any Minister, Deputy Minister, or a deputy of either house, or one of the judges or a public servant employed in a judicial, administrative or military capacity, or a member of the Board of Accounts, or any individual, then proceedings shall not be instituted unless a complaint is lodged by the person to whom the statement or accusation relates. If the person responsible for the publication cannot produce sufficient evidence to substantiate his allegation against the Minister, Deputy Minister, or judges, proceedings shall be instituted against him under article 163 of the Penal Code. In the case of allegations against other persons, the provisions of article 269 concerning defamation shall apply.

Art. 23. Any person who attacks in the press religious or racial minorities domiciled in Iran with the object of creating ill-feeling and enmity among the citizens of the country or of causing racial and religious discord and discrimination shall be sentenced to imprisonment for a term of not less than one month nor more than six months and shall be liable for the payment of damages of not less than 500 nor more than 5,000 rials.

Art. 24. Any person who, in the publication of a newspaper or periodical, imitates the name and appearance of another newspaper or periodical in a manner which may be construed as misuse or plagiarism shall be liable, if a complaint is lodged by a private individual, to a fine of not less than 500 nor more than 5,000 rials and shall be required to cease the publication of such newspaper or periodical. The complainant shall receive such compensation as is appropriate and the court shall make an order accordingly.

Appendix 1. A newspaper the publication of which has been suspended by virtue of the provisions of this Act may not be published under some other name with the same style and methods; any such publication shall constitute a contravention under this Act. Any person who publishes a suspended newspaper or periodical in the manner aforesaid shall be sentenced to imprisonment for a term of not less than one month nor more than three months, and shall be liable to a fine not less than 1,000 nor more than 10,000 rials; in addition, his permit shall be revoked.

Art. 25. All the offences referred to in this Act shall be dealt with pursuant to article 20 of the Supplementary Fundamental Laws.[1]

CHAPTER IV

PENALTIES

Art. 26. If the owner of a newspaper or periodical publishes the same in contravention of the provisions of articles 2, 6, 7, 8, 9 or of article 4, appendix 1, or of article 5, appendix 3, of this Act, he shall be liable to a fine of not less than 10,000 nor more than 50,000 rials. If he is unable to pay the fine imposed by the judge's decision he shall be sentenced to imprisonment for a term of not less than fifteen days nor more than two months.

Appendix 1. In such cases, the competent *Farmandar* shall direct that the newspaper or periodical be suspended and bring the case to the notice of the State Counsel of the place, with a view to the institution of proceedings.

Art. 27. A person who contravenes the provisions of article 6 of this Act shall be liable to a fine of not less than 1,000 and not more than 3,000 rials. If the name of the printing establishment or the name of the persons referred to in article 6 is misused, the person responsible shall be sentenced to imprisonment for a term of not less than two nor more than six months.

Appendix. A newspaper owner whose permit is revoked by reason of any of the grounds described in this Act shall not have the right to represent himself as being a newspaper writer in any place. A person who contravenes this provision shall be sentenced to imprisonment for a term of not less than two nor more than six months.

Art. 28. Publications which do not come within the terms of the definition given in article 1 of this Act shall not be deemed to be newspapers or periodicals within the meaning thereof and shall not be governed by the general law.

Art. 29. Press offences shall be tried in special session by a police court.

CHAPTER V

PROSECUTION OF PRESS OFFENCES — JURY

Art. 30. A press offence is the offence of publishing derogatory statements or malicious accusations in a newspaper, periodical or other publication concerning an office or official employment and regarding the policy of the office, whether of a social or political nature.

Criticism in the public interest of a person or persons responsible for carrying out government works, or of any of the persons referred to in article 22, shall not constitute a press offence. An allegation which is defamatory of an individual or his family, or a reflection on the honour or chastity of an individual, or an insult, shall not constitute a press offence but shall give rise to proceedings under the Penal Code and under this Act.

Art. 31. Press offences and political offences which are not press offences shall be tried, as provided in section 79 of the Supplementary Fundamental Laws, by a criminal court in the presence of a jury, and other offences which are not press offences shall be tried in a police court.

Art. 32. The district court of any *Farmandar* shall examine press offences and shall transmit its findings to the criminal court.

Art. 33. The selection of jury and arrangements for participation in proceedings shall conform to the following provisions:

(*a*) Once every two years in *Bahman mah* (approximately January) in Teheran and in places which have an appellate court, the *Farmandar* shall be invited to form a committee composed of: the *Farmandar*, the president of the district court, the chief of the town council (or, in the absence of a town council, the chief of the municipality) and a representative of the Board of Education.

This committee shall prepare a list of seventy-five persons from among the following three groups:

1. The *Ulema*, the religious authorities and learned men, writers, teachers of high schools and elementary schools, lawyers and notaries public;
2. Business men, landlords and farmers;
3. Labourers and small business men, artisans (in Teheran).

The committee shall choose twenty-five persons from each group. These persons shall have the qualifications which would make them eligible for membership to parliament and shall be of good repute. They must reside in the place in which they are chosen.

After completion of the lists, twelve persons are drawn by lot from each group for jury service. The *Farmandar* shall advise all thirty-six persons by letter. If notification of refusal is not made within three days of the receipt of such letter, acceptance is presumed. If one or more persons should not accept to serve, the committee shall select jury members from the complete list of seventy-five persons to fill the vacancies. The *Farmandar* shall then introduce them through the appellate court to the criminal court. The president of the provincial

[1] See *Yearbook on Human Rights for 1946*, p. 154.

court shall publish the list of the jurymen in the principal newspapers by the middle of *Esfand* (approximately March); in other provinces the jury shall consist of eighteen persons who shall be elected as described above (with the difference that a list of six persons from each group is prepared).

(*b*) In the case of press offences or political trials: the criminal court in its preparatory session, at which the State Counsel or his representative shall attend, shall select by ballot a jury consisting or three persons, one from each group. Three alternate jurymen shall be selected in the same manner.

All members of the jury and the alternates who attend the trial must attend all hearings from the beginning until the end of the trial and if one or more members of the jury should be absent, or should be prevented for good cause from attending the hearings, then, if the number of alternates exceeds the number of absentees, the vacancies shall be filled by ballot from among the alternates. So long, however, as three jury members of alternates attend, whether others have been removed or not, the court may proceed with the hearing.

Art. 34. When trying press offences the criminal court shall sit with three examining judges and a jury and shall conduct the proceedings in conformity with the Code of Criminal Procedure. After the evidence has been heard, the judges and jury shall consult immediately and vote on the following two issues:

1. Guilt or innocence of the accused;

2. If a verdict of guilty is returned, whether extenuating circumstances can be taken into consideration.

In the case of an equal division of votes, the president of the court shall have the casting vote.

The president of the court shall announce the decision, with the reasons therefor. If the decision is adverse to the accused, he may appeal against the decision within two days after receiving notice thereof; if the decision is favourable to the accused, all investigation shall cease. After the announcement of a decision of "not guilty" or of a decision which does not disqualify the accused from the exercise of his civil rights, the suspension of the periodical or newspaper shall be withdrawn immediately.

Appendix. If during the hearing members of the jury have any questions, these must be made in writing and handed to the court for discussion.

Art. 35. The conditions governing fitness for or disqualification from jury service are identical with those applicable to judicial office.

[Articles 36 and 37 refer to disqualification from jury service, the deliberations of the jury, the formation of a quorum of jurors and penalties incurred by jurymen for non-attendance.]

Art. 38. No newspaper or periodical may be suspended or closed without a court order, except in the cases mentioned in this Act and in the following cases: (1) if the newspaper publishes matter harmful to the principles of Islam; (2) if it publishes statements derogatory to the Crown; (3) if it divulges troop movements or other military secrets; (4) if it incites resistance to the constituted authority, causes unrest or undermines internal security; (5) if it publishes obscene pictures or articles repugnant to public decency.

In any such case, the State Counsel shall suspend the publication, acting either on his own initiative or on the application of the *Farmandar*, and shall confiscate all published copies. He shall, however, submit his action for the approval of the criminal court within twenty-four hours. The criminal court shall hold a special session within three days to consider the action taken and to express approval or disapproval. If the court approves the suspension, the prosecutor and State Counsel shall complete the prosecution of the case within one week.

The court shall prepare the case as prescribed by law and the hearing shall be conducted at a special session.

Appendix 1. A newspaper or periodical which is suspended by virtue of this article may not be published under a new name with the same orientation and policy, and if any such publication should occur the newspaper or periodical which has been substituted shall also be suspended. The publishers of the substituted newspaper or periodical shall be sentenced to imprisonment for a term of not less than one month nor more than three months and shall be fined from 500 to 5,000 rials. The offence shall also have the effect of rendering the permit for publication void.

Art. 39. If the court does not approve the suspension of the newspaper, the suspension shall be revoked immediately.

Art. 40. The court shall deal immediately with cases concerning press offences in a special session. It shall not allow the defendant and his counsel more than three days for the preparation of their case, except that this time-limit may be extended by not more than three days if the defendant so desires.

The period between the end of the time-limit stated above and the commencement of the preliminary session shall not exceed ten days. Hearings of such cases may not be adjourned for more than twelve hours.

The defendant and the plaintiff may not be assisted by more than three lawyers each; but the court shall proceed in the presence of one lawyer from each party.

[Article 41 repeals previous legislation which is inconsistent with the present Act. Article 42 provides that the Ministries of the Interior and Justice are to put the Act into effect.]

CHAPTER III

DISSOLUTION OF ASSOCIATIONS

Art. 18 The Minister of the Interior may dissolve any association which:

(*a*) Fails to engage in the activities specified in its rules within one year from the date of its formation;

(*b*) By its activities or its decisions acts contrary to the purpose for which it was formed;

(*c*) Commits any act leading to a breach of public security, order or morality, resists the enforcement of the law, uses coercion or violence against other persons for the purpose of enlisting their support, or commits any act likely to achieve any of the wrongful purposes specified in article 4 of this Act;

(*d*) Keeps any firearms, sharp weapons or explosive substances (except those used for purposes of entertainment) at its headquarters or at the headquarters of any of its branches. As an exception to this provision, sports associations and clubs may keep a reasonable quantity of weapons on their premises to carry out their purposes, after obtaining the approval of the competent authorities with regard to the quantity and type of such weapons. A special register shall be kept of such weapons.

Art. 19. On making an order dissolving an association, the Minister of the Interior shall immediately publish a notice thereof in the local press.

[Article 20 makes provision for appeal to the Council of Ministers from a dissolution order.]

. . .

CHAPTER IV

AMALGAMATION OF ASSOCIATIONS

Art. 23. (*a*) Associations having the same or a similar purpose may amalgamate and form a single association having unified rules.

(*b*) The amalgamated association shall be subject to the provisions of this Act.

Art. 24. (*a*) The amalgamated association shall acquire legal personality upon its formation in accordance with this Act.

(*b*) The individual associations shall cease to have legal personality as from the time of their amalgamation.

(*c*) The amalgamated association shall be liable for the claims of third parties against its constituent associations.

[Chapter V, comprising articles 25 to 34, deals with contraventions and penalties, and certain other matters.]

IRELAND

NOTE[1]

1. The Factories Act, 1955, No. 10 of 1955, amended and consolidated the Factory and Workshops Acts, 1901 to 1920, and other enactments relating to factories. Matters dealt with therein included the protection of health and safety, welfare facilities, certificates of fitness in respect of young persons, home work, notification and investigation of accidents and industrial diseases, and inspection.

2. The Workmen's Compensation (Amendment) Act, 1955, No. 16 of 1955, amended the previous Acts relating to compensation to workmen for injuries suffered in the course of their employment. A supplementary weekly allowance was made payable to workmen entitled to compensation under the Acts of 1897, 1900 and 1906. The maximum limit of weekly payments was increased, as was also the compensation paid in fatal cases. Among other changes made, the Act raised to sixteen the age limit for juvenile dependency, and permitted the redemption of weekly payments of benefits by a lump sum payment on the application of a workman of over twenty-one years whose total incapacity has lasted two years and appears to the court to be permanent.

3. The Social Welfare Act, 1955, No. 11 of 1955, increased the pensions paid under the Old Age Pensions Acts and the non-contributory pensions paid under the Widows' and Orphans' Pensions Acts. These increases amended the pension rates laid down in the Social Welfare Act, 1952.[2]

[1] The legislation summarized in this note is to be found in *The Acts of the Oireachtas* 1955, published by the Stationery Office, Dublin.

[2] See *Yearbook on Human Rights for 1952*, pp. 138–140.

ISRAEL

HUMAN RIGHTS IN ISRAEL IN 1955 [1]

I. LEGISLATION

1. In January 1955, a new Knesset Election Act was passed according to which every person who on 31 December preceding the day of election was of or above the age of eighteen years and a national of, and residing in, Israel, is entitled to vote.[2] The right to be elected a member of the Knesset is conferred upon every person who on the day of completion of the list of candidates containing his name, was of, or above, the age of twenty-one years and a national of Israel.[3] The elections are general, direct, equal, secret and proportional, and held on one day.[4] The names of the persons entitled to vote are contained in electors' lists;[5] against the wrongful inclusion or exclusion of any name, there lies an appeal to the district court.[6] Candidates' lists may be submitted by any 750 persons who are entitled to vote, or by any of the factions represented in the outgoing Knesset,[7] but no candidate's name may appear in more than one list;[8] all candidates' lists, if in conformity with the law, are to be approved by a central electoral committee wherein all factions of the outgoing Knesset are represented,[9] and against the refusal so to approve of a candidates' list, there lies an appeal to the Supreme Court.[10] Any irregularity in holding the election, counting the votes, distributing the mandates or publishing the election results is subject to review by the Knesset.[11] Candidates elected enjoy immunity as members of the Knesset as from the day of the election;[12] such immunity includes freedom from arrest and search, from all criminal process, and from civil process in so far as it relates to the exercise of their duties as members of the Knesset; and such immunity cannot be withdrawn except upon resolution of the Knesset.[13] Any interference with a voter in the exercise of his voting right is a criminal offence,[14] as are all acts tending to impede free elections and lawful election campaigns;[15] and the Attorney-General may not stay proceedings for an election offence.[16] General elections took place in July 1955, and the third Knesset was elected. Its term of office is four years.[17] The number of its members is one hundred and twenty.[18]

2. Most of the provisions governing the qualification, appointment, office, rights and duties of civil judges[19] have now been applied also to the judges of Jewish religious courts.[20]

3. Compensation, rehabilitation and relief facilities, on the lines previously enacted for soldiers[21] and their dependants,[22] have now also been provided for members of the police force and their survivors.[23]

4. Special provisions have been enacted for the protection of children from police interrogation and examination in court in cases of sexual offences of which they were the victims or eye-witnesses.[24] Experience has shown that the trauma caused to small children by police interrogation and by their examination and, in particular, their cross-examination in court, subsequent and in addition to the shock caused to them by the offence itself, is a mischief out of all proportion to the prospect of having the accused person convicted and punished. The Act is intended to provide protection to the child from clumsy and aggressive reopening of his wounds, and, on the other hand, to increase the prospects of securing convictions of sexual offenders by eliminating the rejection of the child's evidence which in many cases was warranted mainly as the result of unbridled and unrelenting cross-examination. The

[1] Note kindly furnished by Mr. Haim H. Cohn, Attorney-General of Israel, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Knesset Election Act, 5715–1955, sect. 1.

[3] *ibid.*, sect. 2.

[4] *ibid.*, sect. 6 (*a*).

[5] *ibid.*, sect. 20.

[6] *ibid.*, sect. 23.

[7] *ibid.*, sect. 25.

[8] *ibid.*, sect. 26.

[9] *ibid.*, sects. 11, 12, 28, 29 and 30.

[10] *ibid.*, sect. 31.

[11] *ibid.*, sect. 47.

[12] *ibid.*, sect. 49.

[13] Members of the Knesset (Immunities, Rights and Duties) Act, 5711–1951, see *Yearbook on Human Rights for 1951*, p. 183.

[14] Knesset Election Act, 5715–1955, sects. 63, 64.

[15] *ibid.*, sects. 65–68.

[16] *ibid.*, sect. 69 (*b*).

[17] Transition (Second Knesset) Act, 5711–1951, sect. 7.

[18] Knesset Election Act, 5715–1955, sect. 5.

[19] Judges Act, 5713–1953; see *Yearbook on Human Rights for 1953*, p. 147.

[20] Religious Judges Act, 5715–1955.

[21] Invalids (Compensation and Rehabilitation) Act, 5709–1949.

[22] Fallen Soldiers' Families (Compensation and Rehabilitation) Act, 5710–1950.

[23] Police (Invalids and Decedents) Act, 5715–1955.

[24] Law of Evidence Revision (Protection of Children) Act, 5715–1955. See: *The Treatment of Offenders in the State of Israel*, Report to the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva 1955, pp. 7 and 39.

youth interrogators to be appointed under the Act are recruited from child guidance clinics and social workers, probation officers and educationists; and a youth interrogator giving evidence in court of what the child has told him and as to whether his story is trustworthy, is, of course, subject to cross-examination. At the date of this writing, the Act has been in force for more than a year, and has justified the hopes which prompted its sponsors to propose it. The full text of the Act is reproduced below.

5. The law relating to the treatment of persons suffering from mental diseases has been revised and codified,[1] and careful provision has been made to ensure the inviolability of the personal freedom of those persons, except where overriding considerations of their own or public security require otherwise. Thus, a person may not be hospitalized against his will, except by order of the court[2] or under the direction of the district psychiatrist, who is a government medical officer appointed by the Minister of Health.[3] The district psychiatrist may give such directions whenever the patient is likely to endanger himself or the public.[4] The court is empowered to order hospitalization of any person accused of crime, in the following cases:

(*a*) Where it appears to the court, upon evidence produced by either of the parties or taken on the court's own initiative, that the accused is not, by reason of his disease, fit to stand trial;

(*b*) Where the court has found that the accused committed the acts with the commission of which he had been charged, and, upon evidence produced by either of the parties or taken on the court's own initiative, that the accused was at the time such acts were committed by him not punishable by reason of his disease, and was still suffering from disease at the time of his conviction;

(*c*) Where a question arises as to whether an order should be made for the hospitalization of an accused person under either of the preceding paragraphs; here the court may, on application of either party or on its own initiative, order the provisional hospitalization of the accused for observation and treatment.[2]

Any such court order is not executed by normal process, but by the district psychiatrist, who appoints the hospital wherein the accused is to be hospitalized, and who may appoint nurses and request police assistance, wherever necessary, to carry the order into effect.[5]

A psychiatric board, composed of a judicial officer as chairman, a government medical officer, and a private practitioner in psychiatry,[6] is vested with power to hear appeals from the district psychiatrist's directions for hospitalization;[7] to release from hospital, whether temporarily or permanently, patients who were hospitalized by order of the court;[8] and to review the refusal of hospital authorities to release a patient who wished to be released.[9] The board may proceed *in camera* or in public as it thinks fit, and its proceedings are not open to attack for the reason that they were held in the absence of the patient concerned, provided he was once at least examined by the medical members of the board;[10] and evidence may be taken by the board from any witness or expert in the same manner as it is taken by a duly nominated commission of inquiry.[11]

Wherever the psychiatric board has dismissed an appeal against involuntary hospitalization or against the refusal to release a patient from hospital, the patient or his guardian or relative, as well as the Attorney-General (who has to be notified of every hospitalization of a patient against his will),[12] has a right of appeal to the district court.[13]

Special provision is made for the right of the patient in hospital to receive and send closed letters and other postal packets, and to receive guests at hours to be specified by the hospital authorities; these rights may be restricted by the medical director of the hospital only in so far as such restriction is, in his opinion, necessary for medical reasons; and no restriction may be imposed on the patient's right to send closed letters to his attorney, to the Minister of Health, and to the Attorney-General.[14]

Where a patient who has been hospitalized is not, in the opinion of the district psychiatrist, fit to administer his affairs or his property and no guardian has been appointed by a competent court, the Administrator-General (a department of the Ministry of Justice charged with the administration of absentees' and other trust properties),[15] is charged with the administration of his property until a guardian is duly appointed.[16]

Information received in the course of treatment of a mental patient, or in any other manner in connexion with the implementation of the Act, may not be disclosed otherwise than before a competent court or any competent investigating authority; but a doctor may, in his discretion, give information on the patient's state of health to his family.[17]

---

[1] Mental Patients Treatment Act, 5715–1955.

[2] *ibid.*, sect. 6.

[3] *ibid.*, sects. 1 and 7.

[4] *ibid.*, sect. 5.

[5] *ibid.*, sects. 6 (*e*) and 8.

[6] *ibid.*, sect. 12.

[7] *ibid.*, sect. 11.

[8] *ibid.*, sect. 17 (*a*).

[9] *ibid.*, sect. 19.

[10] *ibid.*, sect. 24.

[11] *ibid.*, sect. 23 (*b*).

[12] *ibid.*, sect. 7 (*b*).

[13] *ibid.*, sect. 25.

[14] *ibid.*, sect. 26.

[15] Administrative General Ordinance, 1944 (Palestine).

[16] Mental Patients Treatment Act, 5715–1955, sect. 27.

[17] *ibid.*, sect. 28.

Severe penalties are prescribed for doctors who by false attestations cause persons to be unnecessarily or unlawfully hospitalized against their will, the highest penalty attaching to such false attestations where the doctor knew it to be false or did nothing to find out whether it was true or false.[1] Non-compliance with any order or direction lawfully given by the district psychiatrist or the psychiatric board and any act or omission by which the rights conferred by the Act upon patients are infringed or their exercise impeded are also made criminal offences.[2]

The Act is declared to add to, and not to derogate from, any right or remedy available under the general law, and the right of a person who has been hospitalized against his will to petition the High Court in *habeas corpus* proceedings is expressly reserved.[3]

6. Another measure intended for the protection of the insane, the absentee and the minor empowers the courts to be assisted, in all matters where the rights or interests of such persons may be affected, by the advice of specially appointed social workers.[4] The Attorney-General is given authority to institute all proceedings, or appear in any proceeding which may be pending, before a court, if he is of opinion that the best interests of any minor, mental patient or absentee so require.[5]

7. The year 1955 has also brought the long awaited pension law to the civil service.[6] A civil servant is entitled to claim a pension when he has served for twenty-five years and attained the age of fifty-five years, or when he has served for ten years and has either attained the age of sixty years or is medically unfit to serve any longer.[7] A civil servant may be required to be pensioned when he has attained the age of sixty-five years and has served for ten years.[8] The dismissal of a civil servant from service for reason of ill-health, where he had served for five years, or for other reasons — except convictions involving moral turpitude — where he has served for ten years and is above the age of forty years, entitles him to a pension.[9] Furthermore, the dependants of a civil servant who has died during the period of his service and who had served for at least five years are entitled to pensions varying according to the degree of relationship: the widow receives a pension amounting to 40 per cent of his last salary, until she re-marries, and other dependants receive pensions amounting each to 10 per cent of his last salary.[10] Similar benefits accrue to the dependants of a pensioned civil servant.[11] The Act is declared to apply to female civil servants in the same way as to male civil servants, but a widower is entitled to pension on the death of his civil servant wife only if he is not self-supporting.[12] Pensions rights under the Act accrue in addition to rights for compensation in cases of dismissal from service.[13] Persons who are not pensionable because of the short term of their service (below ten or five years, as the case may be), are entitled to compensation amounting to one (the last) year's salary,[14] whereas the normal rate of compensation for dismissal from service is one (the last) month's salary multiplied by the number of years of service.[15] All executive decisions under the Act are subject to review by an appeal board, from whose decisions an appeal lies, on questions of law, to the district court.[16] Pension rights are unalienable and are not subject to set-off or to attachment or garnishee proceedings except for the payment of maintenance to women and children.[17]

8. The laws protecting tenants from eviction from dwelling-houses and business premises, by automatically extending the duration of leases and by drastically restricting the jurisdiction of the courts to make orders for the recovery of possession, have been revised and codified.[18]

9. The major opus of Israeli legislation in 1955 was a comprehensive code of military criminal law and procedure.[19] Certain sections of the code dealing with, or relating to, human rights are reproduced below.

II. JUDICIAL DECISIONS

(1) Adoption — Infant in Custody of Strangers — Claims of Relatives — Relevant Considerations

HERSHKOVITZ *v.* GRINBERGER

Supreme Court of Israel sitting as Court of Appeal[20]

15 May 1955

The infant was born in Rumania in 1948. The father died in Rumania. The mother came with the infant to Israel in 1951 and died in 1953. For two weeks after her death the infant was in the care

[1] Mental Patients Treatment Act, 5715–1955, sect. 29 (*a*) and (*b*).

[2] *ibid.*, sect. 29 (*c*) and (*d*).

[3] *ibid.*, sect. 30.

[4] Welfare (Procedure in Matters affecting Minors, Mental Patients and Absentees) Act, 5715–1955.

[5] *ibid.*, sect. 8.

[6] Civil Service (Pensions) Act, 5715–1955.

[7] *ibid.*, sect. 15.

[8] *ibid.*, sect. 16.

[9] *ibid.*, sect. 14 (2).

[10] *ibid.*, sect. 20.

[11] *ibid.*, sect. 22.

[12] *ibid.*, sect. 34.

[13] *ibid.*, sect. 33.

[14] *ibid.*, sect. 21.

[15] This is a custom of long and universal standing which has found recognition as a rule of law. See: *Zilbiger* v. *Dickman*, Judgement of the Supreme Court of Israel (1956) 10 *Piskei-Din* 253.

[16] Civil Service (Pensions) Act, 5715–1955, sects. 36–37.

[17] *ibid.*, sects. 48–49.

[18] Tenants' Protection Act, 5715–1955.

[19] Military Jurisdiction Act, 5715–1955.

[20] Judgement reported in 9 *Piskei-Din* 791.

of neighbours; then social welfare authorities placed him with appellants, who had applied to them for an orphan child to be placed in their custody with a view to adoption. On the appellants' application for an adoption order, the respondent, an uncle of the infant's mother who resided in the United States of America, intervened and claimed the custody of the infant. The court below refused the adoption order, finding that the infant's relatives were able and willing to look after him, and that, therefore, his adoption by strangers was not desirable. On appeal, it was held that the paramount consideration in cases of adoption, as in all cases concerning the custody of or guardianship over infants, is the welfare of the child; and only where the best interests of the infant are equally well safeguarded when in the custody of a stranger or when in the custody of a relative, is the relative to be preferred. The appeal was allowed and case remitted for re-trial.

Per Cheshin, J.:[1] ". . . The court below committed a gross error: it should have asked the social welfare authority for a detailed report of the present circumstances of the infant. In cases like the present, the court is not bound to content itself with the evidence adduced by the parties. It is not fair to the infant to determine a matter like this, without having the true state of affairs ascertained, only because the parties failed to discharge their burden of proof. Applications like the present, on the outcome of which the whole future of the infant often depends, should not be looked upon as a normal *lis* between two litigents which the court may decide one way or the other, according to the quantity and weight of the evidence the one or the other of the parties was able or willing to produce. . . . This infant, who was deprived of his parents' love and care without any fault on his part, has from a legal point of view become the ward of the court. The State has certain duties towards children who have been smitten by fate like this infant here, and it fulfils these duties by providing its courts of justice to watch over and guard them. The court — as was so aptly laid down by our ancestors — is the father of all the orphans. It is therefore the duty of the court to take great care always over the welfare of the child, and it is not only its right, but often its duty, to call witnesses and obtain evidence of its own motion. . . ."

(2) Infants — Guardianship — Welfare of the Infant

STEINER *v.* ATTORNEY-GENERAL

Supreme Court of Israel sitting as Court of Appeal[2]

20 February 1955

Appellant, the father of two infant daughters aged fourteen and eleven years, respectively, was an Austrian national residing in Vienna, Austria. The infants were born in Palestine and had never left the country. From 1944, their mother had suffered from a mental disease and was at all relevant times detained in an asylum in this country. The appellant obtained a divorce in 1951, under Austrian law, by judgement of a Viennese court, and later re-married. The infants had always been in the care and custody of a children's home; until 1949 the appellant had paid half of the cost of their maintenance, and social welfare authorities the other half; since 1949 the whole cost of the infants' maintenance had been defrayed out of public funds. When the appellant expressed the desire to take the infants out of the children's home and out of the country to join him and his second wife in Austria, the Attorney-General applied to the district court for a guardian to be appointed over the infants and directions to be given to him that they should not be taken out of the jurisdiction, and the district court ordered accordingly. On appeal, appellant argued, *inter alia*, that the infants were Austrian nationals and hence Austrian law was applicable, and that under that law the father was the sole guardian of his infant children, and no question of the welfare of the children could arise where he asserted his rights of guardianship.

Held: That (1) the case was governed by section 3 of the Equal Rights of Women Act, 5711–1951,[3] which provides that father and mother jointly are the natural guardians of their infant children, and that, in the event of the death of either of them, the survivor remains natural guardian; that section further provides that the court may nevertheless determine any matter concerning the guardianship of infants, taking into consideration only the welfare of the infant; hence the welfare of the infant must be considered as paramount, and as overriding any right of guardianship the parents or either of them may be entitled to.

(2) Apart from statute, the rule of any foreign law that rights of guardianship are absolute and override any considerations of the welfare of the infant would be contrary to public policy in Israel.

(3) The question as to whether any particular circumstance would or would not be in the best interest of an infant is a question of fact to be determined by trial court.

Per Silberg, J.:[4] ". . . When considering the welfare of the child, you cannot, to my mind, get away from this alternative: either the consideration is irrelevant, or it is conclusive and excludes any other consideration. There can be no compromise here: the child's welfare is not severable, and its consideration should not be mixed up with any other consideration. The legislature has adopted the modern conception — a conception which has been common ground in

[1] *ibid.*, p. 802.

[2] Judgement reported in 9 *Piskei-Din* 241.

[3] See *Yearbook on Human Rights for 1951*, p. 185.

[4] 9 *Piskei-Din* 251.

Israel traditions since earliest times — that the infant is not an 'object' of the custody of a parent for the parent's benefit and enjoyment, but is himself the 'subject', the litigant, in this most vital matter for him; and it does not stand to reason that we should disregard his interests in any circumstances, or subjugate them to any rights of others, and be they his own father and mother. That is what the Israel legislature has provided, that the welfare of the children shall be the final and the decisive consideration, whenever it collides with a right of guardianship, whether under our own or under any foreign law. I can find no better expression for this rule than the phrase which was coined by one of our great teachers:[1] 'Generally speaking, all depends upon the view of the court where lies the greatest good for the child.' . . ."

(3) Release on Bail — Irrelevant Considerations

HALTZI *v.* ATTORNEY-GENERAL

Before the Deputy President, Supreme Court of Israel[2]

4 January 1955

The applicant was, together with others, committed for trial on a charge of burglary. The co-accused who had made statements to the police admitting the charge against them, had been released on bail pending trial, the police raising no objection. Applicant's application for bail was refused below, the police objecting that his release might hamper the police in searching for the stolen goods.

Per Cheshin, J.: ". . . I assume that in general an argument like this might furnish just reason for the arrest of an accused pending his trial; but in the circumstances of this case I do not find any justification for the arrest, it being admitted that another accused has been released on bail after having made a confession. . . . It seems that the present applicant would also have been granted bail, had he confessed; and I consider that the police, in opposing bail, have abused their power. . . ." Bail was granted.

(4) Reputation — Threats of Interference

BENNI *v.* ATTORNEY-GENERAL

Supreme Court of Israel sitting as Court of Criminal Appeal[3]

15 March 1955

The appellant threatened the complainant that unless she would pay him a sum of money, he would report to her husband that she had committed adultery. He was convicted of the offence of threatening complainant with injury to her reputation, with intent to cause her to do an act which she was not legally bound to do.[4] On appeal, it was held that there was a threat of injury to reputation, although the threat was confined to telling one person only.

Per curiam: ". . . The question whether the reputation is, or is likely to be, injured does not always depend upon the number of people to whom, it is threatened, the tale will be told. . . ."

(5) Fingerprints — Ignominy

JARJOURA *v.* ATTORNEY-GENERAL

Supreme Court of Israel sitting as Court of Criminal Appeal[5]

4 April 1955

The appellant was convicted of failing to "submit to such process as may be prescribed for the purpose of securing his identification", while charged with a criminal offence and in lawful custody.[6]

Per Olshan, P.:[7] ". . . We can find no justification for this refusal. There is a widespread but erroneous sentiment that to have one's fingerprints taken is something degrading. We do not think that, if people were required to give their specimen signatures instead of their fingerprints, anybody would take that as an insult. But we cannot disregard the fact that the taking of fingerprints is still widely regarded as insulting. The requirement of fingerprints in almost every case of arrest on a criminal charge stems from the necessity of an efficient identification system, owing to the many cases of identity of names. . . . Were it not for this system, we should at the conclusion of every criminal trial have to hold another trial for the purpose of establishing the previous convictions of the accused — at least in all those cases where the accused bears a common name. . . . It is not a system which was invented purposely for the appellants before us here. They have not established that the police acted discriminately against them or out of motive unconnected with the purpose for which this law was made. . . ." The appeal was dismissed.

(6) Right to Work — Licence to Carry on Trade

ROSENTHAL *v.* GIVATAYIM LOCAL COUNCIL

Supreme Court of Israel sitting as High Court of Justice[8]

27 July 1955

Return was made to an order *nisi* calling on the respondent council to show cause why the petitioner should not be granted a licence to trade as a grocer.

---

[1] David ben Zimra, known as Radbaz, who lived in the early sixteenth century.

[2] Order reported in 9 *Piskei-Din* 36.

[3] Judgement reported in 9 *Piskei-Din* 383.

[4] Sect. 100 (*c*) Criminal Code Ordinance, 1936 (Palestine).

[5] Judgement reported in 9 *Piskei-Din* 561.

[6] Sect. 6, Criminal Procedure (Evidence) Ordinance, Cap. 34 of the Laws of Palestine.

[7] At p. 564.

[8] Judgement reported in 9 *Piskei-Din* 1259.

Per curiam: ". . . The council has power to regulate, restrict or prohibit the establishment of any business, trade or industry [1]. . . . This provision is rather wide; the council is empowered, in its own discretion, to grant a licence to one and to refuse it to another. It goes without saying that such a wide discretion must be exercised with fairness, with due regard to all relevant circumstances, and without discrimination. This court will not hesitate to quash any decision of the council, whenever satisfied that considerations which are not relevant to the subject matter have prompted the council to favour the one and to disfavour the other. . . ."

(7) Right to trade — Import Licence

FINE *v.* MINISTER OF COMMERCE AND INDUSTRY

Supreme Court of Israel sitting as High Court of Justice [2]

6 November 1955

Return was made to an order *nisi* calling on the respondent Minister to show cause why certain import licences should not be granted to petitioner.

Per Olshan, P.: ". . . This order issued for one reason only, and that was the petitioner's allegation that the refusal was not prompted by relevant considerations, but had its cause in the petitioner's behaviour towards one of the respondent's officers. There is, no doubt, a duty on the citizen who applies to a government office or to a civil servant, to behave politely, in the same way as there is a duty on the civil servant to behave politely towards the citizen; but the violation of this duty on the part of the citizen cannot be a consideration relevant to the issue as to whether his application should be granted or refused. Had we been satisfied that the refusal of petitioner's application in this case had anything to do with the fact that the officer had been offended by the petitioner's behaviour, we would not have hesitated to interfere. . . . It is, however, clear from the evidence before us that this application had been refused a long time before the meeting [between petitioner and the officer] and that the petitioner's behaviour had had no influence at all on the decision taken. The competent authority has shown the considerations which prompted it to take that decision, and we are not prepared to say that these considerations do not, at least *prima facie*, afford sufficient reason therefor. . . ." The order was discharged.

(8) Soldiers — Compensation for Injuries

HERSHKOVITZ *v.* COMPENSATION OFFICER

Supreme Court of Israel sitting as Court of Appeal [3]

18 November 1955

Appeal was entered against the dismissal of a claim for compensation for injuries received in the course of military service.

Per curiam: ". . . It appears that appellant has lied in the various statements and testimonies he has given. Once he said he was wounded by a stone which had been thrown on him; another time, he maintained he was wounded by an explosion. . . . Had we been satisfied that his claim was dismissed for reason of his lies only, we would have allowed the appeal. No man may be punished by closing the gates of justice in his face, only because he is a liar. . . . But here the compensation officer was quite rightly in doubt as to how and when appellant was wounded; and as the burden of proving this was on the appellant, his claim was rightly dismissed. . . ."

[1] Sect. 71, Local Councils Order, 5711–1950.

[2] Judgement reported in 9 *Piskei-Din* 1692.

[3] Judgement reported in 9 *Piskei-Din* 1798.

MILITARY JURISDICTION ACT, 5715 – 1955 [1]

Part C

DISCIPLINARY MEASURES

. . .

159. A jurisdiction officer shall not try an accused person and shall not take evidence except in the presence of the accused person; at the beginning of the trial, he shall read to the accused person the text of the complaint, and before giving judgement, he shall give him an opportunity to be heard.

. . .

[Sections 163 and 165 relate to the lodging and hearing of objections to the judgement of a jurisdiction officer.]

. . .

Part D

LEGAL ORGANS

. . .

Chapter Two

MILITARY COURTS

. . .

183. The following are the military courts for the purpose of this law:

[1] Passed by the Knesset on the 1st Tammuz, 5715 (21 June 1955) and published in *Sefer Ha-Chukkim* No. 189, of the 1st Av, 5715 (20 July 1955), p. 171; the Bill and an Explanatory Note were published in *Hatza' ot Chok* No. 203 of 5714, p. 159. Official English translation kindly furnished by Mr. Haim H. Cohn, Attorney-General of Israel, government-appointed correspondent of the *Yearbook on Human Rights.*

(1) Courts of first instance:
  (*a*) An area military court;
  (*b*) A maritime military court;
  (*c*) A special military court;
  (*d*) A field court-martial;
(2) The Military Court of Appeal.

184. In judicial matters, a military judge is not subject to any authority save that of the law, and is not subject in any way to the authority of his commanders.

. . .

PART E

TRIAL PROCEDURE

. . .

Chapter One

PRE-TRIAL PROCEDURE

. . .

251. Save as otherwise provided in this law, a person shall not be put on trial before a military court until the offence has been investigated by an investigating officer or inquired into by an examining judge, according to the offence.

. . .

257. A witness examined by an investigating officer shall tell the truth and shall answer every question put to him in the course of the investigation, provided the answer is not calculated to lay him open to a criminal charge.

. . .

261. (*a*) Where any suspected or accused person has been arrested, an investigating officer may photograph him and take his fingerprints, as may be required for the purpose of the investigation.

(*b*) Where any suspected or accused person has been arrested, the investigating officer shall inform him of the nature of the suspicion or charge; and before the termination of an investigation as a result of which he is of the opinion that a person should be charged with an offence, the investigating officer shall inform the accused of the nature of the charge and of the evidence obtained against him.

262. Where the investigating officer has informed the accused of the nature of the charge, and the accused has not yet made a statement or called witnesses in his defence, the investigating officer shall inform the accused that he is permitted to do so.

263. The provisions of section 261 shall not derogate from the power of the investigating officer to take statements from or evidence on behalf of the accused, or to permit him to be present at the examination of witnesses or to examine witnesses, at any stage of the investigation and at the discretion of the investigating officer.

264. The accused may, whether or not he has been informed of the charge, request the investigating officer to hear him and to call and hear witnesses in his defence, and also to give him an opportunity to cross-examine any witness who has testified against him, unless the evidence was taken in the presence of the accused and he was given an opportunity to cross-examine the witness.

265. Where an accused person wishes to make a statement or to call witnesses, the investigating officer shall take his statement, and thereafter shall take the evidence of the witnesses brought by the accused, and of the witnesses whom the investigating officer has summoned to the investigation at the request of the accused, to the extent that the investigating officer is of the opinion that their evidence will be useful in discovering the truth.

266. An investigating officer shall not take the evidence of or a statement from any person who in his opinion should be charged with an offence unless he has cautioned him, in a language which he understands and in simple words, and is satisfied that the caution has been understood by him.

267. The caution shall be worded as follows: "I propose to charge you with such-and-such an offence. Do you wish to say anything in answer to the charge? You are not obliged to say anything if you do not wish to do so, but whatever you say will be taken down and may be used as evidence at your trial."

268. Where an accused or arrested person expresses the desire to make a statement, the investigating officer shall first caution him; where a statement is made before the investigating officer has had time to caution the person, or before he has reached the conclusion that the person should be charged with an offence, the investigating officer shall caution him at the earliest opportunity.

269. An accused or arrested person who makes a statement shall not be examined by an investigating officer and shall be asked only such questions as are necessary to clarify his statement.

. . .

285. At the beginning of the preliminary inquiry, the examining judge shall read the plaint to the accused, and after being read it shall be joined to the record of the preliminary inquiry and shall form a part thereof.

286. After the reading of the plaint, the examining judge shall take the evidence of the prosecution witnesses.

287. (*a*) As soon as the taking of the evidence of the prosecution witnesses is terminated, the examining judge shall explain to the accused, in language sufficiently simple for him to understand, the nature of the charge against him, and shall inform him that he is entitled to bring witnesses in his favour, and himself to make a statement, on oath or not on oath.

(*b*) Before the accused announces his decision as to making a statement, the examining judge shall explain to him, in such a manner that he understands,

(1) That it is not his duty but his right to say something, but that everything he says will be taken down and may be used as evidence at his trial;

(2) That he is not to place any hope in any promise, or let himself be frightened by any threat, that may have been made to him in order to induce him to admit himself guilty, and that notwithstanding any such promise or threat anything he may say may be used as evidence at his trial.

288. (*a*) When the investigating judge has given the accused the explanations referred to in section 287, he shall take the evidence of the witnesses summoned by the accused who are able to testify as to the circumstances of the matter on which the plaint is based or as to the innocence of the accused, and the statement of the accused.

(*b*) If the accused makes a statement on oath, he shall be treated as a defence witness.

289. The provisions of sections 287 and 288 shall not impair the capability of any admission or statement made by the accused otherwise than in the preliminary inquiry to be used as evidence under any other law.

290. Evidence taken in a preliminary inquiry shall be read to the witness and be signed by him and the examining judge. Where a witness refuses to sign the evidence, the examining judge shall make an entry of such fact in the record of the evidence and shall sign such entry. In this connexion, an unsworn statement by the accused shall be treated as evidence.

291. (*a*) A statement made by the accused in a preliminary inquiry is admissible as evidence at his trial, and the production of the record of the preliminary inquiry, duly signed by the examining judge, shall be sufficient proof of such statement.

(*b*) A statement by the accused as specified in sub-section (*a*) shall not be used as evidence against another accused person unless it was made on oath.

. . .

[Section 294 relates to the holding of a preliminary inquiry in the absence of an accused.]

. . .

297. At the termination of the preliminary inquiry, the examining judge shall decide whether or not there is a sufficient amount of *prima facie* evidence to justify the committal of the accused for trial.

298. An examining judge who has terminated a preliminary inquiry shall forward the plaint, together with the inquiry material and his decision, to the Chief Military Attorney.

. . .

[Section 299 provides that the Chief Military Attorney may return the material to the examining judge for completion, or quash the plaint, or direct a military prosecutor to file an information on the strength of the material.]

. . .

307. Upon delivery of a copy of the information to the accused, he shall be notified that he and his defence counsel are permitted to inspect the investigation or preliminary inquiry material and to copy details therefrom, except details the inspection of which as aforesaid has been prohibited by a military attorney for security reasons.

. . .

Chapter Two

JUDGES, DEFENCE AND PUBLIC TRIAL

. . .

316. A person charged before a military court may conduct his own defence or choose as his defence counsel a person authorized under section 318 to act as defence counsel before military courts and who has paid in that year the prescribed fee, or any soldier who has agreed to act as his defence counsel; however, where the court is of the opinion that the proceedings before it are likely to lead to the disclosure of military secrets, a soldier as aforesaid shall not act as defence counsel unless he has been approved by the court.

. . .

320. (*a*) Where a soldier has been chosen by an accused person as defence counsel, the commander of such soldier may object to the choice for reasons which he shall make known to the court; if the court sustains the objection, the soldier shall not be defence counsel.

(*b*) A decision under this section and an authorization under section 316 cannot serve as grounds of appeal.

321. Where the accused has not chosen a defence counsel the authority who summoned the court may, before the beginning of the trial, appoint a military defence counsel to defend the accused before that court, and when the trial has begun, the court itself may do so if it deems it necessary in the interests of justice; however, a military defence counsel shall not be appointed as aforesaid if the accused has intimated that he refuses to entrust him with his defence, unless it appears to the court that the accused is mentally defective and that a decision under section 386 or 387 should be given in his respect or the trial takes place in the absence of the accused under section 328.

. . .

323. The provisions of this chapter shall apply to a preliminary inquiry before an examining judge as if every reference therein to a military court were a reference to an examining judge.

324. A trial before a military court shall be held in public unless the summoning authority has decided that it shall be held *in camera* because in his opinion such a course is necessary to prevent infringement of the security of the State.

325. (*a*) A court may decide at any stage of the proceedings, for reasons to be recorded in its decision, to hold the whole or a part of the trial *in camera* if in its opinion such a course is necessary to prevent

infringement of the security of the State, public morality or army discipline.

. . .

Chapter Three

ORDINARY PROCEDURE

327. (*a*) A copy of the information shall be delivered to the accused as soon as possible, and when a summoning order has been made, the copy shall be delivered to him forthwith.

. . .

(*c*) The person who delivers to the accused a copy of the information shall inform him . . . of his being permitted to choose a defence counsel and to call witnesses in his defence.

. . .

328. A military court may remove, for such time as it may deem appropriate, any accused person who disturbs the progress of the hearing or behaves in a manner offending the dignity of the court.

329. Any proceeding taken in the absence of the accused by reason of his having been removed under section 328 shall be deemed to have been taken in his presence, and the court shall prescribe arrangements for bringing such a proceeding to the knowledge of the accused.

. . .

332. Where an accused person does not know Hebrew, the presiding judge shall appoint an interpreter to translate for him what is said in the course of the proceedings and the decisions of the court; an accused person may waive the translation of any part of what is said in the course of the proceedings or of decisions as aforesaid.

333. Evidence which, with the permission of the court, is given otherwise than in Hebrew shall be translated by an interpreter.

334. An interpreter shall be treated as a witness unless a different intention appears from a provision of this law relating to witnesses.

. . .

[Section 343 permits the accused, or his defence counsel or the prosecutor to prefer a plea of disqualification, or an objection, against the judges of the court, or against any one of them.]

. . .

351. (*a*) When the matter of the composition of the bench has been finally dealt with, the presiding judge shall read out the information and shall explain to the accused the nature of the charge.

(*b*) Thereafter, the court shall inform the accused of his right to make any of the following preliminary pleas:

(1) Lack of jurisdiction;

(2) Previous acquittal or conviction;

(3) Prescription of the offence;

(4) Failure of the information to disclose an offence;

(5) A defect or other invalidating feature in the information.

. . .

354. (*a*) Where no preliminary plea has been made, or where a preliminary plea has been made and considered and the court has not quashed the charge, the presiding judge shall ask the accused whether or not he pleads guilty.

(*b*) To this question, the accused may answer

(1) That he pleads guilty; or

(2) That he pleads not guilty; or

(3) That he pleads not guilty, but admits the facts, or part of the facts alleged in connexion with the act which is the subject of the charge.

355. Where a person is charged with an offence carrying the death penalty, the provisions of section 354 shall not apply and such person shall be deemed to have pleaded not guilty.

356. Where the accused does not answer the question of the presiding judge under section 354, he shall be deemed to have pleaded not guilty.

. . .

358. Where the accused has pleaded guilty, the court may, for reasons which shall be recorded, not accept the plea and continue the hearing as if the accused had pleaded not guilty, or as if he had pleaded not guilty but had admitted the facts indicated by the court; where the court does not so decide, the charge shall be deemed to have been proved, and the court shall convict the accused on the strength of his plea of guilty.

359. Where the accused has pleaded not guilty, or where according to this law, he is deemed to have pleaded not guilty, the case for the prosecution shall be opened.

. . .

365. (*a*) Upon the close of the case for the prosecution, the accused, or his defence counsel, may plead that there is not even *prima facie* evidence of guilt.

(*b*) Where a plea under sub-section (*a*) has been made, the prosecutor may answer it.

(*c*) Where a plea under sub-section (*a*) has been made, and the court is of the opinion that there is not even *prima facie* evidence of guilt, it shall discharge the accused; and the court may do so even if the accused or his defence counsel has not pleaded as aforesaid.

366. Where the accused has not been discharged under section 365, the presiding judge shall explain to him that while the case for the defence is open he may –

(1) Remain silent; or

(2) Make a statement from his place; and if he does so, he shall not be examined as to his statement; or

(3) Testify from the witness stand; and if he does so he shall be treated as a defence witness.

367. After the explanation of the presiding judge under section 366, the accused or his defence counsel may produce to the court defence witnesses and other evidence of the defence; and he may, before producing witnesses, introduce the case for the defence with an opening address.

. . .

[Sections 373–5 relate to the sequence of examination of witnesses by the party asking for them to be heard, by the opposing party and by the court.]

. . .

384. When the case for the defence has been closed, the military prosecutor, and after him the accused or his defence counsel, may make their summings-up.

385. After the summings-up or, if there have been no summings-up, after the conclusion of the case for the defence, the court shall, by a reasoned decision in writing in accordance with section 396, decide whether the accused shall be convicted or acquitted.

. . .

396. The reasons of the adjudication shall indicate the facts which have been proved to the court, and the considerations which have prompted its decision; where the accused has been convicted, the adjudication shall indicate also, whether expressly or by reference to the information, the section of the law under which he has been convicted.

397. The adjudication shall be dated and shall be read in public.

. . .

401. The penalty of an accused person who has been convicted shall be fixed in the sentence, which shall be attached to the adjudication and with it shall form the judgement; the sentence shall be dated and shall be read in public.

402. Where the trial is held *in camera*, the court may prescribe that the whole or a part of the reasons of the adjudication or the sentence shall not be read in public; but in that case the prosecutor and the accused and his defence counsel may read them.

. . .

404. Where a judgement is appealable, the court shall bring to the knowledge of the accused his right to appeal and the time allowed by law for the filing of appeal.

405. Save as otherwise provided or a contrary intention appears, the provisions of this chapter shall apply to the proceedings in every military court of first instance.

Chapter Four

EXTRAORDINARY PROCEDURE

. . .

[Section 412 contains certain special procedural provisions applicable to summary trials, which may be held in a period of fighting.]

Chapter Five

APPEALS

413. A person who has been convicted by a military court of first instance may appeal against the judgement to the Military Court of Appeal.

[Sections 414–22 deal further with appeals.]

423. Where a judgement of a military court of first instance has imposed the death penalty, and an appeal against it has not been filed by the person on whom it has been imposed, an appeal against it shall be deemed to have been filed on his behalf, and the Chief Military Attorney shall direct a military defence counsel to submit a statement of appeal.

[Sections 424–40 deal further with appeals. Sections 441–4 concern confirmation of sentences by confirming authorities and sections 445–57 retrial for the benefit of the accused.]

. . .

PART G

RULES OF EVIDENCE

. . .

476. Save as otherwise provided in this law, the rules of evidence binding in criminal matters in the law courts of the State are binding also in a military court and before an examining judge.

477. A military court shall not admit a confession of an accused person as evidence unless it is satisfied that he has made it voluntarily.

. . .

479. A statement by an accused person is not admissible as evidence against other accused persons.

. . .

PART H

EXECUTION OF JUDGEMENTS

. . .

490. Where a sentenced person has undergone the whole or a part of a penalty of detention or confinement to camp or ship, and in an appeal against the judgement imposing such penalty he is acquitted, the Military Court of Appeal may order that he be given leave or similar compensation, as the court may direct.

. . .

LAW OF EVIDENCE REVISION (PROTECTION OF CHILDREN) ACT, 5715–1955[1]

1. In this law –

"Child" means a person under fourteen years of age;

"Offence against morality" means any of the offences enumerated in the schedule.

2. (*a*) Save with the permission of a youth examiner, a child shall not be heard as a witness as to an offence against morality committed upon his person or in his presence, or of which he is suspected; and a statement by a child as to such an offence shall not be admitted as evidence.

(*b*) Where a youth examiner has permitted a child to be heard as a witness, no person shall be present at the taking of the evidence except the prosecutor, the accused, the advocate of the accused, the youth examiner and a person whom the court has permitted to be present.

3. (*a*) The Minister of Justice shall appoint youth examiners for the purpose of this law.

(*b*) A youth examiner may be appointed only after consultation with the committee.

(*c*) The committee shall consist of four members — namely:

1. A judge of a magistrates' court currently serving as a judge for the purposes of the Juvenile Offenders Ordinance, 1937,[2] appointed by the Minister of Justice;
2. A mental hygiene expert appointed by the Minister of Health;
3. An educator appointed by the Minister of Education and Culture;
4. A child and youth care expert appointed by the Minister of Social Welfare.

(*d*) The judge shall act as chairman of the committee.

(*e*) The committee shall prescribe the rules for its deliberations and work in so far as they have not been prescribed by regulations.

4. Except for an examination as a witness permitted by a youth examiner under section 2, a child shall not be examined as to an offence against morality save by a youth examiner; but this provision shall not apply –

(1) To questions put at the time, or immediately after the commission, of the offence or as soon as a reasonable suspicion arises that such an offence has been committed;

(2) To questions put by the father, the mother, the guardian, the person having supervision or control of the child, or a physician.

5. No person shall be present at the examination of a child by a youth examiner, save with the latter's permission.

6. (*a*) A person shall not publish anything calculated to reveal the identity of a child who has been examined as to an offence against morality or has testified in connexion with such an offence before a court, save with the permission of the court.

(*b*) A person who contravenes this section is liable to imprisonment for a term of six months or to a fine of 250 pounds or to both such penalties.

7. Where, in the course of a police investigation into an offence against morality, it appears necessary to carry out an operation requiring the presence or participation of the child, such operation shall not be carried out save in accordance with the directions of a youth examiner.

8. (*a*) Where an examination as to an offence against morality has been held by a youth examiner at the request of the police, the youth examiner shall disclose to the police the particulars of the examination and lay his conclusions before it.

(*b*) The provisions of section 6 shall apply *mutatis mutandis* to a report of a youth examiner under this section.

9. Evidence as to an offence against morality taken and recorded by a youth examiner and any minutes or report of an examination as to such an offence prepared by a youth examiner during or after the examination, are admissible as evidence in court.

10. Where evidence as referred to in section 9 has been submitted to the court, the accused or the prosecutor may require, and the judge may order, that the youth examiner re-examine the child and ask him a particular question; but the youth examiner may refuse to ask all or any questions so required if he is of the opinion that asking them is likely to cause psychical harm to the child.

11. A person shall not be convicted on evidence under section 9 unless it is supported by other evidence.

12. The Minister of Justice is charged with the implementation of this law and may make regulations as to any matter relating to such implementation.

13. This law shall come into force on the 4th Tishri, 5716 (20 September 1955).

SCHEDULE

(Section 1)

Offences against sections 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 165, 166, 167, 168, 170, 171, 173 and 174 of the Criminal Code Ordinance, 1936.[3]

[1] Passed by the Knesset on the 17th Sivan, 5715 (7 June 1955) and published in *Sefer Ha-Chukkim* No. 184 of the 26th Sivan, 5715 (16 June 1955), p. 96; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 211 of 5714, p. 264. Official English translation kindly furnished by Mr. Haim H. Cohn, Attorney-General of Israel, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] *P.G.* of 1937, Suppl. I, No. 667, p. 137 (English edition).

[3] *P.G.* of 1936, Suppl. I, No. 652, p. 285 (English edition).

ITALY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1955 [1]

I. LEGISLATION

The pressing need for a new legislative basis for the *prevention of industrial accidents*, in the interests of social welfare and the physical and moral protection of the worker, and in line with the advances in modern industrial techniques, prompted the Italian Government to ask parliament for authorization to enact a series of legislative provisions. The Government's action in this matter was based on the Italian Constitution, which lays down that prevention is both a right of the worker and a duty of the State. Article 32 of the Constitution confirms the duty of the State to protect health "as a fundamental right of the individual and an interest of the community", while article 35 (1) states that it is the duty of the republic to protect "labour in all its forms and applications". The Government's action was also in accordance with Recommendation No. 31, adopted at the International Labour Conference in 1929, which is still considered the basic instrument of the ILO concerning the prevention of industrial accidents. In the report of the Tenth Commission of the Senate on the bill in question, reference is also made to the "Model Code of Safety Regulations for Industrial Establishments", approved in 1948 by the ILO's Tripartite Technical Conference on Safety in Factories, to the drafting of which Italy made a substantial contribution. Before examining the merits of the new provisions, it may be well to recall the closing words of that report: "The humanization of labour, national prosperity and a peaceful society are to be achieved primarily by providing ample protection for the health and life of the worker."

In view of the urgent need for these measures, parliament approved two government bills in conformity with article 76 of the Constitution.[2]

Acts Nos. 51 and 52, of 12 February 1955 (*Gazzetta Ufficiale* No. 54, of 7 March 1955) authorize the Government respectively to "issue general and specific regulations for the prevention of industrial accidents and for industrial hygiene" and to "lay down regulations for compulsory insurance against silicosis and asbestosis".

In article 3 of Enabling Act No. 51, which, as will be seen, has already been fully implemented, the general scope of the proposed regulations is defined as follows: "The regulations. . . . shall determine the means, methods and general conditions and precautions for the prevention of industrial accidents and occupational diseases, with special reference to working conditions and organization; working environment; the construction, sale in any form, installation and use of machinery, apparatus and appliances, however operated; individual protective measures; classification, methods of storage and employment of raw materials and of dangerous, obnoxious or harmful substances; physical fitness and age requirements; the business agencies responsible for the physical well-being of the workers, and the organizations appointed to promote knowledge of and compliance with the said regulations; inspection and supervision of the enforcement of the regulations.

"In issuing these regulations, the Government shall take into account the production techniques used, the safety measures necessitated by the method of work, and the hygienic requirements of the work itself."

Offenders shall be punishable under the Enabling Act by imprisonment not exceeding three months, or fines not exceeding 300,000 lire.

Enabling Act No. 52 empowers the Government to supplement and amend existing legislation concerning the *protection of workers against silicosis and asbestosis*, in accordance with the following criteria:

Art. 1. . . .

"(*a*) To introduce more effective supervision of the state of health and physical fitness of workers, as from the entry into force of the Act, by means of notices, registrations and information concerning labour and workers;

"(*b*) To charge the operating expenses of the Medical Board exclusively to the National Social Provident Institution and the National Industrial Accident Insurance Institution;

"(*c*) To arrange for the prompt payment of a relocation allowance to workers contracting the above-mentioned diseases, such allowance to be adequate to cover the economic needs of insured workers who leave unhealthy occupations, and to be for a period of at least one year;

---

[1] Note prepared by Dr. Maria Vismara, Director of Studies and Publications of the Italian Association for the United Nations, Chief Editor of *La Comunità Internazionale*, a publication of the Association, and government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] Art. 76 of the Constitution: "Legislative power can be delegated to the Government only after determination of ruling principles and criteria, and for a limited period and specific purposes."

"(*d*) To reduce the minimum permanent disability ratio from 33 to 20 per cent, thus modifying the system for assessment of disability;

"(*e*) To adjust the system of determining basic salary for insurance contribution purposes to cover the special hazards of silicosis and asbestosis;

"(*f*) To extend the scope of protection . . . by increasing the maximum period of compensability to 15 years and introducing changes in industrial processes;

"(*g*) To issue a provisional regulation for the application of royal decree No. 530 of 14 April 1927, pending the issue of special rules for the prevention of silicosis and asbestosis;

"(*h*) To establish a service at the Deposit and Loan Bank [Cassa depositi e Prestiti], independently of the Special Accident Fund, for insured persons or their beneficiaries in special circumstances, or for emigrant workers returning to their country of origin who are not entitled to the indemnities provided by the law" in force.

In compliance with Enabling Act No. 51, decree No. 547 was promulgated by the President of the republic on 27 April 1955 (*G.U.* No. 158, of 12 July 1955, Regular Supplement) containing regulations for the prevention of industrial accidents. This extensive and detailed decree, comprising twelve titles and 406 articles, lays down comprehensive technical regulations to ensure the maximum degree of safety, reduce the risk of industrial accidents to a minimum, and safeguard the physical well-being of the worker.

The provisions of the decree apply to "all activities employing workers . . . including those carried on by the State, the regions, the provinces, the communes and other public entities as well as teaching and charitable institutions" (article 1). They do not apply to mines, railways, postal and telecommunication services, public surface transport, or sea, air and inland navigation, inasmuch as "special provisions have been or will be laid down in that connexion" (article 2). The obligations of employers, workers, builders and traders are defined in articles 4 to 7. In addition to the safety measures prescribed by the decree, employers must notify workers of the hazards to which they may be exposed, and of the safety regulations which they are required to observe. The workers, on their part, are called upon to comply with the safety regulations; to use the safety devices with due caution; to notify those in charge of any defects in those devices, or of any possible sources of danger, etc., while taking immediate action in case of emergency; not to remove or tamper with any safety device without authorization; not to undertake, on their own initiative, any dangerous operation outside their competence. Builders and traders are forbidden to manufacture, sell, hire out or permit the use of machines, machine parts, apparatus, etc., intended for the domestic market, or install equipment not meeting the requirements of the decree.

Having thus defined the obligations of persons, the decree sets forth in detail the technical requirements concerning premises, working places and temporary structures (articles 8 to 40); the placing of guards upon machinery with dangerous elements requiring guards, insulation or safety devices (articles 41 to 167); vehicles and apparatus for hoisting, transport and storage (articles 168 to 232); equipment and apparatus of various kinds (articles 233 to 266); mechanical equipment and electrical apparatus (articles 267 to 350); dangerous or harmful materials and products (articles 351 to 373); maintenance or repairs to buildings, installations, machinery, etc. (articles 374 to 376); personal safeguards and first-aid equipment (articles 377 to 388). Articles 389 to 392 provide penalties consisting of fines or imprisonment, applicable to offenders.

The last part of the decree contains provisions on the application and enforcement, exemptions and appeals. Under article 393 (*a*), "Standing Advisory Board for the Prevention of Industrial Accidents and Industrial Hygiene" is set up at the Ministry of Labour and Social Welfare, under the chairmanship of the minister. Its functions are (article 394): (*a*) to study and put forward proposals on general questions relating to the prevention of industrial accidents and to industrial hygiene; (*b*) to put forward proposals for the development and improvement of existing legislation and its co-ordination with other measures relating to the physical protection of workers in general; (*c*) to give opinions on requests for exemptions, (*d*) on appeals, (*e*) on questions connected with the application of existing regulations concerning the prevention of industrial accidents and industrial hygiene, and all other questions relating to industrial safety. In the exercise of its duties, the board may request data, initiate inquiries, and carry out on-the-spot investigations.

The Ministry of Labour and Social Welfare is responsible, through the inspectorate of labour, for ensuring the application of the decree (article 401). The undertakings covered by the decree are required to keep a register of accidents, and the inspectorate of labour is responsible for the compilation and publication of statistics on industrial accidents and occupational diseases.

Regulations for the application of Enabling Act No. 52 were issued in 1956, together with other regulations on the prevention of industrial accidents in the building industry. Other legislative provisions concerning special sectors of labour are in preparation.

Two further Labour Acts of considerable importance have been introduced in accordance with regular parliamentary procedure, dealing with *apprenticeship* and porterage respectively.

Act No. 25, of 19 January 1955 (rules respecting apprenticeship) (*G.U.* No. 36, of 14 February

1955),[1] refers to a sector of labour which presents particularly delicate problems on account of the youth of those concerned and its dual nature — involving both instruction and labour. This dual element is emphasized in article 2 of the Act, which defines apprenticeship as "a special employment relationship which binds the employer to give or cause others to give the apprentice in his employ such instruction in the undertaking as will enable him to acquire the technical proficiency which he must have in order to become a skilled worker, while using the services of such apprentice in the undertaking". A board with advisory powers on the subject of apprenticeship and the employment of young workers is established under the Central Committee for Placement and Assistance to the Unemployed (article 1),[2] and appropriate lists are provided for apprentices in placement offices (article 3). Engagement of apprentices must be through these offices (although requests for named apprentices may be accepted within certain limits), and must be preceded by a medical examination to ensure that the applicant is physically fit for the work in question (article 4) and, in certain cases, by a psycho-physiological examination to determine the aptitude of the apprentice (article 5). Apprentices may be engaged between the ages of fourteen and twenty years (except as provided in the law concerning the employment of women and children) (article 6). The term of apprenticeship may not in any case exceed five years (article 7); a period of probation not exceeding two months is provided for (article 9). Articles 10, 11 and 12, being of fundamental importance, are reproduced in full below:

"*Art. 10.* The hours of work of an apprentice shall not exceed 8 hours a day or 44 hours a week. Hours allocated to part-time classes shall be treated for all purposes as hours worked, and shall be included in the hours of work. The hours to be allocated to part-time classes shall be prescribed in the collective labour agreements or (in default thereof) by a decree of the Minister of Labour and Social Welfare issued in agreement with the Minister of Education. In every case, work shall be prohibited between the hours of 10 p.m. and 6 a.m.

"*Art. 11.* It shall be the duty of the employer (*a*) to give or cause others to give every apprentice in his employ such instruction in the undertaking as is necessary for him to attain the proficiency which he must have in order to become a skilled worker; (*b*) to co-operate with public and private bodies responsible for organizing the courses of instruction serving to supplement the practical training; (*c*) to carry out the provisions of the collective labour agreements and to remunerate the apprentice in accordance with such agreements; (*d*) to ensure that the apprentice is not given work beyond his physical strength or work not relating to the occupation or trade for which he has been engaged; (*e*) to grant an annual period of leave with pay; (*f*) to ensure that the apprentice is not employed on work which is remunerated at piece rates or by any other incentive wage or on flow-production work, unless for the time strictly necessary for his training and after first notifying the inspectorate of labour; (*g*) to grant the apprentice, without in any way reducing his remuneration, the necessary time off to attend compulsory part-time classes and to ensure that the apprentice attends such classes; (*h*) to grant the apprentice the necessary time off to take the examinations held to determine the award of certificates; (*i*) to inform the apprentice's family or legal guardian from time to time as to the progress made by the apprentice in his training; (*l*) to ensure that the apprentice is not employed as a labourer.

"*Art. 12.* It shall be the duty of the apprentice (*a*) to obey the employer or the person entrusted by the employer with his vocational training and to comply with the instructions given to him; (*b*) to do his work in the undertaking conscientiously; (*c*) to conduct himself in a becoming manner towards all persons belonging to the undertaking; (*d*) to attend the part-time classes with regularity; (*e*) to carry out the terms of his contract."

The vocational training of the apprentice (article 16) takes the form of practical instruction, to enable him to acquire skills in a particular type of work, and of part-time classes, designed to give the apprentice such theoretical knowledge as he needs in order to become fully qualified. Attendance at the part-time classes is free of charge and compulsory for those not already holding an equivalent certificate (article 17). On completing his practical training and part-time classes, the apprentice must undergo tests to determine his proficiency in the trade in which he has served his apprenticeship (article 18), and, if, on the completion of the term of apprenticeship, the contract has not been terminated, the apprentice will continue to be employed in a capacity corresponding to the title obtained in the proficiency test, and the term of apprenticeship will count towards his length of service. A special section has been established in the Workers Vocational Training Fund[3] to defray the expenses incurred in carrying out the provisions respecting the vocational training of apprentices (article 20); apprentices are subject to the provisions concerning: insurance against industrial accidents and occupational diseases; sickness insurance in respect of the following types of benefit: general practitioner services in the patient's home or in an out-patients' department; specialist services in out-patients' departments; pharmaceutical supplies, hospital treatment, and obstetrical care; invalidity and old-age insurance, tuberculosis insurance (article 21). No contribution to the insurance

[1] See translations into English and French in International Labour Office: *Legislative Series* 1955 — It. 1.

[2] Established under Act No. 264 of 29 April 1949 (see *Yearbook on Human Rights for 1949*, p. 130).

[3] See Act No. 264 of 29 April 1949, *cit.*

schemes specified above are payable by the apprentice (article 22). Employers violating the provisions of the Act are liable to penalties (articles 23–24). Employers in handicraft trades are exempt from the obligation to engage apprentices through the local placement offices, but they must send those offices the names of apprentices engaged or dismissed within ten days of the date of engagement or dismissal. They are also exempt from payment of contributions to social insurance schemes, which will be paid by the Vocational Training Fund referred to above, no contribution or formality being required of the employers. Severe penalties will be incurred by employers in handicraft trades who, after notifying an apprentice that he is engaged, do not allow him to complete his apprenticeship (articles 26 to 29). Pending the issue of general rules respecting the organization of the handicraft trades, article 25 defines as a craftsman "any person who carries on a business (including business of an artistic nature) in the manufacture of goods or the provision of services which is mainly based on his own labour and the labour of his family, whether such business is carried on in permanent premises, is an itinerant business or is carried on in a booth or stall, and whether or not machinery, power or any other technical means more suited to the type of work is or are used". The provisions of this Act do not apply to particular categories of undertakings where apprenticeship rules are in force which are recognized to be more favourable.

Act No. 407, of 3 May 1955, for the *organization of porterage* (*G.U.* No. 117, of 23 May 1955) lays down regulations on the work of independent porters. Under this Act they are required to be entered in a special register kept by the local police authorities (article 121 of the Consolidated Text of Statutes relating to Public Security), exceptions being made for porters working in state grain storage depots, ports and railway stations, etc., which are already subject to appropriate legislative provisions, and in the case of work undertaken by entrepreneurs in person or by their regular employees, and work of a domestic nature (article 1). The Act provides for a Central Porterage Control Board to be established by a decree of the Ministry of Labour and Social Welfare (article 2), and provincial boards for the same purpose, to be established by order of the prefect in each province (article 3). The functions of the Control Board are (article 4): to advise and make proposals concerning the organization of porterage, the co-ordination of the Provincial Boards, and the fixing of rates on a national basis; to advise on appeals against the decisions of the provincial labour offices and of the above-mentioned provincial boards concerning porterage; to propose improvements in the existing provisions for the welfare, assistance, health and accident protection of independent porters. Questions on which the board delivers an opinion are to be referred to the Ministry of Labour and Social Welfare, which will take such actions as may be necessary. The functions of the provincial boards are as follows (article 6): "(*a*) to classify, on the basis of usage, custom, local requirements, and existing *de jure* or *de facto* arrangements, porterage work performed by co-operatives, teams or other associations of independent porters, as well as by porters not belonging to such collective bodies; (*b*) to determine . . . the number of independent porters who may exercise their calling in each commune on such a basis as to provide for the due performance of the work and for the need to ensure regular employment for individual porters at an equitable minimum of average daily pay; (*c*) to set up and keep up to date a register of co-operatives, teams and other associations of independent porters, and also of those not belonging to such collective bodies . . .; (*d*) to fix rates, hours, rules and regulations concerning porterage work performed by independent porters and their collective organizations operating in the territory of the province; (*e*) to issue any further instructions and adopt any further measures deemed necessary for improving the organization of porterage work; (*f*) to mediate, at the request of at least one of the parties, in disputes arising between employers and independent porters; and also those arising among porters themselves, including both individual disputes or collective disputes between teams, co-operatives and other similar organizations."

Any violation of the above regulations is punishable by temporary withdrawal of the licence in the case of workers and by fines in the case of employers (articles 9 and 11).

A second group of Acts concerns *welfare, insurance and retirement.*

Act No. 692, of 4 August 1955 (*G.U.* No. 189, of 18 August 1955), for the extension of medical assistance to disabled and old-age pensioners, may be considered as a complement to Act No. 841, of 30 October 1953,[1] concerning government pensions. Under article 1 of the new Act, the following persons are entitled to medical assistance (unless already receiving it on other grounds): holders of pensions under the compulsory general insurance scheme for disablement and old age and surviving relatives; holders of any pensions or allowances paid by business enterprises, endowments, funds or administrations; holders of direct or indirect pensions granted by the Provident Fund of the Ministry of Finance or paid by the pensions funds or the institutes or funds of the communes, provinces or public welfare institutions, and holders of life annuities for local government employees; holders of industrial accident pensions, in specific cases of permanent disability. Assistance is extended to the following dependants living with the pensioner: wife; disabled husband; unmarried children, whether legitimate, legitimized, acknowledged natural, adopted or affiliated, foundlings legally entrusted to his care, and children born

[1] See *Yearbook on Human Rights for 1953*, p. 161.

of a previous marriage; brothers and sisters; old or invalid parents. Medical assistance covers general practitioner services, specialist services, hospital treatment and pharmaceutical supplies.

Act No. 552, of 1 July 1955 (*G.U.* No. 161, of 15 July 1955), extends compulsory insurance against tuberculosis to all personnel of public health institutions. Act No. 990 of 24 October 1955 (*G.U.* No. 256, of 7 November 1955) establishes a National Welfare and Assistance Fund for the benefit of land surveyors in private practice. Lastly, two Acts, Nos. 379 and 380, of 11 April 1955 (*G.U.* No. 112, of 16 May 1955, supplement), were passed, the first to introduce improvements in the retirement allowance scheme and changes in the regulations of welfare institutions under the Ministry of Finance; and the second to revise the retirement pension scheme participants in the pension fund for judicial personnel of all ranks, make changes in the regulations of the fund itself, and improve the terms for pensioners.

A third group of legislative provisions concerning labour, enacted with a view to *promoting increased employment*, also includes new Acts supplementing and amplifying Acts already promulgated to that end in recent years.

Act No. 1148, of 26 November 1955 (*G.U.* No. 284 of 10 December 1955), extends for a further seven years and amplifies the measures prescribed by Act No. 43, of 28 February 1949, to increase the employment of manual workers through furnishing facilities for the construction of houses for workers.[1] The present Act, like that of 1949, serves the twofold purpose of absorbing unemployed labour, and relieving, at least in part, the shortage of houses for the less privileged classes. In assigning construction facilities to the different parts of the country, this second seven-year plan will take into account local tendencies towards overcrowding and unemployment. Act No. 105, of 19 March 1955 (*G.U.* No. 72, of 29 March 1955), amends Act No. 646, of 10 August 1950,[2] establishing the "Southern Italy Fund", by extending the benefits of the 1950 Act to certain areas in the province of Rome, and authorizing the Southern Italy Fund to undertake in special circumstances the construction of nursery and elementary schools and kindergartens in the communes under its jurisdiction.

Special provisions for Calabria were laid down by Act No. 1177, of 26 November 1955 (*G.U.* No. 286, of 13 December 1955), which authorizes the Government to carry out, over a twelve-year period, "an organic plan of special public works for water control and forestry regulation, regulation of watercourses and mountain basins, reinforcement of slopes, and mountain and valley reclamation". Provision is also made for works to protect the inhabitants from the hazards of floods and landslides and for the displacement of the population of insecure and impoverished areas (article 1). In the case of mountain region improvement schemes, considered as such for the purposes of the Act, the contributions prescribed by Act No. 991, of 25 July 1952,[3] for private works, are from 50 to 70 per cent or from 38 to 60 per cent, as the case may be. The preparation of the master plan for the implementation of the Act is entrusted to the Southern Italy Fund.

New financial measures, which although aiming only at a slight increase in small-scale industries, will afford some relief for unemployment, have been adopted under Act No. 38, of 12 February 1955 (*G.U.* No. 50, of 2 March 1955), which provides for industrial loans for southern Italy and the Italian islands. Under this Act, over 11,000 million lire will be appropriated from the special account (article 2 of Act No. 1108, of 4 August 1948) and allotted to the Institute for the Economic Development of Southern Italy, the Regional Institute for the Financing of Medium and Small-scale Industries in Sicily, and the Credito Industriale Sardo. Each of these institutes will establish a permanent revolving fund for the granting of loans, both for the setting up of new industrial enterprises and for the expansion and modernization of existing ones.

Although substantially different from the preceding Acts, Act No. 1079, of 30 October 1955 (*G.U.* No. 269, of 22 November 1955), was also designed to provide occupation for the unemployed. This Act amends the regulations in force concerning overtime, by prohibiting all overtime work in industrial concerns which is not merely occasional "apart from exceptional circumstances where production techniques made it necessary and where the need cannot be met by engaging other workers".

Certain further Acts, apart from containing welfare provisions, mainly deserve mention on account of the high standards of non-discrimination on which they are based.

Act No. 14, of 5 January 1955 (*G.U.* No. 22, of 28 January 1955), contains provisions for the *benefit of war cripples and invalids* and for the relatives of members of the armed forces of the so-called Italian Social Republic killed during the war, exception being made, however, for soldiers who had been discharged from the armed forces of the State "for their conduct during the events following the Armistice of 8 September 1943" or who had "committed even isolated acts of terrorism or violence" (article 1). This Act provides for the granting of the allowances specified in Act No. 648, of 10 August 1950, for the amendment of the regulations on war pensions (articles 1, 2, 3 and 9), and the extension of the protection and assistance afforded respectively by the National Institution for War Orphans and the National Institution for the Protection and Assistance of War Invalids (article 8) to the orphans and relatives

[1] See *Yearbook on Human Rights for 1951*, p. 192.

[2] *ibid.*, p. 193.

[3] See *Yearbook on Human Rights for 1952*, p. 154.

of persons killed in the war, and to cripples and invalids. These benefits are also available to those who have served in military formations organized by the German armed forces in northern Italy (article 4), to the inhabitants of the Alto Adige and to persons residing prior to 1 January 1940 in certain mixed-language areas of northern Italy, provided they have retained or regained Italian citizenship (article 9).

Act No. 96, of 10 March 1955 (*G.U.* No. 70, of 26 March 1955), on the other hand, provides *new benefits in favour of the victims of Fascist political or racial persecution* and their surviving relatives. All those who, as a result of Fascist persecution on political grounds (imprisonment, confinement, violence or ill-treatment) suffered a specific loss of working capacity, will be paid a life annuity, pursuant to the above-mentioned Act No. 648, of 10 August 1950. The same annuity will be allowed, in identical circumstances, to those Italians who suffered racial persecution after 7 July 1938 (article 1). An annuity is also granted to the families of citizens who died as a result of the aforesaid political or racial persecutions (article 2). Further benefits are provided for the same categories of persons, in the form of civil service pensions (article 4), social insurance (article 5) and the transport of the bodies of persons who died under imprisonment or banishment.

A further provision in favour of former victims of political or racial persecutions is contained in Act No. 550, of 1 July 1955 (*G.U.* No. 161, of 15 July 1955), which lays down that hospital service directors removed from their posts on account of the said persecutions, and subsequently reinstated in accordance with the regulations issued in 1944, will be retained in service beyond the normal age limit, up to the age of 70.

The delicate problem of the *status of illegitimate children*, which has such a pronounced bearing on the protection of human dignity, was approached by the Italian Parliament from two angles: (*a*) that of the humiliating situation in which illegitimate children are placed when their origin is revealed in personal documents; and (*b*) that of adoption. Through the praiseworthy and unremitting efforts of a woman member, legislative provisions have been approved on each of these questions.

By approving Act No. 1064 of 31 October 1955 (*G.U.* No. 267, of 19 November 1955), on the personal data to be included in abstracts, certificates and documents, and amending the provisions concerning civil status, Parliament showed its acceptance of the argument advanced by the sponsoring member in her report as follows: "Important as it is to defend the life and liberty of each citizen, as affirmed in the Constitutions of all civilized nations in response to the fundamental needs of human nature, it is no less important to defend the private and personal dignity of the individual by withholding from indiscriminate public knowledge any irregular circumstances attending his birth". Even if the approved bill does not provide a radical solution of the problem, it undoubtedly constitutes an advance on the former juridical situation. The new Act contains the following provisions:

"*Art. 1.* The names of the father and mother shall be omitted:

(1) From summary abstracts and certificates relating to birth, marriage or citizenship, and from documents certifying the number of children and in publicly displayed announcements of marriage;

(2) From all identification documents.

"*Art. 2.* The names of the father and mother shall also be omitted from all other certificates, declarations, notifications or documents for which they may be required under the regulations existing up to the time of approval of the present Act, and in which the name is given for purposes other than those relating to the exercise of duties or rights deriving from legitimacy or adoption.

"*Art. 3.* In the cases specified in the foregoing articles, the place and date of birth shall always be given.

"*Art. 4.* The following clauses shall be inserted before the final paragraph of article 186 of royal decree No. 1238 of 9 July 1939: 'A natural child, who has been acknowledged by one parent and is subsequently adopted or affiliated, shall be referred to only by the surname of the adoptive or affiliative parent and as the latter's child; if he has been adopted or affiliated by both spouses he shall be referred to as their child, and by the husband's surname. This shall apply only so long as the affiliation has not been revoked or declared null and void in accordance with articles 410 and 411 of the Civil Code.

"'On attaining majority, the person concerned may apply to have his adoptive or affiliated status recognized.'"

The second Act, in regard to adoption, concerns the worst situated category of illegitimates, the "foundlings", who have not been acknowledged by either father or mother. As it happens, these unacknowledged children are much sought after in the foundling hospitals by childless couples anxious to adopt them and bring them up as their own children.

Existing laws, however, give very little protection to the adopting family, since during the three years following the handing over of the child by the institution to the applicant, after which adoption becomes legal, the mother can at any time come and reclaim the child; moreover, even after regular adoption, there still remains the threat of article 411 of the Civil Code[1] under which the minor can at any

[1] "*Art. 411. Nullification of Adoption.* The judge of the guardianship court may, at the request of the persons concerned or at his discretion, declare the adoption null and void if the child's father, having relinquished or been

time be taken away from the adoptive parents, who have given him both affection and material care. This situation was leading to a decline in the number of adoptions, thus depriving many homeless children of the benefit of a family.

Act No. 1065, of 9 November 1955 (*G.U.* No. 267 of 19 November 1955) partly remedied the situation by adding the following provisions to the second paragraph of article 411 of the Civil Code: "Adoption cannot, however, be declared null and void without the adoptive parent's consent in the case of acknowledgement of a minor who has been adopted legally after having been handed over by a public institution, except for serious and valid reasons".

In connexion with the principle of the *protection of individual freedom*, mention should be made of the new rules governing arrest and detention, laid down by Act No. 517 of 18 June 1955 (*G.U.* No. 148, of 30 June 1955, Supplement) containing amendments to the Code of Penal Procedure, supplemented by decree No. 666 of the President of the republic, dated 8 August 1955 (*G.U.* No. 185, of 12 August 1955, Supplement), laying down transitional rules and rules for the execution and co-ordination of the Act itself.

This Act in fact represents a first step towards changing those provisions of the Code of Procedure which conflict with the letter and the spirit of the Constitution. The new rules for penal procedure have increased the safeguards afforded to the defence and to the parties: counsel for the defence may be present during at least part of the preliminary examination; the system for serving court documents has been improved; the grounds for irremediable nullity have been restored and the principle that there shall be no derogation from the competence *ratione materiae* of the courts has been strengthened. The safeguards have been most increased, however, in the procedure for lodging objections and in matters of *personal freedom*: the grounds for objection have been extended; the cases where an order for arrest must be issued have been reduced; arrest by the criminal police has been subjected to stricter supervision and the Code now provides for automatic release from prison.

As a result of this reform, the Italian Code of Penal Procedure is now in harmony with the basic principles of personal freedom embodied in the Universal Declaration and in the relevant articles of the draft covenant on civil and political rights.

deprived of parental authority, subsequently has that authority restored to him.

"In the case of legitimation or acknowledgement of the minor, the judge of the guardianship court shall decide if it is in the minor's interest to continue under adoption, or if parental authority should be awarded to the father. In the latter case adoption shall be declared null and void. If adoption is continued, the child, who has been given the surname of the adoptive parent, shall not assume the name of his father."

In the field of *education*, two legislative provisions deserve mention for the principles on which they are based;

Decree No. 503 of the President of the republic, dated 14 June 1955 (*G.U.* No. 146, of 27 June 1955), lays down the teaching programmes for primary schools. These new programmes contain three elements which are clearly indicated in the preamble: (1) Statement of the purpose of the primary school, which is to furnish all citizens with the basic training of mind and character necessary for effective and intelligent participation in the life of society and the State". (2) Statement of the methods to be employed to achieve that purpose, which should be based on "recognition of the dignity of the human person; on respect for the basic underlying values — spiritual worth and freedom; on the need for a fully integrated education". (3) More specific suggestions, arising out of greater scholastic and teaching experience, to be considered "in the spirit of freedom and respect for the independent function of the School". The new programmes answer to two main requirements: "firstly that the curriculum should be more closely adopted to the psychological make-up of the child, and secondly that, in accordance with the Constitution, compulsory elementary education should continue for a period of at least eight years".

Act No. 1293, of 14 December 1955 (*G.U.* No. 298, of 27 December 1955), lays down regulations for the professional training of the blind. These new regulations are designed to introduce uniformity and system into the special vocational guidance schools for the blind. The first step towards this end has been to establish a single roster for teaching staff (article 1). Positions as director of vocational schools for the blind are to be granted to persons with the requisite qualifications and physical fitness (article 2). Established posts as practical technical teachers will be given, in schools and courses for the blind, to persons showing special aptitude for teaching the blind; such teachers who are not blind themselves may be assisted by blind staff (article 4). With a view to offering employment possibilities to the blind, article 7 lays down that teaching positions in the fields of general culture, music and singing should be assigned exclusively to the blind, on a competitive basis. Article 10 provides for appropriate inspections of secondary schools for the vocational training of the blind, to ensure that they are being efficiently run and effectively serve their purpose in accordance with the institutional aims of the organizations to which they are attached.

II. INTERNATIONAL INSTRUMENTS

Convention between Italy and the Saar on unemployment insurance, signed in Paris on 3 October 1953.

Ratified and made effective in Italy by Act No. 257, of 9 March 1955 (*G.U.* No. 90, of 19 April 1955).

Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, and the additional protocol thereto, signed at Paris on 20 March 1952.

Ratified and made effective in Italy by Act No. 848, of 4 August 1955 (*G.U.* No. 221, of 24 September 1955).

III. JUDICIAL DECISIONS

As an indication of the trends in Italian case-law, in conformity with the principles of the Universal Declaration, we give below a summary of three decisions of the Court of Cassation and of one decision of the Council of State [1] relating to *personal freedom*, the protection of authors' rights and assistance for Italian refugees.

