YEARBOOK ON HUMAN RIGHTS FOR 1956

UNITED NATIONS, NEW YORK, 1958

UNITED NATIONS PUBLICATION
Sales No.: 58. XIV. 2

Price: $ (U.S.) 4.00; 28/- stg.; Swiss francs 17.—
(or equivalent in other currencies)

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INTRODUCTION

Part I of the present volume of the *Yearbook on Human Rights* surveys constitutional, legislative and judicial developments in seventy-four States, and part II similar events in various Trust and Non-Self-Governing Territories under the administration of seven States. Part III (International instruments) contains texts of or extracts from three instruments, and a table showing the States having become parties during 1956 to thirty-one selected multilateral instruments adopted in or since 1946, and bearing on human rights. Part IV of previous volumes of the *Yearbook*, entitled "The United Nations and Human Rights", has been replaced by an annex entitled "Documentary References on United Nations Action in Relation to Human Rights", as required by resolution 683 D (XXVI), adopted by the Economic and Social Council on 21 July 1958. The *Yearbook* has been somewhat reduced in size, in accordance with resolution 1203 (XII), adopted by the General Assembly on 13 December 1957, which deals with control and limitation of United Nations documentation in general. The parts least affected by the shortening of the volume are parts I and II, which contain information not readily available elsewhere, being collected from all parts of the world and translated from a great variety of languages.

The present introduction will briefly recall the constitutional events dealt with in this volume, and review further instances here reported of the impact of the Universal Declaration of Human Rights upon public events. The introduction will then review some of the topics most richly illustrated in this volume.

In 1956, new *constitutions* containing human rights provisions were adopted in Egypt, Guatemala, Laos, Pakistan, the Sudan and Viet-Nam. Previous constitutions were restored to force in Argentina in 1956, and Cuba in 1955. Of the new constitutions, special mention may be made of three which contain provisions on a particularly wide range of rights — namely, those of Egypt, Guatemala and Pakistan. Two constitutional laws of Guatemala of 1956 — decrees Nos. 22 and 24 of the National Constituent Assembly — dealt with public order and the expression of thought, respectively. The present volume also contains extracts from statutes adopted in 1955 for seven overseas provinces of Portugal. Constitutional changes in the French Trust and Non-Self-Governing Territories were provided for in the loi-cadre of 23 June 1956, in pursuance of which there was adopted in 1956 a statute for Togoland. Constitutional amendments having a bearing on human rights were made in 1956 in the Byelorussian Soviet Socialist Republic, Cambodia, the Federal Republic of Germany, India, Norway, Saar and the Union of Soviet Socialist Republics, in the Trust Territory of Somaliland under Italian administration and in British Guiana, Sarawak and Sierra Leone.

Further instances of the *impact of the Universal Declaration of Human Rights* [1] upon national and international events are recorded in this volume. Article 10 of the Statute of Togoland required laws and regulations of Togoland to conform with the principles set forth in the Universal Declaration, as well as with treaties, international conventions, the Statute itself and the principles set forth in the preamble to the Constitution of the French Republic. Article 12 of the Statute enabled the High Commissioner — to be delegated by the French Republic — to apply to the Conseil d'Etat, sitting as a court, for a declaration that the Togoland Legislative Assembly has exceeded its powers, if he considers that a draft law of Togoland constitutes a violation of article 10. The preamble to Act No. 25, of 9 February 1956, of Panama stated that instances of discrimination on grounds of colour or race had recently occurred in Panama City, and that these represented flagrant violations of the Constitution of Panama and of the Universal Declaration. In the judicial sphere, the Declaration was invoked in a decision of the Federal Constitutional Court of the Federal Republic of Germany, which declared on 30 October 1956 that the Passports Act of the Federal Republic, far from being inconsistent with the Universal Declaration, fulfilled its purposes in that it granted every German, as a matter of general rule, the legal right to a passport. Articles of the Universal Declaration were also recalled in judgements delivered in five Belgian cases reported in the present volume. The preamble to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery of 1956, recalled the contents of Article 4 of the Universal Declaration, concerning slavery, servitude and the slave trade. The United Nations Economic and Social Council, in resolution 607 (XXI), of 1 May 1956, condemned all forms of forced labour which are contrary to the principles of the United Nations Charter and the Universal Declaration of Human Rights, and, in particular, all systems of forced labour which are employed as a means of political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country. Resolution 624 C (XXII) of the Council, of 1 August 1956, concerned

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

plans for the observation of the tenth anniversary of the adoption of the Declaration by the General Assembly on 10 December 1948.

The review of some of the topics illustrated in this volume begins with *the right of access to tribunals and the right to be granted an adequate remedy by tribunals*. Some of the types of remedies which could be granted by the Supreme Court and the High Courts of Pakistan to enforce the fundamental rights guaranteed in the constitution of 1956, subject to the emergency provisions of article 192 of the constitution, were specifically enumerated in articles 22 and 170 of that constitution. The powers of the Supreme Court of Nepal and the High Court of the Sudan to issue directions, orders or writs for the enforcement of rights were provided for in, respectively, article 11 of the Supreme Court Act of 21 May 1956 of Nepal and articles 8 and 102 of the Transitional Constitution of the Sudan. Article 77 of the Constitution of Guatemala of 1956 required the law on public order to define the extent to which the enjoyment of certain constitutional rights might be curtailed in certain eventualities; the article further provided, however, that, upon the disappearance of the conditions under which a decree curtailing rights had been made under the law on public order, every person was to have the right to allege in a court action any legal responsibility for unnecessary acts and for measures not authorized by the law on public order to which such person may have been made subject during the enforcement of the decree. The same guarantee was repeated in article 17 of the law on public order itself. Details concerning the remedy of *amparo* were laid down in articles 79 to 86 of the Constitution of Guatemala of 1956, the essential function of this remedy being defined in article 79 as being "maintenance of individual guarantees and protection of the inviolability of the precepts of this constitution". Act No. 46 on fundamental guarantees, of 24 November 1956, adopted in Panama, contained detailed provisions concerning *habeas corpus*, and also concerning the special procedure for the protection of rights envisaged in article 51 of the Panamanian Constitution.

The right to equality before the law is the subject of short general provisions in a number of constitutions. The application of the principle in concrete situations gives rise to many problems, and the courts, particularly in countries having constitutional provisions concerning equality before the law or equal protection of the laws, are frequently asked to decide what differences in treatment it is or is not permissible to apply as between persons. Examples of the resulting decisions may be found in the present volume in relation, in particular, to the Federal Republic of Germany, India and the United States of America. Previous volumes have often also contained judicial decisions on this question, emanating from the same and other countries. Minors are always placed in a special legal position, but problems of the application of the principle of equality — even as between adults — arise, for instance, in relation to the relative positions of husbands and wives, mothers and fathers, and nationals and aliens.

Special arrangements for ensuring employment for handicapped persons and older workers and certain kinds of protective legislation for women in employment are widespread, and legislation of the type of the Suppression of Immoral Traffic in Women and Girls Act, 1956, of India, and the Prostitution Prevention Act of 24 May 1956, of Japan, is applied in many countries. Systems of licensing for various professions and trades are commonly met which have the effect of excluding unlicensed persons from the exercise thereof; such regulation is specifically permitted by, for instance, article 12 of the Constitution of Pakistan of 1956. Again, departures from the principle of formal equality sometimes exist in systems for the protection of minorities. In the present *Yearbook*, examples of provisions for the protection of minorities are articles 350-A and 350-B of the Constitution of India as added by the Constitution (Seventh Amendment) Act of 1956 and articles 19, 27, 28 (*a*) and 204–7 of the Constitution of Pakistan of 1956.

The making of distinctions on grounds of race or religion in the application of the law or of some aspect thereof was specifically prohibited in the constitutions of Albania, Egypt, Guatemala, Pakistan and the Sudan (to mention only constitutions from which extracts appear in this volume) and in decree No. 559 (Agrarian Statute), of 25 February 1956, of Guatemala. On 31 October 1955, the Superior Court of Quebec, Canada, held that the Quebec Labour Relations Board had no legal basis for considering Indian employees as different from other employees under the Labour Relations Act. Among the developments of 1956 concerning the legal equality of men and women attention may be drawn to an amendment made to the civil service regulations of Israel in the light of the Women's Equal Rights Act, 1951. Measures aimed at reducing or eliminating the disadvantages of children born out of wedlock in matters of legal status included the Constitution of Guatemala of 1956 (article 90), legislation adopted in 1956 in Norway, and Act No. 6652, of 30 January 1956, of Turkey. Act No. 25, of 9 February 1956, of Panama aimed at prohibiting discrimination on grounds of birth, race, social status, sex, religion or political beliefs in the granting of certain public rights as well as in certain private relationships.[1]

[1] The prevention of discrimination in private relationships, further examples of legislation concerning which are to be found in this *Yearbook*, indexed under "Discrimination, prevention of", was discussed in *Yearbook on Human Rights for 1955*, pp. xiv–xvi.

The conviction is widespread that equality before the law and the rights to access to tribunals and to a fair trial are incompletely protected if the factor of cost deters a person with a reasonable case from bringing it before the courts. Provisions concerning the granting of free legal aid in appropriate cases were adopted in 1955 or 1956 in Cambodia, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the Trust Territory of Somaliland under Italian administration. In Cambodia, court fees were also reduced.

The right to take part in the government of one's country in the more formal sense (as distinct from taking part in public life through the exercise of freedom of expression on public issues) is usually regarded as having four main aspects: the right to participate in elections, other than as a candidate, and in plebiscites and referenda; the right to be elected to elective public office; the right to be appointed to ministerial office; and the right of access to judicial office and civil service and other public employment on the basis of merit.

All volumes of the *Yearbook* contain numbers of constitutional or legislative texts defining the qualifications and disqualifications for voting and for being elected in the various countries and concerning freedom of voting. Those appearing in this volume may be found indexed under the headings "Electoral rights" and "Government, right of participation in". Such provisions have a particular interest in connexion with the status of women, and with that of inhabitants of Trust and Non-Self-Governing Territories.

Participation in elections includes the nomination of candidates as well as voting, but it is not generally regarded as practicable for a single individual acting alone to be authorized to nominate. A number of countries have legal provisions defining organizations entitled to nominate in certain elections, for instance, Bolivia (Organic Electoral Law of 9 February 1956, articles 53, 64, 122 (8) and 141), Egypt (Constitution of 1956, article 192), Guatemala (Constitution of 1956, article 25, and Electoral Law of 21 April 1956, article 37) and Poland (Act concerning elections to the Sejm, of 24 October 1956, article 33). On 13 June 1956, in the Federal Republic of Germany, the Federal Constitutional Court held that a provision requiring nominations by groups of non-party voters to be signed by a minimum number of persons entitled to vote did not conflict with equality of suffrage. The legislator was not acting arbitrarily, said the court, if, in order to prevent excessive fragmentation of the vote, he excluded hopeless candidates as far as possible. A non-party candidate who could not show that he had a minimum number of supporters obviously had no prospect of success.

One aspect of the protection of the right to vote is to require that employers shall allow their employees adequate free time in which to exercise this right, and this requirement was laid down in article 247 of the Organic Electoral Law of Bolivia, of 9 February 1956, and in the Electoral Act, 1956, of New Zealand. Among other electoral safeguards set out in its section IX, article 237 of the former enactment restricted the powers of the public authorities to summon or imprison citizens on election days. Section 10 of the People's Representatives Election Act of 29 February 1956 of Thailand required employers to give reasonable facilities to their employees for the exercise of their right to vote and to stand as candidates in elections.

The texts on *property rights* published in the *Yearbook* tend to consist, not of technical definitions of the various types of property relationships in different legal systems, but rather of short provisions in constitutions governing property rights and of legislation defining the circumstances under which property rights may be limited in the public interest and the procedures under which such limitation, including outright expropriation, is to take place, and compensation assessed and paid. Examples of such legislation partially quoted in this *Yearbook* include the Civil Defence Act, No. 179 of 1956, of Egypt, and decree No. 56–691, of 13 July 1956, concerning land reform in Algeria. A comprehensive Expropriation Act was adopted in Turkey on 31 August 1956, and in Viet-Nam, ordinance No. 57 specifying regulations governing agrarian reform entered into force on 22 October 1956. The judicial decisions reported from the Federal Republic of Germany include a number which illustrate the problems which arise in connexion with expropriation and compensation.

Extracts from the following detailed texts on *nationality* are reproduced in this *Yearbook*; the Egyptian Nationality Act, No. 391 of 1956; Title II of the Constitution of Guatemala of 1956; the Irish Nationality and Citizenship Act, 1956; the decree to enact the Tunisian Nationality Code of 26 January 1956; and the Franco-Viet-Namese Convention on Nationality of 16 August 1955. Other developments relating to nationality reported in this volume took place in Albania, Argentina, Austria, Egypt, Federal Republic of Germany, Laos, Liberia, Norway, Romania, the Saar, Switzerland and the Trust Territories of the Cameroons and Togoland under French administration.

Freedom of assembly, freedom of association (including the formation of political parties and trade unions), *personal liberty, freedom of movement and residence, freedom of opinion and expression and freedom of thought, conscience and religion* are related in that the accurate definition of their permitted enjoyment depends to a considerable extent upon the description of the limitations placed thereon, and of the controls aimed at enforcing those limitations.

The exercise of most — if not all — of these rights is limited to a greater or lesser extent by considerations of public order and security, morality or public health. The protection of public order is often interpreted to include the preservation of the type of political regime prevailing in the country in question, and sometimes also the maintenance of the country's international standing.

The rights to personal liberty and freedom of movement and residence are often made subject also to limitations such as those arising out of a person's being held pending trial; probation restrictions; the confinement of the mentally unsound; consideration for the rights of others to privacy and property; and compulsory military service and civic obligations.

The right to freedom of expression is usually limited out of consideration for the rights of persons to privacy, honour and reputation, the right of accused persons to a fair trial, and the rights of children and young persons to a special social protection. Restrictions are sometimes placed upon electoral propaganda during and perhaps immediately before the polling, and especially near the polling booths on election day; such restrictions may protect voters against undue pressure, as well as preserve public order. Acts defined as electoral offences often also include the spreading of false reports concerning candidates in order to affect the result of the election, as in article 42 of Act No. 73 of 1956 of Egypt on the exercise of political rights.

Legislation concerning rights of the type under review does not, however, consist solely of definitions of limitations. For instance, criminal laws provide against acts which interfere with the enjoyment of these rights. Various acts of interference by employers with the exercise of freedom of association by their employees were forbidden by legislative decree No. 9270/56, of 23 May 1956, of Argentina, the decree of 7 November 1955 prohibiting the dismissal of or the giving of notice to workers between the time of notification of their intention to establish, and the time of establishment of, a trade union or works council, of Ecuador, Act No. 56–416, of 27 April 1956, of France, decree No. 11331, of 9 November 1955, regulating the establishment of occupational associations, of Iran, and the Industrial Conciliation Act, 1956, of the Union of South Africa. A further offence which is of interest to the preservation of freedom of association is that defined by section 11 of the Riotous Assemblies Act, 1956, of the Union of South Africa.

Chapter VIII (Electoral propaganda) of the Electoral Law of 21 April 1956, of Guatemala, defined as criminal offences certain acts on the part of public officials, police and the armed forces constituting participation in, or interference with, electoral propaganda. Access of journalists and other citizens to information concerning actions of the public administration are governed by article 71 of the Constitution of Guatemala of 1956 and article 5 of that country's Constitutional Law on the Expression of Thought, of 2 March 1956.

In connexion with the protection of freedom of thought, conscience and religion, attention may be drawn, in particular, to articles 13, 18 and 25 of the Constitution of Pakistan of 1956.

Legislative decree No. 224, of 20 April 1956, of Honduras, entitled a worker to terminate his contract of employment without notice or liability on his part, while retaining his entitlement to compensation as in the case of wrongful dismissal, in the event, among others, of any attempt by the employer or his representative to induce him to perform an act not in accordance with his political or religious beliefs. The worker was to be entitled to terminate the contract after giving notice, while retaining his entitlement to compensation as for wrongful dismissal, in certain other instances, including any serious violation of the prohibition against influencing the political or religious convictions of a worker or the prohibition against dismissing or prejudicing a worker on account of his trade-union membership or participation in lawful trade-union activities.

The present *Yearbook* includes extracts from the following enactments, which illustrate various approaches to the drafting of regulations felt by the legislator to be needed for the control of the exercise of the rights indicated, and the enforcement of the limitations applied thereto: royal decree of 30 October 1956 regarding the organization of public meetings and demonstrations, of Libya, and the Riotous Assemblies Act, 1956, of the Union of South Africa (both of relevance to freedom of assembly and to freedom of opinion and expression); the Electoral Law of 21 April 1956 of Guatemala (chapter III of which concerns the formation and operation of political parties); and, in connexion with freedom of opinion and expression, the Constitutional Law on the Expression of Thought of 2 March 1956, of Guatemala, decree No. 209, of 19 October 1956, respecting periodical publications, of Nicaragua, the decree of 9 February 1956 respecting printing, bookselling and the press, of Tunisia, and Act No. 6733, of 7 June 1956, of Turkey.

Attention is now turned to economic, social and cultural rights, the order of treatment followed being mainly that observed in Articles 23 to 27 of the Universal Declaration of Human Rights.

Many countries promote a *right to work* for the population in a general way through economic policies aimed at maintaining high levels of employment, and through the maintenance of public employment exchanges, which aim at increasing the mobility of labour. Of interest in this connexion

are Act No. 10, of 5 January 1956, on measures for safeguarding employment, and the Employment Act, No. 672, of 29 December 1956, of Finland. The right to work is also protected by legal provisions concerning security of tenure of employees — for instance, legislative decree No. 224, of 20 April 1956, of Honduras, as amended, concerning individual contracting for employment, and certain provisions of the Protection of Workers Act of 7 December 1956 of Norway. Recognition both of the right to work and of the practical difficulties involved in guaranteeing its enjoyment to all persons is implicit in article 52 of the Constitution of Egypt of 1956, which provides that: "Every Egyptian has the right to work, and the State shall endeavour to make that right effective", and in article 29 (*b*) of the Constitution of Pakistan of 1956, according to which: "The State shall endeavour to . . . (*b*) provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure."

The right to just and favourable conditions of work is protected by, *inter alia*, provisions concerning standards of health and safety to be observed in places of work, and the establishment and maintenance of inspection services charged with supervising the observance of these standards. Developments during 1956 of interest in this connexion included order of the Minister of Health No. 42/1956 *Sb.*, of 3 September 1956, on protection of hygienic working conditions, of Czechoslovakia, decree No. 2117, of 31 May 1956, promulgating an Act relating to occupational safety and health, of El Salvador, and decrees Nos. 164, 302, 303 and 320–323 of the President of the Republic of Italy, governing industrial hygiene and the prevention of industrial accidents.

Of legislation of 1956 concerning *equal pay for equal work* for men and women workers, particular mention may be made of three enactments adopted in Canada. The Female Employees Equal Pay Act, which entered into force on 1 October 1956, required an employer in an industry or undertaking within the legislative jurisdiction of the federal parliament to pay women at the same rate as men when employed on the same or substantially similar work. Equal-pay acts were also passed in Nova Scotia and Manitoba. All three Acts contained measures for their enforcement, including provisions enabling a woman considering herself aggrieved to file a complaint. The right to equal pay for equal work has its application not only as between men and women workers, but also as between persons of the same sex — for instance, indigenous and non-indigenous workers employed in the same place. In Brazil, in 1956, the Federal Court of Appeal, basing itself upon article 157 (2) of the Constitution, held that any minor, other than an apprentice, doing the same work as an adult, is entitled to be paid the same wages as an adult.

Minimum wages for manual and non-manual workers were fixed by statute in Bulgaria by an order of 4 December 1956, and in Morocco by a dahir of 26 January 1956. Statutory wage-fixing also took place in several jurisdictions of the United States of America in 1956. In Colombia, decree No. 2118 of 1956, of 31 August 1956, provided for the setting up of permanent commissions for the annual revision of minimum wages, while article 116 of the Constitution of Guatemala of 1956 included among the fundamental principles of labour legislation the periodic establishment of minimum wages, after a hearing of labour and management, consideration being given to the type of labour, the requirements of the workers in the material, moral and cultural fields and the desirability of promoting production. The present volume of the *Yearbook* also contains reports upon two decisions of the Commonwealth Court of Conciliation and Arbitration of Australia concerning, respectively, marginal payments to Commonwealth public servants above the basic wage, and quarterly adjustments of basic wages, based on the cost of living.

The right to rest and leisure includes, as stated in Article 24 of the Universal Declaration, reasonable limitation of working hours and periodic holidays with pay. Legislation on working hours usually restricts the amount of work normally to be performed per week and per day by the worker (as, for instance, Act No. 4468, of 3 June 1956, of the Dominican Republic), and requires the granting of a weekly day of rest (as, for instance, the decree of 30 April 1956, fixing general conditions of wages and employment of agricultural workers, of Tunisia). A decree of 8 March 1956, of the Union of Soviet Socialist Republics, reduced the normal working hours of manual and non-manual workers on days preceding the weekly day of rest and on days preceding holidays to six hours. Periods of rest during the working day may be required, as by the Labour Act of 1 November 1956 of Thailand. The restrictions placed upon night work in Norway were redefined in the Workers' Protection Act of 7 December 1956. Act No. 619, of 26 July 1956, of Monaco — extracts from which appear in this *Yearbook* — regulated the obligatory granting of annual holidays with pay to wage-earners and apprentices. Like this enactment of Monaco, Act No. 3/1954 *Sb.* of Czechoslovakia, Act No. 56–332, of 27 March 1956, of France, and a decree of 1956 amending the Federal Labour Act of Mexico required the granting of longer annual holidays with pay to persons having served longer periods with the same undertaking. The contribution of Albania to the present *Yearbook* sets out categories of workers to whom, irrespective of length of service, the granting of supplementary annual leave with pay as specified is required by the labour code.

The right to social security is perhaps the right most fully reported upon in volumes of the *Yearbook*. The concept of social security is often divided into social assistance and social insurance, and interpreted to mean the provision of funds or services, as appropriate, to meet the exigencies of sickness, maternity, disability, old age, death of the breadwinner, unemployment and employment injury. It may be taken also to include the provision of marriage allowances and family allowances. Some conception of the variety of legislation involved may be gained from a study of the treatment in this *Yearbook* of the following enactments, selected from many: the Social Services Act 1956, of Australia; the Act of 14 December 1956 promulgating a social security code, of Bolivia; the Unemployment Assistance Act 1956, of Canada; government order No. 53/1956 *Sb.*, of Czechoslovakia; Act No. 258 of 2 October 1956 introducing the universal old-age pension, of Denmark; the Relief Act No. 116, of 17 February 1956, and the National Pensions Act No. 347, of 8 June 1956, of Finland; the Family and Social Assistance Code (codification decree No. 56–149, of 24 January 1956) of France; the Act of 16 April 1956 amending and supplementing the Unemployment Insurance and Unemployment Agencies Act, of the Federal Republic of Germany; the Social Security Act No. 27 of 1956 of 17 May 1956, of Iraq; the Social Welfare (Amendment) Act, 1956, of Ireland; the General Old-age Act of 1956, and ministerial decree No. 3852 of 21 April 1956, on financial assistance to blind persons with incomes below a certain limit, of the Netherlands; the Workers' Compensation Act, 1956, of New Zealand; the Health Insurance Act of 2 March 1956, of Norway; decree No. 446 on social assistance pensions, of Romania; the National Pensions Act, 1956, of the Union of Soviet Socialist Republics; the expansion in 1956 of benefits under the Social Security Act of the United States of America; and the comprehensive social security legislation adopted in 1956, 1955 and 1956 in Cyprus, Gibraltar and Malta, respectively.

The right of motherhood and childhood to special care and assistance takes many forms, and those represented in the present *Yearbook* include protective legislation governing admission to employment, working conditions and maternity leave; the provision of welfare services for children, and health services for expectant and nursing mothers; the granting of maternity benefits and family allowances; provisions contained in press and cinema laws and court procedures aimed at protecting minors from harmful influences; laws concerning cruelty to and neglect of children; treatment of juvenile delinquency and laws on adoption and guardianship. Particular mention may be made of the Employment of Women, Young Persons and Children Act, No. 47 of 1956, of Ceylon, and of three enactments of the Union of Soviet Socialist Republics: the decree of 26 March 1956 increasing the duration of maternity leave, the decree of 26 May 1956 establishing a six-hour working day for manual and non-manual workers between 16 and 18 years of age, and the decree of 13 December 1956 to strengthen the labour protection of young persons.

Concerning promotion of *the right to education and to free participation in the cultural life of the community*, particular mention may be made of Act No. 213, of 16 May 1956, concerning primary education, of Egypt; decree No. 558, of 25 February 1956, promulgating the Organic Act on Public Education, of Guatemala; decree No. 18, of 24 April 1956, concerning the purposes of ordinary education and evening courses, of Peru; decision No. 1380 concerning the improvement of general education in the Romanian People's Republic; and the order of 12 July 1956 provisionally approving the statutes of the workers' universities, of Spain. Educational and cultural rights are recognized in many of the new or revised constitutions of 1956, and in the Byelorussian Soviet Socialist Republic and the Union of Soviet Socialist Republics constitutional revisions were adopted in 1956 in the light of the educational advances specified in the Acts containing the amendments.

The prior right of parents to choose the kind of education to be given to their children was recognized by the above-mentioned Act of Egypt concerning primary education, in that it provided that compulsory education was to be given in primary governmental schools, except that children might receive their education in private schools provided that the instruction given was equal to that of the primary governmental school, and that the competent educational authority in the locality was notified before the beginning of the school year. The Hamburg Higher Administrative Court was called upon to examine the practical limits of this right of parents in a case on which judgement was delivered on 12 March 1956. The court decided that the right was not enforceable where the child was so deficient in ability and aptitude that he would be a hindrance to his fellow students, and thus seriously prejudice the free development of their personalities. The educational authorities were entitled to refuse admission to a secondary school even when it was found that the child would not be a handicap to the classes he would attend until some time in the future.

In relation to the protection of *the rights of authors, inventors and performers*, it may be mentioned that the present *Yearbook* includes extracts from the Act on Industrial Property, of 2 September 1955, of Venezuela. Details also appear concerning the relevant legislation of Albania, the Federal Republic of Germany, Liberia, Mexico, Philippines, Romania and the United Kingdom of Great Britain and Northern Ireland.

PART I

STATES

ALBANIA

HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF ALBANIA [1]

Human rights in the People's Republic of Albania are thoroughly protected and guaranteed by the provisions of the Constitution [2] and by a series of important laws for which the Constitution provides, such as the Penal Code, the Code of Criminal Procedure and the law on the organization of the courts.

The rights referred to are the following:

1. *The right to life, liberty and security of person* is most positively and most amply protected in the Penal Code, which imposes appropriate penalties on persons committing crimes against, or attempting to threaten, the life, liberty and security of persons (articles 143–170, 208, 209).

In addition, article 22, paragraph 1, of the Constitution provides that the inviolability of the person shall be guaranteed to all citizens.

2. *The right of the individual not to be arrested, detained or exiled, subjected to torture or to cruel, inhuman or degrading treatment or punishment* is definitely recognized and protected not only by the Constitution, but by the Penal Code and the Code of Criminal Procedure.

Article 22 of the Constitution states that no person may be detained for more than three days except by decision of a court or by the authorization of the public prosecutor. No person may be punished for an offence except by a sentence of a competent court pronounced as prescribed by the law establishing the jurisdiction of the court and defining the offence.

Penalties may be fixed and imposed only as prescribed by law. No citizen may be deported from the State or exiled, save as provided by law.

Under article 3 of the Code of Criminal Procedure, when the public prosecutor is informed that a person has been illegally deprived of his liberty, he shall be obliged to release him immediately; he shall take immediate steps to rectify the situation whenever he is informed that a person is being detained in an inappropriate place or in unlawful circumstances.

Article 134 of the Code of Criminal Procedure provides that an examining magistrate may not obtain statements or confessions from the accused by violence, threats or similar methods.

The Penal Code defines the following as crimes:

(*a*) The use of violence by a public official in the discharge of his functions and any coercion or other unlawful acts committed to the detriment of citizens (article 208);

(*b*) The institution of criminal proceedings by investigating organs or the organs of the judiciary against a person who is manifestly innocent, if such proceedings are undertaken to satisfy selfish interests or for other unworthy motives (article 231);

(*c*) The use of force by the person in charge of the judicial investigation to obtain statements by unlawful means (article 232), and

(*d*) The delivery by the judge of a manifestly illegal judgement to satisfy selfish interests or for other unworthy motives (article 233).

3. *The right of everyone to recognition everywhere as a person before the law* is stipulated in all the provisions of the Constitution on the rights and duties of citizens (article 14 et seq.) and is expressly laid down in the provisions of articles 7 and 8 of the law promulgating the general section of the Civil Code. These two articles state that everyone shall be recognized as a person before the law without distinction as to sex, nationality, religion or birth — i.e., shall have the right to enjoy civil rights or obligations.

No one may be restricted in the exercise of his civil rights, except in those cases and according to those procedures prescribed by law.

4. *The equality of all citizens before the law and their rights to equal protection of the law* are expressly provided by article 14 of the Constitution and by article 5 of the law on the organization of the courts.

Article 14 of the Constitution states that all citizens shall be equal before the law. No privilege shall be granted on the basis of birth, position, wealth or degree of education.

Article 5 of the law on the organization of the courts states that justice in the People's Republic of Albania shall be administered in accordance with the following principles:

(*a*) All citizens shall have equal access to the courts regardless of position, wealth, degree of education, nationality, race or religion;

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[1] Information kindly transmitted, in French, by the Ministry of Foreign Affairs of the People's Republic of Albania. Translation by the United Nations Secretariat.

[2] Extracts from the Constitution of the People's Republic of Albania of 4 July 1950 are published in the *Yearbook on Human Rights for 1950*, pp. 12–15.

(*b*) Criminal, civil and procedural legislation shall be uniform and shall be mandatory for all courts.

5. *The equal right of all citizens to enjoy access to all fields of public and social activity* is proclaimed particularly in articles 15, 17 and 26 of the Constitution.

These articles state explicitly that:

(*a*) All citizens shall be equal without distinction as to nationality, race or religion. Any act conferring privileges upon or limiting the rights of certain citizens on grounds of difference in nationality, race or religion, shall be contrary to the Constitution and subject to the penalties provided by law. Any incitement to hatred or dissension among nationalities, races or religions shall be contrary to the Constitution and punishable by law.

(*b*) Women shall be equal to men in all spheres of private, political and social life. Women shall be entitled to receive the same remuneration as men for equal work. They shall enjoy the same rights as men in respect of social insurance.

(*c*) All citizens shall have equal access to government office under the conditions prescribed by law.

This equality of rights is quite specifically safeguarded by article 210 of the Penal Code, where it is stated that any restriction whatsoever on the rights of citizens or the conferring of privileges on citizens on the basis of nationality or religion shall be punishable by imprisonment not exceeding six years, with or without confiscation of property.

6. *The right of everyone, in full equality, to a public hearing by an independent tribunal in the determination of his rights and obligations and of any charges against him* is catered for both by the Constitution (articles 14, 80, 81 and 82) and by the law on the organization of the courts (articles 5 and 2 *b*).

The above-mentioned articles of the Constitution provide that all citizens shall be equal before the law. No privilege shall be granted on the basis of birth, position, wealth or degree of education.

The courts shall be independent in the exercise of their functions; they shall be separate from the administrative branch of the Government at all levels. Their decisions may not be modified save by a higher court having jurisdiction. The courts shall render justice in accordance with the law and shall adopt their decisions in the name of the Albanian people. Cases shall be tried in public. Article 2 *b* of the law on the organization of the courts reads as follows:

"Justice in the People's Republic of Albania shall provide protection against any violation of the rights of the individual:

. . .

"(*b*) The rights and interests of citizens in respect of their persons or property, political life, work and home are guaranteed by the Constitution."

Article 5, on equal rights of citizens before the law, again states this rule in identical terms.

7. *The principle that an accused person shall be presumed innocent until proved guilty and shall have all the guarantees necessary for his defence* is laid down in article 82, paragraph 2, of the Constitution and in various provisions, in particular articles 12, 2 (paragraph I), 5, 7 (paragraph II), 9, 11, 21 and 56 of the Code of Criminal Procedure.

Article 82, paragraph 2, guarantees the right of the accused to defend himself.

The above-mentioned articles of the Code of Criminal Procedure read as follows:

"*Art. 12.* The accused shall be presumed innocent until proved guilty."

"*Art. 2, paragraph I.* In the administration of penal justice, the judicial organs of the State Counsel Department shall respect the concept of socialist law, by applying strictly the laws of the People's Republic of Albania and ensuring respect for the rights and dignity of citizens."

"*Art. 5.* The judicial organs of the State Counsel Department shall be bound, under the rules established in this Code:

"(*a*) To establish the facts accurately and rapidly, taking into account all the circumstances of the case, those supporting or aggravating the charges against the accused as well as those which establish his innocence or lessen his culpability."

"(*b*) To ensure that everyone taking part in a criminal trial enjoys the procedural rights recognized by law."

"*Art. 7, paragraph II.* The court shall render its verdict on the basis of the evidence examined during the trial."

"*Art. 9.* The court shall judge the case with the participation of the parties and shall direct the activity of the latter in order to conduct a complete judicial inquiry without overlooking any circumstance of the case. The public prosecutor, the accused, his legal representative and his defence counsel, the plaintiff, the civil claimant, the defendant and their representatives, shall, in participating in the judgement of the case, enjoy equal rights as parties. Any party shall have the right to ask the court for production of evidence, to attend the hearing, to put in demurrers and submit any other request, and to challenge the evidence and arguments of the other parties."

"*Art. 11.* In accordance with the Constitution, the accused shall be guaranteed the right to defend himself. Defence counsel shall assist the accused to ensure that his procedural rights are guaranteed and his legitimate interests safeguarded."

"*Art. 21.* Accused persons and their representatives and defence counsel, plaintiffs, civil claimants, defendants and their representatives shall be entitled to lodge appeals with the next higher court against the court's decisions, except for those delivered by

the High Court and those specifically mentioned by the Code."

"*Art. 56.* The participation of defence counsel shall be mandatory

"(*a*) In cases involving minors under sixteen years of age, deaf persons, mutes, blind persons and, in general, persons with physical infirmities which prevent them from understanding the proceedings;

"(*b*) In cases in which the public prosecutor participates;

"(*c*) When the accused does not know Albanian;

"(*d*) When there is a clash of interests between the accused persons, one of whom is being assisted by defence counsel."

8. *The imposition of a heavier penalty than the one that was applicable at the time when the penal offence was committed* is prohibited under article 62 of the Penal Code which states that the question whether an act constitutes an offence and the appropriate penalties shall be determined in accordance with the penal law in force at the time when the penal offence is committed. Any new law under which a given act does not constitute a penal offence or which reduces the penalty applicable to it shall have effect retroactively.

9. *Rights relating to the inviolability of the home and the privacy of correspondence and communications* are expressly laid down in the provisions of articles 23 and 24 of the Constitution, and are guaranteed under articles 173 and 208 of the Penal Code and under several articles of the Code of Criminal Procedure, in particular articles 173 and 177.

Articles 23 and 24 of the Constitution state that:

(*a*) The home shall be inviolable. No person may enter and search a house against the will of the master thereof, unless he is in possession of a search warrant issued according to law. No search may be conducted save in the presence of two witnesses, and the master of the house shall be entitled to be present at the search.

(*b*) The privacy of correspondence and communications shall be inviolable save in the event of a criminal investigation, mobilization or a state of war.

Articles 173 and 208 of the Penal Code read as follows:

"*Art. 173.* Any person who enters or takes up his abode in the home of another without warrant shall be liable to correctional penalties and imprisonment up to one year. Any such act accompanied by violence shall incur a penalty of imprisonment not exceeding three years."

"*Art. 208.* Any Government official resorting to violence in the discharge of his functions, or any person exercising coercion or committing any other unlawful act to the detriment of any citizen shall be liable to a maximum of three years' imprisonment, unless such acts constitute offences punishable by heavier penalties."

The text of articles 173 and 177 of the Code of Criminal Procedure reads as follows:

"*Art. 173.* Except in case of emergency, search, seizure and confiscation operations shall be effected during the day. They shall be carried out in the presence of two witnesses and the householder, or, in his absence, members of the family or neighbours..."

"*Art. 177.* When the search is made, the examining magistrate shall take steps not to reveal any matters discovered during the search which relate not to the case, but to the private life of the person whose home is being searched."

10. *The right of every citizen to freedom of movement within the borders of the State* is recognized in the provisions of the Constitution as a whole, and more specifically, in article 22 of the Penal Code, where an order prohibiting a person from staying in one or more specified places is regarded as a kind of penalty.

11. Article 40 of the Constitution expressly states that *the People's Republic of Albania shall grant the right of asylum in its territory to foreign citizens persecuted for their actions on behalf of democracy, the struggle for national liberation, the rights of the workers, or freedom to engage in scientific and cultural pursuits.*

12. Decree No. 1875, of 7 June 1954, on Albanian nationality contains detailed provisions on *the right to Albanian nationality and the right to change that nationality.*

13. *The right of the family to protection by the State, and the protection afforded by the State to marriage,* are set forth in article 19 of the Constitution. The State specifies by law the legal status of marriage and the family.

Articles 15, 44, 45, 56, 57, 58 and 59 of the law on marriage deal with marriage and the continuance of the state of marriages entered into with the free consent of the spouses.

Article 15 provides that the marriage shall not be valid where the husband and wife were not in a position to decide freely in the matter. Articles 44 and 45 provide that the marriage shall be null and void if one of the spouses has agreed to enter into it under duress or in error. Articles 56–63 prescribe that either spouse may ask that the marriage be dissolved on grounds of incompatibility, continual serious misunderstandings, adultery, attempt by one of the spouses on the life of the other, maltreatment, mental illness, desertion, failure to reside in the home, or conviction of a crime.

Articles 177 and 178 of the Penal Code confirm that entry into marriage or continuation of the state of marriage implies the free consent of the spouses. Under these articles, forcing a woman to marry is punishable by imprisonment not exceeding two years if the woman has reached the age of consent, and not exceeding five years if she has not reached the age of consent. Forcing a woman to continue married life

or to dissolve the marriage is punishable by correctional penalties and imprisonment up to two years.

14. *The right to own property* is established and guaranteed by the provisions of article 11 of the Constitution, by decree No. 2084, of 6 July 1955, on personal property and by decree No. 1855, of 22 March 1954, on expropriation and requisitioning. Article 11 of the Constitution provides, *inter alia*, as follows: "Private property and private enterprise in the economic field shall be guaranteed, as also shall the right to inherit private property. Private property may, as provided by law, be made subject to restrictions or expropriation when the common interest so requires. The law shall specify the cases in which and the extent to which a property owner shall receive compensation."

The above-mentioned decree on expropriation and requisitioning provides that real property may be expropriated if the common interest so requires, against payment of compensation as laid down in the decree, except where special laws provide otherwise (article 1).

The decree states that real property may be expropriated in the common interest, where such expropriation would contribute to the economic, social and cultural advancement of the workers, and especially in the cases specified in article 2.

The other provisions of the decree define specifically the procedure for ordering the expropriation of real property (article 3), for establishing the compensation to be paid (articles 6, 11, 12, 13) and for appealing to the courts against the compensation fixed by the competent commission (article 14).

The decree further defines the conditions and procedures for requisitioning real property, which in all instances implies action in the common interest and involves the payment of compensation as laid down in the decree itself (articles 19, 23, 24, 25), as well as the procedure for appealing to the courts against the decision of the commission which fixes the amount of compensation (article 27).

15. *The right to freedom of conscience and religion* is expressly proclaimed by article 18 of the Constitution, which states, *inter alia*: "Freedom of conscience and of creed shall be guaranteed to all citizens. Religious communities shall be free in matters of religious belief and in the performance of religious ceremonies."

The right to freedom of conscience and religion is effectively guaranteed by a whole series of provisions of the Penal Code and in particular by article 264, which provides for fines or correctional penalties in the case of persons who prevent others from taking part in religious services.

16. *The right to freedom of thought and expression* is covered by the following passage in article 20 of the Constitution: "Freedom of speech, freedom of the press, freedom of association, freedom of organization, freedom of assembly and freedom of public demonstration shall be guaranteed to all citizens".

This right is also reflected in the various provisions of the law on the protection of authors' rights.

17. *The right to freedom of peaceful assembly and association* is provided for both by article 20 of the Constitution already mentioned and by article 21 thereof, which reads as follows: "In order to develop the organizational initiative and political activity of the masses of the people, the State shall ensure to citizens the right to unite in public organizations — the democratic front, trade unions, co-operative associations, youth organizations, women's organizations, sport and national defence organizations, cultural technical and scientific societies; and the most active citizens in the ranks of the working class and other sections of the working masses shall unite in the Albanian Labour Party, which is the organized vanguard of the working class and of all the working masses in their struggle to build the foundations of a socialist order and is the directing nucleus of all organizations of the working people, both public and state."

18. *The right of all citizens to take part in the government of the country and their right of access to public service* are proclaimed and guaranteed by the provisions of articles 4, 5, 16 and 26 of the Constitution.

The text of these articles reads as follows:

"*Art. 4.* In the People's Republic of Albania all power belongs to the working people of town and country as represented by the people's councils."

"*Art. 5.* All representative organs of state power shall be chosen by the people by secret ballot in free elections on the basis of universal, equal and direct suffrage. The representatives of the people in all organs of state power shall be responsible to their electors, who shall have the right to recall representatives at any time."

"*Art. 16.* Every citizen, without distinction as to sex, nationality, race, creed, degree of education or residence, who has attained the age of eighteen years, shall be entitled to vote and may be elected to any organ of the State. The same rights shall be enjoyed by citizens serving in the Army. Elections shall be held by secret ballot on the basis of universal, equal and direct suffrage. Those persons shall be prohibited from voting whom the law deprives of the right to vote."

"*Art. 26.* All citizens shall have equal access to government office under the conditions prescribed by law."

The exercise of the above-mentioned rights is guaranteed by the decrees of 20 January 1950 and 9 April 1954 concerning elections to the People's Assembly,[1] the decree of 25 July 1956 relating to

[1] Replaced in 1958 by Act No. 2624, of 17 March 1958, concerning elections to the People's Assembly.

the People's Councils and the decree of 22 November 1950 concerning elections to the people's courts.

These decrees lay down the procedure to be followed in drawing up electoral lists, defining electoral districts, setting up polling offices, establishing electoral commissions, presenting candidates and controlling post-electoral operations. Articles 218–24 of the Penal Code provide for penalties against those who prevent others from voting or who violate the secret ballot or other electoral principles.

19. *The right to social security* is recognized in article 25, paragraph 3, of the Constitution, which stipulates that the State shall, through social insurance, ensure to citizens support in their old age and in case of sickness or loss of capacity to work. The 1953 decree respecting state social insurance [1] provides for:

(*a*) Medical care;

(*b*) Cash benefits in the event of temporary incapacity for work (sickness, injury, pregnancy, confinement, care of sick children and quarantine);

(*c*) Supplementary cash benefits towards the cost of nursing expenses and the purchase of layettes, the burial of insured persons and members of their families, and diets;

(*d*) Pensions in respect of permanent incapacity for work (disablement), old-age pensions, long-service pensions, pensions for distinguished service and pensions for the surviving dependants of the employee;

(*e*) Assistance in satisfying cultural and vital needs (rest homes, sanatoria, Young Pioneer camps) and in promoting cultural activities and physical training.

Social insurance is applicable to all wage-earners employed in institutions and in public and social organizations or in the service of private employers, regardless of the nature and duration of the work and of the manner of remuneration, as well as to members of the armed forces, whether regulars or not. It is also applicable to alien wage-earners in Albania if no special agreement has been concluded with their Government in respect of their security.

Under certain regulations, state social insurance can also apply to other categories of persons, in particular:

(*a*) Members of workers' co-operative associations, in accordance with order No. 9, of 18 February 1950, and order No. 54, of 31 October 1950;

(*b*) Members of lawyers' associations, in accordance with order No. 16, of 6 October 1953, and fishermen members of their co-operative associations, in accordance with order No. 4, of 25 January 1954.

Other provisions of the decree set forth the requirements, the basic principles, and the amount of cash benefits in the case of sickness, pregnancy, confinement, employment injury, incapacity and old age, and in the case of long or distinguished service (articles 11, 14–18, 20, 25, 27, 32, 33, 65–75, 77, 78, 80, 81). Some of the benefits enjoyed by members of insured persons' families under the terms of the decree are medical care (articles 8, 9, 10) and family allowances (articles 82–86, 116–118).

20. *The right to work and to receive just remuneration* is expressly set forth in article 25, paragraph 1, and article 13 of the Constitution.

According to article 25, paragraph 1, the State guarantees to citizens the right to work and to be paid in proportion to the quantity and quality of their work. Article 13 stipulates that work is a duty and a matter of honour in accordance with the principle: "He who does not work, neither shall he eat."

The People's Republic of Albania applies the socialist principle: "From each according to his ability; to each according to his work".

The right to work is effectively protected by the different provisions of the Labour Code.[2] In these provisions, particularly in articles 96 and 97, it is laid down that the wage- or salary-earner shall be paid a remuneration calculated in accordance with the quantity and the quality of his work, without reference to the receipts of the undertaking, institution or organization which employs him.

Rates of remuneration for the different types of work are fixed by the Government in job classification tables, due allowance being made, in the case of piece rates, for the difference between light and heavy work and skilled and unskilled jobs and taking into account the length of service of the worker.

21. *The right of citizens to form trade unions* is explicitly recognized in article 21 of the above-mentioned constitution, by which the State guarantees to citizens the right to belong to organizations such as trade unions.

22. *The right of citizens to rest* is guaranteed first of all by the provisions of article 25, paragraph 2, of the Constitution, which specifies that the State shall ensure to citizens the right to rest by fixing hours of work, granting annual holidays with full pay, and establishing sanatoria, rest homes, clubs, etc.

Similarly, the right to rest is safeguarded by the provisions of the Labour Code, in particular articles 74, 76 and 77, which deal with the right of wage- and salary-earners to a weekly rest of not less than thirty-six consecutive hours and to rest on statutory public holidays; a special rest day is granted to wage- and salary-earners employed in undertakings, institutions and organizations where production needs require that the work shall proceed without a break. In

[1] See International Labour Office: *Legislative Series* 1956 — Alb. 1.

[2] See International Labour Office: *Legislative Series* 1956 — Alb. 2.

accordance with articles 79, 80, 82, 91 and 94 of the Labour Code the wage- or salary-earner is entitled, after eleven months' continuous employment with an undertaking, institution or organization, to twelve working days' annual leave with pay. In the case of wage- and salary-earners under sixteen years of age, the period of leave is twenty-four working days a year.

The following are entitled to supplementary annual leave with pay, for the periods specified, in addition to their ordinary annual leave:

(*a*) Wage- and salary-earners employed on unhealthy work, from six to twenty-four working days;

(*b*) Directors of economic sectors and administrative departments and persons employed on specified scientific or intellectual work, from six to twelve working days;

(*c*) Teachers employed in the various grades of educational establishments and in kindergartens and children's nurseries, from twelve to thirty-six working days;

(*d*) Theatre and cinema managers and performers, and the conductors and members of symphony orchestras, from six to twenty-four working days;

(*e*) Wage- and salary-earners not working standard hours, up to twelve working days in compensation for overtime, at the discretion of the undertaking, institution, or organization and the trade union committee.

The Council of Ministers may designate other types of wage- and salary-earners as qualifying for supplementary leave. Wage- and salary-earners receive average remuneration, payable before leave begins, for the whole of the regular leave period.

Regular leave may be postponed if the wage- or salary-earner:

(*a*) Has been unable to take leave because of temporary incapacity (sickness, maternity, care of invalid members of his family, etc.) and has throughout the period in question been in receipt of benefits under the state social insurance scheme;

(*b*) Takes up a position in a governmental or social institution;

(*c*) Is under arrest and the undertaking, institution or organization is required by law to keep his position open for him;

(*d*) Has not been given a fortnight's notice of his leave date or has not received his wage or salary before his leave begins.

If, for reasons beyond his control, a wage- of salary-earner is unable to take all or part of his leave, he is entitled to cash compensation or to have his leave the following year extended for a period equal to the period of leave not taken.

However, cash compensation is not payable in lieu of annual leave in the case of wage- or salary-earners under sixteen years of age, or of supplementary leave granted to workers in certain unhealthy occupations, except in the event of termination of the contract of employment.

23. *The right of mothers and children to special care and assistance and the right of children born in or out of wedlock to enjoy the same social protection* is recognized in the final paragraphs of articles 17 and 19 of the Constitution: "The State shall in particular protect the interests of mother and child by ensuring to the mother pre-maternity and maternity leave with pay and by providing maternity homes, nurseries, and kindergartens.

". . . Children born out of wedlock have the same rights as children born in wedlock."

The exercise of these rights is ensured by the Decree on social insurance, the Labour Code, and the Decree on State financial aid to mothers of more than one child and to unmarried mothers.

In accordance with articles 25 and 37 et seq. of the Decree on social insurance, and article 85 of the Labour Code, a cash benefit is payable in the event of pregnancy and confinement (maternity benefit). This benefit is payable throughout the period of maternity leave — namely, for thirty-five days before and forty-two days after the confinement (fifty-six days after confinement in the event of an abnormal delivery or the birth of twins). The cash benefit is granted on the condition that the insured woman has been employed without interruption for at least three months prior to the commencement of maternity leave. After confinement the insured woman is entitled to a childbirth allowance for the purchase of the layette and other necessary articles and for the child's maintenance up to the age of nine months, on condition that she has been employed without interruption for not less than three months before the birth.

According to the terms of the decree concerning the cash benefit granted by the State to mothers of more than one child and to unmarried mothers, this benefit, fixed at 1,000 leks, begins with the birth of the third child, and can be increased to 7,000 leks on the birth of the tenth child.

24. *The right of all citizens to education and culture* is best expressed in article 31 of the Constitution, which reads: "With a view to raising the general cultural level of the people, the State shall enable all classes of the population to attend schools and other cultural institutions.

"The State shall provide in particular for the education of children. Elementary education shall be compulsory and free of charge."