The decision of the Court of Cassation of 11 November 1955 (*Foro Italiano*, 1956, II, 1) demonstrates the peculiarly humane nature of the reforms introduced into the Code of Criminal Procedure by Act No. 517, of 18 June 1955. Thus, while the criterion generally applied in determining whether the issue of a warrant of arrest is mandatory (article 253, section 2, of the Code of Criminal Procedure) is that of the *quantum of the penalty* — either minimum or maximum — provided for each offence, the legislator has made an exception for the offence of falsification of registers of births, marriages and deaths and adopted the criterion of the *degree of criminality*, that is, the particular nature of the crime, and consequently, directed that, in the case of this offence, a warrant of arrest would not be mandatory.

This principle is well illustrated in the commentary of the Minister of Justice on the Act of 18 June 1955, in which he said: ". . . it was deemed advisable not to make a warrant of arrest mandatory in cases of falsification of registers of births, marriages and deaths, in the aggravating circumstances specified in article 567 of the Penal Code, because very often the offender is prompted to commit this offence by motives that are not ignoble and are sometimes even generous (in the case, for instance, of the child of an adulterous relationship where the father, whether married or not, does not wish the true paternity to remain undisclosed), but to leave it to the discretion of the competent court whether to issue the optional warrant". Accordingly, the court decided that, even where there are special or general aggravating circumstances, the offence of falsification of registers does not fall within the category of cases in which, the issue of a warrant of arrest being mandatory, conditional release is prohibited.

Another decision affecting personal freedom is that of the Court of Cassation dated 8 April 1954 (*Foro Italiano*, 1955, II, 154) — i.e., *before* the reform of the Code of Criminal Procedure effected by Act No. 517 of 18 June 1955. This decision shows how the judiciary has at all times been guided by the principles of the Italian Constitution which safeguard the personal liberty of the defendant. In the case in question the points to be decided were: (1) whether or not the provisions of an international agreement relating to extradition prevailed over article 665 [2] of the Code of Criminal Procedure; and (2) whether or not the latter article had been correctly applied. On both these points the Court of Cassation gave a decision based on an interpretation of the law which favoured the personal freedom of the defendant.

The case concerned a Spanish national, B., who had been arrested by the Genoa police at the request of Interpol, a warrant for his arrest having been issued for aggravated theft and fraud. After the expiry of sixty days after his arrest, the prosecuting authority at Genoa made an order for his release pursuant to article 665 of the Code of Criminal Procedure, but revoked it the following day, and B. remained in custody. Some days later, the Ministry of Justice sent to the prosecuting authority the documents received from the Spanish Government and an application for an extradition order was made to the Genoa court.

On the application of defence counsel, the Genoa court, noting that the documents had reached the Italian Government five days after the expiry of the statutory time-limit of arrest, ordered the release of the accused. Disagreeing with the prosecutor's argument, the court had held that the Italo-Spanish Extradition Convention of 3 June 1868 could have prevailed over article 665, by virtue of article 656 of the Code of Criminal Procedure,[3] only if "the contracting parties had stipulated a time-limit of arrest different from that laid down in the Code or had specifically agreed to the indefinite prolongation of the detention of the person whose extradition was requested". Considering that the Convention in question did not contain any such express provision, the Genoa court accordingly ruled that article 665 was not merely applicable, but was an intrinsic term of the Convention itself. The prosecution appealed to the Court of Cassation against this decision on two grounds: (1) the violation of

[1] *Consiglio di Stato*, the highest administrative court in Italy. [Translator's note.]

[2] Code of Criminal Procedure, article 665. "*Time-limit of arrest.* The prisoner shall be released in any case in which during the sixty days following his arrest, if the requesting country is in Europe, or ninety days if it is outside Europe, the Ministry of Justice has not received the documents upon which the request for extradition is based. These time-limits may be extended at the request of the foreign Government once only and for a period not exceeding one month. The extension shall be ordered by the Minister of Justice."

[3] "Article 656. *Supremacy of international conventions and practices.* In the matter of letters rogatory (article 657), extradition (article 661), the effects of foreign sentences (article 672) and other relations with the authorities of foreign States which concern the administration of justice in criminal cases, international conventions and practices shall be observed. In the case of matters not regulated by such conventions and practices, the provisions which follow shall apply."

article 10 of the Italo-Spanish Extradition Convention of 3 June 1868, and (2) the misapplication of article 665 of the Code of Criminal Procedure.

So far as the second ground was concerned, the appellant argued: "Since no limitation is placed on the duration of detention after the Italian State has duly received the request for extradition, the plea of the expiry of the statutory time-limit of the arrest is even less tenable if the request for extradition, with supporting documents, arrived while the person to be extradited was still in custody."

The respondent contested, in the first place, the admissibility of the appeal against the action concerning the discontinuance of arrest under article 665. The Court of Cassation ruled, however, that it could hear the appeal, inasmuch as article 111 of the Constitution provides that "an appeal based on breach of the law lies to the Court of Cassation against acts affecting personal freedom".

Proceeding to deal with substance, the Court of Cassation observed that "the provision in article 665 limiting the period of arrest . . . is intended chiefly *to protect the personal freedom*[1] of the person whose extradition is requested, as well as to ensure respect for the sovereignty of the State requested to extradite him; the time-limit is absolute and does not admit of any exception, save where an extension of the period is ordered by the Minister of Justice (article 665, paragraph 2)".

Only in the cases in which "the international conventions contain express provisions governing custody and its duration do these conventions prevail (under article 656) over the provisions of municipal law".

But the Court of Cassation (like the Genoa court before it) did not consider that the Italo-Spanish Convention answered this description. Article 10 of the Convention provides: "In cases of urgency, and in particular if there is a danger of escape, either of the two Governments may, if the person concerned is the subject of a conviction, formal accusation or order of arrest, by the most expeditious means, including telegraph, request and secure his arrest, *on the condition that the document in question* [*conviction order, accusation, order of arrest*] *is produced within the shortest possible time.*"[1]

"It is contended," said the court, "that the production of the document determines, not the execution of the arrest . . . but its continuance or discontinuance; that the detention of the person concerned is in effect subject to a time-limit, which is stated to be the shortest possible and which is, consequently, a matter within the discretion of the requesting State; and hence (this argument proceeds) that the question of the duration of the arrest is the subject of a clause in the international instrument, which therefore prevails, on this point, over municipal law."

[1] Italics inserted.

The court, however, construed the Italo-Spanish Convention as follows: ". . . the duty of the State to which the request is addressed to agree to the arrest of the person concerned (in cases in which he is the subject of a conviction, formal accusation or order of arrest) — a duty founded on the principle of international solidarity — has as its counterpart nothing other than the duty of the requesting State to produce the supporting document within the shortest possible time. But the provision laying down this duty — whether we look at it in the light of the terms of other conventions or whether we examine its intrinsic nature — does not imply any stipulation specifying the time-limit of the arrest.

"Consequently, it cannot be argued that the international convention prevails over article 665; indeed, this article is an integral term of the convention itself. The application of this provision of municipal law fully supports the action of the Genoa court in ordering the release of the detainee in view of the expiry of the statutory time-limit."

Dismissing also the second ground of the appeal, the court stated: "Apart from any speculation concerning the abstract possibility of a fresh order of arrest being made upon the arrival of the documents or once the documents are in the possession of the lower court, in the event of the release having been ordered under article 665, the entire conception of the Code is such as to lead to the conclusion that, with the exception of the case mentioned in that article, the initiative in the matter of the custody of the person concerned during the course of proceedings rests with the Ministry of Justice. . . . Consequently, the functions of the lower court do not include the power to order the arrest of the person involved, or the power to keep him in custody, after that court has recognized that the time-limit of the detention has expired."

In the matter of the protection of *authors' . . . rights*, we consider it pertinent to mention the sequel in the Court of Cassation to the decision of the Florence Court of Appeal dated 12 August 1953.[2]

By its decision No. 84, of 17 January 1955 (*Foro Italiano*, 1955, I, 1173), the Court of Cassation confirmed that of the Court of Appeal, though relying on different grounds; the judgement sets forth these grounds and lays down the following principle: The remedy for an infringement of author's rights which does not come within the terms of the special legislation is an action for damages under article 2043 of the Civil Code.[3] The elements constituting the wrong are present if there is utilization with partial reproduction, even in a very minor degree, of an unpublished work.

[2] See *Yearbook on Human Rights for 1954*, pp. 172–3.

[3] Article 2043 of the Civil Code provides for compensation for any culpable or negligent act which wrongfully causes prejudice to another person.

The relevant passage of the decision and the final conclusions are given in full: "This suit presented a special case: the principal action was brought for plagiarism and the subsidiary action for compensation for the damage caused by the wrong; what happened was that M. had become acquainted with an unpublished translation while examining it with a view to its publication and had taken advantage of the opportunity to make his own translation of the original work, thus considerably simplifying his task. The lower court ruled out *total plagiarism*, holding that M. had not just copied the first translation, but had interpreted the English text, though making use of that translation. The lower court did not, then, consider whether there had been a partial plagiarism; in other words, it did not inquire whether that utilization, which was yet an appropriation of the work of another, constituted a permissible or an unlawful plagiarism. . . . Indeed, it considered only the fact that the earlier work was unpublished and had come to the knowledge of the second author in the circumstances and for the purposes mentioned above. In the circumstances, and observing the principles governing human progress, a lawful form of use was actually impossible in the sense of a person being free to take from another work something to be used in his own. Such [lawful] use presupposes that the first work is published, since publication allows, *inter alia*, precisely this form of use. If, on the other hand, the work is unpublished, no person is free to use it in any way save for the purposes allowed by the author. Hence, the proved existence of a mode of use involving partial reproduction was in any case unlawful even though the reproduction may have been only very minor and would, in the case of a published work, have been tolerated.

"In the light of the above reasoning and in view of M.'s wrongful conduct, the Florence Court of Appeal was right in its ruling concerning the presence of the elements constituting a wrong which creates the liability for damages."

The decision of the Court of Cassation adds: "The absence of even partial plagiarism (which can be inferred from the silence of the judgement of the lower court) is not, in the case of an unpublished work, incompatible with an unlawful reproduction for which a remedy is given by the general provisions of article 2043 of the Civil Code.

"That the elements constituting the *iniuria* are present is indisputable, inasmuch as the person in question culpably prejudiced the rights of another.

"And the *damnum* is inherent *in re ipsa*. It consists on the one hand in the reduced profits derived by C. from her own work as a result of the prior publication of the other translation which was, moreover, based on the unlawful use of the first, and, on the other hand, in the impairment of C.'s reputation as a translator as a result of the coincidences between the two works, which were such as to produce among the public the conviction that she had made use of the work of M., which was published first. Lastly, it is incontestable that there is a causal nexus, for M.'s unlawful act was the efficient cause of the prejudice sustained, as described above."

Finally, we refer to decision No. 347 of the Council of State dated 22 May 1954 (*Foro Italiano*, 1955, III, 16), for it gives fresh proof of the humanitarian spirit in which the *condition of refugees* is regarded in Italy. The decision interprets in a manner favourable to this unfortunate category of persons article 28 of Act No. 137 of 4 March 1952 concerning assistance for refugees of Italian nationality, which confers upon them the right to receive permission to exercise their profession or trade *notwithstanding any restrictive provisions in force*.

The issue before the Council of State may be summarized as follows: According to Act No. 958 of 29 December 1949 (which enacted provisions regarding cinematography) a certificate of clearance must be obtained from the competent authorities before a licence to operate a cinema can be issued and a certificate of clearance is similarly required for the construction, alteration or adaptation of the premises intended to be used as a cinema. Article 28 of the said Act of 4 March 1952 for the benefit of Italian refugees speaks only of "permission to exercise . . . notwithstanding . . . provisions in force", and makes no mention of any authorization or licence to construct or adapt premises for the purpose of the activity thus permitted.

The question to be decided was whether or not article 28 should be considered as *also* implying an exception to the restrictive provisions relating to the construction, etc., of cinemas.

The Council of State noted, in the first place, that the grant of the certificates of clearance, both for the issue of a licence to operate and for the construction of cinemas, depends on the ratio between the size of the population and the number of cinema seats, the object being to keep competition within reasonable bounds. That being so, the Council held that the clause (article 28) creating an exception to the restrictive provisions in force — which would mean in the particular case an exception to the rule of the population/cinema-seat ratio in the granting of permits to operate cinemas — ought to be extended to the restrictive provisions regarding the construction of cinemas, to which the same rule applies.

Because of their ethical content some of the passages in which the Council sets forth the considerations underlying its decision are cited below:

"By virtue of the said article (article 28) there can be no doubt that a refugee who intends to resume in whatever community he wishes to settle, the activity of cinema owner and operator which he had carried on in the territory whence he came has the right to obtain an operating licence notwith-

standing the restrictive provisions in force. . . . But it is easy to see that, once the right to obtain this licence is admitted, it ought also logically to be admitted that the issue of the certificate of clearance for the purposes of construction should cease to be contingent on the observance of the ratio mentioned above (population/cinema seats) and should be conditional only on the production of satisfactory evidence of the status of the person as a refugee and of the activity carried on in the territory whence he came.

"This interpretation is consonant with the spirit of article 28 and is supported by earlier rulings concerning the nature and object of the certificate of clearance for construction purposes. The intention of article 28 is to give refugees the opportunity of resuming their normal activity in their homeland and to provide that, where the pursuit of this activity is subject to permission, they have a right to obtain the permission notwithstanding any provisions in force to the contrary; but it is clear that where the Act speaks of a permission to exercise a profession or trade the intention was to refer to all the conditions governing the exercise of an activity and to provide for their waiver in the case of refugees." The question here, the decision continues, "is what interpretation of the letter of the law is in keeping with the spirit in which it was enacted; . . . it is obvious that a provision like article 28, which waives, for the purpose of the grant of an operating licence to refugees, the condition concerning the ratio population/cinema seats, necessarily waives the analogous condition laid down as regards the clearance certificate for construction".

JAPAN

THE PROTECTION OF HUMAN RIGHTS [1]

I. GENERAL

The greater emphasis upon the rights of the individual in post-war Japan is reflected in the Constitution which went into force on 3 May 1947.[2] Progress has been made in the fields of social protection, medical treatment, unemployment insurance and other aspects of social security. The restrictions once placed on the rights of the individual by the Press Act and the Publications Act have been abolished,[3] while citizens are able to secure compensation for infringements of rights by the authorities through the State Indemnity Act.

A Civil Liberties Bureau was created within the Ministry of Justice in February 1948. As its local organs, civil liberties departments were later established in regional justice bureaux at eight places throughout the country, while sections were set up in forty-one local justice bureaux.

The first task of these government organs is to accept appeals from citizens claiming violations of their rights and to take appropriate measures after a thorough investigation. For instance, on basic matters relating to labour and social security, the Civil Liberties Bureau passes a case on to the administrative agency concerned and advises the particular agency on the appropriate, just measures. In other cases, the offender may be sent to the procurator's office and the victim given legal advice and aid in bringing a lawsuit.

Their second task is to engage in various public relations activities in order to spread the concept of respect for human rights among the people at large.

The protection of human rights, however, requires the co-operative efforts of individual citizens, and because a government organ by itself cannot cope adequately with all the problems arising, Civil Liberties Commissions began to be established in July 1948.[4]

The Civil Liberties Commissions consist of civilian leaders of learning and high character, recommended by the heads of local administrative agencies to the Minister of Justice who, in turn, requests them to assume the duties of commissioner.

The commission's work is similar to that of the Civil Liberties Bureau, the difference being that it looks after the rights of the people in the area where the commissioners reside. They also seek to promote a better understanding among the inhabitants with regard to human rights.

At present, there are 5,509 Civil Liberties Commissioners throughout Japan who are organized into three federations: the Civil Liberties Commission Consultative Conference (298 offices); the Prefectural Civil Liberties Commission Consultative Conference (49 offices); and the National Civil Liberties Commission Consultative Conference.

Other groups for the protection of human rights are the Society for Freedom of Human Rights and the Japan Lawyers Federation, which co-operate in safeguarding the rights of the people.

The types of activity of the Civil Liberties Bureaux [5] and the Civil Liberties Commissions can be seen by looking at their record for 1955.

The following cases involving alleged violations of human rights were investigated:

	Cases
Violations by government workers	1,109
Violation of right to work	687
Discriminatory treatment	356
Exploitation and maltreatment	476
Exploitation of prostitutes	228
Ostracism	152

These cases include those which investigation discovered not to constitute violation of human rights.

In an attempt to increase the people's respect for and understanding of human rights, various publicity campaigns are carried on through the media of newspapers, radio, lectures, posters, leaflets and films. For instance, the number of such activities in 1955 were as follows:

Lectures (including films)	1,746
Discussion meetings (including debates)	692
Consultation tours	1,792
Radio broadcasts	287
Newspaper announcements	585
Announcements in official gazettes	471
Printed publications	242

Enlightenment campaigns are being conducted at all times, but special emphasis is placed on Human Rights Week, centred around 10 December, the anniversary of the adoption of the Universal Declaration of Human Rights.

[1] Note based upon information kindly furnished by Mr. Masanao Toda, Director of the Civil Liberties Bureau of the Japanese Ministry of Justice, government-appointed correspondent of the *Yearbook on Human Rights*, and Mr. Iwao Saito, of the same bureau. See also p. 343, below.

[2] See *Yearbook on Human Rights for 1946*, pp. 171–2.

[3] See *Yearbook on Human Rights for 1949*, p. 131.

[4] See also *Yearbook on Human Rights for 1949*, pp. 131 and 134–5 and *Yearbook on Human Rights for 1953*, pp. 170–1.

[5] See also *Yearbook on Human Rights for 1951*, p. 211.

II. LEGISLATION OF 1955

1. The Act for Special Protection in cases of Silicosis, External Wound and Spinal Ailments caused by External Wounds (Act No. 91, of 29 July 1955) required silicosis examinations for workers employed in work involving dust and granted medical treatment and rest from work to workers suffering from silicosis or spinal ailments caused by external wounds.

2. The Act amending the Day Labourers' Health Insurance Act (Act No. 115, of 1 August 1955) extended the period for granting of medical treatment under the Act from six months to one year. Cash payments in cases of death and child delivery have been added, and the scope of the definition of dependants of the insured has been enlarged.

3. The Act amending the Unemployment Insurance Act (Act No. 132, of 5 August 1955) enlarged the category of persons insured. The number of unemployment insurance benefit days in a year has been fixed at 270 or 210 days in the case of long-term insured persons and 90 days in the case of short-term insured persons. A system of governmental confirmation of acquisition and loss of qualification by insured persons has been established with a view to preventing unlawful receipt of benefits.

4. The Act amending the Tuberculosis Control Act[1] (Act No. 114, of 1 August 1955) widened the category of persons undergoing periodical health examinations arranged by mayors of cities or headmen of towns or villages by removing the age restrictions, so as to include the residents in general. Other improvements have been made in the procedure for treating patients.

III. SUPREME COURT DECISIONS OF 1955

1. In a decision of 30 March 1955 the Supreme Court decided that article 146 of the Public Officers Election Act,[2] placing certain restrictions on the distribution and exhibition of documents and pictures during an election campaign, did not violate article 21 of the Constitution, which guarantees freedom of all forms of expression.[3] The court stated that article 21 did not purport to guarantee freedom of speech, the press and other forms of expression absolutely and without limitation. When necessary in the public interest, reasonable restrictions as to time, place, method and so on were natural. Article 146 of the Public Service Election Act imposed the restriction defined above because the unlimited distribution and exhibition of documents and pictures in connexion with election campaigns would result in unwarrantable competition and freedom and fairness of elections would be impaired. The restriction was necessary and reasonable and permitted in the public interest by the Constitution.

2. Also on 30 March 1955 the Supreme Court ruled that a by-law of the Saitama Prefecture requiring prior notification of certain clearly defined details concerning mass marches and mass demonstrations to be held in public places (relating to the place, date, time and route), subject to penalties in the event of failure, did not violate articles 12[4] or 21 or any other provision of the Constitution, the requirements of the by-law being reasonable and aimed at the preservation of public order and the prevention of substantial infringement of the public welfare.

3. The Supreme Court was also called upon to decide whether a visit of inspection, search or seizure, without a court warrant, was legal, if applied to an offence, in process of being committed, under the Anti-National Tax Evasion Act. A majority judgement, a separate concurring judgement and a dissenting judgement were each delivered on this point, on 27 April 1955.

Articles 33 and 35 of the Constitution of Japan read as follows:

"*Art. 33.* No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offence with which the person is charged, unless he is apprehended while the offence is being committed.

. . .

"*Art. 35.* The right of all persons to be secure in their homes, papers and effects against entries, searches, and seizures shall not be impaired except upon warrant issued for adequate cause, and particularly describing the place to be searched and things to be seized, or except as provided by art. 33.

"Each search or seizure shall be made upon separate warrant issued by a competent judicial officer."

The majority of the Supreme Court found these two provisions relevant to the facts. Since the case involved an offence in process of being committed, the exception permitted by article 33, and therefore by article 35, rendered the action in question legal.

The concurring judgement was to the effect that articles 33 and 35 applied only to criminal proceedings. The Act in question laid down administrative procedures and did not violate any of the relevant articles of the Constitution.

The minority judgement found article 35 to be limited to criminal matters but to be applicable to the present facts because the investigatory procedure under article 3 of the Act had the characteristics of a criminal procedure, not of a purely financial administrative procedure. Article 33 was therefore also relevant. But article 3 of the Act was invalid for the reason that it spoke of visits of inspection, searches and seizures without relating these to the arrest of offenders.

---

[1] See *Yearbook on Human Rights for 1951*, pp. 207–8.

[2] See *Yearbook on Human Rights for 1950*, p. 171 and *for 1951*, p. 208.

[3] See *Yearbook on Human Rights for 1946*, p. 171.

[4] See *Yearbook on Human Rights for 1946*, p. 171.

4. In a further case held before the Supreme Court it was argued that article 33 of the Constitution was violated by article 210 of the Code of Criminal Procedure, which empowered a public prosecutor, a secretary of the public prosecutor's office or a judicial officer to arrest a person without a warrant where there are good grounds to suspect the commission of an offence punishable with the death penalty or penal servitude or imprisonment for life or for a period of three years or more, and due to the urgency of the situation a warrant cannot be secured in time, provided that the reasons for arrest are given when arrest is made and steps are immediately taken to secure a warrant, the suspect being released immediately if it is refused.

In a judgement of 14 December 1955, the Supreme Court held that this provision was not contrary to article 33 of the Constitution.

JORDAN

NOTE[1]

The Regulation for the Assistance of the Poor and Needy, No. 2 of 1955 (*Official Gazette* No. 1208, of 16 January 1955) was promulgated under article 5 of the Social Services Tax Act, No. 89 of 1953 and lays down the rules and conditions in accordance with which the Minister of Social Affairs may arrange for the granting of assistance, in cash or kind, to poor and needy individuals or families, within budgetary limitations. The individuals who may be assisted by regular payments are the following, in this order of priority: widows with no male children over seventeen years of age, invalids prevented by infirmity from earning, orphans of under fifteen, persons of over sixty-five who are handicapped by reason of age, and spinsters of over forty. No regular payment to a person or family may exceed five dinars per month. Separate provision is made for according extraordinary assistance to needy individuals or families when proof is given that there is no other source of income or assistance and an emergency exists—in particular, sickness or starvation or the death, emergency departure, arrest or imprisonment of the supporter of a family.

[1] Note based upon information kindly furnished by the Minister of Foreign Affairs.

The Regulation for the Assistance of Needy Students, No. 1 of 1955 (*Official Gazette* No. 1208, of 16 January 1955) was also promulgated under article 5 of the Social Services Tax Act, No. 89 of 1953 and lays down the conditions under which the Minister of Social Affairs may make regular cash payments to deserving, needy Jordanian students, of under twenty-eight, priority being given to those specializing in engineering, chemistry, medicine and other professional studies. Assistance is to be limited to students attending university classes outside Jordan which have no equivalent within Jordan. The university institutions require the approval of the Ministry of Social Affairs, in consultation with the Ministry of Education.

The Workmen's Compensation Act, No. 17 of 1955 (*Official Gazette* No. 1224, of 16 April 1955) governs the payment of compensation to workers for dismissal before the expiry of a contract of service (except on grounds of serious misconduct), for accidents arising out of and in the course of employment and for occupational diseases. Domestic servants and employers of less than five workers in one place are excluded from the operation of the Act.

KOREA

HUMAN RIGHTS IN KOREA [1]

I. LEGISLATION

The Korean Crimes Act of 18 March 1912, as amended, which was in force in 1945, contained many provisions which were not consistent with the principle of the protection of human rights — for instance: "The Prosecutor is authorized to execute seizure, search or inquiry, or the restraint of a suspect or an accused, or to require testimony by lay or expert witnesses, and interpretations or translations prior to the institution of public action: provided, however, that such offences are punishable by imprisonment and that prompt action is deemed necessary, except as otherwise provided in the code of criminal procedure" and: "Such action or measures as may be taken by the Prosecutor under the preceding paragraph may likewise be taken by the judicial police agents." It was further provided that "the judicial police may after interrogation of a suspect hold him under restraint for a period not exceeding ten days", in any of the cases enumerated in article 87, paragraph (1) of the former Code of Criminal Procedure such as: (1) when the suspect has no fixed residence; (2) when there is reasonable fear that the suspect will destroy evidence; (3) when there is reasonable fear that the suspect may flee.

Koreans had long contemplated the abrogation of these laws and the enactment of new statutes patterned on modern legal systems in the democratic nations.

In the meanwhile, pending the establishment of the Korean Government, USAMGIK Ordinance No. 176, dated 20 March 1948, regarding changes in criminal procedures, came into force for the purpose of protecting fundamental human rights and freedom of life by prohibiting unlawful restraint of the body.[2]

It was provided in this ordinance that: "No person shall suffer restraint of body except pursuant to a warrant of arrest [koo sok ryong chang], duly issued by a competent court, in which are stated the name of the person to be arrested and the offence of which he is charged . . ." (sec. III).

In addition it was stipulated therein that: "When a suspect or an accused has been arrested he shall be immediately informed of the charge and the particulars thereof, and shall be advised of his right to legal counsel" (sec. XI). This ordinance further provided that: "The chief prosecutor shall assign one or more of the prosecutors attached to his office and under his supervision to inspect the police jails, police stations, and sub-stations for the purpose of ascertaining whether any person has been illegally restrained therein" (sec. XXI). It should also be mentioned that this ordinance expressly repealed the Administrative Execution Act of July 1914 (Governor-General Ord. No. 23) and the above-cited Korean Crimes Act, as well as other laws and regulations inconsistent with the principle and spirit of the protection of human rights (sec. XXIV).

The ordinance served, however, merely as a temporary measure for the protection of the rights of the Korean people during the military government. Subsequently, after due deliberation, there was formulated a draft of a code of criminal procedure which after debate was finally enacted and promulgated as the new Code of Criminal Procedure by National Assembly Law No. 341, on 23 September 1954.[3]

Until the bringing into force of the above-mentioned new Code of Criminal Procedure, it was necessary to rely on the concurrent application of the former Japanese criminal procedure and the military government ordinances to overcome deadlocks on the road to legal protection of human rights, even though there was in effect a newly enacted and revised Korean Constitution which contained express provisions, articles 8–28 of chapter II, relating to the rights of citizens.[4]

The Constitution of the Republic of Korea was promulgated on 17 July 1948, and revised on 4 July 1952 and 27 November 1954.[5] Article 9 provides:

"All citizens shall enjoy personal liberty. No citizen shall be arrested, detained, searched, tried, punished, or subjected to compulsory labour except as provided by law.

"In any case of arrest, detention or search, a warrant therefor shall be necessary; except that in any case of *flagrante delicto* or in any case where there is danger that the criminal might escape or that the evidence of the crime may be destroyed, the detecting authorities may request an *ex post facto* conformity with provisions prescribed by law.

[1] Information kindly furnished by Colonel Ben C. Limb, Permanent Observer of the Republic of Korea to the United Nations.

[2] See *Yearbook on Human Rights for 1948*, pp. 136–8.

[3] See *Yearbook on Human Rights for 1954*, pp. 184–9.

[4] See *Yearbook on Human Rights for 1948*, pp. 134–5.

[5] See *Yearbook on Human Rights for 1954*, pp. 180–3.

"To all persons who may be arrested or detained, the right to have the prompt assistance of counsel and the right to request the court for a review of the legality of the arrest or detention, shall be guaranteed."

The provision was implemented by the Code of Criminal Procedure enacted in 1954, which provides precautions against arbitrary restraint of body, and in every case it is required as a prerequisite to the execution of the restraining function that a warrant has been issued. The right to a review of the legality of the restraint is also guaranteed to every suspect or accused person by express provisions. For example, article 201 of the Code of Criminal Procedure contains the following six provisions:

"*Art. 201* (Detention). (1) If there is a proper reason to suspect that an offence has been committed by the suspect, and there is a reason applicable to any item of paragraph (1) of article 70,[1] the public prosecutor or judicial police official may arrest him upon a warrant of arrest issued by the judge of a competent district court. In respect to an offence punishable with a fine not exceeding fifteen thousand hwan, detention or minor fine, such arrest shall be effected only in case the suspect has no fixed dwelling.

"(2) When a warrant of arrest is requested, pertinent data for detention shall be presented.

"(3) When a judge of a district court deems that there is a good reason for the request mentioned in paragraph 1, he shall issue a warrant of arrest. When a request is denied, the reason therefor shall be entered on the request and returned to the prosecutor who presented it.

"(4) A person arrested according to the provisions of the preceding three paragraphs, or his defence counsel or legal representative, or his spouse, or any of his lineal relations, or his brother or sister, head of house, or family, may ask the jurisdictional court to examine whether an arrest is legal or not.

"(5) A court which has received a demand under the preceding paragraph shall, without delay, investigate the conditions of the arrest and deny the demand if there is reasonable grounds to support the arrest. However, the court shall order the release of a person arrested by means of a ruling, when it deems the arrest illegal.

"(6) An appeal may be lodged only against a rule dismissing the demand mentioned in the preceding paragraph."

Statistics compiled at the Seoul district court show that the total number of applications for judicial inquiry into the legality of detentions during 1955 was 108, of which 49 applications resulted in the release of the applicant; 23 applications were rejected or dismissed and 36 withdrawn.

II. JUDICIAL DECISION

In the trial of Im Yong Jae and Mun Hong Yol (1955, penal file No. 38), the accused, members of the police force at Chunju were charged before the Chunju district court of unlawful confinement, violence, bodily injury and blackmail. They were found to have tortured a suspected criminal, extorted a payment and accepted bribes while carrying out an investigation. Im Yong Jae was found to have detained persons suspected of theft without a warrant duly executed by the competent judicial officials.

Im Yong Jae was held guilty of unlawful confinement under Article 124, paragraph 1, of the Criminal Code, and both were held guilty of corruption, violence and bribery under articles 37, 125 [2] and 129, paragraph 1, of the Criminal Code.

[1] See *Yearbook on Human Rights for 1954*, p. 184.

[2] See *Yearbook on Human Rights for 1953*, p. 176.

LEBANON

DECREE No. 8135 ON FAMILY ALLOWANCES

of 17 January 1955 [1]

Art. 1. Every public official in receipt of a monthly salary shall receive the following allowance in respect of each member of his family entered in the Civil Register:

12 Lebanese pounds per month in respect of his wife, and

12 Lebanese pounds per month in respect of each child,

Provided that the total of such allowances shall not exceed 72 Lebanese pounds per month.

A female official who shows proof that she is solely responsible for the support of her children by reason of the death or disability of their father, or his absence from the country for a period exceeding two years, shall be entitled to this allowance.

Art. 2. The allowance shall be payable in respect of:

1. A wife living with her husband and not gainfully employed, or a deserted or divorced wife who is legally entitled to maintenance;

2. Legitimate children, as follows:

(*a*) Minor sons and unmarried daughters, if not gainfully employed;

(*b*) Sons of full age who suffer from an infirmity or illness rendering them unfit for work and dependent on their family; in such case, the allowance shall be payable from year to year on presentation of a certificate issued by the Medical Board referred to in the Pensions Act and attesting to the continuation of the infirmity or illness;

(*c*) Widowed or divorced daughters who are not legally entitled to maintenance or gainfully employed and who are supported by the official concerned.

Art. 3. The provisions of the foregoing article shall apply;

1. To the children of an official who live with their deserted or divorced mother, if they are legally dependent on their father;

2. To adopted and legitimated children.

Art. 4. . . .

Where an official has more than one wife, he shall receive an allowance in respect of one wife only.

Art. 5. A family allowance in respect of a son shall cease upon his attainment of the age of eighteen, unless he is pursuing a course of study, in which case the allowance shall not cease until the completion of his studies or his attainment of the age of twenty-five.

. . .

A family allowance in respect of a daughter shall cease upon her marriage.

. . .

Art. 8. Civil service and military pensioners shall receive the following family allowances:

6 Lebanese pounds per month in respect of a wife, and

6 Lebanese pounds per month in respect of each child,

Provided that the total of such allowances shall not exceed 36 Lebanese pounds per month. The provisions of the foregoing articles shall apply to these allowances.

. . .

[1] Text published in *Official Gazette* No. 3, of 19 January 1955. Translation by the United Nations Secretariat.

LIBYA

ROYAL DECREE ENFORCING THE FIRST ELECTORAL LAW No. 5 OF 1951 AND MODIFYING SOME OF ITS PROVISIONS

of 16 November 1955 [1]

Art. 1. Electoral law No. 5 of 1951 shall be in force subject to the following provisions and modifications.

Art. 2. The provisions hereunder shall replace sections 3, 4, . . . of the aforementioned electoral law.

Section 3

QUALIFICATIONS OF ELECTORS

Every male Libyan who has completed his twenty-first year (Gregorian) shall be entitled to vote unless he is:

(*a*) A lunatic or idiot,

(*b*) Declared bankrupt and a period of four years has not lapsed since the date on which he was so declared unless he was rehabilitated earlier,

(*c*) Serving a term of imprisonment, or

(*d*) A regular member of the Libyan army or the police force.

Section 4

QUALIFICATIONS OF CANDIDATES FOR MEMBERSHIP OF THE CHAMBER OF DEPUTIES

Subject to the provisions of sections 5 and 23 of this law, every male person shall be entitled to nomination for membership of the Chamber of Deputies who:

(*a*) Is registered in the electoral register,

(*b*) Has completed his thirtieth year (Gregorian),

(*c*) Has not been sentenced to six months' imprisonment or more or convicted for any electoral offence unless five years, at least, have lapsed since the execution of the sentence, and

(*d*) Is capable of reading and writing in Arabic.

. . .

Art. 3. The title of part V and provisions of sections . . . 64 and 65 are substituted by the following title and provisions:

PART V

COMMON PROVISIONS RELATING TO THE SENATE AND THE CHAMBER OF DEPUTIES

. . .

Section 64

PROVISIONS AGAINST THE COMBINATION OF OFFICES

1. No public servant or member of a legislative assembly, provincial executive council, or municipal corporation, and likewise no wali, 'umdah, sheikh or tribal adviser, may run for membership of Parliament; any such person, on running for membership, shall be deemed to have forfeited his aforesaid post or membership. Likewise any member of Parliament who accepts any of the posts hereinbefore mentioned, or runs for membership of a legislative assembly or municipal corporation shall be deemed to have forfeited his membership of Parliament.

The term "public servant" is intended to include any person who has a service to render in one of the public departments or organizations, and a remuneration to receive therefor from government funds.

2. Cabinet Ministers, in addition to their functions as such, may be members of Parliament.

3. Any member of the Chamber of Deputies who nominates himself for membership of the Senate, and likewise any senator who nominates himself for membership of the Chamber of Deputies, shall be deemed to have forfeited his actual membership.

Where elections for both chambers of Parliament are held at the same period and a candidate has duly been elected for both chambers, such candidate shall opt for membership of one of the two chambers, which option shall be made within one week from the date of determination of the validity of his election; and where no such option is made, the aforesaid candidate shall be deemed to have opted for membership of the Senate.

Section 65

FORFEITURE OF MEMBERSHIP

Any person shall forfeit his membership where he ceases to possess the qualifications required for membership. Likewise he shall forfeit his membership if the aforesaid qualifications were lacking in

[1] Arabic and English texts published in *Official Gazette* of 22 November 1955, kindly furnished by the Ministry for Foreign Affairs of the Kingdom of Libya. The royal decree entered into force on publication in the *Official Gazette*. Extracts from Law No. 5 of 1951 appeared in *Yearbook on Human Rights for 1951*, pp. 229–230.

the course of his election or appointment and were not ascertained to be so lacking until after his election or appointment.

. . .

Art. 5. A supplementary part containing the following provisions, and known as part VIII, shall be added to the aforementioned electoral law:

PART VIII

ELECTIONS FOR THE SENATE

Section 71. The required number of members of the State for each province shall be elected by the legislative assembly of the province concerned.

Section 72. (*a*) A member of the Senate shall:

(1) Be a Libyan,

(2) Have completed his fortieth year (Gregorian),

(3) Have his name on the registers of his respective province,

(4) Have not been sentenced to six months' imprisonment or more or convicted of an electoral offence, unless five years at least have lapsed since the execution of the sentence, and

(5) Be capable of reading and writing in Arabic.

(*b*) Members of the royal family may be appointed to the Senate, but may not be elected.

. . .

LIECHTENSTEIN

NOTE[1]

In accordance with legislation enacted by the Government of the Principality of Liechtenstein, industrial and building workers are entitled to a holiday allowance of 4 per cent of their cash wage in the form of holiday vouchers.[2] In principle, foreign workers are placed on the same footing as nationals. Holiday vouchers are cashed by the secretariat of the Labour Union in December.

[1] Note kindly prepared by Mr. Joseph Büchel, formerly Secretary of Government, Vaduz, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Compare the ordinance of 17 February 1955 concerning holidays for skilled workers (*Liechtensteinisches Landes-Gesetzblatt*, 1955, No. 5 of 2 March 1955).

MEXICO

HUMAN RIGHTS IN MEXICO IN 1955 [1]

I. CONSTITUTIONAL AND LEGISLATIVE CHANGES

No constitutional changes affecting the development of human rights were enacted in 1955. However, the Political Constitution of the United Mexican States [2] contains, among the personal guarantees which it provides and the rights which it confers on the inhabitants of the republic, all the rights enumerated in the Universal Declaration of Human Rights [3] together with certain others not included in that instrument. For example, the right of petition, which is established by article 8 of the Constitution, is not provided for in the Universal Declaration.

While reference will be made below to legislative amendments and new legislation closely related to the human rights embodied in the Universal Declaration, it can safely be said that the laws of Mexico protect not only the human rights constituted by civil and political liberties, but also the rights today known as social guarantees, which are designed to provide a suitable framework for the development of the personality of the individual, as a member of a social group, towards the achievement of its highest ends, which are of necessity both individual and collective.

The Constitution and the laws enacted thereunder now in force in Mexico are the result of a revolutionary movement, which began in 1910 and was inspired not only by ideals of freedom, but also by clear and well-defined aspirations towards social justice. For this reason, one of the characteristics of Mexican legislation is its attempt to maintain the fairest possible balance that can be obtained in a human society between the rights of the individual and his obligations towards the group, between civil and political freedoms and the essential guarantees, between private enterprise and the protective action of the State.

In Mexico, human rights in the broad sense, to which reference was made above, are invested with constitutional dignity and are therefore ensured of respect by the constituted authorities. In this connexion, it is important to note that the Political Constitution of the United Mexican States is of the type referred to by writers as a "rigid constitution".

Thus, in Mexico, human rights protect the individual both as a human being and as a member of a specific social class, and are supreme and firmly entrenched in the Constitution.

The legislative amendments and innovations enacted during 1955 closely connected with human rights and contributing to their development are discussed below.

1. Health Code of the United Mexican States (*Diario Oficial* of 1 March 1955)

The Code, which deals with activities relating to the general health of the country, covers matters relating to emigration and immigration, the prevention and control of communicable diseases and tropical diseases, the control and supervision of laboratories, factories, stores, retail establishments, etc., in which medicaments or substances for the prevention and cure of communicable diseases are produced, distributed, stored or sold, the prevention of alcoholism, and the production, sale and consumption of substances poisonous to the individual and liable to cause the degeneration of the human race.

Under the Code, the Department of Health and Public Welfare is responsible, *inter alia*, for disseminating essential knowledge available to the public with a view to the improvement of physical and mental health and social conditions, and for promoting individual health education. The Code prescribes the practice and enforcement of measures designed to disseminate scientific knowledge on child diet and hygiene, the protection of children against childhood diseases, the care of mothers during pregnancy, including the diagnosis of conditions likely to affect the health of the child; etc.

2. Decree concerning the extension of the social insurance system to cover all credit, insurance and surety institutions (*Diario Oficial* of 18 March 1955)

The single article approves the extension of the social insurance system to cover all credit institutions and auxiliary bodies, and insurance and surety institutions in the Mexican Republic, this step having been recommended by the Technical Governing Body of the Mexican Social Insurance Institution in its resolution No. 27688, of 10 January 1955.

---

[1] Note kindly furnished by the Permanent Mission of Mexico to the United Nations. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1946*, pp. 189–202, *for 1947*, p. 183, *for 1948*, pp. 144–5 and *for 1952*, p. 190.

[3] See *Yearbook on Human Rights for 1948*, pp. 466–8.

3. Decision of the Federal Conciliation and Arbitration Board, fixing the minimum wage in the Federal District for the two-year period 1956–1957 (*Diario Oficial* of 24 December 1955)

The minimum wage is fixed at 11 pesos per day for workers in the capital; for workers in the country whom the employer provides with housing, land for cultivation, firewood and similar privileges reducing the cost of living during the two-year period indicated, the wage is 9.50 pesos per day. In fixing these minimum wages, the main factors taken into consideration were the Conciliation and Arbitration Board's obligation under the labour legislation in force in Mexico to guarantee the worker a living wage, which is neither contrary to the economic policies designed to promote the country's rapid economic reconstruction nor likely to have an impact on prices prejudicial to the common interest. Other factors taken into account were the present cost of living, the budget required to meet the worker's minimum needs, consumer-goods prices and trends and other relevant economic data.

4. Decree to amend the Civil Retirement Pensions Act (*Diario Oficial* of 31 December 1955)

The amendment provides that all workers who have attained the age of fifty-five, and would normally have contributed over a minimum period of fifteen years to the pensions fund, and all workers who have attained the age of fifty-three and have thirty years' service shall be entitled to a full pension. It also contains a table showing the rates of pensions to which workers who have attained the age of fifty-three but have less than thirty years' service are entitled.

5. Military Retirement and Pensions Act (*Diario Oficial* of 31 December 1955)

This Act grants the right to draw retirement benefits to all military personnel with at least twenty years' service who have reached the age limit, to all personnel disabled in action or as a consequence of wounds received in action and to personnel rendered unfit for military duty by an illness of over six months' duration, etc. It also grants the right to draw a pension to the families of military personnel in the categories prescribed by the Act (widows, minor children or children of full age incapacitated for work, unmarried, widowed or divorced mothers, fathers over the age of fifty-five or incapacitated for work, etc.).

6. Decree establishing the Directorate of Military Pensions as a decentralized federal organ (*Diario Oficial* of 31 December 1955)

Under article 2 of the decree, the Directorate is responsible for administering the pensions, allowances, retirement benefits and other benefits provided by the Military Retirement and Pensions Act, for investing the funds at its disposal in the manner prescribed by that Act and to the extent its obligations permit, and for taking steps to deal with the problem of housing for army and navy personnel in co-operation with the National Housing Institute.

II. DECISIONS OF THE SUPREME COURT OF JUSTICE

1. First Chamber

(a) *Forcible Entry into Dwellings*

Forcible entry into a dwelling is an offence against the peace and security of the person, as the goods legally protected by this rule include the home in the broadest sense of the word, the legislator having sought to safeguard the inviolability of the home. Hence, if the offender makes a forcible entry and endangers the persons in the dwelling by any acts which he may commit, he has, from the point of view of penalties, broken into the home and has destroyed its inherent security, by this conduct rendering himself liable to the maximum penalty. *Amparo directo* No. 3736/55, Adolfo García Avilés, judgement of 8 September 1955, by unanimous vote of all five justices.

(b) *Mexican Workers abroad*

Any person who, on his own account or on behalf of another person, removes or attempts to remove any Mexican worker to a foreign country, without prior permission from the Department of the Interior, commits the offence referred to by article 108 of the Protection of the Person Act, "remove" being understood to mean not only the material act of transferring workers from one territory to another, but also the act of furnishing the efficient cause for the movement of Mexican workers to another country without the required official authorization. *Amparo directo* No. 1472/54, Anselmo Martínez Zorrilla, judgement of 13 January 1955 by unanimous vote.

(c) *Substantial Violation committed during Proceedings*

The Supreme Court of Justice is competent to deal with such violations, even where no complaint is made, and to order that proceedings shall be re-instituted in all cases when the collegiate circuit courts cannot be held competent.

Examination of the record of the proceedings reveals an infringement of the guarantee embodied in article 20, paragraph 5, of the Constitution, which provides that the accused in any criminal suit shall have witnesses and other proofs that he may offer admitted, and grants him the time that the law deems necessary for this purpose, together with aid in securing the appearance of persons whose testimony ho may request, provided they may be found at the place of the trial; the circumstances were thus those envisaged in article 160, paragraph 6, of the *Amparo* Act as the fact that the persons whose appearance was urgently requested by the defendant and his counsel were not summoned to appear

seriously impaired the defendant's defence. *Amparo directo* No. 773/55, Ascensión Brito, judgement of 10 November 1955, by a majority of 3 votes.

2. Third Chamber

(a) *Temporary Maintenance*

Title 17, chapter II of the Code of Civil Procedure of the state of Chiapas is not unconstitutional; it lays down the procedure for emergency measures to provide maintenance allowances on a temporary basis without court proceedings, but the order prescribing such measures is neither final nor irrevocable. The person required to provide maintenance may contest the order in court, and his defence may be heard if he alleges that there are no legal grounds to justify the order against him.

Moreover, as the order for the payment of provisional maintenance may not be issued unless the applicant has produced full evidence of entitlement, submitting, if application is made on grounds of kinship, the relevant certificates in proof of marriage, birth, etc., or the final order of a court or a will or contract stating the obligation to provide maintenance, we are clearly concerned with a legal principle similar to those governing the preparatory, precautionary and even executory measures which can be made without first hearing the debtor in his defence and which are nonetheless not unconstitutional, for the reasons repeatedly affirmed by the Supreme Court. Review No. 5084/54/2a, Elías Delgado, judgement of 1 July 1955, by unanimous vote.

3. Fourth Chamber

(a) *Closed-shop Clause*

Article 49 of the Federal Labour Act establishes the right of trade unions to include a closed-shop clause in their collective agreements with undertakings. Consequently, this right may be exercised only when it has been specified in the contract. Thus, when it is claimed that an undertaking is obliged to observe an order for the dismissal of a worker, it must be shown that it was contractually obliged to do so, since, if the collective agreement contains no clause to that effect, the undertaking cannot be held to have assumed any such obligation. *Amparo directo* No. 4332/952/2a, Mechanics' and Chauffeurs' Union, District of León, Guanajuato. Judgement of 11 February 1955, by unanimous vote.

(b) *Persons economically dependent on a Worker may claim Outstanding Payments due, without need for Succession Proceedings*

Payments due on the death of a worker are to be paid in the event of his death to those persons economically dependent upon him who claim them through the competent labour court, since, although the procedure is not based on any express provision of the Federal Labour Act, it is justified by the principles which derive from that Act, for such payments constitute pecuniary benefits arising from the labour contract which accordingly are payable to the worker and, in the event of his death, to his dependants rather than to his legal heirs; the dependants have immediate needs which can be met only from the earnings of the deceased worker himself and cannot wait for the completion of lengthy succession proceedings, which involve expenditure greater than can be undertaken by most workers' dependants, and usually in excess of the amount payable by the employer. *Amparo directo* No. 3784/954/2a, San Francisco Mines of Mexico, judgement of 6 October 1955, by unanimous vote. This judgement, together with the judgements on petitions of *amparo directo* No. 7737/946, Petróleos Mexicanos; No. 8801/946, Petróleos Mexicanos; No. 2119/947, Petróleos Mexicanos and No. 5090/951 of San Francisco Mines of Mexico constitute a precedent.

(c) *Weekly Rest Period*

The weekly rest period is not to be considered as an inherent right of which the worker may dispose freely, but is, on the contrary, an institution of public social law designed to conserve the strength of persons required to work, and for this reason any agreement providing that workers shall furnish their services on all days when they are entitled to absent themselves from their duties by reason of the weekly rest period must be held null and void. *Amparo directo* No. 5357/954. Petróleos Mexicanos. Judgement of 1 March 1955, by a majority vote.

(d) *Dismissal*

Where the Conciliation and Arbitration Board, in proceedings instituted on behalf of the employee for enforcement of a contract, finds in its award that the employer's dismissal of the worker was unjustified and orders that the worker shall be reinstated with full rights, this means that, as the unilaterial termination of the contract by the defendant is without legal effect, the contractual bond has not ceased to exist and the restitution granted by the award to the person concerned is retroactive to the date on which the dismissal took place. *Amparo directo* No. 4456/953/2a. Industrial trade union Martires de San Angel of the Textile and Affiliated Industries. Judgement of 18 February 1955, by unanimous votes of all five justices.

4. Auxiliary Chamber

Freedom of Expression: Right of Petition and a "Fictitious" Negative Order

If the right of petition is violated, the aggrieved person is entitled to institute proceedings to safeguard his rights, but if the authority which has allowed more than ninety days to elapse without replying to an application for the reimbursement of excess payments is not competent to order repayment, the "fictitious negative" which may be contested before the Fiscal Tribunal does not exist

and the Tribunal is not competent, under article 16, paragraph VI, and article 162 of the relevant Code. Under article 8 of the Constitution, a written decision must be given to all petitions by the authority to whom they have been directed, and the authority is under an obligation to notify the petitioner of the decisions as soon as possible.

All officials are required to respect the exercise of the right of petition; and, accordingly, even those not competent to decide a given matter must furnish a reply, even if only a statement to the effect that they are not competent to deal with the case in question, and inform the person concerned, as soon as possible, of the contents of the decision. But the fact that this obligation exists, and is common to all public officials, does not mean that if an authority which is not competent to reimburse excess payments does not deal with the relevant petition, its attitude is to be considered a negative order for the purposes of article 162 of the Fiscal Code, nor may it be held that in such cases proceedings may be instituted before the competent court on the grounds that an authority has failed to take action by reason of incompetence, because that court can only take cognizance of proceedings against refusals to make reimbursement when such refusals are made by a competent authority. *Fiscal Review*, 133/54. Manuel Polo and co-appellants. 4 October 1955, judgement by unanimous vote.

III. INTERNATIONAL INSTRUMENTS SIGNED OR RATIFIED BY MEXICO DURING 1955

1. Decree promulgating the International Telecommunication Convention, the final protocol to the convention, the additional protocols to the convention, and the resolutions, recommendations and opinions adopted at Buenos Aires, Argentina in 1952 [1] (*Diario Oficial* of 14 January 1955)

The convention establishes the International Telecommunication Union, one of whose purposes, under article 3(*c*), is to promote the adoption of measures for ensuring the safety of life through the co-operation of telecommunication services.

2. Decree approving the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, concluded at Geneva, Switzerland, on 26 July 1936 (*Diario Oficial* of 28 February 1955)

The Convention was published in the *Diario Oficial* of 25 August 1955. The convention was approved by the Senate of the Congress of the Union on 29 December 1954 and ratified by the President of the Republic on 14 April 1955.

Under this convention, each of the high contracting parties agrees to make the necessary legislative provisions for severely punishing, particularly by imprisonment or other penalties of deprivation of liberty, the following acts: (*a*) the manufacture, conversion, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation, and exportation of narcotic drugs, contrary to the provisions of the said conventions; (*b*) intentional participation in the offences specified in this article; (*c*) conspiracy to commit any of the above-mentioned offences; (*d*) attempts, and subject to the conditions prescribed by national law, preparatory acts.

In this connexion, it is relevant to note that Mexico possesses very full legislation on the subject in its criminal codes, the Federal Code of Criminal Procedure, and the Health Code.

Under the convention, Mexico undertakes to prosecute and punish foreigners who are in its territory and who have committed abroad any of the offences mentioned above, as if the offence had been committed in that territory, provided that: (*a*) extradition has been requested and cannot be granted for a reason independent of the offence itself; and (*b*) the law of the country of refuge considers prosecution for offences committed abroad by foreigners admissible as a general rule.

The offences of trafficking in drugs set out above are to be deemed to be included as extraditable crimes in any extradition treaty which has been or may hereafter be concluded between any of the high contracting parties. The latter are also required to set up, within the framework of their domestic law, a central office for the supervision and co-ordination of all operations necessary to prevent the offences specified in article 2, and for ensuring that steps are taken to prosecute persons guilty of such offences.

The subjects with which this convention deals clearly fall within the framework of article 29, paragraph 2 of the Universal Declaration of Human Rights.

3. Decree ratifying the protocol of 1953 amending the Slavery Convention signed at Geneva on 25 September 1926 [2] (*Diario Oficial* of 28 February 1955)

This protocol amends the convention only in so far as it transfers to the United Nations the duties and functions originally entrusted to the League of Nations.

4. Decree ratifying the International Agreement and Convention for the Suppression of the White Slave Traffic, signed at Paris in 1904 and in May 1910, and the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of others, signed at Lake Success, New York, on 20 March 1950 [3] (*Diario Oficial* of 28 February 1955)

---

[1] See *Yearbook on Human Rights for 1952*, p. 406.

[2] See *Yearbook on Human Rights for 1953*, pp. 345–6 and 387–8.

[3] See *Yearbook on Human Rights for 1949*, pp. 388–91 and *Yearbook on Human Rights for 1950*, p. 524.

Both conventions are fully in accord with the principles embodied in articles 4 and 9 of the Universal Declaration of Human Rights, in that they provide for the punishment of any person who, to gratify the passions of others, has hired, abducted or enticed, even with her consent, a woman or a girl who is a minor, for immoral purposes, even when the various acts which together constitute the offence were committed in different countries; and also any person who has, to gratify the passions of others, by fraud, or by the use of violence, threats, abuse of authority, or any other means of constraint, hired, abducted or enticed a woman or girl of full age for immoral purposes, even when the various acts which together constitute the offence were committed in different countries. From the date on which the convention enters into force, these offences are deemed to be among those in respect of which extradition may take place in accordance with the extradition agreements in force.

5. Decree ratifying the agreement concluded between the United Mexican States and the Kingdom of Denmark for the mutual protection of the works of their authors, composers and artists (*Diario Oficial* of 28 February 1955)

The agreement is closely related to article 27 of the Universal Declaration of Human Rights, as it provides that each of the contracting parties shall undertake to protect, within its territory, the works produced by authors, composers and artists who are nationals of either of the parties, and to grant to the works of authors, composers and artists who are nationals of the other party the same protection as is provided by its laws to its own nationals.

6. Decree ratifying Convention No. 95 concerning the protection of wages, adopted by the General Conference of the ILO at Geneva, Switzerland, on 8 July 1949 (*Diario Oficial* of 28 February 1955. The full text of the Convention was published in the *Diario Oficial* of 12 December 1955)

This convention gives full recognition to the principles of article 23 of the Universal Declaration of Human Rights, since it establishes that wages payable in money shall be paid only in legal tender, and payment in the form of promissory notes, vouchers, or coupons, or in any other form alleged to represent legal tender, shall be prohibited; although the competent authority may permit payment by bank cheque or postal cheque in cases in which payment in this manner is customary. Partial payment of wages in the form of allowances in kind may likewise be authorized, although the payment of wages in the form of liquor of high alcoholic content or of noxious drugs is not to be permitted in any circumstances.

Under the convention, employers are prohibited from limiting in any manner the freedom of the worker to dispose of his wages, and provision is made for the protection of wages against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family, and against the judicial liquidation of an undertaking, when the workers are to be treated as privileged creditors as regards wages due to them.

Generally speaking, all the provisions of the Protection of Wages Convention were covered by article 123 of the Political Constitution of the United Mexican States and the Federal Labour Act in force.

7. Decree approving the convention concluded between the Governments of the United Mexican States and the Federal Republic of Germany on 4 November 1954 for the protection of authors' rights in musical compositions of their respective nationals (*Diario Oficial* of 28 February 1955. The full text of the Convention was published in the *Diario Oficial* of 30 April 1956)

This convention provides that each of the high contracting parties shall undertake to protect within its territory the musical works and compositions of nationals of the other contracting party, this obligation being designed solely to ensure the full protection of musical works, including the libretto, when the latter has been specially written for setting to music.

In addition, the author's rights in musical works shall be protected in each of the contracting countries, simply by virtue of the composition of the work, without need for registration, deposit or any other formality.

The instruments of ratification were exchanged on 20 January 1956, and, in accordance with article 4, the convention came into force one month later.

8. Convention of Paris for international protection of industrial property, referring to patents for inventions, industrial models or designs, trade marks, trade names or indications or marks of origin, and the suppression of unfair competition (*Diario Oficial* of 18 July 1955)

This convention was approved by the Senate of the Congress of the Union on 24 December 1954 and ratified by the President of the Republic on 14 April 1955.

It established the Union for the Protection of Industrial Property, industrial property being understood in the widest sense, as applying not only to trade and industry properly so-called, but also to the products of agriculture and mining, and all natural or manufactured products, such as wines, grains, tobacco leaves, fruits, animals, minerals, etc.

It guarantees, to all subjects or citizens of the countries members of the Union, the protection of industrial property in all other member countries, and all the advantages now accorded, or which may in future be accorded, to the nationals of those countries, together with the rights of inventors to be mentioned as such in patents.

It provides that all manufacturers' or trade marks, duly registered in the country of origin, shall be

eligible for deposit and for the consequent protection, in the other countries members of the Union, subject to certain reservations which are listed.

It protects the trade name in all the countries of the Union, without obligation as to deposit or registration, and whether or not it forms part of a manufacturer's mark or trade mark, and guarantees to the subjects of all member countries protection against unfair competition, which it defines as any act contrary to honourable practice in trade or industry. In consequence, it can be taken as confirming the right to which article 27, paragraph 2 of the Universal Declaration of Human Rights refers.

9. Cultural Convention between the United Mexican States and Japan, to ensure to both contracting parties full facilities for obtaining a better knowledge of their respective cultures (*Diario Oficial* of 12 December 1955)

This convention relates closely to the principles embodied in the Universal Declaration, being designed to promote and develop the right set out in article 26. In order to promote a broader knowledge in each country of the culture of the other, it provides, *inter alia*, for the distribution of books and periodicals, the organization of lectures, concerts, theatrical performances and art exhibitions, the distribution of recordings, scientific, educational and cultural films, etc.

It is also designed to promote the exchange of teachers, scientists, and students, between the two countries and the development and institution in their universities and other educational establishments, of courses on subjects relating to the culture of the other contracting party; and the development of technical studies and research in the other country—to this end provision is made for the granting of scholarships and other facilities, such as the reciprocal recognition of professional qualifications and academic diplomas, collaboration between learned societies, etc.

10. Decree approving Convention No. 90 concerning night work of young persons employed in industry (revised 1948), adopted by the General Conference of the International Labour Organisation held at San Francisco, California, on 10 June 1948 (*Diario Oficial* of 31 December 1955)

In conformity with article 25, paragraph 2, of the Universal Declaration of Human Rights, the convention protects children from night work in industrial activities, such as work in mines, quarries and other works for the extraction of minerals from the earth, electrical power production, manufacture of articles, civil engineering, including constructional repair, maintenance, alteration and demolition work, the transport of passengers and goods by road or rail, including the handling of goods at docks, quays, airports, etc.

It defines industrial occupations, but leaves to the competent authority the task of defining the line of division which separates industry from agriculture, commerce and other non-industrial occupations. As a general rule, it prohibits night work for young people of both sexes under eighteen years of age, night work being understood to mean work carried out during the interval between ten o'clock in the evening and six o'clock in the morning. The convention allows night work only under certain conditions, and provided that the workers are granted a rest period of thirteen hours between two working periods.

11. Decree ratifying the Convention for the Preservation of Cultural Property in the Event of Armed Conflict, the regulations and the protocol adopted by the conference convened by UNESCO and held at The Hague, Holland, from 21 April to 14 May 1954 [1] (*Diario Oficial* of 31 December 1955)

Every provision of these international instruments clearly embodies the intention of the representatives of the nations attending the conference to unite their efforts to reach an international agreement designed to eliminate as far as possible the disastrous consequences of war and to preserve from destruction the cultural and artistic heritage of the high contracting parties.

The instruments are undoubtedly among the most important ratified by Mexico in the course of 1955, in accordance with its traditional interest in the safeguarding of cultural property and its recognition of the principles set out in the Universal Declaration of Human Rights, in particular, in this case, those in article 27.

---

[1] The text of the Convention and that of the Protocol thereto appear in *Yearbook on Human Rights for 1954*, pp. 380–7 and 388–9 respectively. The Regulations for the Execution of the Convention are summarized on pp. 387–8 of the same *Yearbook*.

MONACO

NOTE[1]

I. INTERNATIONAL INSTRUMENTS

1. On 13 January 1955 the instruments of accession to the International Convention for the Safety of Life at Sea, signed at London on 10 June 1948, were deposited by the Principality. Sovereign ordinance No. 1119 of 2 April 1955 (*Journal de Monaco* No. 5111, of 19 September 1955) made that convention applicable to Monaco.

2. On 19 June 1955 the instruments of ratification of the Universal Copyright Convention, signed at Geneva on 6 September 1952, were deposited by the Principality. Sovereign ordinance No. 1191 of 12 September 1955 (*Journal de Monaco* No. 5115, of 17 October 1955) made that Convention and the annexed Protocols 1 and 2 applicable to Monaco.

II. LEGISLATION

1. Under Act No. 603, of 2 June 1955 (*Journal de Monaco* of 20 June 1955, p. 497), amending article 13 of an Act of 4 March 1948 concerning the conciliation and arbitration of industrial disputes, the composition of the Higher Court of Arbitration, whose members are appointed for a period of two years by sovereign ordinance, was established as follows:

The First President of the Court of Appeal, two members of the judicial establishment and two senior government officials, serving or retired.

The Act adds: "If the court decides to set aside an arbitral award, it shall itself adjudicate the substance of the case after a report by one of its members delegated to carry out a supplementary inquiry. The decisions of the court are final."

2. Act No. 606, of 20 June 1955 (*Journal de Monaco* of 27 June 1955, p. 511), grants to inventors in all branches of industry the exclusive right to exploit their discovery or invention for their own benefit, this right being established by a document called a "patent", issued by the Minister of State.

The formalities with respect to the grant of patents and patents of addition, and the rules for the transmission and surrender of patents, for the communication and publication of patent specifications, and for invalidations, revocations, infringements and proceedings therefor, are fully regulated by this Act in accordance with standard legal practice in the matter.

3. Another Act of the same date — Act No. 607 (*Journal de Monaco* of 27 June 1955, p. 518) establishes the same exclusive right for the authors of designs or models.

4. Lastly, another Act of the same date — Act No. 608 (*Journal de Monaco* of 27 June 1955, p. 520) provides for and regulates the protection of trade marks.

---

[1] Note prepared by Dr. Louis Aureglia, National Councillor, Monte Carlo, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

MOROCCO

NOTE

I. LAWS AND REGULATIONS

The decree of 12 September 1955 (*Bulletin officiel de l'Empire chérifien*, 16 September 1955, p. 1387) extends to Moroccan nationals the right to form industrial associations, a right which only Europeans had enjoyed under the terms of the decree of 24 December 1936.

Industrial associations and societies may have no other purpose than that of studying and defending the economic, industrial, commercial and agricultural interests of their members.

They may be formed by persons who have been engaged for not less than a year in the same occupation, similar trades or allied occupations connected with the production of a particular article, subject to filing the rules of the proposed association and a list of the persons who hold any office of administration or management. The public authorities have the right to raise objection to the establishment of the industrial association within one month from the filing of the rules. Married women engaged in any occupation or trade may become members of an industrial association without the authorization of their husbands; minors above the age of sixteen years have the same right, provided that their father, mother or guardian does not object. Any member may at any time resign from the association without prejudice to the right of the association to claim his subscription for the six months immediately following the date of his resignation.

Duly constituted industrial associations are bodies corporate and have the right to sue and be sued. They may in any court of justice exercise all the rights of a civil plaintiff in criminal cases in respect of matters which may directly or indirectly prejudice the collective interest of the trade which they represent.

They may enter into contracts or agreements with any other industrial association, society or undertaking, and they may be consulted respecting all disputes and questions relating to their particular occupation. They have full liberty to combine for the study and defence of their economic, industrial, commercial and agricultural interests. They have also the right to acquire real or personal property either as a free gift or in return for a consideration, to establish special mutual benefit and pension societies and industrial schemes (such as trade provident institutions and schemes for education) of interest to persons in the trade.

An industrial association may be dissolved by an order of the judicial authority on the application of the public prosecutor's office (Ministère public) if it contravenes this decree or its rules and in particular if it fails to confine itself to its corporative and industrial purposes.

The decree of 16 September 1955 (*Bulletin officiel de l'Empire chérifien*, 23 September 1955, p. 1425) [1] provides for workers' representatives in all industrial, commercial and agricultural establishments where more than fifty wage-earners are habitually employed.

The representatives are elected by the employees of the establishments grouped in separate electoral sectors comprising respectively manual workers, salaried employees, supervisory staff, and engineers and departmental heads.

The principal duty of the workers' representatives is to present to the head of the establishment all individual or collective demands of the workers respecting wages, occupational classification and the observance of industrial hygiene and safety regulations, unless such demands have already been satisfied directly; and, in the event of disagreement, to bring such demands to the notice of the public authorities. The workers' representatives meet under the chairmanship of the head of the establishment to form a committee responsible for co-operating with the management in improving the collective working and living conditions of the workers.

The head of the establishment must allow the workers' representatives the necessary time off, within certain defined limits, for the exercise of their duties; such time off shall be remunerated as time worked. Except in the case of serious negligence or misconduct, the official responsible for labour inspection must be consulted in all cases where the management is proposing to dismiss a workers' representative. The decree also fixes the penalties for interfering or attempting to interfere with the free election of workers' representatives or the proper discharge of their duties by the said representatives.

Employment accidents

The decree of 13 August 1955 (*Bulletin officiel de l'Empire chérifien*, 23 September 1955, p. 1412) [2] amends and supplements the decree of 25 June 1927, as amended, respecting workmen's compensation.

[1] The text of this decree is contained in: International Labour Office, *Legislative Series* 1955 – Mor. (Fr.) 3.

[2] *ibid.*, Mor. (Fr.) 1.

Any accident occurring in the course of or in connexion with his employment to any person who is performing in any capacity whatsoever, including probation or apprenticeship, a contract of service, is treated as an employment accident, entitling to the payment of compensation.

The decree of 1955 amends the provisions relating to rates of compensation; in particular, where the accident has caused death, it increases the life annuity payable to the surviving spouse. It also states that the legal provisions do not preclude the payment of a higher rate of compensation if this is provided for in the rules or standing orders of the establishment or by the agreement or the insurance contract entered into by the employer.

II. INTERNATIONAL INSTRUMENT

The text of the Convention relating to the Status of Refugees, of 28 July 1951,[1] was published in the *Bulletin officiel de l'Empire chérifien*, 9 September 1955, p. 1353.

[1] See *Yearbook on Human Rights for 1951*, pp. 581–8.

NEPAL

THE CIVIL LIBERTIES ACT, 2012 (A.D. 1955) [1]

1. *Short title, extent and commencement.* (1) This Act may be called the Civil Liberties Act, 2012.

(2) It extends to the whole of Nepal.

(3) It shall come into force at once.

2. *Interpretation.* In this Act,

(*a*) "Citizen" means a citizen as defined in the Nepal Citizenship Act, 2009.[2]

(*b*) "Existing law" means all laws for the time being in force including ains, sowals (Act) and rules, orders and notifications made in exercise of the powers conferred by any Act.

3. *Equality before law.* Subject to the existing law, the Government shall not deny to any citizen equality before law or the equal protection of law within the territory of Nepal:

Provided that hereafter the same punishment shall be awarded for the same offence, in accordance with the Penal Code.

4. *Discrimination on grounds of religion, race, caste, sex, etc.* The Government shall make appointments on grounds of merits only and shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or any of them.

5. *Special provision in certain cases.* Notwithstanding anything contained in sections 3 and 4 –

(*a*) It shall be lawful for the Government to make special provision for women, children and persons belonging to the backward classes of citizens;

(*b*) Religious and charitable institutions shall be managed according to the local customs and usages and nobody shall interfere with this right.

6. *Rights regarding freedom of speech, etc.* Subject to the existing law, 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 Nepal;

(*e*) To reside and settle in any part of the territory of Nepal;

(*f*) To acquire, hold and dispose of property; and

(*g*) To practise any profession, or to carry on any occupation, trade or business.

7. *Rights relating to religion.* Subject to the existing law, every religious denomination or any section thereof shall have the right –

(*a*) To maintain institutions for religious and charitable purposes;

(*b*) To manage its own affairs in matters of religion and social intercourse;

(*c*) To own and acquire property and to administer it in accordance with the law.

8. *No tax to be levied without the authority of law.* No tax shall be levied except under the authority of law.

9. *Rights relating to property.* No citizen shall be deprived of his property, save by the authority of the law.

10. *Protection of the home of the citizen.* No person shall forcibly enter the house of a citizen without the authority of law.

11. *Protection in respect of conviction of offences.* (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor will be subject to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness in a court against himself.

12. *Protection of life and liberty.* No person shall be deprived of his life or personal liberty except according to the procedure established by the general law.

13. *Prohibition of forced labour.* Forced labour is hereby prohibited.

14. *Prohibition of employment of children in factories, etc.* No child below the age of fourteen shall be employed to work in any factory or mine or engaged in any other hazardous employment.

15. *Protection in respect of arrest.* (1) No citizen who is arrested –

(*a*) Shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest; or

(*b*) Shall be denied the right to consult, in accordance with the rules of the place of detention, and to be defended by, a legal practitioner of his choice.

[1] The text of the Act was kindly furnished by Mr. R. P. Manandhar, Secretary to the Government, Kathmandu.

[2] See *Yearbook on Human Rights for 1952*, pp. 194–195.

(2) Every person who is arrested and detained in custody shall be produced before the nearest court within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court, and no such person shall be detained in custody beyond the said period without the authority of the court.

(3) Nothing in clause (*a*), sub-section (1) and sub-section (2), shall apply to any person who is arrested or detained under the Public Safety Act, 2007.

16. *Remedies in case of wrongful detention.* Any person who is arrested and detained or any person acting on his behalf may apply –

(*a*) In the Kathmandu valley to the Supreme Court, and

(*b*) Elsewhere, to a court exercising appellate jurisdiction in the district, for a writ of *habeas corpus* and such court may, after summary inquiry, direct such person to be released if it is satisfied that his detention was not authorized by the existing law.

17. *Other remedies for enforcing rights conferred by this Act.* (1) Any person who invades any right conferred by this Act or is responsible for such invasion shall be liable to pay to the person whose right is so invaded such damages as a court of competent jurisdiction may decree.

(2) Any person who has reason to believe that any right conferred on him by this Act is about to be invaded may file a suit against the person likely to invade such right, and the court may issue an injunction to the defendant restraining the defendant from invading the right of the plaintiff.

18. *Right to sue Government.* A citizen shall be entitled to file a suit against the Government for recovery of any property or money or for damages in respect of any property which has been taken from him by the Government in contravention of section 8 or 9 or for the enforcement of any right arising in respect of any contract with the Government, unless the contract provides for the decision of dispute by some other authority:

Provided that Government shall not be liable to pay damages for any tortious act of a government servant.

19. *Notice of suit.* No suit shall be instituted against the Government or against any government servant in respect of any act purporting to be done by him in his official capacity until the expiration of two months next after a notice in writing has been left at office of or sent by registered post to –

(*a*) In the case of a suit intended to be filed against the Government, a secretary to the Government;

(*b*) In the case of a suit intended to be filed against a government servant, that government servant,

stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims.

20. *Jurisdiction of courts.* (1) A suit referred in sections 17 and 18 shall be filed in the court exercising appellate jurisdiction in the districts in which the cause of action arose.

(2) No court shall entertain any such suit unless it is filed within eight months from the date of the accrual of the cause of action.

(3) No court shall entertain any suit against the Government if the cause of action alleged arose before the commencement of this Act.

21. *Conferment of rights on foreigners.* (1) Subject to the provisions of sub-sections (2) and (3), every person who is a national of a foreign country shall be entitled to all the rights conferred by this Act.

(2) The Government may, by order in writing, direct that any particular foreigner shall not be entitled to some or any of the rights conferred by this Act.

(3) The Government may make rules, with respect to any class or classes of the foreigners, restricting or limiting the rights conferred by this Act, and the rules shall be published in the *Nepal Gazette*; and without prejudice to the generality of the foregoing provisions such rules may

(*a*) Prohibit, regulate or restrict their entry into Nepal, their movement therein, their departure therefrom and their presence or continued presence therein;

(*b*) Provide that such foreigners shall not be entitled to any rights conferred by this Act or impose such restrictions as it may deem fit on the exercise by them of the rights conferred by this Act.

22. *Repeal.* The Personal Liberty Act, 2006 [1] is hereby repealed.

---

[1] See *Yearbook on Human Rights for 1952*, p. 194.

NETHERLANDS

NOTE[1]

I. EDUCATION, ARTS AND SCIENCES

Free Education. Grants to Private Schools

In the field of secondary education a noteworthy event has been the amendment of the rules governing grants towards private (i.e., non-public) secondary education; by virtue of this amendment the expenses incurred by private secondary schools for purposes of instruction are, after approval by the Minister of Education, Arts and Sciences, reimbursable in full (Act of 7 July 1955, to amend the Secondary Education Act and the Higher Education Act, *Staatsblad* 320[2]). A similar provision was enacted concerning private teacher training colleges (Act of 7 July 1955, *Stb.* 306[2]). Furthermore, the School Fee Act[3] entered into force during the year (Act of 20 May 1955, *Stb.* 223). By virtue of this Act, elementary education is provided free of charge, while entrance fees to secondary schools, among others, are considerably reduced and the school fees due in respect of the first two years' instruction at these schools are abolished by the Act. Moreover, the Act simplifies and standardizes the regulations relating to these matters. With this legislation, the Netherlands has given full effect to article 26 of the Universal Declaration of Human Rights of 10 December 1948.

Regional Languages in Schools

Since the entry into force of the Act of 20 May 1955 (*Stb.* 225)[3] to amend the Elementary Education Act (1920) it has been permissible, in the elementary schools of localities where, in addition to Dutch, the Frisian or some other regional language is commonly spoken, to use Frisian (or that other regional language) side by side with Dutch as the working language in the first three classes and to teach Frisian as a separate subject in the curriculum. It is recognized — and this is also confirmed by the experience of other countries — that, pedagogically, it is better for the Frisian-speaking children to express themselves in their mother tongue at school and to learn to use the Dutch language gradually. This method will, moreover, improve the knowledge of Dutch.

Nursery School Act

The most important measure of the year is the new Nursery School Act, of 8 December 1955 (*Stb.* 558). Under this Act, the State accepts full responsibility for the expenses of public and private preschool education, if this education fulfils certain conditions. The salaries of teachers in nursery schools will be reimbursed; a subsidy, based on the number of pupils, will be paid; and there will be a grant towards building costs. In addition, a subsidy will be given to twenty-six training colleges for nursery school teachers. The Act places public and private nursery schools on a footing of equality and specifies the minimum number of pupils required for the purpose of opening and operating a nursery school. The subsidy will be calculated according to the number of pupils between the ages of four and seven years. The new enactment will considerably enhance the material circumstances of nursery schools, which are attended by over 60 per cent of the children between the ages of four and five.[4]

So far as most of the teachers are concerned, the effect of the Act will be to increase their salaries and to give them professional status (retirement pensions, separation allowances on resignation, regulations governing leave).

The Nursery School Act is one of a number of reforms which the Minister of Education, Arts and Sciences intends to carry out, the broad outlines of which are set out in the Minister's report to the Second Chamber. As long ago as 1951, the Minister then in office had submitted a report on this problem; in taking the question up again now, the present Minister takes a wider view and adopts the principle that public and private education should be placed on a footing of equality at the different levels and that particular attention should be paid to the methodical planning of post-primary education.

Other Developments

The royal decree of 30 December 1955 (*Stb.* 610) introduces a notable improvement in the status of the staff teaching in primary schools. Under the decree there is a claim to an indemnity for dismissal (in the event of reduction of staff), in so far as salary is not in any case payable pending re-employment.

There has been no special development in the field of youth services and education. The grants

---

[1] This note was kindly communicated by Dr. A. A. van Rhijn, Secretary of State for Social Affairs, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] Entered into force on 1 January 1956.

[3] See *Yearbook on Human Rights for 1954*, p. 212.

[4] The Act entered into force on 1 January 1956.

made for these purposes have steadily increased over the years and they have been placed on a sound foundation by a series of regulations.

The following regulations entered into force on 1 January 1955:

1. Official regulations relating to grants for youth services, 1955;
2. Official regulations relating to grants for post-school educational services for young persons, 1955;
3. Official regulations relating to grants for socio-pedagogical education, 1955;
4. Official regulations relating to grants for camps and residential schools engaged in social services for youths.

The services to promote the distribution of books and other publications used in public education have been expanded and the relevant provisions amended accordingly.

II. RECONSTRUCTION AND HOUSING

The Rental Act, which entered into force on 1 January 1951, was modified by the Act of 15 August 1955 (*Stb.* 374), which provides new regulations concerning rents on immovable property. The rents of houses — with the exception of houses which have been declared unfit for human habitation and houses put on a par with the latter — were statutorily increased by 5 per cent. It was also rendered possible to increase the rents of business premises by the same percentage in mutual consultation between lessees and lessors. Finally, it was provided that, at the request of the lessee or the person covered by the regulation on the protection of tenants, the above-mentioned increase shall not be applied if the house does not come up to reasonable standards as a result of the lessor's having neglected the house.

III. ECONOMIC AFFAIRS

Within the scope of activities of the Ministry for Industrial Organization mention may be made of the fact that the Act on Industrial Organization (*Statutebook* 1950, K 22) was more widely applied in 1955 through the establishment of new industrial and commodity boards.[1]

IV. WORKERS' PROTECTION

Under the Act of 19 January 1955 (*Stb.* 44), the Labour Act, 1919 has been made applicable to work in agriculture.

This Act has put an end to the legal inequality in this respect between agricultural and industrial workers.

The Act authorizes the Crown to make regulations concerning hours of work and of rest. A number of regulations governing the work of women and juvenile workers have also been made applicable to agricultural work.

V. OVERSEAS PARTS OF THE KINGDOM

As regards the Netherlands Antilles, the following measures are of importance:

1. The introduction of emergency old-age assistance provisions which are financed entirely by the Government. These emergency provisions are to be replaced by a definitive arrangement under which a contribution shall be made by all concerned.

2. The fixing of minimum monthly wages for shop-workers on the isles of Aruba and Curaçao.

3. The introduction of a children's allowance over and above the wages for workers in paid employment.

In Surinam, the building of workers' dwellings is already being encouraged to an increased extent. The system of "aided self-help" seems to be particularly successful.

In addition, the Government is striving to make rural life more attractive — for instance, by the supply of electricity and drinking water and the improvement of the road system. Furthermore, in the town of Paramaribo a boarding school was set up in 1955 for the particular purpose of receiving boys who will come from distant areas to receive the technical education given in the capital.

[1] See *Tearbook on Human Rights for 1954*, p. 213.

DECREE TO BRING THE TERRITORIAL LAW OF THE NETHERLANDS ANTILLES INTO CONFORMITY WITH THE NEW CONSTITUTIONAL ORDER of 29 March 1955[1]

. . .

Considering that under article 59, paragraph 4, of the Constitution of the Kingdom of the Netherlands [2] the Territorial Law of the Netherlands Antilles is to be brought into conformity with the new constitutional order;

. . .

The text of the Constitution of the Netherlands Antilles is established in the terms contained in this decree.

This decree shall enter into force on the second

[1] Published in *Staatsblad* 1955, No. 136. Translation by the United Nations Secretariat.

[2] See *Tearbook on Human Rights for 1954*, pp. 209–11.

day following the publication of the *Publicatieblad* of the Netherlands Antilles in which it is inserted.

. . .

Constitution of the Netherlands Antilles

CHAPTER I

THE TERRITORY AND INHABITANTS OF THE NETHERLANDS ANTILLES

. . .

Art. 3. All persons present in the territory of the Netherlands Antilles shall have equal rights to the protection of their persons and property.

Art. 4. Aliens shall not be extradited except in accordance with the provisions of treaties, and in such cases due regard shall be paid to the rules made in the law of the kingdom or in general administrative regulations of the kingdom.

. . .

Art. 7. (1) Every Netherlander, regardless of citizenship, may be elected and appointed to any public office, and shall have the right to vote, in accordance with the provisions laid down by territorial order.

(2) An alien shall not have the right to be elected or appointed to public office or the right to vote. Territorial orders may be made to create exceptions concerning appointments to certain offices.

Art. 8. (1) No person shall be required to obtain prior authorization for the purpose of expressing ideas or sentiments through the press.

(2) Provisions relating to the liability of writers, publishers, printers and distributors, and to measures safeguarding public order and decency against the abuse of the freedom of the press, shall be enacted by territorial order.

Art. 9. (1) Every person shall have the right to submit petitions to the competent authorities, both of the kingdom and of the Netherlands Antilles.

(2) Petitions must be signed in person and not on behalf of others, unless they are submitted by or through a body that is constituted or recognized according to law, and in the latter case a petition shall not deal with any subject other than a subject within the scope of the specific activities of the body in question.

(3) Persons unable to write may, however, submit petitions through such officials as may be declared by territorial order to be competent for this purpose.

Art. 10. The exercise of the right of association and assembly may be declared, by territorial order, to be subject to regulations and restrictions laid down in the interest of public order, decency or health.

. . .

CHAPTER IV

THE LEGISLATIVE COUNCIL

Part 1

COMPOSITION

Art. 44. (1) The Legislative Council [Staten] shall consist of twenty-two members.

(2) The said members shall be directly elected by the electors. Each elector shall have one vote. Elections shall be free and secret.

(3) Each island territory shall constitute one electoral district. The island territory of Aruba shall elect eight members, the island territory of Bonaire one member, the island territory of the Windward Islands one member, and the island territory of Curaçao twelve members. In island territories which elect more than one member, the elections shall be held according to the principle of proportional representation.

(4) It shall not be a condition that a member elected in a particular district must be resident in that district.

Art. 45. (1) Residents of the Netherlands Antilles who are Netherlanders and have attained the age of twenty-three years shall have the right to vote.

(2) The electoral regulations may impose restrictions if this should prove necessary for the purpose of giving effect to the provisions of paragraph 1; they shall also make provision for all matters concerning the right to vote and the mode of election.

Art. 46. The following persons shall not have the right to vote:

(*a*) Persons deprived of the right to vote by a final judicial decision;

(*b*) Persons lawfully deprived of their freedom;

(*c*) Persons who, by a final judicial decision, have been declared, by reason of insanity or mental deficiency, incompetent to administer or dispose of their property, or have been deprived of their parental authority or guardianship over one or more of their children;

(*d*) Persons who, by a final judicial decision, have been sentenced to imprisonment for a term exceeding one year, such persons being disqualifed as voters for a period of three years after the termination of their sentence, and for life if such a sentence has been imposed a second time;

(*e*) Persons who, by a final judicial decision, have been sentenced to a penalty for begging or vagrancy, such persons being disqualified as voters for a period of three years after the termination of their sentence; for a period of six years if the sentence has been imposed for a second time; and for life if it has been imposed for a third time;

(*f*) Persons who, by a final judicial decision, have been convicted more than twice within a period of three years of a punishable offence, including drunkenness in public, such persons being disqualified as voters for a period of three years after the last conviction has become final.

Art. 47. Save as provided in article 48, Netherlanders who satisfy the conditions stipulated in article 45 may stand for election.

Art. 48. (1) Persons on active service in the armed forces, and the officials and diplomatic representatives of foreign Powers, as well as consular representatives *de carrière*, may not be members of the Legislative Council.

(2) The following persons may not be elected:

(*a*) The Governor;

(*b*) Persons who have been declared ineligible by a judicial decision or who are disqualified from the right to vote under the provisions of article 46, with the exception of persons who have been disqualified from the exercise of that right because they have been lawfully deprived of their freedom, or have been sentenced to a penalty involving deprivation of freedom, by reason of some act other than begging or vagrancy or other than an act indicating drunkenness in public.

(3) So far as necessary, provision shall be made by territorial order for any consequences arising out of the simultaneous membership of the Legislative Council and tenure of other offices the emoluments of which are paid out of public funds.

Art. 49. (1) The members of the Legislative Council may not be related to one another in the first or second degree. Husband and wife may not simultaneously be members of the Legislative Council.

(2) If persons who come within one of the categories referred to in paragraph 1 are elected simultaneously, only that person will be admitted who has received the largest number of votes and, if the number of votes is equal, the person who is oldest. If, in the latter case, the ages are also identical, a decision shall be made by drawing lots.

(3) If, subsequent to election, a person comes within the category referred to in the second sentence of paragraph 1, that person may not for that reason be required to resign before the expiry of his term of office.

. . .

Art. 54. (1) The members shall be entitled to tender their resignations at any time.

(2) Such resignation shall be submitted in writing to the Governor.

(3) A person shall cease to be a member if:

1. He ceases to be resident in the Netherlands Antilles or is absent from the Netherlands Antilles for more than eight months (or for such other period as is specified by territorial order);

2. He loses the full enjoyment of civic rights;

3. Any of the circumstances occur which under article 48 disqualify a person from election.

. . .

Part 3

POWERS

Art. 67. (1) The Legislative Council represents the entire population of the Netherlands Antilles.

. . .

CHAPTER V

THE ISLAND TERRITORIES

. . .

Art. 91. . . .

(5) In the establishment of a representative body the following rules shall be observed:

(*a*) The right to vote shall not be subject to any greater limitations than are considered necessary; each elector shall have one vote; elections shall be free and secret.

. . .

CHAPTER VI

THE LOCAL COMMUNITIES

. . .

Art. 96. In the event of the establishment of representative bodies, the provisions of article 91, paragraph 5, shall apply *mutatis mutandis.*

CHAPTER VII

JUDICATURE

Part 1

GENERAL PROVISIONS

. . .