The right to education is also guaranteed by the provisions of the decree of 1 November 1951 concerning compulsory elementary education, the decree of 12 June 1952 concerning compulsory seven-year education and the decree of 6 June 1955 concerning popular education.

According to the provisions of the first two of these decrees, compulsory elementary education from the age of seven to the end of the elementary course is given to all free of charge in the State's elementary schools. Seven years of schooling are also compulsory and free of charge (in the case of pupils having completed the elementary course in towns and villages designated by order of the Minister of Education).[1]

25. *The right of all citizens freely to participate in the cultural life of the community and the right to protection of the moral and material interests resulting from any scientific, literary or artistic production* are affirmed and safeguarded by the Constitution (article 30), as well as by the Act of 24 September 1947 on the protection of authors' rights and by the decree of 25 July 1956 on inventions and improvements.

Article 30 of the Constitution guarantees freedom of scientific and artistic endeavour. The State protects science and the arts in order to foster culture and promote the welfare of the people. Authors' rights are protected by the law.

In accordance with the provision of the law on the protection of authors' rights, literary, artistic and scientific works of Albanian nationals, whether published in Albania or abroad, are specifically protected by the State, as are unpublished works of foreign nationals which appear for the first time in Albania. The rights of those who translate, adapt, reproduce or prepare collections of original works are also protected, provided that the work is done with the author's consent.

Authors of literary, artistic and scientific works enjoy the following rights under this law:

(*a*) Rights of publication, editing, reproduction, representation, execution and translation of their works;

(*b*) The right to cash payment when the operations mentioned in the preceding paragraph are undertaken by the State or by other persons;

(*c*) The right to be credited with authorship of the work and to forbid any alteration or improper use of the work.

According to the provisions of the decree on inventions and improvements, particularly articles 2, 8, 9, 21 and 22, the person responsible for an invention can request either a certificate of authorship recognizing him as sole author of the invention or a patent giving him the exclusive rights in his invention.

The holder of a certificate of authorship receives remuneration to the extent and in the manner laid down in the regulations approved by the Government.

At the author's request, approved by the appropriate organ, his name or other special name may be marked on the product and the packaging.

Once a patent has been issued, the invention may not be used by anyone without the consent of the patent-holder, except by public, co-operative or social organizations which used the invention on Albanian territory before its registration and independently of the author, or had made full preparations to do so.

The author's rights concerning technical improvements to his work are also protected. The person making the technical improvement enjoys the right to remuneration under conditions laid down by the Government.

26. *The duties of the citizen towards the community which enables him to develop his personality* are laid down in article 38 of the Constitution, which affirms that citizens may not use the rights conferred upon them by the Constitution in order to alter the constitutional order of the People's Republic of Albania for anti-democratic purposes. Any such act is illegal and punishable by law.

[1] A summary of the decree on popular education is given in the *Yearbook on Human Rights for 1955*, p. 4.

ARGENTINA

NOTE[1]

Repeal of the Constitution of 1949

A Proclamation of 27 April 1956 repealed the Constitution of 11 March 1949, and brought back into force that of 1 May 1853, as amended in 1860, 1866 and 1898, "to the extent that it did not conflict with the aims of the revolution as set forth in the Basic Principles of 7 December 1955 and the needs of the organization and preservation of the provisional government".[2]

Right to Nationality

Legislative decree No. 14194/56, of 8 August 1956 (*Boletín Oficial* No. 18212, of 14 August 1956), repealed the Nationality, Citizenship and Naturalization Act, No. 14354, of 28 September 1954,[3] and required the Executive to appoint a commission to draft a new law on the same subject which would conform with the 1853 Constitution. Provisions were also made governing the interim period, involving the application of Act No. 346, of 8 October 1869, subject to certain departures therefrom specified in the legislative decree.

Freedom of Opinion and Expression

Legislative decree No. 7765/56, of 27 April 1956 (*Boletín Oficial* No. 18151, of 15 May 1956), repealed Act No. 14400, of 21 December 1954, concerning public demonstrations and meetings.[4]

Legislative decree No. 18787/56, of 10 October 1956, setting up the Council for the Defence of Democracy (*Boletín Oficial* No. 18254, of 16 October 1956) contained the following articles 1–4:

"*Art. 1.* Every organization found in accordance with the procedure laid down in this legislative decree to be a 'communist', 'cryptocommunist', 'communist-infiltrated' or 'totalitarian' organization shall be required to add to its name the expression 'communist organization', 'cryptocommunist organization', 'communist-infiltrated organization' or 'totalitarian organization' in all documents, correspondence, publications and propaganda, and generally to make use of such addition to its name in all its activities.

"*Art. 2.* For the purposes of this legislative decree, the term 'organization' means any association, society or group of persons permanently or temporarily joined together for the purpose of common action, whatever the name which it may be given or by which it may be known and whether or not it possesses legal personality. The provisions of this legislative decree shall also apply to the sections, branches, sub-divisions or cells of any organization, but shall not extend to Argentine political parties which are recognized under the electoral laws or to accredited diplomatic missions in Argentina.

"*Art. 3.* For the purposes of this legislative decree:

"(*a*) The expression 'communist organization' means any organization which openly supports the communist movement in any of its forms.

"(*b*) The expression 'cryptocommunist organization' means any organization which supports the communist movement in any of its forms and which conceals its true nature by professing purposes of a cultural, humanitarian, social, scientific or other nature.

"(*c*) The expression 'communist-infiltrated organization' means any organization which, although not included in the preceding categories, is directed, controlled or guided by communists.

"(*d*) The expression 'totalitarian organization' means any organization of the extreme right or extreme left not included in sub-paragraphs (*a*), (*b*) and (*c*) of the present article which under the pretext of defending the Argentine nation advocates forms of totalitarian or dictatorial government or denies human rights and/or the republican and democratic form of government.

"*Art. 4.* For the purposes of this legislative decree, the term 'communist' means any member of the Communist Party or of any other party controlled by the communist movement and any person who, although not a member of any such party, openly or covertly acts in support of the communist movement."

The Council for the Defence of Democracy provided for in the legislative decree was given the power, subject to procedural requirements laid down, to decide that an organization falls into one of the categories defined in article 3. Any organization found to fall into category (*a*), (*b*) or (*d*) was to comply with article 1 or be dissolved. An organization found to fall into category (*c*) was to comply if within sixty days thereafter it had not corrected the state of

[1] Note based partly upon information kindly made available by the Permanent Mission of Argentina to the United Nations.

[2] Extracts from the Constitution of 1 May 1853, as later amended, appeared in *Yearbook on Human Rights for 1946*, pp. 6–7. Extracts from the Constitution of 11 March 1949 were published in *Yearbook on Human Rights for 1949*, pp. 4–9.

[3] See *Yearbook on Human Rights for 1954*, pp. 5–7.

[4] See *Yearbook on Human Rights for 1954*, p. 7.

affairs in the light of which it was so classified; the time limit could be extended. Appeal to the National Court of Appeal was permitted to any organization classified as falling into any of the four categories.

Freedom of Association

Legislative decree No. 9270/56, of 23 May 1956 (*Boletín Oficial* No. 18165, of 6 June 1956), laid down rules for the establishment and operation of industrial associations of employees and repealed in part Decree No. 23852 of 8 October 1945.[1] Article 1 provided: "The State recognizes the right of employees to form their industrial associations in full freedom." Any permanent organization established by persons engaged in a common trade, occupation, undertaking, industry, business or other similar or related activity for the purpose of defending the interests of employees and improving their working and living conditions was to be deemed to be an industrial association of employees. Such associations were forbidden to discriminate between their members on grounds of political or religious conviction, nationality, race or sex. All members of an association were to have the same rights and obligations. The legislative decree laid down the procedure to be followed for the registration of industrial associations of employees, such registration to bestow legal personality on the association registered; some of the rights so acquired were elaborated. Registration was not to be refused if the provisions of the legislative decree had been respected. Registered industrial associations with a common sphere of activity were to have the right to form or join national or international federations. Registered federations were to have the right to form or join national or international confederations. Industrial associations, federations and confederations of employees were forbidden to take any part in political activities. The legislative decree empowered the appropriate authority to suspend or annul the registration of any industrial association, federation or confederation of employees if it acts in violation of the law or of the provisions of its constitution; appeal to the competent judicial authority was provided for. Certain acts on the part of an employer were defined as unfair practices contrary to the ethics of industrial relations, and included impeding or hindering an employee from joining an industrial association, by means of gifts or promises or making non-membership a condition of his engagement, continued employment, advancement or enjoyment of benefits; encouraging an employee by any such means to join an industrial association; taking reprisals against an employee on account of his trade union activities or because he has acted as a plaintiff or witness or has otherwise taken part in proceedings relating to unfair practices; and dismissing, suspending or changing the conditions of employment of an employee with a view to preventing or impeding his exercise of the rights mentioned in the legislative decree. Such unfair practices were declared to be offences, and allegations thereof were to be passed upon by the National Industrial Relations Council.

A translation of the legislative decree into English and French appears in International Labour Office, *Legislative Series* 1956 — Arg. 2.

Legislative decree No. 7762/56, of 27 April 1956 (*Boletín Oficial* No. 18150, of 14 May 1956), dissolved the General Confederation of Professional Workers in its existing form, but made arrangements permitting its members to decide upon its transformation into a non-political organization.

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

AUSTRALIA

HUMAN RIGHTS IN 1956 [1]

Legislation and court decisions in the field of human rights during 1956 are described below.

In the legislative field, the Commonwealth customs legislation relating to the importation of objectionable literature and to the importation and exportation of objectionable films has been re-enacted. The Commonwealth Social Services Act 1956 has liberalized in certain respects the benefits payable to persons under the Commonwealth social services scheme. An Act has been passed by the Commonwealth Parliament authorizing the subsidizing of home nursing services.

Court decisions given or reported during 1956 relate to the right to a fair trial; the burden of proof on criminal appeals; the rights of aliens under local legislation; the suppression of objectionable literature; the reconciliation between freedom of the press and the right to a fair trial; and matters of wage justice. Reference is also made to two important decisions given during 1955 relating to the reconciliation between the freedom of the press and the right to a fair trial.

I. LEGISLATION

A. PERSONAL AND POLITICAL RIGHTS

1. CUSTOMS (PROHIBITED IMPORTS) REGULATIONS, COMMONWEALTH STATUTORY RULES 1956, No. 90

Freedom to receive and impart information and ideas — Objectionable works or articles

The regulations prohibit absolutely the importation into Australia of blasphemous, indecent or obscene works or articles. They also prohibit the importation into Australia of the following goods unless the permission in writing of the Minister to import the goods has been granted:

1. Literature in which is advocated:
   - (*a*) The overthrow by force or violence of the established government of the Commonwealth or of any State or of any other civilized country;
   - (*b*) The overthrow by force or violence of all forms of law;
   - (*c*) The abolition of organized government;
   - (*d*) The assassination of public officials; or
   - (*e*) The unlawful destruction of property.
2. Literature wherein a seditious intention or a seditious enterprise is advocated.
3. Literature which, by words or pictures or partly by words and partly by pictures, in the opinion of the Minister:
   - (*a*) Unduly emphasizes matters of sex, horror, violence or crime; or
   - (*b*) Is likely to encourage depravity.

These provisions are not novel. The regulations simply re-make provisions that were previously contained in other legislation now repealed.

2. CUSTOMS (LITERATURE CENSORSHIP) REGULATIONS, COMMONWEALTH STATUTORY RULES 1937, No. 72; 1949, No. 75; 1956, No. 92

Freedom to receive and impart information and ideas — Objectionable literature

These regulations, which have been in force since 1937, were amended during 1956, but only in minor respects. They are summarized here so as to give a comprehensive description of the censorship regulations administered by Commonwealth customs.

The regulations constitute a Literature Censorship Board. The Minister or the Comptroller-General of Customs may refer to the Board any literature imported in order to determine whether the literature is, in the opinion of the Board, blasphemous, indecent or obscene within the meaning of the Customs (Prohibited Imports) Regulations. The board consists of four members appointed by the Governor-General. The regulations also provide that there shall be an Appeal Censor who shall be appointed by the Governor-General.

Where the board is of the opinion that any literature is blasphemous, indecent or obscene, the importer of the literature may appeal to the Minister or Comptroller-General to have it submitted to the Appeal Censor for review, and the Minister or the Comptroller-General, as the case may be, shall submit the literature to the Appeal Censor accordingly. On appeal, the Appeal Censor is to review the literature to determine whether, in his opinion, it is blasphemous, indecent or obscene within the meaning of the Customs (Prohibited Imports) Regulations.

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

3. CUSTOMS (CINEMATOGRAPH FILMS) REGULATIONS, COMMONWEALTH STATUTORY RULES 1956, No. 94

Freedom to receive and impart information and ideas — Objectionable films

These regulations are not really new legislation, but simply a remaking with modifications of earlier legislation.

The Regulations constitute a Censorship Board and an Appeal Censor. The board is to consist of a chief censor and four members, one of whom must be a woman.

Importation of Films. The importation of a film is prohibited unless a licence to import the film has been granted under the Regulations by or on behalf of the chief censor. A film is not to be delivered from the control of customs until it has been registered in accordance with the regulations. All films imported must be examined by being screened, and a film is not to be registered if the board is of opinion that the film —

(*a*) Is blasphemous, indecent or obscene;

(*b*) Is likely to be injurious to morality; or to encourage or to incite to crime;

(*c*) Is likely to be offensive to the people of a friendly nation or to the people of a part of the Queen's dominions; or

(*d*) Depicts any matter the exhibition of which is undesirable in the public interest.

If the film is not a film of the kind referred to in paragraph (*a*), (*b*), (*c*) or (*d*), registration of the film is to be approved. An appeal lies from a decision of the Censorship Board to the Appeal Censor.

Exportation of Films. The exportation from Australia of a film is prohibited unless a permit to export it has been granted under the regulations. A permit shall not be granted unless the film has been examined by being screened. If the Board is of opinion that the film is of a kind coming within paragraph (*a*), (*b*), (*c*) or (*d*) set out above, or is of a kind likely to prove detrimental or prejudicial to Australia, a permit to export is not to be granted. In all other cases a permit to export the film shall be granted. An appeal lies from a decision of the board to the Appeal Censor.

Powers of the Minister. The Minister may direct that a matter arising under the Regulations shall be submitted to him for determination.

B. SOCIAL SERVICE RIGHTS

1. SOCIAL SERVICES ACT 1956 (COMMONWEALTH)

This Act liberalizes some of the benefits payable by the Commonwealth under its social services legislation. The changes made are:

(*a*) A further allowance of 10 shillings a week is to be paid to the following pensioners in respect of each child under the age of sixteen years in the care and custody of the pensioner except the first child —

(i) Persons in receipt of widows' pension;

(ii) Invalid pensioners; and

(iii) Age pensioners who are totally incapacitated for work.

(*b*) *Widow's pension.* A widow who has attained the age of forty-five years and has ceased to receive pension because she no longer has the care of a child is now eligible for a pension. (The previous age requirement was the attainment of fifty years of age.)

(*c*) *Maternity allowance.* The amount that may be paid to an expectant mother by way of prepayment of maternity allowance is increased from £5 to £10.

2. HOME NURSING SUBSIDY ACT 1956 (COMMONWEALTH)

This Act provides for the payment of subsidies to organizations which conduct a home nursing service. "Home nursing service" is defined to mean a service for the provision of the professional services of nurses to persons by visits to the homes or other places of residence of those persons.

II. COURT DECISIONS

A. PERSONAL RIGHTS

1. R. *v.* CARTLEDGE (1956), *Victorian Law Reports* 225
Supreme Court of Victoria

Criminal law — Trial by jury — Juryman not to compromise in coming to a verdict

In a criminal trial, the jury, after deliberating for a considerable time, announced to the presiding judge that they were unable to agree on their verdict. The judge urged the jury to consider the matter still further, and pointed out the desirability of their coming to a decision. He said that no juror should give up his honestly held opinion, but that a man may be able to change his opinion by listening to the argument of his fellow jurors.

On appeal it was held by the full court that no exception could be taken to the remarks of the trial judge. The court emphasized that a juryman should not compromise with the others in coming to a verdict. The process of arriving at a verdict was a process of argument in which all had to be convinced that the verdict arrived at was the correct one.

2. R. *v.* WILLIAMS (1956), *Victorian Law Reports* 96
Supreme Court of Victoria

Criminal appeal — No substantial miscarriage of justice — Burden of proof

Section 594 (1) of the Crimes Act 1928 of the State of Victoria provides, *inter alia*, that, notwithstanding that the full court in an appeal against a criminal conviction is of the view that the point raised might be decided in favour of the appellant, it may dismiss

the appeal if it is of the opinion that no substantial miscarriage of justice has actually occurred.

It was held by the Supreme Court that the burden of showing that no substantial miscarriage of justice had occurred is on the Crown.

3. TRIPOLENE *v.* METROPOLITAN WATER, SEWERAGE AND DRAINAGE BOARD (1954) 28 *Workers' Compensation Reports* (New South Wales) 172, and

4. PALA *v.* COMMISSIONER FOR RAILWAYS (1954), 28 *Workers' Compensation Reports* (New South Wales) 174

Workers' Compensation Commission of New South Wales

Workers' compensation — Right of alien dependants abroad

Section 71 (2) of the Workers' Compensation Act, 1926–1954, of New South Wales provides that compensation shall be payable to dependants of a worker where they are resident in a foreign country whose laws make reciprocal provisions for the payment of compensation to the dependants resident in New South Wales of a worker killed or injured in the foreign country.

It was held by the Workers' Compensation Commission in both these cases that Italian laws had reciprocal provisions for the payment of compensation within the meaning of section 71 (2) and therefore the dependants in Italy of an Italian killed in the course of his employment in New South Wales would be entitled to make a claim for compensation.

Reciprocity did not mean identity of terms and conditions in all details as to subject matter, beneficiaries, creation of right, amounts and procedure. It was sufficient that compensation for employment injuries payable to dependants, including dependants in New South Wales, was the subject of legislation in the foreign State.

B. FREEDOM OF EXPRESSION

1. TRANSPORT PUBLISHING CO. PTY. LTD. *v.* QUEENSLAND LITERATURE BOARD OF REVIEW (1956), 30 *Australian Law Journal* 518

High Court of Australia

Freedom of expression — Suppression of objectionable literature

These proceedings concerned the Objectionable Literature Act of 1954 of Queensland described in the *Yearbook on Human Rights for 1954*, p. 9. Pursuant to section 10 of the Act, the Board made orders prohibiting the distribution in Queensland of eight periodical publications concerned with "romance", consisting of a series of pictures accompanied by words depicting stories relating to courtship and marriage. In most of these stories, courtship was followed by marriage, and in none of the pictures was there any suggestion of improper attire. No picture by itself portrayed anything indecent or obscene; nor was illicit intercourse mentioned. The objectionable feature of the publications was alleged to be their frequent portrayal of ardent embraces and the suggestion given by the publications that happiness in marriage was in some way related to such embraces.

The publisher appealed from the order of the Board to the Supreme Court of Queensland and from there to the High Court of Australia.

Held, by a majority of three judges to two, that the publications were not objectionable within the meaning of the Act as unduly emphasizing matters of sex or as being likely to be injurious to morality or to encourage depravity.

The majority judges, after describing the character of the publications, went on to say:

"This does not appear to us to be within the range of any reasonable application of what is meant, in the definition of 'objectionable', by the phrases 'unduly emphasizes matters of sex' and 'likely to be injurious to morality'. The connotation of these phrases doubtless is not very definite and any attempt to give them greater definition than the legislature has chosen to do would be hazardous. But it is evident from the context in which they occur that they relate to obscenity, indecency, licentiousness, or impudicity or the like. Every distinction between man and woman may be said to be a matter of sex but obviously it is in no such general sense that the expression is used. No doubt direct references to the physiological distinctions or to actual physical relations are in the contemplation of the phrase as it occurs in the provision, wherever the purpose or effect is immoral or perverted or implies some other aberration. But publications of the kind here in question seem to be quite outside its scope. What they contain is an affront to the intelligence of the reader but hardly a real threat to [his or] her morals. The stories are extremely silly, the letterpress is stupid, the drawings are artless and crude and the situations are absurd. But we are not concerned with the damage done to the intellect or for that matter to the eyesight of the readers of these foolish periodicals. Our duty is to apply our judgement to the question whether regard being had to the nature of the literature, to the persons and age groups among whom it is to be distributed and to its tendency to deprave or corrupt them it is objectionable for that it unduly emphasizes matters of sex or is likely to be injurious to morality or to encourage depravity. An examination of the literature is enough to satisfy us that the proper judgement upon the literature is that it is not 'objectionable' within the definition on any of those grounds."

2. ASSOCIATED NEWSPAPERS LTD. *v.* WAVISH (1956), *Argus Law Reports* 1199

High Court of Australia

Police offences — Obscene article — Definition of terms

Section 169 of the Police Offences Act 1928, as amended, of Victoria defines obscene in the following manner: "'Obscene' (without limiting the gener-

ality of the meaning thereof) includes (*a*) tending to deprave and corrupt persons whose minds are open to immoral influences; and (*b*) unduly emphasizing matters of sex, crimes of violence, gross cruelty or horror."

Sub-section (2) of section 169 provides that in determining whether any article is obscene the court shall have regard to

(*a*) The nature of the article; and

(*b*) The persons, classes of persons or age groups to whom it was or was intended or was likely to be sold; and

(*c*) The tendency of the article to deprave or corrupt any such persons,

to the intent that the article shall be held to be obscene when it tends or is likely to deprave or corrupt any such persons, notwithstanding that persons in other classes or age groups may not be similarly affected.

Associated Newspapers Ltd. were charged before a magistrate with the offence of distributing obscene articles, namely, copies of an issue of a magazine called *People*. The matter complained of was an article in the magazine on the subject of *Love in the South Seas*, a book by an anthropologist.

The magistrate held that the article was not obscene within the meaning of the Police Offences Act. He stated that the legislation was not intended to apply to this kind of article; that the article certainly emphasized matters of sex, but not unduly; that obscenity must be decided by reference to current standards of decency; and that the article was merely concerned with a description of native customs and did not tend to rouse passions.

The magistrate therefore dismissed the charge. On an appeal to the Victorian Supreme Court, the decision of the magistrate was reversed. The reversal of the magistrate's decision was upheld, on appeal, by the High Court.

The High Court stated that to be "obscene" within the meaning of section 169 it was sufficient if the article fell within either paragraph (*a*) or paragraph (*b*) of the definition given. But in determining whether an article fell within paragraph (*a*) or (*b*) it was necessary to have regard to the considerations set out in section 169 (2).

The High Court was of opinion that the article was clearly within the definition of "obscene".

3. JOHN FAIRFAX & SONS PTY. LTD. *v.* MCRAE (1955), 93 *Commonwealth Law Reports* 351

High Court of Australia

Freedom of the press — Right to fair trial — Contempt of court

A newspaper company was charged with contempt of court in relation to a publication in its newspaper. The publication, which dealt with certain matters relating to the arrest of a person, contained allegations by the arrested person of violent and unprovoked assaults upon him by police officers on or shortly after his arrest. No suggestion was made by the newspaper in the publication as to the guilt or innocence of the arrested person of the charges in relation to which he had been arrested. In publishing the allegations of assault, the newspaper expressly disclaimed any opinion as to their truth, but suggested that they were sufficiently grave to warrant investigation.

It was held by the High Court that the matter published, having regard to all the circumstances attending its publication, did not have that real and definite tendency to prejudice or embarrass pending proceedings which is the essence of a contempt of the kind alleged.

It was held also that a mere tendency to create a general prejudice against the police is insufficient to relate the publication to the charges pending.

In the course of its judgement the High Court stated:

"We are in complete agreement with *Owen*, J., when he says, in effect, that it would be a disgraceful thing if 'trial by newspaper' were allowed to supersede, or to influence, the ordinary process of the courts . . . On the other hand, because of its exceptional nature, this summary jurisdiction [to punish for contempt] has always been regarded as one which is to be exercised with great caution, and in this particular class of case, to be exercised only if it is made quite clear to the court that the matter published has, as a matter of practical reality, a tendency to interfere with the due course of justice in a particular case . . . There may be occasions when it will be material to remember that there may be attempts to abuse the jurisdiction. There have been occasions where summary proceedings for contempt have been commenced, or threatened, not with the real object of ensuring the impartial administration of justice, but solely for the purpose of stopping public comment on, or even public inquiry into, a matter of public importance. A court possessing the summary jurisdiction will not allow itself to be made the instrument for effecting such a purpose."

4. CONSOLIDATED PRESS LTD. *v.* MCRAE (1955), 93 *Commonwealth Law Reports* 325

High Court of Australia

Freedom of the press — Right to fair trial — Contempt of court

The facts of this case resembled those of the case of *John Fairfax & Sons Pty, Ltd.* v. *McRae* mentioned above. The High Court, on appeal, reversed the decision of the Supreme Court of New South Wales [1]

[1] Noted in *Yearbook on Human Rights for 1954*, pp. 9–10.

and held that the article in question in this case did not constitute contempt. The High Court pointed out that contempt of court is a criminal offence; and, like other criminal offences, it must be proved strictly.

5. *Exparte* MIJNSSEN : *re* TRUTH AND SPORTSMAN LTD. (1956), *Weekly Notes of New South Wales* 263

Supreme Court of New South Wales

Freedom of the press — Right to fair trial — Contempt of court

On 24 and 31 October 1954, a Sydney newspaper published articles charging Mijnssen with carrying on the practice of a doctor and a healer without any qualifications and without the ability to afford any of the relief which he claimed he could give. Mijnssen began a libel action against the newspaper. In a further article published on 21 November 1954, the newspaper repeated the general charges against Mijnssen and stressed the view that legislation to prevent these malpractices should be introduced. This latter article added nothing to the matters already stated.

It was held by the Supreme Court that, although the article of 21 November might constitute a technical contempt, it had no real tendency to interfere with the libel trial when it came on and the matter did not call for the imposition of a penalty.

6. THE QUEEN *v.* PACINI (1956), *Argus Law Reports* 636

Supreme Court of Victoria

Freedom of the press and broadcasting — Fair trial — Contempt of court

While the trial of a person upon a charge of wounding with intent to murder was pending, references were made to the case in two Melbourne newspapers and also by a Melbourne broadcasting station. One newspaper published references to a confession alleged to have been made by the accused and a photograph depicting his arrest. The other newspaper published a photograph of the arrest, with the face of the accused obliterated. The photograph was accompanied by matter suggesting that, whereas at an earlier stage of the investigations, suspicion had attached to certain American sailors, now the sailors had been exonerated and the crime solved by the arrest of this man. The broadcasting station, in referring to the arrest of the accused for the crime, made a statement that the investigation of the crime had been brought to a successful conclusion.

It was held by the court that the two newspapers and the broadcasting station were guilty of contempt of court.

In giving its judgement, the Supreme Court laid down the following propositions.

(*a*) A publication of matter which tends to pervert the course of justice or prejudice the prosecution or defence at a pending trial of a crime constitutes contempt of court notwithstanding the absence of any intention to produce these results and notwithstanding that the publisher has exercised care and obtained advice in the effort to avoid contempt and has acted upon information obtained from responsible police sources, and notwithstanding that the matter published would necessarily come out at the trial which would follow.

(*b*) The presence of intention may aggravate the contempt, and its absence is a factor to be considered by the court in determining whether it will exercise its discretionary power to punish for the contempt.

(*c*) The summary jurisdiction of the court to punish for contempt will not be exercised unless the contempt is real and substantial.

(*d*) It can rarely be safe for a newspaper, pending the trial of a person arrested for a crime, to publish a photograph of the person arrested together with letterpress relating to the crime.

C. INDUSTRIAL AND ECONOMIC RIGHTS

1. JUDGEMENT OF THE COMMONWEALTH COURT OF CONCILIATION AND ARBITRATION ON COMMONWEALTH PUBLIC SERVICE MARGINS (1956), Law Book Company's Industrial Arbitration Service, *Current Review*, 174

Commonwealth Court of Conciliation and Arbitration

Marginal payments to commonwealth public servants above the basic wage : increases

In this case the court heard claims by commonwealth public service organizations for an increase in the "margins" paid to commonwealth public servants.

The court has defined margins as "minimum amounts awarded above the basic wage to particular classifications of employees for features attached to their work which justify payments above the basic wage, whether those features are the skill or experience required for the performance of that work, its particularly laborious nature, or the disabilities attached to its performance". It was accepted in these proceedings that the salaries of commonwealth public servants contained a marginal element, being that portion of the total salary in excess of the basic wage.

It was common ground in the proceedings that a general adjustment upwards of the wages and salaries of commonwealth public servants was called for in the light of the considerations mentioned and relied on in the *Metal Trades Case*.[1] The issue in the case was as to the *quantum* of the adjustment and, in particular, whether the "formula" laid down in the *Metal Trades Case* should be applied to the marginal rates of pay of commonwealth public servants. The

[1] A summary of this decision is contained in *Yearbook on Human Rights for 1954*, pp. 12–13.

decision in that case was that marginal rates paid to skilled workers in the metal trades industry and to skilled workers generally should be increased by two and a half times what they were in the year 1937.

Clerical Administrators and Professional Officers. — The court dealt first with commonwealth public servants other than tradesmen. This part of its judgement may be summarized as follows.

(*a*) There was a tremendous difference between the calling of those in the artisan and analogous groups in the metal trades and comparable industries on the one hand and the commonwealth civil service on the other hand. Different types of duty, skill and responsibility were required in each case. A salary-fixing authority must hesitate at the automatic adoption of a formula for the increase or reduction of the marginal element in public service salaries, especially when that formula was created for use in relation to the fitter, a manual worker in the metal trades industry.

(*b*) It was therefore decided that the formula enunciated in the *Metal Trades Case* of 1954 was not to be applied automatically to the margins contained in the salaries of commonwealth administrative and professional officers.

(*c*) However, the principle of the *Metal Trades Case* applied — namely, that skill and responsibility should be properly rewarded in the community and that the tendency to under-value skill and responsibility should not be encouraged. The task of the court was to look at the proposed marginal increases and measure them against the accepted standards of payment in the community for comparable skill and responsibility.

(*d*) On this basis the court awarded substantial marginal increases which were somewhat less than the increases that would have followed if the metal trades formula had been applied.

Tradesmen. — It was common ground in the proceedings that salaries of tradesmen in the commonwealth public service might appropriately be adjusted by application of the metal trades formula.

2. *In re* BASIC WAGE INQUIRY, 1955-1956 (1956), Law Book Company's Industrial Arbitration Service, *Current Review* 277

Commonwealth Court of Conciliation and Arbitration

Basic wage — Automatic quarterly adjustments based on the cost of living

This was an application on behalf of the Amalgamated Engineering Union and seven other unions for alteration to the basic wage in the following respects:

(*a*) For the restoration of the system of quarterly cost of living adjustments which was abolished by the decision of the court in the *Basic Wage and Standard Hours Inquiry 1952–1953*.[1]

(*b*) For an immediate increase in the basic wage by 38*s*. per week.

The decision of the court, delivered on 25 May 1956, was as follows:

(*a*) The application for the restoration of the system of quarterly adjustments was refused.

(*b*) The basic wage for adult males was increased by 10*s*. per week.

Restoration of Quarterly Adjustments. The court referred to the reasons and the decision given on this matter in the Basic Wage and Standard Hours Inquiry 1952–1953. It affirmed that decision and the reasons then given for the abolition of the system of quarterly adjustments.

When the basic wage concept was regarded as being of a "living" wage or of a wage sufficient to allow a man "to live as a human being in a civilized community" without specific regard to the capacity of the economy in general to bear any particular level of wages current in the community, the application of an automatic adjustment system based on changes in the cost of living found an apparent justification. However, by a process of development commencing in 1931, the court had come to regard the economic capacity of the country as the predominant principle on which it should assess its basic wage. So long as the assessment of the basic wage was made as the highest which the capacity of the economy could sustain, the automatic adjustment of the basic wage upon changes in the cost of living could not be justified, since movements in the cost of living had no relation to the changes in the capacity of the economy. There was no reason to think that the capacity of industry as a whole, including in the whole that considerable part of it which depends on foreign markets, to pay increased wages rose as, and to the extent that, the prices of consumer commodities increased.

The assessing of a basic wage at the highest the economy could pay must of itself aim at the highest living standard for the wage-earner that the community could afford. It had to be remembered also that employees had gained by the adoption of the predominant capacity-to-pay basis of assessment of the basic wage. Employees were much better off then they would have been if the basis of assessment of a "living" wage had been retained, and it was not to the point to argue on the question of justice that the present basic wage provided a real standard which was lower than it had been at the time of the 1952–1953 decision.

The Basic Wage. As in the Basic Wage and Standard Hours Inquiry 1952–1953, the court made a detailed examination of the national economy by reference to such "indicators" as employment, investment, national production and productivity and overseas trade in order to determine the highest wage which the economy could carry. In conclusion the court

[1] See *Yearbook on Human Rights for 1953*, pp. 8–9.

pointed out that the wage- and the salary-earners whose earnings increased with an increase in the basic wage desired that increase for one main reason — namely, to enable them to buy more goods, furniture, household equipment or the like, or to buy their own homes or rent better ones. Their desire was thus to obtain a better standard of living. The only wage increase that would do them any good would be one which would enable them to buy more of the goods and the like that they wanted than they could buy on their present wages. An increase in wages and salaries did not necessarily increase the goods, services and benefits which the wage- and the salary-earners could buy. In fact, if the increase was given at the wrong time or was for too great an amount the increase might lead to their being able to buy less, or (worst of all) might lead to unemployment, a feature of past living the community had been so glad to do without over recent years.

It was because of both those fears — high price inflation and unemployment — that the court thought it dangerous to increase the basic wage by more than 10*s*. per week.

AUSTRIA

PROTECTION OF HUMAN RIGHTS IN AUSTRIA IN 1956 [1]

I. LEGISLATION

A. Fundamental Freedoms

1. *Equality before the Law*

The Federal Constitution Act *BGBl.* No. 155/1956 (amnesty in respect of confiscated property) eliminates at any rate some of the inequalities created by the Prohibition Act and the National Socialists Act, so far as they relate to property rights.

2. *Freedom to own Property*

(*a*) The First State Treaty Administration Act *BGBl.* No. 165/1956, contains provisions concerning former German assets transferred "under the State Treaty" to the ownership of the Republic of Austria.

(*b*) Under the Act *BGBl.* No. 225/1956, which contains provisions concerning the letting of vacant dwellings, house-owners are restricted in many respects as regards their disposal of vacant dwellings.

3. *Freedom to carry on a Trade*

(*a*) Ordinance *BGBl.* No. 1/1956 introduced stricter conditions for the issue of certificates of proficiency to craftsmen producing gablonz-type ware.

(*b*) Ordinance *BGBl.* No. 166/1956 introduced stricter conditions for the issue of certificates of proficiency to sawmill workers.

(*c*) Ordinance *BGBl.* No. 227/1956 prohibited, in the interests of the consumer, the production of certain types of goods by home craftsmen.

4. *Right to Nationality*

Part III, section II, of the National Socialists Act, which disqualified certain groups of persons from holding and acquiring Austrian nationality, was repealed by Federal Constitution Act *BGBl.* No. 24/1956.

B. Social Rights

1. Federal Act *BGBl.* No. 26/1956 (Act concerning qualifying periods for pension purposes, 1956) issued regulations specifying whether and under what conditions periods preceding their appointment should be credited to federal officials for the calculation of superannuation.

2. Ordinance *BGBl.* No. 37/1956, issued pursuant to the General Social Insurance Act, contains provisions concerning the payment of invalidity pensions out of the accident insurance system.

3. Ordinance *BGBl.* No. 44/1956 (ordinance concerning qualifying periods for pension purposes, 1956) contains detailed provisions for the administration of the Act concerning qualifying periods for pension purposes.

4. The Eighth Unemployment Insurance Act Amendment Act *BGBl.* No. 49/1956, introduced, in particular, such amendments to the Unemployment Insurance Act, *BGBl.* No. 184/1949, as were required to bring it into conformity with the General Social Insurance Act, *BGBl.* No. 189/1955.

5. Federal Act *BGBl.* No. 50/1956 amended the War Victims Assistance Act, *BGBl.* No. 197/1949, in particular by increasing certain pensions and income limits.

6. Federal Act *BGBl.* No. 52/1956 (First Family Liabilities Equalization Act Amendment Act) amended and amplified the provisions of the Family Liabilities Equalization Act, *BGBl*, No. 18/1955, *inter alia* by increasing certain assistance rates.

7. Federal Act *BGBl.* No. 54/1956 (Wages Act, 1956) regulates the wage scale for serving Federal officials.

8. Federal Act *BGBl.* No. 55/1956 (Wages and Salaries (Transition) Act, Amendment Act, 1956) amended the Wages and Salaries (Transition) Act, *BGBl.* No. 22/1947, in particular to bring it into conformity with the Wages Act, 1956.

9. Notice *BGBl.* No. 59/1956 amended and amplified the provisions of the Order concerning the wages of officials of the Austrian Federal Railways, *BGBl.* No. 263/1947.

10. Ordinance *BGBl.* No. 64/1956 (ordinance concerning wage increases for workers under contract, 1956) lays down a new rule concerning wage increases for workers under contract.

11. Notice *BGBl.* No. 65/1956 (sixth order to amend the Federal Railways Wages Order) further amended and amplified the provisions of the Order concerning the wages of officials of the Austrian Federal Railways.

12. Order *BGBl.* No. 66/1956 (First Order to amend the Federal Railways Service and Wages Order) amended and amplified the Order concerning the

[1] Information kindly furnished by the Permanent Representative of Austria to the United Nations. Translation by the United Nations Secretariat.

conditions of service and wages of Federal Railway staff.

13. Ordinance *BGBl.* No. 102/1956 amended the service regulations of employees under contract to the Austrian Federal Forestry Department.

14. The Seventh Ordinance for the administration of the Unemployment Insurance Act, *BGBl.* No. 106/1956, replaced the Second Ordinance for the administration of the Unemployment Insurance Act, *BGBl.* No. 249/1949.

15. Ordinance *BGBl.* No. 126/1956 regulated hours of work for repair work in hot furnaces at iron and steel works.

16. Ordinance *BGBl.* No. 135/1956 (Eighth Ordinance for the administration of the Unemployment Insurance Act) contains provisions concerning the compulsory unemployment insurance of female domestic staff.

17. The Military Pay Act, *BGBl.* No. 152/1956 issued regulations concerning the pay and other rights and claims of persons performing their military service.

18. Federal Act *BGBl.* No. 153/1956 contains provisions concerning protection under the social insurance legislation for persons performing their military service.

19. Federal Act *BGBl.* No. 154/1956 (Security of Employment Act) contains provisions to secure the employment of persons called up for military service.

20. Federal Act *BGBl.* No. 161/1956 amends certain provisions of the War Victims Protection Act, *BGBl.* No. 197/1949.

21. Federal Act *BGBl.* No. 162/1956 (Eighth Unemployment Insurance Act Amendment Act) amended some provisions of the Unemployment Insurance Act, *BGBl.* No. 184/1949.

22. Ordinance *BGBl.* No. 190/1956 (Ninth Ordinance for the administration of the Unemployment Insurance Act) laid down principles for the award of emergency relief.

23. Notification *BGBl.* No. 202/1956 (Notification concerning qualifying periods for the purposes of Federal Railway pensions) issues regulations concerning the recognition of periods of previous service towards the entitlement to pension of Federal Railway officials.

24. Ordinance *BGBl.* No. 237/1956 (Second Ordinance concerning wage increases for workers under contract, 1956) introduced a further change in wage increases for Federal workers under contract.

25. Ordinance *BGBl.* No. 238/1956 awarded to employees under contract to the Austrian Federal Forestry Department the full scale of salaries provided in article II of Federal Government Ordinance *BGBl.* No. 102/1956.

26. Federal Act *BGBl.* No. 264/1956 amended the War Victims Protection Act. *BGBl.* No. 197/1949, in particular by increasing pensions and other benefits.

27. Federal Act *BGBl.* No. 165/1956 amended by the Family Liabilities Equalization Act, *BGBl.* No. 18/1955, and the Children's Allowance Act, *BGBl.* No. 31/1950, in particular by increasing the benefits payable thereunder.

28. Federal Act *BGBl.* No. 266/1956 (General Social Insurance Act Amendment Act) amended the General Social Insurance Act, *BGBl.* No. 189/1955.

C. Legislation relating to economic questions

1. The Milk Marketing Act, the Grain Marketing Act and the Cattle Trading Act were promulgated again (*BGBl.* Nos. 148, 149, 150/1956) and their validity was again extended (*BGBl.* Nos. 253, 254, 255).

2. Federal Act *BGBl.* No. 173/1956 (Milk Price Support Act) provided for increased support of milk prices and a contribution to the milk marketing fund.

3. Federal Act *BGBl.* No. 249/1956 (Price Control Act Amendment Act, 1956) extended the validity of the Price Control Act of 1950, *BGBl.* No. 194.

4. Federal Act No. 250/1956 extended the validity of the Food Control Act of 1952, *BGBl.* No. 183.

II. JUDICIAL DECISIONS

A. Equality before the law

1. In its decision of 21 June 1956 (B 73/56), the Constitutional Court held that the principle of equality is not infringed if the authority imposes a penalty in accordance with the provisions of the law in one case but does not intervene in other cases of the same kind.

2. In its decision B 186/1956 the Constitutional Court emphasized again, in conformity with its practice, that the legislator is entitled to make differences if the difference of legal treatment appears objectively justified.

3. In its decision of 3 July 1956 (B 135, 141, 142, 143/55) the Court ruled that an infringement of the principle of equality occurs if an authority acts on grounds that are not objective, if it acts arbitrarily, and if, moreover, by applying the relevant laws objectively the authority could have given a different ruling.

B. Freedom of the person

1. In its decision B 186/1956 the Constitutional Court established again, in accordance with its practice, that protection of freedom of the person, as guaranteed in article 8 of the State Fundamental Act concerning the General Rights of Citizens taken in conjuction with the Act of 27 October 1862 (*Reichsgesetzblatt* No. 87), applies only to bodily freedom and does not

extend to limitations of freedom of action resulting from a mere prohibition.

2. In its decision of 6 December 1956 (B 175/56), the Constitutional Court emphasized that security forces are not justified in arresting a person presumed to be drunk for the purpose of ascertaining the degree of drunkenness.

C. The right to a hearing by the competent tribunal

1. In conformity with its practice, the Constitutional Court held, in its decision of 4 December 1956 (B 152/56), that the right to a hearing by the competent tribunal is infringed if an authority whose duty it is to judge a case refuses to deliver judgement or if the authority, contrary to the law, refuses to entertain an appeal and to render judgement.

2. In the decision of 18 June 1956, the Constitutional Court again held that the constitutionally guaranteed right of the individual not to be denied a hearing before the judge who is competent under the law is infringed not only if the powers of the competent authority are usurped by another authority without any justification in positive law. The Constitutional Court emphasized that this is also the case if the authority issues an order for which an application is required without having received an application from the party concerned.

D. The inviolability of the home

In decision B 134/56 of 4 December 1956 the Constitutional Court delivered an opinion concerning the conditions under which a house-search may be carried out by the police dealing, in particular, with the notion of "public pursuit", the pursuit of a suspect immediately after the commission of an offence in the open.

III. INTERNATIONAL AGREEMENTS

A. Right to personal freedom

Notice *BGBl.* No. 183/1956 published the Protocol amending the Slavery Convention, which was signed in Geneva.[1]

B. Cultural rights

An exchange of notes between the Austrian Embassy in Rome and the Italian Ministry of Foreign Affairs (*BGBl.* No. 87/1956) provides for the mutual recognition of academic diplomas and degrees as specified in the notes.

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[1] See *Yearbook on Human Rights for 1953*, pp. 345–6 and 387–8 and *Yearbook on Human Rights for 1955*, p. 344.

BELGIUM

NOTE[1]

I. LAWS AND REGULATIONS

Freedom of Movement

The royal order of 6 December 1955 (*Moniteur belge*, 19 January 1956) concerning the application of the Aliens Supervision Act of 28 March 1952 has rendered more flexible the regulations respecting the entry of certain categories of aliens into Belgium and their sojourn and movement in Belgian territory.

Rights relating to Marriage

The Act of 30 June 1956 (*Moniteur belge*, 15 July 1956) has rendered more flexible certain provisions of the Civil Code concerning divorce and the remarriage of divorced spouses. For example, the period of 300 days after the dissolution of a first marriage, during which a woman formerly could not contract a new union, may henceforth be reduced or dispensed with in the event of the physical impossibility of cohabitation between the former spouses, or if the woman has been authorized by a judge to maintain a separate residence.

Property Rights

The Act of 25 June 1956 (*Moniteur belge*, 9–10 July 1956) authorizes reconstitution of broken-up estates, to ensure the more economical utilization of rural property. Owners and users are represented on the committee appointed to carry out this operation, and may appeal to the courts against decisions for reconstitution.

Conditions for the Exercise of an Occupation

The Act of 3 July 1956 (*Moniteur belge*, 25 July 1956) makes the exercise of commercial activities subject to the recording of certain information (civil status, marital status, headquarters and name of firm, type of commercial activity, etc.) in a register which is open to the public and is kept at the civil court. Failure to register is punishable by fine or correctional imprisonment.

Compensation for Industrial Accidents

The Act of 11 July 1956 (*Moniteur belge*, 9 December 1956) extends the application of the Act of 30 December 1929 to compensation for injuries suffered by seamen as a result of industrial accidents.

Social Security

The royal order of 24 July 1956 (*Moniteur belge*, 1 August 1956), issued under the Act of 10 June 1937, extends family allowances to several categories of employers and non-wage-earning workers.

The Act of 30 June 1956 (*Moniteur belge*, 4 July 1956) provides that independent workers of both sexes may, under certain conditions, receive an old-age pension at the end of their careers. A special fund, to which the State and the beneficiaries contribute, has been established for this purpose.

Employment of Children

The royal order of 14 December 1956 (*Moniteur belge*, 20 December 1956) prohibits the employment of children under sixteen on underground work in mines, surface workings and quarries.

Welfare and Young People

The Act of 12 June 1956 (*Moniteur belge*, 22 June 1956) has established at the Ministry of Education an advisory organ, consisting of the leaders and former leaders of youth and student movements, to study problems relating to the life of young people and to submit suggestions to the Government. Special administrative services will co-ordinate the Government's action, particularly with regard to para-school activities, conditions of employment and the health of young people.

Right to Education

The Act of 28 June 1956 (*Moniteur belge*, 29 June 1956) and the royal order of 4 August 1956 (*Moniteur belge*, 6–7 August 1956) grant educational allowances to pupils who are the orphans of war victims and are in difficult circumstances.

II. JUDICIAL DECISIONS

Right to Individual Freedom and Security

In two judgements, the president of a court of first instance, basing his decisions on article 3 of the Universal Declaration of Human Rights, instructed experts to examine female applicants who had been confined as insane persons, before deciding that they should be discharged (judgements of the President of the Court of First Instance of Courtrai, the *Feys* and

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

Verbeurgt cases, dated 4 January and 20 March 1956, respectively).

Rights relating to Marriage

The Court of First Instance of Courtrai delivered the following judgements.

In one judgement, the court applied Belgian legislation under which persons between the ages of twenty-one and twenty-five who wish to marry must in a formal application addressed to their parents ask for their advice, and the parents may oppose the solemnization of the marriage. While recognizing that "the right freely to contract marriage is a natural right, clearly set forth in article 16 of the Universal Declaration of Human Rights", the court stated that, generally speaking, "a child . . . must be protected against his or her own inexperience, which might lead him or her to contract a marriage whereby an unworthy member . . . might be introduced into the family . . ." and that the solemnization of the marriage may be postponed "until it is satisfactorily proved that [the child] has an income and is in a position to maintain a home". (*Vanderginste* v. *Vanderginste*, 18 November 1955).

On the other hand, two other decisions of the court, recalling that the right proclaimed in article 16 of the Universal Declaration is a "natural right", rejected as unfounded the opposition to marriage expressed by the parents (*Leoen v. Simoens*, 29 June 1956; *Vanneste* v. *Vanneste*, 27 December 1956).

In one of these cases, a father opposed the marriage of his son, aged twenty-three, asserting that the fiancés belonged to different social spheres, and that his son had no income and was physically unfit for marriage (*Vanneste* v. *Vanneste*).

In another decision, a will appointing the widow sole legatee, provided that she did not re-marry, was recognized as valid, but the condition was considered void as being contrary to public policy; the court considered that "freedom to marry or not to marry is a matter which concerns public policy" and that "this fact is particularly stressed in article 16 of the Universal Declaration of Human Rights". (*Vanderginste* v. *Sulman*, 26 April 1956).

Right of Association: Questions relating to Trade Union Rights

A Court of Appeal judgement, confirming the decision of a correctional court, recognized as valid the decision of a trade union to expel one of its members who had agreed to work for wages lower than the trade union rate (*Ministère public* v. *Rockx et Barat*, Liège Correctional Court, 4 January 1956; Liège Court of Appeal, 28 January 1957).

BOLIVIA

NOTE

Electoral Rights

Extracts appear below from supreme decree No. 4315, of 9 February 1956.

Social Security

An Act dated 14 December 1956 promulgated a Social Security Code. The object of the scheme of social insurance provided for in the Act was to protect workers and their families in the event of sickness, maternity, employment injuries, invalidity, old age and death. Family benefits were provided for, comprising marriage allowances, birth allowances, nursing allowances, children's allowances and burial allowances. Translations into English and French of the greater part of the Act appear in International Labour Office: *Legislative Series* 1956 — Bol. 1.

SUPREME DECREE No. 4315 (ORGANIC ELECTORAL LAW) of 9 February 1956 [1]

Considering

That, under legislative decree No. 3128, of 21 July 1952,[2] universal suffrage was instituted, conferring on all citizens, without distinction, the right to elect their legislators;

. . .

Considering

That, in order to apply effectively the system of universal suffrage established by said decree of 21 July 1952, additional provisons are required, which by taking into account generally accepted modern trends in electoral law and at the same time the conditions peculiar to Bolivia, will facilitate and safeguard the exercise of the right to vote;

. . .

SECTION I

BASIS OF THE RIGHT TO VOTE

Art. 1. All Bolivians, men and women, who have attained the age of twenty-one years, shall be deemed to be citizens of the republic irrespective of their degree of education, their occupation or their income.

Art. 2. Citizens shall have the right

1. To participate, as electors or as elected persons, in the constitution or exercise of the powers of government, subject to the conditions prescribed in this decree;

2. To have access to public office, provided only that they are not under any disability, except as otherwise provided by law.

Art. 3. Every citizen shall be bound:

1. To enter his name in the Civic Register;

2. To vote in every election held in his district;

3. To perform such duties and functions in electoral bodies as cannot be refused under the law;

4. To maintain the secrecy of the ballot and, in general, to safeguard the freedom and integrity of the electoral function.

Art. 4. Elections shall be held on the following basis:

1. Universal, direct, equal and secret suffrage;

2. Public scrutiny of the results of the voting;

3. Election by a simple majority of votes for President, Vice-President, and senators; proportional representation for deputies; and in all cases, voting by complete electoral list.

. . .

SECTION III

POLITICAL PARTIES

Chapter I

REGISTRATION

Art. 53. Only political parties which have been registered according to the law may put forward candidates in elections for the offices of President and Vice-President of the Republic, and for senators and deputies.

. . .

Chapter III

COALITION OF PARTIES

Art. 64. Legally recognized political parties may form coalitions for electoral purposes.

. . .

[1] Published in *Anales de Legislación Boliviana*, No. 28 (January–March 1956). Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1952*, p. 13.

SECTION IV

CIVIC REGISTER

. . .

Chapter III

REQUIREMENTS FOR REGISTRATION

Art. 88. It is the duty of all Bolivians, men and women, who have attained twenty-one years of age, to enter their names in the Civic Register.

Art. 89. It is optional for persons over seventy years of age and persons absent from the country to register.

Art. 90. The following persons may not be registered:

1. Persons suffering mental incapacity;
2. Deaf-mutes who cannot make themselves understood in writing;
3. Any person who has accepted a post from the government of another country without authorization from the Senate, except in the case of university posts and cultural services in general;
4. Debtors to the revenue authorities when the time-limit for payment has expired and persons guilty of defrauding public funds according to a final court order;
5. Persons guilty of fraudulent bankruptcy or embezzlement;
6. Persons under a sentence of bodily restraint by a court order, until their rehabilitation;
7. Persons who, for any other lawful reason, have been suspended from their rights of citizenship, until their rehabilitation.

. . .

Art. 92. It is the duty of every citizen to register in the electoral district in which he resides. The place where a person lives and has the principal place of his daily work or occupation shall constitute his residence or domicile. Registration outside the electoral district in which the citizen resides shall be invalid, except in the case of public officials, who may register in the electoral district in which they perform their duties, even when it is not the one in which they reside.

. . .

SECTION V

ELECTORAL SYSTEM

. . .

Chapter III

ELIGIBILITY REQUIREMENTS

Art. 122. A candidate for President or Vice-President of the Republic, senator or deputy must: (1) be Bolivian by birth; (2) know how to read and write; (3) be of the age specified in article 124; (4) have completed his military duties; (5) be entered in the Civic Register; (6) not be incapacitated on any of the grounds set forth in article 90, nor have been sentenced for an offence by a court; (7) not be covered by any of the cases of disqualification specified in article 125; (8) be a member of a recognized political party and be put forward as a candidate by that political party.

Art. 123. Women may hold all popularly elective offices, provided that they comply with the conditions laid down in the preceding article, save that mentioned under No. 4, which is not applicable to women.

Art. 124. The President and the Vice-President of the Republic and senators must have attained the age of thirty years, and deputies the age of twenty-five years on the day of the election.

Art. 125. The following persons cannot be elected:

1. Officials and employees of the State and clergymen having jurisdiction, unless they relinquish and leave their posts and employment not less than sixty days before the counting of the votes.
2. Contractors for public works and services; administrators, directors, agents and representatives of state-subsidized enterprises or of companies and establishments in which the State has a financial interest; administrators and collectors of public funds while they are in the process of closing their accounts.
3. Agents, persons holding powers of attorney and legal counsel of foreign enterprises operating mines or public services in the territory of the Republic.
4. Members of the regular clergy and ministers of any religious sect, but only as regards the offices of President and Vice-President of the Republic.

Application for permanent discharge by military personnel and guards in active service shall be equivalent to the resignation from employment referred to under No. 1, provided that the separation from employment becomes effective prior to the sixty-day period of the election.

. . .

Chapter IV

ELECTION OF THE PRESIDENT AND THE VICE-PRESIDENT, SENATORS AND DEPUTIES

Art. 128. The President and the Vice-President shall be elected directly by the people, by a simple majority of votes . . .

Art. 129. Each department shall directly elect two senators on the basis of a single electoral list and a simple majority of votes . . .

Art. 133. Deputies shall be elected directly by the citizens of the whole department . . .

SECTION VI

ACTS PRIOR TO THE ELECTIONS

. . .

Chapter II

REGISTRATION OF CANDIDATES

Art. 141. Only legally constituted political parties and coalitions may put forward candidates in the elections for President and Vice-President of the Republic, senators and deputies.

. . .

SECTION VII

ELECTORAL ACT

. . .

Chapter II

RULES FOR ELECTORS

Art. 190. Every citizen inscribed in the Civic Register, enjoying political rights at the time of the election, shall be bound to contribute by his vote to the constitution of the public powers. Persons over seventy years of age, persons absent from the country and persons legally precluded from voting are exempt from performing that duty.

Art. 191. It is the duty of the elector to maintain the secrecy of the ballot. Voting is a strictly personal act and cannot be performed by a proxy.

. . .

Art. 193. The elector shall vote for the list of the party of his preference and place the ballot of the colour corresponding to that party in the voting envelope; he cannot, however, cross out names, replace them or alter the order in which they are given. The electoral list, registered by each party or coalition of parties, is complete, indivisible and inalterable and the officials counting the votes shall assign them to the political group corresponding to the colour of the ballot, irrespective of any notation or comment which might have been made on it by the voter. The foregoing shall be without prejudice to the right of citizens to return blank ballots when they do not wish to vote for any of the lists put forward.

Chapter III

CASTING OF THE VOTE

. . .

Art. 195. If it is known that the voter is blind or cannot walk without assistance, he may be accompanied into the polling enclosure by a person of his confidence.

. . .

Art. 199. If the voter does not have his original registration card or an authenticated copy thereof, he may be allowed to vote by presenting his citizenship book, and the polling officers shall note that fact in the appropriate record.

. . .

SECTION IX

ELECTORAL SAFEGUARDS

Art. 236. It shall not be lawful for any public authority or private person to prevent, hamper or limit the right of citizens to perform freely within the terms of this decree the acts enumerated below:

1. To enter their names in the Civic Register;

2. To carry out the functions of an electoral post;

3. To travel from their homes to the place where they are to register, vote or perform electoral functions;

4. To vote in elections for the list of candidates of their preference or cast a blank ballot if they do not wish to vote for any of them;

5. To join political parties, be put forward as candidates and carry out the mandates conferred upon them by the popular vote.

Art. 237. It shall not be lawful for any public authority to summon any citizen during the period beginning three days before the election and ending on the day following it, nor deprive any citizen of his liberty on election day, except in cases of *flagrante delicto* or on a written warrant from the competent electoral or judicial authority.

Art. 238. If, contrary to the provision in the preceding article, any citizen should be summoned to appear before the authorities, he shall not obey that summons; and, if he should be obstructed in the exercise of his right to vote by threats or violence, he may legitimately reject such interference without committing any offence.

Art. 239. On election day, the electoral authorities and the delegates of political groups shall be authorized freely to enter police stations, prisons and places of detention in order to verify whether any citizens have been unlawfully detained.

Art. 240. The armed forces of the nation and the citizens belonging to them shall follow the rules set forth below with regard to the elections.

1. For one month before the elections until eight days following them, persons who are not in active service in the Army shall not be called up for special periods of training or manoeuvres, except in case of war with another country. In addition, during the eight days preceding each election, it shall not be lawful to take proceedings against any citizen for failure to report for military service or to perform other personal services such as road construction.

2. The massing of troops or any other demonstration of armed public force shall be prohibited on election day and in the places where the voting takes place.

3. On the day of the election the entire security force shall be placed at the disposal of the courts and of the special election commissioners and officials whose orders it shall obey forthwith.

4. With the exception of the police forces required to maintain order, the remainder of the security forces shall keep to their barracks until the voting and counting of the votes is over, without prejudice to the provisions of the paragraph which follows.

5. Citizens performing military service in the armed forces may vote in uniform, but unarmed, and shall not be allowed to remain in the polling place longer than is absolutely necessary to cast their votes.

. . .

Art. 246. Every public authority and enterprise or private person having as a subordinate any person qualified to vote shall be bound to facilitate the performance of the electoral functions enumerated in article 236 and, in particular, the freedom of the vote.

Art. 247. For the purposes of the preceding article, it shall be the duty of owners, directors, managers or administrators of State or private enterprises, and all employers, on election day, to grant their personnel at least three hours leave of absence with pay, in order that they may vote. Similarly, the authorities responsible for government departments and for the armed forces shall establish the proper rotation so that citizens constituting these organizations may have the necessay time to cast their votes.

Art. 248. During a period beginning forty-eight hours before election day and ending at twelve o'clock midnight on that day, it shall be strictly prohibited:

1. To dispense or consume alcoholic beverages in houses, shops, bars, hotels, restaurants and any other public or private establishment;

2. To disseminate political propaganda by any means of communication, whether oral or written. Publications designed to inform the public regarding the progress of the elections shall not be considered to be included in that prohibition; similarly, it shall not apply to the distribution of ballots or voting slips outside the enclosure in which the reception officers are working or to the instructions issued by the election boards explaining to citizens their civic duties or providing guidance for the performance thereof;

3. To hold political demonstrations or meetings.

Art. 249. Moreover, it shall be prohibited, as from midnight preceding election day until twelve o'clock midnight on election day:

1. To carry firearms, weapons with blades, lariats, sticks and other weapons. Persons normally authorized to carry arms are included in this prohibition, but the forces responsible for maintaining public order are not included;

2. To present public entertainments such as sports events, theatrical performances or cinema showings;

3. To transport citizens from one electoral district to another in trains, automobiles, trucks or any other conveyance.

SECTION X

ELECTORAL VIOLATIONS

. . .

Chapter III

GENERAL PROVISIONS

. . .

Art. 259. Proceedings against illiterates for offences and petty contraventions against the electoral regulations shall be conducted through defence counsel, appointed *ex officio* to represent them; otherwise, the proceedings shall be deemed null and void.

. . .

BRAZIL

NOTE[1]

I. LEGISLATION

The text of Act No. 2889, of 1 October 1956, defining and punishing the crime of genocide, appears below.

Instructions were issued in order No. 899, of 9 October 1956, of the Minister of Communications and Public Works, to the effect that broadcasting stations must not include in their programmes any malicious anecdotes or biting witticisms and must not broadcast any statements, even if reproduced from articles or speeches, calculated or likely to lead to a breach of the peace, to incite persons to strike, to provoke animosity between the armed forces or to provoke animosity on their part towards civilian authorities, as well as any instigation to collective non-compliance with the law, or any material containing insulting or disrespectful remarks against the lawfully constituted authorities. The penalty for the infringement of these rules was to be suspension for thirty days and, in case of a second offence, the withdrawal of the concession.

The grounds for enacting these provisions were set forth by the Solicitor-General of the Republic (Consultor Geral da Republica) in the opinion pursuant to which the decree in question was issued. This opinion can be summed up as follows:

(1) Broadcasting constitutes a federal public service, in view of the competence conferred upon the Union by article 5 (XII) of the Constitution: "to develop, directly or by way of permits or concession, the services of telegraphs, radio communications, radio broadcasting, inter-state and international telephones, air navigation and railways which connect seaports with the national frontiers on which cross the boundaries of a State."

(2) Even if carried on under a concession, radio broadcasting does not thereby cease to be a public service, since a concession constitutes a delegation of authority and not a renunciation of it;

(3) The Ministry of Communications and Public Works, as the organ of the authority granting the concesssion, has the power to enact general regulations for that service, in order to safeguard the public interest and the educational purpose of radio broadcasting.

II. INTERNATIONAL INSTRUMENTS

The International Telecommunications Convention, signed by Brazil on 22 December 1952, on the occasion of the International Plenipotentiary Conference held in Buenos Aires, was approved by legislative decree No. 66 of 1956.[2]

III. JUDICIAL DECISION

The Federal Court of Appeal has held that any minor, other than an apprentice, who is doing the same work as an adult is entitled to be paid the same wages as an adult. The court based itself upon article 157 (2) of the Constitution.[3] (*Tecidos Artefatos Monte Rosa Limitada* v. *Instituto de Aposentadoria e Pensões dos Industriários, etc.*, reported in *Jurisprudência Cível, Criminal, Trabalho, Previdência Social*, DIN/1956, Vol. II, pp. 503 and 504.)

[1] Information kindly furnished by the Government of Brazil.

[2] See *Yearbook on Human Rights for 1952*, p. 406.

[3] See *Yearbook on Human Rights for 1946*, p. 47.

ACT No. 2889 DEFINING AND PUNISHING THE CRIME OF GENOCIDE of 1 October 1956[1]

Art. 1. If a person with the intent to destroy, wholly or partly, a national, ethnical 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 submits the group to conditions of life calculated to bring about its total or partial physical destruction;

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

(*e*) Forcibly transfers children from one group to another group;

he shall be liable:

[1] Text kindly made available by the Government of Brazil. Translation by the United Nations Secretariat.

In the case specified under (*a*) to the penalties prescribed in article 121, paragraph 2 of the Penal Code;

In the case specified under (*b*) to the penalties prescribed in article 129, paragraph 2;

In the case specified under (*c*) to the penalties prescribed in article 270;

In the case specified under (*d*) to the penalties prescribed in article 125;

In the case specified under (*e*) to the penalties prescribed in article 148.[1]

Art. 2. If more than three persons associate with each other for the purpose of committing the crimes mentioned in the preceding article, they shall be guilty of an offence.

The penalty shall be one-half the penalty laid down for the crimes defined in article 1.

Art. 3. It shall be an offence directly and publicly to incite any person to commit any of the crimes mentioned in article 1.

The penalty shall be one-half the penalties prescribed therein.

Para. 1. The penalty for incitement shall be the same as that for the offence itself if the offence is completed.

Para. 2. It the incitement is committed by way of the press, the penalty shall be increased by one-third.

Art. 4. In the cases specified in articles 1, 2 and 3, the penalty shall be increased by one-third if the crime is committed by a person holding public office or by a public official.

Art. 5. The attempt to commit any of the crimes defined in this Act shall be punished by two-thirds the penalty for the corresponding crime.

Art. 6. The crimes defined in this Act shall not be deemed political offences for the purposes of extradition.

Art. 7. All provisions to the contrary are hereby repealed.

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[1] The penalties laid down in the Penal Code which are applicable to the crimes specified in the Genocide Act are as follows:

Art. 1 (a): Rigorous imprisonment [reclusão] for a term of not less than twelve nor more than thirty years (art. 121, para. 2, of the Penal Code).

Art. 1 (b): Rigorous imprisonment for a term of not less than two nor more than eight years (art. 129).

Art. 1 (c): Rigorous imprisonment for a term of not less than five nor more than fifteen years (art. 270).

Art. 1 (d): Rigorous imprisonment for a term of not less than three nor more than ten years (art. 125).

Art. 1 (e): Rigorous imprisonment for a term of not less than one nor more than three years (in certain circumstances for a term of not less than two nor more than five years or for a term of not less than two nor more than eight years).

BULGARIA

NOTE[1]

I. CHANGES IN THE CRIMINAL LAW

A. *Penalties for violation of labour discipline* (Criminal Code, articles 124, 257, 268 and 269) were abolished by the Criminal Code Amendment Act (*Journal of the Presidium of the National Assembly* No. 91, of 13 November 1956). Under the articles repealed, persons guilty of wilful violations of labour discipline or systematic negligence and officials refusing to perform their duties were liable to penalty. The Act also repeals the Act concerning the punishment of specialist workers evading employment in the mines (*Journal* No. 12, of 9 February 1951).

B. *The safeguards of the rights of the accused in criminal trials*, in particular his special right to defence, were broadened. The Criminal Procedure Amendment Act (*Journal* No. 90, of 9 November 1956) contains provisions supplementing articles 139 and 152 with a view to guaranteeing the right of accused persons to be assisted by counsel from the beginning of the preliminary investigation. Article 155 as amended stipulates the maximum length of time within which, with the authorization of the Procurator-General of the Republic, all preliminary investigations must be concluded.

II. EXTENSION OF SOCIAL AND ECONOMIC RIGHTS

A. *Increase in Wages and Rise in the Level of Living*

1. The order of the Council of Ministers and the Central Committee of the Communist Party of 4 December 1956 (*Journal* No. 102, of 21 December 1956) grants a substantial increase (up to 27 per cent) in the lowest wages of manual and non-manual workers.

A decree amending and supplementing the decree to stimulate the birth-rate and encourage large families (*Journal* No. 95, of 27 November 1956) substantially increases family allowances, thereby raising the incomes of large families.

2. Workers were accorded a series of material advantages which indirectly raised their level of living.

(a) *Nutrition.* The order of the Council of Ministers of 26 June 1956 (*Journal* No. 53, of 3 July 1956) provides that after 1 August 1956 the entire cost of maintaining canteens for manual workers and civil servants shall be borne by the undertakings and administrations concerned. Persons using the canteen will be required to pay only the wholesale cost of the material used to prepare the meals. Workers and civil servants are also entitled to obtain food for their families on the same basis. Another order of the Council of Ministers (*Journal* No. 84, of 19 October 1956) provides that canteens shall also be established for the pupils of general and technical schools.

(b) *Housing.* The order of the Council of Ministers of 26 June 1956 (*Journal* No. 55, of 10 July 1956) contains provisions concerning the allocation of land for housing construction and the provision of building loans by the Bulgarian Investments Bank. The decree relating to co-operative and private housing construction by building organizations and specialized building co-operatives, in accordance with the order of the Council of Ministers of 9 June 1955 (*Journal* No. 21, of 13 March 1955), contains detailed regulations for the construction of housing, in particular by the construction organizations of the departmental peoples' councils.

B. *Social Insurance and Pensions*

The Act on certain questions connected with pensions (*Journal* No. 54, of 6 July 1956) provides for increases in various pensions (articles 1 and 2). It also provides that pensioners who are employed and in receipt of wages or salaries of up to 1,000 leva a month shall receive half their pension (article 3). Pensions are immune from postal fees and charges and taxes of all kinds (article 8).

The decree on certain social insurance questions (*Journal* No. 54, of 6 July 1956) provides that the length of service of persons in leading positions in the villages (such as chairmen, foremen, etc., in co-operative farms) shall be taken into account for the purposes of retirement.

The Order of the Council of Ministers and of the Central Committee of the Bulgarian Communist Party of 26 November 1956 (*Journal* No. 96, of 30 November 1956) provided for an important reform (which was carried into effect on 1 January 1957), the granting of life pensions to all male workers over sixty years of age and all female workers over fifty-five years of age, employed on co-operative farms and with twenty-five years' service in agriculture.

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

C. *The Right of Workers to Holidays and Rest*

A supplementary list of categories of manual and non-manual workers employed in unhealthy occupations and therefore entitled to an additional annual holiday with pay is published in *Journal of the Presidium of the National Assembly* No. 60, of 27 July 1956.

A decree published in *Journal* No. 34, of 27 April 1956, provides that as from 29 April 1956 manual and non-manual workers working on the days preceding holidays or days of rest shall work a six-hour day.

Under an order of the Council of Ministers (*Journal* No. 92, of 16 November 1956) workers may use motor vehicles belonging to the undertaking for recreational purposes on holidays and days of rest.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

AN ACT TO AMEND ARTICLE 96 OF THE CONSTITUTION (FUNDAMENTAL LAW) OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

Adopted by the Fourth Supreme Soviet of the Byelorussian SSR at its third session, on 28 July 1956[1]

[The Supreme Soviet of the Byelorussian SSR decides:]

In view of the introduction, in the Byelorussian SSR, of universal seven-year education in urban and rural communities and of the abolition of fees for tuition in the upper classes of secondary schools, in specialized secondary schools and in higher schools, to amend article 96 of the Constitution (Fundamental Law) of the Byelorussian SSR[2] accordingly, to read as follows:

"*Art. 96.* Citizens of the Byelorussian SSR have the right to education.

"This right is ensured by universal compulsory seven-year education; by extensive development of ten-year education; by free education in all schools, higher as well as secondary; by a system of state grants for students of higher schools who excel in their studies; by instruction in schools being conducted in the native language; and by the organization in the factories, state farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people."

[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 Ministry for Foreign Affairs of the Byelorussian Soviet Socialist Republic. Translation by the United Nations Secretariat.

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

EXTRACTS FROM THE 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 1956[1]

THE RAISING OF THE LEVEL OF LIVING AND THE CULTURAL LEVEL OF THE PEOPLE

The past year was marked by a further raising of the level of living and the cultural level of the people.

In 1956, in accordance with the decisions of the twentieth congress of the Communist Party of the Soviet Union, workers' pension benefits were increased, fees for attendance at secondary and higher educational institutions were abolished, the duration of maternity leave both before and after childbirth was increased, working hours on days preceding holidays and rest days were reduced, and the prices paid by the State for both basic and supplementary deliveries of agricultural products were raised. All this brought additional benefits to the urban and rural population of the republic.

The real wages of manual and non-manual workers continued to rise. Payments to collective farm workers, in grain, potatoes and money, for days worked increased.

The number of students in schools of all types, educational institutions and technical secondary schools exceeded 1,300,000.

In towns and rural areas the network of secondary schools was further expanded. In 1956, the number of secondary schools increased by 6 per cent as compared with 1955, the figure for the number in rural areas increasing by 11 per cent.

In 1956 about 70,000 pupils, 12 per cent more than in the previous year, graduated from the tenth grade of secondary schools.

In accordance with the decisions of the twentieth congress of the Communist Party of the Soviet Union boarding schools are being established; ten such schools were opened in the republic in 1956 and are being attended by 1,300 pupils. A number of measures were taken to increase supplies of educational materials to schools and to develop polytechnical training.

[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 Ministry for Foreign Affairs of the Byelorussian Soviet Socialist Republic. Translation by the United Nations Secretariat.

The number of students in higher and special secondary educational establishments, including correspondence-course students, increased. In the 1956/1957 school year, 51,400 students attended higher educational establishments and more than 60,000 attended technical and other special secondary educational establishments. In 1956, over 24,000 young specialists graduated from the republic's higher and special secondary educational establishments — 24 per cent more than in 1955 — and the number of specialists with higher and secondary school training entering industry, construction, transport and agriculture, rose by 41 per cent.

In 1956, more than 100,000 persons took 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.

The number of cinema installations increased, as did the number of persons attending cinemas and theatres. In 1956 a television centre began operating in Minsk.

Public medical services were improved. In 1956, the number of hospital beds increased by 7 per cent by comparison with 1955; the number of places in permanent crèches increased by 7 per cent, and the number of children in kindergartens by 11 per cent. The number of doctors in the republic rose by 6 per cent during the past year. All rural medical districts were provided with doctors. The number of clinics in industrial undertakings increased by 14 per cent by comparison with 1955. The supply to medical establishments of the latest medical equipment, apparatus and instruments was improved.

. . .

In 1956, 85,000 children — 6 per cent more than in 1955 — took holidays in pioneer camps and summer kindergartens.

More than 60,000 persons received treatment or recuperated in the republic's sanatoria and rest homes in 1956.

CAMBODIA

NOTE[1]

The constitutional reform promulgated by decree (kram) No. 65–NS, of 14 January 1956, established provincial popular assemblies which are elected by the inhabitants of the province (khet) by universal suffrage. These assemblies assist and supervise the provincial officials in their work and participate in the management of the affairs of the provinces. The same constitutional reform proclaimed the right of female suffrage, which became effective during the elections to the popular assemblies.[2]

Among new legislative enactments dealing with human rights in general, reference may be made to decree (kram) No. 96–NS, of 21 May 1956, by which a judicial office was established in each sub-prefecture (srok) for the special purpose of issuing supplementary orders in connexion with questions of personal status. Up to that time, application had to be made at the chief town of the province.

The court fees for that procedure were substantially reduced by decree (kram) No. 97–NS, of 21 May 1956.

Decree (kram) No. 55–NS, of 29 November 1955, which went into force on 1 March 1956, appreciably reduced the amount of fees payable for court costs and simplified the procedure for obtaining legal aid.

Decree (kram) No. 61–NS, of 13 January 1956, proclaimed complete freedom of the press. The National Assembly rejected a draft decree re-establishing pre-censorship for publications in a foreign language. Articles 1 and 2 of the decree read as follows:

"*Art. 1.* From the date of the entry into force of this decree, all writings or drawings, except such as are contrary to the spirit of the Constitution of the kingdom, may be freely imported into Cambodia, kept there and distributed, irrespective of the language in which they are written and regardless of whether they are in manuscript form or reproduced by some typographic process.

"*Art. 2.* There shall be freedom to disseminate ideas of any kind, except such as are contrary to the spirit of the Constitution of the kingdom."

With respect to the right to education, the number of classes and students has increased in comparison with preceding years.

In 1955–1956, there were 1,455 modernized temple schools, which were attended by 82,493 students, representing an increase of forty-one schools and 9,526 students over 1954–1955.

There were 1,317 Franco-Khmer primary schools, which were attended by 252,238 students, representing an increase of 270 schools and 43,367 students over 1953–1955.

There were twenty-two provincial trade schools (écoles d'application), as against nineteen in 1955.

The number of secondary schools in 1955–1956 increased to twelve, including three *lycées* and nine *collèges*, as against nine for the preceding year. There are, therefore, three additional secondary schools (collèges) and forty-nine new secondary classes, with an attendance of 1,879 students.

[1] Information furnished by courtesy of the Ministry of Foreign Affairs of the Kingdom of Cambodia.

[2] See below.

CONSTITUTION OF THE KINGDOM OF CAMBODIA

As amended by decree (kram) No. 65–NS, of 14 January 1956[1]

CHAPTER V

CONCERNING THE NATIONAL ASSEMBLY

Art. 49 (formerly art. 48, as amended). Every Cambodian citizen of either sex who has attained the age of twenty years, provided that he or she has not suffered deprivation of civil rights and fulfils the requirements of the electoral law, shall be an elector.

No member of the armed services shall be eligible for election or entitled to vote and by reason of the Buddhist dogmas the same prohibition shall apply to members of the religious order.

Art. 50 (formerly art. 49, as amended). Electors of either sex who are not under the age of twenty-five years shall be eligible for election. The electoral law shall prescribe cases of ineligibility.

[1] Published by the Printing Office of the Royal Palace, Phnom-Penh. Translation by the United Nations Secretariat. Articles 3–19 of the Constitution of 6 May 1947, which were quoted in the *Yearbook on Human Rights for 1950*, pp. 35–6, were not amended by decree (kram) No. 65–NS. Article 2, as amended, provides that the official language shall be Cambodian.

The mandate of deputy is not compatible with the active exercise of any public office.

Art. 51 (formerly art. 50, as amended). Deputies of the National Assembly shall be elected for a period of four years by universal and direct suffrage.

. . .

If the King is requested by an absolute majority of the electors of a district to recall one of the representatives of that district in the National Assembly, new elections shall be held in the district, provided that it is established, after a preliminary investigation carried out by the Government with the assistance of four members appointed by the National Assembly, that the request for the representative's recall has been made in due form by the required number of electors in his district.

. . .

Art. 54 (formerly art. 53). Deputies of the National Assembly shall represent the whole Cambodian nation and not merely the persons who voted for them. They shall not be bound by any instructions given to them by their constituents.

. . .

CHAPTER VI

CONCERNING THE COUNCIL OF THE KINGDOM

Art. 74 (formerly art. 70). The Council of the Kingdom shall consist of members who are appointed and members who are elected by restricted suffrage. Members of the Council shall not be less than forty years of age.

The term of office of a member of the Council of the Kingdom shall be incompatible with that of a deputy.

. . .

Art. 76 (formerly art. 72). The National Assembly shall, by a relative majority, elect two members of the Council of the Kingdom, who shall not be members of the National Assembly.

Art. 77 (formerly art. 73, as amended). Eight members, each representing either a region or the city of Phnom-Penh, shall be elected by restricted and indirect suffrage; the representatives of the regions shall be elected by the popular assemblies of the provinces [khet] and the representative of the city of Phnom-Penh shall be elected by the popular assembly of the capital.

. . .

Art. 78 (formerly art. 74, as amended). Eight members representing the various occupational groups shall be elected by direct suffrage.

The conditions governing these elections shall be prescribed by a law.

The same shall apply to four members who shall represent the civil service.

. . .

Art. 81 (formerly art. 77, as amended). Article 49, 50 (paragraph 2) . . . of the Constitution shall apply to the Council of the Kingdom.

. . .

CHAPTER VII

CONCERNING THE POPULAR ASSEMBLIES OF THE PROVINCES [KHET] AND THE CAPITAL

Art. 84 (new). A popular assembly, comprising representatives from all the sub-prefectures [sroks] of each province [khet], and from all the districts of the capital, shall be established in the capital of each province and in the national capital.

The members of these popular assemblies shall be elected by universal and direct suffrage by Cambodian citizens of both sexes who are not less than twenty years of age and who reside in the sub-prefecture [srok] or district in question.

. . .

Art. 85 (new). All citizens of either sex who are not less than twenty-five years of age and who reside in the province in question or in the national capital shall be eligible for election to the popular assemblies.

. . .

CANADA

HUMAN RIGHTS IN CANADA IN 1956 [1]

I. FEDERAL LEGISLATION

Equal Pay

The Female Employees Equal Pay Act,[2] which went into force on 1 October 1956, requires an employer in an industry or undertaking within the legislative jurisdiction of the federal Parliament (mainly inter-provincial transportation and communication) to pay women at the same rate as men when they are employed to do the same or substantially similar work.

A woman who considers herself aggrieved may file a complaint with the Minister of Labour, who is responsible for the administration of the Act. The Minister will refer the matter to a fair wage officer of the department, who will make an investigation and try to bring about a satisfactory adjustment. If the fair wage officer is unable to effect a settlement, he must make a report to the Minister, setting forth the facts and his recommendations. If the Minister considers the complaint to have merit, he may refer it to a referee, who will conduct an inquiry at which both parties may present evidence and make representations. The referee will then decide whether the complaint is supported by the evidence and make whatever order he considers necessary. Failure to comply with an order is an offence under the Act.[3]

Social Security

The Unemployment Assistance Act [4] passed by Parliament at the 1956 session was designed to provide assistance for needy persons in any part of Canada who cannot qualify for help under any of the existing social welfare measures such as unemployment insurance, supplementary benefits, old-age assistance and disability pensions. The Act authorizes the federal Government to enter into agreements with the provincial governments for sharing up to 50 per cent of the costs of local unemployment assistance. For all provinces except Nova Scotia, federal aid will begin when the number of unemployed and their dependants exceeds 0.45 per cent of the population in the province. In Nova Scotia, because of the particular economic problems in that province, federal assistance will be given when the unemployment figure exceeds 0.30 per cent of the population. The agreements may be for periods up to five years and may be extended from year to year thereafter, subject to termination by either party. By December 1956, six provinces, Newfoundland, Prince Edward Island, New Brunswick, Manitoba, Saskatchewan and British Columbia had concluded agreements.

An amendment to the Unemployment Insurance Act [5] authorized the Unemployment Insurance Commission, with the approval of the Governor in Council, to develop an unemployment insurance plan for persons engaged in fishing, whether or not they are employees. Regulations have since been issued, bringing a plan into effect on 1 April 1957.[6]

Some of the qualifying conditions for persons already covered by the Act were modified as from 30 September.

II. PROVINCIAL LEGISLATION

Anti-discrimination Legislation

Fair Employment Practices Acts were passed in New Brunswick,[7] Saskatchewan[8] and British Columbia,[9] similar to the Canada Fair Employment Practices Act, 1953[10] and the Acts adopted in Ontario in 1951,[11] in Manitoba in 1953[12] and in Nova Scotia in 1955.[13] The Manitoba Act was amended.

The purpose of all these Acts is to ensure equality of opportunity in the field of employment by prohibiting discrimination in matters of employment on the basis of race, colour, religion or national origin and providing a remedy if equal opportunity is denied. The Saskatchewan Act replaces the provisions of the 1947 Saskatchewan Bill of Rights Act, 1947[14] dealing with discrimination in employment. The Bill of Rights Act did not provide for positive remedies as the new legislation does.

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[1] Information kindly furnished by Mr. A. H. Brown, Deputy Minister of Labour, Ottawa, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] *Statutes of Canada*, 1956, c. 38.

[3] The text of the entire Act with the exception of the provisions on offences and penalties and a transitional provision on collective agreements existing when the Act entered into force, and a translation into French, appear as International Labour Office: *Legislative Series* 1956 — Can. 1.

[4] *Statutes of Canada*, 1956, c. 26.

[5] *Statutes of Canada*, 1956, c. 50.

[6] P. C. 1957–442, 28 March 1957.

[7] *Statutes of New Brunswick*, 1956, c. 9.

[8] *Statutes of Saskatchewan*, 1956, c. 69. See c. 67 for repeal of provisions in Saskatchewan Bill of Rights Act.

[9] *Statutes of British Columbia*, 1956, c. 16.

[10] See *Yearbook on Human Rights for 1953*, pp. 38 and 41–3.

[11] See *Yearbook on Human Rights for 1951*, pp. 37 and 38–9.

[12] See *Yearbook on Human Rights for 1953*, p. 39.

[13] See *Yearbook on Human Rights for 1955*, pp. 27 and 29–31.

[14] See *Yearbook on Human Rights for 1947*, pp. 73–4.

A Fair Accommodation Practices Act was also passed in Saskatchewan [1] replacing provisions of the Bill of Rights Act prohibiting discrimination in respect to obtaining accommodation or facilities in places to which the public is customarily admitted. Its terms are very similar to those of the legislation adopted in Ontario in 1954.[2]

The amendment to the Fair Employment Practices Act in Manitoba [3] prohibits the use of discriminatory application forms.

Equal Pay

Equal Pay Acts were passed in Nova Scotia [4] and Manitoba.[5] The Nova Scotia Act requires employers to pay women at the same rate as men when they are employed to do the same work in the same establishment. The Manitoba Act provides that no employer shall discriminate between his male and female employees by paying to the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is identical or substantially identical. The method of administration and enforcement is generally similar to that of the equal pay legislation adopted in Ontaria in 1951,[6] in Saskatchewan in 1952,[7] in British Columbia in 1953[8] and by the Parliament of Canada in 1956 as reported above.

Annual Paid Vacations

A new Annual Holidays Act [9] was passed in British Columbia, and became effective on 1 July 1957, requiring an annual holiday with pay of two weeks to be granted to employees covered by the Act instead of one week as under the former legislation.

Labour Relations Legislation

In Manitoba, school teachers who hold certificates or permits under the Education Department Act, and who are employed by a board of school trustees, were removed from the application of the Labour Relations Act, and provisions were added to the Public Schools Act setting out a procedure for collective bargaining between school trustees and teachers' associations and for the settlement of disputes.[10] The procedure for certification of a bargaining agent and for collective bargaining is substantially the same as for other employees under the Labour Relations Act. If a dispute (which may not include a difference over rights and duties specifically set out in the schools legislation) is not settled by conciliation, an arbitration board may be appointed to make a binding award. No teacher may strike.

Compensation for Accidents

In 1956 the Workmen's Compensation Acts of six provinces were amended with respect to benefits. Higher disability benefits were provided for through an increase in the compensation rate in three provinces[11] The ceiling on annual earnings was increased in four provinces.[12] In one province the minimum permanent total disability monthly payment was raised.[13] In two provinces monthly allowances to dependants of deceased workmen were increased,[14] and in one province the maximum limit on monthly payments to a widow and children, or to orphans, was raised.[15]

Health Services

The province of Newfoundland made provision for free health services to children. An amendment to the Health and Public Welfare Act provides that, subject to the Act and regulations, a child who has not attained his sixteenth birthday is entitled free of charge to medical services of all kinds, including hospitalization and dental and optical services, and out of funds appropriated for that purpose by the Legislature the Minister of Health is to provide those services free of charge to every such child.[16]

III. JUDICIAL DECISIONS

On 31 October 1955, the Quebec Superior Court in prohibition proceedings quashed an order of the Quebec Labour Relations Board certifying a union as bargaining agent for the employees of a Quebec logging company on the ground that the Indian employees who formed a part of the working group should not have been excluded from the bargaining unit. The court held that the board had no legal basis for considering Indian employees of the company as different from other employees under the Act.

The union had maintained that the Indians (of whom there were 92 out of a total of some 290 employees) should be excluded on the grounds that they were separate from other Canadians as a racial entity, that the labour laws of the province were not applicable to them, that they did not live under the same conditions as the other workers and were generally opposed to union membership. In determining the appropriate unit and in dealing with the union's application for certification the board had not included the Indians in the unit.

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[1] *Statutes of Saskatchewan*, 1956, c. 68.

[2] See *Yearbook on Human Rights for 1954*, pp. 42 and 44–5.

[3] *Statutes of Manitoba*, 1956, c. 20.

[4] *Statutes of Nova Scotia*, 1956, c. 5.

[5] *Statutes of Manitoba*, 1956, c. 18.

[6] See *Yearbook on Human Rights for 1951*, pp. 37 and 40.

[7] See *Yearbook on Human Rights for 1952*, pp. 21 and 23.

[8] See *Yearbook on Human Rights for 1953*, pp. 39 and 43.

[9] *Statutes of British Columbia*, 1956, c. 4.

[10] *Statutes of Manitoba*, 1956, c. 38 and c. 53.

[11] *Statutes of Manitoba*, 1956, c. 74; *Statutes of Newfoundland* 1956, c. 14; *Statutes of Nova Scotia*, 1956, c. 49.

[12] *Statutes of Manitoba*, 1956, c. 74; *Statutes of Alberta*, 1956, c. 62; *Statutes of Ontario*, 1956, c. 93; *Statutes of Saskatchewan*, 1956, c. 53.

[13] *Statutes of Nova Scotia*, 1956, c. 49.

[14] *Statutes of Alberta*, 1956, c. 62; *Statutes of Newfoundland*, 1956, c. 14.

[15] *Statutes of Nova Scotia*, 1956, c. 49.

[16] *Statutes of Newfoundland*, 1956, c. 31.

Mr. Justice Boulanger, who gave the reasons for the decision, on examining the definition of "employee" in the Labour Relations Act, and the conditions on which a person may be deemed to be a member in good standing of a union as set out in the regulations, found nothing dealing with ethnic or racial origin, colour, beliefs, way of life, customs or conduct outside working hours of any worker. He said the board must take the law as it stands. It cannot make distinctions where the law does not make them, and it cannot make exceptions where the law makes none. Employees of the Indian race who do the same work as employees of the white race, with the same tools, the same methods, for the same wages and under the same conditions, are included in the definition of employees under the Labour Relations Act and the regulation of the board. The board cannot arbitrarily set them aside in deciding if an association represents the absolute majority of the workers of which they form a part. He concluded that the board did not exercise its functions within the limits of the law when it performed an unauthorized act, and accordingly set aside the order. (*John Murdock Limitée* v. *La Commission de relations ouvrières de la province de Québec et autres et la Fraternité unie des charpentiers menuisiers d'Amérique*, (1956) *Rapports Judiciaires* CS Montreal 30.)

The Kent County Court of Ontario, on 23 May 1956, dismissed the appeal of a restaurant owner from a conviction in a magistrate's court for violation of the Ontario Fair Accommodation Practices Act, 1954. The charges were that the restaurant owner on a certain day in November 1955 unlawfully denied to two negroes because of their colour services available in his restaurant, a place to which the public is customarily admitted, contrary to the Act. The appellant contended that the Act was outside the powers of the Ontario legislature as being essentially criminal legislation and as such within the exclusive jurisdiction of the Parliament of Canada. The court held the law to be valid as legislation under the head of property and civil rights within the province. It created a new civil right in the province, the right of all people in Ontario to service and accommodation in places where service and accommodation are customarily available. The appeal was dismissed. (*Regina ex Rel. Nutland* v. *McKay, Kent County Court*, (1956) 5 DLR (2d) 403.)

The Quebec Superior Court, on 5 April 1956, granting a writ of prohibition to quash a judgement of the municipal court, held that a by-law of the City of Montreal forbidding the distribution of posters, advertisements and circulars in or near the streets and public places of the city without permission of the City Executive Committee did not apply to a Labour-Progressive Party candidate for election to the federal House of Commons who had been convicted for distributing a political circular on the streets and from door to door without a permit. The court ordered the conviction set aside. The by-law in question had been repealed before the case came before the court.

The judge found that the real purpose of the by-law was not to regulate the use of streets but to establish a censorship of the contents of literature distributed in the streets. Since under the British North America Act, 1867, Parliament and the provincial legislatures control their own elections, the by-law encroached upon a field reserved exclusively for the authority of Parliament. The by-law also curtailed inherent rights enjoyed by Canadian citizens in political matters and protected by the British North America Act in that, both before and after 1867, candidates seeking office and their supporters had the right to solicit votes orally and by writing provided such solicitation did not contravene the criminal law. (*Dionne* v. *Municipal Court of the City of Montreal et al* (1956) 3 DLR (2d) 727.)

CEYLON

NOTE[1]

I. LEGISLATION

The most important piece of legislation during 1956 relating to human rights was enacted in the Employment of Women, Young Persons and Children Act, No. 47 of 1956.[2] This Act provided for certain restrictions on night work in industrial undertakings, rest periods for apprentices or vocational trainees employed on night work, registration of industrial workers under the age of eighteen years and the exhibition by the employer in a conspicuous place of the above-mentioned provisions. Contravention of these provisions was made a penal offence summarily triable by a magistrate.

The Act also made provisions concerning the employment of children in industrial undertakings and provided for the registration of the names and dates of birth of all women and young persons employed in an industrial undertaking.

Provisions were also made regulating the employment of persons at sea. These provisions forbade the master of any vessel registered in Ceylon as a British ship or owned by any person or body of persons resident or carrying on business in Ceylon to employ a person under the age of fifteen years on that vessel and forbade the master of any other vessel to engage such a person in Ceylon for employment on that vessel. A fine not exceeding one thousand rupees or imprisonment for a period not exceeding six months was imposed by the Act on a person contravening these provisions prohibiting the employment of persons under fifteen years. The Act also provided for a register or list of crew under the age of sixteen years to be kept by the master of a vessel of the description referred to above.

The employer of any young person employed on a vessel and the parent or guardian of that young person are required under this Act to furnish to any authorized officer such information regarding the employment of that young person as the officer may require. Failure to comply with this requirement was made punishable with a fine not exceeding one thousand rupees or imprisonment not exceeding six months or with both.

Another important provision which was made by this Act was designed to protect schoolchildren from being employed during school hours, which would hinder their education, health or efficiency. As a corollary to this provision, the Commissioner of Labour was empowered, on being satisfied by a report of a registered medical practitioner or otherwise that any child was being employed in such manner as to be prejudicial to his health or physical development or to render him unfit to obtain the proper benefit from his education, to prohibit, or attach such conditions as he may think fit to, his employment in that or in any other manner, notwithstanding that the employment may be authorized under any other provision of this Act or under the provisions of any other written law.

The Act also prohibited children from taking part in any entertainment in connexion with which any charge, whether for admission or for any other purpose, is made to any of the audience, exception being made in the case of a child who takes part without fee or reward in an entertainment the net proceeds of which are devoted to any charitable or educational purpose or to any purpose other than the private profit of the promoters, or which is presented by the pupils of any school supervised by public authority or by any amateur dramatic society or in any other performance which forms part of any training undertaken by any school to be given to its pupils. It also prohibited persons under sixteen years of age from taking part in a public performance in which their life and limbs were in danger. Children were prohibited from being trained to take part in performances of a dangerous nature.

With a view to the strict enforcement of this Act, provision was made for a definition by regulations of the line of division separating industry from agriculture, commerce and other non-industrial occupations. Further, an authorized officer was empowered to enter a building or place where an industrial undertaking is carried on or a vessel for the purpose of examining the building, place or vessel and questioning any person therein to ascertain whether any person is employed therein in contravention of this Act. An authorized officer was also empowered to enter any place in which any woman, young person or child is, or is believed to be, employed, or is, or is believed to be, taking part in any entertainment or performance, or being trained, in order to make inquiries therein with respect to him or her. Obstruction to such entry or refusal to answer any questions truthfully has been made punishable by a

[1] Information kindly furnished by the Minister of External Affairs of Ceylon.

[2] The text of the Act, which was assented to on 7 November 1956, and a translation into French, appear in International Labour Office: *Legislative Series* 1956 — Cey. 2.

fine not exceeding one thousand rupees or imprisonment not exceeding six months or with both.

II. JUDICIAL DECISION

In a decision of the Privy Council of 1956, *Martha Ivaldy* v. *F. P. Ivaldy et al.* (reported in 57 New Law Reports, p. 568), it was held that, under Roman-Dutch Law, where there has been no legal dissolution of the common home, the father's right to the custody of his minor children remains unaffected by the fact of the separation of the spouses, and can only be interfered with on special grounds, such as, for example, danger to the life, health or morals of the children.

CHILE

NOTE[1]

Act No. 12045 (*Diario Oficial* No. 23495, of 11 July 1956) created a legal entity entitled "College of Journalists" for the purpose of protecting (tuición . . . y protección), supervising and improving the journalistic profession.

Act No. 12006 (*Diario Oficial* No. 23356, of 23 January 1956) made provisions for the control of prices, wages, salaries and pensions, the President being authorized gradually to increase workers' family allowances during 1956, to a prescribed maximum.

Decree No. 400, of 25 September 1956 (*Diario Oficial* No. 23586, of 30 October 1956), approved the agreement between Chile and the United States of America to facilitate the activities of voluntary agencies concerned with aid and rehabilitation.

[1] Note based upon information kindly furnished by Mr. Julio Arriagada Augier, former Under-Secretary of Public Education, government-appointed correspondent of the *Yearbook on Human Rights*.

COLOMBIA

NOTE[1]

Freedom of Association[2]

Decree No. 672 of 1956, on trade union meetings, of 22 March 1956 (*Diario Oficial* No. 29013, of 18 April 1956) suspended decree No. 2238, of 13 August 1955,[3] and provided that in order to hold any trade union meeting it was sufficient for the organization concerned to give at least five days, notice in writing to the appropriate brigade commander and labour inspector, stating the day, time, place and agenda of the meeting.

Decree No. 753 of 5 April 1956, amending article 430 of the Substantive Labour Code (*Diario Oficial* No. 29019, of 25 April 1956), prohibited strikes in the public services, as defined in the decree.

Minimum Wages

Decree No. 2118 of 1956, of 31 August 1956 (*Diario Oficial* No. 29135, of 16 September 1956) provided for the setting up of permanent commissions for the annual revision of minimum wages.

Decree No. 2214 of 1956, of 7 September 1956 (*Diario Oficial* No. 29141, of 22 September 1956) fixed the minimum daily wages of different categories of workers in the various departments of Colombia. In accordance with articles 10 and 143 of the Substantive Labour Code, the decree forbade employers to make differences in the minimum wages of their employees for reasons of age, sex, nationality, race, religion, political opinion or trade union activities, or on grounds of the intellectual or manual nature of their work.

Family Allowances

Decree No. 180 of 1956, of 1 February 1956 (*Diario Oficial* No. 28961, of 13 February 1956) was aimed at the promotion of schemes of family allowances. It provided that family allowances, paid by official or non-official organs, firms or employers, were not to be regarded as part of the recipient's salary. Cheques used in paying family allowances were not to be subject to the stamp tax.

[1] Note based upon information kindly furnished by the Permanent Mission of Colombia to the United Nations.

[2] See also extracts from decree No. 0085 of 1956, reproduced below.

[3] See *Yearbook on Human Rights for 1955*, p. 37.

DECREE No. 0085, OF 20 JANUARY 1956, AMENDING OR SUSPENDING CERTAIN ARTICLES OF DECREE No. 2655 OF 8 SEPTEMBER 1954 ON MEETINGS OF TRADE UNION CONGRESSES AND ASSEMBLIES[1]

Art. 1. Article 4 of executive decree No. 2655, of 8 September 1954, shall read as follows:

"*Art. 4.* Trade union congresses may be convened only by one or more trade union confederations, or by the head of the Department for the Supervision of Industrial Associations at the Ministry of Labour on his own initiative, subject to the express approval of the Minister, when for any special reason he considers it desirable to do so, or when a request is made to that effect by one-third at least of the trade union organizations affiliated to one or more confederations and such confederations are either unable to convene a congress in accordance with this decree or, in the opinion of the head of the said Department, refuse to do so without any valid reason."

Art. 2. Article 5 of executive decree No. 2655, of 8 September 1954, shall read as follows:

"*Art. 5.* To have the right to convene a trade union congress, confederations must be in legal and normal operation at the time of the convening of the congress, and their executive boards or committees must have been approved by and registered with the Department for the Supervision of Industrial Associations".

Art. 3. Article 6 of executive decree No. 2655, of 8 September 1954, shall read as follows:

"*Art. 6.* The right to participate in, or to be represented at, trade union congresses shall be limited to trade union organizations registered as incorporated associations; operating legally and normally at the time of the convening of the congress; and having properly constituted executive boards, recognized by and registered with the Department for the Supervision of Industrial Associations."

[1] Text published in *Diario Oficial* No. 28952, of 2 February 1956. Translation by the United Nations Secretariat. Extracts from Decree No. 2655, of 8 September 1954, appear in the *Yearbook on Human Rights for 1954*, pp. 60–2.

Art. 4. Article 7 of executive decree No. 2655, of 8 September 1954, shall read as follows:

"*Art. 7.* Notice of convocation of trade union congresses and assemblies must be given to the Department for the Supervision of Industrial Associations at the time of convening the congress or at least fifteen days before the date of the meeting, indicating the agenda, date, hour and place for the congress, the titles of the bodies which are to attend the congress and their headquarters addresses, details of registration as incorporated associations, and lists of active affiliated members, for the purposes of proper representation."