Art. 99. (1) No person may be deprived of his property unless a territorial order has first declared the expropriation to be necessary in the public interest and unless he has received compensation or the assurance of compensation.

(2) Subject to any provisions enacted by virtue of article 33 of the Constitution [of the Kingdom of the Netherlands],[1] no exception to this principle shall be allowed save under general regulations enacted by territorial order, nor shall any person who has suffered expropriation be deprived, in any circumstances, of the right to compensation in full.

. . .

Art. 101. It shall not be lawful to institute penal proceedings except before the judge, and in the manner, specified by territorial order.

Art. 102. In no case shall a convicted person be liable to the loss of all civil rights or to the confiscation of all his property as a penalty or in consequence of his conviction.

. . .

---

[1] See *Yearbook on Human Rights for 1954*, p. 210.

Art. 104. (1) Every judgement shall state the grounds on which it is based, and in criminal cases it shall indicate the articles of the statutory provisions on which the conviction is based.

(2) Judgement shall be given in public.

(3) The courts shall sit in public, save in exceptional cases in the interest of public order and morality as prescribed by territorial order.

Art. 105. (1) No person shall be deprived against his will of his lawful judge.

. . .

Art. 106. (1) It shall not be lawful, save in the cases specified by territorial order, to arrest a person except under a court order stating the reasons for the arrest.

(2) Any such order shall be served upon the person to whom it is addressed at the time of his arrest or as soon as possible thereafter.

(3) The form of the order and the time limit within which all arrested persons must be heard shall be specified by a territorial order.

Art. 107. It shall not be lawful to enter the dwelling of any person against his will except pursuant to instructions given by an authority empowered for that purpose by territorial order and subject to the observance of the formalities prescribed by territorial order.

Art. 108. The secrecy of correspondence entrusted to the postal service or other public transport organizations shall be inviolable, unless orders to the contrary are given by a judge in the cases specified by territorial order.

Art. 109. The provisions of this chapter shall not apply to regulations concerning military, criminal and disciplinary law or to the administration of justice in military matters.

Part 2

THE COMPOSITION OF THE JUDICIARY

. . .

Art. 116. (1) The President and the members of the Court of Justice shall be dismissed from office by the Crown:

(*a*) When they attain the age of sixty years;

(*b*) In the event of proved incapacity due to continuing mental or physical disease or to the infirmities of old age;

(*c*) If they are placed under guardianship.

. . .

Art. 117. (1) If the Governor considers that one of the reasons for dismissal enumerated in paragraph 1 (*b*) of the preceding article is present, he shall, after hearing the views of the Advisory Council, and after submitting all the relevant documents, propose to the Crown that the official concerned should be dismissed.

(2) He shall, by giving notification of his proposal, afford the official concerned an opportunity to attach his written defence to the documents.

(3) Pending a decision by the Crown, the Governor shall have the power to suspend the official concerned and to make provision for filling the office temporarily.

(4) The official concerned shall receive his full salary during the period of suspension.

(5) If the official so requests, he may, by means of a grant of leave with pay and free passage, be afforded an opportunity to proceed to the Netherlands to present his case.

(6) The decision concerning dismissal shall be made by the Crown.

Art. 118. (1) The President or any member of the Court of Justice may be removed from office by the Supreme Court of the Netherlands sitting in chambers, by virtue of an express decision (which must be supported by reasons):

1. If he has been convicted of a criminal offence;

2. If he has been declared bankrupt, or has obtained a moratorium or has been imprisoned for debt;

3. If he has been guilty of misconduct or immorality or of proved and continuous negligence in the performance of his duties.

(2) The public prosecutor shall forward the relevant documents to the public prosecutor attached to the Supreme Court with a view to the institution of proceedings.

(3) He shall immediately notify the official concerned of the action taken and offer the latter the opportunity to submit a written defence to the Supreme Court.

(4) If the Governor considers that one of the reasons for removal from office enumerated in paragraph 1 is present, he shall have the power, after hearing the opinion of the Advisory Council and pending the decision of the Supreme Court, to suspend the official concerned and to make provision for filling his office.

(5) The official concerned shall receive his full salary during the period of suspension.

(6) A judgement by which a judicial official who does not come within the foregoing provisions is convicted of a criminal offence shall also include an order for his dismissal.

Art. 119. (1) Any member of the judiciary who is committed for trial or remanded in custody pending trial or committed to a medical institution for the insane or against whom an order of arrest for debt has been made shall by reason of such committal, remand or order be suspended from his office.

(2) Suspension from office shall not involve the suspension of the receipt of salary.

. . .

Art. 121. (1) The judicial power shall be exercised solely by the judges which are designated by territorial order.

(2) Any interference in judicial matters is prohibited.

. . .

CHAPTER VIII

RELIGION

Art. 123. (1) The right of every person to freedom of worship is recognized, subject to the protection of society and of its members against breaches of the criminal law, and this right is guaranteed against any statutory provisions or administrative regulations the effect of which would be to restrict, in a political, economic or social respect, any rights by reason of religious beliefs.

(2) Freedom of worship shall be interpreted to include:

(*a*) The freedom of every person to engage in worship according to his conscience and to bring up children in the faith chosen by the parents;

(*b*) The freedom of every person to change his religious belief;

(*c*) The freedom to preach, instruct, publish, teach and engage in social and charitable activities, and the freedom to establish organizations and to acquire and possess property for these purposes.

Art. 124. (1) All religious denominations and all religious communities shall receive equal protection.

(2) Grants from any public fund to religious communities and denominations, or to the ministers and teachers thereof, shall be made on terms of equality and in conformity with rules to be laid down by territorial order.

Art. 125. The Governor shall ensure that all religious communities and denominations remain within the bounds of obedience to statutory provisions and to the constituted authorities.

Art. 126. All the adherents of the different religious views enjoy the same civic and civil rights and have equal access to dignities, offices and employments.

Art. 127. Public worship and divine service shall not be subject to any restrictions other than those laid down by territorial order in the interests of public order, peace and morality.

. . .

CHAPTER X

DEFENCE

Art. 135. (1) Persons who are resident in the Netherlands Antilles may not be required to perform military service or civic services except by territorial order.

(2) Persons liable to military service who are serving in the land forces may not be sent outside the country without their consent except by virtue of a territorial order.

. . .

CHAPTER XI

EDUCATION, PUBLIC HEALTH AND POOR-LAW ADMINISTRATION

Art. 139. The territorial Government shall constantly encourage the propagation of enlightenment and culture and the promotion of the arts and sciences.

Art. 140. (1) Education shall at all times be a subject of concern to the Government.

(2) Education shall be free, subject to supervision by the authorities as prescribed by territorial order, and, so far as primary and secondary education are concerned, subject to investigation of the competence and good moral character of the teacher; the provisions relating to such supervision and investigation shall be laid down by territorial order.

(3) Public education shall be governed by territorial order, subject to respect for the religious beliefs of all persons.

(4) The authorities shall provide adequate facilities for giving public general primary education in a sufficient number of schools. Exceptions to this provision may be authorized by territorial order to the extent required by the financial position of the territory.

(5) The standards of efficiency required of education the cost of which is defrayed out of public funds shall be specified by territorial order, due account being taken, so far as denominational education is concerned, of freedom of opinion.

(6) These standards shall, with respect to general primary education, be laid down in such terms that the efficiency of denominational education entirely financed out of public funds and of public education is adequately guaranteed. In particular, the freedom of denominational education as regards the selection of means of instruction and appointment of teachers shall be respected.

(7) Public and denominational education, the latter in so far as it satisfies the conditions to be laid down by territorial order, shall be financed out of public funds according to the same principles.

(8) The Governor shall make a yearly report to the Legislative Council on the state of education.

Art. 141. The supervision to be exercised by the authorities over the state of public health and over all matters which concern the practice of medicine, surgery, midwifery and pharmacology shall be regulated by territorial order.

Art. 142. (1) The supervision of poor-law administration and of the necessary measures relating thereto shall be regulated by territorial order.

(2) Any provisions to be enacted as aforesaid shall respect the principle that philanthropic activities carried on by private or religious bodies shall be given full freedom aand shall be encouraged as much as possible.

CHAPTER XII

INDUSTRY

Art. 143. (1) The Government shall encourage all branches of industry.

(2) Chambers of commerce and agricultural committees may be set up, and the scope of their activities regulated by territorial order.

. . .

DECREE TO BRING THE TERRITORIAL LAW OF SURINAM INTO CONFORMITY WITH THE NEW CONSTITUTIONAL ORDER of 29 March 1955 [1]

Considering that under article 59, paragraph 4, of the Constitution of the Kingdom of the Netherlands [2] the Territorial Law of Surinam is to be brought into line with the new constitutional order;

. . .

The text of the Constitution of Surinam is established in the terms contained in this decree.

This decree shall enter into force on the second day following the publication of the *Gouvernementsblad* of Surinam in which it is inserted.

. . .

Constitution of Surinam

CHAPTER I

THE TERRITORY AND INHABITANTS OF SURINAM

. . .

[Articles 3, 4, 7, 8, 9 and 10 of the Constitution of Surinam contain the same provisions as, respectively, Articles 3, 4, 7, 8, 9 and 10 of the Constitution of the Netherlands Antilles,[3] except for the substitution of references to Surinam for references to Netherlands Antilles.]

CHAPTER IV

THE LEGISLATIVE COUNCIL

Part 1

COMPOSITION

Art. 43. (1) The Legislative Council [Staten] shall consist of twenty-one members.

(2) The said members shall be directly elected by the electors, in electoral districts to be established by territorial order. Each elector shall have one vote. Elections shall be free and secret.

(3) The city of Paramaribo shall form one or more electoral districts and shall return ten members, the remaining districts as a whole returning eleven members.

(4) It shall not be a condition that a member returned for a particular district must be resident in that district.

Art. 44. (1) The members of the Legislative Council shall be directly elected by the inhabitants of Surinam who are Netherlanders and have attained the age of twenty-three years.

(2) In so far as direct elections are not possible in certain electoral districts, the election regulations may provide for a system of designated electors (*Kiesmannen*).

(3) The electoral regulations may also impose restrictions if this should prove necessary for the purpose of giving effect to the provisions of paragraph 1; they shall also make provision for all matters concerning the right to vote and the mode of election.

[Article 45 of the Constitution of Surinam contains the same provisions as Article 46 of the Constitution of the Netherlands Antilles.]

Art. 46. Save as provided in article 47, Netherlanders who satisfy the conditions stipulated in article 44 may stand for elections.

Art. 47. (1) Persons on active service in the armed forces and diplomatic representatives or consular representatives *de carrière* of foreign Powers may not be members of the Legislative Council.

(2) The following persons may not be elected:

(*a*) The Governor;

(*b*) Persons who are not eligible or who are disqualified from the right to vote under the provisions of article 45, with the exception of persons who have been disqualified from the exercise of that right because they have been lawfully deprived of their freedom, or have been sentenced to a penalty involving deprivation of freedom, by reason of some act other than begging or vagrancy or other than an act indicating drunkenness in public.

---

[1] Published in *Staatsblad* 1955, No. 133. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1954*, pp. 209–11.

[3] See above, p. 181.

(3) So far as necessary, provision shall be made by territorial order for any consequences arising out of the simultaneous membership of the Legislative Council and tenure of other offices the emoluments of which are paid out of public funds.

Art. 48. (1) The members of the Legislative Council may not be related to one another in the first or second degree.

(2) If persons who are related to one another in the prohibited degrees are elected simultaneously, only that person will be admitted who has received the largest number of votes and, if the number of votes is equal, the person who is oldest. If, in the latter case, the ages are also identical, a decision shall be made by drawing lots.

. . .

[Article 53 of the Constitution of Surinam contains the same provisions as Article 54 of the Constitution of the Netherlands Antilles, except for the substitution of reference to Surinam in paragraph (3)1 and the substitution of "article 47" for "article 48" in paragraph (3)3.]

. . .

Part 3

POWERS

Art. 66. (1) The Legislative Council represents the entire population of Surinam.

. . .

CHAPTER V

ADMINISTRATIVE DIVISIONS AND INDEPENDENT COMMUNITIES

. . .

Art. 87. The following rules shall be observed in any case in which representative bodies are established by territorial order for independent communities:

(1) The right to vote shall not be subject to any greater limitations than are considered necessary; each elector shall have one vote. The elections shall be free and secret.

(2) The provisions of articles 59 and 60 shall apply, *mutatis mutandis.*

(3) The territorial order shall prescribe the responsibilities of the authorities towards the representative bodies.

CHAPTER VI

JUDICATURE

Part 1

GENERAL PROVISIONS

. . .

[Articles 90, 92, 93, 95, 96(1), 97, 98, 99 and 100 of the Constitution of Surinam contain the same provisions as, respectively, Articles 99, 101, 102, 104, 105(1), 106, 107, 108 and 109 of the Constitution of the Netherlands Antilles.]

Part 2

THE COMPOSITION OF THE JUDICIARY

. . .

[Articles 107 (1), 108 and 109 of the Constitution of Surinam contain the same provisions as, respectively, articles 116 (1), 117 and 118 of the Constitution of the Netherlands Antilles.]

Art. 110. Any member of the judiciary who is committed for trial or remanded in custody pending trial or committed to a medical institution for the insane or against whom an order of arrest for debt has been made shall by reason of such committal, remand or order be suspended from his office. Suspension from office shall not involve the suspension of the receipt of salary.

. . .

Art. 112. (1) The judicial power shall be exercised solely by the judges which are designated by territorial order.

. . .

(3) Any interference in judicial matters is prohibited.

. . .

CHAPTER VII

RELIGION

Art. 114. (1) The right of every person to freedom of worship is recognized, subject to the protection of society and of its members against breaches of the criminal law, and this right is guaranteed against any statutory provisions or administrative regulations the effect of which would be to restrict, in a political, economic or social respect, any rights by reason of religious beliefs.

(2) Freedom of worship shall be interpreted to include:

(*a*) The freedom of every person to engage in worship according to his conscience and to bring up children in the faith of their parents;

(*b*) The freedom of every person to change his religious beliefs;

(*c*) The freedom to preach, instruct, publish, teach and engage in social and charitable activities, and the freedom to establish organizations and to acquire and possess property for these purposes.

Art. 115. All religious denominations and all religious communities shall receive equal protection.

[Articles 116, 117 and 118 of the Constitution of Surinam contain the same provisions as, respectively, Articles 125, 126 and 127 of the Constitution of the Netherlands Antilles.]

. . .

CHAPTER IX

DEFENCE

Art. 126. (1) Persons who are resident in Surinam may not be required to perform military service or civic services except by territorial order.

(2) Persons liable to military service who are serving in the land forces may not be sent outside the country without their consent except by virtue of a territorial order.

. . .

CHAPTER X

EDUCATION, PUBLIC HEALTH AND POOR-LAW ADMINISTRATION

Art. 130. The territorial government shall constantly encourage the propagation of enlightenment and culture and the promotion of the arts and sciences.

Art. 131. (1) Education shall at all times be a subject of concern to the government.

(2) Education shall be free, subject to supervision by the authorities as prescribed by territorial order, and, so far as primary and secondary education are concerned, subject to investigation of the competence and good moral character of the teacher; the provisions relating to such supervision and investigations shall be laid down by territorial order.

(3) Public education shall be governed by territorial order, subject to respect for the religious beliefs of all persons.

(4) The standards of efficiency required of education the cost of which is defrayed out of public funds shall be specified by territorial order, due account being taken, so far as denominational education is concerned, of freedom of opinion.

(5) These standards shall, with respect to general primary education, be laid down in such terms that the efficiency of denominational education entirely financed out of public funds and of public education is adequately guaranteed. In particular, the freedom of denominational education as regards the selection of means of instruction and appointment of teachers shall be respected.

(6) Denominational general primary education which satisfies the conditions to be laid down by territorial order shall be financed out of public funds on the same principle as public education. The relevant territorial order shall lay down the conditions governing grants to be made out of public funds towards denominational general intermediate education and preparatory higher education, and towards the training of teachers for denominational general primary education.

(7) The Governor shall make a yearly report to the Legislative Council on the state of education.

[Articles 132 and 133 of the Constitution of Surinam contain the same provisions as, respectively, Articles 141 and 142 of the Constitution of the Netherlands Antilles.]

CHAPTER XI

INDUSTRY

Art. 134. (1) The Government shall encourage all branches of industry.

(2) Chambers of commerce and agricultural committees may be set up, and the scope of their activities regulated by territorial order.

. . .

NEW ZEALAND

NOTE[1]

I. LEGISLATION

Adoption Act 1955, No. 93 of 1955

Consolidates and amends previous legislation relating to adoption. It creates a new code to safeguard the welfare and rights of children who are to be the subjects of an adoption order. The general purpose of the new legislation is the greater protection of the adopted child side by side with attention to the rights of the adopting and the natural parents. The main provisions of the Act are:

(1) An adoption order may be made in favour of a husband and wife, or of one of them with the consent of the other; the Act forbids adoption by more than one person, except where they are husband and wife.

(2) Except in special circumstances an adoption order is not to be made in respect of a child unless the applicant, or, in the case of a joint application, one of the applicants,

(*a*) Has attained the age of twenty-five years and is at least twenty-one years older than the child; or

(*b*) Has attained the age of twenty-one years and is a relative of the child; or

(*c*) Is the mother or father of the child.

(3) There must be an investigation of the home conditions of the adopting parents by a child welfare officer, whose prior approval must be given before the placement of a child under fifteen years of age in its new home, unless an interim order has been made.

(4) The court must make, in the first instance, an interim order, and the adoption order itself may not, except in special circumstances, be made until after the child has resided in the adopting parent's home for six months. Before making an adoption order or interim order, the court must be satisfied that the adopting parent is a fit and proper person to have custody of the child and of sufficient ability to bring up, maintain and educate the child; the court must also be satisfied that the welfare and interests of the child will be promoted by the adoption, due consideration being given to the wishes of the child.

(5) Before the court can make any interim adoption order it must have before it the consents to the adoption of all the persons whose consents are required by the Act to be filed in the court.

(6) The Act specifies the effect of an adoption order. The order is not to affect the race, nationality, or citizenship of the adopted child. The child acquires the domicile of the adopting parent or parents and its domicile is to be thereafter determined as if the child had been born in lawful wedlock to the adopting parent or parents.

(7) Applications under the Act are not to be heard in open court and, except by order of a court in very special circumstances, adoption records are not to be open for inspection by persons other than executors, administrators or trustees requiring to see them for some purpose in connexion with the administration of an estate or trust, or by a registrar of marriages or officiating minister under the Marriage Act 1908 for the purpose of investigating forbidden degrees of relationship under that Act.

(8) The Act prohibits the making of payments in consideration of adoption, except with the consent of the court, and imposes restrictions on the publi cation of advertisements relating to adoptions.

(9) The provisions of the Act apply in respect of any person whether a Maori or not, and in respect of any child. Where the applicant or one of the applicants for an adoption order is a Maori and the child is a Maori, the application is to be made to the Maori Land Court. All other applications are to be made to a magistrate's court.

Criminal Justice Amendment Act 1955, No. 68 of 1955

Amends the Principal Act of 1954[2] by providing that one of the grounds on which the court may pass a sentence of corrective training on a person between twenty-one and thirty years of age shall be that that person has been previously convicted on at least two occasions of offences involving dishonesty within the meaning of the Crimes Act 1908. The amendment also imposes further conditions with respect to offenders reporting to the probation officer after release on probation.

Destitute Persons Amendment Act 1955, No. 56 of 1955

Amends the principal Act which was passed in 1910 to make provision for the maintenance of destitute persons, illegitimate children, and deserted wives and children. The amending Act details the

[1] Note prepared by the New Zealand Government. The Acts summarized here are published in *New Zealand Statutes* 1955, Vols. I and II. The regulations are published in *Statutory Regulations* 1955.

[2] See *Yearbook on Human Rights for 1954*, p. 214.

extent to which domicile and residence affect the making of a complaint or order regarding affiliation under part I of the Act. An affiliation complaint or order may be made if, at the time the complaint is made, the father or mother resides or is domiciled in New Zealand. As long as this domiciliary requirement is fulfilled, an affiliation complaint or order may be made under the Act, nothwithstanding that

(*a*) The child resides or was born outside New Zealand;

(*b*) The mother was domiciled outside New Zealand when the child was born;

(*c*) The mother or the child is deceased or the child was born dead.

The amending Act also contains more detailed provision regarding the nature of the court proceedings when a defendant under the Act is absent from New Zealand or cannot be found.

The amendment also specifies that where husband and wife enter into an agreement providing for the periodical maintenance of either party or of any child to whom part III or part IV of the Act is applicable, either party may register the agreement in the office of the magistrate's court. Where any agreement is so registered its provisions relating to maintenance have the same force and effect as if the agreement were a maintenance order made under the Act.

Family Protection Act 1955, No. 88 of 1955

Consolidates and amends previous legislation (the Family Protection Act 1908) dealing with claims for maintenance and support out of the estates of deceased persons. Certain improvements have been effected which the passage of time and the decisions of the courts have shown to be advisable. An application for provision out of the estate of any deceased person may now be made under the Act by or on behalf of the stepchildren of a deceased parent, who were being maintained wholly or partly or were legally entitled to be maintained wholly or partly by the deceased. The cases in which parents and grandchildren may apply were also extended.

Other new features of the Act are:

(*a*) The court may order that any amount specified by court order shall be set aside out of the estate and held on trust as a class fund for the benefit of two or more persons specified in the order;

(*b*) On any application to the court under the Act the court may have regard to the deceased's reasons so far as they are ascertainable for making the dispositions made by his will or for not making any provision for any person. The court may accept such evidence of those reasons as it considers sufficient.

Maori Purposes Act 1955, No. 106 of 1955

Amends several Acts concerning Maoris and Maori land. Amendments effected relate to the jurisdiction of the Maori Land Court to deal with the interest of deceased owners of Maori land, the appointment of honorary welfare officers, the prevention of waste of Maori land, and the imposition of restrictions on removal of timber by lessees under the Maori Vested Lands Administration Act 1954.

The Marriage Act 1955, No. 92 of 1955

Consolidates and amends the law relating to marriage. The main features of the Act are:

(1) The provisions of the Act so far as they relate to formalities apply to all marriages solemnized in New Zealand, and so far as they relate to capacity to marry apply to the marriage of any person domiciled in New Zealand.

(2) Marriages may be solemnized before an officiating minister (a list of whom must be prepared and published each year by the Registrar-General), or before a registrar of marriages. Where a marriage is to be solemnized before a minister, there must be produced to that minister a licence issued by a registrar of marriages.

(3) The prohibited degrees of relationship are listed in a schedule attached to the Act. In certain circumstances the Supreme Court may consent to the marriage of persons who are within the prohibited degrees of affinity but not consanguinity. Detailed stipulations govern the giving of consent, by parents or persons *in loco parentis*, to the marriage of a minor. Where any person whose consent is required to a marriage refuses to give his consent the magistrate may, on application in that behalf, consent to the marriage. Except as provided in certain circumstances for a woman under the age of sixteen, no marriage licence may be issued and no marriage may be solemnized if either of the persons intending marriage is under the age of sixteen. No marriage shall be void by reason only of the absence of the consent of a person whose consent is required or by reason only of an infringement of the other provisions.

(4) The Act provides also for the lodging of caveats against any marriage by persons claiming that the marriage is one in respect of which a licence should not be issued, for the hearing of any such objection by a stipendiary magistrate, and for the discharge of caveats.

The Act contains several new provisions relating to marriages outside New Zealand. The relevant sections provide:

(i) That all marriages which are valid in the United Kingdom by virtue of the Foreign Marriage Acts 1892 to 1947 shall be as valid as if solemnized in New Zealand in accordance with the law of New Zealand;

(ii) For the validity in New Zealand of all marriages of Commonwealth or Irish citizens contracted abroad in accordance with a form recognized in the circumstances by the law of the country of which a contracting party is a citizen;

(iii) For the issue of certificates to New Zealand citizens desiring to be married in a foreign country in accordance with the law of that country;

(iv) That where a New Zealand representative attends a marriage abroad of a New Zealand citizen and is satisfied that the correct formalities of the country where the marriage takes place have been complied with, he may give a certificate to that effect and the certificate shall be evidence of the marriage having been solemnized.

Social Security Amendment Act 1955, No. 9 of 1955

Amends the Social Security Act 1938.[1] It increases the rates of superannuation, age, widows', orphans', invalids', minors', sickness and unemployment benefits. It amends the residential qualifications for various benefits by providing that applicants for superannuation, age, and invalids' benefits need only be ordinarily resident in New Zealand in order to qualify. Previously, twelve months' residence in New Zealand had been required.

Social Security Amendment Act (No. 2) 1955, No. 34 of 1955

Makes further amendments to the Social Security Act 1938. It gives the Social Security Commission a discretionary power to grant age benefits to unmarried women between fifty and sixty years of age who are unfit for regular employment. It increases the maximum rates for widows' benefits and for age, invalids', minors', sickness and unemployment benefits where the applicants are unmarried persons. It extends the domestic service concession so as to enable women beneficiaries to earn up to £78 a year in domestic or nursing service in private homes or institutions approved by the Social Security Commission, without their benefits being reduced.

Superannuation Amendment Act 1955, No. 107 of 1955

Amends the principal Act of 1947 by providing for participation in the scheme on a 60 per cent basis, and for increased benefits, to superannuitants, including judges, parliamentarians and their widows. It also provides for a review of retiring allowances in certain circumstances.

War Pensions Amendment Act 1955, No. 10 of 1955

War Pensions Amendment Act (No. 2) 1955, No. 35 of 1955

Increase certain of the rates of allowances prescribed by the War Pensions Act 1954, and provide for further increased payments in special circumstances.

II. REGULATIONS

Agricultural Workers (Market Gardens) Extension Order 1953, Amendment No. 2

Agricultural Workers (Orchardists) Extension Order 1955

Agricultural Workers (Tobacco Growers) Extension Order 1954, Amendment No. 1

Agricultural Workers Wages Order 1955

Increase the wage rates payable to different types of agricultural workers.

Artificial Aids Notice 1954, Amendment No. 1

Artificial Aids Notice 1954, Amendment No. 2

These provide for the supply of certain artificial aids, free of charge, under the Social Security (Hospital Benefits for Outpatients) Regulations 1947.

Coal Mines Regulations 1939, Amendment No. 8

These provide that where a person is entitled to a retiring allowance under the Coal Mines Amendment Act 1953, and the workman dies, the retiring allowance may be expended for the benefit of his widow and children. The regulations also make a variation in the type of reviving apparatus required to be kept at central rescue stations and at mines employing 75 or more persons underground.

Court of Appeal Rules 1955

These rules consolidate, with amendments, the rules of procedure of the Court of Appeal in civil cases and in cases stated for the opinion of that Court under the Crimes Act 1908. Changes in procedure relate to time for appealing, setting down for hearing, and security for costs. In poor persons appeals, the value of the assets allowed to an applicant is increased from £25 to £50.

Hospital Employment (Laboratory Workers) Regulations 1952, Amendment No. 3

Hospital Employment (Male Nurses) Regulations 1952, Amendment No. 3

Hospital Employment (Occupational Therapists) Regulations 1952, Amendment No. 3

Hospital Employment (Orthopaedic Technicians) Regulations 1952, Amendment No. 3

Hospital Employment (Physiotherapists) Regulations 1952, Amendment No. 3

Hospital Employment (Secretarial and Clerical Officers) Regulations 1952, Amendment No. 3

Hospital Employment (X-ray Workers) Regulations 1953, Amendment No. 2

These regulations prescribe new salary scales and/or special allowances and additional leave for certain types of hospital employees.

Hospital Employment Regulations 1952, Amendment No. 2

These regulations make provision for a higher general wage increase to Hospital Board employees as from 18 November 1955 in place of the general wage increase from 15 September 1953.

[1] See *Yearbook on Human Rights for 1949*, pp. 154–8, *Yearbook on Human Rights for 1950*, p. 201 and *Yearbook on Human Rights for 1951*, p. 255.

Police Force Pay Regulations 1955

Police Force Pay Regulations 1955, Amendment No. 1

Settle the rates of pay and allowances for members of the police force.

Police Force Regulations 1950, Amendment No. 4

Set out provisions relating to payment of house allowances, retiring leave, discipline, qualifications of candidates for police examinations, and activities of members of the force outside their official duties.

Police Force Regulations 1950, Amendment No. 5

These replace previous provisions relating to age and physical qualifications of candidates for the police force. For the first time, qualifications in respect of women candidates are prescribed.

Post and Telegraph Staff Regulations 1951, Amendments Nos. 7 and 8

These effect amendments relating to salary changes, entitlement to leave and allowances.

Public Service Salary Order 1955

Prescribes new salary scales for employees in the public service.

Social Security (Dental Benefits) Regulations 1946, Amendment No. 3

Prescribe a new schedule of fees payable from the Social Security fund in respect of dental benefits.

III. JUDICIAL DECISIONS

MILLER ET UXOR *v.* PICKENS

Supreme Court

Auckland, 7–15 March 1955

Shorland J.

In this case, the Supreme Court exercised its equitable jurisdiction to act for the protection of infants. It was held that although there existed a statutory provision that, on the death of the father of an infant the mother should be the guardian, this did not restrict the court's inherent equitable jurisdiction; the court could, in appropriate circumstances, appoint some other person to be the sole guardian of the infant.

It was shown that the mother, having left the family home, had ignored all requests to return made by one of her five children and her husband, who had expressed the family's great need of her return to the home. It was also proved that, although she knew that her husband, because of his work, could not give the children adequate attention, she had taken no steps to ascertain how they were faring. In these circumstances, the court held that there had been an abdication by the mother of parental authority in such a way that the court would not allow her to resume it. Thus, the statutory provision amounted merely to a presumption.

The court reaffirmed three further grounds on which that presumption might be superseded, — namely, where there is a serious reason why the parent's custody of the child would be in some important respect disadvantageous to the child; where it is shown that the parent is, by character or conduct, unfit for the custody of the child; or where it is shown that the parent is lacking in affection for the child, or has been unmindful of the normal parental duties towards it.

IV. INTERNATIONAL INSTRUMENT

Agreement on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand, signed at Wellington on 20 December 1955. In force on 1 April 1956.

NICARAGUA

DECREE AMENDING THE CONSTITUTION

of 20 April 1955 [1]

Art. 1. The Political Constitution of Nicaragua [2] is amended in part as follows:

(*a*) Delete in the second paragraph of article 32 [3] the phrase "save as expressly excepted by the Constitution";

(*b*) Article 33,[4] paragraph 2, shall read as follows: "To vote in popular elections";

(*c*) Article 116 shall read as follows: "The State prohibits the formation and activities of the Communist Party and parties advocating similar ideologies, and of all other internationally organized political parties. Individuals belonging to those parties may not discharge any public office, without prejudice to such other penalties as may be prescribed by law";

(*d*) Insert in title IV [5] in place of article 126 (which will become article 127) an article reading as follows: "Any activities that tend towards the re-establishment of Central American unity shall enjoy the protection of the State";

. . .

(*h*) Article 186 shall read as follows: "The following may not be elected President of the republic:

1. Any soldier who has been on active service six months before the election;
2. Ministers of State who do not lay down their office six months before the election;
3. Any person serving as a judge in a court of law at any time during the six months preceding the date of the election;
4. The chief and leaders of a *coup d'état*, revolution or armed movement of any kind, with their relatives to the fourth degree of consanguinity or affinity, for the term during which constitutional government is interrupted and the next following term;
5. Any person who has been a Minister of State or has held high military authority in a *de facto* government which has subverted constitutional government, with his relatives to the fourth degree of consanguinity or affinity, for the terms specified in the preceding sub-paragraph";

. . .

(*k*) Article 215 shall read as follows: "Judges of the Supreme Court must be not less than thirty-five or more than seventy years of age on the day of election; they must be Nicaraguan-born citizens who have not taken clerical orders, are in possession of their civil rights, have legal training, are of good repute and have practised as lawyers of good standing for more than ten years, or have served as judges";

. . .

Art. 2. The Electoral Act [6] is amended in part as follows:

(*a*) Article 2 shall read as follows: "It is the obligation of citizens to register in the electoral registers and to vote in popular elections in accordance with the provisions of this Act.

"Likewise, any Nicaraguan who has not attained the age prescribed by the Constitution for citizenship, but who will attain the said age on or before the date of elections, shall be required to register".

(*b*) Article 3 is hereby repealed.

(*c*) Article 9 shall read as follows: "The two political parties which received the largest number of votes in the popular election for the President of the republic shall be the principal political parties of the nation.

"If one of the principal parties of the nation fails to present candidates, its place shall be taken by the party which received the third largest number of votes in the previous election, or in default thereof by the party which submits the petition bearing the largest number of signatures."

---

[1] The decree was published in *La Gaceta — Diario Oficial* No. 86, of 21 April 1955. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1950*, pp. 205–12.

[3] The second paragraph of article 32 of the Constitution of 1950 had read: "Women may be elected or appointed to public office, save as expressly excepted by the Constitution."

[4] Article 33 enumerates the obligations of citizens.

[5] Title IV is headed "Rights and Guarantees".

[6] See *Yearbook on Human Rights for 1950*, pp. 213–15.

DECREE No. 161, PROMULGATING THE SOCIAL SECURITY ACT of 22 December 1955

SUMMARY[1]

This Act establishes a comprehensive national system of social security in three branches: social welfare, medical aid and social insurance.

The compulsory social insurance system is to be extended in a gradual and progressive manner, by geographical area and in successive stages, to cover maternity, sickness, industrial accident and occupational disease, invalidity, old age, death and unemployment, and is to cover all workers who are bound to an employer, whatever the nature of the contract of employment and whatever mode of remuneration has been stipulated. The term "workers" includes, among others, and regardless of sex, nationality, occupation and the status of the employer, employees of the State and its institutions, employees of the municipalities, of the local boards, of the autonomous bodies and public utilities services, salaried employees in private service and all day labourers, wage earners and apprentices, including agricultural workers, domestic servants and home-workers.

The Act, in conformity with article 97 of the Constitution,[2] establishes a permanent body endowed with legal personality, called the National Social Security Institution, which is made responsible for the operation and administration of the social insurance system. The Institution is to finance the social security programmes with compulsory contributions paid by employers, workers and the State.

A partial translation of the decree into English and French appears in the *Legislative Series* of the International Labour Office, 1955, Nic. 1.

[1] Original text in *La Gaceta* No. 1, of 2 January 1956. Summary by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1950*, p. 210.

NORWAY

NOTE[1]

I. LEGISLATION

1. Under the Act of 21 July 1894 pertaining to the religious profession of public servants, all clerical officials, all members of the university's theological faculty and other officials or functionaries required to engage in Christian instruction, all officials of the elementary schools and those engaged in developing and promoting such schools, and all principals of schools for advanced public instruction, shall espouse the official religion of the land. Under the Act of 18 November 1955, the following provision was added:

"With respect to the above-mentioned officials and principals (rectors) of the school system, the King may in special instances permit deviation from this provision when the official concerned will not be engaging in Christian instruction."

This provision appears on page 629 of section 2 of the *Norwegian Law Gazette* for 1955.

2. The Act of 2 December 1955, on preparedness and the public health, provides for the institution of measures for safeguarding the public health in time of war and assuring necessary medical treatment and care. The statute appears on pages 658–662 of section 2 of the *Norwegian Law Gazette* for 1955.

3. Insurance and pension rights have been extended under the following amending statutes:

Act of 1 April 1955 providing for revision of the Old-age Pensions Act of 16 July 1936.

Act of 15 April 1955 amending the Provisional Act of 16 July 1936 concerning assistance to the blind and crippled.

Act of 6 May 1955 amending the Provisional Act of 29 June 1951 supplementing Acts Nos. 21 and 22 of 13 December 1946 on war pensions.

Act of 30 June 1955 amending the Act of 26 June 1953 providing for apothecaries' pensions.[2]

Act of 30 June 1955 amending the Act of 3 December 1948 on seamen's pensions.[3]

Act of 30 June 1955 amending the Act of 30 June 1950 on pensions for state employees, and

Act of 30 June 1955 amending the Act of 3 December 1951 on pensions for forest workers.

These enactments appear on, respectively, pages 165, 167, 192–3, 308–9, 392–4, 394–6 and 396–7 of section 2 of the *Norwegian Law Gazette* for 1955.

II. INTERNATIONAL AGREEMENTS

1. The Right to Organise and Collective Bargaining Convention 1949 was ratified under royal resolution of 23 December 1954 (Bill No. 63 of 1950 and Storting proposal No. 210 of 1954). Ratification was registered with the International Labour Organisation on 17 February 1955. For Norway, this convention entered into force on 17 February 1956.

2. The Migration for Employment Convention (Revised), 1949, was ratified under royal resolution of 23 December 1954 (Bill No. 63 of 1950 and Storting proposal No. 210 of 1954). Ratification was registered with the International Labour Organisation on 17 February 1955. For Norway, this convention entered into force on 17 February 1956.

3. An agreement of 18 March 1955 between Norway and the Federal Republic of Germany provided for the repatriation of citizens of the one country who have entered the other illegally. Through exchange of notes on 11 August and 20 October 1955, the agreement was extended to include Land Berlin.

4. An agreement of 19 March 1955 between Norway, Denmark and Sweden, regarding a reciprocal modification of health controls applying to traffic amongst the three countries, was signed pursuant to the royal resolution of 8 October 1954. The agreement entered into force on 1 April 1955.

5. An exchange of notes of 14 November 1955 between Norway and Iceland concerned Iceland's entry into:

(*a*) The protocol of 22 May 1954 exempting citizens of Norway, Denmark, Finland and Sweden from regulations requiring possession of a passport and residence permit during sojourn in any of the other signatory countries, and

(*b*) The agreement of 14 July 1952 between Norway, Denmark, Finland and Sweden providing for the mutual repatriation of citizens entering any of the other signatory countries illegally.

The protocol and agreement entered into force between Norway and Iceland on 1 December 1955.

6. A declaration of 10 December 1955 confirming

---

[1] Note kindly furnished by the Permanent Representative of Norway to the United Nations.

[2] See *Yearbook on Human Rights for 1953*, p. 218.

[3] See *Yearbook on Human Rights for 1948*, p. 167.

Norway's recognition of the right of individuals to submit petitions under article 25 of the European Human Rights Convention [1] (Bill No. 104 of 1955 and Storting proposal No. 22 of 1955) was issued pursuant to the Crown Prince Regent's resolution of 2 December 1955. The declaration was deposited on 13 December 1955 and will continue in force until 10 December 1957.

[1] See below, p. 334.

PERU

NOTE[1]

Political Rights of Women: Political Rights and Duties of all Citizens

Act No. 12391, granting women the right to vote (*El Peruano* of 9 September 1955), was promulgated on 7 September 1955. It replaced articles 84, 86 and 88 of the Constitution of Peru by new texts:

"*Art. 84.* All Peruvian men and women who have reached the age of majority, married persons who have attained eighteen years of age and those who have been emancipated are citizens.

"*Art. 86.* Citizens who know how to read and write have the right to vote.

"*Art. 88.* . . . Registration and voting are obligatory for citizens of up to the age of sixty and optional beyond that age.

"Voting shall be secret.

"The system of elections shall accord representation to minorities and shall tend towards proportional representation."

On 31 October 1955, in legislative resolution No. 12409 (*El Peruano* of 9 November 1955), Congress approved the Inter-American Convention on the Granting of Political Rights to Women, signed at Bogotá on 2 May 1948.[2]

War Victims

By legislative resolution No. 12412 (*El Peruano* of 9 November 1955), Congress on 31 October 1955 approved the Geneva Conventions on the protection of war victims, of 12 August 1949.[3]

[1] Note based upon information kindly furnished by the Permanent Mission of Peru to the United Nations.

[2] See *Yearbook on Human Rights for 1948*, pp. 438–9.

[3] See *Yearbook on Human Rights for 1949*, pp. 299–309.

PHILIPPINES

NOTE[1]

I. LEGISLATION

Freedom of Choice of Occupation or Business

Republic Act No. 1204, approved on 20 April 1955, provides that no person shall be issued a professional driver's licence unless he has first obtained a police clearance and he is not suffering from a highly contagious disease, such as advanced tuberculosis, gonorrhea or syphilis.

Republic Act No. 1224, approved on 17 May 1955, empowers the municipal or city board or council of each chartered city and the municipal council of each municipality and municipal district to regulate or prohibit by ordinance the establishment, maintenance and operation of night clubs, cabarets, dancing schools, pavilions, cockpits, bars, saloons, bowling alleys, billiard rooms, and other similar places of amusement within its territorial jurisdiction; limits or fixes the distances, within which such places of amusement shall not be allowed to operate, from any public building, school, hospital or church; and prohibits the admission of minors to any bar, saloon, cabaret, or night club employing hostesses.

Cultural Rights

Republic Act No. 1265, approved on 11 June 1955, makes a daily flag ceremony compulsory in all educational institutions. The ceremony is to include the playing or singing of the Philippine national anthem. Failure or refusal to observe the flag ceremony in accordance with rules and regulations to be issued by the Secretary of Education, after proper notice and hearing, is to subject the educational institution concerned and its head to public censure as an administrative punishment, to be published at least once in a newspaper of general circulation. In case of failure for the second time to observe the flag ceremony, the Secretary of Education, after proper notice and hearing, is to cause the cancellation of the recognition or permit of the private educational institution responsible.

Social Rights

Republic Act No. 1232, approved on 7 June 1955, authorizes the payment of compensation equivalent to the salary of six months of any employee in the service of the national government or of the government of a province, city, municipality or municipal district who is killed or dies of injuries received or sickness contracted in line of duty.

Republic Act No. 1401, approved on 9 September 1955, creates a Juvenile and Domestic Relations Court in the city of Manila, with exclusive original jurisdiction to hear and decide the following cases: (1) criminal cases cognizable by the municipal court and the court of first instance of Manila wherein the accused is under sixteen years of age at the time of the trial; (2) cases involving custody, guardianship, adoption, paternity and acknowledgement; (3) annulment of marriages, legal separation of spouses, and actions for support; (4) proceedings brought under the provisions of articles 116, 225, 252 and 332 of the Civil Code; (5) petitions for declaration of absence and for the change of name; (6) actions for the separation of property of spouses; and (7) proceedings affecting a dependent or neglected child.

The term "dependent child" or "neglected child" is defined in the Act to mean "any child under sixteen years of age who is dependent upon the public for support or who is destitute, homeless or abandoned; or who has no proper parental care or guardianship, or who habitually begs or receives alms, or who is found living in any house of ill fame or with any vicious or disreputable person, or whose home, by reason of neglect, cruelty, or depravity on the part of its parents, guardian or other person in whose care it may be, is an unfit place for such child."

Republic Act No. 1409, approved on 9 September 1955, creates a Court of Agrarian Relations for the enforcement of all laws and regulations governing the relations of capital and labour in all agricultural lands under any system of cultivation.

The court has original and exclusive jurisdiction over the entire Philippines to consider, investigate, decide and settle all questions, matters, controversies or disputes involving all those relationships established by law which determine the varying rights of persons in the cultivation and use of agricultural land where one of the parties works the land.

Right of Privacy

Republic Act No. 1405, approved on 9 September 1955, prohibits the disclosure of, or inquiry into, deposits with any banking institution and provides penalty therefor.

[1] Note based upon information kindly furnished by the Permanent Representative of the Philippines to the United Nations.

Right to Own Property

Republic Act No. 1400, an Act defining a land tenure policy providing for an instrumentality to carry out the policy, and providing funds for its implementation, was approved on 9 September 1955. Section 2 of the Act sets forth the declaration of policy, as follows:

"It is the declared policy of the State to create and maintain an agrarian system which is peaceful, prosperous and stable, and to this end the government shall establish and distribute as many family-size farms to as many landless citizens as possible through the opening up of public agricultural lands where agrarian conflicts exist, either by private arrangement with the owners or through expropriation proceedings."

II. INTERNATIONAL AGREEMENTS [1]

An agreement concerning migration of Filipino labour for employment in North Borneo was signed at Manila on 29 August 1955 between the Philippines and the United Kingdom.

Its important provisions are: (1) that the Philippines will permit recruitment of Filipino migrants for employment in North Borneo under the terms of a model written contract; (2) that no migrant labourer shall during the period of his contract be employed in any kind of work having connexion with the promotion, development and exploitation of the abaca industry; (3) that in the application of laws and regulations concerning wages, hours of labour, collective bargaining, employer's liability, social security and other labourers' rights, the laws of North Borneo shall be applicable in all cases, provided that the North Borneo Government shall give an undertaking that before recruitment actually takes place legislation shall be enacted conferring on the workers benefits under workmen's compensation not less favourable than those at present received by them in the Philippines; and (4) that the Government of North Borneo shall, within the limits allowed by its laws and regulations governing export of currency, permit the transfer of the earnings and funds of any migrant labourer as the latter may desire.

An Agreement between the Secretary of Foreign Affairs of the Republic of the Philippines and the Ambassador of the Republic of China was signed at Manila on 22 December 1955 regarding the operation of Chinese schools in the Philippines.

Its salient points are: (1) that the Chinese schools which are now operating in the Philippines and have not yet registered, and all others which may hereafter be established, must be registered with the Bureau of Private Schools; (2) that the Chinese schools must require of their students minimum curricular standards required of Philippine public and private schools; (3) that the Chinese schools are at liberty to teach such subjects as may be required under curricular standards of China in conformity with the laws of both countries and the public policies of both governments; and (4) that a joint technical committee is to be formed to draw up a standard curricular pattern of Chinese subjects and the qualifications for teachers thereof.

[1] See also pp. 344 and 345.

III. JUDICIAL DECISIONS

Right of Choice of Business

An ordinance which prohibits the sale of fresh meat except at the public market does not prohibit the business of vending fresh meat, but merely localizes the sale thereof, confining the sale to the city public markets with a view to facilitating police inspection and supervision in the interest of public health.

The mere fact that some individuals in the community may be deprived of their present business or a particular mode of earning a living cannot prevent the exercise of the police power. Persons licensed to pursue occupations which may in the public need and interest be affected by the exercise of the police power embark on those occupations subject to the disadvantages which may result from the legal exercise of that power. (*Co Kiam and Lee Ban* v. *The City of Manila et al.*, Vol. 51, No. 3, *Official Gazette*, p. 1325.)

Religious Freedom

Amendments of the constitution, restatement of articles of religion, and abandonment of faith or abjuration, having to do with faith, practice, doctrine, form of worship, ecclesiastical law, custom and rule of a church and having reference to the power of excluding from the church those allegedly unworthy of membership, are unquestionably ecclesiastical matters which are outside the province of the civil courts. (*Santiago A. Fenacier* v. *Isabele de los Reyes*, Vol. 51, No. 3, *Official Gazette*, p. 1332.)

The mere saying of prayers and the singing of hymns in an open space do not render such place as one devoted to religious worship and, much less, make such an occasion a religious ceremony within the purview of article 133 of the Revised Penal Code.

An act, in order to be considered as notoriously offensive to the religious feelings, must be directed against a dogma or ritual, or upon an object of veneration. The mere fact that the accused ascended the stage, challenged the minister to a debate, and allegedly grabbed the microphone, do not constitute acts calculated to ridicule or make light of a religious ritual. They might be punishable as a public disturbance, under article 153 of the Revised Penal Code, but they cannot be considered as acts notoriously offensive to the feelings of the faithful. (*P. P.* v. *Jose Mandoriao, Jr.*, Vol. 51, No. 9, *Official Gazette*, p. 4618.)

Right to Employment

"The right of an employer to freely select or discharge his employees is subject to regulation by the State basically in the exercise of its paramount police power. (Commonwealth Acts Nos. 103 and 213.) But an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interests. The law, in protecting the rights of the labourer, authorizes neither oppression not self-destruction of the employer." (*Manila Trading and Supply Co.* v. *The Honourable Francisco Zulueta et al.*, 69 Phil. 485.) The only exception to this rule is where the suspension or dismissal is whimsical or unjustified. (*San Miguel Brewery, Inc.* v. *National Labor Union and Sambela*, Vol. 51, No. 8, *Official Gazette*, p. 4032.)

Labour contracts, being impressed with common interest, are not impaired if subjected to the special laws on labour unions, collective bargaining, strikes, lockouts, etc. (*Philippine Long Distance Telephone Employees' Union* v. *Philippine Long Distance Telephone Co. et al.*, Vol. 51, No. 9, *Official Gazette*, p. 4520.)

PORTUGAL

LEGISLATIVE DECREE No. 1242 OF CAPE VERDE

of 14 May 1955 [1]

Art. 1. The Services of the Civil Administration shall be responsible, subject to the policy laid down by the Governor, for dealing with all problems and questions relating to the organization, structure and co-ordination of employment.

Art. 2. A central employment co-ordination commission shall be attached to the said services and shall be constituted as follows: the chief of the said services (chairman), the chiefs of the Health, Public Works and Agricultural Services, one representative of the employers and one representative of the workers, the two last-mentioned being designated by the Governor after consultation with the employers and workers through their respective associations and trade unions.

. . .

Art. 4. An employment co-ordination commission shall be attached to each provincial council and shall be constituted as follows: the principal administrative officer (chairman), a person representing the health authorities and a prudent man who shall be designated by the Governor on the nomination of the chairman.

. . .

Art. 9. The State and all other employers shall, according to their financial capacity, pay the worker a fair wage in keeping with his personal needs and the needs of his family.

1. Labour imposed by coercion by the State or by any employer shall not be permitted.

2. Any services performed for the State or for bodies governed by public law shall be duly remunerated.

3. A worker may enter into an agreement with his employer concerning the form of the remuneration, but the remuneration shall not in any case be less than a fair wage or less than the minimum wage which is to be established.

Art. 10. Each employment co-ordination commission shall conduct an inquiry in the area within its competence for the purpose of establishing the minimum wage of the different categories of workers.

Sole paragraph. The central employment co-ordination commission shall prescribe the time-limit within which the inquiry provided for in this article or any other inquiries ordered by the employment co-ordination commission shall be conducted.

Art. 11. The employment co-ordination commissions shall ensure that there is never any shortage of workers for the works undertaken by the State and by the local authorities and shall, for this purpose, maintain registers of unemployed persons with the object of requesting the said persons to give their services voluntarily and encouraging and inviting them to take up work, though labour shall not in any circumstances be imposed on them by coercion.

Art. 12. If a worker who is in the service of the State or of any employer under a previously established contract abandons the service without just cause and without prior notice as required by law, he shall not be free to leave the territory of the province without the permission of the administrative authority.

Art. 13. The administrative authorities shall not visa the passport or other document which the worker intends to use for the purpose of leaving the province unless they have satisfied themselves that the said worker has performed his duties under his contract with respect to the employer, who shall first be consulted.

Sole paragraph. The passport or document may be visead by the administrative authorities if the worker gives security for the discharge of his responsibilities with respect to the employer, if the said authorities should consider such security necessary.

. . .

[1] Published in *Boletim Oficial de Cabo Verde* No. 20, of 14 May 1955. Translation by the United Nations Secretariat.

FEDERATION OF RHODESIA AND NYASALAND

THE PUBLIC ORDER ACT, 1955, OF SOUTHERN RHODESIA

No. 31 of 1955 [1]

2. In this Act, unless inconsistent with the context, "essential service" means –

(*a*) Any hospital service;

(*b*) Any transport service;

(*c*) Any service relating to the generation, supply or distribution of electricity;

(*d*) Any service relating to the supply and distribution of water;

(*e*) Any sewerage or sanitary service;

(*f*) Any service relating to the production, supply, delivery or distribution of food and coal;

(*g*) Coal mining;

. . .

3. (1) Subject to the provisions of this section, any person who in any public place or at any public gathering wears uniform signifying or displays any flag signifying his association with any political organization or with the promotion of any political object, shall be guilty of an offence, and liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(2) If the Minister is satisfied that the wearing of any such uniform as is mentioned in sub-section (1) of this section on any ceremonial anniversary or other special occasion will not be likely to involve risk of public disorder, he may by order permit the wearing of such uniform on that occasion, either absolutely or subject to such conditions as may be specified in the order.

. . .

[Section 4 prohibits the maintenance of quasi-military organizations.]

5. (1) If a commissioned officer of police, having regard to the time or place at which and the circumstances in which any public procession is taking place or is intended to take place and to the route taken or proposed to be taken by the procession, has reasonable ground for apprehending that the procession may occasion serious public disorder, he may give directions imposing upon the persons organizing or taking part in the procession such conditions as appear to him necessary for the preservation of public order, including conditions prescribing the route to be taken by the procession and conditions prohibiting the procession from entering any public place specified in the directions.

(2) If at any time the Governor is of opinion that by reason of particular circumstances existing in any part of the colony the powers conferred by sub-section (1) of this section will not be sufficient to enable a commissioned officer of police to prevent serious public disorder being occasioned by the holding of public processions in that part of the colony the Governor may make an order prohibiting, for such period not exceeding three months as may be specified in the order, the holding of all public processions or of any class of public procession so specified in that part of the colony. A copy of any such order shall be laid before Parliament as soon as may be after it is made, and the Minister shall communicate to Parliament the reasons for the making of such order.

. . .

[Section 6 prohibits the carrying of offensive weapons at public gatherings and processions, otherwise than by a servant of the Crown. Sections 7 and 8 prohibit the administration or taking of oaths or undertakings to commit certain offences, and section 9 training and drilling in the use of arms or in the practice of military exercises without the permission of the Governor.]

10. Any person who publishes or reproduces any statement, rumour or report which is calculated to cause fear and alarm to the public or to disturb the public peace, knowing or having reason to believe that such statement, rumour or report is false, shall be guilty of an offence, and liable to imprisonment for a period not exceeding one year.

11. (1) For the purposes of sections twelve to seventeen inclusive of this Act the terms "unlawful assembly" and "riot" shall have the meaning assigned to them in this section.

(2) When three or more persons assemble with intent to commit an offence or, being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace or will by such assembly, needlessly and without any reasonable excuse, provoke other persons to commit a breach of the peace, they are an unlawful assembly.

(3) It is immaterial that the original assembling was lawful if, being assembled, such persons conduct

[1] Text kindly furnished by the Ministry of External Affairs of the Federation of Rhodesia and Nyasaland.

themselves with a common purpose in such a manner as aforesaid.

(4) When an unlawful assembly has begun to execute the purpose for which it assembled by a breach of the peace and to the terror of the public, the assembly is called a riot and the persons assembled are said to be riotously assembled.

[Sections 12, 13 and 16 lay down penalties for, respectively, taking part in an unlawful assembly, taking part in a riot and continuing to riot or be assembled for the purpose of rioting after a proclamation has been made commanding the rioters or persons assembled to disperse.]

. . .

20. Any person who, without lawful excuse, makes any statement indicating or implying that it would be incumbent or desirable

(*a*) To do any act or acts likely to bring death or physical injury to any person or to any class of persons or to any section of the community;

(*b*) To do any act or acts likely to lead to the destruction of any property;

(*c*) To do any act or acts or to omit to do any act or acts with the object of defeating the purpose or intention of any law in force in the colony or in any part thereof;

shall be guilty of an offence and liable to imprisonment for a period not exceeding one year.

. . .

[Section 22 (1) (*a*) renders liable to punishment any person who "utters any words or does any act or thing whatever with intent to promote any feeling of hostility between one or more sections of the community on the one hand, and any other section or sections of the community on the other hand", and section 23 (1) any person who "without just cause or excuse, advises, encourages, incites, commands, aids or procures any other person engaged or employed in any essential service to do or omit to do any act which is likely to hinder or interfere with the carrying on of any essential service." [1]]

. . .

24. (1) If at any time it appears to the Governor that any action has been taken or is immediately threatened by any persons or body of persons of such a nature and on so extensive a scale as to be likely

(*a*) To endanger the public safety;

(*b*) To disturb or interfere with public order; or

(*c*) To interfere with the maintenance of any essential service;

in the colony or in any part of the colony, the Governor may by proclamation (hereinafter referred to as a proclamation of emergency) declare that a state of emergency exists in the colony or in any part of the colony, as the case may be.

. . .

25. (1) Where a proclamation of emergency has been made and so long as the proclamation is in force, it shall be lawful for the Governor to make such regulations as appear to him to be necessary or expedient for the public safety, the maintenance of public order, the maintenance of any essential service, the preservation of the peace, and for making adequate provision for terminating the state of emergency or for dealing with any circumstances which have arisen or in his opinion are likely to arise as a result of such state of emergency.[1]

(2) Without prejudice to the generality of the powers conferred by this section, such regulations may –

(*a*) Make provision for the removal from one part of the colony to some other part of the colony of any person whose removal appears to the Minister of Justice to be expedient in the public interest;

(*b*) Make provision for the summary arrest or detention of any person whose arrest or detention appears to the Minister of Justice to be expedient in the public interest;

(*c*) Make provision for the arrest of persons contravening or offending against any regulation made under this section, and for the imposition of penalties specified therein for any contravention or failure to comply with any provision of the regulations:

Provided that no such penalty shall exceed a fine of five hundred pounds or imprisonment for a period not exceeding two years or both such fine and imprisonment.

. . .

(4) Any regulations so made shall be laid before Parliament as soon as may be after they are made, and shall not continue in force after the expiration of seven days from the time when they are so laid, unless a resolution is passed by Parliament providing for the continuance thereof, and Parliament may, in the same or by a further resolution, determine that another proclamation of emergency shall be issued.

. . .

26. The Peace Preservation Act [Chapter 117] and the Peace Preservation Amendment Act, 1953, are hereby repealed.[2]

---

[1] Sections 23 (2) and 25 (3) except from the operation of sections 23 and 25 any action which may lawfully be taken under the Industrial Conciliation Act, 1945, the Native Labour Boards Act, 1947, or the Rhodesia Railways Act, 1949.

[2] See *Yearbook on Human Rights for 1954*, p. 241.

ROMANIA

NOTE[1]

1. Decree No. 199, of 20 May 1955, concerning stamp duties (*Official Bulletin of the Grand National Assembly of the Romanian People's Republic* No. 14, of 5 June 1955)

This decree provides that lawsuits and claims, including petitions of appeal, which are brought by workers or public servants in connexion with disputes concerning rights to wages or any other right arising out of employment relationships are exempt from all stamp duties (article 3, paragraph *a*); it likewise provides that lawsuits and claims, including petitions of appeal, connected with disputes concerning the payment of copyright charges or sums due for inventions, innovations, improvements or works of art are exempt from all stamp duties (article 3, paragraph *d*); lastly, it provides that actions and appeals connected with criminal cases are exempt from all stamp duties (article 3, paragraph *i*).

2. Decree No. 253, of 24 June 1955, to facilitate the repatriation of certain Romanian citizens or former Romanian citizens and to grant an amnesty in respect of persons so repatriated (*ibid.* No. 18, of 30 June 1955)

This decree grants an amnesty for offences covered by the Penal Code or special laws — except the crime of murder, covered by and punishable under articles 463 and 464 of the Penal Code — which were committed by Romanian citizens or former Romanian citizens living outside the territory of the Romanian People's Republic at the date of the decree, in cases in which such persons obtain permission to return and in fact return to Romania before 23 August 1956.

The decree provides that applications for permission to return to Romania may be addressed to any diplomatic or consular office of the Romanian People's Republic.

Former Romanian citizens living outside the territory of the Romanian People's Republic and qualifying for the benefit of the amnesty under the decree regain Romanian citizenship immediately on crossing the borders of the Romanian People's Republic.

Similarly, it is provided that persons who have lost Romanian citizenship and who wish to return and in fact return to Romania before 23 August 1956 by virtue of permission obtained as aforesaid also regain Romanian citizenship immediately on crossing the borders of the Romanian People's Republic.

The benefit of the effects of the recovery of the citizenship of the Romanian People's Republic under the decree extends to the spouse and minor children of the person concerned if they return to Romania.

3. Decision No. 1653 of the Council of Ministers of 4 August 1955, concerning the establishment and administration of the manager's fund in state-operated undertakings and economic organizations (*Collection of Decisions and Directives of the Council of Ministers of the Romanian People's Republic* No. 43, of 15 August 1955)

This decision provides for the establishment, under certain conditions, of a manager's fund in state-operated undertakings and economic organizations, of general or local interest, which are organized according to the principles of socialist management.

The fund is used for the purpose of: (*a*) improving the working and living conditions of wage-earners by the construction, reconstruction and repair of workers' dwellings owned by such undertakings and by the construction or repair of clubs, day nurseries, crèches, boy scout camps, workers' recreation centres, rest homes, night clinics and cafeterias; for covering the operating costs of cafeterias; and for carrying out work for the protection of labour; (*b*) covering the cost of incentives to first-class workers; (*c*) providing workers with material compensation for exceptional efforts which they have made on behalf of the undertaking; (*d*) defraying the costs of excursions, amusements and New Year's holidays; (*e*) purchasing books, pamphlets and magazines of a cultural character and defraying other expenses connected with sports and cultural activities; (*f*) granting individual allowances to wage-earners in addition to those furnished pursuant to statute; (*g*) improving cafeterias; and (*h*) paying cash rewards to wage-earners who have made an exceptional effort, during regular working hours, to meet or exceed the quotas prescribed under the production plan.

4. Decision of the Council of Ministers No. 213, of 21 February 1955, concerning certain measures to increase food allowances for tuberculosis patients and pregnant women (*ibid.*, No. 19, of 25 March 1955)

This decision recommends the Central Council of Trade Unions to increase the allowance for extra

[1] This note is based on information kindly furnished, in French, by the Permanent Mission of the Romanian People's Republic to the United Nations.

food rations given to wage-earners suffering from tuberculosis, to grant an indemnity to pensioned city dwellers suffering from tuberculosis, to provide a monthly allowance for pregnant women workers after the fifth month of pregnancy (in addition to the rights accorded them under Decision No. 3 of the Central Council of Trade Unions), and to provide an additional free course in each meal supplied by cafeterias to students suffering from tuberculosis.

5. Decision No. 75 of the Council of Ministers, of 24 January 1955, approving the rules governing the organization and operation of first-aid stations (*ibid.*, No. 6, of 5 February 1955)

These rules provide that first-aid stations are therapeutic and prophylactic medical institutions whose purpose is to render first aid and to provide transportation to specialized medical institutions for persons injured in accidents, sick persons and pregnant women requiring emergency medical assistance, as well as for sick persons who cannot be moved by the ordinary means of transportation.

The first-aid station gives first aid and provides emergency transportation to a specialized medical centre in the following cases: (*a*) any kind of accident; (*b*) acute illness; (*c*) women in labour or suffering from complications of pregnancy; (*d*) chronic illness, if the patient cannot be taken to the hospital by the ordinary means of transportation; (*e*) contagious disease.

The first-aid station provides free emergency medical assistance and transportation for sick persons and persons injured in accidents in the cases specified in the rules.

6. Decree No. 536, of 8 December 1955, governing the payment of allowances for the purchase of layettes and baby food and the payment of benefits, in the event of death, to persons covered by the provisions relating to disabled ex-servicemen, war orphans and war widows (*Official Bulletin of the Grand National Assembly* No. 33, of 19 December 1955)

This decree provides that the rules governing eligibility for allowances towards the purchase of layettes and baby food and for the benefits payable to ex-servicemen, war orphans, war widows and members of their families, are the same as those governing eligibility for state social security pensions.

7. Decision No. 973 of the Council of Ministers, of 1 June 1955, concerning the allowances payable to the milk stations fund (*Collection of the Decisions and Directives of the Council of Ministers* No. 31, of 18 June 1955)

This decision establishes health institutions, known as "milk stations", responsible for providing dietary, therapeutic and prophylactic medical assistance to children; the decision also fixes the maintenance allowance payable to these institutions.

8. Decree No. 14, of 27 January 1955, concerning the organization of vocational apprenticeship schools, technical schools and technical supervisors' schools (*Official Bulletin of the Grand National Assembly* No. 2, of 15 February 1955)

This decree outlines a general scheme for the establishment, organization and operation of a school system for the purpose of training skilled workers and medium-level technical personnel who are needed for the national economy, for the protection of public health and for the development of popular culture.

The following schools are included in this system: (*a*) vocational training schools; (*b*) technical schools for skilled workers and technical personnel; and (*c*) technical schools for supervisors.

In order to enable students to obtain the soundest possible vocational training, these schools are to be set up in the proximity of large factories, plants and similar undertakings.

The enrolment of students is entirely voluntary.

9. Decision No. 1664 of the Council of Ministers, of 5 August 1955, concerning the rights of wage-earners who have been withdrawn from productive employment so that they may attend vocational training courses, improve their working skill or take specialized courses within Romania (*Collection of Decisions and Directives of the Council of Ministers* No. 43, of 15 August 1955)

This decision provides that workers, public servants, engineers and technicians who are taking professional training courses, courses "to improve their working skill", or specialized courses which last at least one year and are covered by the state plan, shall receive wages throughout the duration of the course corresponding to the average wage which they received during the previous six months.

Students who are not wage-earners are to receive a monthly allowance of 220 lei throughout the duration of their course.

All students enrolled in these courses — whether wage-earners or not — have the right to receive the necessary text-books and school material free of charge. In addition, if they are sent to study in some locality other than their permanent residence or place of work, they have a right to free lodging and to the reimbursement of their travel expenses at the beginning and end of their course.

10. Decision No. 1938 of the Council of Ministers, of 9 September 1955, concerning the right of student workers who are taking non-compulsory courses in institutions of higher learning to receive, among other things, thirty days, annual leave for the purpose of taking their final examinations (*ibid.*, No. 50, of 28 September 1955)

This decision specifies a number of rights for the benefit of student workers who are taking non-compulsory courses in institutions of higher learning.

For the purpose of the final examinations, student workers receive thirty days' annual unpaid leave in addition to their regular leave.

Throughout this leave period, these students receive a scholarship allowance of 300 lei, have the right to free lodging in student homes, as well as the right to free rail transportation to and from their place of study.

SAAR

ACT No. 457 CONCERNING THE CARRYING OUT OF THE REFERENDUM ON THE EUROPEAN STATUTE OF THE SAAR

Entered into force on 23 July 1955 [1]

I

OBJECT, NATURE AND DATE OF THE REFERENDUM

Art. 1. Object of the referendum. The qualified voters shall be asked to declare whether they approve the European Statute of the Saar agreed upon on 23 October 1954 between the Government of the Federal Republic of Germany and the Government of the French Republic with the consent of the Saar Government.[2]

Art. 2. Nature of the referendum. (1) The referendum shall be universal, equal, secret and free.

. . .

Art. 3. . . .

(4) Public meetings and demonstrations shall be banned on the day of the referendum.

. . .

III

FRANCHISE

Art. 15. Qualifications for voting. (1) All men and women shall be entitled to vote in the referendum who, on the day of the referendum, have completed their twentieth year and

(*a*) Are considered Saarlanders under Saar legislation, or

(*b*) Were born in the Saar and, on 23 October 1954, had their domicile or permanent residence in the Saar, or

(*c*) If not born in the Saar, had had their domicile or permanent residence in the Saar for not less than five years prior to 23 October 1954.

(2) A person who, on the day of the referendum, has completed his twentieth year and who, since 8 May 1945, has been ordered to leave the Saar on political grounds shall be entitled to vote, unless the Control Commission (art. 47) decides otherwise in his particular case.

(3) The following persons shall not be entitled to vote:

(*a*) Members of diplomatic and consular missions in the Saar, and their families;

(*b*) Members of the armed forces and their families;

(*c*) Officials of police and gendarmerie units and of the customs administration and members of their families, unless these are Saarlanders according to Saar legislation.

. . .

Art. 16. Disfranchised persons. The following persons shall not be entitled to vote:

(1) Persons who have been placed, provisionally or permanently, in the care of guardians, or who are under care on account of mental disease;

(2) Persons who by reason of an infamous crime have been deprived by due judicial process of their civic rights.

Art. 17. Impediments to the exercise of the franchise. The following circumstances shall be impediments to the exercise of the franchise:

(1) Confinement in a sanatorium or asylum on account of mental illness or mental infirmity;

(2) Confinement in a penal institution.

. . .

Art. 19. Exercise of the franchise. (1) Each qualified voter shall have one vote.

(2) A qualified voter may vote only in the electoral district in which he is registered. A person holding an emergency voter's certificate may vote in any district of the Saar.

. . .

V

THE REFERENDUM CAMPAIGN

Art. 26. General principles. (1) In the referendum campaign, the political parties shall have equal rights, and equal opportunities to publicize their programmes, in keeping with the provisions of this Act.

(2) A person shall not suffer any prejudice by reason of the attitude adopted by him during the three-month period in which the referendum was prepared and carried out.

(3) Notwithstanding the terms of article 8 of Act No. 458 of 8 July 1955 concerning associations (Associations Act), it shall be lawful for any person who has his domicile or permanent residence in the Saar and who is entitled to vote in the referendum to serve as member of the executive committee of

[1] Published in *Amtsblatt des Saarlandes* No. 87 of 1955, of 23 July 1955. Translation from the German text by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1954*, p. 401.

a political party during the period in which the referendum is prepared and carried out.

Art. 27. The press. (1) During the referendum campaign, periodical publications of a political character may not be circulated in the Saar unless they are printed in the Saar. The publishers and responsible editors of such publications must be persons who are entitled to vote; if the publisher is an association of persons under civil law, a commercial company or a co-operative, the majority of those associated in the company or of the members of the co-operative or, in the case of limited companies or partnerships limited by shares, the majority of the registered share-holders must be persons entitled to vote.

(2) For the purpose of safeguarding the principle laid down in article 26 (1), the Government of the Saar shall have authority to order appropriate measures to ensure the equal access of political parties to available printing facilities; in particular, it may make arrangements to ration the printing of publications. Any appeal against such measures shall not operate to suspend the effect of the measure in question.

(3) The Government of the Saar may, after consulting the Control Commission (art. 47), forbid for the duration of the referendum campaign, or for a shorter period, the import of foreign periodical publications which, in violation of the provisions of article VI of the Agreement mentioned in article 1 above, seek to influence public opinion in the Saar during the referendum campaign.

(4) For the duration of the referendum campaign, an order prohibiting foreign and domestic publications under articles 17 and 18 of Act No. 460, of 8 July 1955, concerning the press (Press Act) (*Amtsblatt*, p. 1034) shall not be made except after consultation with the Control Commission. This provision shall also apply to the closing of press undertakings under article 21 (2) of the Press Act.

Art. 28. Pamphlets. Pamphlets and leaflets of a political character may not be distributed in the Saar during the referendum campaign unless printed in the Saar; they must indicate the name of the sponsor and bear the imprint of the firm which produced them. Article 27 (2) shall apply *mutatis mutandis*.

Art. 29. Posters and bills. (1) During the referendum campaign it shall be unlawful to display political posters on the fronts of houses, on fences, or in squares or streets, or to place on private buildings or premises any special markings (including flags) which relate to the referendum.

(2) During the referendum campaign, bills of a political character may not be publicly posted, exhibited or displayed except at places authorized for the purpose by the local police authorities.

(3) The local police authorities shall ensure that political parties have equal access to the space available for the posting of bills. If sufficient space is not available, the local government shall erect billboards.

(4) The said bills (paragraphs (2) and (3)) must indicate the name of the sponsor and bear the imprint of the firm which produced them. They may not be printed outside the Saar. Article 27 (2) shall apply, *mutatis mutandis*.

(5) The provisions of paragraphs (2) and (3) above do not apply to official announcements by the referendum authorities.

Art. 30. Loud-speakers. (1) During the referendum campaign, all political propaganda through loud-speakers in public streets and squares shall be prohibited.

(2) The relaying of the proceedings of a meeting by loud-speakers shall not be permitted except in the immediate vicinity of the meeting (in so far as traffic conditions allow) and then only if the meeting place is not sufficiently large to accommodate all the participants.

Art. 31. Radio and television. (1) During the referendum campaign, radio broadcasting and television stations shall not be placed at the disposal of any political party.

(2) News broadcasts by radio and television stations concerning campaign developments must be kept neutral.

Art. 32. Meetings. (1) During the referendum campaign, outdoor political meetings and political parades, demonstrations, etc., shall be prohibited.

(2) The speakers who address political meetings open to the public must in all cases be persons who are entitled to vote in the referendum. This provision shall also apply to all persons who participate in the discussion.

(3) The local police authorities shall ensure the equal access of political parties to the space available for public meetings in each commune (paragraph (2)). In cases where political parties produce evidence showing that in certain places they cannot have the use of suitable meeting rooms for the holding of such meetings, the local police authorities shall, for the purpose of giving effect to the principle laid down in article 26 (1), have authority to order that, regardless of existing contracts, a particular meeting room shall be made available, temporarily and for a specified time, to the applicant political party for the holding of a meeting under the usual conditions (lighting, heating, seating accommodation, etc.). Any appeal against such an order shall not operate to suspend the effect of the order in question.

(4) An order under paragraph (3) shall not be made unless the applicant political party has first deposited the rental fee for the meeting room. If the parties fail to agree on the amount to be paid,

it shall be determined, in writing, by the local police authorities.

Art. 33. Participation of public servants in the referendum campaign. Members of the public service (officials, employees and workmen) are forbidden, during or in connexion with the performance of their official duties, to concern themselves with the political campaign relating to the Saar Statute. Otherwise than in the course of their official duties, all public servants are free to take a position on the Saar Statute, with the exception of the following persons:

(1) The referendum administrator of the Land and his deputy;

(2) Full-time judges;

(3) The Land police president;

(4) Executive officials of the police administration.

VI

BALLOTING

. . .

Art. 35. Public voting procedure and secrecy of the ballot. (1) The balloting and the counting of the returns shall be open to the public.

(2) In order to safeguard the secrecy of the ballot, arrangements shall be made to enable the voter to mark his ballot in private and to place it in an envelope. The ballot box shall be of sufficient size and shall not be opened before the end of the voting.

Art. 36. . . .

(4) All canvassing on the premises, or in the immediate vicinity, of the polling stations, whether by word of mouth, writing, pictures or any other means, shall be prohibited.

. . .

Art. 38. Casting of the ballot. (1) Every voter must cast his ballot in person. Persons who cannot read or write or who are physically handicapped may be assisted in the polling station by a person in their confidence.

. . .

IX

THE CONTROL COMMISSION

Art. 47. Functions of the Control Commission. (1) The Commission appointed by the Council of the Western European Union on the motion of the Saar Government shall ensure that in the organization and holding of the referendum the principles of the agreement mentioned in article 1 are observed; it shall also exercise the powers specified in articles 15, 23, 27, 44, 45, 46 and 49 of this Act.

. . .

X

FINAL PROVISIONS

. . .

Art. 53. Penal provisions. (1) In so far as a more severe penalty is not prescribed by other legislative provisions, a person shall be liable to a term of imprisonment not exceeding six months if:

1. By the use of force, by threats of a punishable act or of prejudicial action after the referendum, or by disparagement or ostracism, he induces or attempts to induce another person to join a political party, to take part in a political gathering, or to conduct himself politically in a certain manner, in particular to vote in a certain manner; or

2. He produces or distributes, helps to produce or distribute, or possesses with intent to distribute, pamphlets, leaflets or posters containing punishable matter.

. . .

ACT No. 458, CONCERNING ASSOCIATIONS (ASSOCIATIONS ACT)

Entered into force on 23 July 1955 [1]

SECTION I

GENERAL PROVISIONS

Art. 1. (1) All persons who have their domicile or permanent residence in the Saar have the right to form associations.

(2) Persons who are not Saarlanders may not form associations without the permission of the Minister of the Interior.

(3) Associations for illegal or immoral purposes are prohibited.

Art. 2. (1) No association may engage in any activity in the Saar unless it is domiciled in the Saar.

(2) No association may be affiliated to a federation domiciled outside the Saar without the permission of the Minister of the Interior.

Art. 3. (1) Every association must have an executive committee and articles of association.

(2) The articles of association must provide that the election of the executive committee and the administration and activity of the association shall be conducted in accordance with democratic principles.

(3) The meeting at which the executive committee is elected and the articles of association adopted shall be deemed to be the constituent meeting.

[1] Published in *Amtsblatt des Saarlandes* No. 87 of 1955, of 23 July 1955. Translation from the German text by the United Nations Secretariat.

Art. 4. (1) The executive committee shall be under a duty to register the association in writing with the police authorities competent for the locality in which the association is domiciled, within a period of two weeks after the constituent meeting. In so doing, it shall submit:

1. A list of the members of the executive committee; and
2. A copy of the articles of association as adopted, signed in person by all members of the executive committee.

(2) Within two weeks after any amendment of the articles of association or any change in the membership of the executive committee, the executive committee of the association shall report such amendment or change in writing to the competent local police authorities as indicated in paragraph (1).

(3) The competent local police authorities shall issue, free of charge, certificates attesting the receipt of registrations under paragraph (1), or of reports of amendments or changes under paragraph (2).

Art. 5. (1) Association uniforms are prohibited.

(2) The Minister of the Interior may allow exceptions in the case of youth associations and youth organizations, and in the case of other associations and organizations if their activities are in the public interest.

Art. 6. (1) An association may not be dissolved unless:

1. In its articles of association or by its activities it seeks to attack or endanger the free, democratic order;

2. Its object is to abolish or undermine constitutionally guaranteed rights and liberties by force and violence or by the abuse of official authority;

3. It constitutes a political fighting organization [Kampfverbänd]; or

4. It violates the law or serves illegal or immoral purposes.

(2) An order dissolving an association shall not be made except by the lower administrative authority competent for the locality in which the association is domiciled. The dissolution order shall be in writing and accompanied by a statement of reasons. An appeal against such an order shall not operate to suspend the effect of the order in question.

(3) In the event of the dissolution of an association, and until such dissolution becomes effective in law, the lower administrative authority shall act as the trustee of the property of the association or shall appoint a third party as trustee.

Section II

POLITICAL ASSOCIATIONS (PARTIES)

Art. 7. The application of this Act to political parties shall be governed by the following provisions.

Art. 8. Membership of the executive committee of a political party shall be restricted to persons who have the right to vote in elections to the Saar Landtag.

Art. 9. (1) The executive committee shall be under a duty to register the party with the Minister of the Interior within two weeks after its formation. In so doing it shall submit:

1. Copies of the programme and the rules of the party;
2. A copy of the minutes of the constituent meeting of the party personally signed by the members of the executive committee;
3. A list of the members of the executive committee.

(2) The Minister of the Interior shall issue, free of charge, a certificate attesting the receipt of the particulars required to be registered under paragraph (1).

Art. 10. Within two weeks after any amendment has been made in the party programme or to the party rules or any change has occurred in the composition of the executive committee, the executive committee of the party shall report such amendment or change in writing to the Minister of the Interior. Article 9 (2) shall apply *mutatis metandis.*

Art. 11. (1) The Minister of the Interior may apply to the Administrative High Court for an order dissolving a party if:

1. The circumstances described in article 6 are present;

2. In violation of the provisions of article 8, persons who do not possess the right to vote in elections to the Saar Landtag have been placed on the executive committee and the party fails, within a reasonable time-limit laid down by the Minister of the Interior, to replace them with other persons who fulfil the conditions specified in article 8;

3. The party has demonstrably accepted, directly or indirectly, subsidies or other forms of support from agencies or persons outside the Saar.

(2) The Administrative High Court may make an interim order prohibiting the activity of a party pending final decision on the application for a dissolution order, and may order the temporary seizure of its property.

(3) If the dissolution of a party is ordered, the Court may at the same time order the confiscation of the party's property.

Section III

PENALTIES

Art. 12. A person shall be liable to a term of imprisonment not exceeding two years, or to a fine, or to both, if

1. He forms an association which

(*a*) In its articles of association or by its activities seeks to attack or endanger the free, democratic order;

(*b*) Has the object of abolishing or undermining constitutionally guaranteed rights and liberties by force and violence or by the abuse of official authority;

(*c*) Constitutes a political fighting organization;

2. He forms an association serving illegal or immoral purposes;

3. He continues the activities of an association which has been dissolved by virtue of articles 6 or 11.

Art. 13. A person shall be liable to detention or to a fine not exceeding 15,000 francs if

1. Being a member of the executive committee of an association, he fails to comply with the provisions of this Act concerning registration, the submission of the articles of association or the list of the members of the executive committee, or the reporting of amendments or changes (article 4 (1) and (2));

2. Being a member of the executive committee of a political party, he fails to comply with the provisions of this Act concerning registration, the submission of the party programme, the party rules, the minutes of the constituent meeting or the list of the members of the executive committee of the party (article 9), or concerning the reporting of amendments or changes (article 10); or

3. Being a member of the executive committee of an association, he tolerates the unauthorized wearing of party uniforms (article 5).

SECTION IV

FINAL PROVISIONS

Art. 14. The provisions of this Act shall not apply to associations or organizations exclusively engaged in church activities. . . .

Art. 17. This Act shall enter into force on the date of its publication in the *Amtsblatt* of the Saar.

On the same date Act No. 197 of 13 July 1950 [1] (Associations Act) (*Amtsblatt*, p. 839) and Act No. 310 of 17 March 1952 concerning Political Parties [2] (*Amtsblatt*, p. 369), as well as the regulations issued in pursuance thereof, shall cease to have effect.

[1] See *Yearbook on Human Rights for 1950*, pp. 238–239.

[2] See *Yearbook on Human Rights for 1952*, pp. 247–248.

ACT No. 459 CONCERNING MEETINGS (MEETINGS ACT)

Entered into force on 23 July 1955 [1]

SECTION I

GENERAL PROVISIONS

Art. 1. All persons who have their domicile or permanent residence in the Saar have the right to organize meetings and open-air demonstrations, parades, etc.

Art. 2. The announcement of a public meeting or demonstration must mention the name of its organizer.

Art. 3. It shall not be lawful for any person to carry arms at a meeting or demonstration unless he is officially authorized to do so.

Art. 4. (1) The wearing of uniforms at meetings or demonstrations is prohibited.

(2) This prohibition shall not apply to meetings or demonstrations of associations or other organizations in respect of which the Minister of the Interior has authorized an exception pursuant to article 5 of Act No. 458, of 8 July 1955, concerning associations (Associations Act) (*Amtsblatt*, p. 1030). The prohibition shall likewise not apply to persons who are entitled to wear a service uniform.

Art. 5. Every person present at a public meeting or demonstration shall refrain from causing any disturbances that tend to interfere with the orderly conduct of the proceedings.

SECTION II

INDOOR PUBLIC MEETINGS

Art. 6. (1) Every public meeting must have a chairman. The organizer of the meeting shall be entitled to act as chairman himself, to appoint some other person as chairman, or to invite the meeting to elect its chairman.

(2) The chairman shall have full control of the meeting.

Art. 7. The chairman shall be in charge of the proceedings. During the meeting he shall be responsible for maintaining order, and for this purpose he may at any time suspend or adjourn the meeting.

Art. 8. All persons attending the meeting shall be under a duty to obey the instructions given by the chairman for the purpose of maintaining order.

Art. 9. (1) The chairman may order disorderly persons to leave the meeting.

(2) Any person ordered to leave the meeting shall comply with the order promptly.

Art. 10. (1) Police officers may be assigned to public meetings. They shall make their presence known to the chairman. They shall be given suitable places at the meeting.

[1] Published in *Amtsblatt des Saarlandes* No. 87 of 1955, of 23 July 1955. Translation from the German text by the United Nations Secretariat.

(2) Police officers assigned to public meetings shall help the chairman to conduct the meeting in an orderly fashion (articles 6–9).

Art. 11. (1) The holding of a public meeting may not be prohibited except by an order relating to the specific case, and any such order shall not be made unless there is reason to believe that:

1. The meeting will be used by the organizer or his supporters to attack or endanger the free, democratic order;

2. A political fighting organization (*Kampfverbände*), party, or other organized group will be formed at the meeting with the object of abolishing or undermining constitutionally guaranteed rights and liberties by force and violence or by the abuse of official authority;

3. The organizer or chairman intends to permit the presence of armed persons in violation of the provisions of article 3, or of uniformed persons in violation of the provisions of article 4;

4. It is the intention of the organizer or of the participants to convert the meeting into a riotous assembly;

5. The meeting will serve illegal or immoral purposes.

(2) The lower administrative authority competent for the district in which the meeting is to take place shall be the authority competent to make an order prohibiting the meeting pursuant to paragraph 1 above. The order shall be accompanied by a statement of reasons.

Art. 12. (1) The police may not disperse a public meeting except by virtue of an order relating to the specific case (which shall state the reasons for the action) and any such order shall be made only if:

1. Participants are unlawfully carrying arms;

2. Participants are unlawfully wearing uniforms;

3. During the meeting situations arise which would justify the prohibition of the meeting under article 11;

4. The participants are exposed to immediate danger to life and limb.

(2) The meeting may be dispersed only after other police measures, in particular the ejection of trouble-makers or the suspension of the proceedings, have failed to ensure an orderly meeting.

(3) A meeting which has been prohibited under article 11 shall be dispersed.

(4) As soon as a meeting is ordered dispersed, all persons in attendance shall immediately leave the premises.

Section III

OUTDOOR PUBLIC MEETINGS AND DEMONSTRATIONS

Art. 13. (1) Any person who intends to organize an outdoor meeting or demonstration shall, not later than three days before the public announcement thereof, notify the competent local police authorities of his intention, indicating the locality and place chosen and, in the case of a demonstration the intended route, the time at which the event is to begin, and the name of the probable responsible chairman of the meeting or leader of the demonstration.

(2) The local police authorities shall issue, free of charge, a certificate acknowledging receipt of such notice.

(3) The notice specified in paragraph 1 above shall not be required for funeral or wedding processions, traditional local or folk celebrations or sporting events. Traffic regulations shall not be affected.

Art. 14. (1) Outdoor meetings or demonstrations may not be prohibited or subjected to specific restrictions except by virtue of an order relating to a particular case and made by the competent lower administrative authority, and any such order may only be made if the conditions specified in article 11 exist or if the circumstances are such as to endanger public order or safety.

(2) An outdoor meeting or demonstration may be dispersed by the police if notice thereof has not been given, if the information provided in such notice is inaccurate, if restrictions are not observed, or if there are grounds for prohibiting the meeting or demonstration under paragraph 1.

(3) An outdoor meeting or demonstration which has been prohibited shall be dispersed.

(4) The provisions of section II shall apply to outdoor meetings and processions *mutatis mutandis.*

[Section IV deals with penalties.]

Section V

FINAL PROVISIONS

Art. 22. The provisions of this Act shall not apply to outdoor religious services, church processions, the ceremonies of Rogation Days and religious pilgrimages.

. . .

Art. 25. This Act shall enter into force on the date of its publication in the *Amtsblatt* of the Saar. On the same date, the ordinance of 25 February 1948 respecting meetings in the Saarland (*Amtsblatt*, p. 223)[1] and the regulations issued in pursuance thereof shall cease to have effect.

[1] See *Yearbook on Human Rights for 1948*, pp. 182–3 and *for 1953*, p. 242.

ACT No. 460 ON THE PRESS (PRESS ACT)

Entered into force on 23 July 1955 [1]

SECTION I

GENERAL PROVISIONS

Art. 1. Freedom of the press. (1) All publications, both foreign and domestic, enjoy freedom of the press, and shall not be subject to any restrictions other than those prescribed, or permitted, by this Act or by other legislative provisions. The censorship of the press is inadmissible.

(2) The benefit of the freedom of the press extends, in particular, to the preparation, production, publishing, sale, transport and distribution of publications. The term "distribution" shall be interpreted to mean, in addition, the exhibition or display of a publication in places open to the public, reproduction by sound or by visual means, and any other method of utilizing a publication, if by these means it is possible to bring a publication to the notice of the public.

. . .

Art. 5. Scope of the Act. The provisions of this Act shall apply, unless otherwise provided, to all publications with the exception of:

(1) Official publications, in so far as their content is limited to official information;

(2) Occasional publications.

. . .

SECTION II

PRESS REGULATIONS

Art. 7. Publishers. (1) Only the following persons or bodies may act as publishers of periodical publications:

1. Individuals;
2. Associations of individuals under civil law;
3. Commercial companies and co-operative associations; joint stock companies or partnerships limited by shares shall only be capable of acting as publishers if the shares are registered;
4. Incorporated foundations;
5. Public authorities, public agencies or institutions having an official status.

(2) It is an essential condition that the residence or place of business of the publisher must be in the Saar.

Art. 8. Responsible editor. A person may not act as the responsible editor of a periodical publication unless he has his domicile or permanent residence in the Saar, is in possession of his civic rights and is fully *capax juris*.

Art. 9. Imprint. (1) Every publication shall bear a mention of its printer and publisher. Their names or the names of their firm, or of the public authority, public agency or institution having an official status, as the case may be, shall be indicated together with the address of the individual or body concerned.

(2) In addition, periodical publications shall bear on every copy the name and office address of the responsible editor, or, if the latter is unable to perform his duties, the name and office address of his substitute. If more than one responsible editor is employed, the part of the publication for which each is responsible shall be indicated.

(3) If a publication is published outside the Saar [and brought into the Saar – *Ed.*], it shall conform to the regulations in force [in the Saar], and at least designate a person or agency [in the Saar] to be responsible for its contents.

Art. 10. Required copies. As soon as the distribution or delivery of a publication begins, the publisher shall deliver one copy free of charge to the Ministry of the Interior, which shall immediately issue a receipt therefor.

Art. 11. Duty to report the truth. (1) It is the first duty of the press to furnish the public with truthful information.

(2) A news item which has not been sufficiently authenticated may not be published unless the interest of the general public in its immediate publication is paramount, immediate confirmation cannot be obtained and the news item is accompanied by an express reservation.

(3) Published material which proves to be inaccurate shall be corrected without delay.

Art. 12. Protection of privacy. The press may not publish any report concerning the private life of an individual which tends to damage his reputation unless the particulars to be reported affect the public interest.

Art. 13. Correction. (1) The publisher and the responsible editor of a publication shall be under a duty to accept, without any additions or deletions, a correction requested by a public authority or private individual concerned in a report which appeared in the publication, provided that such correction is signed by its author, contains no punishable matter and is confined to statements of fact. The correction shall be sent to the office of the editor or publisher. A private individual may be required to have his signature authenticated.

(2) The correction shall be printed, without additions or deletions, in the first issue of the publication which has not yet gone to press after the

[1] Published in *Amtsblatt des Saarlandes* No. 87 of 1955, of 23 July 1955. Translation from the German text by the United Nations Secretariat.

date the correction is received, and it shall be published in the same part of the publication and in the same type as the article to be corrected.

(3) The correction shall be printed free of charge. It may not be substantially longer than the article to be corrected.

Art. 14. Appeals for contributions towards the payment of fines, damages or costs. (1) It shall be unlawful to make public appeals in publications for contributions towards the payment of fines, damages or costs, or to publish acknowledgements of the receipt of sums contributed for such purposes.

(2) Sums contributed in response to such appeals shall be confiscated and paid to the local municipal authority, which shall apply these sums to social purposes.

Art. 15. Protection of youth. Regulations which, for the protection of youth, restrict the import, production, sale and distribution of certain publications are not affected by these provisions.

Art. 16. Information to editors. Information material which is periodically distributed exclusively to editors shall not be subject to the provisions of this Act governing periodical publications.

Section III

PROVISIONS TO PROTECT THE PUBLIC INTEREST

Art. 17. Prohibition of domestic publications. (1) The publishing and distribution of a publication produced in the Saar may not be prohibited unless

1. It incites to disobedience of laws or regulations, or of orders lawfully made by the Government or by the authorities, or to the commission of other punishable offences;

2. It glorifies or expresses approval of punishable offences already committed; or

3. It contains passages, illustrations or representations of an obscene or indecent character.

(2) The Minister of the Interior shall have exclusive competence to make an order prohibiting a publication. Any such order shall state the reasons for the prohibition and notice of the order shall be served on the parties concerned. If such service is not possible, a public announcement may be substituted in lieu thereof.

Art. 18. Prohibition of foreign publications. The distribution in the Saar of a publication published abroad may be prohibited if it contains matter which

1. Would justify a prohibition order under article 17 above, or

2. Is designed to influence Saar public opinion in a manner contrary to the provisions of article VI of the European Statute of the Saar. Article 17 (2) above shall apply, *mutatis mutandis*.

Art. 19. Period of validity of prohibition order. The period of validity of any prohibition order made under articles 17 and 18 above shall not exceed three months in the case of a periodical publication. In the case of newspapers or magazines appearing at intervals longer than one month the period of validity of such an order shall not exceed six months.

Art. 20. Substitute publications. The prohibition order shall extend to any publication which is substituted for the prohibited publication.

Art. 21. Closing of press undertakings. (1) Any publishing house, printing press or editorial service which is operated by means of funds supplied from abroad shall report this circumstance to the Minister of the Interior.

(2) The Government of the Saar may close an undertaking described in paragraph 1 above if it publishes material designed to influence Saar public opinion in a manner contrary to the provisions of article VI of the European Statute of the Saar.

Art. 22. Remedies. A decision of the Government under article 21 (2), or of the Minister of the Interior under articles 17 and 18 may be contested by an action in the form of an administrative claim before the Administrative High Court. The bringing of such an action shall not operate to suspend the effect of the decision in question.

Section IV

SEIZURE AND CONFISCATION

Art. 23. Non-judicial seizure. (1) A publication may only be seized without a court order if it has been prohibited under article 17 or 18 above or if it does not bear the imprint of its publisher (art. 9).

(2) Only copies intended for distribution may be seized. The seizure may be extended to made-up type, slugs and other forms of type-setting. Made-up type which has been seized shall be pied at the request of the party concerned. Anything which is not related to the matter to be seized and which can be separated from such matter shall not be seized.

(3) Seizure shall be ordered by the Minister of the Interior.

(4) An order to seize may be contested by an action in the form of an administrative claim before the Administrative High Court. The bringing of such an action shall not operate to suspend the effect of the order in question.

Art. 24. Judicial seizure and confiscation. (1) Judicial confiscation of a publication shall be governed by the provisions of articles 40 to 42 of the Penal Code; judicial seizure, by the provisions of article 94 *et seq.* of the Code of Criminal Procedure.

(2) If an order of confiscation or seizure is made by the court on the ground that unlawful matter has been published, the order shall extend to all

copies of the publication which are in the possession of the author, publisher, printer and distributor, and to those copies which any other person may be holding for the purpose of distribution.

SECTION V

RESPONSIBILITY FOR PUNISHABLE OFFENCES COMMITTED BY MEANS OF PUBLICATIONS

. . .

Art. 27. No responsibility shall be incurred by reason of an accurate account of the proceedings in a public session of the *Landtag* or its committees.

Art. 28. (1) The responsible editor of a periodical publication shall be presumed to have known and approved the contents of the publication for which he is responsible. His power to prevent the publishing of unlawful matter may not be abridged or denied by contract or by staff instructions.

. . .

(3) A person may not be punished under this provision if another person more proximately liable is known and is justiciable, or should such other person be deceased, was justiciable, at the time of publication. The author or contributor — or in the case of a non-periodical publication, the publisher — shall be deemed to be more proximately liable than the persons [*sic*] specified in paragraph (1) and each of the latter in turn more proximately liable than the persons successively specified therein. A person shall be deemed to be justiciable if he is within the jurisdiction of the Saar courts. The author or contributor shall not be liable to prosecution unless he had agreed to publication.

[Section VI deals with penalties.]

SECTION VII

FINAL PROVISIONS

. . .

Art. 36. This Act shall enter into force on the date of its publication in the *Amtsblatt* of the Saar. On the same date the Ordinance on Provisional Press Regulations of 9 March 1948 (*Amtsblatt*, p. 276)[1] shall cease to have effect.

---

[1] See *Yearbook on Human Rights for 1948*, pp. 183–5.

SAN MARINO

ACT No. 42 OF 1955 ON THE ESTABLISHMENT OF A COMPULSORY SYSTEM OF SOCIAL SECURITY

of 22 December 1955

SUMMARY[1]

This Act, which amends and consolidates previous legislation on the subject,[2] provides for a comprehensive scheme of social welfare and compulsory social insurance covering sickness and ordinary accidents, industrial accidents and occupational diseases, maternity, invalidity, old age, death and involuntary unemployment, and providing for money payments and pharmaceutical, hospital and medical benefits and treatment.

The social security system is to cover all citizens without discrimination or preference. Foreigners and stateless persons holding a residence permit of at least one year are entitled also to receive certain benefits under this Act.

The social security programme is to be financed by the social security tax and by contributions paid by employers, workers and the State.

The Act establishes a state institution called the Institute for Social Security, which is made responsible for the direction and administration of the social security scheme. The Institute is to collect the social security tax and the private and state contributions and have direct managament of the hospital and pharmacies in the territory of the Republic.

[1] Published in *Bollettino Ufficiale della Repubblica di San Marino* No. 5, of 30 December 1955. Summary by the United Nations Secretariat.

[2] In particular, Act No. 2, of 24 January 1939, and Act No. 10, of 9 March 1950.

SAUDI ARABIA

NOTE[1]

Islamic law, derived from the Koran, is a safeguard for all human rights. The law of Saudi Arabia emanates from Islamic jurisprudence, in so far as all personal civil relations in the community are concerned. Islamic law is so flexible that it does guarantee, in the kingdom, human rights in conformity with the United Nations Universal Declaration of Human Rights.

---

[1] Information received from the Government of Saudi Arabia.

SPAIN

ACT No. 504

of 15 July 1954 [1]

Art. 1. Articles 17 to 27 of the Civil Code, Book I, Part I, now in force shall be amended to read as follows:

"*Art. 17.* The following have Spanish nationality:

1. The children of a Spanish father;
2. The children of a Spanish mother and a father who is an alien, provided they do not assume the nationality of the father;
3. Persons born in Spain of alien parents, if the latter were born in Spain and resided there at the time of the birth. This does not apply to the children of aliens attached to the diplomatic service;
4. Persons born in Spain of unknown parents, without prejudice to their status according to their true parentage, should it become known.

"*Art. 18.* The following may opt for Spanish nationality:

1. Persons born in Spanish territory of alien parents other than those referred to in article 17 (3);
2. Persons born outside Spain of a father or mother whose original nationality was Spanish.

"Such persons may exercise their option by making a declaration, within the year following attainment of majority or *sui juris* status, before the civil registrar of their place of residence, in the case of persons living in Spain, or before a diplomatic or consular agent of the Spanish Government in the case of persons residing abroad.

"In order to be effective, the declaration of option must fulfil the conditions set forth in the final paragraph of article 19.

"*Art. 19.* An applicant may, in exceptional circumstances or by virtue of residence in Spain for the period prescribed by article 20, acquire Spanish nationality by obtaining naturalization papers, which may be issued by the head of the State at his discretion.

"No such applicant may be granted Spanish nationality unless he is over the age of twenty-one years, or over the age of eighteen years and *sui juris.*

"If a person acquires Spanish nationality under this article, his wife unless legally separated and the children under his paternal authority shall likewise acquire the said nationality.

"In order to acquire Spanish nationality by either method, the following requirements must be fulfilled:

1. The applicant must first have renounced his previous nationality;

2. He must swear an oath of allegiance to the Head of the State and of obedience to the laws;

3. He must register as Spanish in the civil register.

"*Art. 20.* An applicant for grant of Spanish nationality shall be required to have resided in Spain for ten years.

"However, residence of five years shall be sufficient if the applicant (1) has introduced into Spanish territory an important industry or invention, or (2) is the owner or director of similarly important agricultural, industrial or commercial undertaking, or (3) has rendered distinguished service to the art, culture or economy of the nation, or has appreciably furthered Spanish interests.

"In exceptional cases an applicant who satisfies none of the requirements of the preceding paragraph may nevertheless be eligible for grant of Spanish nationality after residence in Spain for only two years if he falls within any of the categories listed in article 18, but has not exercised his option within the prescribed time-limits, or is an alien adopted as a minor by persons of Spanish nationality, or is a national by origin of a Latin American country or of the Philippines, or is an alien but has married a woman of Spanish nationality.

"In all instances, the period of residence must be continuous and must immediately precede the date of application.

"Grant of nationality may be withheld in the interests of law and order.

"*Art. 21.* An alien woman who marries a Spanish national shall acquire her husband's nationality.

"If such a marriage is annulled, the provisions of article 69 shall apply for purposes of nationality.

"*Art. 22.* A person who voluntarily acquires another nationality shall cease to be a Spanish national.

"The loss of nationality shall take effect only if the person involved is over the age of twenty-one years or over the age of eighteen years and *sui juris,* has resided outside Spain for at least three years

[1] Published in *Legislación y Disposiciones de la Administración Central, Edición Oficial,* vol. XXXIII, July – September, 1954. Translation by the United Nations Secretariat.

immediately preceding the acquisition of alien nationality and, in the case of a male, is not liable for active military service, unless these requirements are waived by the Government. A married woman not legally separated from her husband may not independently and voluntarily acquire another nationality.

"Voluntary acquisition of another nationality shall not entail loss of Spanish nationality if Spain is at war.

"Notwithstanding the provisions of paragraph 1, the acquisition of the nationality of a Latin American country or of the Philippines shall not entail loss of Spanish nationality if an express agreement to that effect has been made with the State whose nationality is acquired.

"Likewise, and provided that an express agreement to that effect has been made, the acquisition of Spanish nationality shall not entail the loss of the nationality of origin in the case of a Latin American country or the Philippines.

"*Art. 23.* The following shall also lose Spanish nationality:

1. Any person who serves in the armed forces or holds public office in a foreign State when expressly prohibited from doing so by the Spanish Head of State;
2. Any person definitively sentenced to loss of Spanish nationality in conformity with the provisions of penal law;
3. A Spanish woman who, by marriage with an alien, acquires her husband's nationality;
4. A woman whose husband loses Spanish nationality, if she is not legally separated from him and her nationality depends on his;
5. A child under paternal authority, where the father loses Spanish nationality, and the child's nationality depends on that of the father.

"*Art. 24.* If a person loses Spanish nationality under article 22, he may recover it by returning to Spanish territory and declaring his desire to do so before the civil registrar of the place of residence which he elects, so that the appropriate records may be made, and by renouncing his alien nationality.

"*Art. 25.* A Spanish woman who loses her nationality by marriage may, upon the dissolution of the marriage or grant of a permanent legal separation, recover Spanish nationality by complying with the requirements of the preceding article.

"A child who has lost Spanish nationality through the effects of paternal authority shall have the right, upon the extinction of paternal authority, to recover Spanish nationality by exercise of the option provided for in article 18.

"Persons sentenced to the loss of Spanish nationality or deprived of it on the grounds of having served in the armed forces or held public office in a foreign State shall be entitled to recover it only by special dispensation of the head of the State.

"*Art. 26.* Persons born and residing abroad who possess Spanish nationality as the children of a Spanish father or mother also born abroad shall not lose their Spanish nationality, even though they are nationals of their country of residence under the laws of that country, if they make an express declaration before a Spanish diplomatic or consular agent or, in the absence of such an agent, in a duly authenticated written statement made to the Spanish Ministry of Foreign Affairs, of their desire to retain Spanish nationality.

"*Art. 27.* Aliens shall enjoy in Spain the same civil rights as Spanish nationals except as otherwise provided by special laws and treaties."

Art. 2. Any provisions at variance with those laid down in the present Act shall be null and void.

DECREE No. 1269 APPROVING THE STATUTE OF THE STUDENT of 11 August 1953 [1]

Sole article. The Statute of the Student, the charter of the rights and duties of Spanish students, is hereby approved.

STATUTE OF THE STUDENT

The students of Spain, the heirs of a noble tradition based on respect for human dignity and on personal service to the community, a tradition so admirably fostered in the lecture halls of Salamanca and Alcalá, are desirous at this historic moment of proclaiming the essential points in their rights and duties as one of the orders of Spanish society.

In the conviction that only solidarity between men and classes can achieve greatness and freedom for their country, they affirm, in proclaiming their rights and duties, their intention of placing their abilities and their social position at the service of the Spanish people, at all times subordinating the interests of the group to the paramount interests of Spain.

[1] Published in the *Boletin Oficial del Estado* No. 270, of 27 September 1953. Translation by the United Nations Secretariat. The Statute of the Student approved by the decree was that adopted by the First National Congress of Students in 1953.

Considering Spain as a supreme reality, with transcendent purposes of its own to fulfil, as a synthesis uniting and merging the diversity of social realities, they proclaim hereby their will to achieve for their country a position of pre-eminence in the field of culture and history, and for all Spaniards, by the very fact of their being so, a political order guaranteeing to them a life of freedom and dignity, in accordance with the hopes of those students who gave their lives in the battle for a better and juster Spain.

Conscious of their mission, that of acting as exemplars and as a vanguard, the students of Spain hereby declare:

1. The student is a member of the national community whose duty it is to participate in the collective tasks through the exercise of his intellectual faculties, as a general rule in the form of study, according to his personal vocation and in order to achieve a professional training such as to ensure to him a life of dignity and service to other Spaniards.

2. Study, as a manifestation of the life of the mind, is deserving of the highest consideration from society. Accordingly, it shall be protected and promoted by means of appropriate legal measures, in order to render it compatible with the achievement of the individual, family and social objectives of mankind.

3. Study is a sufficient title to the protection and assistance of society.

4. In order to ensure to the student the exercise of the right to the full and harmonious development of his personality, the State, with the collaboration of the various social institutions, shall take such moral, artistic and economic measures as may be appropriate.

5. All Spaniards qualified by their intelligence, vocation and accomplishments have a right to pursue higher education. No talent shall be wasted because of lack of economic means. The services for the protection of students shall ensure the implementation of this principle through the organization of an adequate system of fellowships and subsidies.

6. As and when economic conditions permit, efforts must be made to establish a social insurance plan to protect students against adversity. Such plan shall as a minimum provide protection to the student, in the amounts specified, against the risks of illness, occupational accident, disability and family difficulties, interrupting his studies. Steps shall also be taken to establish a system of endowments offering students economic security during the period following completion of their studies.

7. The State shall encourage the introduction of a co-operative system enabling students to acquire as their property the materials necessary for the exercise of their profession (books, instruments, clinical equipment etc.).

8. In order to assist students to establish themselves in their profession on leaving the university, the State shall facilitate the establishment of a credit system based on guarantees of personal competence and integrity.

9. The student is entitled to rest from his labours. Curricula shall be so arranged that daily time-tables, vacations and holidays are laid down in the academic calendar and may not be altered except in special circumstances declared as such by the Ministry of National Education after consultation with the executive committee of the appropriate Spanish University Students' Syndicate (*Sindicato Español Universitario*) or on the proposal of that body, according to the case.

10. A system of appropriate institutions (summer and winter hostels, students' homes, camps etc.) organized by the State and the university, with the co-operation of the Association, shall be provided in order to help students to make the best possible use of their vacation periods.

11. In order to encourage their religious and moral development, students shall enjoy the spiritual assistance provided by the Church. Efforts shall be made to endow the University with the religious elements traditional in its corporate life, such as confraternities, brotherhoods, charitable associations, etc.

12. All the institutions and equipment necessary for the practice of physical culture and sports shall be provided and placed at the disposal of students. Particular attention shall be given to contests between the various sections of each university and to inter-university contests at the national level.

13. The State, independently or through the intermediary of the Spanish University Students' Syndicate, shall ensure to students who have achieved a suitable minimum standard in their work participation in and access to the things of the spirit, by providing for their total exemption from fees or charges in any cultural centres where such fees or charges are imposed (faculties, museums, learned institutions and the like) and for the grant to them of special rates in means of transport and artistic productions.

14. Due attention shall be given to the creation of cultural centres and groups administered by the students themselves and organized within the framework of their syndicate, such as film societies, university theatres, literary circles and the like.

15. To qualify for the rights conferred by this statute, students must give evidence, by their conduct at all times, of their will to live in harmony with other social groups in Spain. To that end, they shall demonstrate, firstly by study, scientific research and professional training, and secondly by seeking to take part in the work of other Spaniards and to share their lives, their desire to achieve such understanding as may lead to the total unity of men and classes in Spain.

16. Students shall play a leading part in the work of bringing to other Spaniards the benefits of culture,

gaiety, soldierliness, health and sport. Through their syndicate, students shall co-operate in educational extension programmes organized by the State and the movement.

17. Students shall take part in Spanish public life through their syndicate, which shall be represented in specified deliberative and consultative organs.

18. Special arrangements shall be made with regard to the performance of military service by men students, in order to prevent any interruption of their professional training while at the same time ensuring that they provide the Army with such auxiliary cadres as may be necessary for its mission. Similarly, special arrangements shall be made for the performance of social service duties by women students, in order to prevent any interruption of their studies while at the same time ensuring that they provide instructors or training assistants for other sections of women.

. . .

21. The Spanish University Students' Syndicate shall co-operate with the academic authorities in watching over the fulfilment of the basic academic principles and the academic regulations. Through their syndicate, students shall enjoy representation with speaking and voting rights, on academic boards and university advisory bodies. In the event of any failure to respect academic principles, the syndicate, through its representatives, may request the Ministry of National Education to take such action as may be necessary.

At the instance of the national leadership of the Syndicate, proceedings shall be instituted against students guilty of academic irregularities. A court of honour shall be established to punish specified offences.

22. The Spanish University Students' Syndicate shall set up, by agreement with the academic authorities, the necessary institutions (training colleges, etc.) to provide improved educational facilities for students prevented by their place of residence or their employment from attending university lectures. In no case may any distinction be made in the academic or administrative treatment of students able to attend lectures and those unable to do so, if the last named have been legally exempted from that obligation.

. . .

26. The Spanish University Students' Syndicate shall participate in the selection of university students for any exchanges, grants or supplementary studies at national or foreign centres of learning which may be organized by cultural institutions, the Spanish Committee for UNESCO, etc.

27. All students are members of the Spanish University Students' Syndicate, the organ through which they participate in academic life and in the professional, syndical and political life of the nation.

28. The Syndicate shall represent the legitimate interests of students from both the human and the academic points of view. Positions of authority in the Syndicate shall in all cases be held by members of the university.

29. The Syndicate may establish and maintain vocational and physical training organizations, provident and welfare societies and any agencies which may be of service to its members.

. . .

SECONDARY EDUCATION ACT

of 26 February 1953

SUMMARY[1]

The objectives of the Act are defined in its preambular statement as being to perfect technical education procedures, to raise the cultural level of Spanish youth and to establish a more solid basis for co-operation among the members of the teaching profession.

The Act describes secondary education as the degree of education of which the essential ends are the training of the human personality and the preparation of those who are capable of continuing higher studies afterwards. The State is to endeavour to provide such education, at least in its lower stage, for all qualified Spaniards. According to the Act, the right shall be guaranteed to all parents of selecting for their children any duly qualified teacher and any properly established secondary school. The State is to recognize and guarantee the right of the Roman Catholic Church to teach its religion in schools. Recognition is accorded to the social function of private schools, which is to be taken into account when they are accorded economic and financial protection. The relations between the State and the private teaching institutions are to be governed by the principles of freedom of teaching, responsibility of the members of the teaching profession, and the greatest co-operation among the various institutions.

Besides spiritual values, secondary education is to comprise sound moral, intellectual and physical

[1] Published in *Boletin Oficial del Estado* No. 58, of 27 February 1953. Summary by the United Nations Secretariat.

training. Moral education is to prepare the young people for the exercise of freedom and reponsibility.

Provision is made for inspection of secondary schools by State and Church, each in relation to its own sphere of interest.

Secondary education, which begins at the age of ten, is to lead to the granting of a *bachiller* diploma. Students who have successfully completed a four years' course are to be given a diploma of *bachiller elemental*. This diploma is required for the student to continue the study of a profession generally of an elemental or technical character. In order to obtain a diploma of *bachiller superior*, the student must attend two further years of school, studying subjects on general culture which are common to all pupils.

Those holding the *bachiller superior* who wish to study in the various fields at a university, in specialized schools of engineering or architecture, or in other centres of higher education are required to study an additional year in order to complete their secondary school training.

INDUSTRIAL VOCATIONAL TRAINING ACT

of 20 July 1955

SUMMARY[1]

The Act governs a variety of aspects of industrial vocational training, including the classification of types of such training into pre-apprenticeship, apprenticeship and further training, and specialized and advanced training, the part to be played by industrial undertakings in education generally and industrial vocational education in particular, the powers and functions of the Ministry of National Education, financing of industrial vocational education, curricula, and inspection.

The requirements as to age and ability for entry into the three types of industrial vocational training are laid down. Pre-apprenticeship training is to be free. The State is to assist all persons with the natural ability necessary for admission to higher studies. All training provided is to be in accordance with Roman Catholic dogma and morals and the principles of the National Movement. State and Church are to have powers of inspection in relation to their respective interests. Vocational guidance and selection are to be treated as essential at all stages of training.

Translations into English and French of the greater part of the Act are to be found in International Labour Office, *Legislative Series* 1955 – Sp. 1.

[1] Text in *Boletin Oficial del Estado* No. 202, of 21 July 1955. Summary by the United Nations Secretariat.

SWEDEN

NOTE[1]

I. LEGISLATION

During 1955, Parliament, on the proposal of the Government, decided to substitute the Poor Relief Law of 1918 (fattigvårdslagen) by a new law regarding municipal social assistance (lag om socialhjälp), which will come into effect on 1 January 1957. The new law incorporates the practice already prevailing, according to which assistance by the municipality is a right in all contingencies where the social insurance scheme is not applicable. The special conditions attached to the old form of poor relief which could be humiliating to the individual (control, limitation of personal integrity, etc.) have thus been abolished from Swedish social welfare legislation.

[1] Note received through the courtesy of the Royal Ministry for Foreign Affairs, Stockholm.

II. INTERNATIONAL AGREEMENTS[2]

1. On 27 May 1955, an agreement between Sweden and Italy concerning social security was signed in Rome.

2. On 28 July 1955, the convention on social security of 17 December 1954 between Sweden and Switzerland was ratified.

3. On 15 September 1955, a mutual convention regarding social security was signed in Copenhagen by representatives of the five Nordic countries: Denmark, Finland, Iceland, Norway and Sweden.

4. On 19 December 1955, Sweden signed the European Convention on Establishment, drafted within the Council of Europe.

[2] See also p. 346.

SWITZERLAND

NOTE[1]

I. CONFEDERATION

A. LEGISLATION

The federal ordinance (ordonnance) of 24 December 1954 on the prevention of accidents in operations involving the use of explosives, which came into force on 1 February 1955 (*Recueil des lois fédérales* No. 1, of 6 January 1955), laid down safety requirements to be observed in all such operations carried out by enterprises governed by articles 60 *et seq.* of the Act of 13 June 1911 on sickness and accident insurance. The federal ordinance of 16 December 1955 on the prevention of accidents caused by woodfashioning machines (*Recueil* No. 51, of 22 December 1955) laid down safety provisions for enterprises using such machines and subject to the same article 60.

The federal ordinance of 11 January 1955 on federal subsidies for the prevention of tuberculosis (*Recueil* No. 2, of 13 January 1955) governed the granting of such subsidies to cantons and recognized establishments and organizations.

The federal ordinance of 29 March 1955 on agricultural vocational training and research (*Recueil* No. 13, of 31 March 1955) governed, *inter alia*, the organization of apprenticeship, the conditions of work of apprentices, adult agricultural courses, agricultural schools and research, and examinations.[2]

A federal Act of 24 June 1955 (*Recueil* No. 42, of 27 October 1955) amended that of 7 December 1922 on the rights of authors of literary and artistic works, article 12 of the latter being amended to read as follows:

"*Art. 12.* 1. Copyright as guaranteed by this Act shall include the exclusive rights:

(1) To reproduce the work by any process;

(2) To sell, place on sale, or put into circulation in any other manner, copies of the work;

(3) To recite, perform, or exhibit the work publicly; or to transmit publicly over wires the recitation, performance or exhibition of the work;

(4) To display copies of the work publicly, or to disclose the work to the public in any other manner when the work has not otherwise been made public;

(5) To broadcast the work;

(6) To communicate the broadcast work publicly over wires or otherwise, when such communication is made by an organization other than the original organization;

(7) To communicate publicly by loud-speaker or by any other like instrument transmitting signs, sounds or images, the broadcast work or the work publicly transmitted over wires.

2. Public communication of the work by any other means serving, without wires, to diffuse signs, sounds or images is assimilated to broadcasting."

B. INTERNATIONAL AGREEMENTS

Subject to certain reservations, a federal order (arrêté fédéral) of 14 December 1954 (*Recueil* No. 16, of 21 April 1955) approved, and authorized the ratification of, the Convention of 28 July 1951 on the Status of Refugees.[3]

Federal orders of 17 December 1954 and 23 March 1955 (*Recueil* No. 9, of 24 February 1955, and No. 20, of 26 May 1955) approved, and authorized the ratification and implementation of, respectively, the convention on social insurance between Switzerland and Denmark, signed at Copenhagen on 21 May 1954, and the Convention on old-age and survivors' insurance between Switzerland and Liechtenstein, signed at Berne on 10 December 1954.

An exchange of notes on 14 September 1955 (*Recueil* No. 39, of 30 September 1955) related to the extension to Land Berlin, retroactively as from 1 July 1951, of the convention on social insurance, together with final protocol, concluded by Switzerland and the Federal Republic of Germany on 24 October 1950.[4]

An administrative arrangement of 8 February 1955 (*Recueil* No. 18, of 16 May 1955) concerned the implementation of the convention on social insurance between Switzerland and Italy, signed on 17 October 1951.[5]

Two federal orders of 22 June 1955 approved, respectively, the Berne Convention for the Protection of Literary and Artistic Works, as revised in Brussels on 26 June 1948, and the Universal Copyright Convention of 6 September 1952, with protocols 1 and

---

[1] This note is based on texts received through the courtesy of the office of the Permanent Observer of Switzerland to the United Nations.

[2] A translation of this federal ordinance into English appears in International Labour Office, *Legislative Series* 1955 – Switz. 1.

[3] See *Yearbook on Human Rights for 1951*, pp. 581–8. The Convention came into force for Switzerland on 21 April 1955.

[4] See *Yearbook on Human Rights for 1951*, p. 324.

[5] See *Yearbook on Human Rights for 1954*, p. 254.

21 (*Recueil* No. 49, of 8 December 1955 and No. 3, of 12 January 1956). The Federal Council was authorized to adhere to the former convention upon the entry into force of the envisaged amendment to the federal Act of 7 December 1922,[2] and to ratify the latter convention and Protocols.

II. CANTONS

Judicial Proceedings

The Canton of Graubünden, by referendum of 20 June 1954, approved a new Code of Civil Procedure.

The code lays down the degrees of consanguinity and other relationships which automatically disqualify judges or clerks of the court from participation in a case. It also states the grounds upon which these officials must disqualify themselves if requested to do so by one of the parties.

It exempts from the general duty to testify as a witness persons bearing certain relationships of blood or marriage to the parties. Persons need not bear witness to the discredit of themselves or of any of the persons bearing the relationships mentioned above, or to their own immediate detriment. Persons bound by official or professional secrecy under the Penal Code are exempt in so far as they have not been released from that obligation. The code protects the secrecy incumbent upon clerics.

Persons suffering from certain physical or mental defects are barred from being witnesses, as are persons under fourteen years of age and persons under the sentence of loss of their civil rights. The code specifies the grounds upon which a party may object to the hearing of a witness for the other party.

A wife involved in a lawsuit over property which she brought into the marriage is to be legally represented by her husband.

Indigent persons may be enabled to engage in lawsuits free of charge by being issued a certificate of indigence. This facility, which includes where necessary the services of a lawyer, may be restricted to a single court instance and is not to be granted in cases of "obviously mischievous or unjustified" litigation. A denial of this "right of indigence" may be appealed against. Citizens of other cantons and foreigners are entitled to the right to the extent provided by federal legislation, treaty or reciprocity.

Political Rights

Basle-Town: Any 2,000 voters may request the adoption, amendment or repeal of a law or of a decision of the Superior Council (Grosse Rat). The request may be made in general terms or take the form of a draft law or draft decision. A minimum of 1,000 voters may, within forty-two days following publication of a law or a decision in the cantonal gazette, request its submission to popular referendum. (Law of 16 November 1875 on the procedure governing initiatives and cantonal referenda, as last amended on 13 October 1955.)

Zug: Cantonal citizens residing in the canton and Swiss citizens legally established in the canton may vote in cantonal elections and other voting upon reaching the age of 19. Proportional representation is provided in cases where more than two members of an authority are to be elected (law of 6 December 1954 relative to elections and voting).

Prevention of Unemployment

On 5 July 1955, the Canton of Vaud, pursuant to the Act of 8 September 1954 amending the Act of 8 September 1952 on prevention of unemployment,[3] amended the order of 19 December 1952,[3] which implemented the Act. If the condition of the labour market justifies such steps, the Department of Agriculture, Industry and Commerce may grant subsidies or loans to communes, campanies or individuals to permit or encourage activities having the effect of promoting employment.

Conditions of Work

Acting under articles 96 *et seq.* of the federal Act on Agriculture of 3 October 1951 (*Recueil* No. 46, of 31 December 1953) and article 324 of the Obligations Code (Code des obligations), six cantons adopted standard contracts for agricultural workers (in some instances specifically male workers), setting out provisions governing their conditions of work: St. Gall on 23 August 1955, Schaffhausen on 23 February 1955, Schwyz on 10 November 1954, Uri on 12 December 1955, Valais on 12 October 1955 and Vaud on 24 June 1955. According to article 324 of the Code of Obligations, the contents of such standard contracts are to be deemed to express the wish of the parties affected if there exists no agreement to the contrary. The Act on Agriculture of 1951 relates this provision to agricultural work and states that standard contracts shall deal, in particular, with the obligations of the employer and the worker, hours of work and leisure, holidays, payment of wages in case of sickness and termination of the employer-employee relationship.

The Canton of Lucerne adopted an Act of 8 March 1955 on the granting of yearly holidays to young workers and apprentices.

The ten enactments referred to in the next following paragraph related in part to prevention of accidents in agriculture.

Social Security

Ten further[4] cantons adopted enactments concerning insurance against, and prevention of, accidents in agriculture, in pursuance of the federal Act on Agriculture of 3 October 1951 and the federal

[1] See *Yearbook on Human Rights for 1952*, pp. 398–402.

[2] See p. 223.

[3] See *Yearbook on Human Rights for 1952*, p. 258.

[4] See *Yearbook on Human Rights for 1954*, p. 255.

ordinance on occupational accident insurance and the prevention of accidents in agriculture of 9 March 1954:[1] Basel-Landschaft on 13 December 1955, Graubünden on 4 September 1955, Lucerne on 4 October 1955, Neuchâtel on 4 October 1955, St. Gall on 6 September 1955, Schaffhausen on 25 October 1955, Schwyz on 25 November 1955, Uri on 12 December 1955, Valais on 2 December 1955, and Vaud on 13 June 1955.

The cantons of Valais and Vaud adopted an Act of 2 June 1955 on public assistance and an Act of 30 November 1954 on family allowances, respectively, both being basic enactments upon their subject-matters.

[1] See *Tearbook on Human Rights for 1954*, p. 254.

By an Act of 23 November 1955 and a decree of 5 December, respectively, the cantons of Neuchâtel and Vaud legislated upon supplementary old-age and survivors' assistance. Assistance to the poor and medical care of the poor were, respectively, the subject of an Act of 24 April 1955 of Graubünden and an order of 5 December 1955 of Lucerne.

Health Standards

Of the considerable cantonal legislation on aspects of public health and medical care, mention may be made of the decree of 10 November 1954 of the canton of Valais which makes detailed provisions in execution of the federal legislation on prevention of tuberculosis.

SYRIA

NOTE

Decree No. 2511, of 21 August 1955, on annual leave (*Official Gazette* No. 45, of 22 September 1955) makes it compulsory for every employer to grant annual leave to an employee claiming it who has been in his service for six months or more. If work requirements make it necessary, leave rights may be accumulated from year to year, within certain stated limits, or cash compensation paid, calculated on the basis of the most recent remuneration.

A full translation of the decree into English and French appears in International Labour Office *Legislative Series* 1955 — Syr. 2.

Act No. 47 of 28 March 1955, on vocational education (*Official Gazette* No. 18, of 7 April 1955) repeals legislative decree No. 225 of 1 May 1952[1] and makes new provisions on the organization of vocational education for boys and girls between the ages of 11 and 20. Such education is to have two branches, industrial and commercial, each being provided in two stages, intermediate and preparatory. Each stage is to be open to all children, within stated age ranges, who have certain educational qualifications and aptitudes. Education and school books are to be provided free and poor children attending vocational schools are to be admitted free to residential departments.

The Ministry of Education is to formulate a five-year programme for the extension of vocational education. The number of scholarships in vocational education is to be increased, and study missions composed of students chosen by competitive examination or of selected government technicians and teachers are to be sent abroad to further the technical education of the participants.

A full translation of the Act in English and French appears in International Labour Office *Legislative Series* 1955 — Syr. 1.

[1] See *Yearbook on Human Rights for 1952*, p. 266.

THAILAND

NOTE[1]

While no new constitutional provisions were promulgated in Thailand during 1955, it may be noted that new progress has been made in securing by constant evolution the freedom of political and democratic institutions proclaimed by the Constitution.[2] To that effect there has been issued an Act on Political Parties, of 26 September 1955 (*Royal Thai Government Gazette* (special issue), Vol. 72, No. 78), the drafting of which was mentioned in the Constitution.[3] According to this Act, political parties (which do not come under the provisions of the Association Law, as they do in some other countries) must be registered at the Ministry of the Interior, and this is carried out when a political party is not contrary to the essential bases of the Constitution — namely, the nation, the faith and the Crown, or the Constitution itself, and is not against public order and good morals. Appeal against a refusal of registration may be made to the Supreme Court through the court of first instance. A registered political party has the right to levy fees from its members and to have an office and moveable property therein. It may be added that, in promotion of a democratic policy under which political freedom of speech, public meetings, and so on, as specified also in the Constitution, shall be protected, the Government has authorized meetings to be held in public places (on the model of the well-known meetings in Hyde Park in London) where speeches freely criticizing local politics are not forbidden and are even invited for instituting periodical collaboration between the citizens and the public powers; a draft law made in order to regulate and protect that important freedom is under consideration.

An Act of 6 October 1955 (*Royal Thai Government Gazette*, Vol. 72, No. 83) authorized the application of the Geneva Convention of 1949 relative to the treatment of prisoners of war,[4] already ratified by Thailand.

A royal decree of 15 March 1955 (*Royal Thai Government Gazette*, Vol. 72, No. 20) has organized the services of a department of public welfare in the Ministry of the Interior. Those services deal with national education (including a juvenile section and protection of children); the welfare of infirm persons; assistance in employment and vocational education; dwelling places (including construction and housing); the organization, management, etc., of a self-help settlement, to be supplied with markets; labour and industrial protection including help to find employment; healthy leisure; social services, etc.

Enforcement of the Social Insurance Act, adopted by the Assembly of the People's Representatives,[5] has been postponed in order to give interested persons a more adequate knowledge of its advantages.

A special committee, including two ladies of the Ministry of Culture, was appointed in 1955 in order to revise the Civil and Commercial Code promulgated some thirty years ago, the purpose being in the immediate future to reconsider the civil rights of women and their conditions in the family in connexion with marriage, divorce and disposal of matrimonial property. The work of the committee is proceeding continuously.

---

[1] Note based on information received through the courtesy of the Minister of Foreign Affairs of Thailand.

[2] See *Yearbook on Human Rights for 1952*, pp. 268–270.

[3] Cf. Section 26, in *Yearbook on Human Rights for 1952*, p. 269.

[4] See *Yearbook on Human Rights for 1949*, pp. 301–306.

[5] See *Yearbook on Human Rights for 1954*, p. 258.

TUNISIA

DECREE CONVENING THE CONSTITUENT NATIONAL ASSEMBLY

of 29 December 1955 (14 Jomada I 1375)[1]

WE, MOHAMED LAMINE the First, Possessor of the Kingdom of Tunisia,

In view of our solemn declaration of 15 May 1951 (8 Shaaban 1370);

Considering that the time has come to endow our kingdom with a constitution setting forth the distribution of powers, the functioning of the various organs of the State and the rights and duties of its citizens;

Considering that it is desirable to permit our people to participate effectively, through their elected representatives, in the making of the organic laws;

Taking into account the opinion of the Council of Ministers;

On the proposal made by our Prime Minister, President of the Council;

DECREE AS FOLLOWS:

Art. 1. A Constituent National Assembly shall be convened on Sunday, 8 April 1956 (26 Shaaban 1375), for the purpose of endowing our kingdom with a constitution.

Art. 2. The Constituent National Assembly shall be elected by direct and secret universal suffrage in accordance with conditions which shall be set forth in an electoral law at a later date.

Art. 3. The Constitution drawn up by the Assembly shall bear our seal and shall be promulgated as the Constitution of the kingdom.

Art. 4. Our Prime Minister, President of the Council, and our Minister of the Interior shall be responsible, each in so far as he is concerned, for the execution of this decree.

[1] Text received through the courtesy of the Ministry of Foreign Affairs of the Kingdom of Tunisia. Translation by the United Nations Secretariat.

DECREE CONCERNING THE SUPPRESSION OF POLITICAL CRIMES AND OFFENCES

of 8 December 1955 (22 Rabia II 1375)

Amending the decree of 29 January 1926 (14 Rajab 1344)[1]

Art. 1. Articles 1 and 2 of the above-mentioned decree of 29 January 1926 (14 Rajab 1344) are hereby repealed and replaced by the following provisions:

"*Art. 1* (new). The Tunisian courts shall have competence with respect to crimes and offences committed against the internal security of the Tunisian State.

"*Art. 2* (new). When the French judicial authorities exercise the powers vested in them under article 6 of the Judicial Convention,[2] they shall proceed in accordance with the laws applied in France and, with respect to any matters not governed by that legislation, in accordance with the Tunisian laws."

Art. 2. The Tunisian Penal Code shall be supplemented as follows:

. . .

"*Art. 78* (new). If a group of persons, whether armed or not, breaks into the domicile or business premises of a private person or into an enclosed property with the intention of using violence, each member of the group shall be liable to imprisonment for a term of three years.

"*Art. 79* (new). Every person who participates in an unlawful assembly likely to cause a disturbance of the peace and having as its object the commission of an offence or obstructing the execution of a law, order or sentence, shall be liable to imprisonment for a term of two years.

"If at least two of the persons participating in the unlawful assembly carry arms, whether conspicuous or concealed, the penalty shall be imprisonment for a term of three years.

[1] Text received through the courtesy of the Ministry of Foreign Affairs of the Kingdom of Tunisia. Translation by the United Nations Secretariat.

[2] Franco-Tunisian Judicial Convention signed in Paris on 3 June 1955.

"The above shall be without prejudice to the provisions of the decree of 5 April 1905 (29 Muharram 1323) concerning unlawful assembly on the public highway.

"*Art. 80* (new). If a person is guilty of an attempt against the safety of the State, but before the intention is put into effect and before judicial proceedings have been begun, informs the administrative or judicial authorities of the plot or attempt or denounces the principals and their accomplices or secures their arrest after the beginning of proceedings, he shall not be liable to the penalties laid down for an attempt against the safety of the State.

"*Art. 81* (new). A person shall be liable to imprisonment for a term of five years and a fine of 720,000 francs if by making public any writing or committing any act or pronouncing any words in public or at a meeting:

"1. He incites to hatred of or contempt for the Sovereign, the Government or the administration of the State;

"2. He stirs up discontent among the population in a manner likely to cause a disturbance of the peace;

"3. He instigates the population to contravene the laws of the country.

. . .

"*Art. 107* (new). If two or more public officials or persons placed on the same footing enter into a conspiracy to obstruct the execution of the laws or the maintenance of a public service through collective resignation or any other means they shall be punished with imprisonment for a term of two years."

. . .

TURKEY

ACT No. 6550 OF 4 MAY 1955 AMENDING ARTICLE 33 OF ACT No. 5680 CONCERNING THE PRESS [1]

Art. 1. Article 33 of Act No. 5680 is amended to read as follows:

"*Art. 33.* Publication of the following shall be prohibited:

"(1) Reports and comments concerning sexual relations between persons prohibited by law from contracting marriage;

"(2) News and photographs which, in connexion with the publication of reports and writings concerning the offences referred to in articles 414, 415, 416, 421, 423, 429, 430, 435, 436, 440, 441 and 442 of the Penal Code, reveal the identity of the victim.[2]

"Any person infringing the provisions of this article shall be liable to a fine of £T300 to 1,000, and in the event of a second or subsequent offence, to a fine of £T1,000 to 3,000 and a term of imprisonment of seven days to three months."

Art. 2. This Act shall come into force on the date of its publication.

Art. 3. The Council of Ministers shall be responsible for the application of this Act.

[1] This Act was published in the *Journal officiel* No. 9006, of 14 May 1955. French translation furnished through the courtesy of Dr. Ilhan Lütem, Professor in the Faculty of Law of the University of Ankara, general secretary of the Turkish United Nations Group for the Defence and Protection of Human Rights and Fundamental Freedoms. This group was entrusted by the Government of Turkey with the preparation of Turkey's contribution to the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] The offences mentioned above are: offences against decency, corruption of minors, kidnapping with a view to seduction, incitement to prostitution, and adultery.

NOTE ON SOCIAL INSURANCE [1]

Regulation concerning old-age insurance, No. 4/5351 of 18 June 1955.

The Council of Ministers decided to put into effect the regulation concerning old-age insurance drafted by the Ministry of Labour under articles 6, 12 and 29 of Act No. 5417 of 2 June 1949 concerning old-age insurance, as amended by Act No. 6391 of 22 March 1954 [2] and examined by the Council of State.

The regulation is divided into ten chapters and comprises thirty-one articles (*Journal officiel*, No. 9063, of 25 July 1955).

Regulation concerning the application of the social insurance laws to seamen and their employers.

The Council of Ministers decided to put into effect the regulation concerning the application of the social insurance laws to seamen and their employers, drafted by the Ministry of Labour under article 36 of the Maritime Labour Act No. 6379 of 20 March 1954 [3] and examined by the Council of State.

The regulation comprises twelve articles and came into effect on 20 July 1955 (*Journal officiel* No. 9059, of 20 July 1955).

[1] This note is based on information furnished through the courtesy of Dr. Ilhan Lütem.

[2] See *Yearbook on Human Rights for 1954*, p. 260.

[3] *ibid.*, p. 260.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

REPORT OF THE STATISTICAL BOARD OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC ON THE FULFILMENT OF THE STATE PLAN FOR THE DEVELOPMENT OF THE NATIONAL ECONOMY OF THE UKRAINIAN SSR IN 1955

(Extracts) [1]

Further successes were achieved in the Ukrainian SSR in 1955 as regards the expansion of public education, the training of specialists and other forms of cultural development.

Where the expansion of secondary education is concerned, the number of general secondary schools (ten-year schools), including schools for young workers, was 4 per cent higher and the number of students in the ten-year schools, 12 per cent higher than in 1954.

In 1955, the number of students who graduated from the secondary schools (ten-year schools) of the Ministry of Education of the Ukrainian SSR and obtained their school leaving certificates was 25 per cent higher than in 1954.

The number of students attending higher and special secondary educational establishments (including correspondence courses) was 7 per cent higher than in 1954. In 1955, more than 120,000 young specialists graduated from higher and special secondary educational establishments. The number of students taking evening and correspondence classes in higher and special secondary educational establishments without separation from production was 20 per cent higher than in 1954.

The total number of specialists with a higher or special secondary education in the Ukrainian SSR increased by 11 per cent in 1955.

There was a 3 per cent increase in the number of cinema installations as compared with 1954.

The expansion of the net-work of hospitals, crèches, sanatoria, rest homes and other medical and preventive institutions continued in 1955.

As compared with 1954, the number of hospital beds increased by over 12,000 in 1955, the number of places in permanent crèches by over 6,000 and that of places in sanatoria and rest homes by nearly 5,000.

In 1955, over one million children and young people stayed in pioneer camps and children's sanatoria, visited day camps and excursion and tourist centres or spent the whole summer in the country with their kindergartens, children's homes or crèches.

In 1955, the network of municipal services continued to expand and there was a further improvement in their work.

The output of electric power by municipal power stations was 12 per cent and the volume of water supplied to consumers, 10 per cent greater in 1955 than in 1954.

In 1955, gas distribution systems were put into operation and began to supply gas to the population in the cities of Dneprodzerzhinsk and Vinniki; new gas mains were installed in Stanislav, Gorlovka, Zhitomir, Vinnitsa, Khmelnitskiy and Rogatin, and existing gas distribution systems in Kiev, Kharkov, Odessa, Lvov, Makeyevka, Zhdanov and other cities were enlarged.

The number of apartments supplied with gas increased by 9 per cent in 1955, while the volume of gas furnished to consumers increased by 21 per cent. Tram and trolley-bus lines were extended. The tram, trolley-bus and omnibus fleet received new cars and equipment. The number of passengers carried increased 7 per cent in the case of trams, 13 per cent in the case of trolley-buses and 61 per cent in the case of omnibuses. . . .

. . . Considerable work was done on the planning and provision of amenities in towns, settlements and rural district centres.

In 1955, a total area of over 4.5 million square metres of new housing was put into use by state enterprises and institutions, local Soviets, and the population of towns and workers' settlements, with the aid of state credit. In addition, members of collective farms and the rural intelligentsia built over 100,000 dwelling houses in rural areas.

[1] Text received through the courtesy of the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations, acting on behalf of the Minister for Foreign Affairs of the Ukrainian Soviet Socialist Republic. Translation by the United Nations Secretariat.

ACT CONCERNING THE STATE BUDGET OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC FOR 1955 [1]

. . .

Art. 3. The total sum of 14,419,679,000 roubles shall be appropriated for social and cultural activities in the state budget of the Ukrainian Soviet Socialist Republic for 1955.

Expenditure on the different branches of social and cultural activity shall be apportioned as follows:

(a) *Education and culture.* Expenditure on primary, seven-year and secondary general education schools, technical and other specialized secondary education establishments, higher education institutions and scientific and research establishments; workshop and factory apprenticeship schools, courses and other activities designed to raise the qualifications of workers, collective farm workers and engineering and technical workers; libraries, halls and homes for cultural activities, clubs, theatres, the press, and other educational and cultural activities: a total of 8,193,763,000 roubles;

(b) *Health and physical culture.* Expenditure on hospitals, dispensaries, maternity homes, crèches, sanatoria and other establishments for the medical care of the population; sport and physical culture: a total of 4,468,322,000 roubles;

(c) *Social security and social insurance.* Expenditure on pensions and assistance for disabled workers and their families; the maintenance of homes for the disabled and other pensions: a total of 1,757,594,000 roubles.

[1] Text received through the courtesy of the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations, acting on behalf of the Minister of Foreign Affairs of the Ukrainian Soviet Socialist Republic. Translation by the United Nations Secretariat.

UNION OF SOUTH AFRICA

NOTE[1]

1. Extracts from the Criminal Procedure Act, 1955 (Act No. 56 of 1955, assented to on 22 June 1955) appear below.

2. The General Law Amendment Act, 1955 (Act No. 62 of 1955, assented to on 23 June 1955) provided in its section 31 that, when any regulation made under section 3, sub-section (1) of the Public Safety Act, 1953[2] provides for the summary arrest and detention of any person, a person arrested under that regulation may be detained thereunder anywhere within the Union, whether within or outside the area in which the existence of a state of emergency has been declared under section 2 of the Act.

3. The Departure from the Union Regulation Act, 1955 (Act No. 34 of 1955, assented to on 8 June 1955) provided in its section 2 that no person over sixteen may leave the Union, except into Basutoland, Bechuanaland or Swaziland, without a valid passport or permit. Sections 5 (1), 5 (6) and 6 (1) read, respectively, as follows:

"5. (1) The Secretary for the Interior or any person authorized thereto by the said secretary, may issue to any person over the age of sixteen years who applies therefor in the form prescribed by the said secretary and who pays the fee prescribed therefor, a permit to leave the Union: Provided that the said secretary or any person authorized by him as aforesaid shall issue such a permit to any person who satisfies him that he intends to leave the Union permanently.[3]

. . .

"5. (6) A permit issued to any person by reason of the fact that he intends to leave the Union permanently shall be endorsed accordingly.

. . .

"6. (1) If any person to whom a permit endorsed as provided in sub-section (6) of section five has been issued and who has left the Union for the purpose of proceeding to any place outside the Union other than a place in the territory of Basutoland, Bechuanaland or Swaziland, thereafter returns to the Union, he shall for the purposes of section two be deemed to have left the Union without a permit or a passport."

The penalty for contravention of section 2 is imprisonment, without the option of a fine, for a period of not less than three months and not exceeding two years. If the person contravening section 6 (1) was born outside the Union, he may be ordered removed from the Union.

Excluded from the operation of the Act were travellers in transit, passengers on ships calling at Union ports, and persons leaving the Union as crew members of ships, aircraft or other public vehicles who entered the Union as such crew members and so remained while therein.

4. The Group Areas Act, 1950,[4] which had been amended by the Group Areas Amendment Act, 1952,[5] underwent further amendment during 1955. The Group Areas Amendment Act, 1955 (Act No. 6 of 1955, assented to on 18 March 1955) amended section 28 of the principal Act and substituted a new section 29; these changes related to the powers and procedures of the Land Tenure Advisory Board. The Group Areas Further Amendment Act 1955 (Act No. 68 of 1955, assented to on 24 June 1955) added certain new sections to the principal Act, as amended, concerning the creation, use and disposal of border strips adjacent to group areas, and made a number of amendments on points of detail in sections 1, 3, 4, 9, 9*bis*, 10, 12–14, 16, 20, 22–28, 31 and 34 thereof.

5. The Natives (Urban Areas) Amendment Act, 1955 (Act No. 16 of 1955, assented to on 28 April 1955) amended the Natives (Urban Areas) Consolidation Act, 1945, and had the following effects, among others:

(i) Section 10 of the Act, as substituted by section 27 of the Native Laws Amendment Act, 1952,[6] was amended:

(*a*) By the insertion after sub-section (1) of the following sub-section:

"(1) *bis* The permission required under paragraph (*d*) of sub-section (1) shall not be refused in the case of a native who has re-entered or desires to re-enter any area, after an absence therefrom of not more than twelve months, for the purpose of taking up employment with the employer by whom and in the class of work in which such native was last employed before leaving such area, unless such

---

[1] The legislation dealt with in this note appears in *Statutes of the Union of South Africa, 1955*, published by authority of the Government of the Union.

[2] See *Yearbook on Human Rights for 1953*, p. 270.

[3] Appeal to the Minister of the Interior against refusal of a permit is provided for.

[4] See *Yearbook on Human Rights for 1950*, pp. 293–300.

[5] See *Yearbook on Human Rights for 1952*, pp. 277–80.

[6] See *Yearbook on Human Rights for 1952*, p. 283.

native is or has been prohibited by or under any provision of this Act or any other law, other than this section, from entering or remaining in such area.";

(*b*) By the insertion in sub-section (2) after the word "area" where it occurs the second time of the words "and may, in the case of a permit authorizing such native to remain for the purpose of seeking work, indicate in such permit the class of work in which he may accept employment"; and

(*c*) By the substitution in paragraph (*b*) of sub-section (2) for the words "such native finds employment before the expiration of his permit", of the words "before the expiration of his permit such native finds such work".

(ii) Section 29 of the Act, as substituted by section 36 of the Native Laws Amendment Act, 1952,[1] was amended:

(*a*) By the addition at the end of paragraph (*d*) of sub-section (3) of the word "or" and the addition at the end of that sub-section of the following paragraph:

"(e) If such native at the date of commencement of the inquiry referred to in sub-section (2), is over the age of fifteen years but under the age of nineteen years, order that such native be sent to his home or to an institution established under any law and be detained therein for a period prescribed under that law: Provided that whenever no or insufficient evidence is available as to the age of such native, the native commissioner or magistrate enquiring into the matter may estimate the age of such native by his appearance or from any information which is available, and the age so estimated shall for the purpose of this paragraph be deemed to be the true age of that native and to have been attained on the date it was so estimated,"; and

(*b*) By the substitution in sub-section (10) for the expression "(*b*) or (*c*)" of the expression "(*b*), (*c*) or (*e*)".

6. The Native Labour (Settlement of Disputes) Act, 1953 [2] was amended by the Native Labour (Settlement of Disputes) Amendment Act, 1955 (Act No. 59 of 1955, assented to on 22 June 1955), there being substituted a new section 18 on prohibition of strikes and lockouts. No employee (meaning for the purposes of the Act an employee who is a native, "native" meaning a person who in fact is, or is generally accepted as, a member of an aboriginal race or tribe of Africa) or other person may "instigate a strike or incite any employee or other person to take part in or to continue a strike or take part in a strike or in the continuation of a strike", and no employer or other person may "instigate a lock-out or incite any employer or other person to take part in or to continue a lock-out or take part in a lock-out or in the continuation of a lock-out". Any person contravening this provision or committing any of the acts referred to in paragraphs (*a*)-(*b*) or (*a*)-(*d*) of the definitions of "strike" and "lock-out" respectively (see below), with the object of "lending support to or expressing sympathy with persons who are taking part in a strike or lock-out or in the continuation of a strike or lock-out, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or imprisonment for a period not exceeding three years or such imprisonment without the option of a fine or both such fine and such imprisonment".

For the purposes of the amended section:

"'Strike' means any one or more of the following acts or omissions by any body or number of persons who are or have been employees of the same employer or of different employers:

"(*a*) The refusal or failure by them to continue to work (whether the discontinuance is complete or partial) or to resume their work or to accept re-employment or to comply with the terms or conditions of employment applicable to them or the retardation by them of the progress of work or the obstruction by them of work; or

"(*b*) The breach or termination by them of their contracts of employment, if

(i) That refusal, failure, retardation, obstruction, breach or termination is in pursuance of any combination, agreement or understanding between them, whether expressed or not; and

(ii) The purpose of that refusal, failure, retardation, obstruction, breach or termination is to induce or compel any person by whom they or any other persons are or have been employed

(*aa*) to agree to or to comply with any demands or proposals concerning terms or conditions of employment or other matters made by or on behalf of them or any of them or any other persons who are or have been employed; or

(*bb*) to refrain from giving effect to any intention to change terms or conditions of employment, or, if such a change has been made, to restore the terms or conditions to those which existed before the change was made; or

(*cc*) to employ or to suspend or terminate the employment of any person;

"'Lock-out' means any one or more of the following acts or omissions by a person who is or has been an employer –

"(*a*) The exclusion by him of any body or number of persons who are or have been in his employ from any premises on which work provided by him is or has been performed; or

"(*b*) The total or partial discontinuance by him of his business or of the provision of work; or

"(*c*) The breach or termination by him of the contracts of employment of any body or number of persons in his employ; or

[1] See *Yearbook on Human Rights for 1952*, p. 284.

[2] See *Yearbook on Human Rights for 1953*, p. 272.

"(*d*) The refusal or failure by him to re-employ any body or number of persons who have been in his employ,

if the purpose of that exclusion, discontinuance, breach, termination, refusal or failure is to induce or compel any persons, who are or have been in his employ or in the employ of other persons

(i) To agree to or comply with any demands or proposals concerning terms or conditions of employment or other matters made by him or on his behalf or by or on behalf of any other person who is or has been an employer; or

(ii) To accept any change in the terms or conditions of employment; or

(iii) To agree to the employment or the suspension or termination of the employment of any person."

7. The Vocational Education Act, 1955 (Act No. 70 of 1955, assented to on 24 June 1955) provided for the establishment, maintenance, management and control of vocational schools and part-time classes in the Union, and permitted the transfer of existing institutions to the control of the Union Government. Every pupil regularly attending a vocational school on a full-time basis was to be deemed to comply with all the requirements relating to compulsory school attendance.

THE CRIMINAL PROCEDURE ACT, 1955

Act No. 56 of 1955, assented to on 22 June 1955 [1]

. . .

2. (1) The provisions of every chapter of this Act, except chapters VI, VIII, IX and XX, shall, unless any such provision is clearly applicable only to proceedings in a superior court, apply to all criminal proceedings in an inferior court.

(2) The provisions of every chapter of this Act, except chapter VI, shall, unless any such provision is clearly applicable only to proceedings in an inferior court, apply to all criminal proceedings in a superior court.

. . .

CHAPTER IV

ARRESTS

Without Warrant

21. (1) Any judge of a superior court, or any magistrate or justice in whose presence an offence is committed, may himself arrest the offender or verbally authorize others to do so.

(2) The persons so authorized shall follow the offender if he flee, and may arrest him out of the presence of such judge, magistrate, or justice.

22. (1) Any peace officer may, without warrant, arrest

(*a*) Any person who commits any offence in his presence;

(*b*) Any person whom he has reasonable grounds to suspect of having committed an offence mentioned in the First Schedule; [2]

(*c*) Any person whom he finds attempting to commit an offence or clearly manifesting an intention so to do;

(*d*) Any person having in his possession any implement of housebreaking, and not being able to account satisfactorily for such possession;

(*e*) Any person in whose possession anything is found which it is reasonably suspected is stolen property or property dishonestly obtained, and who is reasonably suspected of having committed an offence with respect to such thing;

(*f*) Any person who obstructs him in the execution of his duty, or who has escaped or attempts to escape from lawful custody;

(*g*) Any person reasonably suspected of being a deserter from Her Majesty's armed forces, or from the defence forces of the Union;

[1] The text of the Act appears in *Statutes of the Union of South Africa, 1955*. The Act consolidates the laws of the Union relating to procedure and evidence in criminal proceedings. Among the previous enactments and provisions replaced thereby are the Criminal Procedure and Evidence Act, 1917, the Jury Trials Amendment Act, 1951 and sections 1–16 of the Criminal Procedure and Jurors Amendment Act, 1954. Concerning these Acts see, respectively, *Yearbook on Human Rights for 1947*, p. 304, *Yearbook on Human Rights for 1951*, p. 347, and *Yearbook on Human Rights for 1954*, p. 265. Of the summary of the Criminal Procedure and Jurors Amendment Act, 1954 which appeared in *Yearbook on Human Rights for 1954*, the reference to the right of women to serve as jurors is not affected by the adoption of the Criminal Procedure Act, 1955.

[2] The offences specified in the first schedule to the Act are the following: treason; sedition; murder; culpable homicide; rape, or any statutory offence of a sexual nature against a girl of or under a prescribed age; sodomy and bestiality; indecent assault; robbery; assault in which a dangerous wound is inflicted; arson; breaking or entering any premises with intent to commit an offence, either under the common law or under statutory provision; theft, either under the common law or under any statutory provision; receiving stolen goods knowing the same to have been stolen; fraud; forgery, or uttering a forged document knowing it to be forged; offences against the laws for the prevention of illicit dealing in or possession of precious metals or precious stones or of the supply of intoxicating liquor to natives or coloured persons; offences relating to the coinage; offences the punishment whereof may be a period of imprisonment exceeding six months, without the option of a fine; any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

(*h*) Any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been concerned in any act committed at any place outside the Union, which if committed in the Union would have been punishable as an offence, and for which he is, under any law relating to extradition of fugitive offenders or otherwise, liable to be apprehended or detained in custody in the Union;

(*i*) Any person being or loitering in any place by night under such circumstances as to afford reasonable grounds for believing that he has committed or is about to commit an offence;

(*j*) Any person reasonably suspected of committing or having committed an offence under any law governing the making, supply, possession or conveyance of intoxicating liquor or of habit forming drugs or the possession or disposal of arms or ammunition;

(*k*) Any person reasonably suspected of being a prohibited immigrant in the Union or in any province, for the purpose of any law regulating entry into or residence in the Union or any province;

(*l*) Any person found in any gambling house or at any gambling table, the keeping or visiting whereof is in contravention of any law for the prevention or suppression of gambling or games of chance;

(*m*) Any person reasonably suspected of being or having been in unlawful possession of stock or produce, as defined in any law relating to the prevention of theft of stock or produce.

(2) Whenever it is provided in any law that the arrest of any person may be made by a police officer or constable or other official without warrant, subject to conditions or to the existence of circumstances in that law set forth, an arrest by any peace officer, without warrant or order may be made of such person, subject to those conditions or the existence of those circumstances.

(3) A peace officer may call upon (*a*) any person whom he has power to arrest; (*b*) any person reasonably suspected of having committed an offence; and (*c*) any person who may, in his opinion, be able to give evidence in regard to the commission or suspected commission of any offence, to furnish such peace officer with his full name and address.

(4) If any such person fails on such demand to furnish his full name and address, the peace officer making the demand may forthwith arrest him, and if any such person on such demand furnishes to such peace officer a name or address which such peace officer upon reasonable grounds suspects to be false, such person may be arrested and detained for a period not exceeding twelve hours until the name and address so furnished have been verified.

(5) Any person who, when called upon under the provisions of sub-section (3) or (4) to furnish his name and address, fails to do so or furnishes a false or incorrect name and address, shall be guilty of an offence and liable on conviction to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding three months.

23. Any officer, other than a peace officer, empowered by law to execute criminal warrants may, without warrant, arrest

(*a*) Any person who commits any offence in his presence;

(*b*) Any person whom he has reasonable grounds to suspect of having committed an offence mentioned in the first schedule;

(*c*) Any person whom he finds attempting to commit an offence, or clearly manifesting an intention so to do.

24. (1) Any private person may, without warrant, arrest

(*a*) Any person who commits or attempts to commit in his presence an offence mentioned in the first schedule;

(*b*) Any person who to his knowledge recently committed an offence mentioned in the first schedule;

(*c*) Any person whom he has reasonable grounds to suspect of having committed an offence mentioned in the first schedule;

(*d*) Any person whom he believes on reasonable grounds to have committed any offence and to be escaping from and to be freshly pursued by a person whom such private person believes on reasonable grounds to have authority to arrest that person for that offence;

(*e*) Any person whom he is by any law authorized to arrest without warrant in respect of any offence specified in that law;

(*f*) Any person whom he sees engaged in an affray.

. . .

(3) The owner of any property on or in respect of which any person is found committing an offence, and any person authorized thereto by such owner, may, without warrant, arrest the person so found.

[Section 25 concerns arrest without warrant of persons attempting to dispose of stolen property.]

26. Whenever a person arrests any other person without warrant, he shall forthwith inform the arrested person of the cause of the arrest.

27. (1) Any person arrested without warrant shall, as soon as possible, be brought to a police station or charge office and detained until a warrant is obtained for his further detention upon a charge of any offence or until he is released by reason that no charge is to be brought against him; and unless so released he shall as soon as possible be brought before a judicial officer upon a charge of any offence:

Provided that a person so arrested without warrant shall not be so detained for a period longer than forty-eight hours unless a warrant for his further detention is obtained.

(2) Nothing in this section shall be construed as modifying the provisions of chapter VII or of any other law, whereby a person under detention may be released on bail.

With Warrant

28. (1) Any judge of a superior court or any magistrate or justice may issue a warrant for the arrest of any person or for the further detention of a person arrested without a warrant on a written application signed by the Attorney-General or by the local public prosecutor or any commissioned officer of police, setting forth the offence alleged to have been committed and that, from information taken upon oath, there are reasonable grounds of suspicion against that person, or upon the information to the like effect of any person made on oath before the judge or magistrate or justice issuing the warrant: Provided that no magistrate or justice shall issue any such warrant, except where the offence charged is alleged to have been committed within his area of jurisdiction, or except where the person against whom the warrant is issued is, at the time when it is issued, known, or suspected on reasonable grounds to be within the area of jurisdiction of that magistrate or justice.

. . .

29. (1) Every peace officer shall obey and execute every warrant of arrest.

(2) A peace officer or other person arresting any person by virtue of a warrant under this Act shall, upon demand of the person arrested, produce the warrant to him, notify to him the substance thereof, and permit him to read it.

(3) A person arrested by virtue of a warrant under this Act shall, as soon as possible, be brought to a police station or charge office, unless any other place is expressly mentioned in the warrant as the place to which such person shall be brought, and he shall thereafter be brought as soon as possible before a judicial officer upon a charge of the offence mentioned in the warrant.

. . .

31. (1) Any person authorized to execute a warrant of arrest, who arrests a person, believing in good faith and on reasonable and probable grounds that he is the person named in the warrant, shall be protected from responsibility to the same extent and subject to the same provisions as if the person arrested had been the person named in the warrant.

(2) Any person called on to assist the person making such arrest and believing that the person in whose arrest he is called on to assist is the person for whose arrest the warrant has been issued and every gaoler who is required to receive and detain such person shall be protected to the same extent and subject to the same provisions as if the arrested person had been the person named in the warrant.

32. Any person acting under a warrant or process which is bad in law on account of a defect in substance or in form apparent on the face of it, shall, if he in good faith and without culpable ignorance or negligence believes that the warrant or process is good in law, be protected from responsibility to the same extent and subject to the same provisions as if the warrant or process were good in law, and ignorance of the law shall in such case be an excuse: Provided that it shall be a question of law whether the facts of which there is evidence may or may not constitute culpable ignorance or negligence in his so believing the warrant or process to be good in law.

33. A warrant issued under this chapter shall be to arrest the person described therein and to bring him before a judicial officer as soon as possible upon a charge of the offence mentioned in the warrant.

General

34. (1) Every male inhabitant of the Union between the ages of sixteen and sixty shall, when called upon by any policeman to do so, assist such policeman in making any arrest which by law such policeman is authorized to make, of any person charged with or suspected of the commission of any offence, or assist such policeman in retaining the custody of any person so arrested.

(2) Any such inhabitant who, without sufficient excuse, refuses or fails so to assist any policeman when called upon to do so, shall be guilty of an offence and liable on conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding one month.

35. Any peace officer or private person who by law is authorized to arrest any person known or suspected to have committed any offence, may break open for that purpose the doors and windows of, and enter and search, any premises in which the person whose arrest is required, is known or suspected to be: Provided that no peace officer or private person shall act under this section unless he has previously failed to obtain admission after having audibly demanded the same and notified the purpose for which he seeks to enter such premises.

36. (1) Any person authorized to make an arrest shall, in making an arrest, actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) Any person arresting any other person under the provisions of this chapter, may search such person and shall place in safe custody all articles (other than necessary wearing apparel) found on him.

(3) Whenever a woman is searched on her arrest, the search shall only be made by a woman and shall be made with strict regard to decency and if there is no woman available for such search who is a member of the police or is a prisons officer, the search may

be made by any woman specially named for the purpose by a peace officer.

37. (1) Whenever any person authorized under this Act to arrest or assist in arresting any person who has committed or is on reasonable grounds suspected of having committed any offence mentioned in the first schedule, attempts to arrest any such person and such person flees or resists and cannot be arrested and prevented from escaping by other means than by killing the person so fleeing or resisting, such killing shall be deemed in law justifiable homicide.

(2) Nothing in this section shall authorize the killing of a person who is not accused or suspected of having committed an offence mentioned in the first schedule.

[Section 38 concerns the power to retake on escape and Section 39 penalties for escaping or aiding escape from lawful custody other than from a prison, gaol, police-cell or lock-up.]

. . .

CHAPTER V

SEARCH WARRANTS, ENTRY UPON PREMISES, SEIZURE AND DETENTION OF PROPERTY CONNECTED WITH OFFENCES, AND CUSTODY OF WOMEN UNLAWFULLY DETAINED FOR IMMORAL PURPOSES

42. (1) If it appears to a judge of a superior court, a magistrate or a justice on complaint made on oath that there are reasonable grounds for suspecting that there is upon any person or upon or at any premises or in any receptacle of whatever nature within his jurisdiction

(*a*) Stolen property or anything in respect of which any offence has been, or is suspected on reasonable grounds to have been committed, whether within the Union or elsewhere; or

(*b*) Anything in respect of which there are reasonable grounds for believing that it will afford evidence as to the commission, whether within the Union or elsewhere, of any offence; or

(*c*) Anything in respect of which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any offence,

he may issue a warrant directing any policeman named therein or all policemen to search such person, premises or receptable and any person found in or upon such premises, and to seize any such thing if found, and to take it before a magistrate to be dealt with according to law.

(2) Any such warrant shall be executed by day, unless the judge, magistrate or justice, by the warrant, specially authorizes it to be executed by night, in which case it may be so executed and in the searching of any woman the provisions of sub-section (3) of section thirty-six shall *mutatis mutandis* apply.

(3) Any warrant referred to in this section may be issued and executed on a Sunday as on any other day.

43. (1) If a policeman believes on reasonable grounds that the delay in obtaining a search warrant would defeat the object of the search, he may search, without warrant, any person, premises, other place, vehicle or receptacle of whatever nature and any person found in or upon such premises, other place or vehicle for any such thing as is mentioned in section forty-two and may seize such thing if found and take it before a magistrate: Provided that in the searching of any woman the provisions of sub-section (3) of section thirty-six shall *mutatis mutandis* apply.

(2) Any search under sub-section (1) shall, as far as possible, be made in the daytime and in the presence of two or more respectable inhabitants of the locality in which the search is made.

44. (1) If it appears to a judge of a superior court, a magistrate or justice on complaint made on oath that there are reasonable grounds for believing

(*a*) That the internal security of the Union or the maintenance of law and order is likely to be endangered by or in consequence of any meeting which is being or is about to be held in or upon any premises; or

(*b*) That an offence has been or is being or is likely to be committed or that preparations or arrangements for the commission of any offence are being or are likely to be made in or upon any premises,

he may issue a warrant directing a policeman named therein or all policemen to enter the said premises at any reasonable time for the purpose of carrying out such investigations and of taking such reasonable steps as such policeman or policemen may consider necessary for the preservation of the internal security of the Union or the maintenance of law and order or for the prevention of the commission of any offence, and for the purpose of searching such premises or any person in or upon such premises for anything which such policeman or policemen may have reasonable grounds for suspecting to be in or upon such premises or upon such person and as to which he or they may have reasonable grounds for believing that it will afford evidence as to the commission of any offence or that it is intended to be used for the purpose of committing any offence, and to seize any such thing, if found, and to take it before a magistrate.

(2) If any policeman believes on reasonable grounds that the delay in obtaining a warrant under sub-section (1) would defeat the objects of such a warrant, he may himself at all reasonable times enter the premises concerned without warrant and there carry out such investigations and take such reasonable steps as he may consider necessary for the preservation of the internal security of the Union or the maintenance of law and order, or for the prevention of

the commission of any offence, and if he has reasonable grounds for suspecting that there is in said premises anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of any offence or that it is intended to be used for the purpose of committing any offence, he may without warrant search such premises or such person for any such thing and may seize such thing if found and take it before a magistrate.

(3) Whenever any policeman in the investigation of any offence or alleged offence has reasonable grounds for believing that there is upon any premises any person who is able to give evidence in relation to the commission of that offence, he may without warrant enter the said premises for the purpose of interrogating the said person and for taking a statement from him.

. . .

(5) If a woman is searched under any of the provisions of this section, the provisions of sub-section (3) of section thirty-six shall *mutatis mutandis* apply.

. . .

45. (1) Any person who under colour of the provisions of section forty-three or forty-four, wrongfully and maliciously or without reasonable cause applies for, obtains or acts upon any warrant, or wrongfully and maliciously or without reasonable cause exercises the powers of search conferred by the said sections, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, and shall also be liable to pay to the person lawfully in occupation of the premises or other place when the same was searched, such sum by way of damages, not exceeding one hundred pounds, as the court convicting him may award on the application of such occupier.

(2) Nothing in sub-section (1) contained shall be construed as depriving any aggrieved person of the right to elect any other remedy allowed by law in lieu of the remedy under that sub-section.

. . .

CHAPTER VI

PREPARATORY EXAMINATIONS

. . .

Procedure at Preparatory Examinations

. . .

64. (1) All the evidence at a preparatory examination shall, except when an oath is by law dispensed with, be taken upon oath, or by affirmation where such is allowed by law, and every witness, before giving his evidence, shall make oath, or affirmation, as the case may be, before the magistrate before whom he is to be examined that in the whole of his evidence he will tell the truth, the whole truth and nothing but the truth and each witness shall be examined apart from the others.

(2) Subject to the proviso to sub-section (2) of section sixty and to sections sixty-five and eighty-three,[1] the evidence given by a witness at a preparatory examination shall be given in the presence of the accused, shall be recorded and shall (except where it was recorded in shorthand writing or by mechanical means), be read over to the witness who gave it or read by such witness, and if such evidence was recorded in shorthand writing or by mechanical means, such record shall be transcribed and any document purporting to be a transcription of the original record of the said evidence and purporting to have been certified as correct under the hand of the person who transcribed such evidence, shall *prima facie* be equivalent to such original record.

(3) The accused or his representative may cross-examine any such witness and thereupon the public prosecutor may re-examine him.

(4) Any evidence given under section eighty-three in the absence of the accused may be read over to him at the preparatory examination and shall be deemed to have been given at that examination and thereupon the proviso to sub-section (2) of section sixty shall apply.

(5) If a preparatory examination is held in respect of a charge that the accused committed or attempted to commit any indecent act towards another person or committed or attempted to commit any act for the purpose of procuring or furthering the commission of an indecent act towards or in connexion with any other person, or that the accused committed or attempted to commit extortion or a statutory offence of demanding from any person some advantage which was not due and by inspiring fear in such person's mind, compelling him to render such advantage, no person shall at any time publish by radio or in any document any information relating to the said preparatory examination or any information disclosed thereat, unless the magistrate holding the preparatory examination, after having consulted the person against or in connexion with whom the offence charged is alleged to have been committed (or if he is a minor, his guardian), consents in writing to such publication.

(6) No person shall at any time publish in any manner described in sub-section (5) the name, address, school, place of occupation or any other information likely to reveal the identity of any person under the age of nineteen years against whom any preparatory examination is being or has been held: Provided that, subject to the provisions of sub-section (5), if the Minister or if the magistrate who holds or held the preparatory examination is of the opinion that such publication would be just and equitable and in the interest of any particular person, he may by order dispense with the prohibition of this sub-

---

[1] Section 60 (2) concerns the preparatory examination of two persons jointly and section 83 the power of a magistrate to take evidence as to alleged offences whether or not the actual offender is known or suspected.

section to such an extent as may be specified in the order.

. . .

65. If it is proved after a preparatory examination has commenced that the accused has absconded and that there is no immediate prospect of arresting him, or if the accused conducts himself in such a manner that the preparatory examination cannot, in the opinion of the magistrate, properly proceed in the presence of the accused, the magistrate may, on the instructions of the attorney-general, examine in the absence of the accused any witness produced on behalf of the prosecution and record his evidence.

66. (1) After the examination of the witnesses in support of the charge in the presence of the accused, the magistrate shall ask the accused what, if anything, he desires to say in answer to the charge against him, and, at the same time, caution him that he is not obliged to make any statement but that what he says may be used in evidence against him.

(2) The accused may then, or at any later stage of the examination, make any statement or give evidence on oath and every statement so made or evidence so given shall be taken down in writing in so far as it may be relevant to the charge and after being read over to him shall be signed by him if he is willing to sign it, and also by the magistrate, and shall be received in evidence before any court upon its mere production without further proof unless it is shown that the statement or evidence was not in fact made or given, or that the signatures or marks thereto are not in fact the signatures or marks of the person whose signatures or marks they purport to be.

(3) Before or after the accused's statement, if any, is made as aforesaid he may call and examine witnesses in his defence and, either before or after the examination of any such witness, may himself give evidence on oath.

(4) Nothing in this section contained shall prevent the magistrate from hearing further evidence for the prosecution after hearing any evidence given by or on behalf of the accused, or from reopening the examination.

. . .

[According to section 68, the magistrate is to discharge the accused at the conclusion of the preparatory examination if he is of the opinion that no sufficient case has been made out to put the accused on trial.]

. . .

Committal of Accused

74. (1) When it appears to a magistrate upon the conclusion of a preparatory examination that there is sufficient reason for putting the accused on trial for any offence, the magistrate shall commit the accused for trial by such a court of competent jurisdiction as the attorney-general may decide, and shall by warrant commit him to a gaol, there to be detained till brought to trial for the offence or till released on bail or liberated in due course of law.

. . .

General

. . .

[Section 81 concerns the right of an accused committed for trial to receive a copy of the evidence given at the preparatory examination upon demand and, unless counsel has been assigned by the court to defend him, upon payment of a reasonable fee not exceeding nine pence per hundred words.]

82. Every accused shall be entitled at the time of his trial to inspect, without the payment of any fee, all the evidence, or a copy thereof, which has been taken, and the statement made or evidence given by the accused at the preparatory examination.

. . .

84. (1) The friends and legal advisers of an accused shall have access to him, subject to the provisions of any law relating to the management of prisons or gaols.

(2) An accused is, while the preparatory examination is being held, entitled to the assistance of his legal advisers.

. . .

[Chapter VII, consisting of sections 87–108, concerns the granting of bail.]

CHAPTER VIII

TRIAL BEFORE SUPERIOR COURT WITHOUT A JURY

109. (1) In any criminal case pending before a superior court –

(*a*) In which the Minister has in terms of section one hundred and eleven directed that the accused shall be tried by a judge without a jury; or

(*b*) In which the Minister has not so directed and the accused has not in terms of section one hundred and thirteen, and in accordance with the provisions of that section, demanded to be tried by a judge and a jury,

the accused shall, subject to the provisions of section one hundred and twelve, be tried by a judge of the Supreme Court without a jury and as hereinafter in this section provided.

(2) The judge presiding at the trial may summon to his assistance any person who has, or any two persons who have, in the opinion of the judge, experience in the administration of justice, or skill in any matter which may have to be considered at the trial, to sit with him at the trial, as assessor or assessors: Provided that if the accused is to be tried upon a charge of having committed or attempted to commit treason, murder, rape or sedition or in any case in which the Minister has given a direction under section one hundred and eleven, the judge shall summon to his assistance two assessors as aforesaid.

(3) Before the trial the said judge shall administer an oath to the person or persons whom he has so called to his assistance that he or they will give a true verdict, according to the evidence upon the issues to be tried, and thereupon he or they shall

be a member or members of the court subject to the following provisions:

(*a*) Any matter of law arising for decision at such trial, and any question arising thereat as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the presiding judge and no assessor shall have a voice in any such decision;

(*b*) The presiding judge may adjourn the argument upon any such matter or question as is mentioned in paragraph (*a*) and may sit alone for the hearing of such argument and the decision of such matter or question;

(*c*) Whenever the presiding judge shall give a decision in terms of paragraph (*a*) he shall give his reasons for that decision;

(*d*) Upon all matters of fact the decision or finding of the majority of the members of the court shall be the decision or finding of the court, except when only one assessor sits with the presiding judge, in which case the decision or finding of such judge shall be the decision or finding of the court if there is a difference of opinion;

(*e*) It shall not be incumbent on the court to give any reasons for its decision or finding on any matter under paragraph (*d*).

. . .

(5) The provisions of this Act relating to trials by a superior court shall, in so far as they can be applied, apply to any trial without a jury under this section.

. . .

111. When a person committed for trial is or two or more persons jointly committed for trial are to be tried before a provincial or local division of the Supreme Court upon an indictment charging him or them 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 or any of the accused is a European or towards or in connection with a European, if the accused or any of the accused is a non-European,

or with such an offence together with any other offence, the Minister may, by a notification on or attached to the notice of trial, direct that the trial take place before a judge without a jury.

112. (1) Whenever an attorney-general decides to indict an accused upon a charge of treason, sedition or public violence, or of an attempt, conspiracy or incitement to commit such an offence, and is of opinion that, if the accused were tried by a jury, the ends of justice are likely to be defeated, he shall state in writing to the Minister such his opinion and the facts upon which it is based and specify the offence for which he proposes to indict the accused.

(2) (*a*) The Governor-General may thereupon constitute a special criminal court to sit at any place in the Union at which the accused might otherwise have been tried before a provincial or local division of the Supreme Court for such offence.

. . .

(3) (*a*) A special criminal court shall consist of at least two and not more than three judges of the Supreme Court and the decision of the court shall be unanimous.

. . .

(5) Save as is otherwise in this section provided, the provisions of this Act relating to a trial by a superior court shall apply *mutatis mutandis* in respect of the trial of an accused by a special criminal court: Provided that if a special criminal court is unable, as required by paragraph (*a*) of sub-section (3), to agree on a decision on any charge in the indictment, and the accused is again tried on such charge, then no judge who was a member of the court which failed to agree as aforesaid shall be competent to be a member of any subsequent special criminal court constituted to try the accused on such indictment.

. . .

CHAPTER IX

TRIAL BY JURY

[Section 113 lays down the means whereby, and the times at which, a person indicted for trial for an offence before a superior court may, subject to the provisions of sections 111 and 112, demand to be tried by a judge and a jury of nine, of whom not less than seven shall determine the verdict. The magistrate who commits any person for trial is to inform him of this right.]

Jurors

114. Every European male person over the age of twenty-five and under the age of sixty-five years who is a registered parliamentary voter in the Union and who is not exempted by the provisions hereinafter contained or by any other law, shall be qualified and liable to serve as a juror on any jury empanelled

for any criminal trial within the jury district in which such person resides.[1]

[Sections 115–149 contain further provisions on trial by jury, including provisions on challenging of jurors in court and on the respective duties of judge and jury. The verdict is to be given in open court (section 144).]

. . .