. . .

Art. 6. Article 12 of executive decree No. 2655, of 8 September 1954, shall read as follows:

"*Art. 12.* Delegates sent to trade union congresses shall be elected by the general assembly of the organization concerned, or by the executive board or committee in the case of confederations, federations or trade unions. Voting shall be by secret and written ballot, and, when more than two delegates have to be appointed, each is to receive the appropriate quota of the total vote.

"If the number of delegates elected is larger than that specified under the present regulations for the particular organization, the election shall not be declared null and void; those elected in excess shall be eliminated on the basis of the smallest number of votes or the order of preference on the ballot papers. This operation shall be performed at the time of counting the votes and shall be noted in the appropriate record."

Art. 7. Article 13 of executive decree No. 2655, of 8 September 1954, shall read as follows:

"*Art. 13.* The credentials of all delegates shall consist of a certified copy of the record of the meeting at which they were elected, giving the names of those present at that meeting. If the meeting was attended by the labour inspector, or in his absence the principal local political officer, the copy of the record shall be authenticated by the official in question. A second copy of the record shall be forwarded to the Department for the Supervision of Industrial Associations."

Art. 8. The Department for the Supervision of Industrial Associations shall deal with any complaints and requests for annulment concerning any trade union action within the scope of the present decree. Any appeal against a decision of that department shall be heard by the Minister of Labour. The procedure for dealing with such cases shall be that laid down for official matters by the Administrative Disputes Code [Codigo Contencioso Administrativo], articles 74 *et seq.*, Act 167 of 1941.

Art. 9. Articles 14 and 15 of executive decree No. 2655, of 8 September 1954 and other provisions contrary to the present decree are hereby abrogated.

Art. 10. Article 18 of executive decree No. 2655, of 8 September 1954, shall read as follows:

"*Art. 18.* Susidies, grants-in-aid or donations by official bodies, public corporations or private individuals for the promotion or benefit of trade union congresses, shall be invested under the supervision of the Ministry of Labour, and evidence of the use of such funds shall be produced for the Office of the Controller-General of the Republic in accordance with the regulations laid down by that body."

Art. 11. The present decree shall enter into force on the date of its promulgation.

COSTA RICA

NOTE[1]

I. INTERNATIONAL INSTRUMENT

According to article V of an agreement signed by Costa Rica and Nicaragua on 9 January 1956,[2] the two parties undertook to apply in relation to asylees Articles I–III and V–X of the Convention on Territorial Asylum signed on 28 March 1954 at the Tenth Inter-American Conference.[3] Article VI of the agreement read as follows:

"Extradition shall not be applicable in the case of political offences, nor in the case of an ordinary offence, which, in the opinion of the State to which the request has been made, is connected with a political offence, except in the case of homicide or some other form of physical violence against the head of the State or a member of the public authorities."

II. JUDICIAL DECISION

In a decision of 8 October 1956 (*Boletín Judicial* of 29 November 1956), the Supreme Court of Justice ruled as follows:

"The court has heard the appeal of *habeas corpus* brought by Raúl Boggs Villatoro, of Nicaraguan nationality, who alleges that he has been resident in the country for sixteen years; that he has married a Costa Rican wife and has children; and that he has been imprisoned without just cause. The Head of the Aliens Department reports that on four occasions since June 1953 the appellant has been notified that he may remain in the country only on condition that he obtains a residence permit and pays the required taxes, but, since on each occasion he has failed to comply with that requirement, an application for his repatriation was made to the Nicaraguan Consul. After deliberation, is has been decided, by ten votes to seven, that the appeal should be allowed, as the arrest of the appellant and the decision to expel him from the country in the manner proposed are held to be illegal, because there is no legal authorization for the Aliens Department to take such measures to restrict liberty simply on the grounds of failure to renew a residence permit or to pay the aliens taxes."

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[1] Information kindly furnished by Dr. Fernando Fournier, formerly Ambassador of Costa Rica to the United States of America, Government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Approved and ratified by decree No. 2130, of 19 June 1957, of Costa Rica (*La Gaceta* No. 156, of 12 July 1957).

[3] See *Yearbook on Human Rights for 1955*, pp. 329–30.

CUBA

NOTE

In accordance with legislative decree No. 1163, of 30 October 1953, and legislative decree No. 1990, of 27 January 1955, the Constitution of the Republic of Cuba of 1940 was put back into force, as from 24 February 1955. Extracts from this constitution appear in *Yearbook on Human Rights for 1946*, pp. 74–82.[1]

[1] Extracts from the Constitutional Law of 4 April 1952 appear in *Yearbook on Human Rights for 1952*, pp. 33–43.

CZECHOSLOVAKIA

NOTE[1]

CRIMINAL LAW AND PROCEDURE

Act No. 63/1956 *Sb.* (*Sbírka zákonů*) of 19 December 1956 amending and supplementing the Penal Code No. 86/1950 *Sb.*[2] abolished the penalty of deprivation of liberty for life, and replaced it by the penalty of deprivation of liberty for twenty-five years. Wherever the specific provisions of the Penal Code had provided the penalty of death as the sole penalty, the Act provided as an alternative the penalty of deprivation of liberty for twenty-five years. The Act further abrogated those specific provisions of the Penal Code which, for certain offences, had precluded the imposition of conditional sentences or reduction of the original sentence, had imposed the duty to exact a financial penalty or confiscation of property or had permitted the imposition of loss of citizenship. The Act further extended the possibility of waiving penalties and of imposing conditional penalties.

Act No. 64/1956 *Sb.* of 19 December 1956 on court proceedings in penal matters so regulated such proceedings as to ensure that penal offences are duly ascertained and the culprits justly punished in accordance with the law, and to secure all the rights of the defence. In particular, the Act introduced a new regulation of preliminary proceedings, providing for a better and more thorough system of investigation by, for instance, extending the rights of the accused to file plaint against the decisions of the investigating authorities and introducing the procedure of preliminary consideration of the charge by the court.

The fundamental principles of penal procedure contained in section 2 include the following provisions:

"(6) As long as a legally valid sentence pronounced by the court has not established guilt, the person against whom penal proceedings have been instituted may not be considered guilty.

"(7) The organs taking part in the penal proceedings shall ascertain and assemble the facts of the case either *ex officio* or at the request of the parties in such a manner that all circumstances important to a decision of the case involved are duly clarified and they shall at the same time give as careful consideration to the circumstances speaking against the defendant as to the circumstances speaking in his favour. Admission of the accused shall not relieve the organs taking part in penal proceedings of the duty to examine and duly verify by all proof and testimony available all the circumstances of the case.

"(8) The courts in assessing the proof before them shall do so on the basis of careful consideration of all the circumstances of the case both separately and jointly in their interrelationship.

"(9) The court shall establish the evidence on the basis of the testimony of witnesses, of experts and of the accused by interrogating the said persons directly; exceptions are permissible only as specified by Act.

"(10) In decisions in the first instance and in appellate proceedings, as well as in public and non-public court proceedings, the court may take into account only the evidence established in the course of the said proceedings.

"(11) The public may be excluded from proceedings in the first and second instance and from public trials only in cases expressly specified by the present Act.[3]

"(12) A person under penal prosecution must at each stage of the proceedings be informed of the judicial procedure, enabling him/her to assert his/her defence to the full, and also of the fact that he/she has the right to select counsel; all persons taking part in the penal proceedings shall have the duty to facilitate the implementation of these rights.

"(13) In court proceedings all shall have the right to use their mother tongue."

In section 31 (Rights of the accused) it is said:

"(1) The accused shall have the right to express himself with regard to all the facts of which he is accused and to the evidence thereon, and the right to state all the circumstances and proof serving his defence, and in particular he shall have the right to make motions in the course of penal proceedings, to select counsel and to file appeal. This right appertains to the accused even if he has been declared *non sui juris*.

"(2) All organs taking part in penal proceedings shall have the duty to inform the accused of his rights

[1] Information kindly furnished by the Permanent Mission of Czechoslovakia to the United Nations.

[2] See *Yearbook on Human Rights for 1950*, pp. 59–64.

[3] Section 214 provides: "(1) The main trial shall be held in public.

"(2) Access thereto may be denied only to minors, to persons carrying weapons, in so far as they are not carrying weapons in the discharge of their official duties, and to persons who have presented themselves in the court rooms in a state which is an offence to public morals. The public nature of the proceedings shall not in any way be affected by essential measures taken to counteract the overcrowding of the courtroom."

at all times and to accord him every possibility of asserting them."

According to section 32, "the legal representative of an accused who has been declared *non sui juris* shall have the right to represent him, in particular to select counsel on his behalf, to present motions on his behalf and to file appeal on his behalf; he shall also have the right to take part in all the proceedings in which the accused may take part under the law. The legal representative may exercise these rights in the interest of the accused even against the will of the accused."

Section 34 (1) provides:

"If the accused or his legal representative does not avail himself of the right to select counsel, any relative of his in the direct line of ascendance or descendance may select counsel at his own expense, as well as his brother or sister, adoptive parent, adoptee, spouse or common-law wife or husband. If the accused has been declared *non sui juris* they may do so against his will."

Section 34 (3) provides:

"The accused may select a counsel other than the counsel who has been appointed for him, or selected by another person entitled so to do."

Paragraphs (1)–(3) of section 35 stipulate that:

"(1) If the accused does not have counsel in the cases where he is required to, and if he does not within a specified term submit evidence that he has selected counsel, counsel shall be appointed for him at his expense.

"(2) If in the instance mentioned under paragraph 1 the accused does not have the means to cover counsel's fees, counsel shall be appointed for him who shall defend him without claim to remuneration.

"(3) At the request of an accused who does not dispose of the means to cover counsel's fees, counsel shall be appointed for him even in those instances where the accused is not required to be defended by counsel."

Section 37 provides: "Counsel so appointed shall have the duty to defend the accused; for serious cause he may, however, at his request be relieved of the duty of defending the accused and another counsel may be appointed in his place. For serious cause and at the request of the accused a different counsel may be appointed to replace the appointed counsel. It may also be determined that counsel already appointed shall defend the accused without claim to remuneration."

Section 48 provides that "In the course of the proceedings the persons taking part in the said proceedings shall be treated in a manner corresponding to the significance and educational purpose of penal proceedings; their persons and their constitutional rights shall be respected and their requests complied with whenever possible."

Section 75 provides: "The security organs shall have the right to arrest a person suspected of having committed a penal offence only if the said person has been apprehended while committing the act. . . . The security organs must at the latest within forty-eight hours hand over the arrested person to the Procurator or set him/her at liberty."

Section 79 provides as follows:

"The accused may be imprisoned only if there are facts sufficiently warranting the fear that:

(*a*) The accused may escape, in particular because it is impossible to determine immediately his identity or address, or in view of the high penalty that may be imposed for the offence he has committed,

(*b*) The accused will seek to influence the witnesses or the co-defendants, or that he will by other means seek to obscure the determination of circumstances relevant to penal prosecution, or

(*c*) The accused will again commit the penal offence for which he was apprehended, or that he will complete the penal offence which he has attempted to commit, or that he will carry out a penal offence which he threatened to commit."

The Act also contains provisions on proceedings against juveniles.

Section 311 provides: "In proceedings against juveniles it is essential to determine as exactly as possible the degree of the juvenile's mental and moral development, his character, his past, the conditions and circumstances in which he lived and was educated, his behaviour after commission of the penal offence and the circumstances decisive for the determination of the means best suited to his re-education, especially with a view to deciding whether the juvenile in question is to be placed under protective education. The ascertainment of the conditions under which the juvenile was living shall as a rule be entrusted to the organ dealing with the welfare of young people."

Under section 312, "a juvenile may be committed to imprisonment only if the purpose of such imprisonment cannot be attained by other means".

Section 313 provides:

"(1) A juvenile must have counsel during the investigation into his case, even if he is in prison.

"(2) In the course of the trial, the appellate proceedings and public trial a juvenile must at all occasions have counsel; any statement on his part that he does not desire counsel shall have no effect."

Section 337, paragraph 2, provides that "the death sentence may not be carried out on a pregnant woman".

Act No. 65/1956 *Sb.* of 19 December 1956 on the Office of the Prosecutor and Act No. 66/1956 *Sb.* of the same date, amending and supplementing the Act

on the Organization of the Courts, No. 66/1952 *Sb.*,[1] guaranteed an even more consistent observance of socialist legality and the mutual control of the security organs, the judiciary and the organs of the prosecution.

Conditions of Work

The purpose of order of the Minister of Health No. 42/1956 *Sb.* of 3 September 1956 on protection of hygienic working conditions was to establish favourable working conditions with respect to health and hygiene and to protect the health of workers while at work and from any ill-effects of their work. The provisions concerning the organization of hygienic and anti-epidemic services are of particular importance in this respect.

Under Act No. 45/1956 *Sb.* of 24 September 1956, on the reduction of working hours, the normal working hours of all employed persons working a maximum of forty-eight hours per week under the previous regulations were reduced to forty-six hours per week without any reduction in wages and salaries.[2]

Holidays with Pay

Legal provision of the Presidium of the National Assembly No. 11/1956 *Sb.* of 12 April 1956 laid down that the provisions of Act No. 3/1954 *Sb.* of 20 January 1954, concerning holidays with pay, shall continue in force in 1956 and 1957. The Act of 1954 had provided that workers whose employment with the same employer or enterprise had lasted at least eleven months without interruption, including at least seventy-five days during 1954, were entitled to a paid holiday of from two to five weeks, depending upon the age of the worker and his length of service and type of employment. The act also included provisions for the calculation of the wages to be paid during the holiday, the rights of seasonal and home workers and changes of employment.

Social Security

The government order on the raising of certain benefits accorded under the pension insurance system, No. 53/1956 *Sb.* of 16 October 1956, provided for an increase in old-age and invalidity pensions arising from the insurance scheme for employed persons; pension benefits amounting to less than 350 crowns monthly were raised by 10 per cent, or to 350 crowns monthly, whichever was the greater. Moreover, widows' pension benefits were raised to at least 280 crowns monthly, and old-age and invalidity pension benefits accorded under insurance schemes other than the insurance scheme for employed persons were also increased in the same way as pension benefits arising from the national insurance scheme. Under the said order the benefits of war veterans and war victims and of the victims of fascist persecution were likewise increased.

The purpose of Act No. 54/1956 *Sb.* of 30 November 1956 on health insurance of employed persons was to provide workers and their families with both protection of their health and security in the event of ill-health and maternity and a further considerable increase of benefits. Besides an improvement of the facilities accorded for treatment in spas, of the selective trade union recreation scheme and of the trade union holiday and recreation scheme for children, the said increase was represented, in particular, by an increase in the financial benefits arising from health insurance, which under the Act amounted to 90 per cent of the average monthly earnings in the case of persons having uninterrupted employment in the same undertaking for more than ten years. Financial assistance in the event of maternity was likewise increased and amounted to 90 per cent of the net daily earnings with respect to women having been employed for more than five years. Family allowances were also increased considerably. Sickness benefits were not to be subject to taxation.[3]

Act No. 55/1956 *Sb.* of 30 November 1956 on social security provided all citizens with considerably improved benefits in the event of incapacity to work and incapacity to earn a livelihood and in old age. The Act provided for a considerable increase in old-age pension benefits and laid down more favourable conditions for the establishment of claims to such benefits. The same applies to invalidity benefits and to pension benefits arising partially from invalidity. Other benefits, such as wives' pension benefits, widows' pension benefits and orphans' pension benefits were likewise raised. Other provisions of the Act concerned pension benefits arising out of sickness, care for disabled persons, the placing of disabled persons in employment and institutional care for such persons.[3]

Government order No. 56/1956 *Sb.* of 18 December 1956 on health and pension insurance of members of unified agricultural co-operatives and on the pension insurance of individual farmers and of other persons operating individual enterprises, related to the old-age benefits, invalidity benefits and benefits partially arising from invalidity, of the persons in the aforesaid categories, and to the pensions of the dependants of such persons in the event of their decease, benefits arising from accidents at work and educational allowances.

The purpose of government order No. 57/1956 *Sb.* of 30 November 1956 on health insurance and old-age insurance of members of production co-operatives was to offer security to the members of production co-operatives in the event of sickness and old age, invalidity and loss of the family's provider. Unless otherwise provided, the insurance of the aforesaid persons was to be governed by the regulations

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

[2] Translations of the Act into English and French appear in International Labour Office: *Legislative Series* 1956 — Cz. 2.

[3] Translations of the Act into English and French appear in International Labour Office: *Legislative Series* 1956 — Cz. 3.

applying to sickness insurance and social security of employed persons.

Act No. 58/1956 *Sb.* of 30 November 1956 on compensation for damage suffered due to accidents at work, payment of treatment expenses and health insurance and pension security in such events, established the responsibility of undertakings, institutions, co-operatives or other enterprises and persons under whose management an employee has suffered damage to his health or death by an accident incurred in direct connexion with the exercise of his profession or as a result of an occupational disease.[1]

Protection of Youth

Under section 3 of government order No. 73/1956 *Sb.* of 14 December 1956, transferring the activities of the Offices for the Protection of Youth from the Ministry of Justice to the executive organs of the national committees, a special centre for the international protection of youth was established at Brno, charged with the protection of the interests of minors abroad and minor foreign nationals in Czechoslovakia.

[1] Translations of the Act into English and French appear in International Labour Office: *Legislative Series* 1956 — Cz. 3.

DENMARK

NOTE[1]

I. LEGISLATION

Old-age Pensions

Act No. 258, of 2 October 1956, has extended the scope of the system of old age pensions by introducing what is called "Folkepension" or universal old-age pension.

This pension is composed of two parts. One part is related to the economic position of the person in question: the higher the income, the smaller the pension to which the person is entitled, and if the income reaches a certain level this part of the pension may not be claimed at all. The minimum age giving right to this part of the pension is sixty years for women and sixty-five years for men, which, however, is to be raised gradually over the next few years to sixty-two and sixty-seven years respectively. This part of the pension is based on the same principles as the previously existing old age pension scheme, but the allowances have been somewhat increased.

The second part is unrelated to the economic position of the persons concerned. Everybody above the age of sixty-seven, irrespective of income and means, is entitled to this part of the pension, the amount of which for a married couple is equivalent to 9 per cent of the average income of the bread-winner.

Every tax-payer contributes 1 per cent of his taxable income to meet the expenses of the State for the above purposes.

The new scheme came into force on 1 April 1957.

II. JUDICIAL DECISIONS

Personal Liberty

The Supreme Court has decided certain cases arising out of the new constitutional and legislative provisions regarding judicial control of administrative deprivation of liberty (cf. *Yearbook on Human Rights for 1953*, pp. 63 and 66 and *Yearbook on Human Rights for 1954*, p. 76).

1. In a judgement of 10 January 1956, the Supreme Court upheld an administrative decision according to which a young girl born in 1936 had been confined to a home for mentally deficient persons. According to a statement of the Medico-Legal Council her mental deficiency was hereditary, and if she was released there would be an obvious risk that she would beget children with a hereditary taint. Because of her insufficient mental development she would not be able to bring up and support children.

As a subsidiary contention on her behalf, it was claimed that she should be left in the care of a private family under the supervision of the home. The Supreme Court found that the manner in which the care of mentally deficient persons was carried into effect, within the limits of the law, was outside the scope of judicial review.

2. Another case concerned a lunatic who had been confined to a mental hospital, but after having assaulted a male nurse was transferred to a special safety ward of the hospital. In a judgement of 8 October 1956 the Supreme Court held that the transfer to this ward was a special measure of deprivation of liberty, essentially different from ordinary confinement in a mental hospital. The legality of this measure could, therefore, be reviewed by the courts of justice. As the court below had held differently and dismissed the complaint, the case was referred back for renewed hearing on the points of substance.

3. A third case concerned a destitute person who had been placed in a public workhouse. As a disciplinary measure for having left the workhouse on a previous occasion he was sentenced to five weeks' hard labour. In its judgement of 9 October 1956 the Supreme Court held that this measure was a special measure of deprivation of liberty, the legality of which was subject to review by the courts of justice. On the substance, it was held that the relevant regulations did not warrant the taking of disciplinary measures with respect to offences committed in connexion with a previous placing in the workhouse.

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

Translations into English and French of an Apprenticeship Act of 1956 (No. 261, dated 2 October 1956) appear in International Labour Office: *Legislative Series* 1956 — Den. 2.

DOMINICAN REPUBLIC

NOTE

Act No. 4033, of 13 January 1955 (*Gaceta oficial* No. 7794, of 22 January 1955), regulated the circulation of magazines and publications for children and adolescents. The Act is summarized in *International Review of Criminal Policy* No. 10, of July 1956 (United Nations publication, Sales No.: 1957.IV.2).

Act No. 4468 of 3 June 1956, amending certain articles of the Trujillo Labour Code [1] (*Gaceta oficial* No. 7993, of 9 June 1956), provided that, with certain exceptions, normal hours of work were not to exceed eight a day and forty-eight a week. Translations of the Act into English and French appear in International Labour Office: *Legislative Series* 1956 — Dom. 1.

Act No. 4471, of 3 June 1956 (*Gaceta oficial* No. 7999, of 28 June 1956), promulgated a comprehensive Code of Public Health, which defined the rights and duties of individuals in matters relating to the protection and restoration of health.

[1] Act No. 2920 of 11 June 1951. See *Yearbook on Human Rights for 1951*, pp. 70–1.

ECUADOR

DECREE PROHIBITING THE DISMISSAL OF OR THE GIVING OF NOTICE TO WORKERS BETWEEN THE TIME OF NOTIFICATION OF THEIR INTENTION TO ESTABLISH, AND THE TIME OF ESTABLISHMENT OF, A TRADE UNION OR WORKS COUNCIL

of 7 November 1955 [1]

The Congress of the Republic of Ecuador,

Considering:

That it is the duty of the State to protect the development of trade union bodies by every means in its power;

That in practice many employers or entrepreneurs have succeeded in preventing the establishment and organization of such bodies, thus impeding the normal development of trade unionism in the country; and

That article 185, paragraph (g), of the Political Constitution of the Republic fully guarantees the right of employers and workers to form unions for purposes of professional advancement,[2]

HEREBY DECREES AS FOLLOWS:

Art. 1. Save as otherwise provided in article 107 of the Labour Code, no employer may give notice to or dismiss any of his workers between such time as they notify the labour inspector concerned that they have convened a general meeting in order to form a trade union, works council or any other workers' organization and such time as the first managing committee of the said organization is formed.

Art. 2. The discussion and approval of the by-laws of a workers' organization and of the rules of its first managing committee must be completed within thirty days from the date of notification of the labour inspector unless the Ministry of Social Welfare and Labour fails to approve the said by-laws and rules within such period. In that event the period of protection shall be extended by not more than five days beyond the date of approval of the by-laws and rules.

Art. 3. The labour inspector shall, within twenty-four hours after receiving the notification referred to in article 1, communicate it to the employer for information only.

Art. 4. Any employer who contravenes the provisions of this law shall pay the worker who has been given notice or dismissed compensation equal to one year's wages or salary.

Art. 5. All provisions contrary to this law are hereby repealed. This law shall enter into force on the date of its publication in the *Registro Oficial.*

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[1] Published in *Registro Oficial* No. 1003, of 24 December 1955. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1946*, p. 95.

EGYPT

NOTE[1]

Constitution of the Republic of Egypt of 1956

Extracts from the Constitution of the Republic of Egypt, which entered into force on 24 June 1956, appear below.

Prison Management

Act No. 396, of 29 November 1956, concerning the management of prisons (*Official Journal* No. 96 *bis* B, of 29 November 1956), dealt in particular with the classification, operation and organization of prisons, the reception and classification of prisoners, their work, payment and education, medical care, visits and correspondence, disciplinary measures, the release of persons, conditional release and the execution of capital punishment.[2]

Holidays with Pay

A decree of the Council of Ministers of 8 February 1956 (*Legislative Bulletin* for February 1956) ratified International Labour Convention No. 101, concerning holidays with pay in agriculture.

Right to Education

Act No. 213, of 16 May 1956, concerning primary education (*Official Journal* No. 39 *bis* C, of 20 May 1956) repealed and replaced Act No. 210, of 3 May 1953.[3] It confirmed that primary education is compulsory for children from the age of six. The child's father or guardian was to bear the obligation imposed by the Act, and penalties were laid down for failure to fulfil it. Sick or handicapped children were to be exempted from primary education, unless there were primary schools for handicapped children which offered sufficient facilities for all the handicapped children of the locality.

Compulsory education was to be given in primary governmental schools, but children might receive their education in private schools provided that the instruction given was equal to that of the primary governmental schools and that the competent educational authority in the locality was notified before the beginning of the school year.

Compulsory education was to be enforced in localities where, in the judgement of the Minister of Education, there were sufficient primary schools. In other localities it was to be enforced only with regard to children already having commenced their school education. Compulsory education was not to apply to children residing more than two kilometres from the nearest primary school.

Compulsory education in the government schools was to be free. Primary schooling was to last six years. Subjects to be taught included the Koran and religion. Non-Moslems were exempted from studying the Koran, and special lessons were to be arranged to instruct them in their own religion.

Corporal punishment was prohibited.

Act No. 22, of 25 January 1956 (*Official Journal* No. 9 *bis* A, of 30 January 1956), Act No. 261, of 16 June 1956 (*Official Journal* No. 48 *bis*, of 20 June 1956), and Act No. 262, of 16 June 1956 (ibid), dealt respectively with industrial education, commercial education and agricultural education in Egypt. Act No. 345, of 18 September 1956 (*Official Journal* No. 76 *bis*, of 20 September 1956), governed the four Egyptian universities.

Other Legislative Developments

Extracts appear below from the decree promulgating Act No. 391 on Egyptian nationality, from Act No. 179 on civil defence, from Act No. 73 on the exercise of political rights and from Act No. 246 concerning the membership of the National Assembly.

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[1] Note based on texts and information kindly furnished by Mr. Adel El Tahri, Délégué au Conseil d'Etat, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] The amendment to legislative decree No. 180, of 29 December 1949, which was made by Act No. 57, of 2 February 1955 (see *Yearbook on Human Rights for 1955*, p. 61), was incorporated into Act No. 396, of 29 November 1956.

[3] See *Yearbook on Human Rights for 1954*, p. 80.

CONSTITUTION OF THE REPUBLIC OF EGYPT

Entered into force on 24 June 1956 [1]

PART II. — BASIC CONSTITUENTS OF EGYPTIAN SOCIETY

. . .

Art. 5. The family is the fundamental unit of society and is based on religion, morality and patriotism.

Art. 6. The State shall guarantee freedom, security, safety and equality of opportunity for all Egyptians.

Art. 7. The national economy shall be organized in accordance with plans which take into account the principles of social justice and which aim at increasing production and raising the standard of living.

. . .

Art. 11. The right of private ownership shall be guaranteed, and its social function shall be regulated by law. Property may not be expropriated except in the public interest and subject to payment of fair compensation according to law.

Art. 12. The maximum area of agricultural land that may be owned shall be determined by law in such a manner as to prevent the establishment of feudalism.

Aliens may not own agricultural land except in the cases prescribed by law.

. . .

Art. 17. The State shall endeavour to secure a decent standard of living for all citizens based on the provision of food, housing and health, cultural and social services.

Art. 18. The State shall be responsible according to law for the preservation of the family and for mother and child welfare.

Art. 19. The State shall make it possible for women to reconcile their public activities with their family duties.

Art. 20. The State shall protect young persons against exploitation and moral, physical and spiritual neglect.

Art. 21. Egyptians shall be entitled to assistance in their old age and in case of sickness and inability to work.

The State shall provide social insurance, social welfare and public health services and expand them gradually.

. . .

PART III. — RIGHTS AND DUTIES

Art. 30. Egyptian nationality is determined by law.

No Egyptian may be deprived of or be permitted to change his nationality, nor may nationality once acquired be withdrawn, except within the limits prescribed by law.

Art. 31. All Egyptians are equal before the law. They have equal rights and duties without distinction as to race, origin, language, religion or creed.

Art. 32. There is neither crime nor penalty except under law. An act shall not be punishable except under a law previously enacted.

Art. 33. Punishment shall be imposed only on the offender.

Art. 34. No person may be arrested or imprisoned except in accordance with law.

Art. 35. The right of a person to defend himself or to be defended by a representative shall be guaranteed by law.

Art. 36. Every person accused of a serious crime shall be represented by counsel.

Art. 37. No physical or moral injury may be inflicted on an accused person.

Art. 38. An Egyptian may not be expelled from or prevented from returning to the territory of Egypt.

Art. 39. An Egyptian may not be prohibited from residing in a particular locality or be compelled to reside in a specified place except in the cases prescribed by law.

Art. 40. The extradition of political refugees shall be prohibited.

Art. 41. A person's dwelling shall be inviolable and may not be placed under surveillance or entered except in the cases and in accordance with the procedure prescribed by law.

Art. 42. The freedom and privacy of correspondence shall be guaranteed within the limits of the law.

Art. 43. Freedom of religious belief shall be complete. The State shall protect the free practice of religions and beliefs in accordance with the established usage in Egypt, provided that this is not prejudicial to public order and morality.

Art. 44. Freedom of opinion and scientific inquiry shall be guaranteed. Every person has the right to express his opinion orally, in writing, pictorially or otherwise, within the limits of the law.

Art. 45. Freedom of the press, printing and publication shall be guaranteed in accordance with the public interest and within the limits of the law.

Art. 46. Egyptians shall have the right of peaceful assembly without arms; previous notice of meetings need not be given and police officers may not attend.

[1] Translation by the United Nations Secretariat from the official printed text.

Public meetings, processions and assemblies shall be permitted within the limits of the law, provided that the purposes and the conduct of the meeting are peaceful and are not prejudicial to public morality.

Art. 47. Egyptians shall have the right to form associations in accordance with the law.

Art. 48. Education shall be free within the limits defined by law, public order and morality.

Art. 49. Every Egyptian has the right to education, for which the State shall provide by establishing and gradually expanding a system of schools and cultural and educational institutions of all kinds.

The State shall attach special importance to the physical, intellectual and moral development of young persons.

Art. 50. The State shall supervise public education, which shall be regulated by law.

Throughout its various stages in state schools, education shall be free of charge within the limits of the law.

Art. 51. Primary education shall be compulsory and provided free of charge in State schools.

Art. 52. Every Egyptian has the right to work, and the State shall endeavour to make that right effective.

Art. 53. The State shall guarantee fair treatment for Egyptians according to the work they perform, by limiting the number of working hours, fixing wage-scales, providing insurance against accidents and making arrangements to give effect to the right to leisure and holidays.

Art. 54. Relations between workers and employers shall be regulated by law on an economic basis subject to observance of the principles of social justice.

Art. 55. The right to establish trade unions shall be guaranteed; trade unions shall have juridical personality, as prescribed by law.

Art. 56. Every Egyptian has the right to medical care; the State shall make that right effective by establishing and gradually expanding a system of hospitals and health centres of all kinds.

Art. 57. General confiscation of property shall be prohibited; the penalty of confiscation may not be imposed except by order of a court.

Art. 58. The defence of the country is a sacred obligation and the performance of military service an honour for all Egyptians; conscription is compulsory in accordance with law.

Art. 59. The payment of taxes and public levies is a duty according to law.

Exemption from taxation of small-income groups shall be regulated by law, with a view to guaranteeing the maintenance of the minimum standard of living.

Art. 60. It is the duty of every Egyptian to observe public order and respect public morality.

Art. 61. Every Egyptian has the right to vote, as prescribed by law.

Participation in public life is a patriotic duty.

Art. 62. Egyptians may submit petitions in writing to the authorities, provided they are duly signed. Only constituted bodies and bodies corporate have the right to address collective petitions.

Art. 63. Egyptians shall have the right to address complaints to any state institution regarding contraventions of the law or failure to perform their duties by public officials.

PART IV. — THE PUBLIC AUTHORITIES

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CHAPTER II. — THE LEGISLATIVE POWER

. . .

Art. 67. The National Assembly shall be composed of members elected by secret ballot in public elections.

The number of members, the qualifications for membership, and the electoral procedure and provisions shall be determined by law.

Art. 68. A member of the National Assembly may not be less than thirty years of age (Gregorian) on the date of the election.

. . .

Art. 94. Public taxes may not be levied, modified or abolished except by virtue of a law. No person shall be exempted from the payment of taxes except in the cases determined by law.

No person may be required to pay any other taxes or dues except within the limits of the law.

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Art. 114. Membership in the National Assembly shall be incompatible with the holding of public office.

Other cases of incompatibility shall be defined by law.

. . .

CHAPTER III. — THE EXECUTIVE POWER

. . .

Section I. — The President of the Republic

Art. 120. — A person shall not be elected President of the Republic unless he is an Egyptian, born of Egyptian parents and having Egyptian grandparents. He shall be in enjoyment of his civil and political rights, shall not be less than thirty-five years of age (Gregorian), and shall not be related to the dynasty that formerly ruled Egypt.

. . .

Section II. — Ministers

. . .

Art. 149. No person may be appointed a Minister unless he is an Egyptian, not less than thirty years

of age (Gregorian) and in enjoyment of his full civil and political rights.

. . .

Art. 155. Ministers and deputy-ministers may be members of the National Assembly.

. . .

CHAPTER IV. — THE JUDICIAL POWER

Art. 175. Judges are independent; the only authority above them in the administration of justice is the law. No authority may interfere in judicial proceedings or in the affairs of justice.

. . .

Art. 177. Courts shall sit in public, unless a court decides to sit *in camera* for the preservation of public order and morality.

. . .

Art. 179. Judges shall be irremovable, as prescribed by law.

Art. 180. The conditions governing the appointment and transfer of judges and disciplinary action against them shall be prescribed by law.

. . .

PART V. — GENERAL PROVISIONS

. . .

Art. 186. Laws shall have effect only from the date of their enactment and shall not have retroactive effect. Nevertheless, in all but criminal matters, a law may provide to the contrary, subject to the approval of the majority of members of the National Assembly.

. . .

PART VI. — TRANSITIONAL AND FINAL PROVISIONS

Art. 192. The people shall constitute a National Union to work for the achievement of the aims of the revolution and to spur all efforts to build the nation on a sound political, social and economic basis.

The National Union shall nominate candidates for membership in the National Assembly.

The President of the Republic shall determine by decree the manner in which the National Union shall be constituted.

. . .

EGYPTIAN NATIONALITY ACT, No. 391 OF 1956 [1]

Art. 1. The following persons shall be Egyptian nationals:

(1) Persons who established themselves in Egyptian territory before 1 January 1900, have maintained their residence therein up to the date of promulgation of this Act, and are not nationals of a foreign State.

The period of residence of the ascendants shall be deemed to complete that of the descendants and of the spouse, provided that the intention to reside is maintained.

The benefit of this provision shall not extend:

(*a*) To Zionists;

(*b*) To persons convicted of an offence described in the judgement as reflecting on their loyalty to the country or implying treason.

(2) The persons referred to in article 1 of Act No. 160 of 1950 . . .,[2] provided that applications for certificates of Egyptian nationality shall not be accepted from the persons referred to in paragraph (1) of that article after the expiry of one year from the date of the entry into force of this Act or, in the case of minors, after the expiry of one year from the time they attained their majority.

The certification of Egyptian nationality under this article shall cover minor children and a wife who married before the entry into force of Act No. 160 of 1950.

The terms of this article shall not apply to persons previously deprived of Egyptian nationality.

Art. 2. The following persons shall be Egyptian nationals:

(1) Any child born of an Egyptian father;

(2) Any child born in Egyptian territory of an Egyptian mother and a father whose nationality is not known or who is stateless;

(3) Any child born in Egyptian territory of an Egyptian mother and the identity of whose father is not legally established;

(4) Any child born in Egyptian territory of unknown parents. Any child found in Egyptian territory shall be presumed to have been born in Egypt, barring proof to the contrary.

The provisions of paragraphs (2), (3) and (4) shall apply even in the case of children born before the date of the entry into force of this Act.

Art. 3. Any person born abroad of an Egyptian mother and an unknown or stateless father may, by an order of the Minister of the Interior, be deemed to be an Egyptian national if within one year from the date on which he attained his majority he had opted for Egyptian nationality, provided that he has

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[1] Published in *Official Journal* No. 93 *bis* A, of 20 November 1956. Translation by the United Nations Secretariat.

[2] See United Nations Legislative Series: *Laws Concerning Nationality* (United Nations publication. Sales No.: 1954. V. 1), pp. 136–7.

ordinarily been resident in the republic of Egypt for a period of not less than five consecutive years before attaining his majority.

Art. 4. Egyptian nationality may be granted by an order of the Minister of the Interior to any alien born in the republic of Egypt, provided that:

(1) He has applied for Egyptian nationality within one year from the date on which he attained his majority;

(2) He is ordinarily resident in the republic of Egypt at the time of attaining his majority;

(3) He is of sound mind and does not suffer from any infirmity that would make him a burden on society;

(4) He is of good conduct and repute and has not been convicted of a criminal offence or sentenced to deprivation of liberty for an offence involving loss of civil rights, unless his rights have been restored to him;

(5) He knows the Arabic language.

Art. 5. Egyptian nationality may be granted by an order of the Minister of the Interior to any alien, provided that:

(1) He has attained his majority;

(2) He is of sound mind and does not suffer from any infirmity that would make him a burden on society;

(3) He has ordinarily been resident in the republic of Egypt for a period of not less than ten consecutive years prior to his application for naturalization;

(4) He is of good conduct and repute and has not been convicted of a criminal offence or sentenced to deprivation of liberty for an offence involving loss of civil rights, unless his rights have been restored to him;

(5) He has lawful means of livelihood;

(6) He knows the Arabic language.

Art. 6. Egyptian nationality may be granted by an order of the Minister of the Interior to any alien who fulfils the conditions prescribed in the foregoing article if he has been authorized by the Minister of the Interior to take up residence in the republic of Egypt with a view to naturalization and has in fact resided there for a period of five consecutive years after the authorization was granted. The effect of the authorization shall lapse if the alien fails to apply for naturalization within the three months following the expiry of the said period.

If the person authorized as aforesaid dies before Egyptian nationality has been granted to him, his wife and minor children at the time the authorization was issued shall have the benefit of the said authorization and of the deceased person's period of residence.

Art. 7. Egyptian nationality may be granted by a law to an alien who does not fulfil the conditions prescribed in article 5, if he has rendered outstanding services to the State, and by a decree of the President of the republic to the heads of the Egyptian religious communities.

Art. 8. The acquisition of Egyptian nationality by an alien shall not automatically confer that nationality on his wife unless she declares her desire to acquire it and notifies the Minister of the Interior to that effect, and provided that she has lived with her husband for a period of two years from the date of the notice.

Nevertheless, the Minister of the Interior may, by an order made before the expiry of the two-year period and accompanied by a statement of his reasons, deny the wife the right to acquire Egyptian nationality.

The former alien's minor children shall be deemed to be Egyptian nationals unless they are ordinarily resident abroad and unless, under the laws of the country in which they reside, they retain their father's original nationality. Children whose nationality has been established in accordance with the foregoing provisions may, in the year after they attain their majority, opt for their original nationality.

Art. 9. An alien woman who marries an Egyptian national shall not acquire Egyptian nationality unless she notifies the Minister of the Interior of her desire to do so and has lived with her husband for a period of two years from the date of the notice.

Nevertheless, the Minister of the Interior may, by an order made before the expiry of the period specified in the foregoing paragraph and accompanied by a statement of his reasons, deny the wife the right to acquire Egyptian nationality.

Art. 10. An alien wife who acquires Egyptian nationality in accordance with the provisions of articles 8 and 9 shall not lose it when the marriage is dissolved unless she should marry an alien and acquire his nationality in pursuance of the law governing that nationality or ordinarily reside abroad or unless she should recover her foreign nationality.

Art. 11. An alien who acquires Egyptian nationality under the terms of articles 3, 4, 5, 6, 8, 9 and 10 shall not enjoy the rights of Egyptian nationals or exercise their political rights until five years after the date of his naturalization.

Furthermore, he shall not be elected or appointed a member of any representative body until ten years after that date.

Members of the non-Moslem religious communities to be designated by decree of the President of the republic shall be exempted from the five-year time limitation prescribed in the first paragraph of this article in so far as concerns the exercise of their rights with regard to elections to and membership in their respective milli [congregational] councils.

Any person who has enlisted in the Egyptian military forces and has fought in its ranks may, by an order

of the Minister of the Interior, be exempted from both the aforesaid time limitations.

Art. 12. No Egyptian national may acquire a foreign nationality without prior authorization granted by an order of the Minister of the Interior.

Any Egyptian national who acquires a foreign nationality without obtaining the said prior authorization shall continue to be considered an Egyptian national in all respects and in all cases, unless the Egyptian Government decides to deprive him of Egyptian nationality under the terms of article 18.

Art. 13. The wife of an Egyptian national who, being duly authorized, acquires a foreign nationality shall lose her Egyptian nationality if she assumes her husband's nationality under the law governing the new nationality, unless within one year from the date on which her husband acquires the foreign nationality she declares her desire to retain her Egyptian nationality.

Minor children shall lose their Egyptian nationality if as a result of their father's change of nationality and in pursuance of the law governing his new nationality they assume the nationality of the father.

Children whose nationality has been established in virtue of the foregoing provisions may, in the year after they have attained their majority, opt for their original nationality.

Art. 14. An Egyptian woman who marries an alien shall retain her Egyptian nationality unless, when the marriage is performed or during her married life, she declares her desire to acquire her husband's nationality in accordance with the law of his country.

If the marriage of an Egyptian woman and an alien is not recognized by Egyptian law and is valid according to the law of the country of the husband, the woman shall continue to be an Egyptian national and shall be deemed never to have acquired her husband's nationality.

Art. 15. An Egyptian woman who has lost her Egyptian nationality pursuant to articles 13 and 14 may recover her Egyptian nationality on the dissolution of her marriage at her own request and with the approval of the Minister of the Interior.

Art. 16. An Egyptian woman who has married an alien and has lost her Egyptian nationality before the entry into force of this Act may, though living with her husband, recover her original nationality on an application made within one year from the date on which this Act comes into force and with the approval of the Minister of the Interior.

Art. 17. Egyptian nationality may, by an order of the Minister of the Interior accompanied by a statement of his reasons, be withdrawn from any person who has acquired it, within five years from the date of such acquisition, if

(*a*) He has acquired Egyptian nationality by means of false declaration, by fraud or as the result of an error;

(*b*) He has been convicted in the Republic of Egypt of a criminal offence or sentenced to deprivation of liberty for an offence involving loss of civil rights;

(*c*) He has been convicted by a court of one of the offences specified in titles I and II of book II of the Penal Code;

(*d*) He has interrupted his residence in the Republic of Egypt for a period of two consecutive years without an excuse acceptable to the Minister of the Interior.

Art. 18. Any Egyptian national may be deprived of his nationality by an order of the Minsiter of the Interior accompanied by a statement of his reasons, if

(*a*) He has acquired a foreign nationality contrary to the provisions of article 12;

(*b*) He has consented to perform military service for a foreign State without prior authorization granted by the Minister of War;

(*c*) He has engaged in activities for the benefit of a foreign State or government which is in a state of war with the Republic of Egypt or with which diplomatic relations have been severed;

(*d*) He has accepted a post abroad in the service of a foreign government or a foreign or international organization and retains that post despite an order from the Egyptian Government to resign from it;

(*e*) He has his ordinary place of residence abroad and has joined a foreign organization which has the object of attempting to undermine the social or economic order of the State by any means whatsoever;

(*f*) He has received a definitive conviction in respect of an offence under Act No. 32 of 1956, which requires Egyptians to obtain permission to work for a foreign organization;

(*g*) He falls at any time whatsoever within either of the categories specified at the end of paragraph (1) of article 1.

Art. 19. Any Egyptian national who leaves the republic of Egypt with the intention of not returning may, if he is absent abroad for a period exceeding six months, be deprived of Egyptian nationality by an order of the Minister of the Interior for reasons considered sufficiently grave by the Minister. In the case of persons who have left the republic of Egypt before the entry into force of this Act, the said period of six months shall begin on the day following the date of its entry into force.

Art. 20. Withdrawal of Egyptian nationality from a person in the cases specified in article 17 shall entail the loss of that nationality.

Such loss may, by an order of the Minister of the Interior, be extended to any person who acquired Egyptian nationality through the naturalization of the person above mentioned.

Deprivation of Egyptian nationality in the cases specified in article 18 shall entail the loss of that nationality only by the person so deprived.

Deprivation of nationality in the case specified in article 19 shall also entail the loss of nationality by the wife and minor children of the person concerned who leave the country with him.

Art. 21. Egyptian nationality may be restored, by an order of the Minister of the Interior, to any person from whom it has been withdrawn or who has been deprived thereof pursuant to articles 17, 18, 19 and 20.

Art. 22. In the absence of provisions to the contrary, the acquisition, withdrawal, deprivation or recovery of Egyptian nationality shall not have retroactive effect.

. . .

Art. 26. The provisions of any international agreements or treaties relating to nationality concluded between the republic of Egypt and foreign States shall be carried out, even if they are contrary to the terms of this Act.

. . .

CIVIL DEFENCE ACT, No. 179 OF 1956 [1]

Art. 5. . . .

The Minister [of the Interior] shall also determine by decree the measures to be taken by the owners or proprietors of educational or charitable establishments, public premises, places of entertainment, commercial and industrial premises, dwellings containing more than one apartment, or other property or premises which by reason of their nature or importance or the use to which they are put require special protection. Such property or premises shall be designated by ministerial decree.

. . .

Art. 9. The owners or proprietors of the property or premises referred to in article 5 shall, at their own expense and within the time-limits specified, carry out the work ordered by decree with respect to the property in question, provided that the cost of the work so ordered shall not exceed 5 per cent of the value of the property computed at twenty times the annual rental value taken as the basis for the Buildings Tax assessment or, in districts in which this tax is not imposed, the actual annual rental.

The owner or proprietor of the property or premises concerned may, within the fifteen days following the date on which notice of the decree is served, lodge an appeal with a committee to be constituted in accordance with an order to be made by the Minister of the Interior. The Committee's decision shall be final.

Art. 10. If the owner or proprietor of the property or premises fails to carry out the work imposed under the decree referred to in the foregoing article, after the final decision of the committee aforesaid, the administrative authorities may have the work carried out at his expense. If he proves that it was impossible for him to carry out the work, the cost thereof shall be recovered from him in five equal annual instalments.

Art. 11. Provision may be made in the building permits to be granted under the Buildings Act for civil defence works to be carried out by the permit-holder and for special premises to be adapted for use as public shelters in case of need.

The State shall defray the cost of preparing these shelters and shall compensate the owner or proprietor for any depreciation of the value of the property caused thereby.

The owner or proprietor of the property referred to in the foregoing paragraph shall have the premises designated to serve as public shelters evacuated and the occupants of the premises shall evacuate them, when instructed to do so by the competent authorities.

Art. 13. The Minister of the Interior may by decree compel the owner of any unoccupied property or land to permit the competent authorities to carry out civil defence works on his property. Notice of the decree shall be served on the owner of the property through the administrative channel and the decree shall be published in the official journal. The decree shall become final on publication and shall produce the same effect as an instrument establishing a real right.

The owner shall receive compensation for any damage caused to his property as a result of the works referred to in the foregoing paragraph. In the event of a dispute concerning this compensation, he may have recourse to the court within whose jurisdiction the property is situated.

Art. 14. The Minister of the Interior may by decree requisition the necessary property or premises with a view to the installation of public shelters, refuges for emigrants and refugees, hospitals, and relief and medical-care centres. The owner of the property or premises shall receive compensation for any resulting depreciation of its value. In the event of a dispute concerning this compensation, he may have recourse to the court within whose jurisdiction the property is situated.

. . .

[1] Published in *Official Journal* No. 34 *bis* A, of 29 April 1956. Translation by the United Nations Secretariat.

ACT TO ORGANIZE THE EXERCISE OF POLITICAL RIGHTS
No. 73 of 1956 [1]

PART I

POLITICAL RIGHTS AND THE EXERCISE THEREOF

Art. 1. Every Egyptian man and woman who has attained the age of eighteen years (Gregorian) shall personally exercise the following political rights:

(1) The right to vote in any referendum held in accordance with the Constitution;

(2) The right to vote in any referendum held to elect the President of the Republic;

(3) The right to elect the members of the National Assembly.

The above-mentioned rights shall be exercised in the manner and under the conditions prescribed in this Act.

Art. 2. The following persons shall be barred from the exercise of political rights:

(1) Persons who have been sentenced for a criminal offence, unless their rights have been restored to them;

(2) Persons who have been sentenced to imprisonment for theft, receiving stolen property, fraud, issuing cheques without funds, breach of trust, illegal exaction, bribery, fraudulent bankruptcy, forgery or use of forged instruments, perjury, suborning of witnesses, indecent assault, corrupting the morals of minors, or vagrancy, or for offences committed for the purpose of evading military service, and persons sentenced for attempting to commit any of the offences aforesaid or sentenced to imprisonment for one of the electoral offences specified in articles 40, 41, 42, 44, 45, 46, 47, 48 and 49, unless the execution of the sentence has been suspended or the offenders have had their rights restored to them;

(3) Persons dismissed from a public office as a disciplinary measure for reasons involving civil degradation, unless five years have elapsed since the date of their final dismissal;

(4) Persons who have been deprived of a trusteeship or guardianship because of misconduct or misappropriation or who have forfeited their parental authority, unless five years have elapsed since the date of the final judgement of deprivation or forfeiture;

(5) Persons who have been deprived of their political or civil rights.

Art. 3. The exercise of political rights shall be suspended in the case of:

(1) Persons placed under a disability, for the duration of such disability;

(2) Persons confined as of unsound mind, for the duration of such confinement;

(3) Persons who have been declared bankrupt, for a period of five years as from the date of the bankruptcy order, unless their civil rights have been restored to them before then.

PART II

ELECTORAL REGISTERS

Art. 4. The name of every male person who is in enjoyment of his political rights and of every female person who personally applies for registration shall be entered in the electoral registers. Nevertheless, persons who acquired Egyptian nationality by naturalization shall not be registered unless at least five years have elapsed since their naturalization.