CHAPTER XI

PROCEDURE AT TRIAL

In Superior and Inferior Courts

. . .

156. (1) Every criminal trial shall take place, and the witnesses shall, save as is otherwise expressly provided by this Act or any other law, give their evidence *viva voce*, in open court in the presence of the accused, unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable, in which event the court may order him to be removed and may direct the trial to proceed in his absence.

. . .

(4) A superior court may, whenever it thinks fit, and an inferior court may, if it appears to that court to be in the interest of good order or public morals or of the administration of justice, direct that a trial shall be held with closed doors or that (with such exceptions as the court may direct) females or minors or the public generally or any class thereof shall not be present thereat; and if an accused is to be tried or is on trial on a charge referred to in subsection (5) of section sixty-four, the court may, at the request of the person against or in connexion with whom the offence charged is alleged to have been committed (or if he is a minor, at the request of that person or of his guardian) whether made in writing before the trial or orally at any time during the trial direct that every person whose presence is not necessary in connexion with the trial or any person or class of person mentioned in the request shall not be present thereat.

[The section also requires or permits, in the interests of minors or persons under 19, certain other exceptions to trial in open court.]

157. . . .

(4) At the close of the evidence for the prosecution the proper officer of the court shall ask the accused, or each of the accused if there are more than one, or his legal representative whether he intends to adduce evidence in his defence and, if he answers in the affirmative, he may by himself or his legal representative address the jury or court, as the case may be, for the purpose of opening the evidence intended to be adduced for the defence but without comment thereon, and thereafter he or his legal representative shall examine his witnesses and put in and read any documentary evidence which may be admissible.

158. Every person charged with an offence is entitled to make his defence at his trial and to have the witnesses examined or cross-examined by his counsel, if the trial is before a superior court, or by his counsel or his attorney or law agent, if the trial is before an inferior court: Provided that upon his trial before an inferior court, an accused under the age of sixteen years may be assisted by his natural or legal guardian, and that any accused who in the opinion of the court requires the assistance of another person, may, with the permission of the court be so assisted.

. . .

[Section 163 provides, *inter alia*, that, with the exception of the instances in which an accused is permitted to pay a fine without appearance in court, the accused is to appear in court and "shall be informed in open court of the offence with which he is charged".]

. . .

183. (1) After all the evidence has been adduced, the prosecutor may address the jury or the court, as the case may be, and thereafter the accused, or each of the accused if there are more than one, may by himself or his legal representative address the jury or the court, as the case may be.

. . .

186. (1) All judgements and sentences in criminal proceedings before any court shall be pronounced in open court.

. . .

CHAPTER XIII

WITNESSES

. . .

Competency of Witnesses

. . .

[Section 227 provides that an accused, or accused's spouse, is competent to give evidence for the defence, but only on the application of the accused.]

. . .

CHAPTER XVII

INDICTMENTS, SUMMONSES AND CHARGES

. . .

General for all Courts

. . .

315. (1) Subject to the succeeding provisions of this Act and to any provisions of any other law relating to any particular offence, each count of a charge shall set forth the offence with which the accused is charged in such manner and with such particulars as to the time and place at which the offence is alleged to have been committed and the person, if any, against whom and the property, if any, in respect of which the offence is alleged to have been committed, as may be reasonably sufficient to inform the accused of the nature of the charge.

(2) The following provisions shall apply in relation to all criminal proceedings in any superior or inferior court:

---

[1] See also p. 235, footnote 1.

(*a*) The description of any statutory offence in the words of the law creating the offence, or in similar words, shall be sufficient; and

(*b*) Any exception, exemption, proviso, excuse or qualification whether it does or does not accompany in the same section the description of the offence in the law creating the offence, may be proved by the accused but need not be specified or negatived in the charge and, if so specified or negatived, need not be proved by the prosecution.

(3) Where any of the particulars referred to in this Act are unknown to the prosecutor it shall be sufficient to state that fact in the charge.

. . .

CHAPTER XVIII

PUNISHMENTS

. . .

Sentence of Death

. . .

331. (1) When sentence of death is passed upon a woman, she may apply at any time after the passing of such sentence for an order to stay execution on the ground that she is with child of a quick child.

(2) If such an application is made, the court shall direct that one or more duly registered medical practitioners shall examine the woman in a private place, either together or successively, to ascertain whether she is with child of a quick child or not.

(3) If upon the report of any of them on oath it appears that the woman is with child of a quick child, the court shall order that the execution of the sentence be stayed until she is delivered of a child or until it is no longer possible in the course of nature that she should be so delivered.

. . .

[Chapter XX, consisting of sections 362–70, concerns appeals in cases of criminal proceedings before superior courts.]

. . .

CHAPTER XXII

GENERAL AND SUPPLEMENTARY

. . .

386. (1) If an accused is tried upon a charge referred to in sub-section (5) of section sixty-four, no person shall at any time (subject to the provisions of sub-section (4)) publish by radio or in any document any information relating to the said trial or any information disclosed thereat, unless the judge or officer presiding at such trial has, after having consulted the person against or in connexion with whom the offence charged is alleged to have been committed (or if he is a minor, his guardian) given his consent, conveyed in a document signed by himself or by the registrar or clerk of the court, to such publication.

(2) No person shall at any time publish in any manner described in sub-section (1) the name, address, school, place of occupation or any other information likely to reveal the identity of any person under the age of nineteen years who is being or has been tried in any court on a charge of having committed any offence: Provided that, subject to the provisions of sub-section (1), if the Minister or if the judge or judicial officer who presides or presided at the trial is of the opinion that such publication would be just and equitable and in the interest of any particular person, he may by order dispense with the prohibition contained in this sub-section to such an extent as may be specified in the order.

. . .

(4) The prohibition contained in sub-section (1) shall not apply to the publication in the form of a *bona fide* law report of any information relating to or disclosed at any trial as aforesaid, which is necessary to report any question of law which was raised during such trial or during any proceedings resulting therefrom, and any decision or ruling given by any court on such question, if such report does not mention the name of the person tried or of the person against or in connexion with whom or the place where the offence in question was alleged to have been committed or any witness at the trial.

. . .

UNION OF SOVIET SOCIALIST REPUBLICS

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 1955

(Extracts) [1]

The past year, 1955, was marked by a further improvement in the material well-being and the cultural level of the people.

The national income of the USSR increased by 10 per cent in 1955 as compared with 1954.

In 1955, as in previous years, benefits and allowances under the social insurance scheme for manual and non-manual workers, social welfare pensions, allowances for mothers of large families and for single mothers, students' grants, free medical aid, free or reduced-rate accommodation in sanatoria and rest homes, free instruction and vocational further training and a number of other payments and privileges were made available out of state funds. In addition, all manual and non-manual workers received paid holidays of at least a fortnight, and workers in a number of occupations paid holidays of more than a fortnight. In 1955, the total financial benefit to the population in respect of the above-mentioned payments and privileges amounted to 154,000 million roubles, representing an increase of 5 percent over the figure for 1954.

In 1955 further successes were achieved in all fields of socialist culture.

The number of students in schools of all types, educational institutions and technical secondary schools was 35 million. Under the programme for the expansion of secondary education, the number of pupils attending the eighth to the tenth grades in secondary schools, including schools for young workers and rural youth, increased by 157,000 as compared with 1954, 90,000 of this figure being students in rural localities; during the same period the number of pupils graduating from the tenth grade of secondary schools increased by 23 per cent.

The number of students at higher educational establishments (including correspondence course students) was 1,865,000, or 135,000 more than in 1954. The number of students at technical and other special secondary educational establishments (including correspondence course students) was upwards of 1,900,000 or over 100,000 more than in 1954. In 1955 some 640 young specialists — 70 per cent more than in 1954 — graduated from higher and special secondary educational establishments. The number of post-graduate students working at higher educational establishments and scientific institutions also increased.

The number of students taking evening and correspondence courses, without separation from production, at higher and special secondary educational establishments, at schools of general education for young workers and rural youth and at adult education schools was 3,000,000 in 1955.

The total number of specialists employed in the national economy having higher educational and secondary technical qualifications was 11 per cent greater in 1955 than in 1954.

The number of libraries and clubs increased. In 1955 the USSR possessed over 390,000 libraries of all types, with some 1,300 million volumes. Books were published during the year in editions amounting to over 1,000 million, and newspapers, periodicals, reviews and bulletins were published in increased printings.

There were more than 58,000 cinema installations at the end of 1955, as compared with 55,000 in 1954. In 1955, television centres were put into operation in Riga, Tallinn, Omsk, Tomsk, Sverdlovsk and Vladivostok.

In the summer of 1955, 5,800,000 children and adolescents took holidays in pioneer camps, children's sanatoria or excursion and tourist centres or spent the summer in the country with their kindergartens, children's homes or crèches.

1955 saw a further increase in the number of hospitals, maternity homes, clinics, sanatoria, rest homes, crèches and other medical and preventive health institutions, and kindergartens. In the same year the number of hospital beds increased by more than 60,000, the number of places in permanent crèches by more than 45,000 and the number of places in sanatoria and rest homes by 14,000. The

[1] Text received through the courtesy of the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the United Nations Secretariat.

number of persons undergoing treatment in sanatoria or recuperating in rest homes was upwards of 170,000 more than in 1954. There were nearly 12,000 more physicians in 1955 than in 1954. The output of medicines and medical equipment and instruments increased in 1955 by 29 per cent.

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR CONCERNING HOLIDAYS AND WORKING CONDITIONS OF MINORS

of 15 August 1955 [1]

With a view to further improving conditions in respect of the labour, hours of work, and training of young persons under eighteen years of age, the Presidium of the Supreme Soviet of the USSR hereby resolves:

1. To establish, from 1 January 1956, a working day of four hours for apprentices of fourteen to sixteen years of age who are undergoing individual or group training, such working day to apply to both the period of training and the subsequent period of work, and a working day of seven hours for manual and non-manual workers of sixteen to eighteen years of age;

2. To fix the period of holidays for manual and non-manual workers under eighteen years of age at one calendar month.

[1] Text received through the courtesy of the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the United Nations Secretariat.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

NOTE[1]

I. LEGISLATION

The Children and Young Persons (Harmful Publications) Act, 1955 (3 and 4 Eliz.2.c.28) prohibits the dissemination of certain kinds of pictorial publications harmful to children and young persons.

The Aliens Employment Act, 1955 (4 and 5 Eliz. 2.c.18) allows aliens in certain circumstances to be employed in civil service under the Crown.

II. JUDICIAL DECISIONS

Watt v. *Kesteven County Council* (Court of Appeal, 1955, Volume I, All-England Reports, p. 473) dealt with the rights of parents under section 76 of the Education Act 1944, which provides that local education authorities, in the exercise and performance of their powers and duties under the Act, are to have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils should be educated in accordance with the wishes of their parents. The court held that the duty of an education authority under the Acts is to make schools available for all the children in their area, which duty they can perform by maintaining schools themselves or by arranging for places in independent schools; and that education is free in schools which the education authority make available by one or other of these means. But a parent who wishes, for reasons of his own, to send his child to some other school of his own choice, with which the local education authority has no arrangement, has no right to demand that the authority shall pay the whole of the fees. He has, however, under other provisions of the Acts and Regulations thereunder, a claim to be paid a contribution towards the fees, the amount of which will depend upon his means.

R. v. *Governor of Brixton Prison, ex parte Kolczynski and others* ([1955] 1 Q.B. 540) was a decision of the divisional court on a question of the interpretation of the provision of section 3 (1) of the Extradition Act, 1870, which prohibits the surrender of a fugitive criminal if the offence is of a political character, or if the requisition for surrender has been made with a view to his trial or punishment for an offence of a political character.

[1] Note kindly furnished by the United Kingdom Delegation to the United Nations.

UNITED STATES OF AMERICA

HUMAN RIGHTS IN THE UNITED STATES IN 1955

A SUMMARY OF PERTINENT ACTIONS TAKEN BY FEDERAL, STATE, AND OTHER GOVERNMENTAL AUTHORITIES [1]

CONTENTS

INTRODUCTION

In the United States of America the year 1955 was one of significant and continuing progress in the field of human rights. Government — federal, state, local, and territorial — and private actions were taken on many fronts to protect and enhance the enjoyment of the fundamental rights.

Basic guarantees of individual rights and freedoms are contained in the Constitution of the United States adopted more than 150 years ago (especially the first ten amendments thereto, known collectively as the Bill of Rights) and in corresponding provisions of the Constitutions or organic laws of the states, territories, and other jurisdictions. The exercise of governmental authority must conform to these constitutional provisions. Legislation on economic, social, and cultural matters is in large part the responsibility of the state and territorial governments, but the Federal Government co-operates, financially and otherwise, in many of these fields.

This survey is confined to those official developments of the year 1955 which appear to have relatively far-reaching implications. A more nearly complete picture would include reference to countless day-to-day activities of the governments of the United States and the states, territories, and other jurisdictions and to the financial provisions made by these governments for the protection or promotion of human rights throughout the year. These official acts, in turn, constitute only a small part of the total activities of the American people in this field, which include also many actions taken through individual initiative and private enterprise toward the goal of justice and opportunity for all.

HUMAN RIGHTS IN GENERAL

HUMAN RIGHTS DAY

As in previous years, President Eisenhower proclaimed 10 December 1955 as United Nations Human Rights Day. He called upon the people of the United States "to celebrate this day by the study and reading of the Universal Declaration of Human Rights proclaimed by the United Nations, and the Bill of Rights in the Constitution of the United States, that we may strengthen our determination that every citizen of the United States shall have the opportunity to develop to his fullest capacity in accord with the faith which gave birth to this nation, and may realize more fully our obligation to labour earnestly, patiently, and prayerfully for peace, freedom, and justice throughout the world."

CIVIL AND POLITICAL RIGHTS

An important element of the Federal Bill of Rights (the first ten amendments to the Constitution of the United States), and of the Bills of Rights incorporated in the State Constitutions, is a group of rights generally referred to as "civil liberties", "political rights", and "freedoms". This group includes, for example, the right to life and liberty, freedom of speech and of conscience, the right to a fair trial, and the right to a representative form of government. Judicial enforcement of these rights and freedoms is assured through such provisions

[1] This note was kindly furnished by the United States Government.

as "due process" and "equal protection of the laws" embodied in the Fifth and Fourteenth Amendments to the Constitution, which, with other provisions, assure fair and equal enjoyment by all persons of the constitutionally guaranteed rights.

Life, Liberty, and Security of Person

The Declaration of Independence specified that life and liberty are among the "inalienable Rights" with which all men are "endowed by their Creator", and the Fifth and Fourteenth Amendments to the Federal Constitution provide that no person may be deprived of life or liberty by governmental authority without due process of law. In this connexion the Fifth Amendment also provides, in effect, that no person shall be tried twice for the same offence. The writ of *habeas corpus*, which is traditionally a device whereby individuals can challenge the legality of detention, is recognized in article I of the Constitution, which provides that "the Privilege of the Writ of *Habeas Corpus* shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it".

As in previous years, during 1955 questions of due process were considered in a number of judicial decisions. Several of these cases emphasized judicial concern with procedural safeguards of life and liberty, particularly in relation to fair criminal trial procedure.

In the case of *Sapir* v. *United States*,[1] the petitioner had been convicted of a conspiracy to defraud the United States. The Circuit Court of Appeals for the Tenth Circuit reversed the conviction on the grounds of insufficient evidence and instructed the trial court to dismiss the indictment. The Federal Government then moved for a new trial on the ground of newly discovered evidence, and the Court of Appeals granted this motion. However, the Supreme Court of the United States upheld the earlier reversal by the Court of Appeals and the instruction to dismiss the indictment, and set aside the later order granting a new trial. Mr. Justice Douglas, in a concurring opinion, held that the granting of a new trial after a judgement of acquittal for lack of evidence violates the command of the Fifth Amendment to the Constitution that no person shall "be subject for the same offence to be twice put in jeopardy of life or limb".

Equal Protection of the Law

The Fourteenth Amendment to the Federal Constitution provides, *inter alia*, that no state shall deny any person the equal protection of the laws.

On 31 May 1955, one year following the decision that racial segregation in public education is unconstitutional,[2] the Supreme Court issued a decree[3] implementing that decision. The 1955 decree declared that "all provisions of federal, state, or local law requiring or permitting such discrimination must yield to this principle".[4] It directed that the lower courts, both federal and state, should consider the problems relating to the administration of the anti-segregation decree with a view to achieving a system of admission to public schools on a non-racial basis. During the period of transition the lower courts are to retain jurisdiction to assure a "prompt and reasonable start toward full compliance" with the 17 May 1954 ruling of the Supreme Court.

Other decisions by the Supreme Court of the United States during the year applied the philosophy of the school cases to public beaches, playgrounds and golf courses, holding that segregation in public recreational facilities likewise is unconstitutional. In the *Mayor and City Council of Baltimore* v. *Dawson*,[5] where public authorities of the State of Maryland and the City of Baltimore sought to enforce racial segregation in the enjoyment of public beaches and bathhouses as a proper exercise of the state's police powers, the Supreme Court affirmed the holding of the Circuit Court of Appeals that such action constituted a denial of equal protection of the laws in violation of the Fourteenth Amendment.[6] And in a similar case [7] where an ordinance of Atlanta, Georgia made ". . . it unlawful for coloured people to frequent parks owned and maintained by the city for use of white people and unlawful for white people to frequent or use any park maintained by the city for the use and benefit of coloured persons . . .", the Supreme Court remanded the case to the Federal District Court for decision in conformity with the *Dawson* case described above.[8]

In 1955 the Interstate Commerce Commission promulgated orders putting an end to segregation on interstate trains and buses and in public waiting rooms servicing such traffic. These orders were based on interpretations of applicable sections of the Interstate Commerce Act which prohibit undue preferences or prejudices by common carriers subject to the Act. The pertinent provisions of the Act, in part, read: "It shall be unlawful for any common carrier . . . to . . . cause any undue or unreasonable preference or advantage to any particular person . . . or to subject any particular person . . . to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."[9]

Freedom of Speech and of the Press

The First Amendment to the Federal Constitution provides, in part, that Congress shall make no law

[1] 348 U.S. 373 (1955).

[2] *Brown* v. *Board of Education of Topeka*, 347 U.S. 483 (1954). See *Yearbook on Human Rights for 1954*, pp. 283–4 and 290.

[3] *Brown* v. *Board of Education of Topeka*, 349 U.S. 294 (1955).

[4] *Id.* at 298.

[5] 350 U.S. 877 (1955).

[6] 220 F.2d 386 (4th Cir. 1955).

[7] *Holmes* v. *Atlanta* 233 F.2d 93 (5th Cir. 1955).

[8] 350 U.S. 879 (1955).

[9] 24 Stat. 380 (1887), as amended, 49 U.S.C. Sec. 3 (1).

abridging freedom of speech or of the press, and the Supreme Court has held that the Fourteenth Amendment protects these freedoms from abridgement by the states. In addition, each of the state constitutions provides expressly for freedom of speech and of the press.

The Supreme Court expanded the concept of free speech during 1955, principally with regard to prior censorship of motion picture films thought to be "obscene". In *Holmby Productions, Inc.* v. *Vaughn*, where the state of Kansas required the issuance of a permit before a motion picture could be publicly exhibited, the Supreme Court held, in effect, that the exercise of such prior restraint violates the freedom of speech and of the press guarantees of the First Amendment.[1] This decision was in line with the court's earlier decisions reversing the efforts of two states to impose such prior restraint on motion pictures which were judged "immoral".

Freedom of Religion

The First Amendment to the Federal Constitution also provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof". This restraint thus imposed upon the Federal Government has, with similar restraints in other early amendments, been made applicable to the state governments by the Supreme Court's interpretations of the Fourteenth Amendment. The state constitutions, moreover, themselves contain guarantees of freedom of religion.

In *Sicurella* v. *United States*[2] the Supreme Court decided a question involving objection to war on religious grounds. The defendant, a member of Jehovah's Witnesses, was convicted in a federal court for wilful refusal to submit to induction in the armed services of the United States. The Universal Military Training and Service Act exempts conscientious objectors whose religious belief forbids participation in "war in any form". The defendant, in support of his effort to be exempt, had stated that he would be willing to participate in a war to defend the "Kingdom of Jehovah" and the lower court had decided for that reason he could not be classified as a conscientious objector. The Supreme Court, however, reversed the judgement of conviction holding that willingness to use force in defence of "the Kingdom of Jehovah" did not preclude conscientious objection within the meaning of the Act as intended by Congress.

Freedom of Travel

An intermediate federal appellate court recognized that the right of a citizen of the United States to travel freely is constitutionally protected. In *Schachtman* v. *Dulles*[3] the court held that denial of a passport to the individual in question for the reason given was arbitrary and hence a denial of due process. The court stated:

"The denial of a passport accordingly causes a deprivation of liberty that a citizen otherwise would have. The right to travel, to go from place to place as the means of transportation permit, is a natural right subject to the rights of others, and to reasonable regulation under law. A restraint imposed by the Government of the United States upon this liberty, therefore, must conform with the provision of the Fifth Amendment that 'No person shall be . . . deprived of . . . liberty . . . without due process of law'."

Fair Trial

The Federal Constitution contains numerous safeguards with respect to a fair trial for those accused of crime, including, in particular, guarantees of the right of the accused to trial by an impartial jury. Similar provisions occur in all state constitutions.

In 1955 the Supreme Court of the United States further defined the constitutional right to a fair trial. In one case, which involved a conviction for contempt committed before a judge acting as a one man grand jury authorized by state law to investigate suspected crimes, the court held it was a denial of due process for the judge conducting the investigation also to preside at the trial because of possible prejudice on the part of the judge against the defendant. In *United States ex rel. Toth* v. *Quarles*, the Supreme Court also set aside a conviction on the ground that military authorities are not authorized to try a civilian after discharge from the Army, for an offence committed while serving in the Army. The court held that congressional constitutional power to make rules for the government of the armed forces did not give it power to provide for trials of civilians in the United States by the military. The court emphasized the greater constitutional rights accorded a defendant in a civil trial than in a court martial, pointing out that Congress could authorize trials in the regular federal courts for crimes committed by servicemen prior to their discharge.

In *Williams* v. *Georgia*[4] the Supreme Court affirmed previous decisions that it is a denial of the equal protection of the laws to try a person of a particular race or colour under an indictment issued by a grand jury, or before a petit jury, from which all persons of his race or colour have, solely because of that race or colour, been excluded by a state, whether acting through its legislature, its court, or its executive or administrative officers. This case involved a practice in a county in the state of Georgia, where the names of white persons eligible for jury service were on white tickets and the names of Negroes were on yellow tickets. The petitioner, a Negro, was convicted and his conviction was affirmed by

[1] 350 U.S. 870 (1955).

[2] 348 U.S. 385 (1955).

[3] 225 F.2d 938 (D.C. Cir. 1955).

[4] 349 U.S. 375 (1955).

the highest state court. He then filed an extraordinary motion for a new trial, claiming for the first time that he had been denied his constitutional right to a fair trial because of discrimination in the selection of jurors. The highest state court upheld the dismissal of the motion, but the Supreme Court remanded the case to the state court upon acknowledgement by the state authorities, before the Supreme Court, that a conviction based on this method of jury selection had deprived the defendant of his rights under the Fourteenth Amendment.

In another case[1] the Supreme Court reversed a conviction on the ground that even though the defendant had failed to object to the exclusion of Negroes from the Grand Jury before he was indicted as he should have done under the state law, the fact that he was not assigned counsel until after the indictment was returned had denied him the opportunity to raise this objection, and that he had therefore been denied due process.

When, in 1950, Congress passed the Organic Act of Guam,[2] which, among other things, established a territorial legislature and secured fundamental human rights for the people of Guam, the right to trial by jury was omitted in the belief that differences in customs and political institutions made it preferable to leave the question of its adoption to the local population. In 1955 the people of Guam, acting through their newly created legislature, established the right to trial by jury in criminal cases involving the commission of a felony and in all civil cases within the jurisdiction of the District Court of Guam.

Government by the Will of the People

The Declaration of Independence states that governments derive their just powers "from the consent of the governed". This principle was made a matter of basic law by the Constitution, which assured to the citizens of the United States a representative form of government.

Equal Access to Public Service

In 1955 the question was raised as to whether indication of a candidate's racial identity on an election ballot violated the Fourteenth Amendment. In compliance with an Oklahoma statute, the state election officials had placed the word "Negro" after the candidate's name on a state election ballot. The Federal Court of Appeals held that such designation constituted a denial of the equal protection of the laws safeguarded by the Fourteenth Amendment and, therefore, the statutory provision was unconstitutional, that is, invalid.[3] It also directed the Federal District Court to hear the candidate's suit for damages against the election officials for violation of his rights under the Fourteenth Amendment. The Supreme Court in effect affirmed the decision when it denied a petition for review.

One important means of preserving the democratic system of government in the United States has been the maintenance of safeguards against subversion. Included among these safeguards have been the laws against treason and against conspiring to overthrow the Government by force. In recent years the United States has taken special precautions with reference to the loyalty and security of government employees and related matters. In 1955 these programmes were carried out under executive order No. 10450, as amended, issued by President Eisenhower in 1953.

In 1955, in the case of *Peters* v. *Hobby*,[4] the Supreme Court reversed the discharge and three-year debarment from federal employment of a part-time federal employee under an earlier loyalty programme on the ground that the since-abolished Loyalty Review Board had exceeded the powers conferred on it by the executive order in that the Board had no authority to review or set aside an agency finding which was favourable to the employee.

Of indirect importance are three Supreme Court cases dealing with legislative inquiries by congressional committees — *Quinn* v. *United States*,[5] *Emspak* v. *United States*,[6] and *Bart* v. *United States*.[7] — These were contempt convictions for refusal to answer questions of a Congressional committee. Each was reversed by the Supreme Court, either because the defendant had sufficiently invoked the Fifth Amendment privilege against self-incrimination or because a wilful refusal to answer, as required by statute,[8] had not been proved.

ECONOMIC, SOCIAL, AND CULTURAL MATTERS

In the United States, while economic, social, and cultural progress is the result of individual initiative functioning in a system of private enterprise, Government, by regulatory measures, endeavours to provide a basis of equal opportunity for their enjoyment and takes such steps as may be desirable to facilitate and supplement individual initiative.

Work and Remuneration

Opportunity for Employment

During 1955, laws designed to prevent discrimination in employment on account of race, colour, religion, or national origin were enacted in three additional states — Michigan, Minnesota, and Penn-

[1] *Reece* v. *Georgia*, 350 U.S. 85 (1955).

[2] See *Yearbook on Human Rights for 1950*, pp. 398–9.

[3] *McDonald* v. *Key*, 224 F.2d 608 (10th Cir. 1955), Cert. denied, 350 U.S. 895 (1955).

[4] 349 U.S. 331 (1955).

[5] 349 U.S. 155 (1955).

[6] 349 U.S. 190 (1955).

[7] 349 U.S. 219 (1955).

[8] 52 Stat. 942, 2 U.S.C. 192.

sylvania. All of these laws provide for the establishment of fair employment practice commissions and authorize the issuance of cease and desist orders, enforceable in the courts, to persons engaged in unfair employment practices. All three laws prohibit discrimination by private employers, employment agencies, and labour unions. These three laws specifically authorize their Fair Employment Practice Commissions to order affirmative action, such as hiring, reinstatement, or upgrading of an employee, or admitting or restoring him to union membership. The Michigan and Minnesota laws apply to all private employers with eight or more employees and the Pennsylvania law applies to private employers with twelve or more employees.

In Michigan, the Fair Employment Practices Act specifically covers state and local public employees and requires all public contracts of the state or its political sub-divisions to include an anti-discrimination provision, making it a material breach of the contract to break this convenant.

The Pennsylvania Act, which specifically prohibits discrimination in public as well as private employment, also includes a prohibition on discrimination because of age, defined as between forty and sixty-two years. Penalties for violation of the Act are provided.

In 1955 the Federal Government continued to require that each person or corporation which has a contract with the Government must agree in writing to give all persons equal employment opportunity. A special presidential committee is charged with seeing that this requirement is met. Since the Government awards approximately six million contracts each year, with a total value of approximately 34,000 million dollars, the effect of this requirement is great and widespread.

Remuneration

Significant progress was made in minimum-wage legislation during 1955. Foremost among the laws affecting labour passed by the United States Congress was an amendment to the Fair Labour Standards Act, approved 12 August 1955 and effective 1 March 1956, which increased the minimum wage for employees engaged in interstate commerce or in the production of goods for such commerce from 75 cents to $1.00 an hour.

Three additional states — Idaho, New Mexico, and Wyoming — enacted original minimum-wage laws, setting a statutory minimum for intra-state work of 75 cents an hour. This brings to 33 the number of jurisdictions having minimum-wage laws. In five jurisdictions — Alaska, Hawaii, Massachusetts, Nevada and New Hampshire — amendments were adopted increasing rates. For example, Alaska, which made its minimum-wage law applicable to both men and women, set a new statutory minimum of $1.25 an hour, requiring overtime after eight hours a day or forty hours a week. In Nevada, the new statutory minimum rate was set at 87½ cents an hour.

Equal-pay laws were enacted by three states in 1955 — Arkansas, Colorado, and Oregon — bringing the total of jurisdictions having such laws prohibiting the payment of wage differentials based on sex to 17.

Industrial Safety

During 1955, several states and territories enacted laws relating to industrial safety. The states of Connecticut, Maine, and New Hampshire, for example, provided for the regulation of employment conditions in the use of atomic energy by private industry. These laws provide for studies to be made concerning hazardous working conditions. Massachusetts, Nebraska, New Hampshire, and New York passed laws which extended or clarified the coverage of existing health and safety provisions.

Special Provisions

Child-labour or school-attendance laws were improved by ten states during 1955. In New York, the maximum work-week for young people under sixteen was reduced from forty-four to forty hours; in Montana, the minimum age for employment during school hours was raised from fourteen to sixteen years; Tennessee prohibited minors under eighteen from working in canneries; and Delaware strengthened its law applicable to minors selling newspapers or other articles in public places and extended its prohibition on night work for young people. The states of Maine, Massachusetts, Nebraska and Ohio also improved their standards relating to minimum age for specific occupations, to hours of work, or to hazardous employment. California and South Dakota strengthened their compulsory school-attendance laws.

Migratory Labour

Interest and action to improve the working and living conditions of migrant agricultural workers continued in 1955. Three states — Florida, Illinois, and North Carolina — established migratory labour committees during that year. Washington state enacted legislation in 1955 to regulate labour contractors who recruit farm workers.

An agreement was concluded in 1955 between the United States and Mexico which, in effect, seeks to strengthen procedures against illegal entry into the United States and to safeguard further the interest of Mexican migratory workers in this country.

Social Security

Broadly considered, social security in the United States includes the provision of (1) payments to individuals, on an insurance or similar basis, to compensate for the loss of earnings as a result of old age, sickness, disability, unemployment, or death; (2) assistance, or payments on the basis of

need, the persons with an income inadequate for subsistence; and (3) maternal and child-health and welfare service, vocational rehabilitation, and other welfare services.

In 1955, federal legislative activity in this field included the enactment of amendments to the Social Security Act, the Railroad Retirement Act, and the Civil Service Retirement Act expanding certain benefits. Legislatures of forty-two states enacted legislation amending their unemployment insurance laws during 1955. Improvements were also made in state public assistance laws, and there was considerable state legislative activity in 1955 that related to programmes for children.

Retirement, Old-age and Survivorship Payments

The major amendments in the federal old-age and survivors' insurance programme enacted in 1954 were reflected in the programme operations for 1955. During the year, Congress passed a law extending to April 1956 the granting of old-age and survivors' insurance wage credits for military service; it also extended the provision governing the time for filing claims for lump-sum death payments under old-age and survivors' insurance for servicemen who died overseas and are re-buried in this country by making it apply to deaths occurring before 1 April 1956.

The Federal Railroad Retirement Act was amended in 1955 to repeal the restriction for survivor beneficiaries under the railroad retirement programme that related to receipt of benefits under both the railroad programme and the old-age and survivors' insurance programme.

Persons currently on the federal civil service retirement rolls and those coming on the rolls before 1958 had their annuities increased by a 1955 amendment to the Civil Service Retirement Act; the law also improved length-of-service provisions and the method of computing annuities for Members of Congress.

Workmen's Compensation

Substantial progress was made in 1955 in improving and strengthening state workmen's compensation laws.

Thirty-two states and two territories increased cash benefits payable to injured workers; twenty-four of these jurisdictions increased the maximum weekly benefits payable for temporary total disability. Seven jurisdictions provided for maximum weekly benefit payments amounting to $40 or more for temporary total disability, making a total of sixteen states and two territories reaching this standard. Coverage of workmen's compensation laws was broadened in sixteen states. Coverage of occupational diseases was extended to additional specified diseases in five states.

Public Assistance

All states, the District of Columbia, Alaska, Hawaii, Puerto Rico, and the Virgin Islands continued to operate programmes of old-age assistance and aid to the blind with federal financial participation.

Two new programmes were established by 1955 laws — aid to dependent children in Nevada and aid to the permanently and totally disabled in Nebraska. With the enactment of Nevada's law, all states and territories now have federal-state programmes for aiding needy children; and with federal approval of Nebraska's programme for the needy disabled as well as Florida's earlier plan, forty-five of the forty-eight states currently have such programmes.

Aid to some persons who cannot qualify for payments from one of the special types of federally aided public assistance continued to be available in all the states and territories and most of the localities through general assistance, which is financed by the state or local government, or both, without federal participation.

State public assistance legislation was enacted in several areas during 1955. Some states, for example, raised the maximums on payments in one or more of the special categories of assistance. Provisions on relatives' responsibility enacted in some states reflected an increasing recognition of the complexities involved in obtaining support for needy individuals from relatives. Financing of medical care for assistance recipients was the subject of legislation in several states. To comply with the federal law that requires states making assistance payments to residents of institutions to have a state standard-setting authority for these institutions, a few states enacted provisions to strengthen their licensing laws in this area.

Public Programmes for Children

In addition to the public assistance programme for needy children, the states and territories operate programmes, aided by grants from the Federal Government, that provide maternal and child health services, services to crippled children, and child welfare services. All but one of the states and territories are administering all these programmes.

During 1955 there was considerable legislative activity in the states to bolster the programmes for children, particularly to strengthen the laws on adoption and foster home care as well as the services of juvenile courts and community facilities.

In at least a third of the states, some action was taken in 1955 at the state level relating to juvenile delinquency prevention — e.g., legislation on the juvenile court statutes or service programmes for delinquent children.

In 1955, Congress continued to study the problems of and the means of preventing juvenile delinquency. As a result of congressional action, the services of the Children's Bureau in the field of prevention of juvenile delinquency were expanded.

The State of Tennessee created a permanent Commission on Youth Guidance in 1955 which

serves as liaison between the departments of state government that have to do with the problems of youth and the many organizations with community programmes for youth. Similar co-ordinating commissions are active in the majority of the states. Some have been established by the legislature as in Tennessee; some are appointed by the governors; others are non-official organizations with wide citizen support.

Housing

In the United States, development of adequate housing facilities is primarily a matter of private enterprise, as is true in the case of other economic, social, and cultural benefits, but government — federal, state, and local — takes such steps as may be desirable to encourage and supplement private initiative.

The outstanding housing development of 1955 was the widespread acceptance by communities throughout the country of the broadened urban renewal programme provided by the Housing Act of 1954. Significant progress was made during 1955 in meeting the housing needs of Negroes and certain groups, and basic planning was accomplished in the field of flood insurance.

The year 1955 saw many areas of the country struck by a series of hurricanes and heavy rains which unleashed devastating floods, resulting in heavy destruction. To meet the acute shelter crisis brought about by the floods, all the housing resources at the command of the Government were made available without delay. However, the need for financial protection to those who live in the flood plains became apparent. Since private insurance companies have found it impossible to provide such protection, the Federal Government, in full co-operation with private insurance officials, bankers, and others, developed a plan for government-aided insurance.

Housing opportunities for Negroes and certain other groups continued to improve during 1955. In the vital field of financing, for example, important progress was made, as the Voluntary Home Mortgage Credit Program, which had been established in 1954, began operating.[1] This helped Negroes and other groups to obtain loans in certain areas where mortgage loans had theretofore been virtually impossible to obtain. It also helped to overcome the disparities existing in many areas with respect to the terms on which mortgage money was available.

During the year, Congress passed the Housing Amendments of 1955, which, among other things, authorized the Public Housing Administration to enter into new contracts for 45,000 additional low-rent public housing units. This represents an increase of 10,000 units over the total authorized for the previous year. The 1955 Act also provided for federal loans and subsidies to farm housing.

In 1955, a total of 340 urban renewal projects for the clearance and re-development of slums and rehabilitation of blighted areas were approved for federal assistance, as compared to 279 a year earlier. These projects are located in 218 communities, an increase of 30 over the year 1954. The communities are in twenty-nine states, the District of Columbia, Alaska, Hawaii, and Puerto Rico. One hundred and ten of these projects were in the execution stage, another 106 projects were in the final planning stage, and the remaining 124 projects were in preliminary planning by the end of 1955.

State activity in the housing field also continued at a high level during 1955. Three states — Connecticut, Massachusetts and New York — passed legislation designed to cope better with the problem of displaced families. The Connecticut legislation, for example, gives preference in the occupancy of state-aided moderate-rental housing projects to families of low and moderate income displaced by the construction of highways or the demolition, sale, or removal of federal, state or municipal housing projects. The state of Massachusetts and the territory of Hawaii passed legislation in 1955 relating to the problem of adequate housing for the aged. Two states — Minnesota and New York — enacted laws against discrimination on racial grounds in the selection of tenants for low-rent housing projects. In 1955, legislation was also passed by various states dealing with such additional problems as veterans' and college housing, social security coverage for housing authority employees, and urban renewal.

Vocational Rehabilitation

In 1955, the dynamic effect of the previous year's federal legislation for vocational rehabilitation of the disabled was felt throughout the country. With the help of funds from the Federal Government, increased facilities for the training of professional rehabilitation personnel were made available by the introduction of rehabilitation curricula and short-term courses in 143 universities and other voluntary institutions; initiation of expansion and improvement of treatment facilities and services of sixty rehabilitation agencies and centres; and the inauguration by eighteen organizations of research and demonstration projects in various aspects of rehabilitation.

The number of persons rehabilitated through the public vocational rehabilitation programme during 1955 was 57,981, a four-per-cent increase over the previous years.

In 1955 five states — Arkansas, Nebraska, New Jersey, Oklahoma, and Wisconsin — enacted new legislation covering vocational rehabilitation of disabled adults and young adults, which, in part, reflected the desire of these states to take advantage of congressional legislation designed to encourage expansion and improvement of rehabilitation facilities throughout the country.

[1] See *Yearbook on Human Rights for 1954*, p. 288.

The states were also active in promoting special education for the mentally and physically handicapped as well as in providing vocational education programmes. Such programmes were expanded in Alabama, Arkansas, Colorado, Connecticut, Illinois, Iowa, Louisiana, Maine, Nebraska, New Hampshire, New York, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, and Washington; and in Indiana, Missouri, Montana, North Dakota, and Wyoming, new programmes were authorized.

In 1955, the Virgin Islands passed legislation providing vocational rehabilitation services to physically handicapped (physical or mental disability) individuals and encouraging their remunerative employment.

The protection of the benefit rights of persons disabled while covered by old-age and survivors, insurance involves the need for a determination of disability prior to certification for the "freezing" and before referral to the vocational rehabilitation agency. (Freezing signifies maintenance of benefit rates computed on the basis of earnings before disability, excluding that period in which earnings are low or non-existent because of disability.) By the close of 1955, all states and territories, in executive agreements, had designated the state agency responsible for making such determinations.

HEALTH

The promotion of the public health and the prevention and control of epidemics and other health dangers are primarily state and local responsibilities in the United States. The Federal Government, however, through the Public Health Service of the Department of Health, Education, and Welfare, supports and assists the states and communities in the development and execution of their programmes.

While medical and hospital services in the United States are provided primarily by private means — over 100 million of approximately 165 million persons in the United States being covered by some type of voluntary hospital and medical insurance and more than 86 million having some insurance against the costs of surgical care — the Federal Government provides medical services to certain groups, such as members of the armed forces and seamen, and assists the states in financing the cost of medical services to persons receiving public assistance and to crippled children.

7 April 1956 was designated World Health Day by President Eisenhower, the theme being "Destroy Disease-carrying Insects". During the same year, the President designated 1 May Child Health Day, and defined health as spiritual, emotional, and intellectual in addition to physical well-being of children.

During 1955, federal programmes to increase knowledge about the causes and control of diseases and to assist the states and communities in making available to all the people the benefits of new knowledge and techniques, were expanded. Considerable expansion was authorized in the hospital and medical facilities construction programmes and in health-science research activities, including studies in the fundamental sciences. The Federal Government provided funds to the states to assist in an accelerated programme of making widely available the benefits from the newly developed Salk poliomyelitis vaccine. Federal legislation for a nationwide analysis and evalutation of resources, methods and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill was enacted in 1955. The Federal Government also established a programme to support research, training, and demonstration projects in air pollution abatement during the same year.

Constant population growth, increasing life expectancy, and expanding urbanization of life were continuing social phenomena from which health problems arose to motivate action by state governments in 1955.

State programmes were expanded in the various personal health fields; measures to improve mental hospitals and treatment of mental patients were most prominent. Mental health programmes were stimulated by organizations for regional co-operation, and increasing attention was devoted to prevention, training, research, and the utilization of chemotherapy for psychiatric patients. As supplies of vaccine became available, special state programmes were developed to provide protection against poliomyelitis, particularly to children under twenty and expectant mothers. In 1955, several states undertook studies of means of reducing the number of home and traffic accidents. Broadened programmes to control water and air pollution involved principal efforts directed at the environmental hazards of an industrial society.

EDUCATION

The provision for educational opportunities for the children of the United States is primarily a responsibility of the state governments, rather than the Federal Government. State constitutions usually stipulate that a system of free public schools for all children shall be established. Every state now has free public schools covering the twelve grades of elementary and secondary education, and state universities where advanced education can be had free or at low cost. Private schools, colleges, and universities are also numerous, and parents are free to send their children to the school of their choice. School attendance is compulsory for children in all states up to the age of at least sixteen years. The Federal Government assists the states through various types of educational grants and in other ways.

Equal Protection of the Laws

The United States Supreme Court's decisions of 17 May 1954 held that segregation of children in

public schools solely on the basis of race was unconstitutional even if the physical facilities and other "tangible" factors were equal, but the court restored the cases to the docket for further argument on the specific action which the court should take to effect the change from existing segregated systems to non-segregated ones. As indicated by the United Nations study of discrimination in education, the cases considered by the United States Supreme Court had arisen ". . . under different local conditions and their disposition involved a variety of local problems. Subsequently the parties, the United States, and the States of Florida, North Carolina, Arkansas, Oklahoma, Maryland and Texas filed briefs and participated in the oral argument. These presentations were informative and helpful to the court in its consideration of the complexities arising from the transition to a system of public education freed of racial discrimination. The presentations also demonstrated that substantial steps to eliminate racial discrimination in public schools already had been taken, not only in some of the communities in which the cases arose, but in other states as well." [1]

On 31 May 1955 the Supreme Court, after hearing arguments on implementation of the 17 May 1954 decision, issued an opinion in which it stated, in part:

". . . Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems; courts will have to consider whether the action of school authorities constitutes good-faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this judicial appraisal. . . .

"At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a non-discriminatory basis. To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in our 17 May 1954 decision. Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner. But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them.

"While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our 17 May 1954 ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good-faith compliance at the earliest practicable date. To that end, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a non-racial basis, revision of local laws and regulations which may be necessary to solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet the problems and to effectuate a transition to a racially non-discriminatory school system. During this period of transition, the courts will retain jurisdiction of these cases." [2]

By September 1955, not only in the District of Columbia and Baltimore, Maryland, but also in St. Louis, Missouri, Wilmington, Delaware; Oak Ridge, Tennessee; and San Antonio and El Paso, Texas, as well as in some other communities in the southern states, the policy of school segregation had been abandoned, and children of both races were permitted to enroll in the same schools.

During 1955, three states — Kansas, New Mexico, and Wyoming — adopted measures making segregation in the public schools unlawful.

In Kansas an anti-discrimination commission was appointed whose duties, *inter alia*, were "To prepare in co-operation with the State Department of Public Instruction a comprehensive educational programme for the students of the public schools of this state and for all residents therein, calculated to explain the origin of prejudices against minority groups and to emphasize its harmful effects and its incompatibility with American principles of equality and fair play."

Remuneration and Security of Teachers and School Employees

It is possible to discern certain trends in state legislation of 1955 in the field of education, and a number of these show increased attention to protecting human rights. In relation to teacher welfare, sixteen states passed laws increasing the salaries of teachers or other public school officials, while three states enacted legislation establishing or raising minimum salary standards for them.

New legislation bearing upon tenure and contracts for teachers was passed in eight states — California, Connecticut, Delaware, Idaho, New Hampshire, New Mexico, North Carolina, and Oklahoma — and amendments to existing legislation on tenure and contracts were made by the legislatures of California,

[1] *Study of Discrimination in Education: Summary of Information relating to the United States of America*, United Nations document E/CN. 4/Sub. 2/L. 92/Add. 15, of 21 November 1955, paragraph 6.

[2] *Brown* v. *Board of Education of Topeka*, 349 U.S. 299–301 (1955).

Florida, Illinois, Nevada, New Jersey, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, and Washington.

Thirty-six states enacted legislation regarding retirement laws. In twelve states new laws on retirement were passed, while laws granting increased benefits were approved in twenty-three states. Social security enabling acts for teachers became law in twenty-seven states, and in eight, the social security legislation was co-ordinated with retirement pensions.

Pupil Welfare

Increased state aid was authorized for public schools in thirty-four states during 1955.

State legislation directly affecting the welfare of pupils was passed in a number of fields in 1955, relating to school attendance, scholarship aid, insurance for group accidents, safety and health regulations, segregation, transportation, and libraries. For example, six states — Alabama, California, Florida, Kansas, New York and Wyoming — passed new laws authorizing scholarship aid. Increases in aid already authorized were provided for by legislation in Alabama, Illinois, Louisiana, New York, South Dakota, and Vermont.

In 1955 the Virgin Islands passed legislation establishing evening courses in commercial, vocational and academic subjects for adults.

The legislative activity in the field of education observable during 1955 at both the federal and state levels was stimulated by the White House Conference on Education and the many preliminary conferences which were held in the states. The discussions connected with these meetings, in which some half a million citizens participated, did much to impress the American public with the importance of assuring our nation's children an education adequate for the demands of our times.

During 1955, the United States concluded agreements with Haiti and Libya for co-operative educational programmes to assist these countries in meeting their needs in this field.

BENEFITS OF SCIENTIFIC ADVANCEMENT

In 1955 the United States continued to make available to other countries the benefits of American scientific advancement.

Recognizing the great potential of atomic energy for the good of all mankind, the United States concluded a series of agreements with twenty countries in 1955 designed to promote the development of civil — that is, peaceful — uses of atomic energy. Pursuant to these agreements, the United States will provide assistance in the construction of atomic research reactors, which will be used for such peaceful and humanitarian purposes as the production of research quantities of radio-isotopes and training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy, including the production of civilian nuclear power. The United States will also supply the signatory countries with uranium enriched in the isotope U–235. Further, the agreements provide for the mutual exchange of information in such fields as health and safety problems related to the operation and use of research reactors and the use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

In the field of technical assistance to less developed countries, the United States concluded agreements with fourteen countries in response to requests for expert advice and other aid, some of these being extensions of previous arrangements. Typical programmes related to community welfare in Iraq, industrial productivity in Mexico, agriculture and livestock in Chile, labour education in the Philippines, road transportation in Bolivia, education, public health, natural resources, and agriculture in Libya, and medical education in Colombia. The extent of these programmes is illustrated by activities in the field of housing. New co-operative housing programmes were started in Guatemala, Cambodia, Korea, Costa Rica, and Italy. At the end of 1955 United States housing and planning advisers and technicians were serving with economic missions abroad in Barbados, Brazil, British Guiana, Cambodia, Chile, Colombia, Costa Rica, Egypt, El Salvador, Formosa, Guatemala, Indonesia, Iran, Israel, Italy, Korea, Liberia, Nicaragua, Pakistan, Surinam, Trinidad, and Turkey.

URUGUAY

NOTE[1]

I. LEGISLATION

I. *Criminal Procedure*

Decree of 20 July 1955 to approve regulations governing the institution of preliminary proceedings in courts martial.

This decree provides that in each unit of the Army, Navy and Air Force the investigating judge (juez sumariante) shall be the officer designated by the commanding officer of the unit, training unit, vessel or air base in question. His function is to collect the essential particulars relating to the occurrence so that the evidence is not lost or tampered with; his function ceases at the stage at which the case is dealt with by the military examining judge (juez militar de instrucción), to whom he delivers the documents. The functions of the investigating judge are (among others): to order the alleged offenders and their accomplices to be held *incomunicado* until they have made statements; to take statements immediately from witnesses of the act or from persons having knowledge of it; to examine scrupulously all things used in the commission of the offence; to request an expert examination in the case of death, wounds or other physical injuries; to impound the weapons used in the crime or any other objects likely to be of use in the investigation and in the case of documents, to decide whether they should be added to the evidence; to order, if he considers it advisable or necessary, that no person may leave the vessel, quarters, establishment or location where the proceedings are being held; to take down, with the assistance of his secretaries, the statements of the witnesses, who shall be examined separately under the usual oath and without being permitted to read any document; to direct that each statement, upon being completed, shall be read back to the witness in its entirety by the secretary, unless the witness prefers to read it himself (if this formality is omitted the statement is void); to arrange for the confrontation of witnesses if the statements should conflict; to ensure that no person is held *incomunicado* for a period exceeding forty-eight hours. It is the duty of the investigating judge to refrain from acting in that capacity if he is directly or indirectly involved in the case under investigation and likewise if he is disqualified by the general provisions of the law from acting as judge in a case affecting the accused.

[1] Information kindly contributed by Dr. Anibal Luis Barbagelata, Professor of Constitutional Law, Montevideo, government-appointed correspondent of the *Yearbook on Human Rights*.

II. *Right to Health and to Assistance in Case of Sickness*

1. Decree of 16 February 1955 to establish and to regulate the operation of a leprosy control centre.

This decree provides for the establishment of a leprosy control centre under the Ministry of Health, to be operated under the direction of a medical specialist acting in an honorary capacity.

2. Decree of 20 April 1955 to enact new provisions concerning the supervision of mutual medical benefit societies and similar organizations.

In view of the increase of these and similar institutions in Uruguay, this decree provides that sworn statements must be supplied in respect of mutual medical benefit societies for the purpose of ensuring more effective control of their operations. Inasmuch as the object is to "safeguard public health", any failure to observe the provisions of this decree, or the making of false statements, is punishable by penalties which, without prejudice to the penalties applicable under the criminal law, range from a written warning to the appointment of an administrator and the withdrawal of the institution's charter.

3. The decree of 10 May 1955 authorizes the Family Allowance Compensation Funds to provide free services for the physical and social rehabilitation of children suffering from strabismus who are beneficiaries of the said funds.

III. *Right to Special Protection of Persons handicapped by Sickness or Disability*

1. The decree of 17 May 1955 grants privileges to invalids for the purpose of the importation of specially constructed automobiles.

2. The decree of 14 December 1955 amends certain of the provisions of the above decree.

3. The Act No. 12252 of 21 December 1955 (*Diario Oficial* of 16 January 1956) grants preferential treatment, for the purpose of obtaining leave of absence and pension benefits, to persons suffering from true or atypical tumour.

IV. *Right to Housing*

1. Decree of 4 January 1955 to enact regulations governing certain tax exemptions granted for the purpose of encouraging construction.

This decree enacts regulations governing reliefs from taxation which were granted by Acts No. 12102 of 14 May 1954 and No. 12109 of 11 June 1954 for the purpose of encouraging construction.

2. Act No. 12261 of 28 December 1955 (*Diario Oficial* of 17 January 1956) to amend the rules governing the Banco Hipotecario del Uruguay (Mortgage Bank of Uruguay), with the object of promoting construction.

This decree authorizes the Banco Hipotecario del Uruguay to issue bonds for the encouragement of construction and amends the provisions of its corporate charter that define the kind of transactions in which it may engage.

V. *Right to enter and leave the Country*

The decree of 16 February 1955 appoints the date of entry into force of the plan for the preferential admission of immigrants into Uruguay and specifies the degrees of relationship which the relatives of resident aliens must prove in order to secure such admission.

VI. *Electoral Laws*

Act No. 12234 of 4 November 1955 (*Diario Oficial* of 25 November 1955) to grant an amnesty to persons liable for offences against the election laws.

This Act grants an amnesty to all persons liable for offences against the election laws committed before the date of promulgation of the Act, subject to an exception in cases in which there is conclusive evidence of criminal intent (article 1).

VII. *Right to work*

Decree of 6 September 1955 to make regulations under Act No. 12156 which established the National Register of Salesmen and Commercial Travellers.

This decree provides that every application for entry in the National Register of Retail Salesmen and Commercial Travellers in business and industry requires the prior approval of an Advisory Commission, composed of one member of the National Institute of Labour and Related Services and four members designated by the most representative trade union bodies (article 19). To obtain this approval, the applicant must fulfil the conditions governing admission (i.e., submit proof that he is of full age and produce a good conduct certificate); in cases of re-registration, however, the Commission will also decide "whether such re-registration may be contrary to the spirit of co-operation between business firms and salesmen or commercial travellers" or "may encourage the unlawful exercise of the profession or unlawful or unfair competition". If the decision is favourable, the applicant is registered; if not, the applicant is granted an interview, after which the case is reconsidered. If the Commission's opinion is still unfavourable, the documents in the case are referred to the National Institute of Labour and Related Services, whose decision is final (articles 5 to 9).

Likewise, it provides that any firm with which a retail salesman or commercial traveller has signed a contract, or any trade union body to which these workers are affiliated, may apply for the suspension or expulsion of such a worker if he is charged with "the commission of offences in connexion with the performances of his duties", "serious misconduct which, although not constituting an offence, impairs the good repute of the profession of retail salesman or commercial traveller", "acts which directly or indirectly encourage the unlawful exercise of the profession", or "repeated violations of the law". Upon receiving an application to this effect, the Advisory Commission interviews the person concerned and, after making a full inquiry and taking such evidence as it considers advisable or the parties request, gives a ruling which it communicates immediately to the National Institute of Labour and Related Services, "whose decision shall be final". This Institute "may in no case order the suspension or expulsion of the person concerned unless the Commission's report is signed by four members" (articles 9 to 15).

In serious cases, the Advisory Commission may propose that the Executive Board of the National Institute of Labour and Related Services order suspension immediately, but it shall nevertheless continue its inquiry into the correctness of the complaints brought against the person concerned (article 16).

VIII. *Safety at Work*

1. Decree of 25 January 1955 to establish the Safety Council for State Agencies.

This decree establishes the Safety Council for State Agencies for the purpose of facilitating the interchange of information and experience between those sub-divisions of the government service which in one way or another are concerned with the problem of industrial accidents, so that they may co-operate in ensuring the safety of workers employed in government and municipal sub-divisions.

2. Decree of 23 February 1955 to establish the Industrial Safety Training Centre.

The object of the centre (to be organized and supervised by the National Labour Institute) is to provide the broadest possible instruction in methods of preventing industrial accidents. The services of the centre are open to employees, employers, foremen and supervisors, and, in general, all persons concerned with hazards at work.

3. The decree of 29 July 1955 established a commission to co-ordinate measures for the prevention of accidents in general and for relieving the harmful effects of injuries.

IX. *Right to Fair Pay*

1. Decree of 17 May 1955 enacts rules to guarantee strict observance by employers of the wage scales established by the wage boards.

The decree provides that wage boards "shall not take any decisions with respect to minimum wages"

without having first classified the workers in the group in question according to occupation and category. It states that these classifications should be defined as clearly as possible, "with particulars of the types of work which distinguish one occupation from another", and, with the same purpose of informing workmen and employees "in clear and simple language" of the wages to which they are entitled, it provides that the wage boards — "which should draft their decisions with particular care so that they will be precise and unequivocal" — should fix the minimum wage in direct and concrete terms; the Boards are not allowed to fix wages in any way which compels the workman to interpret general rules or to resort to mathematics in order "to ascertain the wage which he is entitled to receive".

2. Act No. 12198, of 21 June 1955 (*Diario Oficial* of 2 July 1955), authorizes the grant of loans to workers in the printing trades who were involved in a labour dispute, the loans to be chargeable to the National Compensation Fund (family allowances account).

3. Act No. 12217, of 16 August 1955 (*Diario Oficial* of 26 August 1955), authorizes the Executive Power to apply a sum of money, for a period of three months, to the purpose of making up the difference between such supplies of meat as may be given by the meat-packers to workmen and employees working for them or on their manning tables and the amount of twelve kilogrammes per week for each workman or employee (article 2).

4. The decree of 23 August 1955 makes regulations under Act No. 12198, which authorized loans to workers in the printing trades who had been involved in a labour dispute (see section IX, 2, above).

5. Act No. 12244, of 20 December 1955 (*Diario Oficial* of 31 December 1955), authorizes loans to metallurgical workers who were involved in a labour dispute, the loans to be chargeable to funds to be provided by the Central Family Allowance Board.

6. Decree of 6 September 1955 to make regulations under Act No. 12156, which established the National Register of Retail Salesmen and Commercial Travellers. (See section VII, above.)

The decree requires the agreements governing the remuneration of retail salesmen and commercial travellers to be in writing and lays down rules concerning the proper payment of commission (articles 31 to 41).

X. *Right to Limitation of Working Hours*

The decree of 21 June 1955 restates the requirement that in all places of employment the manning table must be posted in a conspicuous place, and specifies the statutory penalties applicable in case of failure to make the proper entries in the manning table (article 2).

XI. *Workmen's Right to Protection against the Risk of Disease*

1. Act No. 12177, of 4 January 1955 (*Diario Oficial* of 29 January 1955), establishes and regulates sickness benefits payable to the employees and workmen of the Compañía Uruguaya de Transportes Colectivos Sociedad Anónima.

2. Act No. 12252, of 21 December 1955. (See section III, 3, above.)

XII. *Right to an Adequate Pension*

1. The decree of 2 February 1955 makes regulations under Act No. 12128, which established the University Graduates' Pension and Retirement Benefits Fund.

2. The decree of 4 May 1955 provides that the receipt of a pension is inconsistent with an occupation covered by the same fund and fixes a "ceiling" for the total of the wages that can be drawn for civil service positions plus retirement benefits paid in the form of an annuity secured by the State (or by some fund guaranteed by the State, other than the Civil Service Workers' and Schoolteachers' Pension and Retirement Benefits Fund).

3. Act No. 12202, of 6 July 1955 (*Diario Oficial* of 19 July 1955), authorizes the Executive Board of the Actuarial Pensions and Retirement Fund to fix, in special circumstances, the notional wage figures and the amount of the minimum pensions of its members.

4. Act No. 12226, of 21 September 1955 (*Diario Oficial* of 10 October 1955), provides that the heirs of members and secretaries of the Senate and House of Representatives are entitled to the benefit of the change in the rate of the allowances now payable.

5. Act No. 12252, of 21 December 1955. (See section III, 3, above.)

XIII. *Right of Workers' Families to Protection*

1. Decree of 10 May 1955. (See section II, 3, above.)

2. The decree of 6 September 1955 increases the minimum combined family allowance for family units with more than three dependants.

3. Act No. 12226, of 21 September 1955. (See section XII, 4, above.)

4. The decree of 25 October 1955 provides that family allowances are payable as soon as the beneficiary fulfils the statutory conditions. It removes certain anomalies which had arisen in the payment of family allowances under earlier legislation and directs (with retrospective effect to 20 November 1950) that such allowances are payable to workers covered by Act No. 10449, of 12 November 1943, as from the time at which the beneficiary fulfils the statutory conditions.

5. The decree of 6 December 1955 makes regulations under Act No. 12157 of 22 October 1954, which extended the family allowance system to rural workers.

6. Act No. 12262, of 28 December 1955 (*Diario Oficial* of 19 January 1956), raises the "ceiling" wage or salary which can be paid to persons in receipt of family allowances.

XIV. *Right to strike*

1. Act No. 12198 of 21 June 1955. (See section IX, 2, above.)

2. Act No. 12244 of 20 December 1955. (See section IX, 5, above.)

XV. *Right of Minors to Special Protection*

1. Decree of 16 February 1955. (See section II, 1, above.)

2. Decree of 10 May 1955. (See section II, 3, above.)

3. Decree of 6 September 1955. (See section XIII, 2, above.)

4. Decree of 25 October 1955. (See section XIII, 4, above.)

5. Decree of 6 December 1955. (See section XIII, 5, above.)

6. Decree of 7 December 1955 to authorize the establishment of an office of the Registry of Births, Marriages and Deaths in the Pereira Rossell Hospital for the purpose of registering all births which occur in the said hospital, as well as marriages, legitimations and acknowledgements of parental relationship, when requested.

The considerations underlying the decree are the following: Approximately six thousand births occur annually in the Pereira Rossell Hospital; these births are not declared or reported directly to a registration officer but to the director of the hospital, who informs the court (juzgado de paz) within whose jurisdiction the hospital is located; in many cases the parents of the children born in the hospital are not married and often, although the identity of the mother is clearly established, the child is not formally acknowledged by the mother as a "child born out of wedlock", it is, however, expressly stipulated by statute that such acknowledgements must be made in solemn form before an official of the Registry of Births, Marriages and Deaths; in addition, registrations through the hospital authorities frequently contain errors which are not attributable to those authorities, but to inadequate information supplied by the mothers; yet, in many cases not only the mother, but also the father would be willing to acknowledge their child born out of wedlock, especially immediately after the birth, if a registration official were available on the premises; and, lastly, the birth of offspring is an event of spiritual and ethical significance which predisposes the parents to contract marriage, and the latter would certainly be more inclined to do so if marriage were facilitated by the presence of a registration officer on the premises of the hospital. In view of all these considerations the decree provides that the Registrar-General shall direct that one or two assistant registration officers (as he considers advisable) shall be assigned to duty in the Pereira Rossell Hospital for the purpose of registering all births which occur there, as well as, upon request, marriages, legitimations and acknowledgements of parental relationship and of instructing the parents in questions of family law, with a view to regularizing irregular situations, in all cases in which the advice or assistance of these officers is requested.

XVI. *Right to Property*

Decree of 24 February 1955 to confirm the decree of 7 July 1953, which authorizes the National Food and Price Control Board to expropriate, on behalf of the executive authority, cattle suitable for satisfying urgent consumer needs.

The decree recites the circumstances which led to its enactment: the earlier decree (of 7 July 1953) was the subject of an appeal contesting its validity; the principal argument of the appellants was that the 1953 decree violates constitutional provisions which guarantee freedom of trade and the inviolable right to own property, that it violates the terms of Act No. 10940 of 19 September 1947, which permits the expropriation of scarce and expensive commodities only, and that the expropriation of cattle undoubtedly occasions damage to the appellants. The 1955 decree states that the aggregate of the individual rights guaranteed by the Constitution is not of an absolute character — as has been repeatedly established by learned authorities and by judicial decisions — since the exercise of those rights may be limited for reasons of the general interest; that from a careful analysis of the legislative provisions it is easy to reach the conclusion that no rule of law has been violated; and that, on the contrary, the decree now contested is in strict conformity with the rules of law and in particular with the provisions of Act No. 10940 of 19 September 1947, which authorizes the executive power to specify which commodities are to be considered as essential for the purpose of consumption and to order, for the purposes of public necessity or in the public interest, the expropriation of all or part of the stocks of raw materials, foodstuffs, and other essential articles. In view of these considerations the decree of 24 February 1955 confirms the validity of the decree of 7 July 1953 which authorizes the National Food and Price Control Board to expropriate, on behalf of the executive authority, cattle suitable for satisfying essential consumer needs.

XVII. *Right of Redress against the Administration*

1. Decree of 25 February 1955 to make regulations governing the procedure in appeals against administrative acts and to specify the time limit within which the authorities must take action.

This decree states that "appeals addressed to the National Government Council which request the revocation of administrative acts shall, after their

receipt has been registered, be referred to the competent Ministry; the latter shall consider the appeals and duly report to the Council, with a draft ruling, for the Council's approval" (article 1).

It also provides that "action for dealing with such appeals shall be taken within a period of five days at the most" and that "any reports, measures and opinions that may be ordered shall be prepared within thirty days at the most, which period may be extended for fifteen more days upon request, if the said request appears to be well founded" (article 4); it is a serious dereliction to "delay or fail to take proper action on such appeals, or to neglect to provide the reports, inquiries or expert opinions which have been ordered" (article 5).

It likewise lays down the general rule that "the time limit of one hundred and twenty days prescribed by article 318 of the Constitution shall be reckoned from the day following that on which the hearings on the appeal are concluded", for which purpose it is provided that the "maximum period shall be ninety days, unless extended by the National Government Council" (article 6); the appeal is deemed to have been rejected if no decision concerning it is taken during the time limit laid down by the Constitution (article 6).

As an interim rule, the decree states in addition that any documents or cases which are under study or consideration in the secretariat and in the committees of the National Government Council at the time of the entry into force of the decree are to be referred to the competent Ministries in their present state of processing and that for the purposes of the appeals to which these documents or cases relate the period for the hearings of considerations or investigations is to terminate on the date of the decree, save in so far as the National Government Council may otherwise decide in any particular case and in the light of the circumstances (article 7).

2. The decree of 21 June 1955 revises the rule for reckoning the statutory time limit within which the authorities must take action in any particular case.

This decree amends article 7 of the decree of 25 February 1955 to the effect that the 120-day period prescribed by article 318 of the Constitution shall begin to run from the date of entry into force of the decree of 25 February 1955 (instead of terminating on the said date).

II. INTERNATIONAL TREATIES AND CONVENTIONS RATIFIED BY URUGUAY

1. Act No. 12204 of 8 July 1955 (*Diario Oficial* of 3 September 1955) ratified the Charter of the Organization of American States,[1] which was signed at the Ninth International Conference of American States on 30 April 1948 in the City of Bogotá.

2. Act No. 12245 of 21 December 1955 (*Diario Oficial* of 23 January 1956) ratified the agreement concerning cultural relations between the Government of the Republic of Uruguay and the Government of the Republic of Ecuador, which was signed in the city of Montevideo on 16 May 1955.

[1] See *Yearbook on Human Rights for 1948*, pp. 437–8.

VENEZUELA

NATURALIZATION ACT

of 18 July 1955 [1]

CHAPTER I

GENERAL PROVISIONS

Art. 1. Aliens who may enter and remain in the country legally and are not excluded by the law shall be entitled to acquire Venezuelan nationality.

Art. 2. The effects of naturalization are purely individual; nevertheless, the minor children of a person naturalized in the country shall enjoy the effects of his naturalization until they attain their majority.

CHAPTER II

DECLARATION OF INTENT AND CERTIFICATE OF NATURALIZATION

Art. 3. The declaration of intent to become a Venezuelan national made by a person whose father or mother is Venezuelan by naturalization, and who was born outside the republic, has attained majority and is domiciled in Venezuela, shall be recorded, upon receipt, in the appropriate register and shall be published within fourteen clear days of the date of such registration.

In the case of a person born in Spain or in a Latin American State or of the alien wife of a Venezuelan national, a decision on the declaration of intent shall be issued, once the requirements laid down in the regulations have been met, within a period not exceeding three months. If the decision is favourable, it shall immediately be entered in the appropriate register and published within fourteen clear days of the date of such registration.

Art. 4. An alien who wishes to obtain naturalization papers must be living in the country, and must fulfil the residence requirement prescribed in the regulations and any other requirements set forth therein.

The Federal Executive shall determine how far a knowledge of the Spanish language shall be required of an applicant for naturalization papers.

Art. 5. The decision in the cases referred to in the foregoing article shall be issued within a period not exceeding five months from the presentation of the necessary documents.

Art. 6. In the case of an application for naturalization papers, it shall be considered a favourable circumstance if the applicant:

(1) Possesses real property in Venezuela or is the owner of or is associated with commercial, industrial, agricultural or livestock undertakings which are known to be solvent and which have or have acquired Venezuelan nationality or domicile;

(2) Has children in Venezuela under his paternal authority;

(3) Has rendered some important service to Venezuela or to the world;

(4) Has performed technical services of recognized public usefulness in the country;

(5) Has resided in the republic for a considerable time;

(6) Is married to a Venezuelan woman;

(7) Has established himself in the country as a settler;

(8) Has followed courses of study and obtained a degree or diploma from a Venezuelan university;

(9) Has distinguished himself as a scientist, artist or writer.

. . .

Art. 8. On receipt of the application and the accompanying documents, the Federal Executive shall, if the case is deemed satisfactory, issue naturalization papers.

. . .

CHAPTER III

ANNULMENT OF NATURALIZATION

Art. 11. Naturalized Venezuelans shall lose their nationality:

(1) If they deliberately use their nationality of origin or acquire another nationality;

(2) If they offer to serve abroad in any capacity whatsoever against the Republic of Venezuela;

(3) If they commit acts on the territory of the republic which jeopardize its integrity and security, or if they evade the effects of Venezuelan laws;

(4) If they obtain naturalization with the object of evading the declared effects of an enactment;

(5) If they incite to contempt or disrespect for the institutions, laws or regulations of the authorities, without prejudice to the relevant provisions of other legislation;

[1] Published in *Gaceta Oficial* No. 24801, of 21 July 1955. Translation by the United Nations Secretariat.

(6) If they acquire naturalization by fraud;

(7) If they leave Venezuela during the five years following their naturalization and acquire permanent residence abroad, or if, after that five-year period, they reside abroad for two consecutive years, unless before the expiry of the period they have applied to a Venezuelan consular official for a two-year extension. No further extension shall be granted thereafter.

Art. 12. The provisions of sub-paragraph 7 of the foregoing article shall not apply to the following:

(1) Persons residing abroad for not more than five years to complete university or technical studies;

(2) Persons residing abroad as the paid employees of an international organization of which Venezuela is a member;

(3) A spouse or naturalized parents living with a native Venezuelan who resides abroad;

(4) Persons who have lived in Venezuela for twenty-five years or more since the date of their naturalization and are sixty-five years of age.

Art. 14. The Federal Executive may reduce the residence requirement and make exceptions in respect of the submission of documents required for naturalization whenever special circumstances may so require.

. . .

Art. 16. The Naturalization Act of 22 May 1940 is hereby repealed.

COMMERCIAL CODE

As amended on 26 July 1955 [1]

BOOK I. — COMMERCE IN GENERAL

PART I. — PERSONS ENGAGING IN COMMERCE

Section I. — The Exercise of a Commercial Occupation

. . .

Art. 16. A married woman who has attained the age of majority may engage in a commercial occupation separately from her husband, and any debt or liability which she incurs as a result of such activity shall be recoverable from or enforceable against her personal property or that part of the community property which is under her administration.

With the explicit consent of her husband, the remainder of their community property may likewise be applied to the satisfaction of such liabilities.

. . .

[1] Published in *Gaceta Oficial* of 17 October 1955. Translation by the United Nations Secretariat.

EDUCATION ACT

of 25 July 1955

SUMMARY

Published in *Gaceta Oficial* No. 24813, of 4 August 1955, the Act establishes a comprehensive national system of education.

Education in state institutions is free, except for the universities, where special provisions apply. The social welfare services attached to primary schools are also free. In addition to state and private institutions, there are institutions which receive subsidies from the State through contractual agreements.

Seven types of public education are dealt with in the Act:

1. Pre-school education in kindergartens is available to children from four to seven years of age. Pre-school education seeks to guide the child in his early experiences, to awaken gradually desirable intellectual and emotional responses and to train him in good physical, health, mental and social habits.

2. Primary education is compulsory for all children over seven years of age and comprises six grades, each offering a one-year course.

3. Secondary education consists of two cycles: a three-year general course and a two-year course in which the pupils begin to specialize in sciences or arts. At the end of the second cycle the student obtains a *bachiller* diploma which qualifies him for admission to a university. Secondary education is provided in day and in evening classes. Persons over twenty-five years of age with a certificate of primary education can elect to take their *bachiller* diploma in the field of their choice without going to school; they must pass an examination in all the subjects included in the syllabus.

4. Technical education comprises agricultural, craft, industrial, commercial, welfare, administrative, homecraft and art schools. Chapter IV of title II of the Act describes the various practices and procedures to be applied in connexion with technical education.

After enumerating the different objectives pursued by each type of education, the Act empowers the Ministry of Education to authorize any technical school to hold joint or separate pre-vocational courses in the fourth, fifth and sixth primary grades. The Act also empowers the National Executive to impose higher requirements for admission to technical schools when the circumstances warrant such action or when the courses in question so require. The technical schools offer day and evening extension classes which provide opportunities for occupational and cultural advancement to workers without formal training in their trades, workers with formal training who wish to improve their skills and workers who wish to learn a new trade.

5. Teacher training includes the training of pre-school and primary school teachers and the training of teachers for secondary schools, technical and teacher training colleges.

6–7. Military education and university education are to be governed by special provisions.

The aim of public education is defined as being the training and intellectual development of the population and their moral and physical improvement. Physical training is compulsory in all seven types of public education. Corporal and ignominious punishments are forbidden, as are also political propaganda and any activities causing fear, hatred, aggressiveness, unsociability, lack of discipline, injury to the Spanish language or any threat to good morals and habits. Membership of parents or guardians in parent-teacher associations is compulsory.

Private education is to receive moral, material and technical encouragement from the State.

VIET-NAM

ORDINANCE No. 1 REGULATING LEGAL AID of 8 January 1955 [1]

PART I
LEGAL AID IN CIVIL AND ADMINISTRATIVE PROCEEDINGS

Chapter I

THE GRANTING OF LEGAL AID

Art. 1. Legal aid may be granted, regardless of the circumstances, to any person, public establishment or establishment recognized as of public utility, or to any private welfare association with legal status when for want of resources such persons, establishments or associations are unable to exercise their rights in the courts, either as plaintiffs or as defendants.

. . .

Legal aid may not, however, be granted to foreign bodies corporate or individuals unless Viet-Namese nationals enjoy the same right in the country of origin of such bodies or individuals.

. . .

PART II
LEGAL AID IN CRIMINAL PROCEEDINGS

Art. 27. Legal aid shall be granted for the defence of the accused in criminal courts.

The defendant shall be requested to indicate his choice of counsel to assist him in his defence. Should he fail to do so, the judge shall immediately designate a counsel for him; otherwise all subsequent proceedings shall be declared null and void.

Failure to make the request or the designation referred to above shall not render the proceedings null and void if the accused has selected a counsel.

Art. 28. The presidents of correctional courts or their presiding judges shall appoint an official defence counsel for persons against whom proceedings are instituted on the initiative of the *Ministère public* or for persons held pending trial, if they so request and it has been shown, on the basis of the documents referred to in article 11 or other documentary evidence, that they are indigent.

Art. 29. Presidents of criminal courts, presidents of correctional courts and judges presiding over correctional courts may subpoena witnesses designated by an indigent accused person or defendant if statements by such witnesses are deemed likely to help to ascertain the truth. They may also issue official orders for the production and verification of documents.

The measures described above shall be carried out on the initiative of the *Ministère public*.

. . .

[1] Viet-Namese text and official French translation in *Journal officiel du Viet-Nam* of 29 January 1955.

ORDINANCE No. 23 TO REGULATE TRADE UNIONS of 16 November 1952 as amended by Ordinance No. 37 of 8 November 1954 [1]

CHAPTER I
PURPOSES AND FORMATION OF TRADE UNIONS

Art. 1. Trade unions shall have as their sole object the study and defence of technical, industrial, commercial, agricultural and professional interests and the representation of those interests in dealings with the public authorities.

They shall not be political or religious in character and they shall be debarred from devoting themselves to or engaging in any political or religious activities.

Art. 2. Trade unions may be formed only by persons carrying on the same trade, similar crafts or allied trades associated in the production of specific products, or the same profession.

Art. 3. (Amended) Every employer, whether an individual or a body corporate, and every worker, regardless of nationality, shall be free to join a trade union selected by him within his own trade or profession, with the exception of the following:

Minors under eighteen years of age;

[1] Viet-Namese text and official French translation of the ordinance of 16 November 1952 in *Régime des associations et syndicats professionnels*, Ministry of Labour, Saigon, 1953. Viet-Namese text and official French translation of the ordinance of 8 November 1954 in *Journal official du Viet-Nam* of 20 November 1954. The texts were transmitted by courtesy of the Ministry of Foreign Affairs of the Republic of Viet-Nam. Translation by the United Nations Secretariat.

Minors between eighteen and twenty-one years of age if their father, mother or guardian objects;

Married women if the husband objects.

. . .

Art. 6. Any member of a trade union may withdraw at any time notwithstanding any clause to the contrary, subject to the obligations he may have assumed in respect of contributions, under the rules of procedure of the trade union.

In no case, however, shall a withdrawing member be required to pay a sum in excess of contributions for a period of six months from the day of his withdrawal from membership.

Art. 7. Legal status is conferred upon the trade union by the registration of its by-laws and the issue of a receipt therefor. The by-laws must contain the following particulars:

(1) The name of the trade union and the address of its head office;

(2) The object of the trade union, its professional category and the area covered by its activities;

(3) The conditions governing the admission, continued membership and withdrawal of members, and the amount and conditions of payment of contributions;

(4) The structure of the board of management of the trade union, the administration of funds, and the method of appointment and the powers of persons responsible for such management and administration;

(5) The name, age, capacity, address and nationality of the founders and persons responsible for the management of the trade union;

(6) The procedure for convening general meetings and the rules governing their deliberations;

(7) The length of term of office of the officials and administrators of the trade union. This may not exceed two years, but the term may be renewed;

(8) The procedure for investing capital;

(9) The procedure for amending and revising the by-laws, and for the voluntary dissolution of the trade union;

(10) The penalties imposed by the trade union to ensure observance of its rules of procedure.

Art. 8. The by-laws shall be registered, in quintuplicate, during the month in which the trade union is formed, with the office of the regional administration, which shall transmit copies to:

(1) The Labour and Social Security Board;

(2) The Regional Labour Inspector;

(3) The *parquet* of the competent court.

Art. 9. Any amendments to the by-laws and any changes in the composition of the board of managers or directors of the trade union are also subject to the procedure governing registration of by-laws and issue of receipt referred to in articles 7 and 8.

[Chapter II deals with the civil-law capacity of trade unions, Chapter III with trade union marks and Chapter IV with special mutual aid and pension funds.]

Art. 22. A person who withdraws from a trade union shall retain his right of membership in any mutual aid societies and old-age pension societies to whose assets he has contributed by subscriptions or capital payments.

CHAPTER V

FEDERATIONS OF TRADE UNIONS

Art. 23. Trade unions which have been duly formed in accordance with this ordinance shall be free to unite for the study and defence of their industrial, commercial, agricultural and professional interests as well as for the representation of those interests in dealings with the public authorities.

They may form themselves into federations of trade unions.

Art. 24. The provisions of articles 1, 2, 5, 6, 7, 8 and 9 shall apply to federations of trade unions, which must in addition furnish particulars of the names and registered addresses of the member trade unions, in the same way as single trade unions.

. . .

Art. 25. Such federations shall enjoy all the rights conferred on trade unions by chapters II, III and IV of this ordinance.

CHAPTER VI

PENALTIES

Art. 26. In the event of infringement of the provisions of this ordinance, proceedings shall be instituted against the chairmen, secretaries-general, managers or directors of trade unions, and fines ranging from fifty to 5,000 piastres shall be imposed. The courts may, moreover, on the initiative of the *parquet* of the competent court, order the dissolution of the trade union and render the acquisition of immovable property null and void.

The court order for the dissolution of a trade union is enforceable immediately, notwithstanding any right of appeal.

If false statements are made in connexion with the by-laws or with the names and description of the trade union leaders, the amount of the fine may be increased to 10,000 piastres.

. . .

CHAPTER VII

MISCELLANEOUS

. . .

Art. 31. The trade-union rights of civil servants and public service employees shall be set forth in special legislation.

. . .

LEGISLATION GIVING EFFECT TO THE LABOUR CODE

The following are some of the legal texts [1] which have been adopted to give effect to the Labour Code promulgated by ordinance No. 15 of 8 July 1952: [2]

Order No. 32-XL-ND of 1 June 1953 to prescribe detailed rules relating to the occupation of sub-contractor (cai-tâcheron) and the issue of the working permit;

Order No. 45-XL-ND of 7 July 1953 to prescribe detailed rules for weekly rest in continuous-process factories;

Order No. 46-XL-ND of 16 July 1953 to prescribe the rules for the installation, hygiene and supervision of babies' feeding-rooms in private undertakings;

Order No. 55-XL-ND of 7 August 1953 to make regulations under the Labour Code regarding notice of the opening of establishments, employers' registers and pay books;

Order No. 56-XL-ND of 8 August 1953 to specify the industries which may be temporarily exempted from the prohibition respecting night work by women and children;

Order No. 58-XL-ND of 10 August 1953 to prescribe detailed rules for making exemptions to the weekly rest regulations in certain categories of undertakings and industries;

Addendum No. 11-XL-ND of 23 March 1954 to Order No. 58-XL-LD-ND of 10 August 1953 to prescribe detailed rules for making exemptions to the weekly rest regulations in certain categories of undertakings and industries;

Order No. 30-XL-ND of 21 May 1954 to issue regulations under the provisions of the Labour Code that relate to apprenticeship;

Order No. 6-LDTN-LD of 26 July 1954 to issue regulations under the Labour Code regarding the medical and health services in undertakings;

Order No. 9-LDTN-ND of 5 August 1954 to issue regulations under the provisions of the Labour Code that relate to the employment of women and children;

Order No. 23-LDTN-LD-ND of 24 February 1955 to issue regulations concerning annual holidays in private undertakings.

---

[1] Viet-Namese texts and official French translations in the *Recueil de textes d'application du code du travail*, Ministry of Labour, Saigon, 1955, transmitted by courtesy of the Ministry of Foreign Affairs of the Republic of Viet-Nam. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1954*, p. 297.

YUGOSLAVIA

NOTE

A decree of 28 July 1955 (*Službeni List* of 10 August 1955) amended and supplemented the decree on children's allowances. The decree as amended included detailed provisions as to the beneficiaries and the children in respect of whom allowances were payable, qualifications for entitlement, calculation of allowances, mode of payment and the making of claims. The principal categories entitled to allowances were (i) wage and salary earners employed on Yugoslav territory, (ii) certain persons carrying on an independent professional activity, (iii) certain recipients of personal or disablement pensions and children receiving survivors, pensions and (iv) certain military personnel. Allowances were payable in respect of all children actually maintained by the recipient, including children born in and out of wedlock, adopted children, stepchildren, grandchildren and orphans. Allowances were payable normally until the child reached the age of fifteen years; after that age they were payable only in respect of children continuing their education and children permanently incapacitated for work, under the conditions laid down in the decree. The rate of allowance payable depended upon the resources of the family and upon the number of children maintained by the recipient. Translations of the decree into English and French appear in International Labour Office: *Legislative Series* 1955 – Yug.2.

By a resolution dated 14 June 1955 (*Službeni List* of 25 June 1955), the Federal Executive Council prohibited night work by persons under eighteen years of age in industry, construction and transport, subject to certain exceptions. The exceptions permitted orders to be made allowing night work by persons of between sixteen and eighteen years of age (*a*) where apprenticeship or vocational training make such work necessary in industries or occupations in which work has to be carried on continuously, (*b*) when unforseeable emergencies occur which are not of a periodical character and which interfere with normal working in an undertaking and (*c*) where, due to particularly serious circumstances, the public interest so demands. Translations of the resolution into English and French appear in International Labour Office: *Legislative Series* 1955 – Yug.1.

PART II

TRUST AND NON-SELF-GOVERNING TERRITORIES

A. Trust Territories

AUSTRALIA

TRUST TERRITORY OF NAURU

NOTE[1]

Movement of Natives Ordinance 1955

Section 2 of this ordinance repealed the Movement of Natives Ordinance 1921–1922 which placed restrictions on the movement of natives at night.

Criminal Code Amendment Ordinance 1955

Section 3 of this ordinance makes provision for the deletion from the Criminal Code (i.e., the First Schedule to the Criminal Code Act 1899 of the State of Queensland as in force in the Island of Nauru) of all references to corporal punishment.

[1] Note prepared by Mr. H. F. E. Whitlam, former Crown Solicitor, Canberra, government-appointed correspondent of the *Tearbook on Human Rights.*

TRUST TERRITORY OF NEW GUINEA

NOTE

Native Loans Ordinance 1955 (Papua and New Guinea)

This ordinance is described under the heading "Territory of Papua", on p. 284, below.

BELGIUM

TRUST TERRITORY OF RUANDA-URUNDI

NOTE [1]

The following texts valid for the Belgian Congo apply also to Ruanda-Urundi: [2]

Legislative ordinance No. 22/140 of 21 April 1955 concerning the weekly rest period and public holidays, supplementing the decrees consolidated by royal order of 19 July 1954.

Decree of 19 November 1955 amending the consolidating royal order of 25 January 1952 concerning insurance for employed persons against old age and premature death.

Regulations concerning Freedom of Residence

Ordinance No. 21/15 of 27 January 1955 (*Bulletin officiel du Ruanda-Urundi*, 28 February 1955, p. 41) supplementing ordinance No. 38 of 18 June 1925, provides that no person of European race may be permitted to reside in indigenous cities without special authorization from the territorial authorities.

Working Conditions

Ordinance No. 21/182 of 23 December 1955 (*Bulletin officiel du Ruanda-Urundi*, 15 January 1956, pp. 1–9) gives effect to several of the laws and regulations, consolidated by the royal order of 19 July 1954,[3] concerning working conditions for indigenous inhabitants. The ordinance deals with wages and benefits in kind, workers' housing, fines which may be imposed on workers, the employment book and card, recruitment, and penalties for failure to comply with the rules in force.

Education

The decree of 26 October 1955, providing for the establishment of a university at Elisabethville (Belgian Congo),[4] specifies that the university shall comprise faculties, schools and institutes situated either at the headquarters of the university or in other parts of the Belgian Congo or Ruanda-Urundi.

[1] Note prepared on the basis of information received throught the courtesy of Mr. Edmond Lesoir, Honorary Secretary-General of the International Institute of Administrative Sciences, Brussels, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] See below, section on Belgian Congo, p. 285.

[3] See *Yearbook on Human Rights for 1954*, p. 327.