Art. 5. Electoral registers shall be prepared containing the names of all persons who, on 1 December of each year, qualify as electors and to whose exercise of political rights there are no impediments. These registers shall be publicly displayed from 1 January to 31 January of each year at the places and in the manner prescribed in the Regulations to give effect to this Act.

. . .

Art. 9. No elector may be registered in more than one electoral register.

. . .

Art. 13. The electoral domicile of members of the armed forces on active service shall be deemed to be the last place in which they habitually resided before their enlistment. The electoral domicile of officers shall be the place of residence of their family; nevertheless, they may choose for purposes of registration the place in which they have important interests.

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PART III

ARRANGEMENTS FOR REFERENDUM AND ELECTIONS

. . .

Art. 30. No elector may vote more than once in a single election or referendum.

. . .

PART IV

ELECTORAL OFFENCES

Art. 39. If any person whose name is entered in the electoral register fails to vote in an election or referendum without a valid excuse, he shall be liable

[1] Published in *Official Journal* No. 18 *bis* A, of 4 March 1956. Translation by the United Nations Secretariat.

to a fine not exceeding 100 piastres. Any person employed in government service whose duties on the day of the election or referendum prevented him from exercising the political rights in question shall be considered excused.

Sickness and absence on a journey outside Egypt shall also be considered valid excuses.

. . .

Art. 42. Any person who publishes or disseminates false statements concerning the subject of a referendum or the conduct or character of a candidate for the purpose of affecting the result of the referendum or election or who spreads false reports for the same purpose shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds.

If the said statements or reports are disseminated at a time when the electors are unable to determine the truth, the penalty shall be doubled.

The above penalties shall be without prejudice to any heavier penalty prescribed by law.

. . .

Art. 46. Any person who by the use of force or threats violates the freedom of an election or referendum or interferes with the conduct thereof shall be liable to the penalties prescribed in the foregoing article [imprisonment or a fine not exceeding 200 pounds].

. . .

Art. 49. The attempt to commit any of the offences specified in this Act shall be punishable with the penalty prescribed for the actual commission of the offence.

. . .

NATIONAL ASSEMBLY MEMBERSHIP ACT No. 246 of 1956 [1]

II. CANDIDATURE AND ELECTION

Art. 3. A candidate for election to the National Assembly shall:

(1) Be an Egyptian national. If he acquired Egyptian nationality by naturalization, not less than ten years shall have elapsed since his naturalization;

(2) Be listed in one of the electoral registers;

(3) Be able to read and write well;

(4) Not be less than thirty years of age (Gregorian) on the date of the election;

(5) Not be related to the dynasty that formerly ruled in Egypt.

Art. 4. Members of the judiciary or of the Public Prosecutor's Department and police officers and subordinate officers may not stand as candidates for election until they have resigned their posts; resignation shall be deemed to have been accepted on the date of its submission.

Similarly, officers and non-commissioned officers of the armed forces may not stand as candidates for election until their resignations have been accepted.

. . .

Art. 11. A person may not stand for election in more than two electoral districts.

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Art. 15. If a candidate is elected in more than one electoral district, he shall, eight days after the confirmation of his election, declare in the Assembly which district he wishes to represent. If he fails to do so, the Assembly shall proceed, by drawing lots, to determine the district in which a new election shall be held.

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IV. PLURALITY OF OFFICES

Art. 22. Membership in the National Assembly shall be incompatible with the holding of any public office.

For the purpose of this Act, a public office shall be deemed to be any office the holder of which receives a salary or periodic emoluments payable out of public funds. This category shall include officials and employees of the councils representing the administrative authorities, officials and employees of the Ministry of Religious Endowments [awqaf], village elders [omdehs] and sheikhs.

Membership in the National Assembly shall also be incompatible with membership in the councils representing the administrative authorities or in the committees of village elders or sheikhs.

Art. 23. Any public official or any member of a council representing an administrative authority or of a committee of village elders or sheiks who becomes a member of the National Assembly shall provisionally resign the functions of his office or his functions as a member of the council or committee aforesaid on assuming his functions in the National Assembly.

The member shall be deemed to have resigned his office or his functions as a member of the council or committee aforesaid definitively on the confirmation of his membership in the National Assembly. If he accepts his membership, the official or employee may then submit a claim for a pension or indemnity as the case may be.

[1] Published in *Official Journal* No. 46 *bis* A, of 12 June 1956. Translation by the United Nations Secretariat.

Pending his final resignation from office, the member shall receive only his emoluments as a member of the Assembly.

Art. 24. No member of the National Assembly may be appointed to the board of a limited company during his term of office unless he is one of the founding members of the company or owns a number of shares in the company equal to not less than 10 per cent of its capital or was a member of the board of the company before his election to membership in the National Assembly.

Similarly, no member of the National Assembly may, during his term of office, be appointed managing director of a limited company unless he was acting in that capacity at the time of his election to the National Assembly.

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EL SALVADOR

NOTE

Decree No. 2093, of 18 April 1956 (*Diario Oficial* No. 83, of 7 May 1956), amending decree No. 353 of 21 August 1951, promulgating that Act relating to industrial associations,[1] *inter alia*, laid down and regulated the right of a member of such an association to withdraw from that association. Translations into English and French of decree No. 2093 in its entirety appear in International Labour Office: *Legislative Series* 1956 — Sal. 1.

Decree No. 2117, of 31 May 1956 (ibid. No. 110, of 13 June 1956), promulgated an Act relating to occupational safety and health, which defined, *inter alia*, the obligations of employers and workers and the duties of the National Department of Social Welfare as regards such safety and health. Translations of the decree into English and French appear in International Labour Office: *Legislative Series* 1956 — Sal. 3.

Decree No. 2118, of 24 May 1956 (ibid. No. 115, of 20 June 1956) promulgated an Act relating to employment injuries, which defined and regulated the liability of employers towards their employees in respect of industrial accidents and occupational diseases. Translations into English and French of decree No. 2118 appear in International Labour Office: *Legislative Series* 1956 — Sal. 2.

[1] See *Yearbook on Human Rights for 1951*, p. 319.

FINLAND

NOTE[1]

I. LEGISLATION

1. According to Act No. 10, of 5 January 1956, on measures for safeguarding employment (*Suomen Asetuskokoelma*, hereinafter referred to as *AsK*—Official Gazette of Finland—No. 10/1956), the Government is entitled to require the communes to take measures aimed at preventing or reducing unemployment and to establish in what proportion the communes are to share in the resulting expense.

2. The Sailors' Pension Act No. 72 of 26 January 1956 (*AsK* No. 72/1956), insures against old age and unemployment sailors employed in Finnish merchant ships engaged in foreign trade, in salvage or fishing vessels used for profit and in icebreakers, other than harbour icebreakers.

The Act does not apply to persons who are entitled to a pension by virtue of the Civil Servants Pension Act of 30 September 1950 or who are employed in a fishing boat which is not operating outside the Baltic Sea.

This insurance scheme is administered by the Sailors' Pension Fund.

The insured person and his employer are obliged to pay an equal premium to the fund. The amount of the premium is established by the Ministry of Social Affairs in a certain proportion to the wages.

The State is to pay one-third of the expenses of the fund.

An insured person has the right to an old-age pension when he has reached sixty years of age if he belongs to the rank and file and sixty-five years of age if he is an officer. If the working relationship of an insured person has come to an end before the said age, he is entitled to an old-age pension if he has paid premiums for a certain minimum of time fixed by the Act.

An insured person is entitled to a disability pension if his earning power has, because of illness, incapacity or injury, diminished by at least one-third of what a sailor in a corresponding position is earning provided that he has been seized with the illness, incapacity or injury during the time when he has been bound to pay premiums to the fund and that his condition is permanent or has lasted continuously for six months.

The governing bodies of the fund are an administrative board and a board of commissioners. The former consists of five members, appointed by the Ministry of Social Affairs for a term of three years. Each member has a substitute. The president of the board represents the State. The shipowners and the sailors are each represented by two members. Of the representatives of the sailors, one is to represent the officers and the other the rank and file. The candidates for those representatives are to be nominated by appropriate organizations.

The Board of Commissioners consists of fifteen members and their substitutes, also appointed by the Ministry of Social Affairs. Two of the members represent the Ministry, and one member represents the Ministry of Commerce and Industry. The shipowners and the sailors are each represented by six members nominated by appropriate organizations.[2]

3. The Relief Act No. 116, of 17 February 1956 (*AsK* No. 116/1956). In Finland, as in many other countries, aid to the poor was originally the province of the church. The Church Act of 1571 and later church laws, ordinances and decrees prescribed care for paupers in hospitals and almshouses to be maintained by the parishes and contained rules for the collection and distribution of means for aid to the poor under the supervision of the clergy. As late as 1852, when a decree for the joint guardianship of paupers came into force, such aid was still administered by the parish congregations, and it did not pass to the local government authorities until the following decade.

The said decree of 1852 entitled to subsistence every member of a parish in want because of a lack of means of livelihood; the able-bodied, however, only in return for work. The growth of the burden of such aid led, under the influence of the economic liberalism that prevailed during the next few decades, to the promulgation of a Poor Aid Act in 1879 which restricted the public responsibility, except for children, to the unwell.

Under the Poor Aid Act of 1 June 1922 a municipality or rural commune was obliged to provide, in the form of poor aid, sustenance and care, according to need, for persons without means of support, minors lacking legal providers and any other person not in a position to maintain himself out of his own means or by his own work or by the provision of another person.

[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] Translations of the Act into English and French appear in International Labour Office: *Legislative Series* 1956—Fin. 1.

The Act expressly permitted preventive poor aid, the purpose of which was to prevent a person from becoming destitute.

As regards individual legal liability for maintenance, the Act prescribed absolute liability on the part of married couples to maintain each other and their children under sixteen years of age. A person was obliged to support his parents, grandparents, grandchildren and children of sixteen or more only in case of need and to the extent of his ability.

Where possible, poor aid was to be granted primarily in a form that would enable the recipient to begin providing for himself. The different forms of poor aid were: aid in the recipient's own home, care in a private household and care in an institution.

Recipients of poor aid were liable to repayment to the commune of aid received; this did not, however, apply to poor aid received by persons under age.

A commune which had given poor aid to a person domiciled in another commune was entitled to compensation from the commune of domicile.

If a worker had been employed by the same employer, business or enterprise for at least twenty years and during that time had lost his ability to work to the extent that he could not maintain himself by work and if he could not be maintained out of his own means or by his spouse or children, he was entitled, in return for work according to his strength, to be maintained to the end of his life by his employer, or, if it was considered reasonable, by the heirs of the employer or by the owner of the business or enterprise. Change of owner of the business or enterprise had no effect on the right. The worker did not have this right, however, if he had caused his inability to work deliberately or by criminal action, by reckless living or by other gross negligence.

The new Relief Act which substitutes the last mentioned Poor Aid Act is essentially drafted on the same principles as that Act. The most important change is that a commune can not now be compensated by another commune. Furthermore, a person is no longer obliged to maintain his grandchildren, or his grandparents if he has not lived under their care for at least fifteen years. The new Act contains more detailed technical provisions for operating the poor aid system.

4. National Pensions Act No. 347 of 8 June 1956 (*AsK* No. 347/1956.).[1] Universal old age and disability insurance was established in Finland by the National Pension Act of 31 May 1937, which came into force at the beginning of 1939. The purpose of this Act was to provide for the old age, and against the possible disability, of every able-bodied Finnish citizen. Every person in this category came under insurance at the beginning of the calendar year following that in which he had reached the age of eighteen, with the exception of persons who had reached the age of fifty-five when the Act came into force. The insurance extended also to persons with other pension insurance.

The costs of the insurance were borne by the insured themselves, employers, communes and the State. The interest yielded by the insurance funds also played an important part in the financing of the scheme. Employers contributed in connexion with children's allowance charges, a sum of 1 per cent of their total wages bill; the State and the communes defrayed the cost to the National Pension Institution of the so-called supplementary pensions. The actual insurance premiums were paid by each insured person, in general in proportion to his local income tax assessment. The premium was generally two per cent of the insured person's annual income, but minimum and maximum premiums were fixed by the Government. Special rules applied to the premiums paid by married couples. Premiums began to fall due at the beginning of the calendar year following that in which a person reached the age of eighteen and they continued to the end of the calendar year in which he reached the age of sixty-three. Premiums were collected in the form of deductions from wages together with income tax deductions. The part of the premium not paid in this way was collected together with the regular local income tax.

Pensions granted were (1) disability pensions, (2) old-age pensions and (3) supplementary pensions attaching to disability and old-age pensions. The first kind of pension was paid when an insured person was deemed to be permanently incapable of providing for himself by work suited to his powers and abilities, provided that of the total amount of premiums due not less than a half had been paid. The qualification for an old-age pension was the age of sixty-five, subject to the same condition as that applying to disability pensions.

The old-age pension was formed out of the capital on the insured person's personal account accruing from his premiums and his employer's contributions and the interest on these. The size of the pension was calculated in such a way that this capital, together with the interest still accruing to it, would be enough to pay the pension for the statistically computed life expectation period of the recipient. Disability pension was formed in the same way, but included a special basic component. The regular or basic pension was thus not dependent on the insured person's means. Any other sources of income he might have did not affect the size of the pension.

The poorest pensioners received supplementary pensions paid for by the State and the communes. These were of three categories differing in size and depending on the cost of living in the locality where the pensioner resided.

The Old Age Relief Act of 15 February 1952 [2]

[1] Translations of the Act into English and French have appeared in International Labour Office: *Legislative Series* 1956 — Fin. 2.

[2] See *Yearbook on Human Rights for 1952*, p. 67.

provided pension security for persons born in 1883 or earlier on the same ground as a supplementary pension was awarded to the beneficiaries of compulsory insurance.

The new National Pension Act substitutes both acts mentioned above and also the Disability Relief Act of 4 February 1955.[1]

The new Act applies to every person residing in Finland who has reached the age of sixteen years. The pension may be paid either as an old-age pension or as a disability pension. In certain cases an aid in funeral expenses can also be paid; and unmarried women of sixty-three and sixty-four years of age may receive old-age relief.

Old-age pensions are paid to all who have reached sixty-five years of age. The disability pension again is paid to all who before reaching the age of sixty-five years have become permanently unable to work.

Both old-age and disability pensions consist of a basic portion and a supplementary portion. The basic portion is paid to all insured persons. The payment of the supplementary portion depends on how much other income an insured person has. The insured can postpone the year when pension is to be paid to him. In that case the amount of the basic portion will increase 12.5 per cent for each such year.

This pension insurance scheme, like the previous one, is administered by the National Pension Institution, operating as an independent insurance institution. The governing bodies of the institution are a board of governors and an expanded board of governors, the members of which are appointed by the Government. The functioning of the Institution is supervised by the Diet through chosen delegates.

5. According to the Employment Act No. 672, of 29 December 1956 (*AsK* No. 672/1956), the State is to promote the placing of labour through general economic and political measures in order to achieve a balance between the supply of and the demand for labour. If these measures cannot prevent unemployment, the State and the communes are to endeavour to organize opportunities to work.

For administering this plan, the country is divided into labour districts, and in every commune there is to be an employment board.

This Act is to be in force until the end of 1959.

II. RATIFICATIONS

1. Act No. 51, of 13 January 1956, brings the United Nations Charter[2] into force in Finland, Finland having been admitted to membership of the United Nations on 14 December 1955.

2. Act. No. 313, of 25 May 1956, brings into force those parts of the Agreements on the Importation of Educational, Scientific and Cultural Materials,[3] signed at Lake Success, New York, on 22 November 1950, which come within the scope of legislation.

3. Act No. 549, of 2 November 1956, brings the Constitution of UNESCO[4] into force in Finland.

[1] See *Yearbook on Human Rights for 1955*, p. 66.

[2] See *Yearbook on Human Rights for 1947*, p. 417.

[3] See *Yearbook on Human Rights for 1950*, p. 411.

[4] See *Yearbook on Human Rights for 1948*, pp. 414–5.

FRANCE

THE DEVELOPMENT OF HUMAN RIGHTS, 1956 [1]

As was said at the beginning of the note on the development of human rights in 1955,[2] French institutions have long been firmly established and do not give occasion for major structural reforms to afford increased protection to human rights. The following note reports judicial decisions illustrating long-established principles and texts elucidating or amending points of detail, but no major innovations. Reference is also made to the international instruments to which France has acceded in respect of metropolitan France or of the territories for which it is responsible.

I. LEGISLATION AND CASE LAW

Civil and Individual Rights

Act No. 56-540, of 6 June 1956 (*Journal officiel de la République française*, June 1956, p. 5231), which supplements an earlier Act of 6 August 1953 (ibid., 7 August 1953, p. 6942), authorizes an *amnesty* in respect of "acts committed in the course of collective labour disputes or demonstrations on the public highway connected therewith, which occurred before 2 January 1956". This provision applies to various acts of violence committed on the public highway or on the premises of undertakings on the occasion of strikes.

Another provision of the same act defines the circumstances in which the amnesty applies to acts in respect of which disciplinary action has been taken against civil servants or public officials.

(The Act of 6 June 1956, like the earlier act which it amends, is applicable in all the overseas territories and in Togoland and the Cameroons.)

In the matter of *extradition*, it may be interesting to mention the later developments in a case described in the note for 1955.[3] On 18 November 1955 the Conseil d'Etat, in the exercise of its judicial function, quashed an order for the extradition of a Greek subject (against whom proceedings had been instituted in the courts of his own country), because of a defect in the extradition procedure. On 11 January 1956 a second extradition order was made and the person claimed again appealed to the Conseil d'Etat relying on a clause in the Franco-Greek Agreement of 1906 which provides that "if the person claimed is not surrendered within three months of his arrest, he shall be released and may not be surrendered for the same cause". The Conseil d'Etat was obliged temporarily to defer a ruling pending the interpretation of this clause of a diplomatic agreement and accordingly decided that execution of the extradition order should also be suspended, since execution of the order "would be likely gravely to impair the individual freedom" of the person concerned.[4]

With regard to *prison conditions*, the Directorate of Prison Administration is continuing its efforts to humanize the prison regulations by adapting the conditions in which sentences are served to the needs of the individual prisoner with a view in particular to facilitating his subsequent return to society. Some interesting information in this connexion is given in the Directorate's general report for 1956 to the Garde des Sceaux.[5] The report states that although Parliament has not yet taken final action on certain legislative measures to further the programme, the Directorate has continued its research and practical action at various levels in the belief that imprisonment should not prejudice the return of the prisoner to normal life as a free man.

Among the many minor but not unimportant measures that have been taken are the substantial broadening of the lists of weekly and monthly magazines permitted in all prison establishments (circular of 15 January 1956), the instructions to the heads of establishments concerning travel arrangements to facilitate the return of released prisoners to places where they are assured regular means of support (circular of 25 June 1956), instructions concerning the classification of prisoners within establishments (circular of 30 June 1956), and instructions concerning the inspection of establishments by regional directors (circular of 17 July 1956).

Reference should also be made to the experiment that is being conducted in four jurisdictions in connexion with offenders sentenced to short terms of imprisonment. The *parquet* is empowered, with the consent of the judge presiding over the local released prisoners' aid committee, to suspend enforcement of the sentence if it is considered that the offender is capable of benefiting psychologically from the measure and the latter agrees to submit voluntarily to supervision of his activities for a period of five years. The

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[1] Note prepared by Mr. E. Dufour, Maître des Requêtes au Conseil d'Etat, Paris, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1955*, p. 67.

[3] See *Yearbook on Human Rights for 1955*, p. 68.

[4] Conseil d'Etat, Petalas, 3 February 1956. *Recueil des décisions du Conseil d'Etat*, p. 44, Sirey.

[5] Published by the Ministry of Justice.

suspension may be revoked at any time if the offender commits a further offence. The initial results of this experiment are considered highly encouraging from the standpoint of re-education.

In another experiment, responsibility for deciding on the conditions — confinement in the cell, work outside the prison, semi-liberty — in which the offender is to serve his sentence, has been placed in the hands of a judge, who thus becomes the judge responsible for the enforcement of the penalty. If the decision is made by a judge who knows the offender's background and record (previous terms of imprisonment, family, character, ability, etc.), the penalty can be adjusted to the individual.

In addition, increasingly close collaboration is being established between the Directorate of Prison Administration and the many voluntary agencies and committees interested in the welfare of prisoners and ex-prisoners. Follow-up studies of ex-prisoners during the years following their release are of great assistance to the judges who are playing a leading part in the present reforms.

Social Rights

The legislative provisions concerning the social and economic welfare of the family, the social welfare of the child and the various forms of *social assistance* were consolidated in the Family and Social Assistance Code.[1]

Under the social assistance legislation local government authorities are responsible, at least temporarily, for furnishing various forms of assistance to needy families and to the aged, the disabled and the sick. Provision is made for measures to assist in the accommodation, placement or hospitalization of aged persons and invalids or sick persons to ensure that they receive proper care, and the temporary accommodation of indigent persons discharged from hospitals, released prisoners and persons in danger of prostitution. A decree of 19 September 1956 [2] raised the means ceiling for the purposes of eligibility to most social assistance benefits.

A decree of 10 December 1956 codified the main *social security* legislation enacted in France between 1945 and 1956.[3]

The position of *aged workers* (former wage-earners) and of aged persons generally with insufficient means of support has long been a subject of widespread concern and of election promises. In order to provide for the necessary but costly remedial action the National Solidarity Fund was set up by an act of 30 June 1956.[4] The fund, to which various specially voted tax funds are allocated, is intended to permit the payment of an annual supplementary allowance to the persons receiving benefits under the various existing pension or welfare schemes for aged persons. The supplementary allowance is payable at age sixty-five or sixty, depending on ability to work, to persons whose means do not exceed a prescribed ceiling. Owing to the limited funds available the allowance is at present small, but the sponsors of the measure hope that it will be possible to increase it substantially in future years.

It should be noted that some provisions of the Social Assistance Code (hospitalization, employment facilities for the handicapped, home medical assistance, old-age allowances) apply to aliens, even if no agreement providing for reciprocity is in force with their country of origin.

Another important reform was the amendment of the Labour Code to extend the length of the *annual paid holiday* in all occupations from two to three weeks. Employees are entitled to one and a half working days' holiday for each month of service in the undertaking during the previous twelve month period. Employees under eighteen years of age are allowed two working days' holiday for each month of service. Persons who have completed over twenty years' service with the same employer are entitled to longer holidays.[5]

The legislation on *industrial accidents* also applies to prisoners performing prison labour in penal institutions. The Court of Cassation ruled that the protection so afforded is not limited to hours of work under the direct supervision of the employer. The legislation on industrial accidents[6] therefore covers the accident caused by a fire which broke out after working hours in boxes containing work material stored in the premises occupied by the prisoners.[7]

An act of 27 April 1956[8] to amend title II of the Labour Code by the addition of two articles is concerned with the protection of *freedom of association*. Under one of the two articles membership in a trade union or trade union activities may not be taken into account by the employer in any decision affecting the worker's position in the undertaking (hiring, jobs, pay, social benefits, discipline, discharge, etc.). The employer may not assume responsibility for the collection of trade union contributions or pay them himself. He may not exert any form of pressure on behalf of or against any trade union organization. The second

[1] Codification decree No. 56–149 of 24 January 1956. *Journal officiel de la République française*, January, p. 1109.
It should also be noted that the legislative provisions concerning the election of deputies, general councillors, municipal councillors, members of the Council of the Republic and councillors of the French Union were codified as the Electoral Code by decree No. 56–981, of 1 October 1956. (ibid., October, p. 9375).

[2] Decree No. 56–936, *Journal officiel*, September, p. 8902.

[3] Decree No. 56–1279, ibid., December, p. 12140.

[4] Act No. 56–639, ibid., July, p. 6070.

[5] Act No. 56–332 of 27 March 1956, ibid., April, p. 3599.

[6] Act No. 46–2426 of 30 October 1946, ibid., October, p. 9273.

[7] Cass. soc., *Ministre de la Justice v. Sécurité sociale de Paris*, 12 April 1956, *Semaine juridique* 1956, II, p. 9599.

[8] Act No. 56–416, *Journal officiel*, April, p. 4080.

article declares null and void any undertaking or agreement under which an employer is required to engage or retain in his employment members of a specified trade union only.

The 1955 note[1] referred to the introduction of a new mediation procedure for the settlement of *collective labour disputes*. It may be of interest to note the degree of success achieved by this procedure in 1956. Mediators were successful in almost two-thirds of the cases referred to them, whereas traditional conciliation procedures were successful in only one case out of three. Arbitration, which under French law requires prior agreement of the parties to accept the arbitrator's award, continues to be very little used.

The new procedure is largely based on the voluntary and prior acceptance of the principle of mediation by the parties, who retain the right not to accept the mediator's recommendations. In order to ensure the success of the initial experiments, it was thought advisable to use mediation only in cases in which there appeared to be a real possibility that it would work. The initial experiments are nevertheless reasonably conclusive. Mediation has been used in a series of cases in the Nancy, Bordeaux, Nantes and, more recently, Paris areas covering a wide range of occupations, in particular the metalworking and engineering trades. In a fairly high proportion of cases the request for mediation came from the employees (30 per cent of the cases) or from both parties (25 per cent of the cases). The majority of the disputes affected an area of medium size — i.e., a *département* or smaller area. Mediators were also appointed in ten disputes involving individual firms or undertakings. Although there were a number of failures, the new procedure proved its worth to such an extent that proposals for the further development of mediation were made in various quarters in the course of the year, notably by trade union bodies. It was proposed that mediation should not be used only in wage disputes, as provided by the Decree of 5 May 1955, that the fact-finding powers of mediators should be increased and that steps should be taken to ensure that their proposals carried more weight.[2]

The *housing shortage* continues to be a matter of concern to the authorities. Following on many previous enactments, the Acts of 3 August 1956 [3] and of 3 December 1956 [4] extended to 1 January 1959 the period during which a judge sitting in chambers may suspend the enforcement of court eviction orders for successive periods in excess of one year if the persons evicted are unable to find satisfactory alternative accommodation. The Act of 3 December 1956 permanently prohibits eviction during the winter — i.e., between 1 December and 15 March — "unless the persons affected are provided with alternative accommodation suitable to the needs of the family and the maintenance of its unity".

II. INTERNATIONAL INSTRUMENTS

In the course of 1956 the French Parliament authorized the President of the Republic to ratify: (1) the two European Interim Agreements on Social Security and the additional protocols thereto,[5] signed in Paris on 11 December 1953;[6] (2) the Convention on Social and Medical Assistance and the additional protocol thereto,[7] also signed on 11 December 1953 by the member countries of the Council of Europe.[8]

In addition, (1) two decrees of 13 September 1956 extended to the Overseas Territories Convention No. 11 concerning the Rights of Association and Combination of Agricultural Workers, adopted by the General Conference of the International Labour Organisation on 25 October 1921, and Convention No. 95 concerning the Protection of Wages adopted at the thirty-second session held at Geneva in July 1949;[9] (2) two decrees of 2 March 1956 provided for the publication and application in the Overseas Territories and Trust Territories of the Geneva Convention relating to the Status of Refugees,[10] signed by France in New York on 11 September 1952,[11] and the publication in France and Algeria of International Labour Convention No. 32, concerning the Protection against Accidents of Workers Employed in Loading or Unloading Ships, adopted at the sixteenth session of the International Labour Conference at Geneva in April 1932.[12]

III. PROVISIONS CONCERNING ALGERIA

In view of the development of the situation in Algeria, Parliament granted to the Government the very broad powers which are defined in Act No. 56–258 of 16 March 1956. The powers relate to the execution of a large-scale programme of economic and social development and the reorganization of administrative institutions (art. 1), as well as to the emergency measures necessary for the restoration of order (art. 6). A number of decrees have already been issued in application of this Act. Under one of the decrees[13] the Governor-General (Minister for Algeria) is empowered to take various emergency measures for the restoration of order, the protection of persons and property and

[1] See *Yearbook on Human Rights for 1955*, pp. 70–1.

[2] These proposals were embodied in the Act of 26 July 1957, to promote the settlement of collective labour disputes (Act No. 57–833, *Journal officiel*, July, p. 7459). The Act is considered by public opinion generally to offer a real opportunity for the improvement of industrial relations.

[3] Act No. 56–765, ibid., August, p. 7342.

[4] Act No. 56–1223, ibid., December, p. 11552.

[5] See *Yearbook on Human Rights for 1953*, pp. 354–8.

[6] Act No. 56–783, of 4 August 1956, *Journal officiel*, August, p. 7538.

[7] See *Yearbook on Human Rights for 1953*, pp. 359–61.

[8] Act No. 56–563 of 12 June 1956, *Journal officiel*, June, p. 5379.

[9] Decrees Nos. 56–918 and 56–919, ibid., September, p. 8785.

[10] See *Yearbook on Human Rights for 1951*, pp. 579–88.

[11] Decree No. 56–235, *Journal officiel*, March, p. 2347.

[12] Decree No. 56–296, ibid., March, p. 2966.

[13] See p. 70.

the security of Algerian territory. Among the other decrees, decree No. 56-273 of 17 March 1956 and decree No. 56-289 of 26 March 1956 are concerned with facilitating the access of French citizens of the Moslem faith to public employment and their employment in private undertakings providing a public service or receiving assistance or orders from public agencies. A very large agrarian reform programme is also in progress, one of the most important measures being the expropriation and redistribution to small farmers of certain large estates which were originally constituted by the direct cession of land by the State (decree No. 56-691, of 13 July 1956).[1]

The legislation mentioned was the subject of a report of 5 December 1957 submitted by the French Government to the United Nations in response to resolution 624 B (XXII) of the United Nations Economic and Social Council.

[1] See p. 71.

IV. LEGISLATION AFFECTING THE OVERSEAS DEPARTMENTS[2]

The amendments of the French social assistance legislation consolidated in the Family and Social Assistance Code were extended to the overseas departments by a decree of 28 September 1956.[3]

The decree of 10 December 1956,[4] which codified the social security laws, includes special provisions concerning the overseas departments.

[2] Guadeloupe, Guiana, Martinique and Reunion.

[3] Decree No. 56-1030, *Journal officiel*, October, p. 9829.

[4] Decree No. 56-1279, ibid., December, p. 12140.

DECREE No. 56-274 TO ISSUE EMERGENCY MEASURES FOR THE RESTORATION OF ORDER, THE PROTECTION OF PERSONS AND PROPERTY AND THE SECURITY OF ALGERIAN TERRITORY of 17 March 1956[1]

Art. 1. Throughout the territory of Algeria, the Governor-General may:

1. Prohibit wholly or partly the movement of persons, vehicles or livestock in such places and at such times as may be prescribed by order;

2. Prescribe such measures as may be necessary to supervise the movement of goods and ensure their conservation and utilization;

3. Regulate or prohibit the importation, exportation, purchase, sale, distribution, transportation or custody of produce, raw materials or livestock;

4. Establish areas in which the stay of persons is subject to regulations or prohibited;

5. Require any person who provides lodging for another who is not a member of his family to notify the administrative authority thereof;

6. Issue regulations respecting the entry, departure or stay in any or every part of the territory of all persons, whether French nationals or aliens, and prohibit the entry or stay of any person whose presence is likely to hinder in any way the action of the civil authorities;

7. Order any person whose activity is deemed dangerous to public security or order to be kept in forced residence, whether or not under supervision. The authorities responsible for keeping order will take all necessary steps to provide food and accommodation for persons assigned to forced residence and, if necessary, for their families;

8. Prohibit as a general measure or in particular cases public or private meetings of a kind likely to lead to or maintain disorder;

9. Order the temporary closing of places of entertainment, establishments for the sale of liquor, shops, and meeting places of all kinds;

10. Prescribe that arms and ammunition of every kind and explosives shall be duly declared or surrendered, or order a search therefore or the removal thereof;

11. Order or authorize a house-search by day or night;

12. Adopt any necessary measures to control all means of expression, particularly the press and publications of every kind, as well as telecommunications, broadcasting, film shows and theatrical performances;

13. Make an immediately enforceable decision for the transfer, suspension or return to his original administrative service of any official or public servant whose activities are considered a danger to public security or order;

14. Adopt any necessary measures to prohibit or dissolve any society, association, or group, *de jure* or *de facto*, the activities of which are harmful to public security or order;

. . .

[1] Published in the *Journal officiel de la République française*, 19 March 1956, p. 2665. Translation by the United Nations Secretariat. This decree was issued in application of Act No. 56-258, of 16 March 1956, authorizing the Government to carry out a plan for economic expansion, social progress and administrative reform in Algeria, and empowering it to take all emergency measures necessary for the restoration of order, the protection of persons and property and the security of the territory (*Journal officiel*, 17 March 1956, p. 2591).

Art. 6. Partial elections may be postponed by order of the Governor-General.

Art. 7. The Governor-General may suspend for an indefinite period the elected members of local assemblies who hinder the action of the public authorities in any manner whatever.

. . .

DECREE No. 56-691 CONCERNING LAND REFORM IN ALGERIA of 13 July 1956 [1]

TITLE I

GENERAL PROVISIONS

Art. 1. The Agricultural Land Acquisition Fund, established by decree No. 56-291, of 26 March 1956,[2] shall have at its disposal:

Large properties transferred to it in accordance with the provisions of articles 2 to 6 of this decree;

. . .

TITLE II

TRANSFER OF LARGE AGRICULTURAL AND FOREST PROPERTIES TO THE AGRICULTURAL LAND ACQUISITION FUND

Art. 2. The Government may, on the report of the Minister Resident in Algeria, the Minister of Economic and Financial Affairs, the Secretary of State for the Interior responsible for Algerian Affairs and the Secretary of State for Agriculture, order by decree the transfer to the Agricultural Land Acquisition Fund of large agricultural or forest properties when the said properties originated in the cession by the State to an individual or body corporate, whether for a valuable consideration or otherwise, of land exceeding 1,000 hectares in area in a single or in several transactions.

Art. 3. Decrees as aforesaid shall provide for the immediate, complete and automatic transfer of all the properties situated in Algeria, and rights and obligations pertaining to the holdings in question.

The transfer shall not include:

(1) Property of an industrial character and rights and obligations pertaining thereto;

(2) Costs and securities belonging to the owner of the holding;

(3) Loans to the owner, other than loans secured by mortgages on the property transferred.

The properties to be transferred shall be specified in each instance in orders to be issued by the Governor-General of Algeria.

Art. 4. Where properties are transferred in accordance with this decree, compensation shall be payable in an amount not less than fifty times the rentable value for the purposes of the real property tax on undeveloped property for the financial year 1956.

The amount of the compensation shall be determined in each case by a board appointed for that purpose by an order of the Governor-General and consisting of: a member of the Audit Court, appointed by the first President of the Audit Court, as Chairman; the Director-General of Finance and the Director of Agriculture of the Government General of Algeria or their representatives; two recognized experts, one appointed by the Governor-General of Algeria and one by the claimant.

The rules to be followed in computing the amount of compensation shall be laid down by a decree *en Conseil d'Etat.*

. . .

[1] Published in the *Journal officiel de la Republique française*, 14 July 1956, p. 6529. Translation by the United Nations Secretariat. This decree was issued in application of Act No. 56-258, of 16 March 1956, authorizing the Government to carry out a plan for economic expansion, social progress and administrative reform in Algeria, and empowering it to take all emergency measures necessary for the restoration of order, the protection of persons and property and the security of the Territory (*Journal officiel*, 17 March 1956, p. 2591).

[2] Decree No. 56-291, of 26 March 1956, establishing an Agricultural Land Acquisition Fund in Algeria, was published in the *Journal officiel*, 27 March 1956, p. 2931. The fund was empowered to engage in land transactions with a view to assisting landless European or Moslem farmers and such farmers with insufficient land to become small holders.

FEDERAL REPUBLIC OF GERMANY

THE DEVELOPMENT OF HUMAN RIGHTS IN 1956 [1]

A SURVEY OF LEGISLATION, JUDICIAL DECISIONS AND INTERNATIONAL AGREEMENTS

CONTENTS

1. PROTECTION OF HUMAN DIGNITY

(Universal Declaration of Human Rights, preamble and article 1)

The Bavarian Administrative Court (18 May 1956, *VWRspr.* 9, p. 56) held that "the dignity which is the inherent yet at the same time social right of every human being as the repository of the supreme spiritual and moral values" is entitled to protection and is in a great measure inviolable even as against the claims of society.

The legislation providing for the reintroduction of military service in the Federal Republic of Germany paid due regard to the principles of the Constitution, including those relating to fundamental human rights.[2] The duty of obedience owed by the soldier ends at the point where the order of a superior officer would violate human dignity (Act of 19 March 1956 concerning the legal status of military personnel, art. 11, *BGBl* 1956, I, p. 114). Refusal to obey an order if obedience would result in a crime or offence is not only permissible, but obligatory. However, the subordinate is not freed from responsibility if his assumption that the order given is of such a kind and ought not to be obeyed is incorrect.

2. THE PRINCIPLE OF EQUAL TREATMENT

(Universal Declaration, articles 2 and 7)

The legislative organs of the various German *Länder* are bound to observe the principle of equal treatment only with respect to the area over which their legislative powers extend. It is not necessary that each legislator should adapt his enactments to those of another legislator. Accordingly, no violation of the principle of equality can be inferred from the mere fact that some other public authority possessing independent legislative power has passed different laws for its own area of jurisdiction (Bavarian Consti-

[1] Report prepared by Dr. 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* (official gazette of the Federal Republic); parts I and II
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)
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*))
MDR	*Monatsschrift für Deutsches Recht*
NJW	*Neue Juristische Wochenschrift*
VWRspr	*Verwaltungsrechtsprechung in Deutschland* (decisions concerning administrative law in Germany)

[2] Extracts from the constitution (Basic Law) of the Federal Republic of Germany of 23 May 1949 appear in *Yearbook on Human Rights for 1949*, pp. 79–84.

tutional Court, 19 September 1956, *VWRspr* 8, p. 781). The same view was taken by the Federal Administrative Court (15 February 1956, *DVBl* 1956, p. 407).

The Constitution prescribes that men and women are to be given equal treatment. However, legislation to that effect (in the field of family law) does not come into force until 1 July 1958, and hitherto the courts have had to decide independently, in each specific case, whether or not an enactment violated the principle of equality in question. In such cases the courts have proceeded on the premise that in view of the natural differences between the sexes equal treatment in a formal sense in not possible. Thus, the principle of equality was not held to be infringed by an act restricting the working hours of women (Federal Constitutional Court, 25 May 1956, *BVerfGE* 5, p. 9). On the other hand, a wife is considered to be bound in principle equally with her husband to contribute to their joint subsistence; however, she is not on that account to be compelled to seek gainful employment, since care of the household and the children is regarded as a contribution to the joint subsistence. But in the past a wife, under civil law, could require her husband to support her whether or not she needed such support, whereas a husband could claim support from his wife only if he was incapable of supporting himself; thus equality of rights may in this respect too be deemed to be guaranteed today (Federal Court of Justice, 14 December 1956, *NJW* 1957, p. 537).

The civil law requirement that the residence of a child born in wedlock is deemed to be that of the father was not held to be at variance with the principle of equality, since this provision is a matter of expediency and is an exception to the normal rule (Federal Court of Justice, 2 May 1956, *NJW* 1956, p. 1148). Nor is the principle of equality of rights as between husband and wife considered to invalidate the right of the father to decide on the religious education of the children in the event of disagreement between the parents (Land Court of Bad Kreuznach, 12 November 1956, *NJW* 1957, p. 915), for the equality of rights existing within the marriage partnership, the court held, is not a mechanical equality devoid of authority and inner order: such an interpretation would be inconsistent with the principles set up for the protection of marriage and the family. In connexion with claims of minors to maintenance, however, the principle of equality is to be strictly interpreted, so as to afford the child equal recourse against the liability of both parents (Federal Court of Justice, 19 October 1956, *BGHZ* 22, p. 51). Charges against a person who has caused harm to a child must be brought by both parents jointly, since the legal representative of a minor child is now no longer the father alone, but the father and mother jointly (Land High Court of Bavaria, 17 January 1956, *NJW* 1956, p. 521). The Federal Labour Court held that on the other hand, article 6, paragraph 5, of the Basic Law, requiring that illegitimate children should be provided by legislation with the same position in society as legitimate children, is not to be construed as a categorical rule, but rather as a maxim laying down guiding lines for future federal legislation (7 December 1956, *NJW* 1957, p. 805).

The principle of equal treatment is also important in connexion with the matter of access to and exercise of an occupation. The Federal Social Court ruled that the regulations governing the admission to practice of dental surgeons and dentists were constitutional in providing that apart from dental surgeons, only state-approved dentists could be admitted to practice (4 December 1956, *NJW* 1957, p. 727); since physicians and those engaged in similar professions enjoyed a status virtually sanctioned by public law, it was imperative that they should be subject to state supervision. Similarly, in the case of persons engaged in occupations which while private fulfilled functions of a public nature, it was held that an age-limit could be prescribed without infringing the principle of equal treatment in respect of such persons (Federal Administrative Court, 3 May 1956, *BVerfGE* 3, p. 254).

Impermissible discrimination is not *ipso facto* held to exist where privileges are given to a specific category of persons, provided that there are objective reasons for the distinctions in question (Federal Labour Court, 9 November 1956, *NJW* 1957, p. 318). Likewise, the granting in individual cases of advantages to persons having no legal claim thereto does not entitle all other persons to the same privileges (Federal Court of Justice, 12 January 1956, *BGHZ* 19, p. 348).

Where a criminal proceeding involves several accused, they are not, in principle, to be sentenced separately. The court must not, without good and sufficient reason, impose a severe sentence on one of several accused and a lenient sentence on another. The same abstract standards are to be applied, and concrete distinctions are to be made only on objective grounds (Land High Court at Hamm, 22 November 1956, *NJW* 1957, p. 392).

Although the principle of equality is also required to be observed in great measure in relations between aliens and nationals, distinctions may be made on objective grounds. Thus, it was ruled to be permissible to restrict exemption from school fees to German nationals within the meaning of article 16 of the Basic Law (State Constitutional Court of Hesse, 11 May 1956, *GVBl* 1956, p. 115). It was held that the provision in the Civil Servants' Liability Act whereby aliens may bring claims against the State in respect of the liability of civil servants only if reciprocity is officially confirmed to be ensured, has continued to be valid under the Basic Law (Federal Court of Justice, 1 October 1956, *NJW* 1956, p. 1836). Aliens have no legal right to a residence permit save as otherwise provided by the rules of asylum, the Act concerning the legal status of stateless aliens or the Geneva Convention relating to the status of refugees. In principle, the matter is at the discretion of the authorities, since the basic right of freedom of move-

ment applies only to Germans, and the fact that aliens are not permitted freedom of movement in the same degree is not regarded as a violation of the principle of equality. The legislator is not prohibited from making objective distinctions between aliens and German nationals; nor is there any general rule of international law requiring aliens automatically to enjoy the same rights as German nationals with respect to establishing temporary and permanent residence in Germany (Federal Administrative Court, 10 April 1956, *BVerwGE* 3, p. 235).

3. Protection against Arbitrary Deprivation of Liberty

(Universal Declaration, articles 3, 4 and 9)

The judicial procedure applicable to deprivation of liberty is prescribed in the Federal Act of 29 June 1956 (*BGBl* 1956, I, p. 599). This Act deals with deprivation of liberty permissible under federal law. Deprivation of liberty within the meaning of the Act is the committal of the person concerned against his will, or when he is incapable of exercising his will, to a prison, place of detention, work-house, closed institution, closed welfare establishment or closed hospital. In the case of persons under parental authority or guardianship because they are not *capax juris*, the decision rests with the legal representative. Deprivation of liberty may be ordered only by a court upon application by the competent administrative authorities. The person concerned must be given a personal hearing and may be ordered to appear for the purpose. His legal representative must also be given a hearing. Medical certificates must be produced where necessary. The court's decision is subject to appeal. The court must take a new decision concerning the continuance of deprivation of liberty within one year at the latest, and if the original reason for his detention is no longer applicable, the person in question must be released. If, in an emergency, a person is arrested by the public authorities without a judge's order, a court decision must be obtained without delay; otherwise the prisoner must be released not later than the end of the following day.

Under article 104 of the Basic Law, any deprivation of freedom lasting longer than forty-eight hours is illegal unless based upon the order of a judge. The discretion of the authority carrying out the arrest is subject to judicial control (Land High Court of Bavaria, 23 November 1956, *NJW* 1957, p. 305). Similarly, coercive detention to enforce compliance with orders of public authorities, and the term of such detention, may be ordered only by a judge, and then only if recourse has been had to all other coercive measures. Coercive detention is to be the ultimate measure applied by the State after all other possibilities have been exhausted (Federal Administrative Court, 6 December 1956, *BVerwGE* 4, p. 196).

In Land North Rhine-Westphalia, the Act of 16 October 1956 (*GVBl* 1956, p. 300) makes provision for the committal of mentally infirm, mentally defective and addicted persons. Such persons may be committed to an institution against their will, or when they are incapable of exercising their will, if their remaining at liberty would involve danger to themselves, to other persons or to public order and security. The decision, again, lies with the court, and the public authorities cannot issue in advance of the court's decision a committal order except in case of emergency. The person concerned must be assigned counsel and must be given a hearing, unless his mental condition makes that impossible. In addition, medical certificates must be produced. In all cases, the court must render a fresh decision within one year.

In Baden-Württemberg an order of 27 March 1956 (*GBl* 1956, p. 79), issued by the Minister of the Interior in implementation of the Police Act of 21 November 1955 (*GBl* 1955, p. 249), deals with the treatment of persons in police custody. A person detained for his own protection or that of others must be kept in separate quarters from those of prisoners undergoing investigation or serving prison sentences. Mentally infirm persons, persons suffering from communicable diseases and minors must also be kept in separate custody. The person concerned must be given an immediate opportunity to inform his family or some person in his confidence.

4. The Right to Physical Integrity

(Universal Declaration, articles 3 and 5)

The right to physical integrity guaranteed by the Constitution, like many other fundamental rights, may be modified by general statutes. Thus, section 81(*a*) of the German Code of Criminal Procedure lays down that it is the citizen's duty to submit to certain physical interventions if they are necessary for the purposes of a judicial investigation. The action to be taken, however, must be specified in precise terms by the judge; a general authorization to physicians to undertake any necessary physical interventions is not permissible (Land High Court of Bavaria, 1 August 1956, *NJW* 1957, p. 272). In a maintenance suit the issue arose whether a blood test to determine parentage should be regarded as a violation of physical integrity. However, since the constitutionally guaranteed right may be limited by general statutes, the Federal Constitutional Court held that this fundamental right had not been infringed, such action being expressly sanctioned by section 372(*a*) of the German Code of Civil Procedure (25 May 1956, *BVerfGE* 5, p. 13).

Under the Military Service Act of 19 March 1956 (*BGBl* 1956, I, p. 114) even soldiers are not compelled to submit to medical action against their will unless such action is taken for the purpose of combating disease. However, if a soldier refuses to submit to reasonable medical treatment and his fitness for service or his earning power is thereby reduced, he may be denied compensation to which he would otherwise

be entitled. Medical treatment which involves considerable risk to the soldier's life or health is not regarded as reasonable; nor is an operation if it is of a serious and dangerous nature.

The Government of the Federal Republic has recognized the jurisdiction of the International Court of Justice with respect to all disputes which may arise between it and any of the States parties to the Convention of 9 December 1948 (*BGBl* 1954 II, p. 729) on the Prevention and Punishment of the Crime of Genocide with reference to article IX of the Convention (Federal Government notice of 6 July 1956, *BGBl* 1956 II, p. 809). The declaration recognizing the jurisdiction of the court was deposited with the Registrar of the International Court of Justice on 23 May 1956, and was made on the condition of reciprocity. The Federal Government undertook to comply with the decisions of the court in good faith and to perform the obligations incumbent upon Members of the United Nations under Article 94 of the Charter.

5. Judicial and Administrative Guarantees of Due Process

(Universal Declaration, articles 8 and 10)

Not only the executive, but the legislative authority itself is subject to judicial control, in particular by the Federal Constitutional Court. Thus the court declared a statute to be void on the ground that it referred in a confusing manner to past legislation which was inaccessible to the ordinary citizen or difficult for him to obtain (30 May 1956, *BGBl* 1956, I, p. 506). The principle of the rule of law (Rechtsstaatlichkeit), the court declared, was satisfied only if each statute was intelligible by itself and made it clear what the applicable law was to be. A statute could not be binding if neither the authorities responsible for its application nor the citizens could determine without expert knowledge what was intended to be prescribed. This decision has been criticized by some jurists on the ground that the Federal Constitutional Court is not called upon to pronounce on the quality of a statute, but only on its legality. But these critics, it would seem, have failed to give due weight to the fact that the technical defects of a statute may in themselves result in undue abridgement of the legal rights of citizens.

The courts have again attached great importance to safeguarding the right to a hearing (article 103 of the Basic Law), for it is to no small extent this right which constitutes the citizen's guarantee of due process. It is the duty of judges to grant a hearing even where it is not specifically prescribed by law. The constitutional guarantee applies not only to criminal proceedings, but to all judicial proceedings of whatsoever kind (Land High Court at Cologne, 6 March 1956, *NJW* 1956, p. 1925). While there is no unconditional guarantee of any particular procedure, the right to make applications and to submit statements to the courts is unrestricted (Federal Constitutional Court, 13 November 1956, *NJW* 1957, p. 17). Thus a court of complaints (Beschwerdegericht) may not give its ruling without waiting for the complainant to submit a statement of reasons which he has promised to furnish and without allowing the defendant due time to state his case (Land High Court of Bavaria, 13 November 1956, *MDR* 1957, p. 106).

The court's decision may be based only on facts and evidence on which the parties have had the opportunity to state their views, if not verbally, then at least in writing. The views to the contrary formerly prevailing were not upheld by the Federal Constitutional Court (25 October 1956 *BVerfGE* 6, p. 12). The Federal Administrative Court also applies these principles. In its view, article 103 of the Basic Law guarantees the right of the parties to proceedings to submit exhaustive written or verbal argument as to either fact or law. Any argument which is extraneous, or which is not relevant for the purposes of correct legal determination, may be dismissed by the court. The facts are to be elucidated only to the extent to which they are necessary for the purposes of legal determination (25 October 1956, *DVBl* 1956, p. 834). Any infringement of these principles may, however, be cancelled out where a full judicial hearing is accorded by the next higher instance in the chain of legal remedies, provided that the higher court is able to take the new argument into account (Federal Constitutional Court, 25 May 1956, *BVerfGE* 5, p. 22). Due regard must be paid to article 103 of the Basic Law in administrative as well as court proceedings (Land High Court of Bavaria, 24 January 1956, *NJW* 1956, p. 792; Kassel Administrative Court, 13 May 1956, *NJW* 1956, p. 1940). Thus a supervisor may draw conclusions unfavourable to a subordinate official from a given set of facts only if he has previously given that official an opportunity to state his case (Federal Court of Justice, 29 November 1956, *BGHZ* 22, p. 258).

Police activities are closely controlled by the courts. In averting any danger, the police must choose only such means as entail the relatively smallest degree of encroachment on individual rights. In the view of the Higher Administrative Court for Lower Saxony, the administrative law of a State based on the rule of law must be governed by the principle that the action taken should never exceed the absolutely essential minimum (25 October 1956, *VWRspr* 9, p. 347). It is also illegal for the police to refuse to apply a given means which is suitable and adequate to avert the danger and indicate their preference for a harsher measure. A prohibition cannot be justified by the argument that without it police supervision would be rendered more difficult (Higher Administrative Court for the Rhineland–Palatinate, 12 April 1956, *VWRspr*, 8, p. 690).

The Federal Court of Justice has again pointed out that the employment of auxiliary judges who are not appointed for life contravenes the principle of the

independence of the courts unless there are objective reasons — for example, the training of judges — rendering such employment necessary (12 March 1956, *BGHZ* 20, p. 209). In principle, the office of judge is to be discharged only by persons appointed for life, and departures from this principle may be made only on grounds of temporary need (Federal Court of Justice, 15 November 1956, *VWRspr* 9, p. 117; 13 March 1956, *BGHSt* 9, p. 107; 26 March 1956, *BGHZ* 20, p. 250). Article 101 of the Basic Law provides that no one may be removed from the jurisdiction of his lawful judge. The purpose of this provision, as of those guaranteeing the independence of the courts, is to prevent unlawful interference in the administration of justice and to maintain the confidence of the public in the impartiality and objectivity of the courts. The prohibition of special courts serves the same purpose. This constitutional principle is regarded as infringed even where a judge not involved in the proceedings uses his authority to influence another member of the court, for example in the matter of time-limits (Federal Constitutional Court, 20 March 1956, *BVerfGE* 4, p. 412).

Appeals have often been allowed where evidence had been improperly obtained. The Land High Court at Dusseldorf held that a court could be challenged on the ground of prejudice where a judge intimated that he had already formed a definite opinion on the issue and on the evidence on the basis of his own private examination of the case (10 July 1956, *MDR* 1956, p. 557). Only evidence obtained in a lawful manner can be entertained by the court and made the basis for its decision. A judge, however, is under no obligation to consider evidence which is completely worthless and redundant. He may reject an application to submit evidence whose entire worthlessness is manifest; if, for example, in view of the large volume of evidence already heard it is quite impossible that the new evidence offered may result in a different interpretation of the facts (Federal Court of Justice, 4 June 1956, *NJW* 1956, p. 1480). If a court fails to hear witnesses called by the plaintiff to prove a fact favourable to himself, but simply assumes that such witnesses will not prove the fact in question, it contravenes its duty to investigate the facts and exceeds the inherent right of the court to decide freely on the outcome of the proceedings as a whole (Federal Social Court, 21 March 1956, *NJW* 1956, p. 1127). If an administrative court requests the authority responsible for the administrative act to which the court proceedings themselves relate to take the evidence, it thereby contravenes fundamental principles of procedure (Federal Administrative Court, 21 August 1956, *BVerwGE* 4, p. 64).

The European Commission of Human Rights has decided that a constitutional complaint to the Federal Constitutional Court was among those national remedies required to be exhausted before individual complaints can be made to the Commission (31 May 1956 *DVBl* 1957, p. 55; text in French).

6. Due Process in Criminal Proceedings

(Universal Declaration, articles 10 and 11)

Under the terms of the Code of Criminal Procedure (section 22, paragraph 4) a judge is not permitted to perform his office in a case in which he has already acted as prosecutor, police officer or defence counsel. This provision is designed to prevent not only prejudice with regard to the proceedings in question, but even the slightest suspicion of partiality. The judge is similarly barred from the exercise of his office if, at some time subsequent to the first proceedings, the same defendant commits a new offence which is legally of equal gravity and is brought to trial again (Federal Court of Justice, 25 May 1956, *NJW* 1956, p. 1246).

The prosecutor's duty to verify whether facts reported to him do in fact constitute a punishable act, and to conduct the investigations in proper form, is one which he owes not only to the State but to the accused as well. Failure to do so may constitute a dereliction of official duty entailing payment of compensation. The prosecutor is also bound to make known whether the proceedings have been dropped or charges have been preferred, where the accused indicates that he stands to suffer particular damage (Federal Court of Justice, 8 March 1956, *BGHZ* 20, p. 178). Where an accused person has identified himself but is not willing to make a statement in the case, the police are not authorized to use force in order to make him submit to interrogation, unless delay would be dangerous. The Code of Criminal Procedure does not authorize the police to use coercion to enforce compliance by an accused person who has been served with a summons but is unwilling to appear; the court alone has this right (Land High Court of Schleswig, 30 November 1955, *NJW* 1956, p. 1570).

The publicity of criminal proceedings is one of the foundations of the rule of law. The paramount purpose of a criminal proceeding is to determine the truth, a purpose which the principle of public trial is also, to some extent, intended to serve. However, there may be some conflict between the objective of determining the truth and the principle of public trial — for example, where the defendant is reluctant to give evidence in public. Nevertheless, the public may be excluded only if it becomes apparent, in the opinion of the court, that the authorities will no longer be able to protect the defendant against unlawful assault. The mere expectation that a defendant will be more inclined to admit incriminating facts in a closed session is not a legally admissible and sufficient reason for excluding the public (Federal Court of Justice, 23 May 1956, *BGHSt* 9, p. 280).

The rule that an accused person must be provided with proper defence is applied very rigidly. If the need for defence does not emerge until the trial is in progress and counsel is then appointed, the essential portions of the trial, particularly so far as

they concern the hearing of evidence, must be repeated (Federal Court of Justice, 29 June 1956, *BGHSt* 9, p. 243).

The question whether criminal proceedings may be broadcast can be decided, in the opinion of the Land High Court of Bavaria, only in each case (18 January 1956, *NJW* 1956, p. 390). While the public must be kept informed, the accused person's defence and, concomitantly, the court's findings must not be prejudiced by sensational publicity methods. However, if there is no particular reason to believe that improper use will be made of the information, the proceedings may be recorded on tape.

The defendant is entitled under all circumstances to make a final statement. Since he may avail himself of counsel at any stage of the proceedings, he may transfer this right to his counsel (Land High Court of Oldenburg, 11 December 1956, *NJW* 1957, p. 839). An unruly defendant may be denied the right to make his final statement only if his conduct is so disorderly that it is clear that such a statement would serve no useful purpose. The final statement may never be suppressed merely in order to facilitate or expedite the proceeding (Federal Court of Justice, 28 February 1956, *BGHSt* 9, p. 77).

Probationary suspension of a sentence is not permitted if the public interest requires the execution of the sentence. The decisive factors in determining whether the public interest is affected are the nature of the offence, the injury it inflicts, its consequences to the injured parties, its effect on public confidence in the law, and the character of the offender. The deterrent function of punishment must also be taken into account, but is not by itself sufficient to establish that the public interest is involved. In determining when a deterrent effect upon the public may be entertained as a supplementary objective of the punishment, the time when the decision is pronounced is more important than the time of commission of the offence. For the type and severity of the penalty itself, however, the time of commission of the offence is the decisive factor (Federal Court of Justice, 5 April 1956, *NJW* 1956, p. 919). For purposes of rehabilitation the court may order a convicted offender not to engage in a particular occupation for the duration of the probationary period, provided that this does not entail unreasonable interference in his mode of living. Thus, for example, the court may direct a person employed in the political intelligence service to give up this activity (Federal Court of Justice, 14 June 1956, *BGHSt* 9, p. 258).

Where, in the case of a defendant who pleads guilty, the period of custody pending trial is counted towards the sentence, this is not to be regarded as an act of grace; nor, in the case of a defendant who pleads not guilty, is the non-counting of such a period to be regarded as an additional penalty. No defendant is obliged to help the court to prove guilt, and allowance is to be made for the fact that a plea of not guilty is usually dictated by the instinct of self-preservation and by fear of punishment (Federal Court of Justice, 11 October 1956, *NJW* 1956, p. 1845). A period of custody pending trial is to be counted towards the sentence where circumstances and the effects of such custody have already had a salutary influence on the convicted person. Another important consideration is whether the preliminary custody has already more or less served the purposes of punishment (Federal Court of Justice, 3 May 1956, *MDR* 1956, p. 561). The court must not refuse to count a period of preliminary custody towards the sentence on the ground that the defendant does not merit such treatment because of previous convictions (Federal Court of Justice, 15 March 1956, *MDR* 1956, p. 432). Whether a period of preliminary custody should be counted towards the sentence is a question within the discretion of the judge; but to do so is not an act of grace, and in deciding not to do so the judge is not to be regarded as imposing an additional penalty.

7. Protection against Interference with Privacy

(Universal Declaration, articles 6 and 12)

Under the terms of section 4 of the Police Act promulgated in Baden-Württemberg on 21 November 1955 (*GBl* 1955, p. 249), the fundamental right of the inviolability of the home (article 13 of the Basic Law) may be temporarily abridged by police action. The police may enter a dwelling against the will of its owner, but only if such action is necessary for the protection of an individual or the community against imminent danger and for the preservation of safety and order. At night, the police may exercise this right only to avert a general danger or a threat to the life of one or more persons. A dwelling may be searched only if a person is to be taken into custody, if need arises to safeguard some object, or if delay would entail danger. The inviolability of the home has been subjected to certain restrictions by the Act of 19 March 1956 providing for the reintroduction of state powers in matters of defence (*BGBl* 1956 I, p. 111). Article 17*a*, recently inserted in the Basic Law,[1] provides that statutes designed to ensure the national defence, including civil defence, may place restrictions on the fundamental right of inviolability of the home.

The constitutionally guaranteed right of secrecy of the mails has also been the subject of a judicial decision. It may be limited by statute, the customs law being regarded as such a limitation. Customs officials are authorized to open mail from the German Democratic Republic or from foreign countries where there is ground to believe that it contains written mat-

[1] See International Labour Office: *Legislative Series* 1956 — Ger. F.R.I.

ter dangerous to the State within the meaning of section 93 of the Penal Code (Federal Court of Justice, 7 September 1956, *BGHSt* 9, p. 351). Mail may not be confiscated where, there being insufficient grounds for suspicion of an offence, it is not anticipated that judicial proceedings will follow.

The right to the free development of the personality, as set forth in article 2 of the Basic Law, provides comprehensive guarantees of the individual's freedom of action. This freedom of action is, however, limited in a general way by the constitutional order, that is, by the entire state system established on the basis of the Constitution (Federal Constitutional Court, 30 October 1956, *DVBl* 1957, p. 200). Nevertheless, there is no danger that restrictions along these lines might be carried too far, for the legislative authority itself is limited by the fundamental rights. The right to free development of the personality, and hence to general freedom of action, includes the right to travel beyond the territory of the State. The Federal Constitutional Court has recognized this right in several decisions (16 January 1957, *NJW* 1957, p. 297). Here, too, the court re-emphasized that freedom of action must be exercised within the framework of the constitutional order — i.e., is limited by any general rule of law which is in accordance with that order. The court sees a safeguard in the fact that the Basic Law has established an order which is founded on the moral values, and that the supreme principles of the Constitution are protected against constitutional amendment. Such supreme principles, in the court's view, are the concept of the rule of law (Rechtsstaatlichkeit) and that of social justice (Sozialstaatsprinzip). Thus, the court held, the individual enjoys the constitutional guarantee of a private sphere in which he may shape his life and an ultimate domain of inviolability.

The Federal Administrative Court has again affirmed that freedom of contract is one of the fundamental rights guaranteed by the Constitution (8 March 1956, *BVerwGE* 3, p. 205). However, the right to conclude private contracts, too, cannot be exercised without restriction and is subject to state control when the general welfare requires it. For example, the law providing for the supervison of insurance is not incompatible with the Basic Law. It is justified by the principle of social justice, which requires the protection of policy-holders. Insurance is of great economic, social and ethical importance, and abuses may be highly injurious to the general welfare (Federal Administrative Court, 24 May 1956, *BVerwGE* 3, p. 303). On the other hand, in the opinion of the Federal Administrative Court, price-fixing of any kind whatsoever *ipso facto* violates the principle of freedom of contract. Although price regulation is possible and permissible for reasons of social welfare and in a situation of economic emergency, the court regards it as inadmissible in cases where the Government is given authority so unrestricted as to confer upon it powers subject to no checks at all (4 July 1956, *BVerwGE* 4, p. 24).

8. The Right to Freedom of Movement; Freedom to Leave the Country; the Law relating to Passports

(Universal Declaration, article 13)

All Germans, including inhabitants of the German Democratic Republic, enjoy freedom of movement subject to the limitations prescribed by article 11, paragraph 2, of the Basic Law, which provides that this right may not be restricted save in the absence of an adequate basis of existence for the incomer, or where necessary for the protection of juveniles, the control of epidemics or the prevention of criminal acts. It is incumbent on the admission authorities, however, to prove the necessity of any such restriction. Admission may not, in any case, be refused on the ground that the applicant has no home or lodging to go to (Federal Administrative Court, 29 May 1956, *BVerwGE* 3, p. 308). Under the Emergency Admission Act passed to provide for the admission of inhabitants of the German Democratic Republic, the right of such inhabitants to enter the Federal Republic depends only on the completion of the admission formalities. Permission for permanent residence may be withheld only in virtue of one of the statutory grounds for refusal laid down in article 11, paragraph 2, of the Basic Law. The applicant is deemed to have an adequate basis of existence for the purposes of that provision if his occupation, age and health are such as to warrant the assumption that he will be able himself to provide for his basic needs. The Federal Constitutional Court holds, however, that the right to freedom of movement does not include a right to leave the country. While the right to leave the country is regarded as a fundamental right, it is considered to be an element of the right to general freedom of action, rather than a corollary of the right to freedom of movement. Hence an appeal against the denial of a passport must be based, not on the right to freedom of movement, but only on the right to the free development of the personality (30 October 1956, *DVBl* 1957, p. 200; 16 January 1957, *BVerfGE* 6, p. 32).

Under section 7 of the Passports Act a passport, and thus permission to leave the country, may be refused on the ground of prejudice to the interests of the Federal Republic. The Federal Administrative Court held that criticism of the Federal Government does not in itself constitute ground for denial of a passport. Ground for denial does, however, exist where calumny of the Federal Republic committed abroad would tend to undermine the confidence of the community of nations in the Federal Republic. In issuing passports the authorities are to be guided by the principles of the free democratic order established in the Federal Republic (22 February 1956, *BVerwGE* 3, p. 171). Section 7 of the Passports Act is not regarded as inconsistent with the Basic Law or international law, or as a violation of the United Nations Universal Declaration of Human Rights. On the contrary, the Passports Act fulfils the purposes of

this United Nations declaration of principle, in that it grants every German, as a matter of general rule, the legal right to a passport, a right withheld for years; however, the Act must not be abused for unlawful ends. Nevertheless, no exception may be made to the rule that a passport may not be denied without stating the reasons (Federal Constitutional Court, 30 October 1956, *DVBl* 1957, p. 200). In the absence of grounds for denial under the Passports Act, the Federal Administrative Court held that no discretion exists: the applicant is entitled to a passport. The grounds for denial are subject to review by the court. To leave the denial of a passport to the discretion of the authorities would run counter to the concept of the rule of law which is inherent in the Basic Law (9 February 1956, *BVerwGE* 3, p. 130).

Aliens, in the opinion of the Federal Administrative Court, have no statutory claim to a residence permit. Exceptions to this rule may arise in virtue of the right of asylum, the Act concerning the legal status of stateless aliens, and the Geneva Convention relating to the Status of Refugees.[1] Article 11 of the Basic Law guarantees freedom of movement only to Germans; this is not considered a breach of the principle of equality, for the legislator is not prohibited from making objective distinctions between foreigners and nationals. Furthermore, there is no general rule of international law to the effect that aliens must necessarily enjoy the same rights of residence and domicile as nationals of a country. It is true that the European Convention for the Protection of Human Rights and Fundamental Freedoms is recognized in the Federal Republic as the law of the land, but even this instrument provides only for general rights of the person and freedoms, not for a general right of domicile and gainful occupation in a foreign State (10 April 1956, *BVerwGE* 3, p. 235).

9. The Right of Asylum; Deportation; Protection of Refugees

(Universal Declaration, article 14)

The Federal Administrative Court gave searching consideration to the question of the right of stateless aliens to residence in the Federal Republic (12 January 1956, *BVerwGE* 3, p. 77). They occupy a special position, and their interests are protected by the Act of 25 April 1951 promulgated for that purpose (*BGBl* 1951 I, p. 269). A stateless alien may be deported only on the grounds laid down in the Act. A deportation order may not be issued in respect of a stateless alien solely on the grounds specified by the control regulations applicable to other aliens; the grounds laid down in the Act must exist. Under the Act, stateless aliens may reside in the Federal Republic even without a special residence permit. Furthermore, the Geneva Convention of 28 July 1951 relating to the status of refugees is not applicable to such persons. The Act concerning the legal status of stateless aliens recognizes a subjective right to residence (Federal Administrative Court, 28 June 1956, *BVerwGE* 3, p. 355), and is more favourable to such persons than the law normally applicable to aliens and refugees; they are to be accorded broadly the same treatment as German nationals.

[1] See *Yearbook on Human Rights for 1951*, pp. 581–8.

10. The Right to a Nationality

(Universal Declaration, article 15)

The Federal Court of Justice (18 January 1956, *BGHSt* 9, p. 175) ruled that a former Austrian national who acquired German nationality in 1938 through the union of Austria with the German Reich and reverted to Austrian citizenship in virtue of Austrian legislation enacted since 1945 loses German nationality if he has had his permanent residence in Austria since 1945 and has not published his wish to retain German nationality. In giving this ruling, the court did, it is true, hold that German nationality had effectively been acquired, and that there is no binding rule of international law concerning the acquisition and loss of nationality in cases of State succession. However, the loss of German nationality by inhabitants of Austria has to be recognized in virtue of the re-establishment of the Austrian State in accordance with the aims of the victorious Powers. The release of a State's population from a former union of States is a necessary concomitant of the final relinquishment of sovereignty over the territory of that State. Moreover, it has recently become an axiom of international law that the wishes of the persons concerned must not be disregarded; for that reason a right of option is frequently granted when a cession of territory takes place. Permanent residence in Austria betokens the wish of the persons concerned to be Austrians.

Another statute regulating questions of nationality was enacted in order to clarify the relationship between German and Austrian nationality law (17 May 1956, *BGBl* 1956 I, p. 431). This Act provides that the German Reich Act of 13 March 1938 concerning the union of Austria with the German Reich (*Reichsgesetzblatt* 1938 I, p. 237) has ceased to have effect. The regulations of 3 July 1938 and 30 June 1939 concerning German nationality in Land Austria were rescinded with effect from 27 April 1945. The German nationality of the Austrians affected lapsed on 26 April 1945. A woman who, between 13 March 1938 and 26 April 1945, married a German national who did not acquire German nationality as an Austrian through collective naturalization is regarded as retaining German nationality. A child legitimized by such a German national within the same period is also recognized as a German. The Act provides that German nationality may be reacquired by option provided that the optant has since 26 April 1945 taken up permanent residence within the German frontiers of 31 December 1937. The right of option is also accorded to any woman who, between 26 April 1945

and 31 March 1953, married a man who reacquired German nationality by option, whether she is still married to him or not. The same applies to any child born in wedlock after 26 April 1945 or subsequently legitimized, whose father has availed himself of the option. An illegitimate child whose mother has opted since 26 April 1945 and has taken up residence in Germany may likewise exercise the option. A German woman who, between 1938 and 1945, married an Austrian who acquired German nationality through collective naturalization loses her German nationality subject to a right of option, if she has taken up permanent residence outside Germany. Many additional special rules will be found in the Act itself. It should be noted that the right of option is not accorded to persons who endanger the internal or external security of the Federal Republic or any of its Länder.

11. Protection of the Family

(Universal Declaration, article 16)

The right to state protection of the family is guaranteed by the Constitution. The courts are required to respect this principle in making decisions which, though not directly concerned with family law, may affect it indirectly. The Bavarian Constitutional Court (25 October 1956, *DVBl* 1957, p. 57) ruled that the deportation of an alien, even if legally permissible, should not be enforced it it would entail dividing his family and is not a matter of overriding public interest. The court thus regarded the constitutional principle of family protection as being applicable also in favour of foreign nationals.

12. Protection of Property

(Universal Declaration, article 17)

The earlier Reich Special Powers Act (Leistungsgesetz) under which private persons could be required to make contributions of property or services for public purposes, has been superseded by the Federal Special Powers Act of 19 October 1956 (*BGBl* 1956 I, p. 815) which, under specified conditions, allows the public authorities to interfere with private property. Persons may be required to make contributions of property or services for the following purposes: in order to avert imminent danger to the existence of the State or to its free democratic order; for the protection of the frontiers; for the defence of the Federal Republic or of an association of States within which a common defence has been agreed upon; for the fulfilment of international treaties concerning the stationing of foreign troops; for the accommodation of persons or the transfer of business or industrial establishments where necessary for the above-mentioned purposes. Movable property, buildings, land, and telecommunications installations may be requisitioned. Labour services may be required and the conclusion of appropriate contracts ordered. All measures are to be kept within the bounds of what is unavoidably necessary. Compulsory measures may be taken only if the same effect cannot be achieved by other means and without considerable expenditure of resources. Public interests and individual interests are to be balanced against each other. The vital needs of the persons affected must be provided for. Contributions may be levied on all individuals or bodies corporate having property in the Federal territory. Measures against aliens may be taken only to the extent authorized under international treaties or the general rules of international law. The administrative property of public authorities or corporations may not be drawn upon. The following also are exempted from the effects of the Act: political parties, trade unions, churches, in respect of their ecclesiastical property, essential means of transport, postal and railway establishments and public utilities. The Act makes provision for the compensation of persons whose property has been requisitioned.

A further statute, known as the Protected Areas Act, which is similarly intended to serve the purposes of national defence and the state security, deals with restrictions on real property (7 December 1956, *BGBl* 1956, I, p. 899). The term "protected area" means an area in which military installations are planned, either for German or for allied foreign troops. No civilian building or structural alterations to existing buildings may be carried out in the area without special authorization. Restrictions may be placed on the use of land for agriculture. Here again, encroachments by the authorities are not to exceed the bounds of what is unavoidably necessary. Provision is made for the payment of compensation to persons affected and for special procedure for assessing the amount of such compensation. Legal protection is ensured for the aggrieved party, and any dispute is settled at final instance by the ordinary courts. Any property requisitioned under the Act is to be de-requisitioned if it is no longer needed or if the same service can be obtained by private contract at a reasonable charge. Persons affected are guaranteed compensation.

The constitutionally guaranteed protection of property applies not only to tangible objects but also, under German law, to other valuable rights and interests. However, benefits which can be obtained only in contravention of existing law are not considered to be expropriable property damage which gives rise to a claim for compensation (Federal Court of Justice, 20 December 1956, *NJW* 1957, p. 633). Therefore, any person who violates a prohibition issued in the public interest — who for example, carries on a business without authorization — has no claim to compensation from public funds if interference with such business for reasons of public interest should result in the loss of profit.

Rights to trademarks also constitute assets, and are covered by the right of protection of property provided under the Basic Law (Federal Court of Justice, 2 October 1956, *BGHZ* 22, p. 1). However, they are subject also to the provision of the Basic Law under

which limitations on property applicable to all citizens may be prescribed by law. Complete deprivation of the right to a trademark is considered to be compensable expropriation; but a limitation on the exercise of this right is considered to be compensable only if such limitation cannot reasonably be imposed on the person concerned, or if it unfairly prejudices his position *vis-a-vis* other similar cases. The declaration of an area to be a wild-life preserve, provided that it can continue to be used to the same extent as in the past for agriculture and forestry, is not an act of expropriation, justifying a claim for compensation, but is regarded merely as a social restraint which may be reasonably imposed on the property (Federal Constitutional Court, 21 June 1956, *BVerfGE* 3, p. 355). Nor do the principles of compensable expropriation apply to claims of civil servants in respect of property rights. The basis for such claims lies in the public law of administrative employment, a matter which is the subject of special constitutional regulation in the Basic Law (Federal Administrative Court, 28 March 1956, *BVerwGE* 3, p. 226). Complete deprivation of the ownership of a land holding or portion thereof — i.e., "classical" expropriation, in all cases exceeds the limits of the concept of non-compensable social restraint (Bavarian Constitutional Court, 3 February 1956, *VWRspr* 9, p. 1). If parts of a land holding are expropriated and the remaining parts increase in value in consequence of having been opened up, for example, as a result of streets, water mains and electric-power lines having been laid, the benefit to the owner may be taken into account only in assessing the amount of compensation, but has no bearing on the question whether the case is in itself one of compensable expropriation.

The statutory rule that repatriated persons and refugees are exempted from the payment of former debts — i.e., that creditors have no claim on these former debtors for the settlement of debts — is not regarded as a violation of the right of protection of property (Land High Court at Bremen, 30 August 1956, *NJW* 1956, p. 1721). It is true that under the civil law a debtor who is left without property through no fault of his own nevertheless continues to be liable, but this, the court held, should apply only to normal times and not to times of upheaval and catastrophe. Repatriated persons and refugees should be given the opportunity to rebuild their lives (cf. in the same sense Land High Court at Frankfurt, 23 February 1956, *NJW* 1956, p. 954).

The Land High Court at Celle (12 December 1956, *NJW* 1957, p. 634) concurred in the view of the Federal Court of Justice that compensation under public law for an act of expropriation should in principle be paid by the immediate beneficiary and not automatically by the public authority responsible for the act. However, in order that the injured party should be protected the court considers it desirable, *de lege ferenda*, that there should be a cumulative liability on the part of both the beneficiary and the public authority concerned. The ultimate apportionment of costs would then be a matter for internal financial arrangement.

In the opinion of the Bavarian Constitutional Court, the legislator should be guided by the principle that all limitations on property rights including limitations of the nature of social restraints, must bear a reasonable relation to the objective pursued. Where there is any doubt not only as to the suitability and fairness of the statutory provision enacted, but also as to its legality, it is for the courts to determine whether such a reasonable and appropriate relation does exist. Thus, the question whether the purpose of the statute bears a proper relation to the means provided is to this extent considered to be an issue of law (28 December 1956, *VWRspr* 9, p. 129).

In cases of state acts affecting the economy, too, the courts have frequently had occasion to consider whether the principles underlying the right of protection of property are being observed. Control measures by state economic authorities designed to secure the urgent needs of the economy with respect to the content and volume of production do not, in the opinion of the Federal Court of Justice, render the State liable for compensation, provided that the authorities in question have been granted the necessary statutory powers (24 January 1956, *NJW* 1956, p. 468).

The constitutional right of protection of property had a particularly important bearing, in 1956 again, on matters relating to building rights, since the serious shortage of space has created a public interest in state supervision of new building and town planning. But, in the case of building prohibitions too, the measures ordered must bear a reasonable relation to the objective pursued (Federal Administrative Court, 12 July 1956, *BVerwGE* 4, p. 57). The decisive factor in determining whether a building ban should be considered merely a reasonable social restraint on property or as an act of compensable expropriation may be the duration of the ban (Federal Administrative Court, 25 October 1956, *MDR* 1957, p. 119). While a vacant lot may be expropriated for the purpose of closing up gaps in buildings, since the act is carried out for the public welfare and there is a public interest in the proper design and preservation of the street-picture, compensation must nevertheless be paid (Federal Administrative Court, 29 November 1956, *BVerwGE* 4, p. 185). Land consolidation — i.e., the redivision and redistribution of smaller lots for the purpose of creating larger holdings — is not regarded as compensable expropriation, since it serves the interests of the affected persons themselves, who thereby again acquire continuous land holdings. However, the expropriation of land under this procedure for the benefit of state projects, for example the motor highways, is an act of compensable expropriation within the meaning of the Basic Law (Federal Administrative Court, 20 February 1956, *BVerwGE* 3, p. 156).

The amount of compensation may depend on whether the property-owner also derives advantage from the administrative act of expropriation in question. A statute enacted in Land Rhineland-Palatinate admitted of this type of calculation in providing that small part-holdings, of limited extent, may be expropriated without compensation for purposes of municipal transport and recreational facilities, where the owner of the main property derives advantage from being connected with communications and utilities. The Federal Court of Justice held that this provision was not contrary to law if the increase in value of the residual property was at least equal to the value of the area surrendered (10 October 1956 *BGHZ* 21, p. 388). The amount of the appropriate compensation payable by the public authorities for acts of expropriation may not be a mere reasonable estimate arrived at in the abstract, but must be determined, with due regard to the nature and extent of the loss, in such a manner that the person concerned receives equivalent material compensation (Federal Court of Justice, 24 April 1956, *VWRspr* 9, p. 211).

Compensation is payable by the State not only in respect of acts of expropriation authorized by statute, but also in respect of isolated acts of encroachment — carried out lawfully by public authorities in the general interest — on the valuable rights or interests of individuals. This is the "sacrifice" claim deriving from customary law; and it must be upheld, in the opinion of the Federal Administrative Court, not only in the case of acts of encroachment by German authorities, but also where individual rights are infringed as a result of requisitioning by the occupying power and suitable compensation cannot be obtained from the latter (20 June 1956, *BVerwGE* 4, p. 6). The Federal Administrative Court thereby ruled in a sense contrary to the view expressed earlier by the Federal Court of Justice, which considered that compensation was payable only in the case of encroachments by German authorities. In assessing the sacrifice claim, no account can be taken of intangible damages. Such damages can be considered only in the cases explicitly specified in civil law and not in connexion with claims arising under public law (Federal Court of Justice, 13 February 1956, *BGHZ* 20, p. 61).

13. Freedom of Conscience and Religion; Freedom of Religious Practice

(Universal Declaration, article 18)

Under the Military Service Act of 19 March 1956 (*BGBl* 1956, I, p. 114), the constitutional guarantee of freedom of religious practice also applies to military personnel. The Act provides that every soldier shall have the right to spiritual ministration and the undisturbed practice of religion. Participation in religious services is voluntary and cannot be compelled.

14. The Right to the Free Expression of Opinion; Freedom of the Press and Information; the Right of Petition

(Universal Declaration, article 19)

The right to the free expression of opinion guaranteed by the Constitution may be limited by the provisions of the general laws, in particular those enacted to protect the security of the State. The Federal Constitutional Court had occasion to rule on this point in connexion with the prohibition of the Communist Party (17 August 1956, *BVerfGE*, p. 85). The prohibition of a political party must not imply any restriction of the right to the free expression of opinion. It is not unlawful, moreover, to express and discuss the theoretical views of such a party. Only when an aggressive attitude is adopted and translated into any form of militant activity against the State, with a view to an assault on the existing order, is the prohibition of the party or association admissible. The Federal Labour Court (13 January 1956, *NJW* 1956, p. 398) declared a political poll organized in a factory in 1954, on the instructions of the Communist Party and under the direction of the Communist works council members, to be a serious breach of the works council's official responsibilities. The dismissal of such works council members without notice was justified, since a poll of this kind conducted by the Communist Party was a violation of free democratic principles. Those who actively participated in it could not invoke the right to the free expression of opinion. Party political activities inside a factory endangered industrial peace. This decision, the Federal Labour Court held, did not affect the exclusive jurisdiction of the Federal Constitutional Court, which alone, according to the Basic Law, has the right to prohibit a political party, and which first exercised this right in 1956 with respect to the Communist Party. Pending a ruling by the Federal Constitutional Court, it remains an open question whether membership of the Communist Party in itself constitutes special ground for dismissal; but in any event, the right to the free expression of opinion cannot be asserted if the expression of opinion takes the form of an act which is prejudicial to public order and security or endangers the survival of the free democratic order. As the right to the free expression of opinion may be limited by the provisions of the general laws, due consideration must also be given to the labour laws, which forbid provocative expressions of party opinion in factories, particularly by works council members.

In the view of the Bavarian Constitutional Court, a civil servant who acts as a municipal councillor (Stadtrat) representing the Communist Party thereby gives ground for his dismissal from the service (30 December 1955, *NJW* 1956, p. 767). It is true that the fundamental right to the free expression of opinion includes the right to belong to a political party and to advocate its principles, but this is subject to the observance of the general laws, which include the

Civil Service Act. A civil servant enters, of his own free choice, into a position of special responsibility towards his employer, and it is incumbent on him above all to show in all his actions that he believes in democracy. This however is impossible if he is a member of a political party which does not subscribe to democratic political ideas. The court was in no doubt as to the undemocratic character of the Communist Party.

Under the Act supplementing the Basic Law by providing for the reintroduction of State powers in matters of defence in the Federal Republic, certain restrictions may be placed on the right of the free expression of opinion (19 March 1956, *BGBl* I, 1956, p. 111).[1] The new article 17*a* of the Basic Law lays down that the right to express and disseminate personal opinions through speech, writing and pictures may be restricted by law during the period of military service. It is true that under article 5 of the Basic Law this right had previously been subject to limitation by the provisions of the general laws. Since, however, article 19 of the Basic Law provides that such legal limitations may in no case infringe a basic right in its essential content, the new rule was necessary, as this basic right is to be almost completely annulled for the period of military service. In accordance with section 15 of the Military Service Act (19 March 1956, *BGBl* 1956 I, p. 114) a soldier on duty may not carry on activities either for or against a particular political movement. This does not affect the right of the soldier, when off duty, to express his own opinions in conversation with fellow-soldiers. In barracks and other military establishments, of course, the soldier's right to the free expression of his opinion during off-duty hours must be limited by the rules of good comradeship. A soldier may not act as a political canvasser by making speeches, distributing literature or working as representative of a political organization. He may not attend a political demonstration in uniform. Those in positions of command are not to exercise political influence on their subordinates.

The right to the free expression of opinion has been the subject of a judicial decision, in connexion with the law relating to passports. The Federal Constitutional Court ruled that while article 5 of the Basic Law implies the right to the expression of opinion not only at home but also abroad, this basic right is not impaired by the denial of a passport, say on the ground of a threat to the security of the Federal Republic, since the Passports Act is one of the general laws by which the right to the free expression of opinion may be limited under article 5 of the Basic Law (30 October 1956, *DVBl* 1957, p. 200).

The right to the free expression of opinion naturally has a very important bearing on the law relating to the press. The Federal Court of Justice expects a very high sense of duty to the nation and to individuals on the part of the press. If the press, without due consideration of the factors involved, makes defamatory allegations against a person with resultant prejudice to his economic interests, a claim for damages is recognized (11 May 1956, *MDR* 1956, p. 734).

The right of the public to be kept informed is generally recognized. Whether this right implies that permission must be given for criminal proceedings to be broadcast from the courtroom is a question which, in the view of the Bavarian Land Higher Court, can be decided only in each particular case (18 January 1956, *NJW* 1956, p. 390). Not only the duty of keeping the public informed, but also the court's obligation to determine the truth and the individual's right to unhindered defence are considerations to be borne in mind.

These claims are not always reconcilable. In principle, the determination of the truth takes precedence over the requirement of keeping the public informed, since the objective is to ensure a just decision. Moreover, the accused person's defence also helps in the determination of the truth, and must not be hampered by sensational reporting. However, where there are no special reasons to the contrary, such as the strong suspicion that the information will be misused, the wide use of tape recording should be permitted. There is no fundamental difference between recording on tape and recording by shorthand, which has also, in most cases, been permitted hitherto to the press; tape recording is merely a technical advance. The right to public illustrations of contemporary personalities, while it exists in principle, is also, in the view of the Federal Court of Justice, subject to limitations. It does not extend to the publication of material which satisfies no legitimate need for information on the part of the public but merely serves the business interests of an individual — e.g., for advertising purposes (Federal Court of Justice, 8 May 1956, *NJW* 1956, p. 1554).

The Universal Postal Convention signed at Brussels on 11 July 1952 came into force in the Federal Republic of Germany on 21 March 1955 (Federal Government Notice of 17 May 1956, *BGBl* 1956, II, p. 653).

The Land Higher Court of Munich gave searching study to the question how far the exercise of the right of petition — i.e. the right to address petitions to political forums such as the Bundestag (Federal Diet) could encroach upon the rights of other citizens. It considered that if the content of an intended petition is offensive, the aggrieved party is justified in applying for an injunction. It is true that the Basic Law provides no explicit limitation of the right of petition such as the limitation of the right to the free expression of opinion by the provisions of the general laws. But clearly there must be limits to the exercise of the right of petition also; the right of petition must not encroach upon the rights of others (25 April 1956, *NJW* 1957, p. 795). In a previous decision the same court has come to a different conclusion (28

[1] See International Labour Office: *Legislative Series* 1956 — Ger. F.R.I.

October 1955, *NJW* 1957, p. 793). It had then affirmed that the exercise of the right of petition granted by the Constitution could neither be limited nor denied by means of an injunction or interim order. The right of petition should not, of course, encroach upon the rights of other parties, and the content of the petition should not be actionable; however, the petition itself could not be suppressed by a legal action or by interim order. Amongst jurists this earlier decision appears to have found more support than the later one. Since there is nothing to prevent a subsequent action at law by the aggrieved party, the suppression of the petition itself is quite unnecessary and would needlessly obstruct the exercise of a fundamental right. Some limitations have been placed on the right of petition by the Act providing for the reintroduction of state powers in matters of defence (19 March 1956, *BGBl* 1956, I, p. 111). The recently adopted article 17*a* of the Basic Law provides that the right of soldiers to submit collective requests and complaints may be annulled for the duration of the period of military service. The right of petition remains, in so far as it is exercised by an individual.

15. Prohibition of Political Parties and Associations

(Universal Declaration, articles 20, 21 and 30)

As already mentioned in the section dealing with the right to the free expression of opinion, the Federal Constitutional Court has prohibited the German Communist Party (17 August 1956, *BVerfGE* 5, p. 85). The court's argument was on the following lines. The prohibition of the Communist Party in the Federal Republic of Germany sets up no legel bar to the authorization of a new communist party in the event of all-German elections. Under its own terms, the Basic Law will cease to have effect on the day of entry into force of a general German constitution adopted by a free decision of the German people — i.e., the population of the Federal Republic together with that of the German Democratic Republic. Under the terms of the Basic Law, again, a party is not regarded as unconstitutional in the Federal Republic of Germany merely because it refuses on purely theoretical grounds to recognize the highest principles of a free and democratic order. Before a party can be prohibited, there must be evidence that it has displayed an active, militant and aggressive attitude towards the existing order of the State. On the other hand, it need not already have embarked on a revolutionary course of action. It is enough if the party's political line is determined by the aim of conducting a violent, radical and permanent struggle against the free democratic basic order. The line between scientific theory, which is protected by the right to the free expression of opinion, and positive anticonstitutional party activity, which may be prohibited under article 21 of the Basic Law, is crossed when the resort to force becomes the main objective determining the party's political activity and political preparations. A party is also acting anticonstitutionally if it aims at achieving changes in the social and political organization of the existing democratic order merely so as to use those changes as an intermediate stage, with a view to facilitating the complete destruction of the free basic order as a whole. A party's aims may be unconstitutional within the meaning of the Basic Law even if they are only meant to be achieved if circumstances are favourable. The Federal Constitutional Court has also given an opinion on the question whether there exists any individual right of resistance to the existing state power. Even if it is conceded that such a right exists as against illegal acts by the State, it may be exercised only within narrow limits. The right of resistance may be used only for purpose of conservation — i.e., to re-establish a state of law within a context of freedom and democracy. The wrong to which resistance is offered must be patent. The legal remedies available must all offer such small prospects of success that resistance is the only remaining way of upholding or re-establishing the law.

The Federal Court of Justice, too, has expressed its views on the prohibition of political associations. It considers that an association's objects or activities are directed against the constitutional order when its leaders hold fast obdurately to processes of thought derived from a conception of the State diametrically opposed to free democracy (e.g., National Socialism) and when its members are pledged to unyielding rejection of the free democratic order (9 March 1956, *BGHSt* 9, p. 101). Under article 9 of the Basic Law such anti-constitutional associations may be prohibited. However, the prohibition must be executed by means of a special dissolution order issued by the competent authority (Federal Administrative Court, 6 December 1956, *BVerwGE* 4, p. 188); it cannot be pronounced by any authority whatsoever, in the course of a proceeding of which it is not the primary purpose.

Under section 90*a* of the Penal Code it is a punishable offence to promote, as ringleader, the efforts of an association whose objects or activities are directed against the constitutional order. The Federal Court of Justice has had occasion to interpret this provision (4 June 1956, *BGHSt* 9, p. 285). A distinction has to be drawn between the constitutional order as the term is used in this context and the formal constitutional order founded solely upon the Basic Law. What is meant is not a particular scheme of state institutions, but the supreme and essential values which distinguish a democratic constitutional State from an arbitrary despotism. The Federal Court of Justice names as the chief features of such a constitutional basic order the sovereignty of the people, the separation of powers, the responsibility and removability of the Government, the rule of law, the independence of the courts, the multiple-party system and the right of opposition.

16. The Suffrage and the Right of Self-determination

(Universal Declaration, article 21)

A new Federal Elections Act was passed (7 May 1956, *BGBl* 1956 I, p. 383), which conforms in principle to the previous electoral law. New Elections Acts were also passed in the German Länder.

The Federal Constitutional Court had occasion to pronounce upon the general principles of election (13 June 1956, *BVerfGE* 5, p. 77). The court holds that a provision requiring nominations by groups of non-party voters to be signed by a minimum number of persons entitled to vote conflicts neither with equality of suffrage nor with the principle of secrecy. The legislator is not acting arbitrarily if, in order to prevent excessive fragmentation of the vote, he excludes hopeless candidatures so far as possible. A non-party candidate who cannot show that he has a minimum number of supporters obviously has no prospect of success. Nor is the principle of secrecy impaired, since it is naturally impossible to preserve complete secrecy in preparations for an election. It is inherent in an electoral campaign itself that many of those concerned must make their views known in advance. The Federal Constitutional Court also ruled on the question of a representative's forfeiture of his mandate (3 May 1956, *BVerfGE* 5, p. 2). The right to vote can be accorded in the Federal Republic only to that part of the German population which lives in the federal territory. Since the right to vote is a prerequisite of the right to be elected, residence in the territory of the Federal Republic is an essential condition for eligibility. This condition must be fulfilled not only on election day but throughout the life of the legislature. The occasion for this decision was the fact that a representative to the Bundestag had moved to the German Democratic Republic and maintained from there that he had not forfeited his seat in the Bundestag through his change of residence.

The Military Service Act of 19 March 1956, referred to above, deals with the question when a soldier may claim the right to be elected. Any soldier who agrees to stand as a candidate for the Bundestag, a Landtag (Diet) or a municipal representative body must immediately report the fact to his superior officer. The legislative provisions concerning the legal status of public servants elected to the German Bundestag apply, *mutatis mutandis*.

The right of the people to self-determination was upheld in the Act of 22 December 1956 concerning the treaty between the Federal Republic and France on the settlement of the Saar question (*BGBl* 1956 II, p. 1587). This treaty was signed at Luxembourg on 27 October 1956.[1] The parties agree that the Saar question is not in future to be a cause of dispute, and is to be regarded as finally settled by the treaty. The Basic Law of the Federal Republic is made applicable to the Saar with effect from 1 January 1957. At the same time the Saar remains provisionally in a monetary and customs union with France. The treaty also contains economic provisions covering the right to levy taxes, currency adjustment, frontier traffic and other questions requiring settlement. The rights of an individual or corporate body, irrespective of nationality, may not be infringed by any public authority on the grounds of that individual's or body's past political attitude. No criminal or disciplinary proceedings may be instituted on the grounds of past political attitude, and civil servants are not liable for actions performed in the course of their previous duties.

[1] See also p. 205.

17. The Right to the Free Choice and Exercise of a Profession or Occupation

(Universal Declaration, article 23)

Article 12 of the Basic Law guarantees the free choice of trade or profession; the exercise of a trade or profession, however, is subject to regulation in matters of detail. In particular, it has been held legitimate to control, by legislation and regulation, admission to occupations the exercise of which is a matter of public interest or the inefficient exercise of which may be to the public danger. The Federal Social Court (25 October 1956, *NJW* 1957, p. 727) held that a provision limiting the number of doctors who could be admitted to national insurance practice was not unconstitutional. National insurance practice, the court held, is not a profession in which the right to freedom of occupation applies without qualification (17 February 1956, *NJW* 1956, p. 1694). It is rather a particular public service performed within the general profession of medicine. The Federal Court of Justice held that a regulation providing that certain medicaments might be sold only by state-approved pharmacies did not encroach on the right to the free exercise of an occupation (16 November 1956, *BGHZ* 22, p. 167). The court considered the regulation to be in the general interest; in order to protect the community it is legitimate to control admission to the pharmaceutical profession by examination. However, a licence to operate a pharmacy should not be refused, for example, in order to protect existing pharmacies or on the ground that no economic need for a new pharmacy exists (Federal Administrative Court, 22 November 1956, *BVerwGE* 4, p. 167). Moreover, the practice of professions of this kind is subject only to such restrictions as do not affect in its essentials the fundamental right to free exercise of an occupation. Admission to them may not be barred altogether, as would be the case if it were refused on the ground that no more admissions were needed. On the other hand, the protection of public health is in principle a legitimate ground for limitation.

The Federal Administrative Court held that a statutory provision setting an age-limit for a pro-

fession which, though private, performs a public service, does not conflict with the Basic Law (3 May 1956, *BVerwGE* 3, p. 254).

The Federal Republic acceded to Convention 29 of the International Labour Organisation concerning forced or compulsory labour (Act of 1 June 1956, *BGBl* 1956 II, p. 640). Under this Convention, every State party undertakes to suppress forced or compulsory labour in all its forms. For the purposes of the Convention the term "forced or compulsory labour" means services which are exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. The term does not include compulsory military service, normal civic obligations, service exacted as a consequence of a conviction in a court of law or services exacted in cases of emergency, such as disaster precautions. Under the Special Powers Act of 19 October 1956 (*BGBl* 1956 I, p. 815), mentioned above, compulsory contracts of service may be concluded and service may be exacted, but only in the cases in which this is authorized under the International Labour Convention. Details of this Act were given in the section dealing with the protection of property. It is true that these provisions of the Act, also, imply some limitation of the right to the free choice and exercise of a profession or occupation, but they are compatible with fundamental rights, for the Act itself refers to exceptional circumstances involving, for example, national defence and state security.

In addition, the Act of 19 March 1956 providing for the reintroduction of state powers in matters of defence (*BGBl* 1956 I, p. 111),[1] to which several references have already been made,l imits the right of freedom of occupation for soldiers. Under the Basic Law, of course, no one may be compelled to perform a particular kind of work; but an exception is made for compulsory military service. Any person who refuses on grounds of conscience to perform military service under arms is liable to alternative service. The detailed provisions are laid down in a special Act. Freedom of conscience in relation to military service must be respected to the full, and an opportunity must be provided for the performance of alternative service in no way connected with the armed forces. Women may not be compelled by law to perform any service in the armed forces, and may under no circumstances be employed on armed military duty.

18. The Protection of Rights in Labour Legislation [2]

(Universal Declaration, articles 23, 24 and 25)

The Act of 16 April 1956 amending and supplementing the Unemployment Insurance and Unemployment Agencies Act (*BGBl* 1956, I, p. 243) provides for the social protection of unemployed workers whose period of entitlement to unemployment benefit has expired. Under the Act, persons who are German nationals within the meaning of the Basic Law are entitled to maintenance in the form of unemployment relief for an unspecified period. Unemployment relief is naturally lower than unemployment benefit. Aliens are treated on the same footing as Germans, if their State accords equal treatment to Germans on a basis of reciprocity. The Minister of Labour may by order grant aliens equal treatment with Germans; in this connexion, length of residence and duration of employment in Germany may be taken into account. An order of 31 July 1956 (*BGBl* 1956, I, p. 727) was issued in application of this Act. The order makes provision for the equal treatment of aliens and stateless persons. Equal treatment may also be granted, in analogous cases, to self-employed persons.

The Federal Social Court ruled that participation in a strike constitutes an interruption of employment for the purposes of compulsory unemployment insurance, so that the period of the strike is not insurable (27 January 1956, *NJW* 1956, p. 1813). There is a fundamental difference between the employment and contract relationship, which is a matter of private law, and the compulsory-insurance relationship, which is a matter of public law. This decision, the court said, was not made with the intention of penalizing strikes. But if a valid legal provision had certain unfavourable effects, that could not be helped; insurance presupposed the actual performance of work. The court cited the Federal Labour Court's decision of 28 January 1955 (*NJW* 1955, p. 882): "Employees may not be relieved of the risk of losing their jobs as a result of a strike. A strike is a fight. A person who decides to fight must accept the risks involved in fighting."

The Bundestag approved the accession of the Federal Republic of Germany to ILO Convention 56 concerning Sickness Insurance for Seamen (Act of 17 August 1956, *BGBl* 1956, II, p. 891). The Federal Government gave notice that ILO Convention 62, concerning safety provisions in the building industry, had come into effect with regard to the Federal Republic on 14 June 1956 (27 November 1956, *BGBl* 1956, II, p. 1584). The Convention was approved by the Bundestag by Act of 22 February 1955 (*BGBl* 1955, II, p. 178) and the Federal Government deposited its ratification with the Director-General of the International Labour Office on 14 June 1955.

In the opinion of the Federal Labour Court, every employee has a right to a certain amount of leave, even in the absence of any express rule to that effect laid down in a statute, trade-union or factory agreement or employment contract. This also applies to home workers (20 April 1956, *NJW* 1956, p. 1245). The court based this opinion on the fact that under the Civil Code the employer's duty to provide for

[1] See International Labour Office: *Legislative Series* 1956 — Ger. F.R.I.