[4] See below, section on Belgian Congo, p. 286.

FRANCE

TRUST TERRITORY OF THE CAMEROONS UNDER FRENCH ADMINISTRATION

NOTE

The following laws and regulations relating to all or some of the Non-Self-Governing Territories [1] also apply to the Trust Territory of the Cameroons under French administration:

Decree No. 55–567, of 20 May 1955 (*Journal officiel de la République française*, 21 May 1955, p. 5060), amending certain articles of the Act of 15 December 1952 to establish a Labour Code in the territories and associated territories of Overseas France, in particular, with regard to the procedure applicable to collective labour disputes.

Decree No. 55–642, of 20 May 1955 (*Journal officiel de la République française*, 22 May 1955, p. 5166), establishing an Overseas Students' Office.

Act No. 55–1489, of 18 November 1955 (*Journal officiel de la République française*, 19 November 1955, p. 11274), concerning the establishment of *communes de plain exercice* and *communes de moyen exercice*.

Decrees Nos. 55–572 and 55–573, of 20 May 1955 (*Journal officiel de la République française*, 21 May 1955, pp. 5069 and 5070), concerning additional measures to combat alcoholism.

Freedom of the Individual

Order No. 1323, of 19 February 1955 (*Journal officiel du Cameroun français*, 9 March 1955, p. 379), amends some of the provisions of order No. 3075 of 25 June 1951 concerning the maintenance of public order. In particular, it rescinds the provision authorizing the civil authority to impress civilians (civil servants or private individuals) in the event of emergency, in order to ensure the operation of essential services. The civil authority is now entitled only to call upon the armed forces, when circumstances so require, and, in exceptional cases, to requisition certain types of supplies. In addition, the use of weapons by the Army for the maintenance of public order is now subject to detailed regulations.

Property Rights

Decree No. 55–581, of 20 May 1955 (*Journal officiel de la République française*, 21 May 1955, p. 5082), concerning land reform in the Cameroons and Togoland, contains the same provisions as decree No. 55–580, of the same date,[2] which applies to French Equatorial Africa and French West Africa.

Regulations concerning Freedom of Expression

Decree No. 55–1236, of 19 September 1955 (*Journal officiel de la République française*, 21 September 1955, p. 9304), lays down administrative regulations defining the conditions for the application in the Cameroons of the Juvenile Publications Act, of 16 July 1949,[3] as amended by Act No. 54–1190, of 29 November 1954.[4]

Application to the Cameroons of the Labour Code for the Territories and Associated Territories of Overseas France

Order No. 2525, of 12 April 1955 (*Journal officiel du Cameroun français*, 13 April 1955, p. 573), provides that collective agreements between employers' organizations and organizations of workers in private firms shall be applicable to day labourers, manual workers or employees in administrative and technical departments of the Territory which, by their nature or the type of work they carry out, fall within the scope of such agreements.

Order No. 3787, of 7 June 1955 (*Journal officiel du Cameroun français*, 22 June 1955, p. 934), lays down rules for the establishment and operation of medical and health services jointly operated by several firms.

[1] See *infra*, pp. 287–8.

[2] See *infra*, p. 288.

[3] See *Yearbook on Human Rights for 1949*, pp. 70–72.

[4] See *Yearbook on Human Rights for 1954*, p. 320.

TRUST TERRITORY OF TOGOLAND UNDER FRENCH ADMINISTRATION

NOTE

The following laws and regulations relating to all or some of the Non-Self-Governing Territories apply also to the Trust Territory of Togoland under French administration.[1]

Decree No. 55–567, of 20 May 1955 (*Journal officiel de la République française*, 21 May 1955, p. 5060), amending certain articles of the Act of 15 December 1952 to establish a Labour Code in the territories and associated territories of Overseas France, in particular, with regard to the procedure applicable to collective disputes.

Decree No. 55–642, of 20 May 1955 (*Journal officiel de la République française*, 22 May 1955, p. 5166), establishing an Overseas Students' Office.

Act No. 55–1489, of 18 November 1955 (*Journal officiel de la République française*, 19 November 1955, p. 11274), concerning the establishment of *communes de plein exercice* and *communes de moyen exercice*.

Decrees Nos. 55–572 and 55–573, of 20 May 1955 (*Journal officiel de la République française*, 21 May 1955, pp. 5069 and 5070), concerning additional measures to combat alcoholism.

Property Rights

Decree No. 55–581, of 20 May 1955 (*Journal officiel de la République française*, 21 May 1955, p. 5082), concerning land reform in the Cameroons and Togoland, contains the same provisions as decree No. 55–580, of the same date,[2] which applies to French Equatorial Africa and French West Africa.

Regulations concerning Freedom of Expression

Decree No. 55–1236, of 19 September 1955 (*Journal officiel de la République française*, 21 September 1955, p. 9304), lays down administrative regulations defining the conditions for the application in Togoland of the Juvenile Publications Act of 16 July 1949,[3] as amended by Act No. 54–1190, of 29 November 1954.[4]

Political Rights

Act No. 55–426, of 16 April 1955 (*Journal officiel de la République française*, 17 April 1955, p. 3832),[5] amending previous legislation (*inter alia*, the decrees of 3 January and 25 October 1946), reorganizes the territorial and regional institutions of Togoland under French trusteeship.

Under Title I of this Act, the Commissioner of the Republic will be assisted by a Government Council (Conseil de gouvernement) composed of members elected by the Territorial Assembly, and not, as hitherto, by a Privy Council of officially appointed members. Except in an emergency, the Commissioner of the Republic may not exercise his statutory powers without prior consultation with the Government Council. The Council is responsible for supervising the enforcement of the Territorial Assembly's resolutions. Whereas the functions of the Privy Council were merely advisory, the Government Council has certain powers of decision: it passes on all bills to be submitted in its name to the Territorial Assembly and decides on certain questions, such as the grant of corporate status to administrative *circonscriptions*. Lastly, each member of the Government Council is vested with permanent rights of information and inquiry in regard to the activities of one of the administrative services of the Territory.

Title II of the Act extends the competence of the Togoland Territorial Assembly as a deliberative organ. The Assembly may now consider all bills and proposals concerning local matters which are not covered by a specific law or regulation. It may consider, in all cases, an expanded list of questions including: programmes for the execution of the development plan, the organization of extra-curricular and post-school activities, and methods for the application in the Territory of acts and decrees concerning, *inter alia*, low-cost housing, town-planning, teaching scholarships, charitable works and land-tenure regulations. The great majority of the Assembly's resolutions become final and are rendered enforceable by a decree in the form of an administrative regulation, unless annulled on grounds of *ultra vires* or illegality on the motion of the Minister of Overseas France or the Commissioner of the Republic, as the case may be. The Assembly may also give opinions on the advisability of adapting or extending the application of acts and decrees to the Territory.

Finally, Title IV of the Act provides that an administrative *circonscription* (*cercle* or sub-division) whose level of economic development is such as to provide assurance that resources will be adequate for the purpose of budgetary revenue, may be granted corporate status by the Government Council, on the advice of the Territorial Assembly. Such a *circonscription* then has its own property and budget, and the *conseil de circonscription* may exercise certain deliberative powers.

---

[1] See *infra*, pp. 287–8.

[2] See *infra*, p. 288.

[3] See *Yearbook on Human Rights for 1949*, pp. 70–72.

[4] See *Yearbook on Human Rights for 1954*, p. 320.

[5] The regulations for the application of this Act are to be found in decree No. 55–809 of 18 June 1955 (*Journal officiel de la République française*, 22 June 1955, p. 6222).

Application to Togoland of the Labour Code for the Territories and Associated Territories of Overseas France

Order No. 884-55/ITLS, of 28 October 1955 (*Journal officiel du territoire du Togo*, special number, 25 November 1955, p. 1), regulates the conditions of employment of women and children.

Order No. 919-55/ITLS, of 17 November 1955 (*Journal officiel du territoire du Togo*, 16 December 1955, p. 969), specifies the conditions and the period of notice required for the termination of indefinite-term employment contracts.

Order No. 990-55/ITLS, of 8 December 1958 (*Journal officiel du territoire du Togo*, 16 December 1955, p. 970), specifies the conditions for the application of the articles of the Act of 15 December 1952 relating to the suspension of employment contracts, in particular on the ground of the worker's ill health.

A number of orders dated 28 October 1955 (orders Nos. 885-55/ITLS to 889*bis*-55/ITLS — *Journal officiel du territoire du Togo*, special number, 25 November 1955, pp. 7–24) define in detail the procedure for the application of the articles of the Overseas Labour Code relating to medical and health services operated by one or more enterprises.

ITALY

TRUST TERRITORY OF SOMALILAND

NOTE

Property Rights

The text of ordinance No. 12, of 28 May 1955, on the expropriation of real estate and related rights for public purposes (*Bollettino Ufficiale* No. 6, of 1 June 1955) appears below.

Electoral Rights

Extracts appear below from ordinance No. 6, of 31 March 1955, on the elections to the Territorial Council (*Bollettino Ufficiale* No. 4, Supplement No. 2, of 20 April 1955).

Social Security

Ordinance No. 11, of 20 May 1955 (*Bollettino Ufficiale* No. 6, of 1 June 1955), increased from one-half to two-thirds of the daily wage the daily compensation for temporary incapacity due to accident at work envisaged by article 28 of ordinance No. 27, of 7 December 1951.[1] It was also made possible for the recipient of a pension for permanent incapacity not exceeding 30 per cent to request payment of a lump sum instead.

Industrial Property

Ordinances Nos. 1, 2 and 3, of 22 January 1955 (*Bollettino Ufficiale* No. 1, Supplement No. 2, of 25 January 1955), made provision for the protection of patents for industrial inventions and trade marks.

[1] See *Yearbook on Human Rights for 1954*, p. 321, footnote 2.

ORDINANCE No. 12 ON THE EXPROPRIATION OF REAL ESTATE AND RELATED RIGHTS FOR PUBLIC PURPOSES

of 28 May 1955[1]

Art. 1. All real estate and rights pertaining thereto may be expropriated for the execution, through construction, alteration and utilization, of works declared as being of public utility by decree of the competent authorities.

Art. 2. All works which must be executed in the public interest on behalf of the central administration, of the administrations of provinces and districts, of the municipal administration of Mogadiscio and of the administrations of municipal services shall be considered as works of public utility.

All works undertaken for the purpose of protecting and increasing the historical, artistical and cultural patrimony of the territory shall likewise be considered as being of public utility.

Art. 3. The Provincial Commissioner shall, in every case, be competent for the declaration of public utility. He shall take his decisions by decree to which shall be attached the plan of expropriation describing in detail each property to be expropriated together with the indication of the territorial limits, any information contained in the land register and all pertinent data concerning the owners.

Art. 4. The declaration of public utility shall be made known through the insertion of excerpts thereof in the official bulletin of Somaliland.

The plan of expropriation shall be deposited at the office of the municipal administration competent for the area where the works are to be performed; should the works be executed on an area which falls under the jurisdiction of several municipal administrations, each municipal office shall receive an expropriation plan covering the part of the area for which it is competent.

The deposit of the plan and the area concerned, as well as the duration and the purpose of the plan, shall be made public by the head of the municipal administration by means of public proclamation and by all usual forms of publication considered suitable for ensuring knowledge on the part of interested persons. Furthermore, the deposit of the plan shall be made public by the municipal authority by notice posted on the municipal bulletin board and through insertion of the said notice in the official

[1] The ordinance was published in *Bollettino Ufficiale* No. 6, of 1 June 1955. Translation by the United Nations Secretariat.

bulletin of Somaliland, at the same time as the declaration of public utility.

Any interested person may, within thirty days of the date of publication, lodge an appeal by writing against the declaration of public utility, or the plan of expropriation, or both, with the Provincial Commissioner, who shall decide within a period of fifteen days, and shall issue a decree together with a statement of the reasons for his decision.

Appeal may be lodged with the Administrator against the decree of the Provincial Commissioner within fifteen days of its notification. The Administrator shall take a final decision within the twenty following days.

Art. 5. Compensation for expropriation is fixed, on the request of the Provincial Commissioner, by a commission designated according to a decree of the Administrator and composed of the Judge of Somaliland, acting as chairman; an official of the Inspectorate of Public Works; an official of the Technical Office of the Treasury; and two councillors of the municipal administration of Mogadiscio appointed by the head of this administration.

This commission shall be competent for the whole territory and shall have its seat in Mogadiscio. It shall take its decisions by a simple majority vote; if a vote is equally divided, the chairman shall decide. To discharge its functions, the commission may request the assistance of experts, inspect the expropriated estate and also hear the interested parties on the basis of cross examination.

Within fifteen days of the notification of the decision taken by the commission appeal may be lodged against it with the Administrator, who shall take a final decision within an equal period of time.

The costs of the survey and of the convening of the Commission shall be assumed by the expropriator.

Art. 6. After the declaration of public utility and the plan of expropriation have become final and the amount of the compensation has been set, the Provincial Commissioner shall issue the expropriation decree and order the payment of the compensation and the immediate occupation of the estate. No appeal may be lodged against this decree.

Art. 7. Should urgent reasons of public utility and public interest justify it, the Provincial Commissioner, having previously obtained the authorization of the Administrator, may proceed, after issuing a decree stating the reasons for his decision, to the expropriation of the real estate mentioned in article 1 above, without complying with the procedure provided for in this ordinance. He shall immediately deposit the compensation at a public credit institute and the plan of expropriation at the offices of the competent municipal administrations.

In such a case, appeal may be lodged regarding the amount of the compensation granted, which shall be assessed in accordance with the provisions of paragraph 4 of article 5 above and within the time-limits set in that paragraph.

ORDINANCE No. 6 ON THE ELECTIONS TO THE TERRITORIAL COUNCIL

of 31 March 1955 [1]

CHAPTER I

THE TERRITORIAL COUNCIL

Art. 1. The Territorial Council shall be elected by universal male suffrage: the population residing outside the municipal districts shall vote through indirect elections by means of shirs [2] and of electoral representatives; the population of municipalities shall vote by direct ballot.

Each electoral representative and municipal elector shall vote by direct, free and secret ballot for one of the competing lists of candidates.

Representation shall be proportional.

Art. 2. The number of territorial councillors to be elected shall by sixty, and seats shall be assigned to electoral districts in proportion to the number of electors residing in each circumscription.

. . .

Art. 3. Voting is a moral obligation that no one can evade without failing in duty towards his country.

Art. 4. In addition to the councillors mentioned in article 2 above, the Territorial Council shall include representatives of the ethnic minority groups in the following numbers:

Four Italians, four Arabs, one Indian and one Pakistani, who will be elected by their respective groups in accordance with rules to be established by decree of the Administrator.[3]

. . .

[1] The ordinance was published in *Bollettino Ufficiale* No. 4, Supplement No. 2, of 20 April 1955 and entered into force on the day of its publication. Translation by the United Nations Secretariat.

[2] Customary assemblies.

[3] This provision was implemented by decree No. 215, of 26 November 1955 (*Bollettino Ufficiale* No. 12, of 1 December 1955), articles 1–3 of which provided:

"*Art. 1.* Representatives of minority communities in

CHAPTER II

THE ELECTORATE

Art. 5. All Somalis who, according to local customs, have the right to participate in the shirs and who are not resident in a municipal circumscription, shall be entitled to vote in the primary elections held for the designation of electoral representatives.

The following persons shall be entitled to take part in the direct elections for the designation of territorial councillors:

The electoral representatives designated by the shirs and whose election has been confirmed by the regional judge;

The Somalis, inscribed in the electoral registers of the municipalities, who have reached twenty-one years of age on the date of the elections, who are not incapacitated or deprived of civil rights for reasons of insanity, and who have not been deprived of their civil rights by a penal sentence. No persons who have been convicted to imprisonment for a period of more than three years for a wilful offence may be inscribed in the electoral registers.

. . .

Art. 6. All primary electors participating in a shir and all persons inscribed in the electoral lists of the municipalities shall have only one vote each at their disposal. All electoral representatives shall have at their disposal a number of votes equal to the number of primary electors having voted for them during the shir, plus their own vote.

The primary elector shall vote according to the procedure traditionally used in the shir. The electoral representatives and the municipal electors shall vote by making a mark with an indelible pencil on the distinctive device of the list of candidates they have chosen.

The vote shall be personal and no form of representation or voting by mail shall be admitted.

. . .

CHAPTER III

ELIGIBILITY

Art. 8. All Somalis who will have reached the age of thirty years on the day of the elections, who can read and write either in Arabic or in Italian, who have resided in the Territory for at least one year and who are not in a condition of insanity may be elected as territorial councillors.

Art. 9. The following may not be elected as territorial councillors:

(*a*) Provincial and district commissioners and the heads of the municipalities;

(*b*) Judges;

(*c*) Soldiers and members of groups organized on a military basis.

Art. 10. The office of territorial councillor and that of municipal councillor are incompatible.

. . .

CHAPTER V

PRELIMINARY STEPS FOR THE ELECTIONS

. . .

Art. 39. Electoral propaganda gatherings and meetings may begin thirty days prior to the day on which the elections are to be held.

Meetings and gatherings connected either directly or indirectly with electoral propaganda, in public places or in places open to the public, are forbidden both on the day preceding the elections and on election day.

On election day no kind of electoral propaganda is permitted within 200 metres of the entrance of any polling station.

CHAPTER VI

VOTING

. . .

Art. 48. No form of representation or vote by mail shall be admitted.

The blind, persons without hands, and paralysed or seriously crippled persons shall exercise their electoral right with the assistance of another elector belonging to their own family or, failing that, by another elector freely chosen for an escort, provided they both are registered in the electoral lists of the same polling station.

No elector may escort more than one invalid. Mention of this fact shall be made by the chairman of the station on the electoral certificate of the person acting as an escort.

Electoral representatives or their substitutes may not ask any other person to exercise for them their right to vote.

. . .

---

the Territorial Council, as mentioned in article 4 of ordinance No. 6, of 31 March 1955, shall be elected by electoral committees of the respective communities by free, direct and secret ballot from a list of candidates.

"Each community shall see to the nomination of its own candidates and to the election of its electoral committee through assemblies of their own members, in the manner indicated in the following articles.

"*Art. 2.* All members of the said communities who have maintained their permanent residence in the territory for at least one year and who have achieved the age of twenty-one shall be entitled to take part in the assemblies referred to in the preceding article.

"*Art. 3.* All members of ethnic minority communities who have maintained their permanent residence in the territory for at least one year, who are able to read and write either in Arabic or in Italian and who have achieved the age of twenty-one may be elected territorial councillors.

"Members of the armed forces and of groups organized on a military basis shall not be so eligible."

NEW ZEALAND

TRUST TERRITORY OF WESTERN SAMOA

WESTERN SAMOA LEGISLATIVE ASSEMBLY REGULATIONS 1948, AMENDMENT No. 2

(Adopted in 1955)

NOTE[1]

These regulations provide that the receipt from the Samoan treasury of certain payments specified will not operate to disqualify Samoan members and European members of the Legislative Assembly of Western Samoa.

---

[1] Information furnished by the Government of New Zealand.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

TRUST TERRITORY OF TANGANYIKA

THE TANGANYIKA (LEGISLATIVE COUNCIL) (AMENDMENT) ORDER IN COUNCIL, 1955

of 17 March 1955 [1]

2. Clauses V, VI, VII, VIIA, VIIB, VIIC, VIID, VIIE, VIIF, and VIII of the principal order [2] shall be revoked and the following clauses shall be substituted therefor:

. . .

"V. The Council shall consist of–

(*a*) A Speaker;

(*b*) Such number of *ex officio* members as Her Majesty may, by instructions given through a Secretary of State, from time to time direct;

(*c*) Such number of nominated members as shall together with the *ex officio* members make up a total of thirty-one;

(*d*) Thirty representative members (being ten Africans, ten Asians and ten Europeans) of whom twenty-seven shall represent constituencies and three shall represent such interests as the Governor may think fit; and

(*e*) Such temporary members, if any, as may be appointed in accordance with clause VIH of this order.

. . .

"VIB. (1) The Governor shall by proclamation published in the *Gazette* divide the territory into nine areas (hereinafter referred to as "constituencies") and each constituency shall be represented in the Council by three representative members, of whom one shall be an African, one an Asian and one a European.

(2) Any proclamation issued under this clause may be revoked or varied by the Governor by a further proclamation.

"VIC. Subject to the provisions of this order, the representative members who shall represent any constituency in accordance with clause VIB of this order shall be such persons as may be appointed in that behalf by the Governor by instrument under the Public Seal.

"VID. (1) A law enacted under this order–

"(*a*) May provide that the three representative members who shall represent any constituency in accordance with the provisions of clause VIB of this order shall not be appointed by the Governor as provided by clause VIC of this order but shall instead be elected;

"(*b*) May, subject to the provisions of this order, provide for the election of such members; and

"(*c*) May provide for the vacation by representative members who have been appointed of seats in the Council which are, under the provisions of any such law, to be filled by election.

. . .

"VIF. A person shall not be qualified to be appointed as a nominated member, or to be appointed or elected as a representative member, of the Council who

"(*a*) Is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State; or

"(*b*) Is an undischarged bankrupt, having been declared a bankrupt under any law in force in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction; or

"(*c*) Has, in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction, been sentenced 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

"(*d*) In the case of a representative member, holds or is acting in any office of emolument under the Crown in the territory; or

"(*e*) Is a party to any subsisting contract with the Government of the Territory for and on account of the public service and

. . .

(ii) In the case of a representative member who is to be elected, has not, within one month before the

[1] Text published as *Statutory Instruments* 1955, No. 430, H.M. Stationery Office, London. The order was made on 17 March 1955, was laid before Parliament on 22 March 1955 and came into operation on 23 March 1955.

[2] "Principal order" signifies the Tanganyika (Legislative Council) Order in Council, 1926.

day of election, published in the English language in the *Gazette* and in a newspaper circulating in the constituency in which he seeks election a notice setting out the nature of such contract and his interest therein; or

"(*f*) Is a person certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in the Territory.

"VIG. . . .

"(2) Without prejudice to the provisions of clause VID of this order (which provides that provision may be made by law enacted under this order for the vacation of his seat by a representative member in certain circumstances) the seat in the Council of a nominated member or a representative member shall become vacant

(*a*) Upon a dissolution of the Council . . .; or

(*b*) If he is absent from the sittings of the Council for a period of more than twelve consecutive months or is absent from two consecutive meetings of the Council and, before the end of such period or the end of the second of such meetings, as the case may be, the Governor in the case of a nominated member, or the Speaker in the case of a representative member, has not by writing under his hand excused such absence; or

(*c*) If he becomes a party to any contract with the Government of the territory for or on account of the public service without the prior consent of the Governor; or

. . .

(*f*) If, in the case of a representative member who has been elected, any circumstances arise which, if he were not a member of the Council, would by virtue of the provisions of this order cause him to be disqualified for election as a representative member.

"(3) A nominated member or a representative member who has been appointed may by writing under his hand addressed to the Governor, and a representative member who has been elected may by writing under his hand addressed to the Speaker, resign his seat in the Council, and upon receipt of such resignation by the Governor or the Speaker, as the case may be, the seat of such member shall become vacant."

. . .

THE EMPLOYMENT ORDINANCE, 1955

Ordinance No. 47 of 1955, assented to on 10 November 1955 [1]

SUMMARY

The Employment Ordinance 1955 amended and consolidated much of the law relating to labour and conditions of employment in Tanganyika. Matters dealt with therein included contracts of employment; protection of wages; conditions of employment of women, young persons and children; care and welfare of African employees; regulation of recruitment; and prohibition of forced labour.

Once in every twelve months any employee under oral contract having worked for not less than 288 days within the preceding twelve months for an employer was to be entitled to a holiday with pay at the rate of at least one day in respect of each period of two months' service.

Employment of children under the apparent age of twelve was prohibited, excepting employment by and in the company of a parent or guardian on light work of an agricultural or other approved character. No child (that is to say, a person under the apparent age of fifteen) or young person (that is to say, a person of over the apparent age of fifteen but under the apparent age of eighteen) was to be employed in any employment injurious to health, dangerous or otherwise unsuitable. Restrictions were placed upon the employment of children in industrial undertakings, in attendance on machinery and on ships, and upon the employment of women and young persons on night work and in mines.

Except where only members of the same family are employed in the undertaking, a female employee in any industrial or commercial undertaking was not to be required to work for six weeks following a confinement and was given the right to leave work six weeks before the probable date of confinement and the right to be allowed half an hour twice a day to nurse her child.

Duties were placed upon the employers of African employees in relation to the provision of housing, food, water, medical aid and certain other aspects of care and welfare.

It was forbidden to impose or permit forced labour for the benefit of private persons. The Governor was authorized to consent to the imposition of forced labour when satisfied:

"(*a*) That the work to be done or the service to be rendered is of important direct interest to the community called upon to do the work or render the service;

[1] Published in Supplement No. 1 to the *Tanganyika Gazette*, Vol. XXXVI, No. 64, of 11 November 1955. The ordinance is to be brought into force on 1 January 1957.

"(*b*) That the work or service is of present or imminent necessity;

"(*c*) That it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and

"(*d*) That the work or service will not lay too heavy a burden on the community concerned, having regard to the labour available and its capacity to undertake the work."

Subject to these and further conditions, the Governor was authorized also to delegate his power to impose forced labour to any provincial commissioner. Forced labour was to be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the area in which the labour was employed or in the area in which the labour was recruited, whichever may be the higher. Provisions from time to time governing accident compensation were to apply to forced labour.

Extracts from the ordinance appear in International Labour Office, *Legislative Series* 1955 – Tan.1.

TRUST TERRITORY OF TOGOLAND UNDER BRITISH ADMINISTRATION

THE TOGOLAND UNDER UNITED KINGDOM TRUSTEESHIP (PLEBISCITE) ORDER IN COUNCIL, 1955

of 22 December 1955 [1]

3. (1) There shall be a plebiscite in Togoland for the purpose of ascertaining which of the following alternatives would be preferred by the people of Togoland upon the relinquishment by Her Majesty's Government in the United Kingdom of their responsibility for the government of the Gold Coast — namely,

(*a*) That Togoland should be united with the Gold Coast and should cease to be administered under the Trusteeship System of the United Nations; or

(*b*) That Togoland should be separated from the Gold Coast and should continue for the time being to be administered under the Trusteeship System of the United Nations.

. . .

5. (1) Subject to the provisions of this Order, the Governor may by regulation make provision for the registration of voters, the conduct of the plebiscite, all matters incidental or ancillary thereto, and generally for the purposes of this Order.

(2) Regulations made under this section shall make provision

. . .

(*e*) For the lodging of petitions relating to any dispute concerning the result of the voting in each district and for the time and manner in which such petitions are heard and determined;

(*f*) For giving effect to any directions given under subsection (2) of section 10 of this Order; and

. . .

6. (1) A register of voters shall be prepared for each ward for the purposes of the plebiscite, and every person whose name is included in the register prepared for any ward shall, subject to the provisions of this section, be entitled to cast a vote in that ward in favour of one or other of the alternatives specified in sub-section (1) of section 3 of this order.

(2) Every person who –

(*a*) Is of the age of twenty-one years or upwards at the date of his application; and

(*b*) Has resided in Togoland for a period of at least twelve months, or for periods amounting in the aggregate to twelve months, during the two years immediately prior to the date of his application

shall, subject to the provisions of this section, be entitled to apply to be registered as a voter in the plebiscite in a ward in which he is resident at the date of his application.

(3) No person shall be entitled to be registered as a voter who

(*a*) Has, in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction, been convicted of any offence not involving dishonesty and sentenced to death or to imprisonment (by whatever name called) for a term exceeding twelve months or been convicted of any offence involving dishonesty, and has not been granted a free pardon:

Provided that if five years or more have elapsed since the termination of any sentence of imprison-

[1] Text published as *Statutory Instruments* 1955, No. 1956, H.M. Stationery Office, London. The Order was made on 22 December 1955, was laid before Parliament on 30 December 1955 and came into operation on 31 December 1955. The report of the United Nations Plebiscite Commissioner for the Trust Territory of Togoland under British Administration is contained in United Nations documents A/3173 and A/3173/Add.1.

ment awarded in respect of the conviction or, if no such sentence has been awarded, since the conviction, the person shall not be disqualified from being registered 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 the time being in force in the Gold Coast or Togoland; or

(*c*) Is disqualified from being registered as an elector or from voting in an election under any law for the time being in force in the Gold Coast or Togoland relating to offences connected with elections.

(4) No person shall be entitled to be registered as a voter in the plebiscite more than once, or, subject to the provisions of section 10 of this order, to vote more than once in the plebiscite.

7. (1) There shall be a Plebiscite Administrator, who shall, subject to any directions given by the Governor under sub-section (1) of section 9 of this order, be responsible for the conduct of the plebiscite.

(2) The Plebiscite Administrator shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State:

Provided that no person shall be appointed who is a native of the Gold Coast or Togoland or who is in the service of the Crown in respect of the government of the Gold Coast and Togoland.

. . .

8. (1) There shall be a special court or, if Her Majesty shall so direct by instructions given to the Governor through a Secretary of State, two or more special courts, which shall hear and determine petitions for which provision is made by regulations made under paragraph (*e*) of sub-section (2) of section 5 of this Order.

(2) A special court shall consist of a judge, who shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State:

Provided that no person shall be appointed who is a native of the Gold Coast or Togoland or who is in the service of the Crown in respect of the government of the Gold Coast and Togoland.

(3) The judge of a special court shall hold his office during Her Majesty's pleasure.

. . .

10. (1) The decision of a special court in respect of any petition heard and determined by the court, including the findings of the court upon the facts of the case, shall be transmitted to the Plebiscite Administrator.

(2) The Plebiscite Administrator may, if he considers it desirable so to do in the light of any decision of a special court relating to any dispute concerning the result of the voting in any district, declare that the result of the voting in that district is invalid, and direct that the voters registered in each ward of that district shall be given a further opportunity of voting for the purposes of the plebiscite.[1]

11. The Governor, the Plebiscite Administrator, a special court and the officers appointed under sub-section (3) of section 7 of this order shall afford to the United Nations Plebiscite Commissioner and all other persons appointed to observe the plebiscite on behalf of the United Nations facilities for the due discharge of their functions, and the United Nations Plebiscite Commissioner and those other persons may make representations concerning the conduct of the plebiscite to such persons and in such manner as may be agreed between the Governor and the United Nations Plebiscite Commissioner.

. . .

---

[1] Sub-section (2) of section 10 was amended by the Togoland under United Kingdom Trusteeship (Plebiscite) (Amendment) Order in Council, 1956 (*Statutory Instruments*, 1956, No. 416) to read as follows:

"(2) The Plebiscite Administrator may, if he considers it desirable so to do in the light of any decision of a special court relating to any dispute concerning the result of the voting in any district, declare invalid the result of the voting in any or all of the wards in that district and direct that the voters registered in each ward in respect of which such a declaration shall have been made shall be given a further opportunity of voting for the purposes of the plebiscite."

The amending order was made on 22 March 1956, was laid before Parliament on 27 March 1956 and came into operation on 1 April 1956.

B. Non-Self-Governing Territories

AUSTRALIA

TERRITORY OF PAPUA

NOTE[1]

Native Loans Ordinance 1955 (Papua and New Guinea)

This ordinance provides for the establishment of a Native Loans Board (section 4) to administer a trust account to be known as the Native Loans Fund (section 10). Section 11 of the ordinance reads as follows:

"11. (1) The Board may approve payment, out of money available in the Fund, of such sums as the Board deems necessary for the purposes of carrying out its powers under this ordinance and in particular for the purposes of making loans in the form of advances of money, or in the form of goods, to borrowers for the following purposes:

(*a*) Furthering Native economic projects in primary and secondary industries or of a commercial nature;

(*b*) Furthering Native welfare projects on a local government or community or group basis; and

(*c*) Such other purposes consistent with the purposes of this ordinance as the Administrator, on the recommendation of the Board, approves.

"(2) At any one time the total value of outstanding loans to any one borrower shall not exceed five thousand pounds."

[1] Note prepared by Mr. H. F. E. Whitlam, former Crown Solicitor, Canberra, government-appointed correspondent of the *Yearbook on Human Rights*.

BELGIUM

BELGIAN CONGO

NOTE[1]

General Working Conditions

The decree of 27 July 1955 (*Bulletin officiel du Congo belge*, part I, 1 September 1955, pp. 1253–1260) provides that every employer who employs more than twenty workers within a certain area is under a duty to draw up employment rules.[2] The rules must contain particulars relating to hours of work, rest days, the manner in which the remuneration is determined, additional pay for overtime and penalties and fines. These rules and draft rules, and the translation therein of the language spoken in the region, are to be posted and workers are to be informed of them on entering the employer's service. For three months after the entry into force of the employment rules, the workers or the works council (if any) may submit comments to the employer and to the labour inspector.

An employer who knowingly causes or permits work to be carried on in a manner which contravenes the provisions of this decree is liable to a fine. Any person who impedes the exercise of the powers conferred by the decree on certain officials responsible for supervising the application of the legislative provisions summarized above is liable to imprisonment for a term not exceeding fifteen days and to a fine, or to one of these penalties.

Remuneration of Work

The decree of 29 December 1955 (*Bulletin officiel du Congo belge*, part I, 31 December 1955, pp. 1752–1756) amended several provisions of the decree of 5 December 1933 concerning indigenous *circonscriptions*. The decree of 29 December 1955 provides, firstly, that every able-bodied adult inhabitant of the indigenous *circonscriptions* is required, for a period not exceeding forty-five days each year, to perform certain agricultural work exclusively for his own account and in his own interest. Secondly, the indigenous *circonscriptions* are required, under the decree, to carry out certain collective tasks related specifically to public health, the construction and maintenance of schools and means of communication, afforestation and irrigation. Under the terms of the decree of 5 December 1933, these latter tasks were formerly required to be performed without remuneration; under the new decree, they will be carried out by the employment of voluntary labour remunerated at the usual wage rates for the region. Only if there is not sufficient voluntary labour may any able-bodied male adult be compelled by the indigenous authority to do his share in the collective tasks, in return for remuneration.

Right to Leisure

Legislative ordinance No. 22/140, of 21 April 1955 (*Bulletin administratif du Congo belge*, part I, 30 April 1955, pp. 615–616), which supplements article 19 of the consolidating royal order of 19 July 1954 concerning contracts of employment,[3] provides that in any case in which the nature of the work so requires, the competent administrative authority may authorize the head of the undertaking not to grant the weekly rest period, or the rest period due on public holidays, subject to the condition that in any such case the workers must receive compensatory leave of twenty-four consecutive hours in the two weeks preceding or following the day on which the rest period should have been granted.

Social Security

The decree of 19 November 1955 (*Bulletin officiel du Congo belge*, part I, 15 December 1955, pp. 1692–1693) amends some of the provisions of the consolidating royal order of 25 January 1952 concerning insurance for employed persons against old age and premature death. The new decree states, in particular, that the provisions in force concerning this insurance shall apply even during a period of notice and during the period in respect of which severance pay or indemnity for breach of contract is due.

The decree likewise provides that, if economic conditions warrant, the Crown, upon the proposal of the Minister for the Colonies and after consultation with the pension board for colonial employees, may order extra allowances in circumstances to be determined by the Crown. The decree provides, with immediate effect, for increases in certain retirement

[1] Note prepared on the basis of information received through the courtesy of Mr. Edmond Lesoir, Honorary Secretary-General of the International Institute of Administrative Sciences, Brussels, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] The relevant report of the Colonial Council (published in the above-mentioned issue of the *Bulletin officiel*, p. 1246) states that this decree applies only to indigenous workers.

[3] See *Yearbook on Human Rights for 1954*, p. 327.

benefits and in certain benefits paid to the widows of employees.

Education

The decree of 26 October 1955 (*Bulletin officiel du Congo belge*, part I, 17 November 1955, pp. 1558–1574) provides for the establishment of a university at Elizabethville having the status of a public institution with corporate personality. The university is to provide education and to award the degrees referred to in the decree relating to the award of academic degrees and to the programme of university examinations. The rector of the university is appointed by the Crown from a list of two professors submitted by the Academic Council (a body consisting of regular and special professors of the institution). The deans of the various faculties are each elected by the faculty concerned. The teachers, at the various levels, are appointed by the Crown upon the proposal of the governing body of the university. The governing body is composed of the rector, representatives of Belgian institutions of higher learning and two other persons who serve as vice-presidents. Among the powers of the governing body are those of deciding on the establishment of university faculties and schools and fixing registration fees. The rector has authority to order disciplinary action to be taken against students in certain cases (warning, or temporary suspension of the right to attend the university), while more serious action (suspension for longer periods, or expulsion) can only be ordered, as a rule, by the Academic Council; however, in any case in which the public interest so demands, the Governor-General, after consultation with the Academic Council, may make an order for the expulsion of a particular student from the university.

FRANCE

LEGISLATION CONCERNING THE OVERSEAS TERRITORIES AS A WHOLE

The reports relating to earlier years referred to the establishment of a new *Labour Code*, and to the legislation implementing it, in the Non-Self-Governing Territories under French administration.[1] The phase of the practical application of this legislation came in 1955.[2] The only innovation which needs to be mentioned is the enactment of decree No. 55–567, of 20 May 1955 (*Journal officiel de la République française* of 21 May 1955, p. 5060), which added provisions concerning the procedure of conciliation and arbitration in *collective labour disputes* to the Act of 15 December 1952. It is provided that, in the event of failure to achieve conciliation, then, before the arbitration board is applied to, an expert shall be appointed whose recommendation becomes enforceable if it receives the tacit approval of the parties. The matter is brought before the arbitration board only if the parties, or one of the parties, enter an application for a stay.

In the relations between metropolitan France and the people of distant territories, the development of human rights is evident not only in the provisions which deal with the position of the individual but also in the stimulus given the economic development of those territories, in the efforts to lift the whole population to a level of *material prosperity* and to provide the equipment necessary for the development of public services and for economic progress. In that connexion, decrees have been enacted which specify how the *plan of modernization and equipment* is to be carried into effect in the overseas territories (decree No. 55–556, of 20 May 1955, *Journal officiel de la République française* of 21 May 1955, p. 5034) and which lay down the mode of operation of the investment fund for economic and social development (decree No. 55–1598 of 1 December 1955, *Journal officiel de la République française* of 8 December 1955, p. 11974).

Decrees No. 55–642, of 20 May 1955 (*Journal officiel de la République française* of 22 May 1955, p. 5166) and No. 55–1512, of 21 November 1955 (*Journal officiel de la République française*, November 1955, p. 11385), establish an *Overseas Students' Office*, a public body whose function it is to facilitate the studies and promote the welfare of students from territories under the supervision of the Ministry for Overseas France who are studying in metropolitan France, North Africa or the overseas departments.

[1] Act No. 52–1322, of 15 December 1952. See *Yearbook on Human Rights for 1952*, pp. 72–73 and 352.

[2] See below, p. 289, for some examples of the application of this Act in various territories.

PROVISIONS CONCERNING CERTAIN TERRITORIES OF FRENCH EQUATORIAL AFRICA

Order No. 2772, of 18 August 1955 (*Journal officiel de l'Afrique équatoriale française* of 15 September 1955, p. 1188), co-ordinates and amends a large number of previous enactments and regulates in detail the *operation of penal establishments* and the employment of detained persons. In particular, the order provides that it is unlawful for the staff of the penal establishment to take any direct or indirect action affecting detained or accused persons which would influence their defence or choice of defending counsel. Lawyers may visit their detained clients every day, upon authorization from the competent judge which is valid for the entire duration of the proceedings or until revoked.

A lawyer may correspond freely with his client and speak with him in a place provided for the purpose where the guards are not present. Defendants awaiting trial may correspond with other persons daily and without limitation, provided that their letters contain no political references or accusations or allegations with respect to public authorities or third parties. Persons awaiting trial are not required to do any work except to take part in the tasks necessary for the maintenance of the establishment.

Convicted prisoners may be visited by members of their family and, as an exception, by other persons. They may correspond, twice a week as a rule, with their lawyers and members of their families, and, as an exception, with other persons, subject to the conditions regarding the contents of letters which apply to the correspondence of persons awaiting trial.

Work is compulsory for all convicted persons who are certified physically fit, except those serving police penalties for petty offences and persons under detention for debt and maintained by their creditors. Convicted persons are entitled to a weekly day of

rest and to compensation for employment accidents. Prison labour may be assigned to various public services and establishments. Part of the proceeds of their employment is paid into a special account and is paid out to the prisoners on release.

Offences committed by persons under detention (whether awaiting trial or convicted), are punishable by a series of specifically enumerated penalties (not, however, including any form of corporal punishment).

Women prisoners are segregated. The order also establishes a re-education centre for minors and contains special regulations applicable to minors.

Decree No. 55–580, of 20 May 1955 (*Journal officiel de la République française* of 21 May 1955, p. 5079),[1] reorganizes the system of *land tenure*. It strictly defines what constitutes state property and confirms customary land rights, which may be freely exercised subject to the applicable laws and regulations. It makes it possible for the holders of such customary rights to convert them into ownership rights by registration after a simple confirmation of the customary rights. The decree specifies that no concession of land may be granted unless the holders of customary rights in the land have expressly renounced their rights.

Act No. 55–1489, of 18 November 1955 (*Journal officiel de la République française* of 19 November 1955, p. 11274),[2] provides that *communes de plein exercice* may be established by decree at the instance of the Minister for Overseas France and on the advice of the territorial assembly concerned. This step may be taken only in the case of towns whose development is such as to ensure that they will have resources of their own adequate to balance their budgets. It is provided that the towns which are given the status of *communes de plein exercice* shall include both their indigenous and their European neighbourhoods. As regards voting rights and eligibility in the *communes*, the Act makes reference to Act No. 52–130, of 6 February 1952 (*Journal officiel de la République française* of 7 February 1952, p. 1587),[3] relating to the establishment of the group assemblies and local assemblies of French Equatorial Africa, French West Africa and Madagascar. The effect is that persons of either sex who possess French citizenship may take part in the election of the municipal council if they are over the age of twenty-one and are registered in the roll of electors, and that persons of either sex possessing personal status must, in order to have the right to vote, fulfil the same conditions and, in addition, belong to one of the categories specified in Act No. 46–2151, of 5 October 1946, as amended by Act No. 47–1606, of 27 August 1947,[4] or be the head of a household, the mother of two children who are alive or who have died in the service of France, or in receipt of a civil or military pension.

The conditions of eligibility for the municipal council are the same as those respecting the right to vote laid down in the above-mentioned Act of 6 February 1952, and apply to all citizens, whatever their status, subject to the provisions of the Act regarding disqualifications and to the provisions prohibiting the simultaneous holding of certain offices.

Except as otherwise provided by the Act, all the provisions of the Act of 5 April 1884 concerning communal organization, and the enactments amending it, as applied to the communes previously established in the African overseas territories (Dakar, St. Louis, Rufisque), are applicable to these communes. The municipal council appoints one of its members as mayor, and regulates the commune's affairs through its decisions. The commune's budget must be submitted to the chief territorial officer for approval. The municipal council cannot be dissolved, and the mayor cannot be recalled, except by decree of the President of the republic. Elections for a new municipal council must be held within two months of its dissolution. The Act also provides for the creation of *communes de moyen exercice* by order of the chief territorial officer on the advice of the territorial assembly. The provisions concerning the *communes de plein exercice* also apply to the *communes de moyen exercice*, except as concerns the selection of the mayor, who is an official appointed by the chief territorial officer.

Order No. 1013-ITTLS, of 22 November 1955 (*Journal officiel de l'Afrique équatoriale française* of 15 December 1955, p. 1624), specifies the minimum period of *notice of dismissal* in the case of workers not covered by a collective contract of employment.

In the field of *public health* protection, the measures taken in the campaign against alcoholism have been strengthened by decree No. 55–572, of 20 May 1955 (*Journal officiel de la République française* of 21 May 1955, p. 5069),[5] which gives the chief territorial officers additional powers to regulate the sale of liquor (establishment of protected zones where the retail sale of liquor is prohibited, number of retail outlets in proportion to population). In addition, decree No. 55–573, of the same date (*Journal officiel de la République française* of 21 May 1955, p. 5070), supplements the list of beverages whose importation is prohibited.[6]

[1] This decree also applies to French West Africa.

[2] This Act also applies to French West Africa and Madagascar.

[3] See *Yearbook on Human Rights for 1952*, p. 352.

[4] See *Yearbook on Human Rights for 1948*, p. 317.

[5] This decree also applies to French West Africa, Madagascar, the Comoro Islands and French Somaliland.

[6] This decree also applies to French West Africa and French Somaliland. Decree No. 55–574 of the same date (*Journal officiel de la République française*, of 21 May 1955), contains similar provisions applicable to Madagascar, the Comoro Islands, the French establishments of Oceania and New Caledonia.

EXTENSION OF THE LABOUR CODE TO CERTAIN OVERSEAS TERRITORIES

In *French West Africa*, Order No. 396-IGTLS-AOF of 18 January 1955 (*Journal officiel de l'Afrique occidentale française* of 29 January 1955, p. 213) was issued to specify how the provisions of the Labour Code relating to *health or medical services of undertakings* are to be carried into effect in the overseas territories. The undertaking's doctor is required to visit sick workers daily, to provide them with the necessary care and to maintain the preventive medical service. He advises the head of the undertaking regarding health conditions in the enterprise and the fitness of workers for their posts.

In French West Africa,[1] a series of local orders was issued to establish a system of *family allowances* for wage-earning workers.

---

[1] See, for example: Ivory Coast (Order No. 3198/ITLS-D of 13 December 1955, *Journal officiel de la Côte d'Ivoire* of 15 December 1955, p. 1041); Dahomey (Order No. 3198/ITLS-D of 9 December 1955, *Journal officiel du Dahomey* of 13 December 1955, p. 707); French Sudan (Order No. 3198/ITLS-D of 3 December 1955, *Journal officiel du Soudan français* of 15 December 1955, p. 893).

NETHERLANDS

NETHERLANDS NEW GUINEA

NOTE [1]

The Governor's decree of 7 January 1955 (*Government Gazette* 1955, No. 1) provided regulations concerning labour inspection and safety inspection. By appointing an official who has had a training at a secondary technical school the activities of the safety inspectorate were carefully started. Furthermore, in the year under review a second lawyer was attached to the labour inspectorate.

The Service for Social Affairs prepared in the year under review an official interpretation of what is to be understood by suitable housing, which was published under reference No. 56/OA/189 in January 1956. This was done in execution of the provision contained in section 4, sub-section 1 of the decree providing for modification and expansion of the so-called "coolie-decree" (3 October 1911, *Government Gazette of the Dutch East Indies* 1911, No. 540) reading as follows: "The employer is under an obligation to provide the workers at his expense with suitable housing at the estate . . ." in conjunction with the decree applying to employers and workers, belonging to the indigenous population, who on behalf of any undertaking conclude labour agreements (*Government Gazette* 1954, No. 67).

Finally, mention may be made of the entry into force of the decree on primary education and subsidies, appearing in *Government Gazette* 1955, No. 22.

[1] Note received through the courtesy of Dr. A. A. van Rhijn, Secretary of State for Social Affairs, government-appointed correspondent of the *Yearbook on Human Rights*.

ACT TO CONFIRM THE ADMINISTRATION OF NEW GUINEA DECREE of 9 June 1955 [1]

CHAPTER I

NEW GUINEA AND ITS INHABITANTS

Art. 3. (1) Slavery shall not be tolerated in New Guinea.

(2) Forced or compulsory labour falling within the provisions of the Convention concerning forced or compulsory labour (Geneva 1930) (*Staatsblad* 1933, No. 236) may not be exacted.

(3) The nature and duration of forced or compulsory labour not falling within the provisions of the convention referred to in the preceding paragraph, and the cases, the manner and circumstances in which it may be exacted shall, save for minor village services, be regulated by ordinance in conformity with existing customs, institutions and requirements.

Art. 4. All persons resident in the territory of New Guinea shall have equal rights to the protection of their persons and property.

Art. 5. Aliens shall not be extradited except in accordance with the provisions of treaties, and in such cases due regard shall be paid to the rules made in general administrative regulations and conforming as far as possible with the relevant statutory provisions in force in the Netherlands.

Art. 6. (1) The rules concerning admission to and settlement in New Guinea shall so far as necessary be prescribed by general administrative regulations and by ordinance.

(2) A person shall be deemed to be a resident of New Guinea if he is settled in New Guinea and his settlement is not in conflict with the provisions of the aforesaid enactments.

(3) Except as provided in article 37, paragraph (2), no resident can be debarred from living in any particular area of New Guinea.

(4) A person shall cease to be a resident of New Guinea if he ceases to be settled in New Guinea. A resident who leaves New Guinea and does not return to New Guinea within eighteen months shall be deemed, in the absence of evidence to the contrary, to have ceased to be settled in New Guinea.

(5) A minor or a person under guardianship shall be considered a resident of New Guinea if his statutory representative is a resident of New Guinea; this provision shall also apply in the case of a married woman (not being judicially separated) whose husband is a resident of New Guinea.

[1] Published in *Staatsblad* 1955, No. 247. Translation by the United Nations Secretariat.

(6) Any provisions relating to residence which are contained in other general enactments shall apply only to the extent of the matters dealt with in such enactments.

Art. 7. (1) Every Netherlands subject may be elected and appointed to any public office, and shall have the right to vote in accordance with the provisions laid down by ordinance.

(2) An alien shall not have the right to be elected or appointed to public office or the right to vote. Ordinances may be made to create exceptions concerning the right to participate in elections for the communities referred to in chapter VIII and in the case of appointments to certain offices.

Art. 8. (1) No person shall be required to obtain prior authorization for the purpose of expressing ideas or sentiments through the press.

(2) Provisions relating to the liability of writers, publishers, printers and distributors, and to the measures safeguarding public order and decency against the abuse of the freedom of the press, shall be enacted by ordinance.

Art. 9. (1) Every person shall have the right to submit petitions to the competent authorities, both in the Netherlands and in New Guinea.

(2) Petitions must be signed in person and not on behalf of others, unless they are submitted by or through a body that is constituted or recognized according to law, and in the latter case a petition shall not deal with any subject other than a subject within the scope of the specific activities of the body in question.

(3) Persons unable to write may, however, submit petitions through such officials as may be declared by the Governor to be competent for this purpose.

Art. 10. The exercise of the right of association and assembly may be declared, by ordinance, to be subject to the observance of regulations and restrictions laid down in the interest of public order, decency or health.

. . .

CHAPTER II

THE POWERS AND RESPONSIBILITIES OF THE GOVERNOR

. . .

Art. 37. (1) It is one of the most important duties of the Governor to protect the indigenous population, in particular against arbitrary acts from any source.

(2) For the purpose of the protection of the indigenous population, regulations may be enacted by ordinance by virtue of which:

A. The Governor is authorized to establish special regulations, including regulations restricting travel to and within the interior of New Guinea; regulations prohibiting residence in specified areas of New Guinea; regulations prohibiting imports of goods harmful to the population; regulations temporarily prohibiting the recruitment of workers by undertakings in specified areas;

B. For a specific period delimited areas of New Guinea are designated in which no settlement whatsoever is permitted for agricultural undertakings carried on by non-indigenous persons and in which mining undertakings must observe special conditions in the interest of the population.

. . .

Art. 39. (1) Under provisions to be enacted in general administrative regulations, the Governor shall have power to transfer land in ownership. The general administrative regulations shall specify the maximum area of land which may be transferred in ownership.

(2) Under provisions to be enacted by ordinance, the Governor shall have power to grant land on lease for terms not exceeding ten years and on long lease for terms not exceeding seventy-five years.

(3) The Governor shall ensure that no transfer of land infringes the rights of the indigenous population.

(4) The letting of land, or the grant of the use of land, by indigenous persons to non-indigenous persons shall be governed by regulations to be established by ordinance.

. . .

CHAPTER VI

THE NEW GUINEA COUNCIL

Part 1

COMPOSITION

Art. 72. (1) There shall be a New Guinea Council, consisting of twenty-one members.

(2) Ten of the seats shall be held by indigenous non-Netherlander subjects, save as provided in the final sentence of paragraph 6.

(3) Nine of the seats shall be held by Netherlander subjects.

(4) Two of the seats shall be held by non-indigenous non-Netherlander subjects.

(5) The ten indigenous non-Netherlander subjects shall be returned by constituencies to be established by ordinance, the number to be fixed by ordinance in respect of each constituency. The electors shall be the indigenous non-Netherlander subjects living in the constituency concerned, in conformity with regulations to be made by ordinance.

(6) For so long as the indigenous non-Netherlander subjects living in a particular constituency cannot be regarded as capable of exercising the right to vote, the seats mentioned in paragraph (2) shall be filled by members appointed by the Governor. For so long and so far as in the opinion of the Governor, no suitable indigenous non-Netherlander candidates are available, these seats shall be held by Netherlander subjects who shall then assume a particular responsi-

bility for looking after the interests of the population group in question.

(7) The question whether or when the indigenous non-Netherlander subjects living in the constituency concerned are deemed to be capable of exercising the right to vote shall be determined by ordinance.

(8) Of the seats referred to in paragraph 3, two shall be filled by election and seven by appointment by the Governor. The electors shall be the Netherlander subjects.

(9) Of the seats referred to in paragraph 4, one shall be filled by election and one by appointment by the Governor. The electors shall be the non-indigenous non-Netherlander subjects.

(10) The appointments shall be made by the Governor after consultation with the Council of Department Heads and, if they have been established, with the advisory bodies referred to in article 70.

(11) Elections in constituencies returning more than one member shall be on the basis of proportional representation. Elections in constituencies returning one member shall be on the basis of an absolute majority.

(12) If the number of seats which are to be filled by election is not filled by means of elections, the Governor shall make provision for filling the places by appointment, subject to the provisions of paragraph 10. These places shall then be deemed to have been filled by election.

Art. 73. If and in so far as the composition of the population groups in New Guinea (in consequence of economic developments or other factors) makes it proper to do so, changes shall be made in the number of members constituting the New Guinea Council, in the distribution of seats among the indigenous non-Netherlander subjects, Netherlander subjects and non-indigenous non-Netherlander subjects, and in the number of appointive and elective seats.

Art. 74. (1) Any Netherlands subject shall be entitled to vote who:

1. Has been resident in New Guinea since 1 January of the year in which the list of voters is drawn up;

2. Attained the age of twenty-three years before 1 March of the year in which the list of voters is drawn up;

3. Is in full possession of his civic rights; and

4. Either (*a*) fulfils the conditions laid down in the electoral regulations concerning intellectual development; or (*b*) pays taxes on an annual income, the minimum amount of which, not exceeding one thousand guilders, shall be laid down in the electoral regulations.

(2) In the case of indigenous non-Netherlander subjects and of non-indigenous non-Netherlander subjects, the electoral regulations may provide that the right to vote shall be completely or partly denied to women if such denial is in conformity with local custom.

(3) The electoral regulations shall make provision for all other matters relating to the right to vote and to the mode of election; the said regulations shall be promulgated by ordinance.

Art. 75. The following persons shall not have the right to vote:

(*a*) Persons deprived of the right to vote by a final judicial decision;

(*b*) Persons lawfully deprived of their freedom;

(*c*) Persons who, by a final judicial decision have been declared, by reason of insanity or mental deficiency, incompetent to administer or dispose of their property, or have been deprived of their parental authority or guardianship over one or more of their children;

(*d*) Persons who, by a final judicial decision, have been sentenced to imprisonment for a term exceeding one year, such persons being disqualified as voters for a period of three years after the termination of their sentence, and for life if such a sentence has been imposed a second time;

(*e*) Persons who, by a final judicial decision, have been sentenced to a penalty for begging or vagrancy, such persons being disqualified as voters for a period of three years after the termination of their sentence; for a period of six years if the sentence has been imposed for a second time; and for life if it has been imposed for a third time;

(*f*) Persons who, by a final judicial decision, have been convicted more than twice within a period of three years of a punishable offence, including drunkenness in public, such persons being disqualified as voters for a period of three years after the last conviction has become final.

Art. 76. Netherlands subjects who satisfy the conditions stipulated in article 74 may stand for election and be appointed.

Art. 77. (1) The following persons may not be elected or appointed:

(*a*) The Governor, the vice-chairman and the members and associate members of the Council of Department Heads, the Government Secretary, persons on active service in the armed forces, and diplomatic and consular representatives of foreign Powers.

(*b*) Persons who have been declared to be ineligible or who have been disqualified from the right to vote under the provisions of article 75, with the exception of persons who have been disqualified from the exercise of that right because they have been lawfully deprived of their freedom, or have been sentenced to a penalty involving deprivation of freedom, by reason of some act other than begging or vagrancy or

other than an act indicating drunkenness in public.

(2) So far as necessary, provision shall be made by ordinance for any consequences arising out of the simultaneous membership of the New Guinea Council and tenure of other offices the emoluments of which are paid out of public funds.

Art. 78. (1) The members of the New Guinea Council may not be related to one another in the first or second degree.

(2) If persons who are related to one another in the prohibited degrees are elected simultaneously, only that person will be admitted who has received the largest number of votes and, if the number of votes is equal, the person who is oldest. If, in the latter case, the ages are also identical, a decision shall be made by drawing lots.

. . .

Art. 82. (1) The members shall be entitled to tender their resignations at any time.

(2) Such resignation shall be submitted in writing to the Governor.

(3) A person shall cease to be a member if:

1. He ceases to be a resident of New Guinea or is absent from New Guinea for more than eight months (or for such other period as is specified by ordinance);

2. He loses the full enjoyment of civic rights;

3. Any of the circumstances occur which under article 77 disqualify a person from election.

[Chapter VIII, consisting of articles 120–4, concerns, *inter alia*, the establishment of local indigenous communities.]

CHAPTER IX

JUDICATURE

Part 1

GENERAL PROVISIONS

. . .

Art. 127. (1) No person may be dispossessed, in the public interest, of his property or rights unless such dispossession has previously been declared by ordinance to be necessary in the public interest and compensation has previously been paid or promised as provided by ordinance.

(2) No such previous declaration by ordinance and no such previous payment or promise of compensation due shall be required, however, if war, danger of war, rebellion, fire, drought, earthquake, volcanic eruption or other exceptional circumstances of like nature make it imperative to take possession of property or rights forthwith.

(3) An ordinance may be enacted specifying the cases, other than those enumerated in the preceding paragraph, in which a previous declaration by ordinance shall not be required.

. . .

Art. 129. It shall not be lawful to institute penal proceedings except before the judge, and in the manner, specified by ordinance.

Art. 130. In no case shall a convicted person be liable to the loss of all civil rights or to the confiscation of all his property as a penalty or in consequence of his conviction.

. . .

Art. 132. (1) Every judgement shall state the grounds on which it is based, and in criminal cases it shall indicate the articles of the statutory provisions on which the conviction is based.

(2) Judgement shall be given in public.

(3) The courts shall sit in public, save in exceptional cases in the interest of public order and morality as prescribed by ordinance.

Art. 133. (1) No person shall be deprived against his will of his lawful judge.

. . .

Art. 134. (1) A person may not be arrested or imprisoned except under a warrant issued by the authority empowered for the purpose by the criminal procedure ordinance and in the circumstances and in the manner specified therein.

(2) Any such warrant shall be served upon the person to whom it is addressed at the time of his arrest or as soon as possible thereafter.

(3) The form of the warrant and the time limit within which all arrested persons must be heard shall be specified by ordinance.

Art. 135. It shall not be lawful to enter residential premises or a dwelling against the will of the occupant except pursuant to an order issued by an authority empowered for that purpose by ordinance and subject to the observance of the formalities as prescribed by ordinance.

Art. 136. The secrecy of correspondence entrusted to the postal service or other public transport organizations shall be inviolable, unless orders to the contrary are given by a judge in the cases specified by ordinance.

Part 2

THE COMPOSITION OF THE JUDICIARY

. . .

Art. 143. (1) The President and the members of the Court of Justice shall be dismissed from office by the Crown:

(*a*) When they attain the age of sixty-five years;

(*b*) In the event of proved incapacity due to continuing mental or physical disease or to the infirmities of old age;

(*c*) If they are placed under guardianship.

. . .

Art. 144. (1) If the Governor considers that one of the reasons for dismissal enumerated in paragraph 1 (*b*) of the preceding article is present, he shall, after hearing the views of the Council of Depart-

ment Heads and after submitting all the relevant documents, propose to the Crown that the official concerned should be dismissed.

(2) He shall, by giving notification of his proposal, afford the official concerned an opportunity to attach his written defence to the documents.

(3) Pending a decision by the Crown, the Governor shall have the power to suspend the official concerned and to make provision for filling the office temporarily.

(4) The official concerned shall receive his full salary during the period of suspension.

(5) If the official so requests, he may, by means of a grant of leave with pay and free passage, be afforded an opportunity to proceed to the Netherlands to present his case.

(6) The decision concerning dismissal shall be made by the Crown.

Art. 145. (1) The President or any member of the Court of Justice may be removed from office by the Supreme Court of the Netherlands, sitting in chambers, by virtue of an express decision (which must be supported by reasons):

1. If he has been convicted of a criminal offence;

2. If he has been declared bankrupt, or has obtained a moratorium or has been imprisoned for debt;

3. If he has been guilty of misconduct or immorality or of proved and continuous negligence in the performance of his duties.

(2) The public prosecutor shall forward the relevant documents to the public prosecutor attached to the Supreme Court of the Netherlands with a view to the institution of proceedings.

(3) He shall immediately notify the official concerned of the action taken and offer the latter the opportunity to submit a written defence to the Supreme Court.

(4) If the Governor considers that one of the reasons for removal from office enumerated in paragraph 1 is present, he shall have the power, after hearing the opinion of the Council of Department Heads and pending the decision of the Supreme Court, to suspend the official concerned and to make provision for filling his office.

(5) The official concerned shall receive his full salary during the period of suspension.

(6) A judgement by which a judicial official who does not come within the foregoing provisions is convicted of a criminal offence shall also include an order for his dismissal.

Art. 146. (1) Any member of the judiciary who is committed for trial or remanded in custody pending trial or committed to a medical institution for the insane or against whom an order of arrest for debt has been made shall by reason of such committal, remand or order be suspended from office.

(2) Suspension from office shall not involve the suspension of the receipt of salary.

. . .

Art. 148. (1) The judicial power shall be exercised solely by the judges who are designated by ordinance.

(2) Any interference in judicial matters is prohibited.

. . .

CHAPTER X

RELIGION

Art. 150. (1) The right of every person to freedom of worship is recognized, subject to the protection of society and of its members against breaches of the criminal law, and this right is guaranteed against any statutory provisions or administrative regulations the effect of which would be to restrict, in a political, economic or social respect, any rights by reason of religious beliefs.

(2) Freedom of worship shall be interpreted to include:

(*a*) The freedom of every person to engage in worship according to his conscience and to bring up children in the faith of their parents;

(*b*) The freedom of every person to change his religious beliefs;

(*c*) The freedom to preach, instruct, publish, teach and engage in social and charitable activities, and the freedom to establish organizations and to acquire and possess property for these purposes.

Art. 151. All religious denominations and all religious communities shall receive equal protection.

Art. 152. The Governor shall ensure that all religious denominations and religious communities remain within the bounds of obedience to statutory provisions and to the constituted authorities.

Art. 153. All the adherents of the different religious views enjoy the same civic and civil rights and have equal access to dignities, offices and employments.

Art. 154. Public worship and divine service shall not be subject to any restrictions other than those laid down by ordinance in the interest of public order, peace and morality.

. . .

CHAPTER XII

DEFENCE

Art. 162. (1) All Netherlander subjects resident in New Guinea and all non-Netherlander subjects resident in New Guinea may be required by general administrative regulations to perform military service. Any decision to this effect shall take into account the general provisions to be enacted by or in pursuance of statute.

(2) General administrative regulations shall, in conformity with the general provisions to be enacted by statute, specify in what circumstances a person may be exempted from the performance of military

service on the grounds of serious conscientious objections.

(3) Persons liable to military service who are serving in the land forces may not be sent outside the country without their consent except by virtue of general administrative regulations.

Art. 163. The duties which may, in furtherance of the interests of the kingdom, be imposed on a person who is not liable to military service shall be regulated by ordinance. Such ordinance shall take into account the general provisions to be enacted by or in pursuance of statute.

. . .

CHAPTER XIII

EDUCATION, PUBLIC HEALTH AND POOR-LAW ADMINISTRATION

Art. 169. The Governor shall constantly encourage and promote the intellectual and physical development of the people.

Art. 170. (1) Education shall at all times be a subject of concern to the Governor.

(2) Education shall be free, subject to supervision by the authorities as prescribed by ordinance, and, so far as primary and secondary education are concerned, subject to investigation of the competence and good moral character of the teacher; the provisions relating to such supervision and investigation shall be laid down by ordinance.

(3) Public education shall be governed by ordinance, subject to respect for the religious beliefs of all persons.

(4) The standards of efficiency required of education the cost of which is defrayed wholly or partly out of public funds shall be specified by ordinance, due account being taken, so far as denominational education is concerned, of freedom of opinion.

(5) These standards shall, with respect to general primary education, be laid down in such terms that the efficiency of denominational education entirely financed out of public funds and of public education is adequately guaranteed. In particular, the freedom of denominational education as regards the selection of means of instruction and appointment of teachers shall be respected.

(6) Denominational general primary education and the training of teachers for that purpose that satisfy the conditions laid down in the ordinance shall be financed out of public funds to the same extent as public education. The conditions governing grants to be made out of public funds towards denominational general secondary education and preparatory higher education shall be laid down by ordinance.

(7) The Governor shall make a yearly report to the New Guinea Council on the state of education.

Art. 171. The furtherance of public hygiene and public health shall at all times be a subject of concern to the Governor.

Art. 172. The supervision to be exercised by the authorities over the state of public health and over all matters which concern the practice of medicine, surgery, midwifery and pharmacology shall be regulated by ordinance.

Art. 173. (1) The supervision of poor-law administration and of the necessary measures relating thereto shall be regulated by ordinance.

(2) Any provisions to be enacted as aforesaid shall respect the principle that social services provided by private or religious bodies shall be given full freedom and shall be encouraged as much as possible.

CHAPTER XIV

GENERAL PROSPERITY, TRADE AND NAVIGATION

Art. 174. (1) The increase of the general prosperity shall at all times be a subject of concern to the Governor.

(2) The Governor shall encourage all branches of industry.

. . .

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

ADEN COLONY

THE ADEN COLONY (AMENDMENT) ORDER, 1955

of 28 October 1955

NOTE

An elected element was introduced into the Aden Colony Legislative Council by the Aden Colony (Amendment) Order, 1955 (*Statutory Instruments* 1955, No. 1654), which was made on 28 October 1955, was laid before Parliament on 2 November 1955 and came into operation on 15 November 1955. As reconstituted by section 2 of the order, the Council was to consist of the Governor, four *ex officio* members, not more than five nominated official members, not more than five nominated unofficial members and four elected members, three representing electoral districts and one the Council of the Aden Municipality.

Section 5 of the order inserted the following new sections into the Aden Colony Order, 1944:

"7A. The elected members shall be persons qualified for election in accordance with the provisions of this order and elected in the manner provided by, or in pursuance of, any law or regulation for the time being in force in the colony.[1]

"7B. Subject to the provisions of section 7C of this order any person who

(*a*) (i) Is a British subject born in the colony, or

(ii) Not being born in the colony, is a British subject or British protected person and has resided in the colony for a period of seven years out of the ten years immediately before the date of his nomination for election; and

(*b*) Is a male person of not less than twenty-one years of age; and

(*c*) (i) Is the owner of immovable property within the colony of a value of not less than one thousand five hundred shillings, or

(ii) Has been, for twelve months out of the twenty-four months immediately preceding the date of his nomination for election, in occupation of residential or business premises in the colony of an annual value of not less than two hundred and fifty shillings, or

(iii) Has been in receipt of an average monthly income of not less than two hundred shillings during the twelve months immediately before the date of his nomination for election; and

(*d*) In the case of the person elected to represent the Council of the Aden Municipality, is at the date of his nomination for election either an elected member or an appointed member of such Council within the meaning of the constitution of the Aden Municipality granted under the Municipal Ordinance, 1953, or a member of any commission appointed by the Governor in pursuance of the provisions of that ordinance,

shall be qualified to be elected as an elected member, and no other person shall be qualified to be so elected.

"7C. No person shall be qualified to be appointed as a nominated unofficial member or elected as an elected member who

(*a*) Is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State; or

(*b*) Except in the case of the member elected to represent the Council of the Aden Municipality, holds, or is acting in, any office of emolument under the Crown in the colony; or

(*c*) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions; or

(*d*) Is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in the colony; or

(*e*) Has been sentenced by a court in any part of Her Majesty's dominions to death, or to imprisonment (by whatever name called) for a term exceeding twelve 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

(*f*) In the case of an elected member, is disqualified for election to the Council by any law or regulation for the time being in force in the colony by reason

[1] Extracts from the Legislative Council Elections Ordinance, 1955, appear below.

of his holding, or acting in, any office the functions of which involve

(i) Any responsibility for, or in connexion with, the conduct of any election, or

(ii) Any responsibility for the compilation or revision of any electoral register; or

(*g*) Is disqualified for membership of the Council by any law or regulation for the time being in force in the colony relating to offences connected with elections."

Section 6 of the order substituted two new sections for section 8 of the order of 1944, including the following:

"8. . . .

"(3) The seat of a nominated or elected member shall become vacant

(*a*) Upon his death; or

(*b*) If he shall be absent from three consecutive meetings of the Council without having obtained from the Governor, before the termination of any of such meetings, permission to be or to remain absent therefrom; or

(*c*) If, . . . being an elected member, [he] is appointed as a nominated member; or

(*d*) If he shall cease to be a British subject or cease to be a British protected person without becoming a British subject; or shall take any oath, or make any declaration or acknowledgement, of allegiance, obedience or adherence to any foreign Power or State; or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State; or

(*e*) If he shall be adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions; or

(*f*) If he shall be sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months; or

(*g*) If he shall become subject to any of the disqualifications specified in paragraphs (*d*) or (*g*), of section 7C of this order; or

(*h*) If, in the case of an elected member, he shall cease to have the qualifications specified in paragraph (*c*) of section 7B of this order or shall become subject to the disqualification specified in paragraph (*f*) of section 7C of this order; or

. . .

(*j*) If, being a nominated unofficial member or an elected member other than a member elected to represent the Council of the Aden Municipality who was at the date of his election holding an office of emolument under the Crown in the colony, he shall be appointed permanently to any such office.

"(4) If a nominated unofficial or elected member be appointed temporarily to any office of emolument under the Crown in the colony or shall be appointed to act in any such office, he shall not sit or vote in the Council so long as he continues to hold or act in that office.

. . .

"(7) (*a*) A nominated unofficial member or an elected member may, by writing under his hand addressed to the Governor, resign his seat in the Council, and upon receipt of such resignation by the Governor the seat of such member shall become vacant."

. . .

THE LEGISLATIVE COUNCIL ELECTIONS ORDINANCE, 1955

No. 25 of 1955, assented to on 29 September 1955 [1]

PART I

PRELIMINARY

. . .

5. (1) Subject to the provisions of sections 6 and 7 of this ordinance, a person shall be entitled to have his name placed or retained in a register of electors prepared under the provisions of this ordinance [2] if such person

(*a*) (i) Is a British subject born in the colony, or

(ii) Not being born in the colony, is a British subject or British protected person and has resided in the colony for a period of not less than two years out of the three years immediately preceding his application for registration as an elector; and

(*b*) Is on the date of his application for registration as an elector a male person of not less than twenty-one years of age; and

(*c*) (i) Is the owner of immovable property, within the colony of a value of not less than one thousand five hundred shillings; or

(ii) Has been for not less than twelve months out of the twenty-four months immediately preceding the date of his application for registration as an elector in occupation of residential or business premises in the colony of an annual value of not less than two hundred and fifty shillings; or

(iii) Has been in receipt of an average monthly income of not less than two hundred shillings during

[1] Published in *Legal Supplement No. 1* to the *Aden Colony Gazette Extraordinary* No. 50, of 1 October 1955.

[2] Section 37 makes entry on the register of electors conclusive evidence of the right to vote in an election to the Legislative Council.

the twelve months immediately preceding his application for registration as an elector.

. . .

6. No person shall be entitled to have his name entered or retained in any register of electors if such person

(*a*) Has taken any oath or made any declaration or acknowledgement of allegiance, obedience, or adherence to any foreign Power or State or does, concurs in or adopts any act done with the intention that he shall become a subject or citizen of any foreign Power or State or is the holder of a passport issued by any foreign Power or State; or

(*b*) Is under any written law found or declared to be insane; or

(*c*) Is disqualified from registration as an elector or from voting at any election by reason of his conviction of an election offence or illegal or corrupt practice; or

(*d*) Has been sentenced by a court in any part of Her Majesty's dominions to death, or to imprisonment (by whatever name called) for a term exceeding twelve 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;

7. (1) Subject to the provisions of this ordinance, a person shall be entitled to have his name entered in the register of one electoral division only, which shall be the electoral division in which he is normally resident.

. . .

PART III

ELECTIONS

. . .

[Sections 41 and 52 make provision for secrecy of voting.]

. . .

ELECTION AGENT, ELECTION EXPENSES AND ILLEGAL PRACTICES

. . .

72. (1) No person shall furnish or supply any loud-speaker, bunting, ensign, banner, standard, or set of colours, or any other flag, to any person with intent that it shall be carried, worn or used on a motor-car, truck or other vehicle, as political propaganda, on polling day and no person shall, with any such intent, carry, wear or use, on a motor-car, truck or other vehicle, any such loud-speaker, bunting, ensign, banner, standard or set of colours, or any other flag, on polling day.

(2) No person shall furnish or supply any flag or label to or for any person with intent that it be worn or used by any person within any electoral division on polling day, as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate; and no person shall use or wear any flag or label as such badge, within any electoral division on polling day.

. . .

BARBADOS

THE REPRESENTATION OF THE PEOPLE ACT, 1955

No. 46 of 1955, assented to on 15 December 1955 [1]

PART I

2. (1) In this Act, unless the context otherwise requires,

. . .

"Election" means an election of a member or members to serve in the General Assembly of this island;

4. (1) Save as hereinafter provided, every subject of Her Majesty, Her heirs and successors of twenty-one years and over shall be qualified to be elected a member of the General Assembly.

(2) The following persons are disqualified from being elected a member of the General Assembly; that is to say –

(*a*) Any clerk in holy orders or other minister of religion;

(*b*) Any person, the functions of whose office are of a judicial nature;

(*c*) Any person disqualified from being elected under this Act or any enactment relating to corrupt or illegal practices;

(*d*) An undischarged bankrupt having been declared a bankrupt under any law in force in any part of Her Majesty's practices;

5. (1) Subject to provisions of this Act, the persons entitled to vote as electors at an election in any constituency shall be those ordinarily resident there on the qualifying date, who on that date and on the date of the poll are of full age and not subject to any legal incapacity to vote and British subjects:

Provided that a person shall not be entitled to vote as an elector in any constituency unless registered there in the register of electors to be used at the election nor to vote as an elector in more than one constituency.

[1] Published in *Supplement to Official Gazette*, of 22 December 1955.

(2) A person shall not vote more than once in the same constituency at any election.

6. The following persons are disqualified from voting and incapable of being registered as electors and shall not vote or be so registered, that is to say –

(*a*) Any person found or declared to be a person of unsound mind or who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness by virtue of any enactment of this island;

(*b*) Any person who in any part of Her Majesty's dominions or in any territory under Her Majesty's protection has been sentenced to death or to penal servitude or to imprisonment for a term exceeding twelve months and has not either suffered his punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon;

(*c*) Any person who, on the day of the publication of any revision notice referred to in this Act or in any rules or regulations made thereunder, is undergoing any sentence of penal servitude or imprisonment;

(*d*) Any person who is disqualified from voting under any provision of any enactment relating to disqualification of electors for corrupt or illegal practices.

. . .

15. (1) The proceedings at an election shall be conducted in accordance with the election rules in the first schedule to this Act.

. . .

PART III

OFFENCES

. . .

[Section 26 makes provisions on the secrecy of voting.]

. . .

28. (1) No person shall furnish or supply any public address apparatus, loud-speaker, bunting, ensign, banner, standard or set of colours or any flag to any person with intent that it shall be carried, worn or used on any motor or other vehicle or otherwise as political propaganda on polling day, and no person shall with any such intent carry, wear or use on any motor or other vehicle any public address apparatus, loud-speaker, bunting, ensign, banner, standard or set of colours or flag, on polling day.

(2) No person shall furnish or supply any flag, ribbon, label or like favour to or for any person with intent that it should be worn or used by any person within any constituency on polling day, as a party badge to distinguish the wearer as the supporter of any candidate or of the political or other opinions entertained or supposed to be entertained by such candidate, and no person shall use or wear any flag, ribbon, label or other favour as such badge within a constituency on polling day.

. . .

[Rules 22 and 28 (2) of the election rules set out in the first schedule to the Act contain further provisions on the secrecy of voting.]

. . .

BRITISH GUIANA

THE PUBLIC ORDER ORDINANCE, 1955

Ordinance No. 56 of 1955, assented to on 13 December 1955 [1]

[Section 3 of the Ordinance requires the giving of notification of desire to hold a meeting in a public place and authorizes the Commissioner of Police to "prohibit or impose restrictions on" the holding of a meeting or meetings, other than the first notified, where notification has been given of the desire to hold two or more meetings on the same date within half a mile of one another and the Commissioner considers such action "desirable in the interest of public order or convenience". Appeal may be made to the Governor, who may give the Commissioner whatever instructions he may think fit.

Section 4 (1) empowers certain police officers to "direct all public meetings to disperse when they have reason to apprehend any breach of the peace".

Section 5 provides that all processions other than funeral processions require the permission of the chief officer of police, who, if he grants permission, is to order the route to be followed and the times during which the procession may use such routes and give any special orders considered by him necessary in relation to such procession. There is again the possibility of appeal to the Governor.]

6. (1) Notwithstanding the provisions of any other law, where at any time it appears to the Governor to be in the interests of good order or the public

[1] Published in the *Official Gazette (Extraordinary)* of British Guiana, No. 2280, of 13 December 1955. The ordinance entered into force on 14 December 1955. In *Colonial Reports: British Guiana 1955* (H.M. Stationery Office, 1956) it is stated (p. 149) that: "The Public Order Ordinance, 1955, makes provision for the preservation of public order and convenience on the occasion of public meetings and processions. As a preliminary to the relaxing of the provisions of the emergency order relating to meetings and processions, it was considered desirable that along with the restoration of the freedom of public assembly, provision should be made to ensure that public order and convenience was maintained. This ordinance also re-enacts certain existing provisions of the law of the colony relating to public meetings and processions with minor modifications." The Emergency Order referred to is the British Guiana (Emergency) Order in Council. (See *Yearbook on Human Rights for 1954*, p. 342).

safety so to do, he may by proclamation prohibit in any area, or in any district, village or town in the colony –

(*a*) All public meetings, and all gatherings and assemblies of persons and all processions and marches in any public place;

(*b*) All persons from organizing, holding or speaking at or attending any public meetings, or any gatherings or assemblies of persons or any processions or marches in any public place,

save in cases where a permit is issued in accordance with the provisions of this section.

[Permits applied for may be refused or granted by the chief officer of police and if granted shall be subject to any conditions thought necessary by him to effect the objects of the proclamation. There is again the possibility of appeal to the Governor.]

7. (1) Subject as hereinafter provided, any person who in any public place or at any public meeting wears uniform signifying his association with any political organization or with the promotion of any political object shall be guilty of an offence:

Provided that, if the Commissioner of Police is satisfied that the wearing of any such uniform as aforesaid on any ceremonial, anniversary, or other special occasion will not be likely to involve risk of public disorder, he may, with the consent of the Chief Secretary, by order permit the wearing of such uniforms on that occasion either absolutely or subject to such conditions as may be specified in the order.

. . .

[Section 8 prohibits the maintenance of quasi-military organizations and section 9 the carrying of offensive weapons at public meetings and processions except by a servant of the Crown or a member of the police or of a fire brigade.]

10. Any person who at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence.

[Section 11 concerns disorderly behaviour at public meetings and section 12 requires permission to be granted for the use of loud-speakers and other noisy instruments at public meetings and processions.]

. . .

BRUNEI

THE LABOUR ENACTMENT, 1954

Enactment No. 11 of 1954, passed on 23 December 1954 [1]

SUMMARY

The Labour Enactment, 1954, amended and consolidated much of the law relating to labour of Brunei. Among the matters dealt with therein were oral and written engagements, including apprenticeship contracts; regulation of recruitment; employment of women, young persons and children; and protection of wages.

A worker employed on an oral engagement for a week or more and paid according to the number of days' work performed was to be provided with work suitable to his capacity for not less than five and a half days in every week (holidays and rest days excepted), or to be paid in any case if he presents himself for, and is fit for, work on such days and no work is given.

The Resident was authorized to declare applicable to any place of employment any or all of a series of provisions requiring, *inter alia*, that an employer shall provide sufficient and hygienic house accommodation, a sufficient supply of wholesome water, and sufficient and proper sanitary arrangements, for all employees residing in the place of employment concerned.

Restrictions were placed upon the employment of children (persons under fourteen) in industrial undertakings, upon the employment of women and of young persons (persons under eighteen other than children) during the night, upon the employment of women and of young persons under sixteen underground and upon the employment of children and young persons on ships.

Except where only members of the same family are employed, every female worker was to be entitled to abstain from work for four weeks before and four weeks after confinement and to receive from her employer a maternity benefit during those periods calculated as laid down in the enactment, and no female worker was to be dismissed when absent during that time.

[1] Published in *Supplement to the Government Gazette*, 28 February 1955.

CYPRUS

THE EMERGENCY POWERS (PUBLIC SAFETY AND ORDER) REGULATIONS, 1955

Made on 26 November 1955 [1]

2. (1) For the purpose of these regulations, unless the context otherwise requires,

. . .

"Essential work" means such work as may for the time being be declared by order of the Governor to be of public utility or essential for the maintenance of public order and safety or to the life of the community;

. . .

"Newspaper" means any paper containing any public news, intelligence, report of occurrences or any remarks, observations or comments in relation to such news, intelligence or occurrences, printed for sale or free distribution, and includes a supplement thereto;

"Postal packet" means a letter, postcard, newspaper, book packet, pattern or sample packet, legal and commercial documents, packet of photographs or gramophone records and every packet, parcel or article transmitted or intended for transmission by post;

. . .

Arrest, Restriction of Movements and Detention

3. (1) Any police officer or any member of Her Majesty's naval, military or air forces acting in the course of his duty as such may arrest without warrant any person who he has reasonable ground for suspecting has acted or is acting or is about to act in a manner prejudicial to public safety or to public order or to have committed or is committing or is about to commit an offence against these regulations.

[Persons arrested are to be brought as soon as reasonably may be before certain officers of stated ranks, who may order their detention for not more than forty-eight hours.]

. . .

4. Any police officer or any member of Her Majesty's naval, military or air forces may

(*a*) Stop, detain and search any person and may seize anything found on such person which he has reason to suspect is being used or intended to be used for any purpose or in any way prejudicial to public safety or public order;

(*b*) Require any person to stop and answer any questions which may reasonably be addressed to him;

(*c*) Require any person to furnish him, either verbally or in writing, with any information he may require and to attend at such time and at such place as he may direct for the purpose of furnishing such information.

. . .

5. (1) The Governor, if satisfied, with respect to any person, that with a view to preventing him acting in a manner prejudicial to public safety or public order, it is necessary so to do, may make an order for all or any of the following purposes, that is to say,

(*a*) For securing that, except in so far as he may be permitted by the order, or by such authority or person as may be specified in the order, that person shall not be in any such area in the colony as may be so specified;

(*b*) For prohibiting or restricting the possession or use by that person of any specified articles or things;

(*c*) For requiring him to notify his movements, in such manner, at such times and to such authority or person as may be specified in the order;

(*d*) For requiring him to stay in the house or place where he resides.

. . .

6. (1) If the Governor has any reasonable cause to believe any person

(*a*) To have been recently concerned in acts prejudicial to public safety or public order or in the preparation or instigation of such acts;

(*b*) To have been or to be a member or to have been or to be active in the furtherance of the objects of an organization which is subject to foreign influence or control;

(*c*) To be an undesirable alien,

and that, by reason thereof, it is necessary to exercise control over him, the Governor may make an order against such person, directing that he be detained in such place as may be specified in the order and in accordance with instructions issued by him.

. . .

[The Governor may suspend a detention order subject to any conditions thought fit. The Governor is to appoint one or more advisory committees, to whom aggrieved persons may object. Detained persons are to be informed of this right.]

Deportation

7. (1) The Governor may make an order under his hand (in these regulations referred to as a deportation order) for the deportation of any person from the colony.

[1] Published in Supplement No. 3 to *The Cyprus Gazette* No. 3891, of 26 November 1955. The regulations were made under section 6 of the Emergency Powers Orders in Council, 1939 and 1952.

(2) A deportation order shall require the person in respect of whom it is made to leave and remain out of the colony and it may be made subject to any condition which may be specified by the Governor in such order.

8. A person in respect of whom a deportation order is made shall leave the colony in accordance with the order and shall thereafter, so long as the order is in force, remain out of the colony.

. . .

11. (1) Where a deportation order is made, the Governor may, if he thinks fit, apply any money or property of the person in respect of whom such order is made in payment of the whole or any part of the expenses of or incidental to the voyage from the colony and the maintenance until departure of that person.

. . .

[Regulation 14 empowers the Governor to revoke any deportation order or to vary it so as to permit re-entry into the colony and to attach any conditions to such permission.]

. . .

CONTROL OF MEANS OF COMMUNICATION

18. The Governor may by warrant under his hand appoint a chief communications censor, a press and radio censor, and such number of assistant postal censors, assistant press censors and assistant telegraph censors as may be required for the purpose of controlling and dealing with postal packets, telegrams, newspapers and broadcasting programmes.

19. The chief communications censor shall have the general direction and control of censorship of all postal packets and telegrams and shall have all the powers of an assistant postal censor and an assistant telegraph censor.

20. (1) Subject to any special directions by the Governor, an assistant postal censor shall have power to detain, open, examine and if he thinks it expedient to destroy all or any postal packet addressed or intended to be delivered through the post office to any person either within or without the colony, or all or any postal packet submitted to him under the provisions of regulation 27 of these regulations.

(2) This regulation shall not apply to any postal packet sent or received by or on behalf of the Governor or of Her Majesty's naval, military or air forces.