[2] See also p. 301.

his workers' welfare is an essential element of the employment contract, and that the Basic Law defines the Federal Republic as a State founded on social justice and the rule of law. Accordingly, wages must be paid for the period of leave. The Federal Government gave notice that the Federal Republic had also acceded to ILO Convention 101 concerning Holidays with Pay in Agriculture (16 October 1956, *BGBl* 1956, II, p. 933). The convention came into force with regard to the Federal Republic on 5 January 1956, the Bundestag having given its consent by Act of 21 August 1954 (*BGBl* 1954, II, p. 1005). The instrument of ratification was deposited with the Director-General of the International Labour Office on 5 January 1955.

The Bundestag approved the Federal Republic's accession to ILO Convention 10 concerning the Age for Admission of Children to Employment in Agriculture (Act of 3 October 1956, *BGBl* 1956, II, p. 927). Under the terms of this Convention, children under the age of fourteen years may not be employed or work in any public or private agricultural undertaking, save outside the hours fixed for school attendance. The employment must not be such as to prejudice their attendance at school. School hours may be so arranged to conform to agricultural requirements. On 29 November 1956 the Federal Government published notice of the accession of the Federal Republic of Germany to ILO Convention 81, concerning labour inspection in industry and commerce (*BGBl* 1956, II, p. 1583). The convention came into force on 14 June 1956, the Bundestag having approved it by Act of 24 March 1955 (*BGBl* 1955, II, p. 584). It was ratified on 14 June 1955, on deposit of the instrument of ratification with the Director-General of the International Labour Office.

19. State Care for Persons in Need of Assistance [1]

(Universal Declaration, articles 22 and 23)

In Berlin, the Act concerning the recognition and care of persons persecuted for political, racial and religious reasons was passed on 13 April 1956 (*GVBl* 1956, p. 388). It contains a recapitulation of all legislation on this subject since 1950. The provisions of the new Act also extend to persons who were victims of collective discrimination under the National Socialist racial laws. Improved provision is made for the care of victims of persecution.

The Federal Welfare Act, the purpose of which is to ensure assistance to persons who sustained particular injury as a result of the war, provides for educational grants to minors. In the opinion of the Federal Administrative Court, there is a legally enforceable right to such grants, so that it does not lie within the discretion of the public authorities to accord or withhold them (11 May 1956, *BVerwGE* 3, p. 288). The essential nature of the contemporary State based on law is manifested and attested in the very fact that where there is any doubt the legal claims of citizens as against the public authorities are upheld, the presumption being that in such cases the authorities are bound. There is also, the court held, a legal right to assistance under the same Act for the purpose of improving vocational qualifications (19 December 1956, *BVerwGE* 4, p. 210). If, however, the person concerned is able to resume another occupation, exercised by him in the past, the authorities may refuse to grant him an allowance for the purpose of learning a new occupation and may direct him to resume his former one. In Berlin, the Act of 9 November 1956 (*GVBl* 1956, p. 792) provides for vocational assistance and benefits for disabled persons. Any person with a serious disability may receive a vocational allowance the purpose of which is to enable him to acquire efficiency in his occupation, or to regain or improve such efficiency, and to fit him for competition with others. Provision is also made for training such persons in new occupations.

The Federal Court of Justice gave an opinion on the extent of the duty of care in relation to minors committed to welfare institutions (3 December 1956, *VWRspr* 9, p. 203). The committal of a minor to a welfare institution establishes a special relationship based on compulsion, and this in itself creates a duty on the part of the welfare authorities to care for the health of the person committed. Accordingly, a minor directed to a welfare institution must be medically examined to determine whether he is in a fit state of health to cope with the conditions of group upbringing in an institution.

20. The Right to Education

(Universal Declaration, article 26)

In Baden-Württemberg, an act of 15 February 1956 provides for the training and education of children and young persons with defective hearing and sight (*GBl* 1956, p. 31). The Act established uniform regulations for Land Baden-Württemberg. A new School Administration Act was promulgated in Land Hamburg (3 July 1956, *GVBl* 1956, p. 125). In Land Baden-Württemberg, a new Act of 15 February 1956 deals with private schools (*GBl* 1956, p. 28). Private schools are to enlarge the public schools system by providing alternative or supplementary facilities and offering an opportunity for special types of education. Private schools are permissible as substitute schools and are provided for where there are not enough public schools available. They must be approved by the school inspection authorities. Such approval must be granted if the teachers in the private school are of equal standard with those in public schools and if the school does not encourage the separation of students according to the property and means of their parents.

[1] See also p. 302.

Attendance at such schools satisfies the requirements of the compulsory education laws. A similar Private Schools Act was promulgated in Land Bremen on 3 July 1956 (*GBl* 1956, p. 77). This Act provides that foreign schools — i.e., schools operated by foreign States — may be approved only subject to reciprocity.

In principle, the choice of a school is still left to the parents. However, this right is limited in the same way as other fundamental rights: it may not be exercised to the prejudice of other persons or the public (Hamburg Higher Administrative Court, 12 March 1956, *NJW* 1956, p. 1173). If a child is refused admission to a secondary school by the school authorities, a complaint may be brought before the Administrative Court (Hamburg Higher Administrative Court, 12 March 1956, *NJW* 1956, p. 1173). However, the right of parents to decide on their children's education and to select their schools is not enforceable where the child is so deficient in ability and aptitude that he would be a hindrance to his fellow students and thus seriously prejudice the free development of their personalities. The educational authorities have the duty of keeping a child out of school if he is highly unlikely to be able to follow the curriculum; they are entitled to apply suitable selection methods and to refuse admission to a secondary school even where it is found that the child will not be a handicap to the classes he attends until some time in the future.

In Land North Rhine-Westphalia an Act of 31 January 1956 provides for exemption from school fees (*GVBl* 1956, p. 957). It was promulgated to give effect to a corresponding provision in the Land Constitution. Exemption from school fees is to be introduced in the higher grades first and progressively extended up to 1960.

21. Protection of Cultural Property, Industrial Rights and Copyright

(Universal Declaration, article 27)

Special statutory provisions have been enacted for the protection of artistic productions. However, the meaning of a work of art for the purposes of this legislation has been defined in very strict terms by the Federal Court of Justice (27 November 1956, *BGHZ* 22, p. 209). Such works must have a higher degree of aesthetic content than products which are entitled to protection only as designs. On the other hand, nothing in the concept of a work of art rules out the possibility of its being created and intended primarily for use. The Federal Court of Justice also gave a ruling on the interpretation of contracts under which an artist is commissioned to produce a work (24 January 1956, *BGHZ* 19, p. 382). In principle the artist enjoys, within the terms of his contract, a creative freedom corresponding to his artistic individuality, and is free to express his individual inspiration and artistic objectives in his work. Consequently, anyone who commissions a work from an artist must acquaint himself with the artist's individual style, and must accept the work even if it does not wholly correspond with his expectations. Works of art are also protected against advertising (Federal Court of Justice, 8 May 1956, *BGHZ* 20, p. 345). Where an artist gives permission for the unpaid publication of his picture, such permission is not, the court held, to be interpreted in the event of doubt as authorization for its use as an advertisement, and if it is so used without authorization the artist may claim damages in the amount of the presumptive fee for such use. The right of public performance of a work of music is reserved to the composer. The composer's permission is not required, however, in the case of nonpublic performances organized for business purposes (Federal Court of Justice, 19 June 1956, *NJW* 1956, p. 1553).

GREECE

NOTE[1]

During 1956 Greece did not find it necessary to take new legislative measures for the protection of human rights in the political field. The measures which were taken during that year are either of an economic and social or of a cultural character:

A. Economic and Social Measures

1. Serious efforts have been made to repair the heavy damage caused by the earthquakes which have struck the country in the last few years. In this connexion, the following legislation has been enacted:

(*a*) Act No. 3521/56 (*Official Gazette* No. 169/56), prolonging the validity of the moratorium applied in the earthquake-stricken districts of Zante and Cephalonia, since it was considered that the extremely difficult living conditions created by the earthquakes in these islands still persisted.

(*b*) Acts Nos. 3525/56 and 3526/56 (*Official Gazette* No. 181/56), concerning the damage caused on the island of Santorini by the earthquakes of July 1956. These laws aim at providing shelter for the earthquake-stricken population as promptly as possible and at helping them to repair the damage.

(*c*) Legislative decree No. 3614/56 (*Official Gazette* No. 248/56), ratifying the decisions of the Council of Ministers which refer to the restoration of the damage caused in Magnisia by the earthquakes of 19 April 1955. This decree also completes the existing regulations concerning the rehabilitation of the earthquake-stricken areas of the Ionian Islands and of Magnisia.

2. (*a*) Legislative decree No. 3572/56 (*Official Gazette* No. 233/56) aims at granting further social insurance protection to printing workers and their families against unemployment, illness, invalidity, accident and old age, as well as enabling them to acquire dwellings for self-ownership.

(*b*) Legislative decree No. 3618/56 (*Official Gazette* No. 274/56) provides for the granting of a higher pension to civil servants, officers, warrant officers and soldiers in general, who have been wounded while on duty, as well as to their families if they are killed while on duty.

(*c*) Legislative decree No. 3621/56 (*Official Gazette* No. 276/56), adopted in the light of the need to protect cattle-breeding, mainly in the few winter pastures, prolongs the validity of a law which for many years had aided shepherds in the use of pastures. This pre-existing law has, however, been greatly modified in order to protect owners of small properties who had for many years been affected thereby.

B. Cultural Measures

(*a*) Act No. 3476/56 (*Official Gazette* No. 2/56) ratified the cultural convention which was signed on 11 September 1954 between Greece and Italy.

(*b*) Legislative decree No. 3569/56 (*Official Gazette* No. 223/56) ratified the cultural convention which was signed on 9 December 1954 between Greece and Belgium.

(*c*) Legislative decree No. 3585/56 (*Official Gazette* No. 241/56) ratified the cultural convention signed on 17 May 1956 between Greece and the Federal Republic of Germany.

The above-mentioned three conventions aim at increasing friendly co-operation by the participating countries in the scientific, artistic and cultural fields.

(*d*) Act No. 3565/56 (*Official Gazette* No. 223/56) ratified the Convention for the Protection of Literary and Artistic Works, first signed in Berne in 1886 and amended in Brussels in 1948. Greece will thus enjoy, on the same basis as the other States parties, the benefits of the protection afforded by this Convention to Greek literature and works of art.

[1] Information kindly furnished by the Permanent Representative of Greece to the United Nations.

GUATEMALA

NOTE

In addition to the entry into force on 1 March 1956 of a new Constitution and the adoption of certain other texts, extracts from which appear below, the following were among the relevant developments of 1956:

1. Decree No. 553, of 22 February 1956 (*El Guatemalteco* No. 72, of 25 February 1956), repealed chapter IV and article 30 of decree No. 59, of 24 August 1954 (Law for the Prevention and Punishment of Communism),[1] abolished the Committee of National Defence Against Communism provided for in the earlier decree and made detailed provisions for the organization of a General Office for National Safety.

2. Decree No. 712 of 12 December 1949 [2] and decree No. 31 (Agrarian Statute) of 26 July 1954 [3] were among the provisions repealed by decree No. 559 (Agrarian Statute) of 25 February 1956 (*El Guatemalteco* No. 73, of 27 February 1956), which entered into force on 1 March 1956. The new Agrarian Statute permitted expropriation of unutilized land and provided a procedure for the assessment and payment of compensation in the event of expropriation. It was stated that differences of sex, race or religion were not to be obstacles to the granting of land under the procedures of redistribution. Translations of the decree into English and French have appeared in *Food and Agricultural Legislation*, 1956, Vol. V, No. 2, of the Food and Agriculture Organization of the United Nations.

3. Decree No. 570, of 28 February 1956 (*El Guatemalteco* No. 74, of 28 February 1956), amended decree No. 330, being the Labour Code of 17 February 1947.[4] A considerandum to the decree referred to the need to adapt the Code to the new Constitution. One of the provisions affected, article 6 of the Code, reads as follows, after amendment:

"A person's right to work may be limited only by decision of a competent authority based on law, on the grounds of public order or national interest. Consequently, no one may prevent another from exercising the profession or work of his choice, if it is legal.

"Freedom to work shall not be deemed to be limited by actions of authorities or individuals in the exercise or fulfilment of their legal rights or obligations.

"Any transfer by an employer of his rights under a labour contract shall be invalid if the transfer is made without the clear and express consent of the worker on whom rest the corresponding duties. This prohibition shall not include within its scope a transference of the enterprise in question."

4. Decree No. 558, of 25 February 1956 (*El Guatemalteco* No. 73, of 27 February 1956), promulgated the Organic Act on Public Education. Compulsory primary education was to be maintained by the State and provided free for all children between the ages of seven and fourteen. The State was to aim at making compulsory also the first three years of secondary education as defined in the decree. Among the other matters dealt with in the decree were education in rural areas, vocational and technical education, adult education, scholarships and private schools. It was provided that all owners of estates and all commercial and industrial undertakings with more than ten families must provide free education for the school population of these families.

[1] See *Yearbook on Human Rights for 1954*, pp. 123–4.
[2] See *Yearbook on Human Rights for 1949*, pp. 90–1.
[3] See *Yearbook on Human Rights for 1954*, pp. 127–8.
[4] See *Yearbook on Human Rights for 1947*, pp. 134–6.

CONSTITUTION OF THE REPUBLIC OF GUATEMALA

Entered into force 1 March 1956 [1]

TITLE I

THE NATION AND THE STATE

Art. 1. Guatemala is a sovereign, free and independent nation, established for the purpose of guaranteeing to its inhabitants respect for human dignity, enjoyment of the fundamental rights and liberties of man, security and justice, to promote the complete development of culture, and to create economic conditions which are conducive to social well-being.

Art. 2. The system of government is republican, democratic, and representative.

Sovereignty rests with the people, and power is exercised by legislative, executive and judiciary

[1] Printed English translation published by the Pan American Union, kindly furnished by Mr. Gilberto Chacón Pazos, Ministry of Foreign Affairs, Guatemala City, government-appointed correspondent of the *Yearbook on Human Rights*.

bodies, which are not subordinate one to the other.

The functions and powers of state bodies are governed by this constitution, and officials are not owners, but mere depositaries, of authority, responsible for their official conduct, subject to and never above the law.

. . .

TITLE II

NATIONALITY

Art. 6. The following are native Guatemalans:

(1) Persons born in Guatemalan territory or on board Guatemalan vessels and aircraft, whether of a Guatemalan father or mother, of unidentified parents or of parents of nationality unknown;

(2) Persons born in Guatemala of foreign parents if either of them is domiciled in the republic;

Persons born in Guatemala of transient alien parents if during their minority, either of the parents or the minors themselves acquire a domicile in the republic;

Persons born in Guatemala of transient alien parents if, upon reaching their majority, they establish domicile in Guatemala and declare their desire to be Guatemalans; children of diplomatic representatives or of persons holding legally comparable posts are excepted;

(3) Persons born outside the territory of the republic of a native Guatemalan father and mother in the following cases:

(*a*) If they establish domicile in Guatemala;

(*b*) If under the laws of the place of their birth, the foreign nationality of their birthplace is not attributed to them;

(*c*) If, having the right to choose, they opt for Guatemalan nationality;

(4) Persons born outside the territory of the republic of a native Guatemalan father or mother in the following cases:

(*a*) If they establish their domicile in Guatemala and opt for Guatemalan nationality;

(*b*) If under the laws of the place of their birth, the foreign nationality of their birthplace is not attributed to them;

(*c*) If, having the right to choose, they opt for Guatemalan nationality.

To opt for Guatemalan nationality implies a renunciation of any other nationality, which fact must be expressly recorded.

Art. 7. Native-born nationals of the other republics which constituted the Federation of Central America are also considered to be native Guatemalans provided they acquire domicile in Guatemala and declare their desire to be Guatemalans before the appropriate authority. In this event, they may preserve their nationality of origin.

Art. 8. The following are naturalized Guatemalans:

(1) Aliens who have obtained a naturalization certificate in accordance with the law;

(2) Aliens who, having had their domicile and residence in Guatemala for the period of time established by law, obtain a naturalization certificate;

(3) A female alien married to a Guatemalan, who chooses Guatemalan nationality, or one who, in accordance with the laws of her country, acquires the nationality of her husband by reason of her marriage;

(4) A male alien married to a Guatemalan woman, with two or more years of residence when he chooses Guatemalan nationality, provided that the domicile of the spouses is in Guatemala;

(5) Spaniards and Latin Americans by birth who are domiciled in Guatemala and declare their desire to be Guatemalans before the appropriate authority.

Art. 9. The law may facilitate the naturalization of immigrants who come to Guatemala under state colonization projects or pursuant to treaties or conventions ratified by Guatemala.

Art. 10. Persons to whom Guatemalan nationality is granted must expressly renounce any other nationality and take an oath of allegiance to Guatemala and of respect for the institutions created by this Constitution.

Art. 11. Guatemalan nationality is lost:

(1) By naturalization in a foreign country, except in a Central American country;

(2) If naturalized Guatemalans reside for three or more consecutive years outside the territory of Central America, except in cases provided for by law;

(3) If naturalized persons repudiate their status as Guatemalans in any public instrument or voluntarily use a foreign passport;

(4) By revocation, in accordance with the law, of the naturalization granted.

Art. 12. Guatemalan nationality may be recovered:

(1) By native Guatemalans who lost it by naturalization in a foreign country, if they establish domicile in Guatemala;

(2) By persons who, having had the right to choose, opted for a nationality other than Guatemalan, if they establish domicile in Guatemala and declare their desire to be Guatemalans;

(3) By dissolution of marriage bonds when naturalization in a foreign country has resulted from marriage, provided that the person concerned declares his desire to recover Guatemalan nationality; and even without such declaration, if the

foreign nationality has been lost through dissolution of the marriage.

. . .

TITLE III

Chapter I

CITIZENSHIP

Art. 16. The following persons are citizens:

(1) Male Guatemalans over eighteen years of age;

(2) Female Guatemalans over eighteen years of age who know how to read and write.

Art. 17. The following rights are inherent in citizenship:

(*a*) To vote in elections and be elected to office; (*b*) to hold public office.

. . .

Art. 19. Citizenship is suspended:

(1) By an order of imprisonment, pronounced in the case of a crime for which correctional imprisonment is applicable and for which release on bail is not possible. Citizenship shall not be suspended by an order of imprisonment issued in respect of a political offence [con motivo de delitos políticos];

(2) By a final sentence of conviction, issued in criminal proceedings;

(3) By judicial interdiction;

(4) In other cases as indicated in this constitution.

Art. 20. Suspension of citizenship terminates:

(1) By means of a judicial decision rendering the sentence of imprisonment null and void;

(2) On completion of the sentence imposed, provided rehabilitation is not necessary;

(3) By means of an amnesty or pardon for political crimes and related common crimes;

(4) By means of rehabilitation.

Art. 21. Citizenship is lost:

(1) Through the loss of Guatemalan nationality;

(2) Through voluntary service to nations at war with Guatemala or to the allies of such nations if such service implies treason to the nation.

Art. 22. Citizenship is recovered:

(1) On the completion of three years after Guatemalan nationality has been recovered;

(2) By governmental order in the cases established by law.

Chapter II

POLITICAL PARTIES

Art. 23. Political parties which adhere to democratic principles may be freely formed and may freely operate.

Organization and operation of any group which advocates the communist ideology or any other totalitarian system is prohibited.

. . .

Art. 25. Only legally organized and registered political parties may nominate candidates for the offices of President and deputies.

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Art. 27. Every male and female Guatemalan citizen over eighteen years of age is entitled to establish a political party and to join and resign from the same as his free will dictates.

Any person who uses coercion to induce any citizen to join a political party or to resign from same against his will shall be punished as prescribed by law. If the person responsible therefor is an official or employee of the State, of the municipalities or any agency supported by the State, his citizenship rights shall be suspended and he shall be ineligible to hold public office for such time as the law provides.

Any act by which a Guatemalan is impeded or limited in his participation in the public life of the nation or in the exercise of his rights and duties as a citizen is punishable by law except for the restrictions established by this constitution.

Officials of the Judiciary are prohibited from belonging to boards of directors of political parties.

Art. 28. Political parties and citizens are prohibited from propagandizing in favour of presidentil re-election, plebiscites looking towards the same aim, or any other system tending to impair the principle of rotation in the office of the President of the republic or to increase the term laid down in this constitution for that office.

Chapter III

SUFFRAGE

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Art. 30. Voting is by secret ballot, compulsory for those who know how to read and write and optional for illiterates.

. . .

Art. 32. The following shall be punished in accordance with the penal law:

(*a*) Those who prevent or try to prevent citizens from registering as voters or from exercising their right of suffrage;

(*b*) Those who compel or try to compel them to vote for a certain candidate or a certain slate of candidates;

(*c*) Those who by coercion compel or try to compel illiterates to vote [concurrir a los comicios].

Art. 33. All persons prohibited by this Constitution from participating in active politics, and officials of the State, municipalities or agencies supported by public funds, who violate freedom of

suffrage shall be prohibited for five years from holding elective public office in addition to any other penalties prescribed by law.

. . .

TITLE IV

HUMAN RIGHTS

Chapter I

INDIVIDUAL GUARANTEES

Art. 40. All human beings are free and equal in dignity and rights in Guatemala.

No person may be subjected to servitude or to any other condition which impairs his legal status.

The State shall protect the life, corporeal integrity and security of the human person. It shall give special protection to persons who because of their physical or mental condition are in a clearly disadvantageous position.

The State shall encourage private initiative for all purposes of social assistance and improvement, and shall provide the fullest possible facilities for the development thereof.

Art. 41. Any campaign looking towards the protection and betterment of the health of the people is hereby declared a matter of public utility. The State shall promote and finance the technical development of public health programmes, giving preference to those that are carried on with the collaboration of international organizations.

The State shall arrange for the enactment of tax measures in a manner appropriate for the purpose of carrying out these programmes.

Art. 42. Any discrimination because of race, colour, sex, religion, birth, economic or social position or political opinion is hereby declared to be illegal.

Art. 43. No person may be arrested or imprisoned except for a crime or misdemeanour and by virtue of a judicial writ or by a warrant issued pursuant to law by the appropriate authority. A prior warrant shall not be necessary when a person is discovered in the act of committing a crime or in the case of a fugitive from justice. Persons under arrest must be immediately placed at the disposal of the court authorities and confined in places of temporary detention separate from those provided for the purpose of serving a sentence.

For minor offences or for infractions of regulations, persons whose identity and trustworthiness can be established by means of documents or through the testimony of persons of known standing must not be detained. In such cases, the authority involved must limit his action to informing the appropriate judge of the act committed and to warning the offender to appear before that court within the following forty-eight business hours. The penalty for failure to answer such a summons shall be prescribed by law.

Persons who are unable to identify themselves in accordance with the foregoing paragraph shall be placed at the disposal of the appropriate judge for judgement within one business hour after the moment of the arrest. The hours from 8 a.m. to 6 p.m. shall be considered business hours. In this matter, every day in the year is a business day.

Art. 44. Every person has the right to do whatever the law does not prohibit. No person is required to comply with or obey orders and mandates which are not based on law. No person may be persecuted or molested for acts which do not involve an infraction of the law, nor for his opinions.

[Article 45 concerns the civil and criminal liability of public officials.]

Art. 46. All persons are free to enter, remain in and leave the territory of the republic except for the limitations established by law. No person may be compelled to change his residence or domicile except by order of the court in accordance with the requirements laid down by the law.

Art. 47. No Guatemalan may be expatriated, prohibited from entering the territory of the republic, or denied a visa, passport or other documents of identification.

The law shall determine the responsibility of those who may violate this rule.

Art. 48. Guatemala recognizes the right of asylum and extends it to persons persecuted for political reasons [perseguidos políticos] who seek such protection provided they respect the sovereignty and the laws of the nation. Extradition of persons guilty of political offences [reos políticos] is prohibited, and in no case shall an attempt be made to extradite Guatemalans who for political reasons take refuge in a foreign country. No Guatemalan shall be handed over to a foreign government for trial or punishment except for crimes covered by international treaties ratified by Guatemala. It is also forbidden to request or grant extradition of persons accused of common crimes [delitos comunes] connected with political crimes.

When expulsion of a political refugee is ordered, he shall in no case be handed over to the country whose government is pursuing him.

[Articles 49 and 50 concern certain types of property rights of organizations.]

Art. 51. The profession of any religion is guaranteed. Every person has the right to practise his religion or belief, individually or collectively, both in public and in private, through instruction, worship, and observance, with no limits beyond that of public order and peace. Religious associations and groups and the ministers of cults may not intervene in politics.

Art. 52. The inhabitants of the republic are entitled to address petitions, individually or collectively, to the authorities, and the latter are obliged to act upon them in accordance with the law and without delay, and to communicate their decisions to the persons concerned. In political matters, this right may be exercised only by Guatemalans.

Petitions in respect of political matters must be acted upon within a period of time of not more than eight days. If a decision is not rendered within that time, the petition shall be deemed to have been denied and the person is entitled to have recourse to his legal remedies.

The armed forces may neither debate nor exercise the rights of petition and suffrage.

Art. 53. The right of peaceful assembly without arms is recognized.

The right of assembly in the open air and in a public manifestation may not be restricted, limited or restrained and the law shall regulate same for the sole purpose of guaranteeing public order. Religious processions outside of churches are permitted and are governed by the pertinent laws.

Art. 54. The inhabitants of the republic have the right to associate freely for the various objectives of human life, for the purpose of promoting, engaging in and protecting their trade unions, political, economic, religious, social, cultural, professional and other interests.

The organization or operation of groups which function in accordance with or subordinate to international organizations which advocate the communist ideology or any other totalitarian system is prohibited.

Art. 55. The correspondence and private papers and books of any person are inviolable. They may be seized or examined [o revisados] only by virtue of an order issued by a competent judge in accordance with the law.

By written order and in specific cases, bureaux concerned with tax supervisions may also order the inspection of private papers and books in connexion with the payment of taxes; in all cases, the seizure or inspection must take place in the presence of the party concerned or of his agent; or in their absence, in the presence of a relative of legal age or two reputable witnesses who are residents of the place. It is a punishable offence to reveal the amount or the source of funds from which taxes are derived, as well as profits, losses, costs or any other commercial data, or any information with reference to tax-paying companies or their accounting system.

Illegally seized documents and violated correspondence shall not be admissible in a court of law.

Art. 56. The domicile is inviolable. No one may enter without the consent of the owner except on the written order of a competent judge, and never before 6 a.m. or after 6 p.m. The law shall set forth the formal requirements and the excepted cases in which the act of breaking into a house may proceed. The examination of documents and effects must always take place in the presence of the party concerned, his agent or a member of his family of legal age; or in the absence thereof, in the presence of two witnesses who are residents of the place and of recognized integrity.

Art. 57. Thoughts may be freely expressed and without prior restraint. Any person who abuses this right by acting with a disregard for private life or morality shall be responsible before the law.

Denunciation, criticism or censure directed against public officials or employees for strictly official acts committed in the course of their duties do not constitute the crimes of libel and slander. Persons who deem themselves offended are entitled to have their defence and corrections published. Public officials and employees may demand that a court of honour, set up as determined by law, declare that the publication which affects them is based on incorrect information, and that the charges made against them are unfounded. A decision that vindicates the person offended must be published in the same organ of the press in which the offensive publication appeared. Public officials and employees may not be members of that court.

Printing shops, radio broadcasting and television stations and any others of transmission and dissemination of thought and the machinery and equipment thereof may not be confiscated or seized or subjected to coercive economic pressure, nor may they be closed or their work interrupted because of any crime or misdemeanour in the expression of any thought.

A jury shall have exclusive jurisdiction over crimes and misdemeanours to which this article refers, and a law of a constitutional nature shall determine all other matters relating to this right.

[Article 58 deals with aspects of the legal position of officials and military personnel.]

Art. 59. All persons [toda persona] have free access to the courts for the purpose of exercising their rights of action in accordance with the law.

Foreigners may have recourse to diplomatic channels only in the event of a denial of justice. A decision adverse to their interests is not to be considered as a denial of justice.

Art. 60. Lying under oath shall be punished in accordance with the law.

No one may be required in a criminal case to testify against himself, against his spouse, or against his relatives within the fourth degree of consanguinity or second degree of affinity.

Defence of one's person and of one's rights is an inviolable right, and no one shall be judged by a commission or by a special tribunal.

Art. 61. The law shall have no retroactive effect except in criminal matters where it would favour the defendant.

Art. 62. Acts or omissions that are not classified as crimes or misdemeanours and are not subject to punishment by law prior to the time of perpetration are not punishable.

Any individual or joint communist action is punishable. The law shall lay down regulations relative to this type of crime.

Art. 63. There is no imprisonment for debts.

Art. 64. Any person held by reason of a crime shall be interrogated within forty-eight hours. At the time he is judicially questioned, he shall be advised of the reason for his detention, the name of the accuser, and all necessary information, so that he may know of the punishable act attributed to him. From the time of this proceeding, he shall have the right to provide himself with legal counsel, who shall have the right to visit the defendant during office hours.

Provisional custody may not extend beyond five days; within that time either an order of imprisonment must be issued or the prisoner released. A judge who prolongs this period shall be legally responsible therefor. An official who orders or holds a person incommunicado, or the chief of the prison or employees who carry out the order or cause it to be carried out, shall be deprived of their office, without prejudice to the imposition of penalties provided for by law therefor.

Art. 65. The prison system shall promote the reform and social readjustment of the prisoners. Sentences shall be served only in the place intended for that purpose. The penalty of *confinamiento* [confinement to a certain place with freedom to move about therein but under the surveillance of the authorities] shall not be imposed.

Places intended for detention or for serving of sentences are centres of a civil nature.

No prisoner may be hindered in the satisfaction of his natural functions; nor may physical or moral torture, cruel treatment, infamous punishment or action, hardship or coercion be inflicted upon any detained person; nor may such person be compelled to engage in labour that is detrimental to his health or incompatible with his physical constitution or his dignity; nor may he be made the victim of illegal extortion.

Persons less than fifteen years of age are not to be considered as delinquents. Minors are to be confined not in places of detention intended for adults, but in reformatories under the care of competent personnel in order to provide them with complete education, medical and social aid, and to achieve their adjustment to their environment. All matters relating to the treatment of maladjusted minors and the protection of children hall be dealt with in a Code on Minors.

Supervisory boards shall be set up which shall see to it that the requirements of this article are met, and a copy hereof shall be posted in a conspicuous place in all prisons and places of detention in Guatemala.

[Article 66 deals with aspects of the legal position of officials.]

Art. 67. An order of detention may not be issued unless preceded by information that a crime has been committed and unless there is sufficient ground for believing that the person held is guilty.

Art. 68. No person may be sentenced unless he has been formally charged, and been heard and convicted in court in accordance with procedures which assure him the guarantees necessary for his defence.

Art. 69. Courts shall impose [impondrán] the death penalty for crimes as determined by law. The death penalty may not be imposed on the basis of presumptions, nor may it be imposed on women or minors.

Every existing legal recourse, including appeal to the highest court and appeal for commutation of sentence, shall be admissible against a sentence of death. The above-listed two legal recourses shall not be applicable in the event of invasion of the territory, besieged places or cities, and mobilization for war.

Art. 70. In every summons issued by any public authority, official or public employee, the reason for the required appearance shall be distinctly stated.

Art. 71. All acts of the administration are public, and citizens have the right at any time to obtain the information they request or the files they may wish to consult except when diplomatic or military affairs are concerned.

Art. 72. The enumeration of rights guaranteed in this title does not exclude other rights established by this constitution, or others of a similar nature, or those which derive from the principle of sovereignty of the people, from the republican and democratic form of government, and from the dignity of man.

Art. 73. Laws, governmental regulations and any other orders which govern the exercise of the rights guaranteed by this constitution shall be null *ipso jure* if they diminish, restrict or distort such rights.

Adequate resistance for the protection of the rights set forth in this chapter is legitimate.

Art. 74. It is the obligation of the State to guarantee to the inhabitants of the republic the effective exercise of each and every one of the rights recognized in this constitution.

The authorities are required to proceed without delay to protect persons and their rights, and those

who fail to comply with that duty shall be held liable therefor under criminal as well as civil jurisdiction.

[Article 75 permits actions for the prosecution of violations of the principles set forth in this Title to be brought without formality. Article 76 concerns the bearing and possession of arms.]

Art. 77. It is the obligation of the authorities to see to it that the inhabitants of the republic enjoy the rights which this constitution guarantees.

Nevertheless, in the event of an invasion of Guatemalan territory, a serious disturbance of the peace, activities against the security of the State or a public calamity, full enjoyment of the guarantees referred to in articles 43, 44, 46, 53, 54, 55, 56, the first paragraph of article 57, 64, 70, 71, the last sentence of article 73, and 76 will cease.

On the happening of any of the conditions referred to in the foregoing paragraph, the President of the Republic will so declare in a decree adopted in the Council of Ministers, and the regulations of the Law on Public Order will take effect.

This formality shall not be necessary in the state of preparation to which this article refers.

The decree shall specify:

1. The reasons for the promulgation;
2. The guarantee or guarantees which may not be fully enjoyed;
3. The territory involved;
4. The time during which it will stay in effect.

In addition, in the same decree he will convoke the Congress so that within three days the Congress may consider, ratify, amend or reject the decree. In the event of the Congress's being already convened, it must consider this decree immediately.

The effects of the decree may not extend beyond thirty days on each occasion. If prior to the expiration of that time limit, the causes for which the decree was made shall have disappeared, it will cease to have effect, and any citizen may petition for revision thereof. On the expiration of the thirty-day time limit, full enjoyment of the guarantees involved will be automatically restored unless a new decree to the same effect shall have been issued.

When a real state of war confronts the Republic, the time limits established in the foregoing paragraph shall not be applicable to the decree.

The Law on Public Order shall not affect the functioning of state agencies, and the members thereof shall still enjoy the immunities and privileges granted to them by the law.

The Law on Public Order shall set forth the measures and rights which are lawful in accordance with the following table:

(*a*) A state of preparation;
(*b*) A state of alarm;
(*c*) A state of public calamity;
(*d*) A state of siege and war.

As soon as the causes for the decree referred to in this article shall have disappeared, every person shall have the right to allege in a court action any legal responsibility for unnecessary acts and measures not authorized by the Law on Public Order to which they were made subject during the enforcement of said law.

Art. 78. Within one month from the time the effects of the decree which gave rise to the enforcement of the Law on Public Order shall have ceased, the President is required to present to Congress a detailed report of the acts and measures which the Executive took for the purpose of confronting the emergency.

Chapter II

AMPARO

Art. 79. The essential function of amparo is maintenance of individual guarantees and protection of the inviolability of the precepts of this Constitution.

Art. 80. Every person has the right to petition for amparo in the cases and for the purposes stated below:

(*a*) In order that his enjoyment of the rights and guarantees established by this Constitution may be maintained and restored to him;

(*b*) In specific cases to obtain a ruling that an order or act of any authority is not binding on the petitioner because it contravenes or restricts any of the rights guaranteed by the Constitution;

(*c*) In specific cases to obtain a ruling that an order or resolution which is not purely a legislative act of the Congress of the Republic does not apply to the petitioner because it violates a constitutional right.

The amparo action shall be initiated by means of a specific petition in the manner determined by law and before the courts specified by the law. A decision that amparo is applicable shall have the immediate effect of suspending the order or act of the authority in the case thus appealed and of discontinuing the effect of the said measure.

Art. 81. Any person who finds himself illegally imprisoned, detained, or restrained in any way in the enjoyment of his individual liberty, or who suffers grievances even when his imprisonment or detention is based on law, has the right to request an immediate hearing, whether for the purpose of obtaining the restitution of his liberty or bringing to an end the grievance or constraint to which he is subject. If the court orders the release of the illegally confined person, he shall be free at that moment and in that place. When it is so requested or when the judge or court deems it appropriate, the hearing shall be held in the place where the detained, aggrieved or constrained person is situated without prior notice or notification to the parties.

The personal appearance of a detained person in whose favour a writ of *habeas corpus* has been filed is

imperative. Authorities who order the concealment of the detained person and agents who carry out such an order, refuse to present him in the proper court, or in any other way frustrate this guarantee, shall be considered to have committed the crime of kidnapping and will be subject to punishment in accordance with the penal law.

Art. 82. Amparo shall not issue in administrative and judicial matters which are to be dealt with in accordance with the law and the regulations; but, when sentence has not been passed, resort may be had to amparo as a weapon against procedural infractions in the Supreme Court of Justice in the handling of matters submitted to its jurisdiction.

Art. 83. Any act which impedes, restricts or in any way obstructs the exercise of the right of amparo or the application of the legal provisions which govern and guarantee this right is punishable.

Art. 84. In matters involving amparo, judicial interpretation shall always be broad in outlook. Courts cannot fail to entertain a petition of amparo without incurring responsibility therefor. Judges who sit in amparo proceedings have the option of dispensing with evidence in cases in which in their opinion it is unnecessary.

Art. 85. The amparo action shall be prosecuted at the instance of the party concerned, and the decision thereon does not result in *res judicata.*

Art. 86. A petition for a personal hearing may be made by the party concerned, his relatives or any other person without any strict requirements of any kind.

Chapter III

THE FAMILY

Art. 87. The family is the fundamental element in society.

The State shall enact such laws and regulations as are necessary for its protection, and shall see that the obligations deriving therefrom are fulfilled.

Art. 88. The State shall promote the organization of the family on the legal basis of matrimony, which is founded upon equality of rights and obligations for both spouses.

Art. 89. The law shall determine questions relative to marriages *de facto* [uniones de hecho].

Art. 90. No legal inequalities are recognized among children; all have identical rights.

Discrimination by virtue of the nature of the filial relationship is abolished. The law shall establish means for investigating paternity and for protecting maternity.

Art. 91. Adoption as an institution for the benefit of minors is established. Adopted children acquire the legal status of children of their adoptive parents.

Art. 92. It is the duty of the State to look after the physical, mental and moral health of children, and the State shall also enact laws and establish institutions to ensure their protection.

Social welfare centres, established and financed by private initiative, are declared to be of public utility and shall enjoy the protection of the State.

Laws for the protection of children are matters of public order, and establishments for such purposes have the status of social welfare centres.

Art. 93. The law shall determine what family property is unattachable and inalienable and shall set up a preferential system of taxation [régimen previlegiado en materia de imposición] for large families.

Art. 94. It is a punishable offence to refuse to pay an allowance for food of minor or incompetent children, destitute parents, disabled spouse or sisters and brothers when the person whose duty it is is capable of doing so or when he transfers his assets to a third person or employs any other method to avoid complying with his obligation.

Chapter IV

CULTURE

Art. 95. It is a primary duty of the State to promote and spread culture in all its aspects. The purposes of education are the full development of the human personality, respect for the rights of man and for his fundamental liberties, physical and spiritual improvement, strengthening of the individual responsibility of the citizen, civic progress of the people and a heightening of patriotism.

Art. 96. The family is the source of education, and parents have the right to choose the education to be given to their minor children. The foundation of and maintenance of official and private educational establishments and cultural centres, and the economic, social and cultural improvement of the teaching profession are declared to be matters of public utility and need. The training of teachers is preferably the function of the State.

Art. 97. Freedom of instruction and of teaching criteria is guaranteed. The law shall regulate the matter of religious instruction in official establishments. The State shall not impart such instruction and declares it to be optional.

Art. 98. There shall be a minimum of compulsory, common education for all inhabitants of the country within the age limits laid down by the law. Primary education provided by the State in schools supported by funds provided by the nation is free.

Private educational centres shall be subject to state inspection, and they must meet the requirements of

official plans and programmes if the credits they grant are to be recognized.

Art. 99. The campaign against illiteracy, aimed at giving basic education to the people, is declared to be a matter of national urgency; the State shall organize it using all the resources within its reach, and the Executive shall annually report to the Congress on progress made in the fight against illiteracy.

Art. 100. Every person has a right to education. Technical and professional education is open to all on equal terms.

The State shall maintain and increase as far as possible establishments of secondary education, technical, industrial, agricultural, and commercial institutions; pre-vocational schools; academies; centres of artistic culture; libraries and other institutions useful for cultural purposes.

Art. 101. The State shall provide scholarships for advanced study or specialization for students or post-graduates who because of their vocation, abilities and other merits are deserving of such assistance.

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[Articles 102–106 concern universities, and in particular the University of San Carlos of Guatemala.]

Art. 107. Industrial and agricultural enterprises established outside urban centres, and the owners of rural property, are required to establish and finance schools for their population of school age which meet the minimum instructional requirements of the law and special programmes.

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[Articles 108–111 concern the promotion of culture.]

Chapter V

LABOUR

Art. 112. Labour is a right. Every person has the obligation to contribute to progress and social well-being through work. Vagrancy is a punishable offence.

Art. 113. There is an aspect of guardianship involved in labour laws; the State shall maintain harmony between capital and labour as factors of production and establish conditions of equity and justice.

Art. 114. Any service or labour which is not to be gratuitously performed by virtue of the law or a sentence shall be equitably remunerated.

Art. 115. In order to develop sources of employment, the State shall stimulate the establishment of all types of productive activity, giving adequate protection to private capital and enterprise, increase credit institutions, and use all means at its disposal to fight unemployment.

Art. 116. The laws governing relations between capital and labour are essentially conciliatory and shall deal with all the pertinent economic and social factors involved. With respect to agricultural workers, the law shall especially take into consideration the needs and conditions peculiar to this type of work and the places where it is performed.

The following are the fundamental principles of labour legislation:

(1) Periodic establishment of minimum wages after a hearing composed of labour and management with consideration being given to the type of labour, the requirements of the worker in the material, moral and cultural fields, and the desirability of promoting production.

(2) Equal wages or salary for equal work, rendered under identical conditions of efficiency and seniority for the same enterprise or owner.

The right of every person freely to choose his work under satisfactory economic conditions which will guarantee the worker a dignified life.

(3) The ordinary working period for actual work performed in the daytime shall not exceed eight hours a day or a total of forty-eight hours a week. The ordinary working period for actual work performed in the night-time shall not exceed six hours a day or a total of thirty-six hours a week. The ordinary working period for actual work performed partly in the daytime and partly at night shall not exceed seven hours a day or a total of forty-two hours a week.

Any work actually performed outside of the usual working days shall constitute a special working day and shall be compensated for as such.

The law shall determine the clearly exceptional situations [situaciones de exception, muy calificadas], in which the regulations relative to working days are not applicable.

Workers who because of legal regulations, custom, or by agreement with the employer work fewer than forty-eight hours a week will be entitled to receive a full salary for an ordinary work week.

Actual work is defined as the entire time which the worker remains under the orders or at the disposal of the employer.

(4) The right of the worker to a paid day of rest for each six consecutive days of work. Holidays recognized by law shall also be paid.

(5) The right of the worker to an annual paid vacation after each year of uninterrupted service. Vacations must be actually taken, and the owner may not comply with the requirements of this right of the worker in any other manner.

(6) Protection for working women and minors and regulation of the conditions under which their services are rendered.

No distinction may be made between married and single women in the matter of labour. The law shall regulate the protection to be afforded to a working woman during the maternity period [la época de la maternidad] and shall provide that no labour may be demanded of her which requires considerable

physical force during the three months immediately preceding the birth of the child. Working mothers shall be entitled to a paid rest period for one month prior to and forty-five days after the birth. During the lactation period, a working mother shall be entitled to two half-hour periods of special rest. The prenatal and postnatal rest periods shall be extended, if such extension is warranted by the physical condition of the woman, on simple presentation of a medical certificate.

(7) Obligation of the owner to indemnify the worker dismissed without just cause with one month's salary for each continuous year of service. For the purpose of computing continuous service, account will be taken of the date on which the worker owner relationship began. The law shall indicate the cases in which there is no obligation on the part of the owner to indemnify the worker for dismissal, as well as cases in which the above-stated indemnity shall apply by reason of indirect dismissal.

The obligations imposed in this clause shall be binding until some other system, or compensation offering equal or greater guarantees to the worker or representing greater social protection, shall be established.

(8) Only those Guatemalans listed in article 6 of the Constitution shall be entitled to intervene in matters relative to labour organizations, except in cases of technical governmental assistance and as laid down in treaties or inter-union agreements authorized by the Executive.

(9) The right of workers and owners freely to organize for the sole purpose of economic protection and social betterment. This right shall be subject to legal regulation, giving consideration to environmental conditions and the differences between the circumstances of the rural and urban worker or owner.

The managing board and advisory bodies of these associations shall be composed exclusively of those Guatemalans listed in article 6 of the Constitution. Unions and their leaders as such may not interfere in politics.

(10) The right to strike and stop work, exercised in accordance with the law and as a last resort when all other attempts at mediation have failed. These rights may be exercised only for reasons of economic protection. The law shall indicate the cases and circumstances in which the exercise of these rights is not permitted.

(11) Preference to Guatemalan workers in equal conditions. The law shall establish the minimum proportion of Guatemalans who may work in any enterprise. The same proportion shall be applicable to salaries and wages.

(12) Specification of the standards of obligatory performance for workers and owners in individual and collective contracts for work.

(13) Obligation to pay the worker in legal tender; despite this fact, the field worker may be paid in food products up to thirty per cent of his wages. In this case, the owner shall supply these products at cost or less.

Art. 117. The State shall encourage the construction of low-cost housing and developments for workers with close supervision to see that such developments meet the necessary requirements of health.

Art. 118. The rights granted in this chapter may not be waived.

Stipulations which involve a reduction or a distortion [tergiversación] of the rights of the worker recognized in the Constitution or by law, even though expressed in a labour contract or other pact, shall be void *ipso jure* and shall not bind the contracting parties.

Chapter VI

PUBLIC EMPLOYEES

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Art. 122. All Guatemalans have the right of access under equal conditions to the public offices of the nation. For admission to public employment and posts, there shall be no distinction other than that of competence and honesty, with the exception of incompatibilities stated in the law and the limitations established by this constitution.

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Chapter VII

PROPERTY

Art. 124. The right of private property is guaranteed. The State shall assure to the owner thereof the conditions which are indispensable for the development and utilization of his property.

The owner has the obligations established by law. The law shall determine the limitations to be placed on ownership, which shall be adequate for the purpose of transforming idle land, the protection of the family property, and the more complete use of the natural resources of the nation.

Idle land which is workable but not cultivated may be taxed or expropriated. In this regard consideration will be given to different conditions of geography, climate, economics, and to the location and facilities available for the working thereof.

The law shall determine the tax and shall regulate the expropriation.

Idle land which has been expropriated shall be adjudicated to be private property for the purpose of taking care of the agricultural development of the country.

According to the conditions and characteristics of each region, the law shall determine reasonable time limits for the owners of idle land to proceed with the cultivation thereof. This period shall begin from the time the land has been officially declared idle.

Forest reserves as determined by law shall not be considered idle land.

Art. 125. In specific cases private property may be expropriated for duly proved reasons of collective utility, social benefit or public interest. Expropriation shall be subject to procedures established by law and the property shall be fairly appraised by experts on the basis of its current value.

In appraising a property, all factors, circumstances and conditions which determine its real price shall be taken into account without relying exclusively on a tax return, the estimate of a municipal tax assessor, report or data of any other state agency or any pre-existing document.

Compensation for expropriation must be paid in advance and in cash, except when the party concerned shall agree to another form of compensation. Only in the event of war, public calamity or serious disturbance of the peace may property be occupied or taken over without payment of compensation in advance but this situation shall be corrected and paid immediately upon the cessation of the emergency.

The law shall determine the rules to be followed with regard to enemy property.

The method of payment of the indemnities paid for expropriation of idle land shall be determined by law. In no case shall the period of the payment extend beyond ten years.

Art. 126. All persons may freely dispose of their property according to law.

The State shall in no way limit ownership of property because of political offences. Confiscation of property is prohibited.

. . .

Art. 129. Inventors enjoy exclusive ownership of their work or invention for a period not exceeding fifteen years, on condition that they comply with the requirements of the law.

Authors enjoy ownership of their works in accordance with the law and international treaties.

. . .

TITLE V

THE LEGISLATIVE BRANCH

Chapter I

CONGRESS

Art. 133. Legislative power resides in the Congress of the republic. The Congress is composed of deputies who shall be elected for a period of four years directly by the people by universal suffrage, in a single day . . .

Art. 141. To be elected a deputy, a person must be a native Guatemalan as defined in article 6 of the Constitution, enjoy his rights of citizenship, have secular status and be over twenty-one years of age.

Art. 142. The following persons may not be elected deputies:

(1) Officials of the executive and judiciary and employees of those two branches and of the legislative branch.

Those who occupy teaching positions and professionals in the service of social welfare establishments are excepted from the provisions of the foregoing prohibition.

(2) Contractors on public works and enterprises which are being financed with funds of the State or municipality, their guarantors and those who have claims pending an account of such works.

(3) Relatives of the President of the republic within the fourth degree of consanguinity or the second degree of affinity.

(4) Those who have administered or collected public funds and have not obtained a settlement of their accounts at the time of their election.

(5) Military men on active service.

(6) Those who represent the interests of companies or persons who operate public services, or their attorneys.

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Chapter III

DRAFTING AND APPROVAL OF LAWS

. . .

Art. 151. No law may be contrary to the provisions of this constitution.

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TITLE VI

EXECUTIVE BRANCH

Chapter I

THE PRESIDENT OF THE REPUBLIC

. . .

Art. 159. The President of the republic shall be elected directly by the people through universal suffrage, on a single day, by an absolute majority of votes, for a period of six years, which may not be extended.

Art. 160. To be elected President, it is necessary:

(*a*) To be a Guatemalan as defined in article 6 of the Constitution.

(*b*) To be more than thirty-five years of age.

(*c*) To be in the complete enjoyment of citizenship rights.

(*d*) To have secular status.

Art. 161. The following may not be elected to the office of President of the republic:

(*a*) The leader or chiefs of a *coup d'etat*, armed revolution or similar movement which alters the constitutional order for the period during which the constitutional rule was interrupted or for the following period.

(*b*) The person who is occupying the office of the President of the republic when an election to that office is held or who occupied that office the previous year or part thereof.

(*c*) Legal relatives of the President, the Acting President, and of the leaders and chiefs referred to in clause (*a*) above.

(*d*) A person who was Minister of State or who held a high military command in the previous government during the last six months of the term thereof.