[Regulation 21 concerns censorship of mail or postal packets in the possession of persons entering or leaving the colony.]

22. (1) Without prejudice to the provisions of regulation 29 and subject to any special directions by the Governor, an assistant telegraph censor shall have the powers following:

(*a*) Control of the transmission of any telegram by any telegraph authority or company;

(*b*) Power to examine every telegram sent or received from any place within or without the colony and all other powers relating to any telegram;

(*c*) Power to stop, eliminate any portion of, delay or alter any telegram;

(*d*) Power to destroy any telegram.

(2) For the purposes of this regulation, "telegram" includes any telephonic message or communication.

(3) This regulation shall not apply to any telegram sent or received by or on behalf of the Governor or of Her Majesty's naval, military or air forces.

23. Subject to any special directions by the Governor, the press and radio censor shall have the general direction and control of censorship of all newspapers and all public broadcasting services in the colony and shall have all the powers of an assistant press censor and an assistant radio censor.

24. (1) Subject to any special directions by the Governor, an assistant press censor shall have the powers following:

(*a*) To require the proprietor of any newspaper printed in the colony or the person intending to circulate in the colony any newspaper printed outside the colony to produce to him for censorship any issue of such newspaper before its publication or circulation, and to give such directions as to the publication or the circulation thereof as he may deem fit;

(*b*) To suppress the circulation of any issue of any newspaper or issue thereof.

. . .

25. (1) Subject to any special directions by the Governor, an assistant radio censor shall have power to require the person in charge of any broadcasting station in the colony to produce to him for censorship any item of any programme to be broadcasted and to give such directions regarding any such item as he may deem fit and to suppress the broadcasting of any item of any programme to be broadcasted or give such directions in relation thereto as he may deem fit.

. . .

[Regulation 26 concerns control of wireless telegraphy, including radar, on board ships and vessels.]

27. Upon the appointment of an assistant postal censor, no person shall convey otherwise than by post any postal packet, save and until such postal packet has been submitted to an assistant postal censor and passed for transmission by him.

[Regulation 28 concerns the power of the Governor to prohibit conditionally or unconditionally the functioning of wireless telegraphy stations.]

29. (1) The Governor, or any other person authorized by him in that behalf, may, if he has reason to believe it necessary in the interests of public order and safety, by order, either generally or in the case of any particular persons, prohibit any telephonic communication by trunk call except with such permission or on such conditions as may be specified in the order.

. . .

(4) Nothing in this regulation contained shall apply to any trunk call proposed to be made through any government telephone apparatus.

[Regulations 30–32 concern the control of ports and movements of vessels and aircraft.]

CONTROL OF TRANSPORT, MEETINGS AND PLACES

. . .

[Regulation 36 concerns the power of a member of the armed forces or police force to stop and search vehicles.]

37. (1) The commissioner of the district may by order prohibit the procession, meeting or assembly of more than five persons, within any town, village or area specified in the order, without the previous permission in writing issued by the commissioner of the district, who may, in granting such permission, impose such terms and conditions as he may see fit:

Provided that nothing in this regulation contained shall be deemed to apply to

(*a*) Any persons who peacefully proceed, meet or assemble together for performing their ordinary religious duties;

(*b*) Any persons who are members of the same household or who meet or assemble together in private houses for ordinary social intercourse;

(*c*) Any persons who peacefully meet or are assembled together for the purpose of carrying on their occupation, profession, business or trade, unless the commissioner of the district otherwise directs.

. . .

39. (1) If it appears to the commissioner of the district that any premises have been used, or are intended to be used, for any purpose, or in any manner prejudicial to the interest of public order, safety or defence, he may by order require them to be closed and remain closed until further order or for such period as may be specified in the order.

. . .

40. (1) The commissioner of the district may by order require any establishment situated within any town, village or area specified in the order to be closed and remain closed, except during such hours and for such purposes as may be specified in the order.

. . .

(4) In this regulation

"Establishment" means any bar in any hotel, any cabaret, cinematograph theatre, club, coffee-shop, confectioner's shop, restaurant, theatre and any other place or premise of public resort or entertainment whatsoever.

CONTROL OF PUBLICATIONS

41. (1) The Governor may make provision by order for preventing or restricting the publication in the colony of matters as to which he is satisfied that the publication, or, as the case may be, the unrestricted publication thereof would or might be prejudicial to public safety or public order, and an order under this paragraph may contain such incidental and supplementary provisions as appear to the Governor to be necessary or expedient for the purposes of the order (including provisions for securing that any such matters as aforesaid shall, before publication, be submitted to such authority or person as may be specified in the order).

(2) Where any person is convicted of an offence against this regulation by reason of his having published a newspaper, the Governor may by order direct that, during such period as may be specified in the order, that person shall not publish any newspaper in the colony.

42. Any person who

(*a*) Endeavours, whether orally or otherwise, by means of any false statement, false document or false report, to influence public opinion in a manner likely to be prejudicial to the public safety, the maintenance of public order or the maintenance of supplies or services essential to the life of the community; or

(*b*) Does any act, or has any articles in his possession, with a view to making or facilitating the making of any such endeavour, shall be guilty of an offence against these regulations.

43. Any person who publishes any report or statement which is likely to cause alarm or despondence or be prejudicial to the public safety, or the maintenance of public order, shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

APPROPRIATION OF PROPERTY AND OF THE USE THEREOF

44. (1) The Governor, or any person duly authorized by him in that behalf, if it appears to him necessary or expedient so to do in the interest of public order and safety, or for maintaining supplies and services essential to the life of the community, may take possession of any land and may give such directions as may appear to him to be necessary or expedient in connexion with taking possession of any such land.

. . .

[Regulation 44(3) empowers the Governor or any person authorized by him to use the land of which possession has been taken for such purpose and in such manner as he thinks expedient in the interest of public order and safety or for maintaining supplies and services essential to the life of the community.]

. . .

[Regulation 45 concerns requisitioning of property other than land. Regulation 46 regulates the payment of compensation for loss incurred in the exercise of powers under regulations 44 and 45.]

MISCELLANEOUS

. . .

48. (1) The Governor may, as respects any area in the colony, by order direct that, subject to any exemptions for which provision may be made by

the order, no person in that area shall, between such hours as may be specified in the order, be out of doors except under the authority of a written permit granted by the Governor or such person as may be specified in the order.

. . .

[Regulations 57 and 58 concern, respectively, unlawful drilling and causing disaffection among the armed forces, civil service and police.]

. . .

60. (1) The Governor, or any person duly authorized by him in that behalf, may, if it appears to him necessary or expedient for securing the public safety, or the maintenance of public order or for maintaining supplies and services essential to the life of the community, direct any person or persons in the Colony to perform such services in the colony or in any ship registered in the Colony as may be specified by the direction, being services which that person or persons are, in the opinion of the Governor, or any person duly authorized by him in that behalf, capable of performing.

[Paragraph (2) concerns remuneration and conditions of service of persons affected by paragraph (1).]

. . .

(4) The Governor, or any person duly authorized by him in that behalf, may by order make provision for securing that enough workers are available in undertakings engaged in essential work and may in particular provide by any such order

(*a*) For securing that, except in circumstances and to the extent provided by the order, persons employed in any such undertaking shall continue to be employed in that undertaking, and shall not be caused to give their services in any other undertaking;

(*b*) For prohibiting persons so employed from absenting themselves from work without reasonable excuse or being persistently late in presenting themselves for work;

(*c*) For requiring payment to every person so employed of wages for [any] period during which, though work is not available for him in his usual occupation, he is capable of and available for work, and willing to perform services which he can reasonably be asked to perform;

. . .

61. (1) Any person who

(*a*) Declares, commences or acts in furtherance of an illegal strike;

(*b*) Instigates or incites any other person to take part in, or otherwise act in furtherance of, an illegal strike;

(*c*) Applies any sum in furtherance or support of an illegal strike,

shall be guilty of an offence and shall be liable on conviction to imprisonment not exceeding six months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

. . .

(3) In this regulation

"Illegal strike" means any strike which has any object other than, or in addition to, the furtherance of a trade dispute, and which is calculated to, or may entail, hardship to the community;

. . .

63. (1) The Governor, or any person duly authorized by him in that behalf, may by order provide for prohibiting or regulating such activities as may be specified in the order, being activities which, by reason of their consisting of or involving the emission of flames, sparks or glare or the making of noise or the using of sounds, interfere with measures taken for defence or in the interests of public safety or order.

. . .

[Regulations 65 and 66 restrict, respectively, the carrying and flying of flags and the exhibition of signs and slogans.]

67. (1) Any police officer or any member of Her Majesty's naval, military or air forces or any person authorized by the Governor to act under this regulation may without warrant and with or without assistance and using force if necessary

(*a*) Enter and search any premises; or

(*b*) Stop and search any vessel, vehicle, aircraft or individual whether in a public place or not, if he suspects –

(i) That such premises, vessel, vehicle or aircraft is being used or has recently been used or is about to be used for any purpose prejudicial to the maintenance of law and order; or

(ii) That any evidence of the commission of an offence against these regulations or any law in force for the time being is likely to be found on such premises, vessel, vehicle, aircraft, or individual and may seize any evidence so found including such vessel, vehicle or aircraft.

(2) No woman shall be searched except by a woman.

. . .

THE DETENTION OF PERSONS LAW, 1955

No. 26 of 1955, of 15 July 1955 [1]

2. (1) If the Governor is satisfied that any person is or has been a member of, or is or has been active in the furtherance of the purposes of, an organization which he is satisfied has been responsible for any acts of violence directed to the overthrow by force or violence of the Government, or destruction of

[1] Published in *The Statute Law of Cyprus, 1955*, Government Printing Office, Nicosia.

or damage to, property of the Crown, and by reason thereof it is necessary to exercise control over such person, the Governor may, subject to the provisions of this law, make an order (in this law referred to as "detention order") against such person directing that he be detained in such place and under such conditions as the Governor may direct.

. . .

(3) A detention order may be cancelled or varied at any time by the Governor.

. . .

3. (1) At any time after a detention order has been made against any person, the Governor may direct that the operation of the detention order be suspended subject to such conditions –

(*a*) Prohibiting or restricting the possession or use by such person of any specified articles;

(*b*) Imposing upon such person such restrictions as may be specified in the direction in respect of his employment or business, the place of his residence, and his association or communication with other persons;

(*c*) Prohibiting such person from being out of doors between such hours as may be so specified, except under the authority of a written permit granted by such authority or person as may be so specified;

(*d*) Requiring such person to notify his movements in such manner, at such times, and to such authority or person as may be so specified;

(*e*) Prohibiting such person from travelling except in accordance with permission given to such person by such authority or person as may be so specified,

as the Governor thinks fit, and the Governor may revoke any such direction if he is satisfied that the person against whom the order was made has failed to observe any condition so imposed, or that the operation of the order can no longer remain suspended without detriment to the public safety or public order.

(2) If any person fails to comply with any condition attached to a direction under sub-section (1), such person shall, whether or not the direction is revoked in consequence of the failure, be guilty of an offence and shall be liable to imprisonment not exceeding one year or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

[Section 4 provides for the appointment by the Governor of one or more advisory committees with whom objections may be lodged. A person against whom a detention order has been made is to be informed of his right to make such objections.]

5. This law shall commence on the 16th day of July, 1955, and shall remain in force until the 31st day of October, 1955:

Provided that the Governor in Council may, by an order to be published in the *Gazette*, continue the operation of this law for any further period or periods of six months.

THE EMERGENCY POWERS (COLLECTIVE PUNISHMENT) REGULATIONS, 1955

Made on 26 November 1955 [1]

2. (1) In these regulations, unless the context otherwise requires,

"Assessable inhabitant" in relation to any area, means any male who lives in such area and who is, or appears to the commissioner to be, not less than eighteen years of age;

"Commissioner" means the commissioner of a district;

"Offence" means an offence the commission of which is, in the opinion of the commissioner, prejudicial to the internal security of the colony or to the maintenance of public order in the colony.

. . .

3. If an offence has been committed or loss of, or damage to, property has occurred within any area of the colony (hereinafter referred to as the said area) and the commissioner has reason to believe that the inhabitants of the said area have –

(*a*) Committed the offence or caused the loss or damage; or

(*b*) Connived at or in any way abetted the commission of the offence or the loss or damage; or

(*c*) Failed to take reasonable steps to prevent the commission of the offence; or

(*d*) Failed to render all the assistance in their power to discover the offender or offenders, or to effect his or their arrest; or

(*e*) Connived at the escape of, or harboured, any offender or person suspected of having taken part in the commission of the offence or implicated in the loss or damage; or

(*f*) Combined to suppress material evidence of the commission of the offence or of the occurrence of the loss or damage; or

(*g*) By reason of the commission of a series of offences in the said area, been generally responsible for the commission of such offences,

it shall be lawful for the commissioner, with the

[1] Published in Supplement No. 3 to *The Cyprus Gazette* No. 3891, of 26 November 1955. The regulations were made under section 6 of the Emergency Powers Orders in Council, 1939 and 1952.

approval of the Governor, to take all or any of the following actions:

(i) To order that a fine be levied collectively on the assessable inhabitants of the said area, or any part thereof;

(ii) To order that all or any of the shops in the said area shall be closed until such order be revoked or shall open only during such times and under such conditions as may be specified in the order;

(iii) To order the seizure of any movable or immovable property of any inhabitant of the said area;

(iv) To order that all or any dwelling-houses in the said area be closed and kept closed and unavailable for human habitation for such period or periods as may be specified.

. . .

[Regulation 5 requires the making of an inquiry before an order is made under Regulation 3. Regulation 6 authorizes a Commissioner to repay fines, return property and generally to revoke or vary any such order made by him. Regulation 7 authorizes the payment of compensation for unlawful injury or loss of, or damage to, property in the area in which a fine was levied.]

8. Any fine ordered to be paid in pursuance of these regulations shall be apportioned among the assessable inhabitants of the said area by the commissioner in such manner as he may think fit and in particular he may order that each assessable inhabitant shall pay any amount which the commissioner shall specify.

9. (1) If any assessable inhabitant who is liable to pay a part of any fine fails to pay that part on demand by a police officer such police officer may seize so much of the immovable property of such assessable inhabitant or so much of movable property under the apparent control of such inhabitant, as appears reasonably sufficient when sold to pay such part.

(2) Any property so seized shall be retained in police custody for one week from the date of seizure and shall, if the assessable inhabitant pays the part due from him within that period, be thereupon returned to such inhabitant.

. . .

12. Nothing in these regulations shall be deemed to exempt any person from any penalty, punishment or liability to which he would have been subject if these regulations had not been made.

. . .

GOLD COAST[1]

THE GOLD COAST (CONSTITUTION) (AMENDMENT) ORDER IN COUNCIL, 1955

of 29 July 1955 [2]

3. Immediately after section 36 of the principal order there shall be inserted the following new section:

. . .

"36A. (1) No property, movable or immovable, shall be taken possession of or acquired compulsorily except by or under the provisions of a law which, of itself or when read with any other law in force in the Gold Coast,

(*a*) Requires the payment of adequate compensation therefor;

(*b*) Gives to any person claiming such compensation a right of access, for the determination of his rights (if any), including the amount of compensation, to the Supreme Court of the Gold Coast;

(*c*) Gives to any party to proceedings in the Supreme Court relating to such a claim the same rights of appeal as are accorded generally to parties to civil proceedings in that court sitting as a court of original jurisdiction.

"(2) (*a*) Nothing in this section shall affect the operation of any existing law.

"(*b*) In this sub-section the expression 'existing law' means a law in force in the Gold Coast prior to the date of commencement of this section, and includes a law made after that date which amends or replaces any such law as aforesaid (or such a law as from time to time amended or replaced in the manner described in this paragraph) and which does not

(i) Add to the kinds of property which may be taken possession of or acquired; or

(ii) Add to the purpose for which or circumstances in which such property may be taken possession of or acquired; or

(iii) Make the conditions governing entitlement to any compensation or the amount thereof less favourable to any person owning or interested in the property; or

(iv) Deprive any person of any right such as is mentioned in paragraph (*b*) or paragraph (*c*) of subsection (1) of this section.

[1] In March 1957 the Gold Coast became the independent State of Ghana.

[2] Text published as *Statutory Instruments*, 1955, No. 1218, H.M. Stationery Office, London. The Gold Coast (Constitution) (Amendment) Order in Council, 1955, was made on 29 July 1955, was laid before Parliament on 4 August 1955, and came into operation on 5 August 1955. Extracts from the Gold Coast (Constitution) Order in Council, 1954, referred to in the amending order as the principal order, appeared in *Yearbook on Human Rights for 1954*, pp. 352–4.

"(3) It is hereby declared that nothing in this section shall be construed as affecting any law:

(*a*) For the imposition or enforcement of any tax, rate or due; or

(*b*) For the imposition of penalties or forfeitures for breach of the law whether under civil process or after conviction of an offence; or

(*c*) Relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts; or

(*d*) Relating to the vesting and administration of the property of persons adjudged bankrupt or otherwise declared insolvent, of persons of unsound mind, of deceased persons, and of companies, other corporate bodies and unincorporated societies in the course of being wound up; or

(*e*) Relating to execution of judgement or orders of courts; or

(*f*) Providing for the taking of possession of property which is in a dangerous state or is injurious to the health of human beings, plants or animals; or

(*g*) Relating to enemy property; or

(*h*) Relating to trusts and trustees; or

(*i*) Relating to the limitation of actions; or

(*j*) Relating to property vested in statutory corporations; or

(*k*) Relating to the temporary taking of possession of property for the purposes of any examination, investigation or inquiry; or

(l) Providing for the carrying out of work on land for the purpose of soil conservation.

"(4) The provisions of this section shall apply to the compulsory taking of possession or acquisition of property, movable or immovable, by or on behalf of the Crown."

FEDERATION OF MALAYA

THE TRADE UNIONS (AMENDMENT) ORDINANCE, 1955

No. 4 of 1955
of 25 February 1955 [1]

NOTE

This ordinance had the effect, among others, of substituting for section 41 of the Trade Unions Ordinance, 1946, a new section which included the following:

"41. (1) A registered trade union (which expression shall not in this section include or be deemed to include either a trade union composed of two or more trade unions amalgamated without dissolution or division of funds in accordance with the provisions of section 28 of this enactment or a federation of trade unions formed in accordance with the provisions of section 58 of this enactment) may constitute a separate fund, hereinafter called 'the political fund', from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects (hereinafter called 'political objects') specified in sub-section (2) of this section.

"(2) The political objects referred to in sub-section (1) are

(*a*) The payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to the Legislative Council or any state or settlement council or to any public office, before, during or after the election in connexion with his candidature or election; or

(*b*) The holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or,

(*c*) The maintenance of any person who is a member of the Legislative Council or any state or settlement council or who holds a public office; or

(*d*) The registration of electors or the selection of a candidate for membership of the Legislative Council or any state or settlement council or for any public office; or,

(*e*) The holding of political meetings of any kind, or the distribution of political literature or political documents of any kind: or,

(*f*) The payment of affiliation fees and donations to political parties.

. . .

"(4) No payment in furtherance of any political object shall be made by any registered trade union except out of the political fund of that union.

"(5) No member of a registered trade union shall be liable to contribute to the political fund of that union unless he has signed and delivered at the registered office thereof a notice substantially in the form I in the second schedule to this ordinance of

[1] Published in *Second Supplement to the Federation of Malaya Government Gazette*, Vol. VIII, No. 5, of 3 March 1955.

his willingness to contribute to that fund and has not withdrawn such notice by signing and delivering at the registered office of the union a notice substantially in the form II in that schedule.

. . .

"(10) A member of a registered trade union who does not contribute to the political fund thereof shall not be expelled therefrom nor be excluded from any benefits of that trade union nor be placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of that trade union (except in relation to the control or management of the political fund) by reason of his not contributing to that fund; and a contribution to the political fund shall not be made a condition for admission to the trade union."

. . .

THE EMPLOYMENT ORDINANCE, 1955

No. 38 of 1955
of 27 June 1955 [1]

SUMMARY

The Employment Ordinance, 1955, amended and consolidated much of the law relating to employment of the Federation of Malaya or of individual states. Matters dealt with included contracts of service; payment of wages; employment of women; maternity protection; employment of children and young persons; and days and hours of work.

Section 8 of the ordinance provides:

"8. Nothing in any contract of service shall in any manner restrict the right of any labourer who is a party to such contract

(*a*) To join a registered trade union; or

(*b*) To participate in the activities of a registered trade union, whether as an officer of such union or otherwise; or

(*c*) To associate with any other persons for the purpose of organizing a trade union in accordance with the provisions of the Trade Unions Enactment, 1940."

Every female employee was to be entitled to abstain from work for thirty days before and thirty days after confinement and, if she had fulfilled certain conditions as to length of employment, was to be entitled to receive a maternity allowance from her employer during those periods and not to be dismissed when absent during that time.

In general, the employment of children (that is, persons under fourteen) as labourers, and that of young persons (persons of fourteen or more but under sixteen) as labourers in underground working, was prohibited. Restrictions were placed upon the hours of work of children and young persons.

No labourer was to be required to work on more than six days in any one week and in principle no labourer, other than a shift worker, was to work for more than forty-eight hours per week.

The text of the Ordinance appears in International Labour Office, *Legislative Series*, 1955 – Mal.2.

[1] Published in *Supplement to the Federation of Malaya Government Gazette*, Vol. VIII, No. 16, of 4 July 1955.

MALTA

THE EMPLOYMENT SERVICE ACT, 1955

Act No. XIV of 1955, assented to on 27 May 1955 [1]

SUMMARY

Under the Act the Minister of Labour is to provide and maintain an Employment Service in the Department of Labour to assist persons to find suitable employment and to assist employers to find suitable employees. With certain stated exceptions all employees required by the Maltese Government from outside its service and all employees similarly required by other employers are required by sections 12 and 13 respectively to be recruited through the service.

[1] Published in *Ordinances and Laws* Vol. LXXXVIII, of 1955, printed at the Government Press, Malta.

Section 12(5) provides as follows:

"(5) It shall be an offence under this Act to show favour to or use discrimination against any applicant for employment with the Maltese Government on the grounds of his party-political beliefs or associations."

Section 13(4) provides:

"(4) No employer may refuse to engage an applicant submitted to him by the Employment Service on the ground that the applicant is a member of a trade union."

NORTHERN RHODESIA

THE PUBLIC ORDER ORDINANCE, 1955

No. 38 of 1955, assented to on 18 August 1955 [1]

3. (1) Subject as hereinafter provided, any person who in any public place or at any public meeting wears any uniform or displays any flag signifying his association with any political organization or with the promotion of any political object shall be guilty of an offence:

Provided that, if an officer in charge of police or, in any place where there is no such officer, an administrative officer is satisfied that the wearing of any such uniform as aforesaid on any ceremonial, anniversary, or other special occasion will not be likely to involve risk of public disorder, he may by order in writing under his hand permit the wearing of such uniform or any other uniform, in substitution therefor on that occasion either absolutely or subject to such conditions as may be specified in the order:

And provided further that a person shall not be guilty of the offence of wearing a uniform in a public place otherwise than at a procession or a public meeting unless he is at the time acting or purporting to act on behalf of a political organization or in furtherance of a political object or is manifesting his adherence to a political organization.

. . .

[Section 4 prohibits the maintenance of quasi-military organizations and section 5 the carrying of offensive weapons at public meetings and processions except by a servant of the Crown, a special constable or member of a fire brigade.]

6. Any person who in any public place or at any public meeting uses threatening, abusive or insulting words with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence.

7. (1) If at any time the Governor in Council is of opinion that, by reason of particular circumstances existing in the territory or in any part thereof, the powers conferred by any other law will not be sufficient to enable the police to prevent serious public disorder being occasioned by the holding of public processions or public meetings in the territory or any part thereof, he may by order published in the *Gazette* and in such other manner as he may deem sufficient to bring the order to the knowledge of the general public in the area to which it relates, prohibit the holding within the territory or any part thereof of all public processions or public meetings, or of any class of public processions or public meetings specified in the order, for such period not exceeding three months as may be so specified.

. . .

8. (1) Any person who utters any words or does any act or thing whatever with intent to excite enmity between tribe and tribe or between one or more sections of the community on the one hand, and any other section or sections of the community on the other hand, or with intent to encourage any person or persons to do any act or acts or to omit to do any act or acts so as to defeat the purpose or intention of any law in force in the territory or in any part thereof, shall be guilty of an offence.

(2) The Governor may order that during a period specified in the order a person convicted under subsection (1) of this section shall not enter or be in any area specified in the order or shall not enter or be in any place outside any area specified in such order.

. . .

[Section 9 makes it an offence to incite a person to strike, in certain circumstances.]

. . .

[1] Published in *Northern Rhodesia Government Gazette*, Ordinances, 1955.

NYASALAND

THE LEGISLATIVE COUNCIL ORDINANCE, 1955

Ordinance No. 25 of 1955, assented to on 6 September 1955 [1]

PART I

SHORT TITLE AND COMMENCEMENT, INTERPRETATION AND REPRESENTATION OF ELECTORATE

. . .

2. (1) In this ordinance, unless the context otherwise requires

"Council" means the Legislative Council for the protectorate;

. . .

3. There shall be elected to the Council in accordance with the provisions of this ordinance six non-African members and five African members.[2]

PART II

ELECTION OF NON-AFRICAN MEMBERS

. . .

6. Six non-African members shall be elected in accordance with the provisions of this part to represent the electoral areas in the Council — namely, one member respectively for each of the electoral areas proclaimed by the Governor in accordance with the provisions of sub-section (5) of section 5.

. . .

11. (1) Every person who is a non-African and who

(*a*) Is a British subject;

(*b*) Is twenty-one years of age or over;

(*c*) Has the requisite birth or residence qualification;

(*d*) Has the requisite means qualification;

(*e*) Has the requisite educational qualification; and

(*f*) Is not disqualified under this ordinance,

shall be entitled to be registered as a voter at an election.

(2) No person shall be registered as a voter in more than one electoral area.

(3) No person whose name is not on the register as revised from time to time shall be entitled to record his vote at any election.

12. (1) In order to have the requisite birth or residence qualification to be registered as a voter, a person must have been born in the protectorate or have resided in the protectorate for a continuous period of two years immediately preceding the date upon which he makes a claim for registration as a voter:

Provided that in determining whether a person has resided in the protectorate for a continuous period of two years no account shall be taken of any period not exceeding in the aggregate nine months during which he has been absent from the protectorate for any temporary purpose.

. . .

13. (1) In order to have the requisite means qualification a person during the whole of the period of three months immediately preceding the date upon which he makes a claim for registration as a voter

(*a*) Must have occupied either solely or jointly with others a house, warehouse, shop or other building situated within the protectorate which either separately or jointly with any land occupied therewith is of the value of £250:

Provided that in the case of joint occupation the share of each occupier shall be of the value of not less than £250; or

(*b*) Must have been in the *bona fide* receipt in the protectorate of income, salary or wages at the rate of not less than £200 per annum; in the computation of the said income, salary or wages the value of board, lodgings and clothing or any money received for any or all of these may be included:

Provided that, where any claimant has been absent from the protectorate for any temporary purpose during the period of three months immediately preceding the date upon which he makes such claim, he shall be deemed to have the requisite means qualification if, during the whole of the period of three months immediately preceding the date on which he left the protectorate, not being a date more than nine months before the date of such claim, he is qualified as provided in paragraphs (*a*) or (*b*) of this sub-section.

(2) Every married woman of twenty-one years or over, other than a woman married under a system permitting of polygamy, shall be deemed to have the same means qualification as her husband in any case where she has not the requisite means qualification in her own right.

(3) Every person who is on active service in any of Her Majesty's forces shall be deemed to have the necessary means qualification.

---

[1] Published in *Nyasaland Protectorate: Annual Volume of the Laws, 1955*, Government Printer, Zomba, Nyasaland, 1956.

[2] According to the Additional Instructions to the Governor dated 15 August 1955 (*Statutory Instruments, 1955*, Vol. II, pp. 3205–10), the Legislative Council of Nyasaland was to consist of the Governor (as President), four *ex officio* members, seven official members, eleven elected members (six non-African and five African) and temporary members.

14. (1) In order to have the requisite educational qualification a person must

(*a*) Have an adequate knowledge of the English language; and

(*b*) Be able, unassisted by any other person, to complete and sign the prescribed claim for registration as a voter.

(2) Subject to the provisions of sub-section (3), a person shall not be considered to have an adequate knowledge of the English language unless he is able to speak, write in and comprehend the English language.

(3) A person who has an adequate knowledge of the English language and is unable to speak or write or comply with the requirements of paragraph (*b*) of sub-section (1) solely by reason of some physical defect shall be deemed to have the requisite educational qualification.

. . .

15. No person shall be entitled to be registered as a voter in any electoral area who

(*a*) Is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State; or

(*b*) Is under sentence of death, or is serving or has, within the five years immediately preceding the date upon which he makes a claim for registration as a voter, completed the serving of a sentence of imprisonment (by whatever name called) of or exceeding six months imposed in any part of Her Majesty's dominions and has not received a free pardon:

Provided that, if in the circumstances it shall appear to the Governor in Council to be just to do so, he may, by order, exempt any person from disqualification under the provisions of this paragraph; or

(*c*) Is a person adjudged to be a person of unsound mind or detained as a criminal lunatic under any law in force in the protectorate; or

(*d*) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions or has made a composition with his creditors and not paid his debts in full; or

(*e*) Is disqualified from voting at any election under the provisions of this ordinance.

16. No person shall be entitled to vote in more than one electoral area or to vote more than once at any election.

. . .

26. (1) Subject to the provisions of this ordinance, any person who is qualified for and not disqualified from registration as a voter and is so registered, shall be qualified to be elected as a member, and no other person shall be qualified to be so elected.

(2) No person shall be qualified to be elected as a member who

(*a*) Holds or is acting in any office of emolument under the Crown; or

(*b*) Is a party to, or a partner in a firm, or a director or manager of a company, which is a party to, any contract with the Government of the Protectorate or of the Federation for or on account of the public service for which the consideration exceeds £100, and has not, within one month before the day of the election, published in the English language in the *Gazette* and in a newspaper circulating in the electoral 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*) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions or has made a composition with his creditors and not paid his debts in full; or

(*d*) Is under sentence of death, or is serving or has within the five years immediately preceding the date on which he is nominated as a candidate completed the serving of a sentence of imprisonment (by whatever name called) of or exceeding six months imposed in any part of Her Majesty's dominions and has not received a free pardon:

Provided that, if in the circumstances it shall appear to the Governor in Council to be just to do so, he may by order exempt any person from disqualification under the provisions of this paragraph; or

(*e*) Is disqualified from election as a member under the provisions of this Ordinance relating to offences connected with elections.

. . .

30. (1) Every member shall in any case cease to be a member at the next dissolution of the Council after his election, or previously thereto if his seat shall become vacant under the provisions of this ordinance.

(2) The seat of a member shall become vacant –

(*a*) Upon his death; or

(*b*) If he shall be absent from two consecutive meetings of the Council, without having obtained from the President of the Council, before the termination of either of such meetings, permission to be or to remain absent therefrom; or

(*c*) If he shall cease to be a British subject or if he shall take any oath or make any declaration or acknowledgement of allegiance, obedience or adherence to any foreign Power or State, or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State; or

(*d*) If he shall be appointed to or act in any office of emolument under the Crown; or

(*e*) If he shall be adjudged or otherwise declared bankrupt under any law in force in any part of Her

Majesty's dominions or shall make a composition with his creditors and not pay his debts in full; or

(*f*) If he shall be sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term of or exceeding six months; or

(*g*) If he shall be adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in the protectorate; or

(*h*) If he shall, by writing under his hand addressed to the President of the Council, resign his seat in the Council; or

(*i*) If he shall otherwise become disqualified from registration as a voter under the provisions of this ordinance, or, not being so disqualified, shall cease to be registered as such; or

(*j*) If he shall otherwise cease to be qualified for election as a member under the provisions of this ordinance.

. . .

31. Where any member shall be absent from the protectorate for a period of nine consecutive months, the Governor shall declare his seat to be vacant.

[Section 32 concerns filling of vacancies on the Legislative Council.]

PART III

ELECTION OF AFRICAN MEMBERS

. . .

[Section 35 provides that the five African members are to be elected by the three African provincial councils.]

. . .

37. (1) Subject to the provisions of sub-section (2), no person shall be entitled to vote at an election unless he is a member of the African Provincial Council at a meeting of which he seeks to vote.

(2) No person shall be entitled to vote who would, if he were a non-African, be disqualified from registration as a voter under the provisions of section 15.

38. (1) Subject to the provisions of sub-section (2), no person shall be qualified to be elected as a member unless he

(*a*) Is a British subject or a British protected person;

(*b*) Is resident in the protectorate on the day fixed for the nomination of candidates under the provisions of section 40;

(*c*) Is in possession of a certificate signed by the Director of Education of the protectorate, or by such officer as may be appointed by him, certifying that the candidate is able to speak, write in and comprehend the English language sufficiently to enable him to take an active part in the proceedings of the Council.

(2) No person shall be qualified to be elected as a member who

(*a*) Is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State; or

(*b*) Would, if he were a non-African, be disqualified under the provisions of sub-section (2) of section 26.

. . .

41. The provisions of sections 30, 31 and 32 shall apply, *mutatis mutandis*, to this part, except that to the reference in paragraph (*c*) of sub-section (2) of section 30 to a British subject there shall be added the words "or a British protected person" and for any reference in those sections to an electoral area there shall be substituted a reference to a province.

PART IV

PENAL PROVISIONS

. . .

[Section 47 concerns secrecy of voting, as do also rule 17 of the Rules for Election of non-African Members contained in the second schedule to the ordinance and rule 14 of the Rules for the Election of African Members contained in the third schedule thereto.]

. . .

SARAWAK

THE TRADE UNION AND TRADE DISPUTES (AMENDMENT No. 2) ORDINANCE, 1955

Ordinance No. 34 of 1955, assented to on 12 December 1955 [1]

NOTE

The ordinance amended the Trade Unions and Trade Disputes Ordinance, 1947 in the following ways, among others:

(i) By the addition of a new section 14C, reading:

"14C. (1) Except with the consent of the Governor in Council, no registered trade union shall be affiliated or connected with any trade union or other organization which is established outside the colony in such manner as to place the trade union which is

[1] Published in *The Sarawak Government Gazette, Part I*, Vol. X, No. 3 of 30 December 1955.

established within the colony, or any of its members, in any way or in any matter under the control of the trade union or other organization which is established outside the colony.

"(2) Every trade union so affiliated or connected which has not obtained the consent of the Governor in Council to be so affiliated or connected, or from which any such consent has been withdrawn, shall be deemed to be an unlawful society within the meaning and for all the purposes of the Societies Ordinance."

(ii) By the addition of a new section 17C reading:

"17C. The funds of a registered trade union shall not be applied either directly or indirectly in payment of contributions to any political party or for any political purpose whether within or without the colony."

SINGAPORE

THE SINGAPORE COLONY ORDER IN COUNCIL, 1955

of 1 February 1955 [1]

PART V

LEGISLATIVE ASSEMBLY

Legislative Assembly

38. There shall be a Legislative Assembly in and for the colony, which shall consist of a Speaker, three *ex-officio* members, twenty-five elected members and four nominated members.

. . .

Elected Members

43. The elected members of the Assembly shall be persons qualified for election in accordance with the provisions of this order and elected in the manner provided by, or in pursuance of, any law enacted under this order or in pursuance of the Singapore Colony (Electoral Provisions) Order in Council, 1954.[2]

Qualifications for Elected Membership

44. (1) Subject to the provisions of section 46 of this order, any person who

(*a*) Is a citizen of the United Kingdom and Colonies of the age of twenty-one or upwards; and

(*b*) Has resided in the colony for a period of at least seven out of the last ten years immediately before the date of his nomination for election and is resident in the colony at the date aforesaid; and

(*c*) Is able 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 Assembly,

shall be qualified to be elected as an elected member of the Assembly, and no other person shall be qualified to be so elected.

. . .

Disqualification for Membership

46. A person shall not be qualified to be elected an elected member or to be appointed a nominated member of the Assembly who

(*a*) Is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State; or

(*b*) Holds, or is acting in, any office of emolument under the Crown; or

(*c*) (i) In the case of an elected 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 contract with the Government of the colony 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 the *Gazette* a notice setting out the nature of such contract, and his interest, or the interest of any such firm or company, therein; or

. . .

(*d*) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions; or

(*e*) Is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in the colony; or

(*f*) Has been sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term of or exceeding twelve 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

(*g*) Is disqualified for membership of the Assembly under any law in force in the colony relating to offences connected with elections; or

(*h*) Is, in the case of an elected member, disqualified for election by any law in force in the colony by reason of his holding, or acting in, any office the functions of which involve any responsibility for, or

[1] Text published as *Statutory Instruments* 1955, No. 187, H.M. Stationery Office, London. The Order was made on 1 February 1955, was laid before Parliament on 5 February 1955 and came into operation on 8 February 1955 (except for certain provisions not here quoted).

[2] See the extracts, printed below, from the Singapore Legislative Assembly Elections Ordinance, 1954.

in connexion with, the conduct of any election, or any responsibility for the compilation or revision of any electoral register; . . .

Tenure of Office of Elected and Nominated Members

47. . . .

(3) The seat of an elected or nominated member of the Legislative Assembly shall become vacant

(*a*) Upon his death; or

(*b*) If he shall cease to be a citizen of the United Kingdom and Colonies; or shall take any oath, or make any declaration or acknowledgement of allegiance, obedience, or adherence to any foreign Power or State; or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State; or

(*c*) If he shall be appointed to, or in the case of an elected member, to act in, any office of emolument under the Crown; or

(*d*) If he shall be adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions; or

(*e*) If he shall be sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term of or exceeding twelve months; or

(*f*) If he shall become a party to any contract with the Government of the colony for or on account of the public service, or if any firm in which he is a partner, or any company of which he is a director or manager, shall become a party to any such contract, or if he shall become a partner in a firm, or director or manager of a company, which is a party to any such contract:

Provided that, if in the circumstances it shall appear to him or them to be just so to do, the Governor acting in his discretion, in the case of a nominated member, and the Assembly, in the case of an elected member, may exempt such member from vacating his seat under the provisions of this paragraph if such member shall, before becoming a party to such contract as aforesaid or before, or as soon as practicable after, becoming otherwise interested in such contract (whether as partner in a firm or director or manager of a company) disclose to the Speaker the nature of such contract or the interest of any such firm or company therein; or

(*g*) If, . . . in the case of an elected member, is appointed as a nominated member of the Assembly; or

(*h*) If he shall, by writing under his hand addressed to and received by the Speaker resign his seat in the Assembly; or

(*i*) If he shall be absent from two consecutive meetings of the Assembly without having obtained from the Speaker before the termination of either of such meetings, permission to be or to remain absent therefrom; or

(*j*) If he shall become subject to any of the disqualifications specified in paragraphs (*e*), (*g*) and (*h*) of section 46 of this order.

. . .

THE SINGAPORE LEGISLATIVE ASSEMBLY ELECTIONS ORDINANCE, 1954

No. 26 of 1954, assented to on 11 November 1954 [1]

. . .

2. In this ordinance, unless the context otherwise requires,

. . .

"Election" means an election for the purpose of electing a member of the Legislative Assembly;

. . .

"Legislative assembly" means any legislative assembly established for the colony by Order of Her Majesty in Council;

. . .

5. (1) Subject to the provisions of sections 6 and 7 of this ordinance, any person who

(*a*) Is a citizen of the United Kingdom and Colonies by virtue of the provisions of the British Nationality Act, 1948 or was born in any of the states or territories now included in the Federation of Malaya or the Colony of Sarawak or the Colony of North Borneo or the State of Brunei; and

(*b*) Was ordinarily resident in the colony on the 1st day of April in any year; and

(*c*) Was not less than twenty-one years of age on the 1st day of July in that year,

shall be entitled to have his name entered or retained in a register of electors in that year.

(2) For the purposes of the preparation or revision of any register of electors after the date of coming into force of this ordinance, a person to whom an identity card has been issued on or before the 1st day of April in any year, under the provisions of the Emergency (Registration) Regulations, 1948, and has not been withdrawn shall, until the contrary be shown, be presumed

(*a*) To be ordinarily resident in the colony on the 1st day of April in that year;

[1] Published by the Government Publications Bureau, Singapore. The ordinance entered into force on 12 November 1954.

(*b*) To be not less than twenty-one years of age on the 1st day of July in that year, if from the particulars recorded on the counterfoil of such identity card he appears to be not less than that age on that date; and

(*c*) To reside in the electoral division in which is situated the latest address shown on the counterfoil of such identity card.

6. No person shall be entitled to have his name entered or retained in any register of electors if such person –

(*a*) Has taken any oath or made any declaration or acknowledgement of allegiance, obedience or adherence to any foreign Power or State or does, concurs in or adopts any act done with the intention that he shall become a subject or citizen of any foreign Power or State or is the holder of a passport issued by any foreign Power or State; or

(*b*) Is serving a sentence of imprisonment (by whatever name called) imposed by any court in the colony or in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in any territory in which Her Majesty has from time to time jurisdiction, for an offence punishable with imprisonment for a term exceeding twelve months, or is under sentence of death imposed by any such court or is serving a sentence of imprisonment awarded in lieu of execution of any such sentence; or

(*c*) Is, under any written law, found or declared to be of unsound mind; or

(*d*) Is incapable of being registered by reason of his conviction of a corrupt or illegal practice under this ordinance or the repealed ordinance or by reason of the report of an election judge in accordance with the provisions of this ordinance or of the repealed ordinance, or by reason of his conviction under section 51 of this ordinance or of section 50 of the repealed ordinance; or

(*e*) Is a serving member on full pay of any naval, military or air force not maintained out of moneys provided by the Legislative Council or the Legislative Assembly unless he possesses a domicile in the colony; or

(*f*) Is a person whose name is entered on a register of electors in any other country or territory.

In paragraph (*d*) of this section "the repealed ordinance" means the Singapore Legislative Council Elections Ordinance, 1947.

. . .

PART III

ELECTIONS

. . .

Contested Elections

. . .

[Sections 41, 52 and 86 make provision for secrecy of voting.]

. . .

Election Agent, Election Expenses and Illegal Practices

. . .

72. (1) No person shall furnish or supply any loud-speaker, bunting, ensign, banner, standard, or set of colours, or any other flag, to any person with intent that it shall be carried, worn or used on motor-cars, trucks or other vehicles, as political propaganda, on polling day and no person shall, with any such intent, carry, wear or use, on motor-cars, trucks or other vehicles, any such loud-speaker, bunting, ensign, banner, standard or set of colours, or any other flag, on polling day.

(2) No person shall furnish or supply any flag or label to or for any person with intent that it be worn or used by any person within any electoral division on polling day, as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate; and no person shall use or wear any flag or label as such badge, within any electoral division on polling day.

(3) Nothing contained in either of the preceding sub-sections of this section shall be deemed to extend to the furnishing or supplying of any rosette or of any favour bearing the symbol allotted to any candidate or to the use of any such rosette or favour on any vehicle.

. . .

THE PRESERVATION OF PUBLIC SECURITY ORDINANCE, 1955

Ordinance No. 25 of 1955, assented to on 18 October 1955 [1]

1. . . .

(2) This ordinance shall continue in force for a period of three years from the date of commencement.

. . .

3. (1) If the Governor in Council is satisfied with respect to any person that, with a view to preventing that person from acting in any manner prejudicial to the security of Malaya or the maintenance of

[1] The ordinance was published by the Government Publications Bureau, Singapore, and was brought into force on 21 October 1955, the date of expiry of the proclamation of a state of emergency made on 22 July 1948 (and later extended) under the Emergency Regulations Ordinance, 1948.

public order therein or the maintenance therein of essential services, it is necessary so to do, the Chief Secretary shall by order under his hand make an order directing that such person be detained for any period not exceeding two years.

(2) For the purposes of the foregoing sub-section, "essential services" means any service, business, trade, undertaking, manufacture or calling included in the first schedule to this ordinance.

(3) Every person detained in pursuance of an order made under the provisions of sub-section (1) of this section shall be detained in such place as the Chief Secretary may direct and in accordance with instructions issued by the Chief Secretary.

(4) In any case where under the provisions of sub-section (1) of this section the Chief Secretary is required to make an order directing that a person be detained he may in lieu thereof by order under his hand make in respect of such person an order for all or any of the following purposes; that is to say:

(i) For imposing upon that person such restrictions as may be specified in the order in respect of the place of his residence;

(ii) For prohibiting him from being out of doors between such hours as may be specified in the order except under the authority of a written permit granted by such authority or person as may be so specified;

(iii) For requiring him to notify his movements in such manner at such times and to such authority or person as may be specified in the order;

(iv) For prohibiting him from travelling beyond the limits of Singapore Island except in accordance with permission given to him by such authority or person as may be specified in the order.

4. At any time after an order has been made in respect of any person under the provisions of sub-section (1) of section 3 of this ordinance, the Chief Secretary may direct that the operation of such order be suspended subject to such conditions

(*a*) Imposing upon that person such restrictions as may be specified in the direction in respect of the place of his residence;

(*b*) Prohibiting him from being out of doors between such hours as may be so specified except under the authority of a written permit granted by such authority or person as may be so specified;

(*c*) Requiring him to notify his movements in such manner at such times and to such authority or person as may be so specified;

(*d*) Prohibiting him from travelling beyond the limits of Singapore Island except in accordance with permission given to him by such authority or person as may be so specified;

(*e*) Permitting him to return to the country to which he belongs or to any other place to which he wishes to proceed provided that the government of such place consents to receive him as the Chief Secretary sees fit, and the Chief Secretary may revoke any such direction if he is satisfied that the person against whom the order was made has failed to observe any condition so imposed or that it is necessary in the public interest that such direction should be revoked.

5. (1) Every person in respect of whom an order or direction is made by the Chief Secretary under the provisions of section 3 or section 4 of this ordinance shall be entitled to appeal against the making of such order to an appeal tribunal.

(2) For the purpose of enabling a person to prosecute such appeal he shall, within fourteen days of the making of the order or direction, be informed of his right of appeal and be furnished by the Chief Secretary with a statement of the grounds on which the order or direction is made and such other particulars, if any, as he may in the opinion of the Chief Secretary reasonably require for the presentation of his case before the appeal tribunal, due regard being had to the requirements of public security, the protection of individuals and the safeguarding of sources of information:

Provided that the appeal tribunal may, at any time, before or during the hearing of the appeal, direct that such further information as it considers necessary, due regard being had to the requirements of public security, the protection of individuals and the safeguarding of sources of information, shall be furnished to such person by the Chief Secretary or by such other person as the tribunal may determine.

(3) The Governor in Council may make rules as to the manner in which appeals may be made and for regulating the procedure of appeal tribunals.

(4) Decisions of an appeal tribunal shall, subject to the provisions of this ordinance relating to review, be final and shall not be called into question in any court.

[Section 6 authorizes the Chief Justice to appoint appeal tribunals.]

7. On the hearing of an appeal under the provisions of section 5 of this ordinance an appeal tribunal may in its discretion revoke, amend or confirm an order or direction made by the Chief Secretary and when it so amends or confirms such an order or direction may make with regard thereto such recommendation, if any, as it shall think fit.

[Section 8 provides for the review, at least every six months, of orders and directions under sections 3 and 4 which are still in force.]

. . .

16. (1) Any police officer may, without warrant and with or without assistance –

(*a*) If not below the rank of assistant superintendent of police, enter and search any premises;

(*b*) If not below the rank of inspector,

(i) Board and search any vessel, not being or having the status of a ship of war;

(ii) Stop and search any vehicle or individual, whether in a public place or not,

if he has reasonable grounds for believing that any document containing an incitement to violence or counselling disobedience to any law or to any lawful order or which is calculated or likely to lead to a breach of the peace is likely to be found on such premises, vessel or individual or in such vehicle and may seize any document so found:

Provided always that any police officer not below the rank of inspector may exercise the powers conferred by this sub-section on a police officer not below the rank of assistant superintendent of police if he has good grounds for believing that by reason of the delay which would be caused by referring to an officer not below the rank of assistant superintendent of police any document liable to seizure under the provisions of this sub-section is likely to be removed therefrom.

(2) Any document seized under the provisions of sub-section (1) of this section shall be destroyed or otherwise disposed of in such manner as the Commissioner of Police may order.

(3) The Commissioner of Police shall, on making an order under sub-section (2) of this section, if he has reason to believe that the owner, or person who was in possession immediately before such document was seized, is in the colony cause a notice to be served on that person informing him of the terms of the order.

(4) Any person aggrieved by an order made under sub-section (2) of this section may appeal against such order to the Governor in Council:

Provided that no appeal against such order shall be allowed unless notice of appeal in writing, together with the reasons for appeal, is given to the Commissioner of Police and to the Governor in Council within seven days of service of notice of the order under sub-section (3) of this section.

(5) Where an order has been made under sub-section (2) of this section it shall only be carried into effect if such order has not been appealed against or if any appeal against the order has been dismissed or abandoned.

17. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe –

(*a*) There are grounds which would justify his detention under section 3 of this ordinance;

(*b*) That he has acted or is about to act or is likely to act in any manner prejudicial to the public safety or the maintenance of public order.

(2) Any police officer may without warrant arrest and detain pending enquiries any person, who upon being questioned by such officer fails to satisfy such officer as to his identity or as to the purposes for which he is in the place where he is found and who such officer suspects has acted or is about to act in any manner prejudicial to the public safety or the maintenance of public order.

(3) No person shall be detained under the provisions of this section for a period exceeding twenty-four hours except with the authority of a police officer of or above the rank of assistant superintendent of police or for a period of forty-eight hours in all:

Provided that if an officer of or above the rank of superintendent of police is satisfied that the necessary enquiries cannot be completed within the aforesaid period of forty-eight hours he may authorize the further detention of such person for an additional period not exceeding fourteen days and shall on giving such authorization forthwith report the circumstances to the Commissioner of Police.

(4) Any person detained under the powers conferred by this section shall be deemed to be in lawful custody and may be detained in any prison, or in any police station or in any other similar place authorized generally or specially by the Chief Secretary.

. . .

19. (1) The Commissioner of Police may, subject to such exceptions as may be specified therein, by order require every person within any area specified in such order to remain within doors during such period and between such hours as may be specified therein and in such a case if any person is or remains out of doors within such area without a permit in writing issued by a police officer of or above the rank of inspector he shall be guilty of an offence against this ordinance.

(2) No order made under the provisions of sub-section (1) of this section shall remain in force for a period exceeding forty-eight hours unless confirmed by the Governor in Council.

(3) No order made under the provisions of sub-section (1) of this section shall apply to

(*a*) The Governor or any member of the Legislative Assembly; or

(*b*) Any police officer or any member, in uniform, of Her Majesty's naval, military or air forces or of any local forces established under any written law.

. . .

25. Notwithstanding anything to the contrary contained in any written law, a court may order that the whole or any part of any trial before it for any offence against this ordinance or for any offence arising out of or in connexion with an occasion of emergency or public danger or arising out of subversive activities shall be dealt with *in camera* it it is satisfied that it is expedient in the interest of justice or of public safety or security so to do.

26. A court may at any time order that no person shall publish the name, address or photograph of any witness in any case tried or about to be tried before it for an offence against this ordinance or for any offence arising out of or in connexion with an

occasion of emergency or public danger or arising out of subversive activities or any evidence or any other thing likely to lead to the identification of any such witness. Any person who acts in contravention of any such order shall be guilty of an offence against this ordinance.

. . .

First Schedule

(Section 3)

ESSENTIAL SERVICES

1. Water services.
2. Gas services.
3. Electricity services.
4. Public health services.
5. Fire services.
6. Prison services.
7. Postal services.
8. Telephone services and undertakings.
9. Telegraph services and undertakings.
10. Port, dock and harbour services and undertakings.
11. Bulk distribution of fuel and lubricants.

THE CRIMINAL LAW (TEMPORARY PROVISIONS) ORDINANCE, 1955

Ordinance No. 26 of 1955, assented to on 18 October 1955 [1]

PART I

PRELIMINARY

1. . . .

(2) This ordinance shall continue in force for a period of three years from the date of commencement.

. . .

2. In this ordinance, unless the subject or context otherwise requires:

. . .

"Subversive document" means any document which contains:

(*a*) Any subversive matter; or

(*b*) Any propaganda or matter supporting, propagating or advocating acts prejudicial to the public safety in Malaya or the maintenance of public order therein or inciting to violence therein or counselling disobedience to the law thereof or to any lawful order therein; or

(*c*) Any reference to or account of any collection of, or any request or demand for, any subscription, contribution or donation, whether in money or in kind, or any request or demand for supplies for the benefit directly or indirectly or the use of persons who intend to or are about to act or have acted in a manner prejudicial to the public safety in Malaya or to the maintenance of public order therein or who incite to violence therein or counsel disobedience to the law thereof or any lawful order therein,

and includes any document indicating a connexion, association or affiliation with any unlawful society;

. . .

PART II

MISCELLANEOUS OFFENCES RELATING TO PUBLIC SAFETY

. . .

9. (1) Any person who, without lawful excuse, makes, causes to be made, carries or has in his possession or under his control any subversive document shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding ten years.

(2) Every document purporting to be a subversive document shall be deemed to be a subversive document until the contrary is proved; and where in any prosecution under this section it is proved that a person made, was carrying or had in his possession or under his control a subversive document he shall be deemed to have known the nature and contents of such document:

Provided that no person shall be convicted of an offence against this section if he proves to the satisfaction of the court:

(i) That he was not aware of the nature or contents of the subversive document which he made, caused to be made, was carrying or had in his possession or under his control; and

(ii) That he made, caused to be made, was carrying or had the subversive document in his possession or under his control in such circumstances that at no time did he have reasonable cause to believe or suspect that such document was a subversive document.

PART IV

RESTRICTIONS OF DISPLAY OF NATIONAL EMBLEMS

[Restrictions are placed upon the public display of national emblems except those of the United Kingdom, the Colony of Singapore and the Federation of Malaya.]

[1] The ordinance was published by the Government Publications Bureau, Singapore, and was brought into force on 21 October 1955, the date of expiry of the proclamation of a state of emergency made on 22 July 1948 (and later extended) under the Emergency Regulations Ordinance, 1948.

PART V

ILLEGAL STRIKES AND LOCK-OUTS IN ESSENTIAL SERVICES

[It is made an offence to go on strike, or lock out workers, in certain essential services, without giving fourteen days' notice, or when conciliation proceedings under the Industrial Courts Ordinance, 1940, are pending, or in certain other circumstances.[1]]

PART VI

GENERAL

30. (1) Whenever the Chief Secretary declares that an immediate threat to public peace exists within the colony or any part thereof any police officer not below the rank of inspector may command any assembly of ten or more persons within the colony to disperse and it shall thereupon be the duty of such persons to disperse accordingly and any person joining or continuing in any such assembly shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term which may extend to six months or to a fine not exceeding one thousand dollars or to both such imprisonment and fine.

. . .

31. (1) Any police officer may, without warrant and with or without assistance,

(*a*) If not below the rank of assistant superintendent of police, enter and search any premises;

(*b*) If not below the rank of inspector, stop and search any vehicle or individual, whether in a public place or not,

if he suspects that any evidence of the commission of an offence is likely to be found on such premises or individual or in such vehicle, and may seize any evidence so found:

Provided always that any police officer not below the rank of inspector may exercise the powers conferred by this sub-section on a police officer not below the rank of assistant superintendent of police if he has good grounds for believing that by reason of the delay which would be caused by referring to an officer not below the rank of assistant superintendent of police any such evidence is likely to be removed.

. . .

32. Any subversive document seized under the provisions of this ordinance shall be destroyed or otherwise disposed of in such manner as the Commissioner of Police may order.

. . .

40. Notwithstanding anything to the contrary contained in any written law, a court may order that the whole or any part of any trial before it for any offence against this ordinance shall be dealt with *in camera* if it is satisfied that it is expedient in the interest of justice or of public safety or security so to do.

41. A court may at any time order that no person shall publish the name, address or photograph of any witness in any case tried or about to be tried before it for an offence against this ordinance, or any evidence or any other thing likely to lead to the identification of any such witness. Any person who acts in contravention of any such order shall be guilty of an offence against this ordinance.

. . .

[1] "Essential services" are defined in the sixth schedule to the ordinance as in the first schedule to the Preservation of Public Security Ordinance, 1955. (See above, p. 318.)

THE LABOUR ORDINANCE, 1955

No. 40 of 1955, assented to on 29 November 1955 [1]

SUMMARY

The Labour Ordinance, 1955, amended and consolidated much of the law relating to labour of Singapore. Matters dealt with therein included contracts of employment; payment of wages; holidays, rest days, hours of work and overtime; employment of children and young persons; employment of women and maternity protection; recruitment; and health, accommodation and medical care.

Section 20 provides as follows:

"20. Nothing in any contract of service shall in any way restrict the right of any workman who is a party to such contract

(*a*) To join a registered trade union; or

(*b*) To participate in the activities of a registered trade union, whether as an officer of such union or otherwise; or

(*c*) To associate with any other persons for the purpose of organizing a trade union in accordance with the provisions of the Trade Unions Ordinance, 1940."

No child (that is to say, person not yet fourteen) was to be employed, except that a child of twelve might be employed in light work suited to his capacity. No child was to be employed in any occu-

[1] The ordinance was published by the Government Publications Bureau, Singapore, and was brought into force on 1 December 1955.

pation, or in any place, or under working conditions, injurious to his health or likely to be so. Children and young persons (persons of fourteen or above but not yet sixteen) were not to be employed at managing or attending machinery in motion or electrical apparatus or in any underground working and their employment in industrial undertakings was regulated. Employment of women underground was also prohibited.

Every female workman was to be entitled to abstain from work for four weeks before and four weeks after confinement, to receive from the employer during those periods a maternity allowance calculated as laid down in the ordinance, and not to be dismissed when absent during that time.

Every employer having undertaken to provide quarters for workmen was to provide for these workmen and their dependents sufficient and proper quarters, a sufficient supply of wholesome water and sufficient and proper sanitary arrangements.

Section 143 of the ordinance reads:

"143. Any employer who without reasonable excuse, the proof whereof shall lie on him, refuses to allow a workman whose contract of service has been determined in any of the ways hereinbefore provided to leave his service shall be liable, on conviction, to a fine not exceeding one hundred dollars or in default to imprisonment for a term which may extend to one month, and the whole or any portion of any fine recoverable under this section may be adjudged by the court to be paid to the workman."

UNITED STATES OF AMERICA

DEVELOPMENTS CONCERNING GUAM, ALASKA, HAWAII AND THE VIRGIN ISLANDS

References have been made in Part I to significant developments concerning Guam,[1] Alaska,[2] Hawaii [3] and the Virgin Islands.[4]

---

[1] See p. 250.
[2] See pp. 251, 252 and 253.
[3] See pp. 251, 252 and 253.
[4] See pp. 252, 254 and 256.

PART III

INTERNATIONAL INSTRUMENTS

INTERNATIONAL LABOUR ORGANISATION

INSTRUMENTS ADOPTED WITHIN THE INTERNATIONAL LABOUR ORGANISATION IN 1955 [1]

1. In addition to the International Labour Convention (No. 104) concerning the abolition of penal sanctions for breaches of contract of employment by indigenous workers, the text of which appears below, the following were among the instruments adopted at the 38th session of the International Labour Conference (Geneva, 1955): the International Labour Recommendation (No. 99) concerning vocational rehabilitation of the disabled; the International Labour Recommendation (No. 100) concerning the protection of migrant workers in underdeveloped countries; the resolution concerning part-time employment of women and the employment of older women; the resolution concerning the employment of women having dependent children; the resolution concerning the protection of trade union rights; and the resolution concerning the improvement of the protection of labour and industrial safety. The texts of these instruments are reproduced in the *Official Bulletin* of the International Labour Office, Vol. XXXVIII, 1955, No. 3.

2. A resolution concerning the age of retirement and conclusions concerning the financing of social security were adopted at the First European Regional Conference of the ILO (Geneva, 1955). The texts of these instruments are reproduced in *Official Bulletin*, Vol. XXXVIII, 1955, No. 2.

3. A resolution concerning productivity in the chemical industries and a resolution concerning vocational training in the chemical industries were adopted at the fourth session of the ILO Chemical Industries Committee. The texts of these resolutions are reproduced in *Official Bulletin*, Vol. XXXVIII, 1955, No. 4.

4. A resolution concerning equal remuneration for men and women workers for work of equal value was adopted at the fifth session of the ILO Textiles Committee and is reproduced in *Official Bulletin*, Vol. XXXVIII, 1955, No. 5.

5. At its third session, the ILO Committee on Work on Plantations adopted conclusions concerning living and working conditions and productivity on plantations, a resolution concerning possible measures within the countries and industries concerned for stabilizing employment and earnings of plantation workers and a resolution concerning trade unions on plantations. Their texts are reproduced in *Official Bulletin*, Vol. XXXVIII, 1955, No. 6.

[1] Note based on information kindly furnished by the International Labour Office.

CONVENTION No. 104 CONCERNING THE ABOLITION OF PENAL SANCTIONS FOR BREACHES OF CONTRACT OF EMPLOYMENT BY INDIGENOUS WORKERS

(ABOLITION OF PENAL SANCTIONS (INDIGENOUS WORKERS) CONVENTION, 1955)

Adopted by the International Labour Conference at its 38th Session, Geneva, 1955 [1]

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and

Having decided upon the adoption of certain proposals with regard to penal sanctions for breaches of contract of employment by indigenous workers, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international convention, and

Being convinced that the time has come for the abolition of such penal sanctions, the maintenance of which in national legislation is contrary to modern conceptions of the contractual relationships between employers and workers and to the personal dignity and rights of man;

ADOPTS this twenty-first day of June of the year one thousand nine hundred and fifty-five the following convention, which may be cited as the Abolition

[1] Text published in the *Official Bulletin* of the International Labour Office, Vol. XXXVIII, 1955, No. 3.

of Penal Sanctions (Indigenous Workers) Convention, 1955:

Art. 1. The competent authority in each country where there exists any penal sanction for any breach of a contract of employment as defined in article 1, paragraph 2, of the Penal Sanctions (Indigenous Workers) Convention, 1939, by any worker referred to in article 1, paragraph 1, of that convention,[1] shall take action for the abolition of all such penal sanctions.

Art. 2. Such action shall provide for the abolition of all such penal sanctions by means of an appropriate measure of immediate application.

Art. 3. Where an appropriate measure of immediate application is not considered to be practicable, measures shall be adopted providing for the progressive abolition of such penal sanctions in all cases.

Art. 4. The measures adopted under article 3 of this convention shall in all cases ensure that all penal sanctions are abolished as soon as possible and in any event not later than one year from the date of the ratification of this convention.

Art. 5. With a view to abolishing discrimination between indigenous and non-indigenous workers, penal sanctions for breaches of contracts of employment not covered by article 1 of this convention which do not apply to non-indigenous workers shall be abolished for indigenous workers.

Art. 6. The formal ratifications of this convention shall be communicated to the Director-General of the International Labour Office for registration.

Art. 7. 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. 8. 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. 9. 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications 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. 10. 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 and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Art. 11. At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on 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. 12. 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 8 above, if and when the new revising convention shall have come into force;

(*b*) As from the date when the new revising con-

---

[1] Article 1 of the Penal Sanctions (Indigenous Workers) Convention, 1939 reads as follows:

"1. This convention applies to all contracts by which a worker belonging to or assimilated to the indigenous population of a dependent territory of a Member of the Organisation, or belonging to or assimilated to the dependent indigenous population of the home territory of a Member of the Organisation, enters the service of any public authority, individual, company or association, whether non-indigenous or indigenous, for remuneration in cash or in any other form whatsoever.

"2. For the purpose of this convention, the term 'breach of contract' means

(*a*) Any refusal or failure of the worker to commence or perform the service stipulated in the contract;

(*b*) Any neglect of duty or lack of diligence on the part of the worker;

(*c*) The absence of the worker without permission or valid reason; and

(*d*) The desertion of the worker."

vention comes into force this convention shall cease to be open to ratification by the 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. 13. The English and French versions of the text of this convention are equally authoritative.

REPORTS OF THE COMMITTEE ON FREEDOM OF ASSOCIATION

Established by the Governing Body of the International Labour Office (Fifteenth, Sixteenth, Seventeenth and Eighteenth Reports)

SUMMARY[1]

The Committee on Freedom of Association, set up by the Governing Body at its 117th session (Geneva, November 1951) and entrusted with the preliminary examination of allegations concerning trade union rights submitted to the International Labour Organisation, held four meetings in 1955. In the course of those meetings the Committee adopted unanimously its fifteenth, sixteenth, seventeenth and eighteenth reports.[2] The Governing Body approved the fifteenth report on 3 March 1955, the sixteenth report on 28 May 1955 and the seventeenth report on 18 November 1955, in each case *nem. con.*, with one abstention; the eighteenth report was noted by the Governing Body on 18 November 1955.

In the course of its four meetings in 1955, the Committee had before it a total of 24 cases. Of these, the Committee recommended that 12 should, subject to certain observations, be dismissed as not calling for further examination; that five cases of complaints which were submitted to it for an opinion should be dismissed without being communicated to the governments concerned; four cases were the subject of an interim report by the Committee; in the remaining three cases, the Committee reached certain conclusions which it wished to draw to the attention of the Governing Body.

Ten of the cases are dealt with in the Fifteenth Report of the Committee on Freedom of Association. The Committee recommended that five of them (Brazil, France, France-Morocco, United States and Greece) should be dismissed as not calling for further examination, mainly due to insufficient evidence being submitted or to the fact that the allegations related to matters with respect to which the Committee was not called upon to express an opinion or were of a political nature.

With respect to three of the five other cases dealt with in its Fifteenth Report (France-Morocco — a different case from that relating to the same country mentioned above — the Union of South Africa, the United Kingdom-Southern Rhodesia), the Committee reached certain conclusions which it wished to draw to the attention of the Governing Body. In one case, the Committee drew attention to the need for promulgating legislation ensuring the exercise of full trade union rights in conformity with the principles laid down in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); in another case the Committee considered that legislation was incompatible with the principles that workers, without distinction whatsoever, should have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization, that all workers' organizations should enjoy the right of collective bargaining and that workers should have the right to negotiate terms and conditions through such organizations.

Two cases relating to Guatemala and Pakistan were the subject of interim reports by the Committee. In one of the cases, the Committee emphasized that the institution, by the action of the government concerned, of an independent inquiry is a particularly appropriate method of ascertaining the facts and attributing responsibility when important disturbances have occurred involving loss of human life.

Seven cases are dealt with in the Sixteenth Report of the Committee on Freedom of Association. Three of these (Iran, France and the Union of South Africa) were dismissed without being communicated to the governments concerned, in one case because the complaint was merely a copy of a communication addressed elsewhere, in another because the complaint was insufficiently substantiated and in the third case because the allegations raised either did not relate to trade union rights or related to questions of principle previously examined by the Committee. The four remaining cases (Burma, Argentine Republic

[1] Summary prepared by the International Labour Office. For the terms of reference of the Committee, see *Yearbook on Human Rights for 1951*, pp. 574–5. For summaries of the previous reports of the Committee, see *Yearbook on Human Rights for 1952*, pp. 395–7, *Yearbook on Human Rights for 1953*, pp. 347–50 and *Yearbook on Human Rights for 1954*, pp. 378–9.

[2] The full text of the fifteenth and sixteenth reports is to be found in the *Official Bulletin* of the International Labour Office, Vol. XXXVIII, 1955, No. 6; the full text of the seventeenth and eighteenth reports is to be found in *Official Bulletin*, Vol. XXXIX, 1956, No. 1.

and two relating to Greece) were dismissed as not calling for further examination. In one of these cases, in which persons were sentenced to deportation by the application of an exceptional procedure, the Committee drew attention to the desirability of the procedure being attended by all the safeguards necessary to ensure that it shall not be utilized for the purpose of infringing the free exercise of trade union rights and to the importance which it attaches to trade unions being able to carry on their activities freely in defence of occupational interests.

Eight cases are dealt with in the Seventeenth Report of the Committee on Freedom of Association. These include the case relating to France-Morocco, concerning which the Committee had drawn certain conclusions to the notice of the Governing Body in its Fifteenth Report, and the case relating to Guatemala which was the subject of an interim report by the Committee in its Fifteenth Report (see above).

Two of these (Colombia and Guatemala — a second case) were dismissed without being communicated to the governments concerned. Three cases (France-Morocco, the United Kingdom-British Honduras and France) were dismissed as not calling for further examination. In reaching its recommendations, the Committee made certain observations for the attention of the governments concerned. Among other things, the Committee emphasized the importance which it attaches to the principle that employers, including governmental authorities in the capacity of employers of wage-earners, should recognize for collective bargaining purposes the organizations representative of the wage-earners employed by them.

In the case relating to Guatemala, which had previously been the subject of an interim report, the Committee reached certain conclusions which it wished to draw to the attention of the Governing Body. Among other things, the Committee emphasized the importance of the free constitution of central workers' organizations and affiliated organizations, in accordance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and of such organizations having freedom, also in conformity with that Convention, to draw up their statutes and rules, to elect their representatives, to organize their administration and activities, to formulate their programmes and to affiliate with international organizations of workers.

In the two remaining cases (India and Iran) dealt with in its Seventeenth Report, the Committee submitted interim reports to the Governing Body. In doing so, the Committee made a number of observations for the attention of the governments concerned. In particular, the Committee emphasized the importance which it attaches to the principle that workers should enjoy adequate protection against acts of anti-union discrimination in respect of their employment and, in particular, against acts calculated to cause the dismissal of or otherwise prejudice a worker on account of union membership or of participation in union activities. In one case, the Committee recommended the Governing Body to draw the attention of the government concerned to the importance which it attaches to the free exercise of the right of meeting, the right to express opinions freely through journals or publications and the protection of workers against transfer or dismissal on account of trade union activities, as essential elements in trade union rights.

The Eighteenth Report of the Committee contains an interim report with respect to a case relating to the Netherlands (Netherlands Antilles) in which the Committee informed the Governing Body that it would not be able to report on the merits of the case until it had received the observations of the government concerned.

ORGANIZATION OF AMERICAN STATES

RESOLUTIONS OF THE TENTH ASSEMBLY OF THE INTER-AMERICAN COMMISSION OF WOMEN

San Juan, Puerto Rico, 29 May – 16 June 1955 [1]

The tenth session of the Inter-American Commission of Women had as the basic topic on its agenda the economic and social status of women in the American Republics. On this topic the Assembly adopted a number of resolutions calling for action by the governments of the twenty-one Member States, among them resolutions III, IV and XI, dealing with equal remuneration for men and women workers for work of equal value. Resolution III provided for the publication and distribution throughout the Americas of material on this subject, and the compilation of data on pertinent constitutional and legislative measures in force in the American Republics. Resolution IV requested those governments not yet having done so to ratify the Equal Remuneration Convention 1951.[2] Resolution XI reaffirmed resolutions IV and XXVII of the eighth and ninth assemblies of the Commission,[3] respectively, to carry out the continental campaign on behalf of the principle of equal remuneration. Resolution II concerned the revision of the Report on the Economic Status of Working Women in America, and resolution XII the holding of a meeting of technical experts and administrative heads of women's labour bureaux.

The Assembly also adopted certain resolutions on educational opportunities for women in the American Republics. Resolution V concerned a comparative study on attendance and educational facilities in elementary schools. Resolution VI urged governments to adopt provisions and measures to ensure the fulfilment of the aims of resolutions on education approved at previous assemblies of the Commission. Resolution VII recommended the Member Governments to increase suitably their annual appropriations for education. Resolution VIII concerned the intensification of the campaign against illiteracy. Resolution IX related to the promotion among women of a greater interest in public affairs and the stimulation of political education of women. Resolution X requested the Ministries of Education to include progressive courses in handicrafts in their elementary and secondary school curricula, these courses being of primary importance to the economic welfare of women in the Americas.

[1] Note based upon information kindly furnished by Professor Charles G. Fenwick, Director, Department of International Law, Pan-American Union, Washington, D.C.

[2] See *Yearbook on Human Rights for 1951*, pp. 469–70.

[3] See *Yearbook on Human Rights for 1952*, pp. 414–6 and *Yearbook on Human Rights for 1953*, pp. 363–4.

CONVENTION ON TERRITORIAL ASYLUM

Signed on 28 March 1954 at the Tenth Inter-American Conference (Caracas, Venezuela, 1–28 March 1954) [1]

The governments of the Member States of the Organization of American States, desirous of concluding a convention regarding territorial asylum, have agreed to the following articles:

Art. I. Every State has the right, in the exercise of its sovereignty, to admit into its territory such persons as it deems advisable, without, through the exercise of this right, giving rise to complaint by any other State.

Art. II. The respect which, according to international law, is due the jurisdictional right of each State over the inhabitants in its territory, is equally due, without any restriction whatsoever, to that which it has over persons who enter it proceeding from a State in which they are persecuted for their beliefs, opinions, or political affiliations, or for acts which may be considered as political offences.

Any violation of sovereignty that consists of acts committed by a government or its agents in another State against the life or security of an individual, carried out on the territory of another State, may not be considered attenuated because the persecution began outside its boundaries or is due to political considerations or reasons of state.

[1] The convention was signed on 28 March 1954 by Argentina, Dominican Republic, Guatemala, Honduras, Mexico and Peru, each with reservations, and by Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Haiti, Nicaragua, Panama, Paraguay, El Salvador, Uruguay and Venezuela. The convention was signed by Costa Rica on 16 June 1954. The texts of the convention and of the above-mentioned reservations appear in *Annals of the Organization of American States*, Vol. VI, Special Number, 1954.

Art. III. No State is under the obligation to surrender to another State, or to expel from its own territory, persons persecuted for political reasons or offences.

Art. IV. The right of extradition is not applicable in connexion with persons who, in accordance with the qualifications of the solicited State, are sought for political offences, or for common offences committed for political ends, or when extradition is solicited for predominantly political motives.

Art. V. The fact that a person has entered into the territorial jurisdiction of a State surreptitiously or irregularly does not affect the provisions of this convention.

Art. VI. Without prejudice to the provisions of the following articles, no State is under the obligation to establish any distinction in its legislation, or in its regulations or administrative acts applicable to aliens, solely because of the fact that they are political asylees or refugees.

Art. VII. Freedom of expression of thought, recognized by domestic law for all inhabitants of a State, may not be ground of complaint by a third State on the basis of opinions expressed publicly against it or its government by asylees or refugees, except when these concepts constitute systematic propaganda through which they incite to the use of force or violence against the government of the complaining State.

Art. VIII. No State has the right to request that another State restrict for the political asylees or refugees the freedom of assembly or association which the latter State's internal legislation grants to all aliens within its territory, unless such assembly or association has as its purpose fomenting the use of force or violence against the government of the soliciting State.

Art. IX. At the request of the interested State, the State that has granted refuge or asylum shall take steps to keep watch over, or to intern at a reasonable distance from its border, those political refugees or asylees who are notorious leaders of a subversive movement, as well as those against whom there is evidence that they are disposed to join it.

Determination of the reasonable distance from the border, for the purpose of internment, shall depend upon the judgement of the authorities of the State of refuge.

All expenses incurred as a result of the internment of political asylees and refugees shall be chargeable to the State that makes the request.

Art. X. The political internees referred to in the preceding article shall advise the government of the host State whenever they wish to leave its territory. Departure therefrom will be granted, under the condition that they are not to go to the country from which they came; and the interested government is to be notified.

Art. XI. In all cases in which a complaint or request is permissible in accordance with this convention, the admissibility of evidence presented by the demanding State shall depend on the judgement of the solicited State.

Art. XII. This convention remains open to the signature of the Member States of the Organization of American States, and shall be ratified by the signatory States in accordance with their respective constitutional procedures.

Art. XIII. The original instrument, whose texts in the English, French, Portuguese, and Spanish languages are equally authentic, shall be deposited in the Pan American Union, which shall send certified copies to the governments for the purpose of ratification. The instruments of ratification shall be deposited in the Pan American Union; this organization shall notify the signatory governments of said deposit.

Art. XIV. This convention shall take effect among the States that ratify it in the order in which their respective ratifications are deposited.

Art. XV. This convention shall remain effective indefinitely, but may be denounced by any of the signatory States by giving advance notice of one year, at the end of which period it shall cease to have effect for the denouncing State, remaining, however, in force among the remaining signatory States. The denunciation shall be forwarded to the Pan American Union, which shall notify the other signatory States thereof.

CONVENTION ON DIPLOMATIC ASYLUM

Signed on 28 March 1954 at the Tenth Inter-American Conference (Caracas, Venezuela, 1–28 March 1954) [1]

The governments of the Member States of the Organization of American States, desirous of concluding a convention on diplomatic asylum, have agreed to the following articles:

[1] The Convention was signed on 28 March 1954 by Dominican Republic, Guatemala, Honduras and Uruguay, each with reservations, and by Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Haiti, Mexico, Nicaragua, Panama, Paraguay, El Salvador and Venezuela. The convention was signed by Costa Rica on 16 June 1954. The texts of the convention and of the above-mentioned reservations appear in *Annals of the Organization of American States*, Vol. VI, Special Number, 1954.

Art. I. Asylum granted in legations, war vessels, and military camps or aircraft, to persons being sought for political reasons or for political offences, shall be respected by the territorial State in accordance with the provisions of this convention.

For the purposes of this convention, a legation is any seat of a regular diplomatic mission, the residence of chiefs of mission, and the premises provided by them for the dwelling places of asylees when the number of the latter exceeds the normal capacity of the buildings.

War vessels or military aircraft that may be temporarily in shipyards, arsenals, or shops for repair may not constitute a place of asylum.

Art. II. Every State has the right to grant asylum; but it is not obligated to do so or to state its reasons for refusing it.

Art. III. It is not lawful to grant asylum to persons who, at the time of requesting it, are under indictment or on trial for common offences or have been convicted by competent regular courts and have not served the respective sentence, nor to deserters from land, sea, and air forces, save when the acts giving rise to the request for asylum, whatever the case may be, are clearly of a political nature.

Persons included in the foregoing paragraph who *de facto* enter a place that is suitable as an asylum shall be invited to leave or, as the case may be, shall be surrendered to the local authorities, who may not try them for political offences committed prior to the time of the surrender.

Art. IV. It shall rest with the State granting asylum to determine the nature of the offence or the motives for the persecution.

Art. V. Asylum may not be granted except in urgent cases and for the period of time strictly necessary for the asylee to depart from the country with the guarantees granted by the government of the territorial State, to the end that his life, liberty, or personal integrity may not be endangered, or that the asylee's safety is ensured in some other way.

Art. VI. Urgent cases are understood to be those, among others, in which the individual is being sought by persons or mobs over whom the authorities have lost control, or by the authorities themselves, and is in danger of being deprived of his life or liberty because of political persecution and cannot, without risk, ensure his safety in any other way.

Art. VII. If a case of urgency is involved, it shall rest with the State granting asylum to determine the degree of urgency of the case.

Art. VIII. The diplomatic representative, commander of a warship, military camp, or military airship, shall, as soon as possible after asylum has been granted, report the fact to the Minister of Foreign Affairs of the territorial State, or to the local administrative authority if the case arose outside the capital.

Art. IX. The official furnishing asylum shall take into account the information furnished to him by the territorial government in forming his judgement as to the nature of the offence or the existence of related common crimes; but his decision to continue the asylum or to demand a safe-conduct for the asylee shall be respected.

Art. X. The fact that the government of the territorial State is not recognized by the State granting asylum shall not prejudice the application of the present convention, and no act carried out by virtue of this convention shall imply recognition.

Art. XI. The government of the territorial State may, at any time, demand that the asylee be withdrawn from the country, for which purpose the said State shall grant a safe-conduct and the guarantees stipulated in article V.

Art. XII. Once asylum has been granted, the State granting asylum may request that the asylee be allowed to depart for foreign territory, and the territorial State is under obligation to grant immediately, except in case of *force majeure*, the necessary guarantees, referred to in article V, as well as the corresponding safe-conduct.

Art. XIII. In the cases referred to in the preceding articles, the State granting asylum may require that the guarantees be given in writing, and may take into account, in determining the rapidity of the journey, the actual conditions of danger involved in the departure of the asylee.

The State granting asylum has the right to transfer the asylee out of the country. The territorial State may point out the preferable route for the departure of the asylee, but this does not imply determining the country of destination.

If the asylum is granted on board a warship or military airship, departure may be made therein, but complying with the previous requisite of obtaining the appropriate safe-conduct.

Art. XIV. The State granting asylum cannot be held responsible for the prolongation of asylum caused by the need for obtaining the information required to determine whether or not the said asylum is proper, or whether there are circumstances that might endanger the safety of the asylee during the journey to a foreign country.

Art. XV. When, in order to transfer an asylee to another country, it may be necessary to traverse the territory of a State that is a party to this convention, transit shall be authorized by the latter, the only requisite being the presentation, through diplomatic channels, of a safe-conduct, duly countersigned and bearing a notation of his status as asylee by the diplomatic mission that granted asylum.

En route, the asylee shall be considered under the protection of the State granting asylum.

Art. XVI. Asylees may not be landed at any point in the territorial State or at any place near thereto, except for exigencies of transportation.

Art. XVII. Once the departure of the asylee has been carried out, the State granting asylum is not bound to settle him in its territory; but it may not return him to his country of origin, unless this is the express wish of the asylee.

If the territorial State informs the official granting asylum of its intention to request the subsequent extradition of the asylee, this shall not prejudice the application of any provision of the present convention. In that event, the asylee shall remain in the territory of the State granting asylum until such time as the formal request for extradition is received, in accordance with the juridical principles governing that institution in the State granting asylum. Preventive surveillance over the asylee may not exceed thirty days.

Payment of the expenses incurred by such transfer and of preventive control shall devolve upon the requesting State.

Art. XVIII. The official furnishing asylum may not allow the asylee to perform acts contrary to the public peace or to interfere in the internal politics of the territorial State.

Art. XIX. If as a consequence of a rupture of diplomatic relations the diplomatic representative who granted asylum must leave the territorial State, he shall abandon it with the asylees.

If this is not possible for reasons independent of the wish of the asylee or the diplomatic representative, he must surrender them to the diplomatic mission of a third State, which is a party to this convention, under the guarantees established in the convention.

If this is also not possible, he shall surrender them to a State that is not a party to this convention and that agrees to maintain the asylum. The territorial State is to respect the said asylum.

Art. XX. Diplomatic asylum shall not be subject to reciprocity. Every person is under its protection, whatever his nationality.

Art. XXI. The present convention shall be open for signature by the Member States of the Organization of American States and shall be ratified by the signatory States in accordance with their respective constitutional procedures.

Art. XXII. The original instrument, whose texts in the English, French, Portuguese, and Spanish languages are equally authentic, shall be deposited in the Pan American Union, which shall send certified copies to the governments for the purpose of ratification. The instruments of ratification shall be deposited in the Pan American Union, and the said organization shall notify the signatory governments of the said deposit.

Art. XXIII. The present convention shall enter into force among the States that ratify it in the order in which their respective ratifications are deposited.

Art. XXIV. The present convention shall remain in force indefinitely, but may be denounced by any of the signatory States by giving advance notice of one year, at the end of which period it shall cease to have effect for the denouncing State, remaining in force, however, among the remaining signatory States. The denunciation shall be transmitted to the Pan American Union, which shall inform the other signatory States thereof.

COUNCIL OF EUROPE

EUROPEAN CONVENTION AND PROTOCOL FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS [1]

I. APPLICATION OF THE CONVENTION TO DATE [2]

1. *Ratifications*

For the first ten Members of the Council of Europe to deposit their instruments of ratification, the Convention and the Protocol entered into force respectively on 3 September 1953 and 18 May 1954.[3]

During 1955, there were two new ratifications of the Convention and the Protocol: Belgium (14 June) and Italy (26 October).[4]

2. *Application to non-Metropolitan Territories*

The Netherlands Government notified the Secretary-General of the Council of Europe on 1 December 1955 that the Convention and Protocol would be applicable to Surinam and the Netherlands Antilles except for article 6, paragraph (3)(*c*) of the convention, concerning the right to legal assistance in criminal cases.[5] Under article 63, paragraph (2), the convention extends to the territory or territories named in such notifications as from the thirtieth day after the receipt of notification.

II. THE EUROPEAN COMMISSION ON HUMAN RIGHTS

1. *Sessions*

During 1955, the European Commission on Human Rights held three plenary sessions at the Headquarters of the Council of Europe, Strasburg, from 28 March to 2 April, from 19 to 24 September and from 15 to 17 December respectively.

2. *Adoption of the Rules of Procedure*

Article 36 of the convention provides that the Commission shall draw up its own rules of procedure.

At its second plenary session, the Commission adopted the text of its rules of procedure.[6] At its third plenary session, it amended rules 44, 45 and 46.[7]

3. *Election of the President and Vice-President of the Commission*

At the Commission's first plenary session, Mr. P. Faber agreed to act as President of the Commission until the rules of procedure had been drawn up.

The Commission elected its President and Vice-President at the end of its fourth plenary session.

---

[1] This note was drafted in French by the Secretariat-General of the Council of Europe. Translation by the United Nations Secretariat.

[2] Cf. also p. 346.

[3] See *Yearbook on Human Rights for 1953*, p. 354, and *for 1954*, p. 392.

[4] Following these ratifications, Mrs. G. Janssen-Pevtschin and Mr. Dominedo, who were sitting in an advisory capacity (see *Yearbook on Human Rights for 1954*, p. 392) were able to take up their functions as full members of the European Commission on Human Rights.

[5] See *Yearbook on Human Rights for 1950*, p. 421.

[6] The Human Rights Department of the Secretariat-General of the Council of Europe will furnish a copy of these rules of procedure on request.

[7] The amended text of rules 44, 45 and 46 of the Commission's rules of procedure is as follows:

"*Rule 44.* Where, pursuant to article 24 of the convention, an application is brought before the Commission by a high contracting party, the President of the Commission shall through the Secretary-General of the Council of Europe give notice of such application to the high contracting party against which the claim is made and shall invite it to submit to the Commission its observations in writing on the admissibility of such application.

"*Rule 45.* (1) Any application submitted according to article 25 of the convention shall be referred by the President of the Commission to the three members mentioned in rule 34, who shall make a preliminary examination as to its admissibility. The three members shall then submit to the Commission a report on such preliminary examination.

"(2) If the three members unanimously report that the application appears to be admissible, the President of the Commission shall through the Secretary-General of the Council of Europe give notice of such application to the high contracting party against which the claim is made and shall invite it to submit to the Commission its observations in writing on the admissibility of such application.

"(3) If the three members do not unanimously report that the application appears to be admissible, the Commission shall consider the application and may

(*a*) Either, declare at once that the application is inadmissible,

(*b*) Or, through the Secretary-General of the Council of Europe give notice of such application to the high contracting party against which the claim is made and invite it to submit to the Commission its observations in writing on the admissibility of such application.

"*Rule 46.* (1) Except for the case provided for in rule 45, paragraph 3 (*a*), the Commission, before it decides as to the admissibility of an application, may, if it thinks fit, invite the parties to submit to it their further comments in writing. It may also invite the parties to make oral explanations.

"(2) The Commission shall inform the parties concerned as to its decision on the admissibility of an application."

In accordance with rule 5 of its rules of procedure, it elected Mr. C. H. M. Waldock as President and Mr. C. Th. Eustathiades as Vice-President.

4. *Secretariat of the Commission*

Article 37 of the convention states that the secretariat of the Commission shall be provided by the Secretary-General of the Council of Europe.

In accordance with this article, a Human Rights Department was established within the Secretariat-General of the Council of Europe in 1954.

The deputies of the Ministers of the Council of Europe decided, at their meeting in November 1955, to raise this department to the status of a directorate.

5. *Entry into Force of the Right of Individual Petition*

The major event connected with the protection of human rights in Europe in 1955 was the entry into force of the right of individual petition.[1]

Article 25 of the convention recognizes the right of any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the contracting parties of the rights set forth in the convention to bring the matter before the Commission by addressing a petition to the Secretary-General of the Council of Europe. However, the exercise of this right is subject to two conditions:

The contracting party against which the complaint is lodged must have declared that it recognizes the competence of the Commission to receive such petitions (article 25, paragraph 1);

At least six contracting parties must be bound by such declarations (article 25, paragraph 4).

By 4 February 1952, Sweden had made the declaration provided for in article 25. Ireland followed suit on 25 February 1953. On 13 April 1953, Denmark in turn recognized the competence of the Commission, for a period of two years from 7 April 1953.

On several occasions, and in particular in recommendation 52 of 1953 and resolution 58 of 1954,[2] the Consultative Assembly of the Council of Europe urged the contracting parties which had not yet done so to follow the example of those three countries.

On 14 March, Denmark renewed its previous declaration, which was about to lapse, for two years from 7 April 1955. On 29 March, a fourth declaration, that of Iceland, covering a period of five years, was deposited with the Secretary-General of the Council of Europe.

In this connexion, the European Commission on Human Rights at its second plenary session requested the Secretary-General to draw the attention of the governments members of the Council to the importance the Commission attached to the exercise of the right of individual petition. Like the Consultative Assembly, the Commission considered that a guarantee which was restricted to inter-State disputes could not ensure full protection of democratic regimes, which was the essential purpose of the Convention.

On 5 July 1955, with the deposit of two further accessions — the Federal Republic of Germany, for a period of three years, and Belgium, for a period of two years from 29 June 1955 — the second condition laid down in article 25 of the convention was fulfilled. The right of individual petition therefore entered into force on that date as far as Sweden, Ireland, Denmark, Iceland, the Federal Republic of Germany and Belgium were concerned.

On the same day, Mr. Gudmundsson, the Acting Chairman of the Committee of Ministers, referred in the Consultative Assembly to the importance of this event. At the same time several members of the Assembly welcomed the entry into force of the right of individual petition not only as a major achievement in the field of international law and the guarantee of human rights, but also as a milestone on the road to European unity.[3]

The European Commission on Human Rights expressed a similar view and the hope that the example set by Sweden, Ireland, Denmark, Iceland, the Federal Republic of Germany and Belgium would soon be followed by the other contracting parties.

On 13 December 1955, a seventh contracting party, Norway, also recognized, for a period of two years from 10 December 1955, the competence of the Commission to consider and pass judgement on individual petitions.

6. *Preliminary Work of the Commission on the Individual Right of Appeal*

The European Commission on Human Rights has received a large number of applications. On the basis of the preparatory work and of the actual text of articles 26 and 27 of the Convention,[4] the Commission concluded that in order to deal with the influx of petitions it could apply a procedure that would accelerate the consideration of the admissibility of individual applications.

It accordingly decided that such consideration should devolve primarily upon restricted groups appointed by itself and each composed of three of its members. These groups would then report to the full Commission, which alone is authorized

[1] No complaint by one contracting party against another contracting party was referred to the Commission under article 24 of the convention during 1955.

[2] See *Yearbook on Human Rights for 1953*, p. 354, and *Yearbook on Human Rights for 1954*, p. 393.

[3] Statements by Mr. Crosbie and Mr. Lannung, Lord Layton and Mr. Rolin: Council of Europe, Consultative Assembly, *Official Report of Debates*, Seventh Ordinary Session. Volume I, pp. 18 and 19, 80 and 298.

[4] See *Yearbook on Human Rights for 1950*, p. 423.

to reach a decision (see rules 34[1] and 45 (1)[2] of the rules of procedure).

The groups of three members begin the study of the files on the basis of a résumé of the facts prepared, in each case, by the secretariat of the Commission.[3] They are thus able to decide forthwith which petitions are manifestly inadmissible. With a group's report before it, the plenary Commission, in turn, is able to reach a decision speedily in the majority of cases. It can be stated that, owing to all these provisions, the Commission's work load is not abnormally heavy.

Being anxious not to trouble governments unnecessarily, the Commission also felt it necessary to introduce a clear distinction between applications from the contracting parties (article 24 of the convention) and those submitted by ordinary individuals (article 25 of the convention).

Applications of the first kind are immediately brought to the attention of the contracting party against which they were made, before any consideration of their admissibility (rule 44 of the rules of procedure).[2]

Notice of individual applications is not given forthwith to the contracting party against which a claim is made. Under rule 45 (2) of the rules of procedure,[2] such notice is given only if the group of three members feels unanimously that the application "appears to be admissible". In that case, before any consideration by the plenary Commission, the President of the Commission gives notice of such application through the Secretary-General of the Council of Europe to the government concerned and invites it to submit observations in writing on the admissibility of the application.

If, however, the group of three members does not feel unanimously that the application "appears to be admissible"[4] the plenary Commission considers the application and may either:

Declare at once that it is inadmissible, without first giving notice of it to the contracting party against which the claim is made (rule 45, paragraph 3 (*a*) of the rules of procedure),[2] or

Give such notice and invite the contracting party to submit its observations in writing on the admissibility of the application (rule 45, paragraph 3 (*b*) of the rules of procedure).[2]

Thus no individual application can be considered admissible unless the contracting party against which the claim is made has been notified of it and has had an opportunity of expressing its views. The plenary Commission decides the question of admissibility only when it has obtained proper clarification in the form of observations of the said party and, if necessary, of such further comments in writing or oral explanations as it may invite the parties to make.[5]

It should be added that, when the Commission rejects an application outright, it informs only the applicant of its decision.

The practical results of the application of rules 45 and 46 of the rules of procedure can be seen from the following table:

	Third session, 19–24 Sept. 1955	*Fourth session, 15–17 Dec. 1955*	*Total*
Applications on the rolls for the session	63	51	114
Applications rejected outright (rule 45 (3) (*a*)) .	43	41	84
Applications shelved pending receipt of further information	19	5	24
Applications struck off the rolls	None	5 [a]	5
Applications communicated to the party against which the claim was made (rule 45 (2)) . .	1	None	1
TOTAL	63	51	114 [b]

[a] Withdrawn by the applicants.

[b] For further information on the procedure, practice and jurisprudence of the Commission, see United Nations document E/CN.4/553/Add.3, pp. 4 *et seq.*; also Council of Europe document DH(55)13, pp. 5–6 (dates of application of the Convention).

III. THE EUROPEAN COURT OF HUMAN RIGHTS

Article 19 of the convention, which sets up the Commission on Human Rights, also sets up a Court of Human Rights, likewise to ensure the observance of the engagements undertaken by the contracting parties in the convention. However, the jurisdiction of the Court, as defined in article 45, is subject, under article 46, to prior recognition by the parties. Furthermore, under article 56, the first election of the members of the Court shall take place only after the declarations of acceptance have reached a total of eight.

This last condition has not yet been fulfilled. However, the following progress was made in 1955:

[1] Rule 34 provides as follows: "1. The Commission shall, as circumstances require, appoint one or more groups, each consisting of three of its members, to carry out the duties laid down in rule 45. Two substitute members shall also be appointed for each group.

"2. Such members and substitute members shall be appointed by the Commission in plenary session.

"3. The work of a group shall be presided over by the senior member of such group according to the order of precedence laid down in rule 3."

[2] See above.

[3] For the working methods of the Commission and its secretariat see Council of Europe document DH(55)13, paragraphs VI and XI.

[4] For example, if the three members agree unanimously that the application appears to be inadmissible, or if their opinions are divided, or if they reserve their opinion.

[5] On this point, see rule 46, paragraph 1, of the rules of procedure.

On 14 March, Denmark renewed its previous declaration, which was about to lapse, for two years from 7 April 1955;

On 5 July, the Federal Republic of Germany made the declaration referred to in article 46 for three years, subject to reciprocity;

On the same date, Belgium deposited a similar declaration, valid for five years from 29 June 1955.

Thus, as there were two previous declarations (Ireland, 25 February 1953,[1] and the Netherlands, 31 August 1954),[2] by 31 December 1955 five contracting parties had accepted the compulsory jurisdiction of the European Court of Human Rights.

[1] Valid for five years and after that until notification of its withdrawal.

[2] Valid for five years, subject to reciprocity.

INTERNATIONAL COMMITTEE OF THE RED CROSS

APPLICATION IN THE EVENT OF INTERNAL DISTURBANCES OF ARTICLE 3 OF THE GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR (FOURTH GENEVA CONVENTION) OF 12 AUGUST 1949

A commission of experts for the study of the question of the application of humanitarian principles in the event of internal disturbances, consisting of eminent jurists from twelve countries, was convened by the International Committee of the Red Cross, and met in Geneva from 3 to 8 October 1955.

The first and second of four questions submitted to the Commission by the Committee were as follows:

"(1) Is it possible to define the idea of an 'armed conflict', so as to determine the moment when article 3 of the Fourth Geneva Convention of August 12th, 1949, becomes applicable in law, in the event of internal disturbances?

"(2) So long as the said article is not applicable in law, is it consistent with the interests of humanity and the standards of civilisation for the humanitarian safeguards defined by the Fourth Convention to be applied, in particular in the case of persons (citizens or subjects) detained by their own government for political reasons?"

(Article 3 of each of the four Geneva Conventions of 12 August 1949 contains identical provisions to be applied "in the case of armed conflict not of an international character, occurring in the territory of one of the High Contracting Parties".[1])

The unanimous report of the commission included the following passages:

"With regard to question 1, the commission first had to examine whether the problems raised by 'internal disturbances' were already covered by the Geneva Convention and, in the affirmative, to what extent. Could 'internal disturbances' be considered as coming under the heading of 'armed conflicts' as foreseen in article 3 common to all four Geneva Conventions of August 12th, 1949?

"The commission was of the opinion that this article, though it does indeed cover situations which are different from those foreseen in the other dispositions of the convention, does tend towards the application of the principles contained in the convention, to situations which, though presenting certain characteristics of a war, are distinct from that of an international conflict. It is, however, often difficult to include under the heading of these different situations, the event of 'internal disturbances' since such troubles oppose the State to persons who are in fact its own nationals, subjects or citizens and who do not generally in themselves constitute a 'party to the conflict'. It should be noted that such situations would seem, in the present state of the world, to tend to become more and more frequent and it is necessary to meet them, in so far as possible, by applying the humanitarian principles upon which the Geneva Conventions are based. At the same time, it should never be forgotten that the State which finds itself faced with such disturbances has full liberty to judge which measures it shall take in order to 'repress, according to the law, a riot or an insurrection' (article 2 of the European Convention for the Safeguard of the Rights of Man).

"The difficult and delicate nature of the problems to be examined by the commission are thus abundantly clear. On the one hand, as Señor de Alba, Mexican Ambassador, representing his country at the Geneva Diplomatic Conference of 1949, so concisely stated, 'the rights of the State should not be placed above all humanitarian considerations' (*Actes de la Conférence* – II, B, p. 11). But, on the other hand, humanitarian action should never include any intrusion on the legal plane, not any expression of opinion with regard to the merits or otherwise of the steps taken by the authorities in order to assure the maintenance or the re-establishment of public order. It was between these two poles that the commission had to deliberate.

"The commission did not hesitate as to its reply to question 2. It does, indeed, appear consistent with the interests of humanity as well as with the standards of civilization that the humanitarian safeguards, as defined more particularly by the Fourth Convention, should be applied to persons at strife with their own government on political or social grounds. When pursuing this humanitarian aim the Red Cross is well within its sphere. . . ."

As part of the basis for its reply to the second question, the commission stated:

"The evolution which has taken place with regard to the respect due to the individual also contributes towards orienting the action of the Red Cross towards

[1] See *Yearbook on Human Rights for 1949*, pp. 299–300, 301 and 306.

the maintenance of permanent humanitarian principles even in cases where the application of normal legislation is compromised by a state of emergency or exception. We merely need to recall, in this connexion, the Universal Declaration of the Rights of Man proclaimed by the General Assembly of the United Nations on December 10th, 1948, whose principles inspired the Convention for the Safeguard of the Rights of Man and Fundamental Liberties, signed in Rome, on 4 November 1950." [1]

[1] The text of the Universal Declaration of Human Rights appears in *Yearbook on Human Rights for 1948*, pp. 466–8. The text of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 appears in *Yearbook on Human Rights for 1950*, pp. 420–6.

The meeting of the Commission of Experts is described, and its report reproduced, in the *Annual Report for 1955* of the International Committee of the Red Cross, Geneva, 1956, pp. 47–9 and 75–80, respectively.

OTHER INSTRUMENTS

FINAL COMMUNIQUE OF THE ASIAN-AFRICAN CONFERENCE, BANDUNG, INDONESIA, 18–24 APRIL 1955 [1]

The Asian-African conference, convened by the Governments of Burma, Ceylon, India, Indonesia and Pakistan, met in Bandung from 18 to 24 April 1955.

In addition to the sponsoring countries, the following twenty-four countries participated in the conference:

Afghanistan, Cambodia, Peoples' Republic of China, Egypt, Ethiopia, Gold Coast, Iran, Iraq, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Nepal, the Philippines, Saudi Arabia, Sudan, Syria, Thailand, Turkey, Democratic Republic of Vietnam, State of Vietnam and Yemen.

The Asian-African conference considered the position of Asia and Africa and discussed ways and means by which their peoples could achieve the fullest economic, cultural and political co-operation.

. . .

B. *Cultural Co-operation*

. . .

2. Some colonial Powers have denied their dependent peoples basic rights in the sphere of education and culture, which hampers the development of their personality and also prevents cultural intercourse with other Asian and African peoples.

This is particularly true in the case of Tunisia, Algeria and Morocco, where the basic right of the people to study their own language and culture has been suppressed.

Similar discrimination has been practised against African and coloured people in some parts of the continent of Africa.

The conference felt that these policies amount to a denial of the fundamental rights of man, impede cultural advancement in this region and also hamper cultural co-operation on the wide international plane.

The conference condemned such a denial of fundamental rights in the sphere of education and culture in some parts of Asia and Africa by this and other forms of cultural suppression.

In particular, the conference condemned racialism as a means of cultural suppression.

. . .

4. There are many countries in Asia and Africa which have not yet been able to develop their educational, scientific and technical institutions.

The conference recommended that countries in Asia and Africa which are more fortunately placed in this respect should give facilities for the admission of students and trainees from such countries to their institutions.

Such facilities should also be made available to the Asian and African people in Africa, to whom opportunities for acquiring higher education are at present denied.

5. The Asian-African conference felt that the promotion of cultural co-operation among countries of Asia and Africa should be directed towards:

(A) The acquisition of knowledge of each other's country;

(B) Mutual cultural exchange and

(C) Exchange of information.

. . .

C. *Human Rights and Self-determination*

1. The Asian-African conference declared its full support of the fundamental principles of human rights as set forth in the Charter of the United Nations and took note of the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations.

The conference declared its full support of the principle of self-determination of peoples and nations as set forth in the Charter of the United Nations and took note of the United Nations resolutions on the right of peoples and nations to self-determination, which is a prerequisite of the full enjoyment of all fundamental human rights.

2. The Asian-African conference deplored the policies and practices of racial segregation and discrimination which form the basis of government and human relations in large regions of Africa and in other parts of the world.

Such conduct is not only a gross violation of human rights, but also a denial of the fundamental values of civilization and the dignity of man.

The conference extended its warm sympathy and support for the courageous stand taken by the victims of racial discrimination, especially by the peoples of African and Indian and Pakistani origin in South Africa; applauded all those who sustained their cause; reaffirmed the determination of Asian-African peoples to eradicate every trace of racialism that might exist in their own countries; and pledged

[1] Text as contained in *Selected Documents of the Bandung Conference*, published by the Institute of Pacific Relations, New York, 1955.

to use its full moral influence to guard against the danger of falling victims of the same evil in their struggle to eradicate it.

3. In view of the existing tension in the Middle East caused by the situation in Palestine and the danger of that tension to world peace, the Asian-African conference declared its support of the rights of the Arab people of Palestine and called for the implementation of the United Nations resolutions on Palestine and of the peaceful settlement of the Palestine question.

. . .

F. *Declaration of Problems of Dependent Peoples*

The Asian-African conference is agreed:

. . .

2. In affirming that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation;

. . .

G. *Declaration of Promotion of World Peace and Co-operation*

. . .

Free from distrust and fear and with confidence and goodwill towards each other, nations should practise tolerance and live together in peace with one another as good neighbours and develop friendly co-operation on the basis of the following principles:

1. Respect for the fundamental human rights and for the purposes and principles of the Charter of the United Nations.

. . .

3. Recognition of the equality of all races and of the equality of all nations, large and small.

. . .

GENERAL CONVENTION BETWEEN FRANCE AND TUNISIA

signed at Paris on 3 June 1955 [1]

Art. 4. With effect from the date of ratification of these conventions,[2] France shall acknowledge and proclaim Tunisia's internal autonomy, which shall be subject to no restrictions or limitations other than those resulting from the provisions of these conventions and of the conventions at present in force, provided that, in matters of defence and foreign affairs, the present state of things shall subsist and these matters shall be dealt with as they have been until the present date.

Art. 5. Tunisia grants to all persons resident in its territory the rights and personal guarantees proclaimed in the Universal Declaration of Human Rights.

Accordingly, Tunisia undertakes, on the one hand, to take all the legal or practical measures necessary to ensure that foreign nationals may, within the limits of its domestic legislation, freely pursue their cultural, religious, economic, professional or social activities and, on the other hand, to guarantee, in accordance with its traditions, complete equality between its citizens irrespective of their ethnic origin or religious beliefs, particularly with regard to the enjoyment in law and in fact of civic rights, individual and public economic, religious, professional or social liberties and the collective rights generally recognized in modern States.

With regard to French nationals, the convention of today's date on the status of individuals sets forth the rights guaranteed to them by Tunisia.

Art. 6. In conformity with these conventions, France and Tunisia shall grant the nationals of each other's country special rights not accorded to aliens.

In the spirit of the preamble, the two governments intend to study the principle and the methods of granting the nationals of each country the possibility of establishing and exercising civic rights in the other country.

. . .

Art. 11. . . .

The High Commissioner [of France in Tunisia] shall be responsible for the protection and representation of the rights and interests of French nationals in Tunisia. . . .

[1] Text received through the courtesy of the Ministry of Foreign Affairs of the Kingdom of Tunisia. The Convention was published in the *Notes et études documentaires* (No. 2034) of the Ministry of Moroccan and Tunisian Affairs, Paris. Translation by the United Nations Secretariat.

[2] General Convention between France and Tunisia, Convention on the Status of Individuals, Judicial Convention, Convention on Administrative and Technical Co-operation, Cultural Convention and Economic and Financial Convention, all signed in Paris on 3 June 1955. Instruments of ratification of the conventions were exchanged on 31 August 1955.

CONVENTION BETWEEN FRANCE AND TUNISIA ON THE STATUS OF INDIVIDUALS

Signed in Paris on 3 June 1955 [1]

CHAPTER I

MAINTENANCE OF THE LAWS SPECIFICALLY RELATING TO FRENCH NATIONALS IN TUNISIA

Art. 1. Persons who are *ressortissants français* [2] shall continue to be governed in Tunisia by the laws specifically relating to them.

Art. 2. The French High Commissioner shall ensure the observance of the treaties, conventions, laws and regulations affecting *ressortissants français* in Tunisia.

. . .

CHAPTER II

PROVISIONS CONCERNING NATIONALITY

Art. 7. Subject to the provisions of the articles next following, Tunisia shall be free to make its own laws relating to nationality.

Art. 8. (*a*) The Government of Tunisia undertakes not to enact any provision applicable generally the effect of which would be to attribute Tunisian nationality to *ressortissants français* whether they have acquired or in future acquire French nationality by right or by naturalization, reinstatement or option.

(*b*) It undertakes not to claim as its nationals any Tunisian nationals who have acquired or who hereafter acquire French nationality by individual naturalization.

Similarly, French nationality shall not be challenged in the case of persons who possess the status of French national by virtue of registration, before the entry into force in Tunisia of the French Act of 20 December 1923, with the local French authorities and by virtue of the French decree of 8 November 1921 which was repealed by the said Act.

(*c*) The Government of France undertakes not to claim as its nationals any French nationals resident in Tunisia who hereafter acquire Tunisian nationality by individual naturalization. If an applicant for naturalization as a Tunisian is a male French national who has not performed his active military service, he shall require an authorization as prescribed in the French Act of 9 April 1954.

Art. 9. A child born in France of a Tunisian father and a French mother may, if domiciled in Tunisia, renounce French nationality, in the manner laid down by French law, during the twelve months preceding the completion of his twenty-first year.

If on the date of entry into force of this convention he is over the age of twenty-one years, he may exercise this right of option at any time within one year from that date.

Art. 10. A child born in Tunisia of a Tunisian father and a French mother may, irrespective of his place of domicile, renounce Tunisian nationality, in the manner laid down by Tunisian law, during the twelve months preceding the completion of his twenty-first year.

If on the date of entry into force of this convention he is over the age of twenty-one years he may exercise this right of option at any time within one year from that date.

Art. 11. Aliens resident in Tunisia may acquire French nationality or Tunisian nationality by individual naturalization.

Art. 12. Without prejudice to the application of the preceding articles and for an interim period of fifteen years from the date of entry into force of this convention, the two governments agree that:

(1) A person born in Tunisia of an alien father shall, unless he is a French national by reason of his mother's nationality, retain his foreign nationality. Nevertheless, the child of an alien father and a Tunisian mother may claim Tunisian nationality, in the manner laid down by Tunisian law, during the twelve months preceding the completion of his twenty-first year, provided that he resides in Tunisia;

(2) A person born in Tunisia of French parents, one of whom was born in Tunisia, is a French national. Nevertheless, he may renounce French nationality, in the manner laid down by French law, during the twelve months preceding the completion of his twenty-first year. If he exercises this right, he may acquire Tunisian nationality by option in the manner laid down by Tunisian law.

Art. 13. The acquisition of French nationality or of Tunisian nationality under the provisions of articles 8, 11 and 12 above shall extend to the unmarried children of the person concerned who are under the age of twenty-one years.

Art. 14. Persons who acquire Tunisian nationality under the provisions of articles 8, 11, 12 and 13 above, and who are not of the Muslim or Jewish faith, shall be governed by the rules of the laws specifically relating to them by reason of their origin, pending the enactment of Tunisian legislation laying

[1] The convention was published in the *Notes et études documentaires* (No. 2034) of the Ministry of Moroccan and Tunisian Affairs, Paris. Translation by the United Nations Secretariat.

[2] See Protocol No. 1 annexed to the convention, quoted on p. 342.

down modern rules relating specifically to such persons.

CHAPTER III

MOVEMENT OF FRENCH AND TUNISIAN NATIONALS

Art. 15. The nationals [nationaux] of each of the two countries shall be free to enter, reside, travel and settle in the territory of the other and to leave the said territory at any time, subject to the laws and regulations concerning public security and the admission and employment of labour.

The benefit of the provisions of the preceding paragraph shall, subject to reciprocity, extend to persons who are *ressortissants* of either of the two countries.

Protocol No. 2 hereto, relating to the movement of persons between France and Tunisia, specifies the nature of the documents permitting entry and residence in the territories of the two countries and departure from the said territories and contains more particular provisions relating to the form and delivery of the said documents.

Art. 16. The residence of French nationals in Tunisia and of Tunisian nationals in France shall not be terminated except in conformity with the provisions of an administrative arrangement between the two governments.

Specific administrative arrangements shall be entered into, subject to reciprocity, with respect to persons who are *ressortissants* of the two countries.

CHAPTER IV

EXERCISE OF PRIVATE ACTIVITIES BY FRENCH AND TUNISIAN NATIONALS

Art. 17. The nationals [nationaux] of each of the two countries shall, in the territory of the other, have the full benefit of private and civil rights.

This benefit shall, subject to reciprocity, extend to persons who are *ressortissants* of either of the two countries.

Art. 18. Tunisia, which by article 5 of the General Convention undertakes to grant to all persons resident in its territory the rights and personal guarantees proclaimed in the Universal Declaration of Human Rights, guarantees to *ressortissants français* the free pursuit of their cultural, religious, economic, professional and social activities, individual and public freedom, including freedom of thought, conscience, religion and worship, opinion and expression, assembly and association, as well as the free exercise of trade union rights.

The juridical status now enjoyed by the Christian faiths in Tunisia shall be maintained and shall not be modified except with the consent of the French Government.

Art. 19. The nationals [nationaux] of each of the two countries shall, in the territory of the other, receive the same treatment as the nationals of that other country with regard to their establishment and the exercise of all professional and economic activities. They may engage in wage-earning activities, including public services of an industrial and commercial nature.

They shall have the right to establish and manage any enterprise or concern. They shall be free to invest their capital, to acquire, manage and lease assets, rights and interests, to have the benefit and enjoyment of the same and to dispose thereof.

The benefit of the provisions of this article shall, subject to reciprocity, extend to persons who are *ressortissants* of either of the two countries.

CHAPTER V

POSITION OF ALIENS

Art. 20. The Government of Tunisia undertakes to ensure respect for the rights and persons of foreigners for whose protection France continues to be responsible in conformity with the treaties and conventions in force, which remain in effect.

. . .

Protocol No. 1

concerning the expression "ressortissants français"

In these conventions, the expression "ressortissants français" means:

(*a*) French nationals proper [nationaux français];

(*b*) Peoples of the Associated Territories (under French trusteeship);

(*c*) Nationals of States or Territories for the international relations of which France is responsible;

(*d*) All persons to whom the benefit of the rights attaching to the status of "French national" may hereafter be extended by agreement between the Government of France and the Government of Tunisia.

For the purpose of these conventions it is, of course, understood that the expression does not apply to Tunisian nationals.

. . .

STATUS OF CERTAIN INTERNATIONAL INSTRUMENTS[1]

I. UNITED NATIONS

1. *Convention on the Prevention and Punishment of the Crime of Genocide (Paris, 1948)* (see *Yearbook on Human Rights for 1948*, pp. 484–6)

By the end of 1954, the following had become parties to the convention:

Australia, Belgium, Byelorussian Soviet Socialist Republic,[2] Brazil, Bulgaria,[2] Cambodia, Canada, Ceylon, Chile, China, Costa Rica, Cuba, Czechoslavakia,[2] Denmark, Ecuador, Egypt, Ethiopia, France, Federal Republic of Germany, Greece, Guatemala, Haiti, Honduras, Hungary,[2] Iceland, Israel, Italy, Jordan, Korea, Laos, Lebanon, Liberia, Mexico, Monaco, Nicaragua, Norway, Panama, Philippines,[2] Poland,[2] Romania,[2] El Salvador, Saudi Arabia, Sweden, Turkey, Ukrainian Soviet Socialist Republic,[2] Union of Soviet Socialist Republics,[2] Viet Nam and Yugoslavia.

During 1955, Albania [2] and Syria became parties (instruments of adherence deposited on 12 May and 25 June respectively).

The convention entered into force on 12 January 1951.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

2. *Convention relating to the Status of Refugees (Geneva, 1951)* (see *Yearbook on Human Rights for 1951*, pp. 581–8)

By the end of 1954 the following had become parties to the convention:

Australia,[3] Austria,[3] Belgium,[3] Denmark,[3] France, Federal Republic of Germany, Israel,[3] Italy,[3] Luxembourg,[3] Monaco,[3] Norway,[3] Sweden [3] and the United Kingdom.[3] (The Norwegian reservation was later withdrawn.)

During 1955, Ecuador and Iceland adhered to the convention (instruments deposited on 17 August and 30 November respectively) and Switzerland [3] ratified it (instrument deposited on 21 January).

The convention entered into force on 22 April 1954.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

3. *Convention on the Political Rights of Women (New York, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 375–6)

By the end of 1954 the following had become parties to the convention:

Bulgaria,[3] Byelorussian Soviet Socialist Republic,[3] China, Cuba, Denmark,[3] Dominican Republic, Ecuador,[3] Greece, Iceland, Israel, Pakistan,[3] Poland,[3] Romania,[3] Sweden, Thailand, Ukrainian Soviet Socialist Republic,[3] Union of Soviet Socialist Republics [3] and Yugoslavia.

During 1955, Albania,[3] Czechoslovakia,[3] Hungary [3] and Japan became parties, their instruments of ratification or accession being deposited on 12 May, 6 April, 20 January and 13 July respectively.

The convention entered into force on 7 July 1954.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

4. *Convention on the International Right of Correction (New York, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 373–5)

By the end of 1954, Cuba had become a party to the convention.

Egypt became a party by deposit of instrument of ratification on 4 August 1955.

[1] Under this heading information is provided concerning the States which had become parties to certain international instruments up to the end of 1954, the States which became parties thereto during 1955, and whether the instrument had entered into force by the end of 1955 (or, if so, the date of entry into force). The source of the information supplied is given for each text. The instruments selected were all adopted in 1946 or later. It should be recalled that the basic instruments of various international organizations include provisions on human rights; since information on membership of such organizations is relatively easy to find, these have not been dealt with here. Particular attention is drawn, however, to the Charter of the United Nations (see *Yearbook on Human Rights for 1947*, pp. 417–18), the Constitution of the International Labour Organisation (see *Yearbook on Human Rights for 1948*, pp. 411–12), the Constitution of the Food and Agriculture Organization of the United Nations (see *Yearbook on Human Rights for 1948*, p. 413), the Constitution of the United Nations Educational, Scientific and Cultural Organization (see *Yearbook on Human Rights for 1948*, pp. 414–5), the Articles of Agreement of the International Monetary Fund (see *Yearbook on Human Rights for 1948*, p. 416), the International Telecommunication Convention (see *Yearbook on Human Rights for 1948*, p. 417 and *Yearbook on Human Rights for 1952*, p. 406), the Constitution of the World Health Organization (see *Yearbook on Human Rights for 1948*, p. 418), the Charter of the Organization of American States (see *Yearbook on Human Rights for 1948*, pp. 437–8) and the Statute of the Council of Europe (see *Yearbook on Human Rights for 1949*, pp. 310–1).

[2] With reservations.

[3] With reservations.

At the end of 1955, the convention was not yet in force.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

5. *Slavery Convention of 1926 as amended by the Protocol of 7 December 1953* (Signed in New York) (see *Yearbook on Human Rights for 1953*, pp. 345–6)

By the end of 1954, the following had become parties to the convention as amended by the protocol: Afghanistan, Australia, Austria, Canada, Cuba, Denmark, Egypt, Finland, India, Italy, Liberia, Mexico, Monaco, New Zealand, Sweden, Switzerland, Syria, Union of South Africa and United Kingdom.

During 1955, the following became parties: China (on 14 December), Ecuador (17 August), Greece (12 December), Iraq (23 May), Israel (12 September), Netherlands (7 July), Pakistan (30 September), Philippines (12 July), Turkey (14 January) and Yugoslavia (21 March).

The convention as amended entered into force on 7 July 1955.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

6. *Convention on the Status of Stateless Persons (New York, 1954)* (see *Yearbook on Human Rights for 1954*, pp. 369–75)

By the end of 1955 no State had become party to the convention.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

II. INTERNATIONAL LABOUR ORGANISATION

1. *Social Policy (non-Metropolitan Territories) Convention, 1947* (see *Yearbook on Human Rights for 1948*, pp. 420–5)

By the end of 1954 the convention had been ratified by France, New Zealand and the United Kingdom.

The ratification of Belgium was registered on 27 January 1955.

The convention entered into force on 19 June 1955.

SOURCE: International Labour Office: *Industry and Labour*.

2. *Right of Association (non-Metropolitan Territories) Convention, 1947* (see *Yearbook on Human Rights for 1948*, pp. 425–7)

By the end of 1954 the convention had been ratified by France, New Zealand and the United Kingdom.

The ratification of Belgium was registered on 27 January 1955.

The convention entered into force on 1 July 1953.

SOURCE: International Labour Office: *Industry and Labour*.

3. *Freedom of Association and Protection of the Right to Organise Convention, 1948* (see *Yearbook on Human Rights for 1948*, pp. 427–30)

By the end of 1954, the convention had been ratified by Austria, Belgium, Cuba, Denmark, Finland, France, Guatemala, Iceland, Mexico, Netherlands, Norway, Pakistan, Philippines, Sweden, the United Kingdom and Uruguay.

The ratifications of Burma and Ireland were registered on 4 March and 4 June 1955 respectively.

The convention entered into force on 4 July 1950.

SOURCE: International Labour Office: *Industry and Labour*.

4. *Right to Organise and Collective Bargaining Convention, 1949* (see *Yearbook on Human Rights for 1949*, pp. 291–2)

By the end of 1954, the convention had been ratified by Austria, Belgium, Brazil, Cuba, Dominican Republic, Egypt, Finland, France, Guatemala, Iceland, Japan, Pakistan, Philippines, Sweden, Turkey, United Kingdom and Uruguay.

The ratifications of Denmark, Ireland and Norway were registered on 15 August, 4 June and 17 February 1955, respectively.

The convention came into force on 18 July 1951.

SOURCE: International Labour Office: *Industry and Labour*.

5. *Equal Remuneration Convention, 1951* (see *Yearbook on Human Rights for 1951*, pp. 469–70)

By the end of 1954, the convention had been ratified by Austria, Belgium, Cuba, Dominican Republic, France, Mexico, Philippines, Poland and Yugoslavia.

The ratification of Bulgaria was registered on 7 November 1955.

The convention came into force on 23 May 1953.

SOURCE: International Labour Office: *Industry and Labour*.

6. *Social Security (Minimum Standards) Convention, 1952* (see *Yearbook on Human Rights for 1952*, pp. 377–89)

By the end of 1954 the convention had been ratified by Norway, Sweden, the United Kingdom and Yugoslavia.

The ratifications of Denmark, Greece and Israel were registered on 15 August, 16 June and 16 December 1955 respectively.

The convention came into force on 27 April 1955.

SOURCE: International Labour Office: *Industry and Labour*.

7. *Maternity Protection Convention (Revised), 1952* (see *Yearbook on Human Rights for 1952*, pp. 389–92)

By the end of 1954 the convention had been ratified by Cuba and Uruguay.

The ratification of Yugoslavia was registered on 30 April 1955.

The convention came into force on 7 September 1955.

SOURCE: International Labour Office: *Industry and Labour*.

8. *Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955* (see pp. 325–7 above).

At the end of 1955 the convention had received no ratifications.

SOURCE: International Labour Office: *Industry and Labour*.

III. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

1. *Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character (Beirut, 1948)* (see *Yearbook on Human Rights for 1948*, pp. 431–3)

By the end of 1954 the following had become parties to the agreement: Cambodia, Canada, Greece, Haiti, Iraq, Norway, Pakistan, Philippines, El Salvador, Syria and Yugoslavia.

During 1955, Denmark became a party, its instrument of acceptance being deposited on 10 August.

The agreement entered into force on 12 August 1954.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

2. *Agreement on the Importation of Educational, Scientific and Cultural Materials and Protocol thereto (Lake Success, 1950)* (see *Yearbook on Human Rights for 1950*, pp. 411–15)

By the end of 1954 the following had become parties to the agreement: Cambodia, Ceylon, Cuba, Egypt, Haiti, Israel, Laos, Monaco, Pakistan, Philippines, El Salvador, Sweden, Switzerland,[1] Thailand, United Kingdom, Viet-Nam and Yugoslavia.

During 1955, Greece and Spain became parties, by deposit of instrument of ratification or acceptance on 12 December and 7 July respectively.

The agreement entered into force on 21 May 1952.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, U.N. Sales No. 1952.V.2, and supplements thereto.

3. *Universal Copyright Convention (Geneva, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 398–403)

By the end of 1954 the following had become parties to the convention: Andorra, Cambodia, Costa Rica, Haiti, Laos, Pakistan, Spain and the United States of America.

During 1955, Chile, France, the Federal Republic of Germany, the Holy See, Israel, Luxemburg, Monaco and Philippines became parties, on 18 January, 14 October, 3 June, 5 July, 6 April, 15 July, 16 June and 19 August respectively.

[1] With reservation.

The convention came into force on 16 September 1955.

SOURCE: United Nations Educational, Scientific and Cultural Organization: *Report of the Director-General on the Activities of the Organization in 1955*.

4. *Convention for the Protection of Cultural Property in the event of Armed Conflict and Protocol thereto (The Hague, 1954)* (see *Yearbook on Human Rights for 1954*, pp. 380–9)

By the end of 1954 the convention and the Protocol had received no ratifications.

The convention was ratified by Egypt during 1955, its instrument of ratification being deposited on 17 August 1955.

At the end of 1955, the convention and the protocol were not yet in force.

SOURCE: United Nations Educational, Scientific and Cultural Organization: *Report of the Director-General on the Activities of the Organization in 1954* and *in 1955*.

IV. ORGANIZATION OF AMERICAN STATES

1. *Inter-American Convention on the Rights of the Author in Literary, Scientific, and Artistic Works (Washington, D.C., 1946)* (see Pan American Union: *Law and Treaty Series*, No. 19)

The following had ratified the convention by the end of 1954: Argentina, Bolivia, Brazil, Costa Rica, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua and Paraguay.

During 1955 the convention was ratified by Chile and Cuba by instruments of ratification dated 10 December 1954 and 16 August 1955 and deposited on 14 January 1955 and 22 September 1955, respectively.

SOURCE: Information kindly furnished by the Pan American Union.

2. *Inter-American Convention on the Granting of Political Rights to Women (Bogotá, 1948)* (see *Yearbook on Human Rights for 1948*, pp. 438–9)

The following had ratified the convention by the end of 1954: Brazil, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala,[2] Panama and El Salvador.

During 1955 the convention was ratified by Honduras, the instrument of ratification being dated 7 September and deposited on 10 October 1955.

SOURCE: Information kindly furnished by the Pan American Union.

3. *Inter-American Convention on the Granting of Civil Rights to Women (Bogotá, 1948)* (see *Yearbook on Human Rights for 1948*, pp. 439–40)

The following had ratified the convention by the end of 1954: Brazil, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Mexico, Panama, Paraguay and El Salvador.

[2] With reservation.

During 1955 the convention was ratified by Honduras, the instrument of ratification being dated 7 September and deposited on 10 October 1955.

SOURCE: Information kindly furnished by the Pan American Union.

4. *Convention on Diplomatic Asylum (Caracas, 1954)* (see pp. 330–2 above)

By the end of 1954 the convention had been ratified by El Salvador and Venezuela.

During 1955 the convention was ratified by Costa Rica, Ecuador and Haiti, the instruments of ratification being dated 13 January, 20 March and 18 January 1955, and being deposited on 24 February, 11 August and 18 February 1955, respectively.

SOURCE: Information kindly furnished by the Pan American Union.

5. *Convention on Territorial Asylum (Caracas, 1954)* (see pp. 329–30, above)

By the end of 1954 the convention had been ratified by El Salvador and Venezuela.

During 1955 the convention was ratified by Costa Rica, Ecuador and Haiti, the instruments of ratification being dated 13 January, 20 March and 18 January 1955, and being deposited on 24 February, 11 August and 18 February 1955, respectively.

SOURCE: Information kindly furnished by the Pan American Union.

V. COUNCIL OF EUROPE

1. *Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 1950)* (see *Yearbook on Human Rights for 1950*, pp. 418–26)

By the end of 1954, the convention had been ratified by Denmark, Federal Republic of Germany,[1] Greece, Iceland, Ireland,[1] Luxemburg, Netherlands,[1] Norway,[1] Saar, Sweden, Turkey and the United Kingdom.

In 1955 Belgium and Italy became parties, instruments of ratification being deposited on 14 June and 26 October respectively.

The convention entered into force on 3 September 1953.

SOURCE: Information kindly furnished by the Secretariat-General of the Council of Europe.

2. *Protocol (Paris, 1952) to the Convention for the Protection of Human Rights and Fundamental Freedoms* (see *Yearbook on Human Rights for 1952*, pp. 411–12)

By the end of 1954, the protocol had been ratified by Denmark, Greece,[1] Iceland, Ireland, Luxemburg,[1] Netherlands, Norway, Saar, Sweden,[1] Turkey[1] and the United Kingdom.[1]

In 1955 Belgium and Italy became parties, instruments of ratification being deposited on 14 June and 26 October respectively.

The protocol entered into force on 18 May 1954.

SOURCE: Information kindly furnished by the Secretariat-General of the Council of Europe.

3. *European Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors and Protocol thereto (Paris, 1953)* (see *Yearbook on Human Rights for 1953*, pp. 355–7)

By the end of 1954 the interim agreement had been ratified by Denmark, Ireland, Norway, Saar and the United Kingdom, and the protocol by Ireland, Norway, Saar and the United Kingdom.

During 1955, the interim agreement and protocol were both ratified by Netherlands and Sweden, on 11 March and 2 September respectively.

The interim agreement entered into force on 1 July 1954 and the protocol on 1 October 1954.

SOURCE: Council of Europe: *Annual Report of the Activities of the Council of Europe in 1955*, Strasbourg, 1956.

4. *European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors and Protocol thereto (Paris, 1953)* (see *Yearbook on Human Rights for 1953*, pp. 357–8)

By the end of 1954 the interim agreement had been ratified by Denmark, Ireland, Norway, Saar and the United Kingdom, and the protocol by Ireland, Norway, Saar and the United Kingdom.

During 1955, the interim agreement and protocol were both ratified by Netherlands and Sweden, on 11 March and 2 September respectively.

The interim agreement entered into force on 1 July 1954 and the protocol on 1 October 1954.

SOURCE: Council of Europe: *Annual Report of the Activities of the Council of Europe in 1955*, Strasbourg, 1956.

5. *European Convention on Social and Medical Assistance and Protocol thereto (Paris, 1953)* (see *Yearbook on Human Rights for 1953*, pp. 359–61)

By the end of 1954 the convention and the protocol thereto had been ratified by Denmark, Ireland, Norway, Saar and the United Kingdom.

During 1955 they were ratified by Netherlands and Sweden, on 20 July and 2 September respectively.

The convention and protocol both entered into force on 1 July 1954.

SOURCE: Council of Europe: *Annual Report of the Activities of the Council of Europe in 1955*, Strasbourg, 1956.

VI. OTHER INSTRUMENTS

Geneva Conventions of 12 August 1949 (see *Yearbook on Human Rights for 1949*, pp. 299–309)

By the end of 1954, the following were parties to the four Geneva Conventions of August 1949 (Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva Convention for the Amelioration

[1] With reservations.

of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva Convention relative to the Treatment of Prisoners of War, and Geneva Convention relative to the Protection of Civilian Persons in Time of War): Austria, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Chile, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, France, Federal Republic of Germany, Guatemala, the Holy See, Hungary, India, Israel, Italy, Japan, Jordan, Lebanon, Liberia, Liechtenstein, Luxemburg, Mexico, Monaco, Netherlands, Nicaragua, Norway, Pakistan, Philippines, Poland, Romania, El Salvador, San Marino, Spain, Sweden, Switzerland, Syria, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, Viet-Nam and Yugoslavia.

In 1955, Finland and the United States of America became parties to the conventions, on 22 February and 2 August respectively.

The conventions entered into force on 21 October 1950.

SOURCE: International Committee of the Red Cross: *Annual Reports*, Geneva.

PART IV

A. THE UNITED NATIONS AND HUMAN RIGHTS

B. JUDGEMENT OF THE INTERNATIONAL COURT OF JUSTICE

A. THE UNITED NATIONS AND HUMAN RIGHTS[1]

1. UNIVERSAL DECLARATION OF HUMAN RIGHTS

During 1955 the Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations on 10 December 1948,[2] was again cited or referred to in texts adopted by organs of the United Nations.[3]

In resolution 926(X), the General Assembly recognized that technical assistance, by the international exchange of technical knowledge through international co-operation, represents one of the means by which it is possible to promote the human rights objectives of the United Nations, as set forth in the Charter and in the Universal Declaration of Human Rights. Resolution 586E(XX) of the United Nations Economic and Social Council on the same subject of advisory services in the field of human rights had contained a similar reference to the Universal Declaration.

The preambles to the draft covenant on economic, social and cultural rights and the draft covenant on civil and political rights, as drafted by the Third Committee at the tenth session of the General Assembly (20 September – 20 December 1955), recognized that, "in accordance with the Universal Declaration of Human Rights", the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil, political, economic, social and cultural rights.

The Economic and Social Council, in resolution 586B(XX), requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to limit its study of discrimination in the matter of emigration and travel to "the right of everyone to 'leave any country, including his own, and to return to his country'", as provided in article 13, paragraph 2 of the Universal Declaration.

In resolution 586C(XX), the Council noted that the Sub-Commission had completed the discussion of preliminary reports on the procedure to be followed in carrying out studies of discrimination in the matter of, among others, "political rights mentioned in the Universal Declaration of Human Rights".

In resolution 587C(XX), the Council, noting article 23, paragraph 2, of the Universal Declaration, which, referring to all men and women workers, states that "everyone, without any discrimination, has the right to equal pay for equal work", urged the governments of all States to take legislative or other measures for the application of the principle of equal pay for equal work for men and women.

In resolution 587D-II(XX), on parental rights and duties, the Council expressed its belief that such limitation of the authority of the mother as was mentioned by it ("in the legal system of some countries parental authority belongs exclusively to the father; . . . in many others it is exercised primarily by the father, whose decision prevails in case of disagreement between the parents; . . . in some countries, upon the death or removal from authority of the father, parental authority does not pass to the mother as a matter of right or is withdrawn from her in the event of her remarriage; . . . in some countries, on the dissolution of the marriage, the father receives the custody of the children as a matter of right regardless of the apportionment of blame between the spouses") was incompatible with the principle of equality of the spouses during marriage and at its dissolution as well as with the right of both parents to choose the kind of education to be given to their children, as proclaimed in the Universal Declaration.

Resolution 587D-III(XX) of the Council expressed the belief that legal systems in which the domicile

---

[1] This report on the work of the United Nations in relation to human rights contains an account only of the most significant developments during 1955. More details on most topics are to be found in the relevant parts of *Report of the Economic and Social Council covering the period from 7 August 1954 to 5 August 1955* (General Assembly, Official Records, Tenth Session, Supplement No. 3 (A/2943)) and *Report of the Economic and Social Council covering the period from 6 August 1955 to 9 August 1956* (General Assembly, Official Records, Eleventh Session, Supplement No. 3 (A/3154)). On other matters see further *Annual Report of the Secretary-General on the Work of the Organization, 1 July 1954 – 15 June 1955* (General Assembly, Official Records, Tenth Session, Supplement No. 1 (A/2911)) and *Annual Report of the Secretary-General on the Work of the Organization, 16 June 1955 – 15 June 1956* (General Assembly, Official Records, Eleventh Session, Supplement No. 1 (A/3137)).

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

Resolutions of the General Assembly, the Economic and Social Council and the Trusteeship Council are identified by arabic numerals followed by roman numerals in parentheses. The roman numerals indicate the session of the body at which the resolution was adopted.

[2] The text appears in *Yearbook on Human Rights for 1948*, pp. 466–8.

[3] And by Judge *ad hoc* Guggenheim in the *Nottebohm Case* heard by the International Court of Justice; see below, pp. 361–3.

of the wife follows that of her husband are incompatible with the principle of equality of the spouses during marriage proclaimed in the Universal Declaration.

The preamble of the draft convention on the nationality of married women, submitted to the General Assembly by the Council in resolution 587E(XX), recognized, *inter alia*, that in article 15 of the Universal Declaration the General Assembly of the United Nations had proclaimed that "everyone has the right to a nationality" and that "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality".

[1] E/2731 and Corr. 1, para. 28, resolution I.

At its eleventh session, in 1955, the Commission on Human Rights decided [1] that the Yearbook on Human Rights for 1955 was to include a section containing the application and, so far as necessary, the evolution of the right set forth in article 9 of the Universal Declaration — i.e., "No one shall be subject to arbitrary arrest, detention or exile." The Yearbook for 1956 was to include a section containing similar statements furnished by governments and any specialized agencies concerned regarding the right set forth in article 25, paragraph 2, of the Universal Declaration — i.e., "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection."

2. DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

At the tenth session of the General Assembly, the Assembly's Third Committee approved texts for the preamble and article 1 of the draft covenant on economic, social and cultural rights and the draft covenant on civil and political rights.

The preamble and article 1 of the draft covenant on economic, social and cultural rights then read as follows:

"*The States Parties hereto,*

"*Considering* that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

"*Recognizing* that these rights derive from the inherent dignity of the human person,

"*Recognizing* that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

"*Considering* the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

"*Realizing* that the individual, having duties to other individuals and to the community to which he belongs, is under responsibility to strive for the promotion and observance of the rights recognized in this Covenant,

"*Agree* upon the following articles:

Article 1

"1. All peoples have the right of self-determination. By virtue of this right they freely determine their political status and freely pursue their economic, social and cultural development.

"2. The peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

"3. All the States parties to the Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter."

The preamble and article 1 of the draft covenant on civil and political rights as drafted by the Third Committee were identical with the preamble and article 1 quoted above, except that the third considerandum read as follows:

"*Recognizing* that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights."

The General Assembly, at its 554th plenary meeting on 14 December 1955, decided to continue its consideration of the draft International Covenants on Human Rights at its eleventh session.

3. ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

The Commission on Human Rights, at its eleventh session, recommended a resolution [1] on the establishment of a programme of technical assistance in the field of human rights for adoption by the Economic and Social Council.

By resolution 586E (XX), the Council recommended the adoption by the General Assembly of a draft resolution which would consolidate the technical assistance programmes already approved by the General Assembly, and relating to the promotion and safeguarding of the rights of women, the eradication of discrimination and protection of minorities and the promotion of freedom of information, with the broad programme of assistance in the field of human rights recommended by the Commission. The consolidated programme was to be known as "Advisory Services in the Field of Human Rights".

The General Assembly, in its resolution 926 (X), approved this consolidation and title. Subject to the directions of the Council, the Secretary-General was authorized to provide, at the request of and in agreement with governments and with the co-operation of the specialized agencies where appropriate and without duplication of their existing activities, for (1) advisory services of experts, (ii) fellowships and scholarships and (iii) seminars, each in respect of human rights.

[1] E/2731 and Corr. 1, annex 1, draft resolution D.

4. INTERNATIONAL RESPECT FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION

In accordance with the General Assembly's request, expressed in resolution 837 (IX),[1] the Commission on Human Rights, at its eleventh session, considered the question of recommendations concerning international respect for the right of peoples and nations to self-determination. The Commission reaffirmed the recommendations contained in resolutions F – 1 and II adopted at its tenth session regarding the establishment of a survey commission and a good offices commission.[2]

The Economic and Social Council in resolution 586D (XX), transmitted to the General Assembly for consideration the draft resolutions proposed by the Commission and a third draft resolution of its own, which recommended the establishment of an *ad hoc* commission of five persons, to be appointed by the Secretary-General, to conduct a thorough study of the concept of self-determination, and elaborated upon the terms of reference of this commission.

The General Assembly, at its 554th plenary meeting, on 14 December 1955, decided to postpone to its eleventh session consideration of the item "Recommendations concerning international respect for the right of peoples and nations to self-determination".

[1] See *Yearbook on Human Rights for 1954*, p. 408.

[2] E/2731 and Corr. 1, para. 122.

5. PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

In its resolution 586B (XX), the Economic and Social Council reaffirmed its decision, set forth in resolution 545D (XVIII), which, by requesting the Sub-Commission on Prevention of Discrimination and Protection of Minorities to limit its study of discrimination in the matter of emigration and travel to "the right of everyone to 'leave any country, including his own, and to return to his country'", implicitly excluded immigration from the scope of its study.[1]

By resolution 586C (XX), the Council authorized the Sub-Commission to undertake one further study in the field of discrimination in 1956 and another, if possible, in 1957, and expressed the hope that the specialized agencies and the non-governmental organizations concerned would continue to give the Sub-Commission all the co-operation and assistance it might require, and that the Commission on the Status of Women would continue to co-operate with the Sub-Commission. The Council requested the Secretary-General to provide the Sub-Commission with the financial and administrative assistance necessary to enable it to pursue its studies without delay.

[1] See *Yearbook on Human Rights for 1954*, p. 408.

In pursuance of resolution 546 (XVIII),[1] the Secretary-General convened at the European Office of the United Nations in Geneva a conference of the non-governmental organizations interested in the eradication of prejudice and discrimination. Representatives of 98 non-governmental organizations attended the conference, which was held from 31 March to 4 April 1955. The conference adopted a final act containing four resolutions.[2] At its eleventh session, the Commission on Human Rights transmitted the Final Act of the Conference to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for its observations.

[1] See *Yearbook on Human Rights for 1954*, p. 408.

[2] E/NGO/CONF.1/8 and Corr. 1–3.

6. STATUS OF WOMEN

A. Political Rights of Women

By resolution 587B (XX), the Economic and Social Council requested the Secretary-General to deal, in his annual memorandum on the advancement of political rights of women, with all States which are Members of the United Nations or of specialized agencies or are parties to the Statute of the International Court of Justice, and invited him to include in an annex to the report pertinent information available on other States. The Secretary-General was requested to include in the same memorandum information on reservations and objections to reservations to the Convention on Political Rights of Women.

B. Nationality of Married Women

The Council, by resolution 587E (XX), recommended to the General Assembly the adoption of an international convention on the nationality of married women, designed to eliminate conflicts in law arising out of provisions regarding the loss or acquisition of nationality by women as a result of marriage, of its dissolution, or of the change of nationality by the husband during marriage. The Council submitted to the General Assembly for consideration a preamble and substantive articles.

The General Assembly, at its 554th plenary meeting, on 14 December 1955, took note of the preamble and the three substantive articles of the draft Convention as adopted by its Third Committee and decided to include the matter on the provisional agenda of its eleventh session for consideration of the final and formal clauses.

C. Status of Women in Private Law

(1) *Legal Status of Married Women*

The Council, in resolution 587D-I (XX), requested the Secretary-General to bring up to date, in annual reports for submission to the Commission, information on legislation and practice relating to the status of women in family law and to property rights, and to prepare and arrange for the publication at an early date of material on the legal status of married women.

(2) *Parental Rights and Duties*

In resolution 587D-II (XX), the Council, believing that the sharing by the parents of rights and duties with respect to their children is of benefit not only to the status of women but also to that of the children and to the family as an institution, recommended that States Members of the United Nations take all necessary measures to ensure equality as between parents in the exercise of rights and duties with respect to their children.

(3) *Domicile of Married Women*

The Council, in resolution 587D-III (XX), noted that in the legal system of many countries the domicile of the wife follows that of her husband and the wife, upon marriage, loses her original domicile, and expressed the belief that such legal systems are incompatible with the principle of equality of spouses during marriage, set forth in the Universal Declaration of Human Rights. The Council recommended that governments take all necessary measures to ensure the right of a married woman to an independent domicile.

D. Equal Pay for Equal Work

In resolution 587C (XX), the Council, noting that methods appropriate for implementing the equal pay principle are described in the International Labour Convention and the Recommendation concerning equal remuneration for men and women workers for work of equal value,[1] urged the governments of all States, whether or not members of the United Nations, to take legislative or other measures for the application of the principle of equal pay for equal work for men and women. The Council recommended also that governments, in making plans for technical assistance, include in such plans projects for the utilization of technical advisory services designed to develop appropriate methods, where such methods do not exist, for giving practical effect to the principle of equal pay, and that high priority

[1] The convention and the recommendation were adopted by the International Labour Conference in 1951. For the texts, see *Yearbook on Human Rights for 1951*, pp. 469–72.

be given to such projects. The non-governmental organizations were encouraged to continue their efforts to create an informed public opinion in favour of the principle of equal pay.

E. Economic Opportunities for Women

The Council, in resolution 587F-III (XX), recognized the importance of granting women equal rights with men in all branches of economic life. All States were recommended to adopt legislative and other measures which would help to remove economic discrimination against women, and to encourage such action as would secure for women equal rights with men in the economic field in all countries, including the Trust and Non-Self-Governing Territories.

The Council, in resolution 587F-I (XX), recommended that governments of States Members of the United Nations make extensive use of the report prepared by the International Labour Organisation (E/CN.6/267) on the development of opportunities for women in handicraft and cottage industries. The resolution was to be transmitted to the Trusteeship Council and the Committee on Information from Non-Self-Governing Territories for consideration.

By resolution 587F-II (XX), the Council invited governments to include in their requests for technical assistance projects aimed at the establishment of services, including vocational guidance and training and employment services, to help women secure increased opportunities in the labour market. The Council further urged the non-governmental organizations to work for the eradication of all possible obstacles in the way of the economic emancipation of women.

F. Educational Opportunities for Women

In resolution 587G (XX), the Council suggested that UNESCO consider assisting in the establishment in underdeveloped countries of cultural and educational centres which would be accessible to large communities and would enable a greater number of women to take advantage of their facilities.

The Council also invited governments, when making their requests for technical assistance, to give due attention to providing increased educational opportunities for women.

7. SLAVERY

The Economic and Social Council, at its nineteenth session, considered two reports on slavery, one prepared by Mr. Hans Engen as Rapporteur, in accordance with resolution 525A (XVII) of the Council[1] (E/2673 and Add.1–4) and the other prepared by the Secretary-General (E/2679 and Add.1–4). In resolution 564 (XIX), the Council took note of the reports and decided to appoint a committee consisting of representatives of the Governments of Australia, Ecuador, Egypt, France, India, the Netherlands, Turkey, the Union of Soviet Socialist Republics, the United Kingdom and Yugoslavia for the purpose of preparing a text of a draft supplementary convention for submission to the Council at its twenty-first session, and to transmit to the Committee the draft supplementary convention on slavery proposed by the United Kingdom and contained in E/2540/Add.4, together with all comments received on it from governments, the International Labour Organisation or non-governmental organizations. The Council also invited all governments which had not yet commented on the draft contained in document E/2540/Add.4 to do so before the Committee convened.

[1] See *Yearbook on Human Rights for 1954*, p. 410.

8. FORCED LABOUR

The Council, at its nineteenth session, considered a preliminary report on forced labour (E/2699) prepared by the Secretary-General and the Director-General of the International Labour Organisation under the terms of resolution 524 (XVII).[1] The Secretary-General and the Director-General noted that it was necessary to give the governments concerned sufficient time to prepare and transmit the comments mentioned in the resolution. The Council accordingly decided to postpone further consideration of the item on forced labour until its twenty-first session.

[1] See *Yearbook on Human Rights for 1954*, p. 410.

9. FREEDOM OF INFORMATION

A. Technical Assistance for the Promotion of Freedom of Information

In its resolution 574 A (XIX), the Council requested the Secretary-General, in implementation of Council resolution 522 J (XVII) and General Assembly resolution 839 (IX),[1] to take steps, in close collaboration with the Director-General of UNESCO, to put into operation a programme to promote freedom of information by providing such services as experts, fellowships and seminars.

B. Reports and Studies on Freedom of Information

The Council, in resolution 574 B (XIX), took note of a number of reports and studies prepared by the Secretary-General in conjunction with the specialized agencies concerned, or by certain specialized agencies, pursuant to Council resolutions 522 A, B and G (XVII).[2] It urged all States (i) to cease the practice of censoring outgoing news despatches during peacetime in order to provide a free flow of information throughout the world and (ii) to facilitate the unrestricted transmission of news by telecommunication services, as recommended at the Buenos Aires Plenipotentiary Telecommunication Conference. The Council also requested the Secretary-General to transmit the recommendations of the Director-General of UNESCO concerning the problem of transmitting press messages [3] to the Secretary-General of the International Telecommunication Union for circulation to the members and associate members of the ITU. The Secretary-General was requested to transmit his study on the legal aspects of the rights and responsibilities of the media of information [4] to appropriate information enterprises and professional associations for their information.

[1] See *Yearbook on Human Rights for 1954*, p. 410.

[2] E/2681, E/2683 and Add. 1–3, E/2686 and Corr.1 and 2, E/2687 and Add.1–3, E/2693 and Add.1–3 and E/2698 and Add.1.

[3] E/2686 and Corr.1 and 2, part III.

[4] E/2698 and Add.1.

C. Draft Convention on Freedom of Information

The Council, in its resolution 574 C (XIX), "concluded reluctantly" that further action at that stage on the draft convention on freedom of information would be unprofitable, and recommended that the General Assembly consider the draft convention at its twelfth session in the hope that conditions would be more favourable at that time.

D. Media of Information in Underdeveloped Countries

By resolution 574 D (XIX), the Council requested the governments of States Members of the United Nations and of those non-member States which were members of a specialized agency to transmit to the Secretary-General, in so far as they had not already done so, information on the media of information existing in their territories, on measures and plans for the development of information media, and on measures undertaken towards the implementation of such plans and difficulties being met in implementing them; and recommendations and suggestions regarding possible international action for the development of media of information of underdeveloped countries. The Secretary-General was requested to prepare, in consultation with UNESCO, an analysis of the information and recommendations received from governments and to present, on the basis of their analysis, elements necessary for the formulation by the Council of a programme of concrete action and measures which could be undertaken for the development of information enterprises of underdeveloped countries, with an evaluation of the material, financial and professional requirements and resources for the implementation of the programme.

10. TRADE UNION RIGHTS

The Council at its nineteenth session considered six communications alleging infringements of trade union rights: one relating to the German Democratic Republic,[1] four to Spain [2] and one to Saudi Arabia.[3]

The Council, in resolution 575 A (XIX), requested the Secretary-General again to invite the Government of Saudi Arabia to give its consent to the forwarding to the International Labour Organisation of allegations concerning that country, following the procedure referred to in paragraph (*c*) (i) of its resolution 277 (X). In resolutions 575 B (XIX) and 575 C (XIX) the Council took note with regret of the fact that the Governments of Romania and Spain had not responded to the invitations transmitted to them pursuant to resolutions 523 A (XVII) [4] and 523 B (XVII) [4] respectively. In resolution 575 D (XIX), the Council decided to refer the allegations concerning the German Democratic Republic to the International Labour Organisation for its consideration.

[1] See E/2587.

[2] See E/2587/Add.1, 2, 4 and 5.

[3] See E/2587/Add.3.

[4] See *Yearbook on Human Rights for 1954*, p. 412.

11. PROTECTION OF CHILDREN

A new agreement was signed by the United Nations Children's Fund and Guatemala on 22 November 1955. In addition, protocols concerning claims against UNICEF were concluded during 1955 with Austria, Bolivia, Costa Rica, Finland, Greece, Indonesia, Iran, Israel, Korea, Libya, Pakistan, Panama, Peru and Spain.

In resolution 573 (XIX) the Economic and Social Council took note with satisfaction of the reports of the Executive Board of the United Nations Children's Fund covering its sessions in September and December 1954 and March 1955.[1]

[1] E/2662, E/2676 and E/2717.

12. REFUGEES AND STATELESS PERSONS

A. Convention on the Status of Stateless Persons

The General Assembly, in resolution 928 (X), took note with appreciation of the work of the United Nations Conference on the Status of Stateless Persons and of the adoption and opening for signature of the Convention relating to the Status of Stateless Persons, of 28 September 1954.[1] The Assembly requested the Secretary-General to invite to accede to the Convention any State non-member of the United Nations which had not been invited to attend the Conference but which was, or thereafter became a member of any specialized agency or a party to the Statute of the International Court of Justice. The Assembly expressed the hope that governments would take prompt action for the early ratification of, or accession to, the Convention.

B. The Office of the United Nations High Commissioner for Refugees

In resolution 565 (XIX), the Economic and Social Council amended its resolution 393 B (XIII) in order to reconstitute the United Nations High Commissioner's Advisory Committee on Refugees as an executive committee, to be known as the United Nations Refugees Fund (UNREF) Executive Committee. The Executive Committee was to give directives to the High Commissioner for Refugees in carrying out the programme for permanent solutions and emergency assistance; determine the general policies under which the operations of the Fund shall be planned, developed and administered; determine an annual financial target for the Fund and an annual operational plan; consider and act upon the High Commissioner's detailed proposals; exercise the necessary controls in the use of the funds made available to the High Commissioner for the purposes of the Fund; adopt administrative regulations for the Fund; consider the annual financial report of the High Commissioner, and review the expenditure incurred under the Fund; ensure that all necessary steps are taken to promote close co-operation of the administration of the Fund with governmental, inter-governmental and non-governmental organizations directly concerned with the problems of refugees; ensure that all necessary steps are taken to provide appropriate supervision of all approved projects; and advise the High Commissioner, at his request, in the exercise of his functions under his statute. The Executive Committee was to consist of twenty States Members and non-members of the United Nations, selected on the basis of their demonstrated interest in and devotion to the solution of the refugee problem, including the present members of the Advisory Committee, the membership being subject to review at the twenty-third session of the Council.

At its twentieth session the Council, in resolution 589 (XX), took note of the report of the United Nations High Commissioner for Refugees covering the period June 1954 – May 1955, and the annexed report of the United Nations Refugee Fund (UNREF) Executive Committee,[2] and of the actions taken in implementation of General Assembly resolution 832 (IX).[3] The Council expressed the hope that, in order to supplement the increased efforts being made under the UNREF programme to promote the economic integration, in their present countries of residence, of refugees within the mandate of the High Commissioner, particularly those living in camps, other countries would continue to include a reasonable number of such refugees in any schemes of immigration which they may undertake.

In resolution 925 (X), the General Assembly requested the High Commissioner to continue his efforts to effect solutions for the problems of refugees through voluntary repatriation, resettlement and integration. The Assembly noted with satisfaction that the United Nations Refugee Fund Executive Committee had directed that the main emphasis of the programme for permanent solutions under General Assembly resolution 832 (IX) should be on the

[1] Cf. *Yearbook on Human Rights for 1954*, pp. 369–75 and 413–4.

[2] A/2902 and Add.1.

[3] See *Yearbook on Human Rights for 1954*, p. 413.

reduction of the number of refugees in camps. Noting with concern that the approved target for governmental contributions to the United Nations Refugee Fund for 1955 had not yet been reached, the Assembly urged States Members and non-members of the United Nations to give early and serious consideration to making contributions to the Fund in order that the targets for 1955 and 1956 might be attained and the High Commissioner enabled fully to implement the programmes planned for those years.

C. United Nations Relief and Works Agency for Palestine Refugees in the Near East

The General Assembly, at its tenth session, considered the annual report and a special report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East[1] and the special report from the Advisory Commission of the Agency.[2] In resolution 916(X), noting that repatriation or compensation of the refugees, as provided for in its resolution 194(III), had not been effected, that no substantial progress had been made in the programme for reintegration of refugees endorsed in its resolution 513(VI) and that the situation of the refugees continued to be a matter of grave concern, the Assembly directed the Agency to pursue its programmes for the relief and rehabilitation of refugees and to continue its consultations with the United Nations Conciliation Commission for Palestine. It requested the government of the area to make a determined effort to seek and carry out projects capable of supporting substantial numbers of refugees. The Assembly requested the Negotiating Committee for Extra-budgetary Funds to seek such funds as the Agency might request, and appealed to the governments of Member and non-member States to make voluntary contributions to the extent necessary to carry through to fulfilment the Agency's programmes.

[1] *Official Records of the General Assembly, Tenth Session, Supplements Nos. 15 and 15A* (A/2978 and Add. 1).

[2] *Ibid., Tenth Session, Annexes*, agenda item 22, document A/3017.

13. PRISONERS OF WAR

The General Assembly's *Ad Hoc* Commission on Prisoners of War[1] did not hold a session in 1955, but submitted a report (A/AC.46/18) to the Secretary-General on the progress that had been made in the solution of the problem of prisoners of war since its sixth session in 1954.

In resolution 910B(X), the General Assembly requested the governments of Member States able to do so to assist in bringing about a full solution of the problem of ex-prisoners of the Korean War remaining temporarily in India by accepting for resettlement those ex-prisoners not covered by the offers made already by the Governments of Brazil and Argentina.

[1] See *Yearbook on Human Rights for 1954*, p. 414.

14. HUMAN RIGHTS IN TRUST TERRITORIES

A. Annual Reports

During its fifteenth and sixteenth sessions and its fifth special session (25 January – 28 March 1955, 8 June – 22 July 1955 and 24 October – 14 December 1955, respectively), the United Nations Trusteeship Council considered annual reports transmitted by the Administering Authorities of the eleven Trust Territories, together with other relevant material. In examining and reviewing the political, economic and social advancement in these territories, the Council adopted certain recommendations and reached certain conclusions affecting human rights.[1] The Council submitted a report to the Security Council on the strategic area of the Trust Territory of the Pacific Islands.[2]

The General Assembly, by its resolution 948(X), took note of the Report of the Trusteeship Council covering the period from 17 July 1954 to 22 July 1955 and recommended that the Council, in its future deliberations, take into account the comments and suggestions made in the course of the discussion of its report at the tenth session of the General Assembly.

B. Petitions

During 1955 the Trusteeship Council and its Standing Committee on Petitions dealt with a number

[1] Cf. *Official Records of the General Assembly, Tenth Session and Eleventh Session*, Supplement No. 4: Report of the Trusteeship Council covering the period 17 July 1954 to 22 July. 1955 (A/2933) and Report of the Trusteeship Council covering the period 23 July 1955 to 14 August 1956 (A/3170).

[2] See Report of the Trusteeship Council to the Security Council on the Trust Territory of the Pacific Islands covering the period from 17 July 1954 to 22 July 1955 (S/3416).

of written or oral petitions on general questions, on specific or individual complaints and on Togoland unification.

C. Visits to Trust Territories

The Trusteeship Council considered the reports of a visiting mission concerning the Trust Territories of Tanganyika, Ruanda-Urundi and Somaliland under Italian Administration concurrently with the annual reports of the Administering Authorities of the Trust Territories concerned, and, in resolutions 1086 (XV) and 1256 (XVI), expressed its appreciation of the work of the visiting mission and invited the Administering Authorities concerned to give the most careful consideration to the conclusions of the visiting missions as well as to the comments made thereon by the members of the Council.

The Council decided that a visiting mission should be sent in 1955 to the Trust Territories of Togoland under British Administration and Togoland under French Administration (resolution 1084 (XV)) and to the Trust Territories of the Cameroons under British Administration and the Cameroons under French Administration (resolution 1253 (XVI)). The terms of reference of these missions included reporting upon the steps taken in the territories towards the realization of the objective set forth in Article 76b of the Charter of the United Nations,[1] receiving petitions and investigating on the spot, after consultations with the representative of the Administering Authority concerned, those petitions which in its opinion warranted special investigation. At its fifth special session, the Council, in resolution 1367 (S-5), made arrangements for sending a visiting mission in 1956 to the Trust Territories in the Pacific, with the same terms of reference.

D. Future of the Trust Territory of Togoland under British Administration

In resolution 944 (X), the General Assembly recommended that the Administering Authority should organize and conduct, under the supervision of the United Nations, a plebiscite in which the inhabitants of the Trust Territory of Togoland under British Administration would indicate their wishes in regard to union of the Territory with an independent Gold Coast or separation of the Territory from the Gold Coast and its continuation under trusteeship pending the ultimate determination of its political future. For the purposes of supervision the Assembly decided to appoint a United Nations Plebiscite Commissioner, to be assisted by observers and staff.

[1] "*Art. 76.* The basic objectives of the trusteeship system . . . shall be:

. . .

"(*b*) To promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;"

15. HUMAN RIGHTS IN NON-SELF-GOVERNING TERRITORIES

A. Information submitted under Article 73e of the Charter of the United Nations

Under Article 73e of the Charter, Members of the United Nations which have or assume responsibilities for the administration of territories, other than Trust 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.

Part III of the revised standard form approved by General Assembly resolution 551 (VI) [1] suggests that information be transmitted concerning, *inter alia*, the manner in which the principles contained in the Universal Declaration of Human Rights are protected by law.

The General Assembly, in resolution 929 (X), approved the report prepared in 1955 by its Committee on Information from Non-Self-Governing Territories on social conditions in those territories [2] as a supplement to the report on the same subject approved in 1952. It invited the Secretary-General to communicate the 1955 report for 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. The Assembly expressed its satisfaction at the increased co-operation between the Administering Members and the international bodies concerned, and requested the latter to take full account of the views expressed in the 1955 report.

In its resolution 932 (X), the General Assembly expressed the opinion that an examination of the progress achieved in the Non-Self-Governing Terri-

[1] See *Yearbook on Human Rights for 1951*, p. 609.

[2] *Official Records of the General Assembly, Tenth Session, Supplement No. 16* (A/2908), part two.

tories, based on the information received from the Administering Members under Article 73e of the Charter, would be highly desirable and would make it possible to ascertain the extent to which the peoples of the Non-Self-Governing Territories were advancing towards the attainment of the goals set in Chapter XI of the Charter. The Secretary-General was invited, after consultation with the specialized agencies concerned to submit to the Assembly, for consideration at its eleventh session, a report on the main points that might be useful in such an examination.

By resolution 933 (X) the General Assembly continued its Committee on Information from Non-Self-Governing Territories for a further three-year period.

By resolution 945 (X), the Assembly decided that the cessation of the transmission of information under Article 73e of the Charter of the United Nations in respect of the Netherlands Antilles and Surinam was appropriate.

B. Community Development in Non-Self-Governing Territories

In resolution 930 (X) the General Assembly amended the standard form so as to provide for the furnishing of complete and up-to-date information on programmes and progress in the field of community development.

C. Educational Advancement in Non-Self-Governing Territories

The General Assembly, in its resolution 931 (X), took note of a report [1] of the Secretary-General on the offers of study and training facilities under resolution 845 (IX),[2] showing the progress achieved so far in the implementation of that resolution, and invited him to continue reporting on such offers and the use made of them.

[1] *Official Records of the General Assembly, Tenth Session, Annexes*, agenda item 31, documents A/2937 and Adda. 1, 2, 3/Rev. 1 and 4.

[2] See *Yearbook on Human Rights for 1954*, p. 417.

16. RACIAL SITUATION IN THE UNION OF SOUTH AFRICA

The United Nations Commission on the Racial Situation in the Union of South Africa submitted its third report to the General Assembly at its tenth session. In its resolution 917 (X), the Assembly, recalling its previous resolutions on this matter, noted with regret that the Government of the Union of South Africa had again refused to co-operate with the Commission and recommended the Government to take note of the Commission's report. The Assembly also expressed its concern at the fact that the Government was continuing to give effect to the policies of *apartheid*, notwithstanding the request made by the Assembly to reconsider its position in the light of the high principles contained in the United Nations Charter and taking into account the pledge of all Member States to promote respect for human rights and fundamental freedoms, without distinction as to race. It reminded the Government of the Union of the faith it had reaffirmed, in signing the Charter, in fundamental human rights and in the dignity and worth of the human person; and called on the Government to observe the obligations contained in Article 56 of the Charter.

B. JUDGEMENT OF THE INTERNATIONAL COURT OF JUSTICE

NATIONALITY AS A CONDITION FOR THE EXERCISE OF DIPLOMATIC PROTECTION AND FOR INTERNATIONAL JUDICIAL PROCEEDINGS — DOMESTIC JURISDICTION WITH REGARD TO NATIONALITY — CONDITIONS TO BE SATISFIED IN ORDER THAT NATIONALITY CONFERRED UPON AN INDIVIDUAL BY A STATE MAY BE RELIED UPON AS AGAINST ANOTHER STATE AND GIVE A TITLE TO THE EXERCISE OF PROTECTION AGAINST THAT STATE — REAL AND EFFECTIVE CHARACTER OF NATIONALITY — REAL LINK BETWEEN THE NATURALIZED PERSON AND THE NATURALIZING STATE

NOTTEBOHM CASE

(Liechtenstein v. Guatemala)

Judgement of 6 April 1955 [1]

By application filed on 17 December 1951, the Government of Liechtenstein instituted proceedings before the International Court of Justice in which it claimed restitution and compensation on the ground that the Government of Guatemala had "acted towards the person and property of Mr. Friedrich Nottebohm, a citizen of Liechtenstein, in a manner contrary to international law".

One of the objections of the Government of Guatemala to the admissibility of the claim related to the nationality of the person for whose protection Liechtenstein had seized the Court.

Guatemala referred to the principle of international law that "it is the bond of nationality between the State and the individual which alone confers upon the State the right of diplomatic protection". Liechtenstein claimed to be acting in conformity with this principle and contended that Nottebohm was its national by virtue of the naturalization conferred upon him.

Nottebohm was born in Hamburg in 1881 and was still a German national when, in October 1939, he applied for naturalization in Liechtenstein. He went to Guatemala in 1905 and made that country the headquarters of his business activities. After 1905, he paid business visits to Germany and visits to Liechtenstein, but continued to have his fixed abode in Guatemala until 1943 — that is to say, until the occurrence of the events which constituted the basis of the present dispute. On 9 October 1939 he applied for naturalization in Liechtenstein, and this application was granted on 13 October 1939.

The Court had to ascertain whether the nationality thus conferred on Nottebohm by Liechtenstein could be validly invoked against Guatemala; whether it bestowed upon Liechtenstein a sufficient title to exercise protection in respect of a claim relating to him.

The Court, after reviewing Guatemala's attitude toward Nottebohm since his naturalization, declared that it could not see any recognition by Guatemala of Liechtenstein's title to exercise protection in respect of Nottebohm. This being so, the Court had to consider whether the act of granting nationality by Liechtenstein directly entailed an obligation on the part of Guatemala to recognize Liechtenstein's right to exercise protection. The Court dealt with this question without considering the validity of Nottebohm's naturalization according to the law of Liechtenstein. It was for every sovereign State to settle by its own legislation the rules relating to the acquisition of its nationality and to confer that nationality by naturalization. Most of the effects of nationality were felt within the legal system of the State conferring it. But the issue before the Court was not one pertaining to the legal system of Liechtenstein. The Court said:

"To exercise protection, to apply to the Court, is to place oneself on the plane of international law. It is international law which determines whether a

[1] *Nottebohm Case (second phase), Judgement of April 6th, 1955: I.C.J. Reports 1955, p. 4.* A fuller summary of the judgement appears in *Annual Report of the Secretary-General on the Work of the Organization, 1 July 1954 – 15 June 1955 (General Assembly, Official Records, Tenth Session, Supplement No. 1* (A/2911), pp. 96–7).

State is entitled to exercise protection and to seize the Court.

"The naturalization of Nottebohm was an act performed by Liechtenstein in exercise of its domestic jurisdiction. The question to be decided is whether that act has the international effect here under consideration.

. . .

"According to the practice of States, to arbitral and judicial decisions and to the opinions of writers, nationality is a legal bond having as its basis a social fact of attachment, a genuine connexion of existence, interests and sentiments, together with the existence of reciprocal rights and duties. It might be said to constitute the juridical expression of the fact that the individual upon whom it has been conferred, either directly by the law or as the result of an act of the authorities, is in fact more closely connected with the population of the State conferring nationality than with that of any other State. Conferred by a State, it only entitles that State to exercise protection *vis-à-vis* another State if it constitutes a translation into juridical terms of the individual's connexion with the State which has made him its national.

. . .

"Naturalization is not a matter to be taken lightly. To seek and to obtain it is not something that happens frequently in the life of a human being. It involves his breaking of a bond of allegiance and his establishment of a new bond of allegiance. It may have far-reaching consequences and involve profound changes in the destiny of the individual who obtains it. It concerns him personally, and to consider it only from the point of view of its repercussions with regard to his property would be to misunderstand its profound significance. In order to appraise its international effect, it is impossible to disregard the circumstances in which it was conferred, the serious character which attaches to it, the real and effective, and not merely the verbal preference of the individual seeking it for the country which grants it to him.

"At the time of his naturalization does Nottebohm appear to have been more closely attached by his tradition, his establishment, his interests, his activities, his family ties, his intentions for the near future to Liechtenstein than to any other State?

. . .

"At the date when he applied for naturalization Nottebohm had been a German national from the time of his birth. He had always retained his connexions with members of his family who had remained in Germany and he had always had business connexions with that country. His country had been at war for more than a month, and there is nothing to indicate that the application for naturalization then made by Nottebohm was motivated by any desire to dissociate himself from the Government of his country.

"He had been settled in Guatemala for thirty-four years. He had carried on his activities there. It was the main seat of his interests. He returned there shortly after his naturalization, and it remained the centre of his interests and of his business activities. He stayed there until his removal as a result of war measures in 1943. He subsequently attempted to return there, and he now complains of Guatemala's refusal to admit him. There, too, were several members of his family who sought to safeguard his interests.

"In contrast, his actual connexions with Liechtenstein were extremely tenuous. No settled abode, no prolonged residence in that country at the time of his application for naturalization: the application indicates that he was paying a visit there and confirms the transient character of this visit by its request that the naturalization proceedings should be initiated and concluded without delay. No intention of settling there was shown at that time or realized in the ensuing weeks, months or years — on the contrary, he returned to Guatemala very shortly after his naturalization and showed every intention of remaining there. If Nottebohm went to Liechtenstein in 1946, this was because of the refusal of Guatemala to admit him. No indication is given of the grounds warranting the waiver of the condition of residence, required by the 1934 Nationality Law, which waiver was implicitly granted to him. There is no allegation of any economic interests or of any activities exercised or to be exercised in Liechtenstein, and no manifestation of any intention whatsoever to transfer all or some of his interests and his business activities to Liechtenstein. It is unnecessary in this connexion to attribute much importance to the promise to pay the taxes levied at the time of his naturalization. The only links to be discovered between the Principality and Nottebohm are the short sojourns already referred to and the presence in Vaduz of one of his brothers: but his brother's presence is referred to in his application for naturalization only as a reference to his good conduct. Furthermore, other members of his family have asserted Nottebohm's desire to spend his old age in Guatemala.

"These facts clearly establish, on the one hand, the absence of any bond of attachment between Nottebohm and Liechtenstein and, on the other hand, the existence of a long-standing and close connexion between him and Guatemala, a link which his naturalization in no way weakened. That naturalization was not based on any real prior connexion with Liechtenstein; nor did it in any way alter the manner of life of the person upon whom it was conferred in exceptional circumstances of speed and accommodation. In both respects, it was lacking in the genuineness requisite to an act of such importance, if it is to be entitled to be respected by a State in the position of Guatemala. It was granted without regard to the concept of nationality adopted in international relations.

"Naturalization was asked for not so much for the purpose of obtaining a legal recognition of Notte-

bohm's membership in fact in the population of Liechtenstein, as it was to enable him to substitute for his status as a national of a belligerent State that of a national of a neutral State, with the sole aim of thus coming within the protection of Liechtenstein but not of becoming wedded to its traditions, its interests, its way of life or of assuming the obligations — other than fiscal obligations — and exercising the rights pertaining to the status thus acquired.

"Guatemala is under no obligation to recognize a nationality granted in such circumstances. Liechtenstein consequently is not entitled to extend its protection to Nottebohm *vis-à-vis* Guatemala and its claim must, for this reason, be held to be inadmissible."

The judgement was given by eleven votes to three. Judges Klaestad and Read and Mr. T. Guggenheim, Judge *ad hoc*, availing themselves of the right conferred on them by article 57 of the Statute of the Court, appended to the judgement statements of their dissenting opinions.[1]

Judge *ad hoc* Guggenheim's dissenting opinion included the following passages:

"14. A decision that Liechtenstein's application is inadmissible on the ground that F. Nottebohm does not possess effective nationality, and that therefore the applicant State is not entitled to exercise the right of diplomatic protection as against Guatemala would involve three important consequences:

. . .

"(*c*) A refusal to recognize nationality and therefore the right to exercise diplomatic protection, would render the application of the latter — the only protection available to States under general international law enabling them to put forward the claims of individuals against third States — even more difficult than it already is.

"If the right of protection is abolished, it becomes impossible to consider the merits of certain claims alleging a violation of the rules of international law. If no other State is in a position to exercise diplomatic protection, as in the present case, claims put forward on behalf of an individual, whose nationality is disputed or held to be inoperative on the international level and who enjoys no other nationality, would have to be abandoned. The protection of the individual which is so precarious under existing international law would be weakened even further, and I consider that this would be contrary to the basic principle embodied in article 15(1) of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 8th, 1948, according to which everyone has the right to a nationality. Furthermore, refusal to exercise protection is not in accordance with the frequent attempts made at the present time to prevent the increase in the number of cases of stateless persons and to provide protection against acts violating the fundamental human rights recognized by international law as a minimum standard, without distinction as to nationality, religion or race.

"15. The finding that the application is not admissible on the grounds of nationality prevents the Court from considering the merits of the case and thus from deciding whether the respondent State is or is not guilty of an unlawful act as regards Liechtenstein and its national, who has no other legal means of protection at his disposal. . . ."

[1] *Op. cit.*, pp. 28–65.

INDEX

INDEX

Note: Wherever certain constitutions affecting a relatively wide range of rights are mentioned in this index, the relevant article of the constitution in question is given in parentheses. Where any other text is involved, the reference is followed by (T) if it is quoted in whole or in part, by (S) if it is summarized and by (M) if it is only mentioned. In the case of a quotation, the reference is to the page where the text as a whole begins.

The following are the headings used in this index:

A

F

H

N

T

U

Y

CORRIGENDA

On page 89, in the right-hand column, lines 19 and 30, for "*reformatis in peius*", read "*reformatio in peius*".

On page 244, in the left-hand column, line 3, for "640 young specialists—70 per cent more than in 1954", read "640,000 young specialists—70,000 more than in 1954".