(*e*) Presidents designate and their legal relatives.

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Chapter II

MINISTERS OF STATE

. . .

Art. 172. To be a Minister of State, it is necessary:

(*a*) To be a Guatemalan as defined by article 6 of the Constitution.

(*b*) To be in full enjoyment of citizenship rights.

(*c*) To be more than thirty years of age and have secular status.

The following may not be ministers:

(*a*) Legal relatives of the President of the republic.

(*b*) Those who have collected or administered public funds, until they have obtained final settlement of their accounts.

(*c*) Contractors on public works and enterprises which are being financed by state or municipal funds, and their guarantors.

(*d*) Those who have claims pending in respect of such matters.

(*e*) Manufacturers of alcoholic beverages.

(*f*) Those who represent the interests of companies, or individuals who operate public services, and their attorneys.

In no case may Ministers act as attorneys in fact for natural or juridical persons nor may they manage the business of individuals in any way.

. . .

TITLE VII

THE JUDICIARY

. . .

Art. 191. Justices and judges must be Guatemalans as defined in article 6 of the Constitution, have secular status, be of recognized integrity and be in full enjoyment of their political rights. Justices and judges of first instance must be members of the bar.

In addition, for election as President of the Judiciary, one must be more than forty years of age, and for election as justice of the Supreme Court of Justice, thirty-five years of age. In both cases one must have engaged in the practice of law for eight years and have held judicial office for six years.

For election as justice of the Court of Appeals, one must have been a judge of first instance for four years or have engaged in the practice of law for five years.

. . .

TITLE X

ECONOMIC SYSTEM

Art. 212. It is the obligation of the State so to direct the national economy as to achieve full development and use of the natural resources and human potential; to increase and strengthen the national wealth and to obtain for every Guatemalan the means of leading a life of dignity and usefulness to the community.

To this end the State shall act through the Executive to supplement private enterprise and activity whenever necessary.

. . .

Art. 220. Freedom of industry, trade and labour is recognized except for the limitations imposed by law for economic, social and fiscal reasons or for reasons of national interest. Such laws shall contain the necessary provisions for stimulating and increasing production.

. . .

Art. 224. It is the obligation of the State to exert every effort towards the aim that the under-privileged classes and those classes lacking in economic means may acquire a higher standard of living.

Art. 225. The social security system is compulsory and is governed by special laws and regulations. The State, employers and workers are required to contribute to the financing thereof and to implement its improvement and expansion.

Art. 226. The social security system may assume any of the obligations of the employer which are derived from operation of the law.

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TEMPORARY ARTICLES

. . .

Art. 3. The Congress of the republic shall be composed of the deputies elected in accordance with decree No. 18 of the National Constituent Assembly.[1]

. . .

[1] See *Yearbook on Human Rights for 1955*, pp. 103–4.

Art. 6. The Executive is empowered to limit the guarantee contained in article 47 of this constitution with respect to Guatemalan communists who have left the country to seek asylum or because of their political activities [con motivo de sus actividades políticas]. The limitation shall extend for only five years, and the limitation shall extend only to the measure required for the security of the State.

. . .

DECREE No. 22 OF THE NATIONAL CONSTITUENT ASSEMBLY: CONSTITUTIONAL LAW ON PUBLIC ORDER

of 24 February 1956 [1]

TITLE I

SOLE CHAPTER

General

Art. 1. This Act shall apply only in the event of invasion of the territory, serious disturbance of the peace, proved activities against the security of the State or public calamity.

Art. 2. The Executive shall decide on the existence of the situations mentioned in the preceding article and the President of the republic shall issue a decree for the application of this Act, in the manner and form, to the extent, for the duration and in the area prescribed in article 77 of the Constitution of the Republic. The decree shall declare the national territory, or that part of it deemed to be affected, subject to a state of preparation, of alarm, of siege or of public calamity as circumstances may require. In the event of a state of war, the Executive shall address itself to the National Congress for the purposes of article 147, paragraph 6, of the Constitution of the Republic.[2]

TITLE II

EXTRAORDINARY MEASURES

Chapter I

GUARANTEES WHICH CANNOT BE FULLY ENFORCED

Art. 3. In any of the situations mentioned in article 2, the Executive shall be authorized to restrict the exercise of the guarantees referred to in article 77 of the Constitution, in the manner and to the extent prescribed by this Act, in the interests of maintaining public order.

Art. 4. Persons against whom there may be reasonable grounds for suspicion that they are conspiring against the public order may be detained without a judicial warrant or order. The persons concerned shall be kept under detention for as long as may be necessary to elucidate the facts, and not longer than fifteen days.

If the investigation reveals that the person detained is guilty of an offence, he will be committed for trial before the courts, within a period not exceeding forty-eight hours.

Art. 5. If any person contravenes the regulations, orders and provisions issued on the occasion of a state of alarm, siege, war or public calamity, he may be detained even when his identity has been established.

The said person shall immediately be placed at the disposal of the competent judge, so that he may be warned or sentenced to the fine laid down by law, according to the gravity of the offence and his financial position.

Art. 6. Every person, whatever his condition or rank, shall be bound to provide any assistance which may be required of him by the authorities.

Art. 7. The Executive is empowered:

(*a*) To prevent, suspend, prohibit or disperse any public meeting or demonstration whose purpose is the disturbance of public order;

(*b*) To prevent, suspend, prohibit or disperse any meeting or demonstration held with the purpose of obstructing, whether directly or indirectly, measures taken for the preservation of public order or for national defence; and

(*c*) To prescribe the conditions under which any public meeting or demonstration may be held, subject to the warning that if such meeting or demonstration departs from its purpose, or infringes the restrictions prescribed in the relevant permit, it shall be dispersed.

Art. 8. In every case in which the authorities are compelled to disperse a meeting or demonstration, they shall twice warn those taking part, with appropriate intervals between the warnings, that they must separate. In the event of resistance, they shall use adequate means to enforce compliance with their orders.

Art. 9. The Executive, through the authority designated in the decree declaring the state of emergency, may seize correspondence addressed to persons accused of acts disturbing the public order.

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[1] Official printed text published by the Ministry of the Interior and kindly furnished by Mr. Gilberto Chacón Pazos, Ministry of Foreign Affairs, Guatemala City, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat. The preamble to decree No. 22 recalls article 77 of the Constitution (see p. 96, above).

[2] According to this paragraph, it is the responsibility of Congres to declare war.

The authority shall require the addressee to open the correspondence which has been seized, if it considers it necessary to ascertain the contents thereof; if the addressee refuses, the authority shall deliver the correspondence to the competent court for it to have a certified copy of the correspondence made forthwith.

Art. 10. The private books and papers of any person may be seized and read, always provided that he is presumed to have some close connexion with the offences which are under investigation. This shall be done by a judge, assisted by the clerk of the court, in the presence of the person concerned, his representative or a person appointed by him. In the absence of either, the authority shall be assisted by two witnesses of good repute who are residents in the neighbourhood. A detailed report shall be made on the measure taken, and a copy given to the person concerned or his representative, who may be any member of his family of full age, in the absence of any person whom he has designated or empowered to act for him. The books and papers may not be retained beyond the time necessary to ascertain their contents or to obtain certified copies for the records.

Art. 11. Correspondence, papers or books sequestrated, read or seized shall not be admissible as evidence in respect of any act other than that on account of which the measure was originally taken.

Art. 12. The Executive is empowered to prevent, prohibit or suspend any strikes or stoppages of work of any kind which disturb or may disturb the public order.

Trade union activities and the operations of political parties may also be suspended for the duration of the emergency.

Art. 13. The officials responsible may order entry into a domicile or any other closed premises without written order from a competent judge or permission from the owner in any of the following circumstances:

(*a*) If there is evidence that any person or persons for whose arrest or detention a warrant has been issued on account of any act against the public order is on the premises; and

(*b*) When there are substantial grounds for believing that arms or other instruments or effects connected with the offence which has been committed or is about to be committed are to be found in the domicile or on the closed premises.

An authority entering any of the places mentioned shall present a written order of the official ordering the measure and shall confine itself strictly to the execution of its duty, avoiding any prejudice of any kind to residents or the taking of any measures not conducive to the purpose for which the premises were entered.

On entering a domicile, the authority shall order the residents to allow it access. If this is not granted voluntarily, the authority shall enter by force.

Art. 14. In the presence of the circumstances established in article 2 of this Act, the Executive, in limiting the guarantee set forth in article 57, paragraph 1, of the Constitution,[1] shall act in accordance with the following principles:

1. During the state of precaution, it may require publishing undertakings to moderate the tone of publications which by their obvious tendencies might contribute to the disturbance of public order. Publishing undertakings shall be compelled to comply with such requests.

Failure to comply with this obligation shall entitle the Executive to admonish those responsible. A second offence shall render the offending publication liable to censorship before it is issued.

Publishing undertakings may also be compelled to disseminate such measures and orders as may be issued by the Government to control the situation. Those failing to comply with this requirement shall be liable to a fine of not less than five nor more than twenty-five quetzals on each occasion.

2. In states of alarm and siege, the Executive or the competent military authority may centralize all information relating to the emergency, which may be restricted to bulletins in one official or department. Publishing undertakings shall be obliged to print or broadcast them immediately. If, in states of alarm or siege, any publication makes tendentious comments on circumstances endangering the public order or the security of the State or its institutions, the party responsible may be admonished by the competent authorities. In the event of a second offence, censorship before publication may be imposed.

3. In states of public calamity, publishing undertakings shall be obliged to co-operate with the public authorities in the dissemination of measures which may be taken by the authority to control the emergency, and to avoid the spread of its effects by the protection of persons and property.

4. In a state of war, without prejudice to the extraordinary measures which may be decreed by Congress or those issued by the President of the republic in the exercise of his powers for the security and defence of the nation and the maintenance of public order, and those arising from international treaties and agreements, the Executive may apply any of the provisions of this article; and

5. During the application of this Act, the Executive or the competent military authority may suspend the circulation or dissemination of publications which may appear as a part of the public disturbance or are not conducted in conformity with the Act respecting the Expression of Thought.

Art. 15. The Executive shall take police or administrative measures to prevent the cornering of primary commodities and the rise in prices thereof and all other measures of supervision and control which the situation may render advisable.

[1] See above, p. 94.

Chapter II

THE NATURE OF MEASURES, RESOLUTIONS OR PROVISIONS

. . .

Art. 17. The only appeal which may be made against the acts, resolutions or provisions issued in pursuance of this law is the remedy in respect of responsibility provided in the final paragraph of article 77 of the Constitution of the republic.

Art. 18. Notwithstanding the foregoing, an application for a writ of amparo [remedy for unlawful restraint] may be lodged if, during the period of application of this Act, any guarantees or rights not included amongst those which may be restricted under the Constitution of the republic have been infringed or if this Act itself is infringed.

An application for a writ of *habeas corpus* may also be made for the purpose of ascertaining the treatment of detained persons. The authority may require that the person in question shall be produced inside the prison.

Chapter III

DETAINED PERSONS AND PENALTIES

Art. 19. Persons detained on charges of having committed, acted as accomplices in, or connived at the offences of rebellion, sedition or other acts against public order, shall be tried by the competent courts as required by law.

Art. 20. No person so detained may be kept on the premises or at the places of detention for persons convicted of crimes against the ordinary law.

Art. 21. No penalties may be imposed other than those prescribed by law; nor may penalties be imposed for any acts or omissions for which legal penalties did not previously exist.

. . .

TITLE III

THE VARIOUS DEGREES OF EMERGENCY

Chapter I

STATE OF PREPARATION

Art. 26. In the event of a popular disturbance, of subversive activities or of systematic and co-ordinated acts which are likely to disturb the public order or constitute a real threat to the security of the State or the stability of its institutions, and are made manifest by facts proved by the authorities, the President of the republic may decree a state of preparation in order to avert such danger and to maintain normal institutional life in the area affected.

The state of preparation is limited by the territory, the time and the guarantees which it affects. Consequently, it cannot extend throughout the Republic, nor continue for longer than fifteen days and may only entail the limitation of certain of the guarantees to which article 77 of the Constitution of the republic refers.

Art. 27. The decree declaring a state of preparation, in addition to specifying the requirements established by article 77 of the Constitution of the republic, shall indicate the extraordinary measures which will be applied, and shall immediately be disseminated by all means of publicity.

Art. 28. During a state of preparation, the Executive is empowered to order the measures prescribed in title II of this Act, with the purpose of safeguarding the freedom, safety and rights of the citizens to the extent allowed by the emergency situation but restricted as follows:

(*a*) The rights established in article 64 of the Constitution [1] shall in no case be restricted for any detained person; and

(*b*) The Executive shall confine itself to laying down the conditions under which the right to strike, to stop work, to hold meetings in the open air or public demonstrations may be exercised, but such circumstances shall not entail the power to probibit them.

Art. 29. The Executive may also take the following measures:

(*a*) Any demonstration held without the required permit or, where a permit has been granted, held in contravention of the restrictions imposed, may be dispersed forcibly by the public authorities provided that the participants refuse to disperse after three warnings made at appropriate intervals and provided further that the said warnings were made in such a manner as to have been audible to all the participants;

(*b*) To disperse forcibly any demonstration or meeting in which arms or other means of violence are used, after the participants have been warned once;

(*c*) To disperse forcibly, without warning, any demonstration in which the demonstrators have been making use of weapons to attack the authorities or their agents;

(*d*) To prohibit the movement or parking of vehicles in places or areas or at times to be prescribed, and to require that anybody travelling in the interior of the republic shall state the itinerary which he proposes to follow;

(*e*) To prevent vehicles from leaving towns or to require that they shall be registered; and

(*f*) To suspend a strike or stoppage of work by such regulations and measures as may be appropriate to the case and to the circumstances of the emergency.

Art. 30. The state of precaution shall automatically cease on expiry of the period indicated in the relevant decree or when, because the grounds on which

[1] See above, p. 95.

it was declared no longer exist, the President of the republic declares it ended by decree.

Chapter II

STATE OF ALARM

Art. 31. A state of alarm may be declared by decree whenever any acts disturbing the public order and threatening the security of the State or the stability of institutions are deemed to be grave; or when the measures taken during the state of precaution have not proved adequate to restore normality within the period covered by the decree.

Art. 32. The effects of such a decree may not extend over a period of more than thirty days, but they may be prolonged by a further decree if the grounds for its declaration persist. Either circumstance shall be reported to Congress for constitutional purposes.

If the grounds for the issue of the decree have disappeared before expiry of the period indicated, the decree shall cease to have effect.

Art. 33. So soon as the decree is issued it shall be given the widest possible publicity. All publicity organs of any nature whatsoever shall be obliged to insert it free of charge in their earliest editions.

Art. 34. During the state of alarm, the Executive is empowered to apply without distinction all the extraordinary measures prescribed in this law and in particular the following:

(*a*) To intervene in the operation of the public services and private undertakings providing such services, to ensure that they shall be maintained. It may also require the co-operation of the management and workers to ensure that indispensable services are not interrupted;

(*b*) To require the services or assistance of private individuals whatever their privileges and condition for the purposes of keeping the public utility services in operation;

(*c*) To prohibit the issue of visas or passports to aliens, even if they are not domiciled in the country;

(*d*) To order the concentration of aliens in inhabited places or their expulsion from the country at any time;

(*e*) To place any person under house arrest or compel him to appear before the authorities on the working days and at the times specified;

(*f*) To prohibit change of residence for persons providing public or similar services in any industry, trade or form of labour, connected with national defence; and

(*g*) To cancel or suspend licences issued for the possession of weapons.

Chapter III

STATE OF SIEGE

Art. 35. The Executive may decree a state of siege when any faction rises in rebellion against the legally constituted government, or seeks by illegal means to change the institutions of the country or if any violent acts gravely endanger the maintenance of constitutional processes and the security of the State.

Art. 36. The decree declaring a state of siege shall contain all the requisites set forth in article 77 of the Constitution of the republic; it shall prescribe the extraordinary measures to be applied and fix the powers and authority to be conferred upon the military authorities and shall be made public immediately by every possible means.

Art. 37. During the state of siege, the President of the republic shall act in his capacity of Commander-in-Chief of the Army, and the military authorities shall take control of the situation in accordance with this Act and with the powers delegated to them by the civil authorities. Nevertheless the civil and judicial authorities shall continue to perform their duties in all matters in which they are respectively qualified and competent.

Art. 38. The military authorities shall publish by all possible means, including proclamations and edicts, any decisions which it may take affecting the situation of the inhabitants. All publicity organs required to do so are compelled to publish these notices free of charge in their next editions.

Art. 39. The military authority shall use every possible means of diffusion to warn rebels or seditious persons that they must lay down their arms and proclaim that those who do so within the time-limit indicated shall be exempt from penalties, provided that they were not the promoters, authors or leaders of the rebellion or sedition, or responsible for grave offences against persons.

Art. 40. Civil, judicial and municipal authorities shall be bound to provide the military authorities with all the assistance and co-operation which the latter may request.

Art. 41. The state of siege shall be terminated by decree of the Executive, or shall automatically come to an end upon expiry of the period specified when the state of emergency was declared, or that specified in article 77 of the Constitution, unless a further decree has been issued.

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Chapter IV

STATE OF PUBLIC CALAMITY

Art. 43. The Executive may decree a state of public calamity in order to avoid damage or to curtail the effects of any calamity which may have occurred in the country or in any given area or zone of the republic.

Art. 44. The decree declaring a state of public calamity shall embody the usual constitutional requirements.

Art. 45. The Executive may, in cases of public calamity, take the following measures:

(*a*) It may restrict the right of freedom of movement, change the place of residence of persons or maintain them in their place of residence, establish *cordons sanitaires*, restrict the movement of vehicles or prevent persons from entering or leaving the affected zone;

(*b*) It may require private individuals to give such assistance and co-operation as may be indispensable for the more effective control of the situation and to provide mutual assistance in the zone affected by any calamity;

(*c*) It may assume control of the public services provided by private undertakings; forbid concentrations of persons; and prohibit or suspend public entertainments and meetings of all kinds;

(*d*) It may establish maximum and minimum prices for commodities of primary necessity and prevent cornering; and

(*e*) It may take, whatever measures may be necessary to control the public calamity, according to its nature and proportions.

Art. 46. The Executive shall be bound to issue all necessary instructions and orders to ensure the safety of persons and property, and to prevent the disaster from spreading to areas not yet affected.

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TITLE IV

AMENDMENTS TO THIS ACT AND ITS VALIDITY

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Art. 50. This Act shall come into force on 1 March 1956. All statutory provisions contrary to this Act are hereby repealed.

. . .

DECREE No. 24 OF THE NATIONAL CONSTITUENT ASSEMBLY: CONSTITUTIONAL LAW ON THE EXPRESSION OF THOUGHT of 2 March 1956 [1]

CHAPTER I

GENERAL PROVISIONS

Art. 1. The expression of thought in any form whatsoever is free; and it shall not be lawful in any case to require a guarantee or the deposit of security for the exercise of this right, and it shall not be lawful to subject the expression of thought to censorship in advance.

Art. 2. Printed matter is deemed to be the expression of thought by printing, lithography, photography, mimeography, multigraphy, phonography or any other mechanical process now employed or which may in the future be employed for the reproduction of ideas.

For the purposes of this Act, any other form of representing and disseminating ideas such as drawings, photographs, engravings, emblems, diplomas, medals, gramophone records, and tape or wire recordings whether reproduced on paper, cloth or any other material, shall be assimilated to printed matter.

. . .

Art. 5. Freedom of information is not subject to restriction and journalists shall have access to all sources of information. Information concerning actions of the public administration shall be governed by article 71 of the Constitution.[2]

Art. 6. The owners or authorized representatives of printing or lithography establishments shall be obliged to transmit a copy of each of their publications other than periodicals to the following departments: Ministry of the Interior, Government Archives, Library of Congress of the Republic, National Library, Directorate-General of Statistics, University of San Carlos de Guatemala and the Archives of the State Press. The copies shall be sent within three working days of their publication and the sender shall receive a receipt or a letter of acknowledgement. In the event of failure to send the copies a formal demand shall be made and the copies shall be dispatched within two days of the receipt thereof on pain of a fine of not less than one nor more than five quetzals to be imposed by a justice of the peace on an application made to the court by the Ministry of the Interior, after the person concerned has been duly heard.

Art. 7. Every print shall bear the printer's mark, the name of the person or organization responsible and the place and date of publication. Publications not bearing a printer's mark or bearing a false printer's mark shall be deemed to be clandestine publications. Written matter disseminated by means of multigraph copies and photocopies and photographs distributed to the public shall also bear identifying marks.

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[1] Official printed text published by the Ministry of the Interior and kindly furnished by Mr. Gilberto Chacón Pazos, Ministry of Foreign Affairs, Guatemala City, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

The preamble to decree No. 24 recalls that article 57 of the Constitution (see p. 94 above) requires the promulgation of a constitutional law on the right to free expression of thought.

[2] See above, p. 95.

Art. 8. The author and the publisher of a clandestine publication shall be jointly responsible and shall be liable to detention for not more than two months commutable in the manner and at the rate prescribed in the Penal Code, without prejudice to any other legal liability arising out of the contents of the publication. The penalty for illicit publication shall be imposed by a justice of the peace.

Art. 9. The owner, director or chief editor of any periodical dealing with national politics must be a Guatemalan by birth.

Art. 10. Any written text shall bear the signature of the author who shall be personally responsible for the publication. The director or publisher shall require the author's signature; in default thereof they shall be liable and they shall likewise be responsible when the author is fictitious or legally incapable, unless it can be proved that the responsibility rests with a third person.

Art. 11. In case of proceedings under this Act a publishing undertaking shall be represented before the courts of justice and the administrative authorities by the director, chief editor or legal representative.

Art. 12. The originals of articles and other writings published in a periodical shall be preserved in the files of the periodical or the printing undertaking for six months reckoned from the date of publication. Such originals shall not be exhibited or taken from the archives without the consent of the author, except where a printing undertaking is concerned in a trial and they are required by the courts or they are submitted in the defence of the director or editor.

Art. 13. In order to guarantee the right to the free dissemination of thought, any decree designed to freeze newsprint or to limit the import of any machinery or equipment for the dissemination of thought is prohibited; nor may licences or any of the other facilities which broadcasting stations require to operate in the country be refused.

Art. 14. Any publishing undertakings and broadcasting and television stations which may be established shall enjoy the maximum benefits under the Industrial Development Act.

CHAPTER II

EXPRESSION OF THOUGHT BY BROADCASTING AND TELEVISION

. . .

Art. 20. The owners of broadcasting stations or their authorized representatives shall require all radio magazines, news bulletins, talks, interviews, round-table discussions and commentaries to be read strictly in accordance with the script, errors of speech excepted. In the case of improvised interviews before the microphone on questions which may affect the honour or reputation of a person or when the broadcast contains serious insinuations or charges the transmission shall be recorded.

The scripts and recordings shall be preserved in the files of the broadcasting station or radio magazine for three months. This requirement shall not apply to brief commentaries or regular statements by speakers.

Art. 21. Any script read or recorded the content or phrasing of which may give rise to liabilities shall bear the signature or indicate the identification of the author, the date and hour of transmission and the transmitter from which it was broadcast. In the case mentioned in this article, the directors or chief editors of radio magazines and the authors of and speakers on any broadcast shall be identified by name when the broadcast is made.

Art. 22. Radio magazines and broadcasting stations shall be bound to broadcast clarifications, explanations and refutations which they receive from any person or body corporate about whom false statements of fact, imputations or charges have been made. The said justifications or refutations shall be limited to explaining the facts or refuting the charges, and they may not be more than twice as long, measured by the number of words, as the broadcast giving rise to them. When several persons are aggrieved by a script, each shall have an equal right of refutation, and their replies shall be broadcast in the order in which they are received.

Art. 23. Authors shall be personally responsible for broadcasts which they make or for scripts read in their name. If the author is unidentified, fictitious or legally incapable, the director of the radio magazine or his authorized representative shall be responsible; in the case of other types of broadcast, the director or owner of the broadcasting station or his authorized representatives shall be responsible. Responsibility for broadcasts made on behalf of political parties shall rest with the leaders of the parties concerned, when the author is unidentified or fictitious.

Art. 24. The owners or directors of radio magazines and broadcasting stations shall make the scripts, gramophone records or tape recordings in their archives available as evidence to any persons who consider themselves aggrieved by any broadcast. Such evidence may be taken from the archives only on an order made by a judge or when required for the defence of the person responsible. The owners or directors shall also be obliged to make available signed and sealed copies of such scripts, if requested to do so.

Art. 25. Without prejudice to the special regulations and international agreements on broadcasting, the provisions concerning printed matter shall also apply to broadcasts. This Act shall also apply, *mutatis mutandis*, to telecasts.

. . .

CHAPTER III

OFFENCES AND CONTRAVENTIONS WITH REGARD TO THE EXPRESSION OF THOUGHT

Art. 27. It shall not be lawful to persecute or molest any person on account of his opinions; nevertheless, any person who fails in the respect due to the person, private life or morality of another, or who commits any offence or contravention made punishable under this Act, shall be liable in accordance with the law.

Art. 28. The following cases where a publication contains matter in abuse of the freedom of the expression of thought may entail proceedings before a court and jury and the penalties laid down in this Act:

(*a*) Printed matter implying treason to the republic;

(*b*) Printed matter considered seditious under this Act;

(*c*) Printed matter offending morality;

(*d*) Printed matter failing in respect for the private life of the individual; and

(*e*) Printed matter containing serious libels or defamatory remarks.

Art. 29. Printed matter commenting on the offences set out in the Penal Code, article 122, paragraphs 8 and 20, shall be deemed to imply treason to the republic and shall render its authors liable to correctional imprisonment for eighteen months, which may be commuted in the manner and at the rate provided in the Penal Code. The intent and attendant circumstances shall be taken into account in each case in order to ensure that the author is not punished simply for expressing his opinion.

Art. 30. Any written matter likely to incite persons to use force to prevent the enforcement of the law or of any judicial or administrative order or to impede the authorities in the performance of their duties shall be deemed to be seditious. Criticism or censure of the laws for the purpose of their reform or criticism or censure of the authorities or officials for purely official acts shall not be deemed in any case to be an offence or contravention. The author of seditious writings shall be liable to detention for six months, which may be commuted in the manner and at the rate provided in the Penal Code.

Art. 31. Printed matter which is offensive to public decency or modesty shall be deemed to be immoral. Those responsible shall be liable to detention for not more than three months commutable in the manner and at the rate prescribed in the Penal Code.

Art. 32. Any printed matter which invades the privacy of the home or of the social conduct of persons so as to bring them into disrepute or injure their social relations shall be deemed to fail in respect for private life. The authors of such publications shall be liable to detention for not more than three months, which may be commuted in the manner and at the rate provided in the Penal Code.

Art. 33. Any published matter which falsely attributes the commission of an offence for which proceedings are taken *ex officio* shall be deemed to be a libel.

When the publication involved is a transcription of or commentary on information supplied by an office of the State, the employee or official who supplied the information shall be held responsible. The author shall be liable to detention for four months which may be commuted in the manner and at the rate provided in the Penal Code.

Art. 34. Any published matter which impugns the honour or reputation of a person or which brings him into disrepute shall be deemed to be defamatory.

The author shall be liable to detention for four months which may be commuted in accordance with the Penal Code.

Art. 35. Attacks against public officials or employees for purely official acts in the performance of their duties shall not constitute libel or defamation, even if the said public officials or employees no longer hold the office in question at the time the charge is made.

Art. 36. The phrases "It is said", "It is stated" or "It is known" shall be deemed to assert the facts referred to.

CHAPTER IV

RIGHT OF CLARIFICATION AND RECTIFICATION

Art. 37. Periodicals shall be obliged to publish clarifications, rectifications, explanations or refutations transmitted to them by any person or by any body corporate to whom facts have been falsely attributed and against whom imputations have been made or who have in any other way been alluded to directly or personally.

Art. 38. Clarifications, rectifications, explanations and refutations must be limited to the facts which are being clarified or rectified or to dispelling the imputations or charges levelled against the person concerned. If the said person in turn refers to or accuses a third person, he shall bear the expense of any further publication for which such third person may ask.

Art. 39. The statement of clarification, rectification, explanation or refutation requested shall be inserted free of charge in the first number to be published after the date of receipt of the statement and on the same page as in the publication giving rise to the reply. If the publication appears at weekly or greater intervals, the reply must be presented five days in advance of the number in which it is to be published.

Art. 40. The clarification, explanation, rectification, or refutation shall be inserted in full without

intercalation of any comments or evaluations which may precede or follow the text. When the headings proposed by the aggrieved person are not adequate or suitable the periodical may add the phrase: "clarification by", "refutation by", "rectification by" or "explanation by", and the name of the aggrieved person.

Art. 41. No clarification, rectification, explanation or refutation shall be more than twice as long as the published matter to which it refers. When several persons are aggrieved by one and the same publication, their separate replies shall be published in the same edition or in successive editions in the order in which they are submitted; nevertheless if they clarify, rectify, explain or refute the same fact or a collective accusation in exactly the same form of words only one reply need be inserted accompanied by a note to the effect that the other persons concerned have replied in the same terms. An exception shall be made where the evidence for the defence requires more space.

Art. 42. If the reply occupies two columns or more in length, the periodical may publish it in parts, of not less than one column in successive editions.

Art. 43. The right to which this chapter refers may be exercised by the spouse or relatives of the aggrieved person, within the degrees of affinity recognized by law, if the aggrieved person is prevented from replying or has died.

Art. 44. Periodicals which have been guilty of libel or defamatory remarks shall be obliged in all cases, and without prejudice to the appropriate legal penalty, to publish the rectification requested by the aggrieved person. If the periodical is not liable, the rectification or clarification shall be made at the expense of the author.

Art. 45. The pardoning of the offender and the time-limit for criminal proceedings shall be governed by the provisions of the Penal Code.

Art. 46. In cases where it is sought in any publication to clarify, refute, explain or rectify statements made by foreign governments or by their diplomatic representatives accredited to the Government of Guatemala the matter shall be governed by the international treaties and conventions on the subject signed and ratified by Guatemala.

Art. 47. In case of failure to comply with the obligation set out in article 37 of this Act the aggrieved person may apply to a justice of the peace, who, after hearing the director or representative of the periodical concerned, shall fix a peremptory time-limit within which the requested reply shall be published. In case of failure to obey, the justice may impose a fine of not less than five nor more than twenty-five quetzals and repeat the order to publish the reply in the next edition; the fine shall be doubled for each repetition of the offence, without prejudice to the maintenance of judicial constraint to ensure compliance with the publication order.

[Articles 48–77 deal with judicial proceedings.]

CHAPTER VIII

AMENDMENT AND ENTRY INTO FORCE OF THIS ACT

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Art. 79. This Act shall enter into force on 15 March 1956. Decree No. 372 [1] of the Congress of the republic and all other previous provisions contrary to this Act are hereby repealed.

. . .

[1] See *Yearbook on Human Rights for 1947*, pp. 136–42.

CONGRESSIONAL DECREE No. 1069: ELECTORAL LAW of 21 April 1956 [1]

CHAPTER I

GENERAL PROVISIONS

Art. 1. The vote is personal and may not be delegated. Voting shall be secret and shall be compulsory for citizens able to read and write and optional for citizens who are illiterate. The electors shall enjoy complete freedom in casting their votes and may not be compelled by anyone to vote for a particular person or list. 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. 3. The following shall be exempt from the obligation to register and vote:

(*a*) Citizens who are not in Guatemalan territory. Such citizens shall, within three months of their return to Guatemala, register in the district in which they take up residence;

(*b*) Citizens of advanced age, citizens suffering from illness or from a physical or mental disability, and women during pregnancy or confinement, whose condition prevents their attendance at the registry

[1] Official printed text published by the Ministry of the Interior and kindly furnished by Mr. Gilberto Chacón Pazos, Ministry of Foreign Affairs, Guatemala City, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

office or polling station and who produce a medical certificate or other legal evidence to that effect.

. . .

Art. 8. Citizens serving in the Army and the police forces shall be prohibited from voting.

. . .

CHAPTER III

POLITICAL PARTIES

Art. 13. There shall be no restriction on the formation or operation of political parties governed by democratic principles. Legally organized and registered political parties shall enjoy the status of public institutions. The organization and operation of any body which advocates the communist ideology or any other totalitarian system shall be prohibited. Religious associations and groups and ministers of religion may not take part in politics.

Art. 14. The documents relating to the establishment of a political party shall be subject to the provision of article 54, first paragraph, of the Constitution.[1]

Any group of citizens may establish a political party provided that it:

1. Constitutes the party by means of an instrument, which shall be signed, sealed and delivered by a notary public and filed in the public records, and shall contain: (*a*) a solemn undertaking to conduct the party's activities in accordance with the Constitution and other laws of the Republic; (*b*) a transcription of the prohibitions set forth in article 13 of this law; (*c*) the name and emblem adopted by the party; (*d*) the basic principles of its political programme.

2. Has 5,000 or more members.

3. Presents the party's articles of association, which shall specify:

(*a*) The name and emblem adopted by the party. It shall be unlawful to use any national symbol, any symbol appertaining to a religious denomination or international organization, or any symbol which, on account of its similarity, might be confused with the symbol identifying any other party already registered;

(*b*) The internal election procedure for the nomination of candidates;

(*c*) The internal election procedure for the appointment of party officials and their term of office;

(*d*) The financial regulations governing subscriptions and other contributions to party funds;

(*e*) The executive organs, their powers and legal representation;

(*f*) Penalties and disciplinary measures.

Art. 15. Every political party shall be required to register with the Electoral Tribunal and shall for that purpose submit an application in writing showing the address of its headquarters and accompanied by the following documents:

1. An authenticated copy of the instrument constituting the party which has been filed in the public records;
2. A notarial certificate containing the nominal roll of members, a declaration that their electoral registration certificates have been examined, and a note of the serial numbers, registration numbers and place of issue thereof;
3. A copy of the party's articles of association, duly authenticated by the general secretary thereof.

Art. 16. Where the foregoing conditions are fulfilled, the Electoral Tribunal shall authorize the registration of the party without further formalities. The party shall thereafter be entitled to operate with all the safeguards provided by the Constitution and other laws of the republic.

. . .

Art. 18. The operation of political parties may be terminated or suspended in the following circumstances:

1. Such operation shall be terminated:

(*a*) if it conflicts in any manner whatsoever with the principle of the transferability of the office of President of the republic;

(*b*) if it manifestly violates and is proved to violate article 13 of this law.

2. Such operation shall be suspended if the membership of the party falls below 5,000.

Art. 19. The operation of a party may not be terminated or suspended except by order of the Electoral Tribunal acting *ex officio* or at the request of the Ministerio Público, of another political party or of any citizen. The Electoral Tribunal shall, before taking action, grant the party concerned a two-day hearing; shall allow three days for the examination of the evidence, whether the case is contested or not; and shall give its decision within twenty-four hours thereafter. The effect of termination shall be to dissolve the party, and the effect of suspension shall be to preclude the party from operating until it shows that its membership has been restored to the prescribed number.

. . .

CHAPTER VII

CANDIDATES

Art. 37. Candidates for the office of President of the republic or deputy may be nominated only by legally organized and registered political parties. Nomination by a political party shall not be required of candidates for municipal office. In both cases candidates shall comply with the provisions of this law and of the regulations made hereunder and with

[1] See above, p. 94.

such interpretations and explanations thereof as the electoral authorities may issue in due course.

Art. 38. After his candidature has been announced, a candidate shall enjoy personal immunity and may not be arrested or tried unless the Supreme Court of Justice rules that an action lies against him. This provision shall not apply to a candidate arrested *in flagrante delicto.*

. . .

CHAPTER VIII

ELECTORAL PROPAGANDA

Art. 43. No restriction shall be placed on electoral propaganda other than such regulations as may be necessary to safeguard morality, public order and the equality of rights of registered political parties and nominating bodies.

Art. 44. In making the regulations referred to in the preceding article, the Electoral Tribunal shall strictly observe the following principles:

(*a*) All electoral propaganda shall be prohibited on election day.

(*b*) Open-air demonstrations and meetings for the purposes of electoral propaganda shall be restricted to a period beginning with the date of announcement of the elections and ending one day before the date fixed for the elections.

(*c*) No authority may obstruct the holding of the open-air meetings referred to in the preceding paragraph.

(*d*) Processions for the purpose of electoral propaganda shall be subject to the foregoing provisions and may not be held during the hours of darkness.

Art. 45. With regard to electoral propaganda it shall be unlawful:

(*a*) For public officials or employees, save in the performance of their official duties, to use the authority or influence attaching to their office in the interests of political parties or nominating bodies; they may not use emblems, advertise their political loyalties or permit or encourage party talks or the holding of party meetings in their offices;

(*b*) For serving members of the armed forces to participate in any political activity or party electoral propaganda.

At public demonstrations or meetings held for electoral purposes and at meetings connected with the elections, the forces of law and order shall keep their distance and shall not interfere without a good and sufficient reason.

Art. 46. It shall be unlawful to urge citizens to vote for particular candidates on religious grounds. The electoral authorities may order the confiscation of any propaganda material in which religious allusions or symbols are used.

Art. 47. It shall be unlawful to use national radio or television transmitters for the purpose of electoral propaganda on behalf of a particular candidate, list or political party.

. . .

HAITI

NOTE[1]

The legislation concerning human rights adopted in Haiti during 1956 was limited to three Acts making relatively unimportant changes of detail in the fields of immigration and emigration, registration of trade marks and procedure applicable to presidential elections. On the other hand, the National Assembly approved a number of international agreements bearing on human rights, including the four Geneva Conventions of 12 August 1949[2] (*Le Moniteur* Nos. 36, 55 and 67, of 5 April, 28 May and 28 June 1956 respectively), the Additional Regulations of 26 May 1955 amending the International Sanitary Regulations of the World Health Organization (*Le Moniteur* No. 93, of 30 August 1956) and the following International Labour Conventions: convention fixing the minimum age for admission of children to industrial employment (1919), convention concerning medical examination for fitness for employment in industry of children and young persons (1946), convention concerning medical examination of children and young persons for fitness for employment in non-industrial occupations (1946), convention concerning night work of young persons employed in industry (revised 1948) and the convention concerning the application of the principles of the right to organize and to bargain collectively (1949) (*Le Moniteur* Nos. 95 and 102, of 6 and 27 September 1956 respectively).[3]

[1] Information kindly furnished by Dr. Clovis Kernisan, Dean of the Faculty of Law at the University of Port-au-Prince, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] See *Yearbook on Human Rights for 1949*, pp. 299–309.

[3] Ibid, pp. 291–2.

HONDURAS

NOTE

Abolition of the Death Penalty

Decree No. 11, of 2 November 1956 (*La Gaceta* No. 16,032, of 6 November 1956), abolished the death penalty, substituting imprisonment (presidio mayor) as the sentence for crimes previously punished by death.

Electoral Rights

Legislative decree No. 215, of 26 March 1956 (*La Gaceta* No. 15,852, of 2 April 1956, and No. 15,856, of 6 April 1956) promulgated the electoral law which was to govern the election of the National Constituent Assembly. The legislative decree was repealed by decree No. 2, of 24 October 1956 (*La Gaceta* No. 16,022, of 25 October 1956).

Contracts of Employment

Legislative decree No. 224 of 20 April 1956 (*La Gaceta* No. 15883, of 10 May 1956, and No. 15,889, of 17 May 1956), amended by legislative decree No. 281, of 31 August 1956 (*La Gaceta* No. 15,980, of 3 September 1956), concerned individual contracting for employment. Included therein were provisions governing suspension and termination of contracts of employment; wages, hours of work, rest days and annual leave; and contracts of apprenticeship. The decree did not apply to civil servants or to certain agricultural work.

No person was to impede the work of any other, or prevent him from engaging in his chosen occupation, industry or trade, if its exercise was lawful, except by a decision taken by the competent authority for the purpose of safeguarding the rights of workers or the general public in the cases specified by law.

The worker was to be entitled to terminate the contract of employment without notice or liability on his part, while retaining his entitlement to compensation as in the case of wrongful dismissal, in the event, amongst others, of any attempt by the employer or his representative to induce him to perform an act not in accordance with his political or religious beliefs. The worker was to be entitled to terminate the contract after giving notice, while retaining his entitlement to compensation as for wrongful dismissal, in certain other instances, including any serious violation of the prohibition against influencing the political or religious convictions of a worker or the prohibition against dismissing or prejudicing a worker on account of his trade union membership or participation in lawful trade union activities.

The employer was to be entitled to terminate the contract of employment without notice or compensation in the event, amongst others, of the disclosure by the worker of any technical or trade secrets or any matters of a confidential nature to the prejudice of the undertaking. He was permitted to terminate the contract after giving notice, but without awarding compensation in the event of any serious failure by the worker to comply with certain obligations or prohibitions, including the prohibition upon prejudicing the freedom of employees to work or not to work; to join or refrain from joining a trade union; or to remain in or withdraw from any such trade union, and upon the carrying out of propaganda within the establishment during working hours.

Equal remuneration was to be paid for equal work done in identical conditions. It was declared to be unlawful to discriminate on grounds of age, race, sex, nationality, religious belief, political affiliation or trade union activity, in fixing wages.

Workers of Honduran nationality discharging the same duties as aliens in identical circumstances and in the same undertaking or establishment were to be entitled to demand the same remuneration and conditions.

A translation of most of the legislative decree appears in I.L.O., *Legislative Series* 1956 — Hon. 1.

HUNGARY

NOTE[1]

I. LEGISLATION

1. The aim of parliamentary resolution No. 1 of 1956 on the work of Parliament and members of Parliament (*Hungarian Gazette*, No. 69 of 8 August 1956) is to improve the work and working methods of Parliament. The resolution includes the following passages:

"II. Parliament wants to apply the following guiding principles in its further work:

"1. All fundamental questions concerning the totality of the working people shall be settled by law. In compliance with this it is absolutely necessary that legislative activity be developed more widely — to the effect that all rules dealing with the fundamental rights and essential duties of the citizens shall be laid down in acts of Parliament.

"2. The scope of the guiding and controlling activity of Parliament shall be extended considerably. All those questions of national importance the settlement of which determines the economic, political and cultural life and development of our country shall be put on the agenda of Parliament.

. . .

"4. The Constitution obliges Parliament to protect the observance of socialist legality on the highest level. The provision of the Constitution shall therefore be enforced, according to which both the President of the Supreme Court and the Chief Public Prosecutor must at least once a year render account of their activity before Parliament in session. Particular attention shall be paid to the requirements of socialist legality when controlling the organs of state administration and discussing their reports.

"III. The working methods of Parliament applied up to the present shall be improved in order to realize the principles set out above. To this effect:

"1. Parliament shall be convened more frequently. The duration of terms and sessions shall be so established as to render possible, during the debates, the comprehensive discussion of incumbent tasks and to enable members to submit proposals and to put questions."

. . .

"3. The continuity and effectiveness of the creative, guiding, and controlling activity of Parliament are primarily promoted by the proper work of its committees. These committees shall therefore attend to work also between sessions on the merits of the tasks assigned to them. Their co-operation shall be employed and their opinion sought in questions of great importance engaging the attention of the whole country, Particular steps shall be taken to enable them to deal with bills of Acts of Parliament (law-decrees) under preparation and to take an active part in the drawing up of such bills. The very best specialist of the country in the various fields shall be drawn in great measure into their activities. The committees shall discuss the questions of national importance falling within the scope of their duties; hear the heads of the state organs in charge of the matters in question; and ask them for information on questions arising. By way of initiatives and proposals they will thus be able to make valuable contributions to the better preparation of bills, to the steady improvement of the work of state machinery, to the discovery of the centres of bureaucracy and to the strengthening of ties between the working people and the machinery of state. The number of standing committess shall be increased. Committees dealing with the questions set out below shall be set up instead of the four standing committees now acting:

(*a*) Law, administration and judicature,
(*b*) Foreign affairs,
(*c*) National defence,
(*d*) Plan and budget,
(*e*) Agriculture,
(*f*) Industry,
(*g*) Commerce,
(*h*) Culture,
(*i*) Social questions and health.

. . .

"IV. In order to improve the work of Parliament, the following are indispensable: a fundamental change in the work done up to the present by members of Parliament, as well as the actual application of all those legal guarantees which make it possible for members to develop their activity in a positive sense and fully to assert their rights.

"For this reason:

"1. Members of Parliament shall keep closer contact with their constituents than they have done hitherto and deal carefully with their proposals and complaints. Members of Parliament, as such, shall, in the course of their work, contribute to settling the special problems of their constituencies. They shall report regularly to their constituents on the work

[1] Summary of material kindly furnished by the Ministry for Foreign Affairs of the Hungarian People's Republic.

done by them in the field both of national and of local politics. They shall observe their reception hours and shall further their connexions with the population in other ways as well. Only by this broad and many-sided co-operation between constituents and members of Parliament may a vital basis for Parliament be established."

2. Decision No. 1047/1956/VI.3 of the Council of Ministers concerns the interruption of pregnancy and the punishment of abortion. With the aim of increasing the protection of the health of women and relaxing procedures concerning the interruption of pregnancy, the decision provides that interruption of pregnancy must be carried out in a medical establishment and on the basis of permission obtained from a commission of three; that such a commission shall agree to interruption in cases of illness or sufficient personal and family reasons; that, in addition to granting permission, the commission shall inform applicants of the detrimental effects of the interruption on health and try to convince them in cases when the request appears to be unjustified; but that, if the applicant insists nevertheless on receiving permission for the interruption of pregnancy, the commission shall grant it. The decision also contains provisions concerning measures of birth control.

3. Decision No. 1039/1956/V.27 of the Council of Ministers envisages the progressive reduction of hours of work in aluminium metallurgy and the manufacture of nitrogen and nitro-benzene derivatives, lead paint, penicillin, superphosphates and nicotine. The reduction of working hours is not to affect the wages paid.

4. Legislative decree No. 5 of 1956, on libraries makes provisions concerning the operation of public libraries and certain other libraries. All public libraries are systematically to increase their stocks and promote their accessibility to readers.

II. INTERNATIONAL AGREEMENTS [1]

1. Act No. I of 1956 promulgated the Charter of the United Nations.

2. Legislative decree No. 6 of 1956 promulgated the protocol amending the agreements, conventions and protocols on narcotic drugs, signed in New York on 11 December 1946.

[1] See also p. 301.

LEGISLATIVE DECREE No. 31 OF 1956 CONCERNING PUBLIC SECURITY DETENTION [1]

The Presidium of the People's Republic, determined to prevent the harmful activities of counter-revolutionary elements and of persons who impede the restoration or consolidation of public security and public order, decrees as follows:

1. Any person who, by his acts or conduct, endangers public order or public security or, in particular, disturbs productive work and communications, may be placed under public security detention (hereinafter referred to as "detention").

2. Detention shall be ordered by the competent prosecutor on the proposal of the police authorities; the police authorities shall be responsible for carrying the order into effect.

3. Within thirty days from the date of detention, the chief prosecutor shall automatically review the case of the detained person. If the circumstances in which detention was ordered have come to an end, steps shall be taken to terminate the detention forthwith. Such review shall be undertaken again within three months from the date of detention.

4. Detention shall be terminated forthwith when the reasons for which it was ordered no longer apply. The maximum duration of detention may not exceed six months.

5. The detailed regulations applicable to detention shall be laid down by decree of the chief prosecutor, with the concurrence of the Minister for the Armed Forces.

6. This legislative decree shall remain in force for one year from the date of its promulgation.

7. This legislative decree shall come into force on the date of its promulgation.

[1] Hungarian text in *Magyar Közlöny* No. 102, of 13 December 1956. Translation by the United Nations Secretariat.

INDIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1956 [1]

I. AMENDMENT OF THE CONSTITUTION

One of the important measures affecting human rights passed by the Parliament of India in 1956 is the Constitution (Seventh Amendment) Act, 1956.[2] This Act amended the Constitution of India [3] for the purpose, among others, of implementing the scheme of reorganization of the component units (States) of the Indian Union as embodied in the States Reorganization Act, 1956 [4] and the Bihar and West Bengal (Transfer of Territories) Act, 1956.[5] The reorganization scheme involved not only the formation of new states and alteration in the areas and boundaries of the existing states, but also the abolition of the existing constitutional distinction between part A, part B and part C states, the establishment of two categories of the component units of the Union to be called states and union territories, and the abolition of the institution of *rajpramukh* consequent on the disappearance of the part B states. The Act has suitably amended article 1 of the Constitution and revised completely the first schedule thereto. The Indian Union now consists of fourteen states and six union territories. The territorial changes and the formation of new states and union territories also necessitated a revision of the fourth schedule to the Constitution to provide for the reallocation of seats in the Council of States among the states and the Union territories. It was also considered necessary to revise, on the basis of the latest census figures, the allocation of seats in the Council of States, which was originally based on the population of each state as ascertained at the census of 1941. The Constitution (Seventh Amendment) Act, 1956, has accordingly completely revised the fourth schedule to the Constitution.

The Act has also amended articles 81 and 82 of the Constitution containing provisions for the composition of the House of the People with a view to simplifying these provisions. The upper and lower limits of representation originally provided in article 81 have been abolished, and the said article as now amended provides that each state shall be allotted seats in the House of the People in such manner that the ratio between the number of such seats and the population of the state is, so far as practicable, the same for all the states. It is also provided in that article as now amended that in every state the ratio between the population of each constituency and the number of seats allotted to it should, so far as practicable, be uniform throughout the state. A maximum of twenty has been fixed by the Amending Act for the total number of representatives that may be assigned to the Union territories by Parliament.

The Act has further amended article 168 of the Constitution to provide for bicameral legislatures for some of the new States as envisaged in the reorganization scheme.

Article 170 of the Constitution, containing provisions for the composition of the legislative assemblies of the states, has been replaced by a new article by the Amending Act so as to bring it into line with the revised articles 81 and 82 of the Constitution, which deal with the composition of the House of the People.

The Act has also amended article 171 of the Constitution so as to increase the maximum strength of the legislative council of a state to one-third of the strength of the legislative assembly of that state. Formerly, it was one-fourth of the strength of the legislative assembly, and it has been altered as it was felt that in the case of smaller states the maximum strength was insufficient.

Two new articles, 350 A and 350 B have been inserted by the Amending Act to provide safeguards for linguistic minorities. Article 350 A ensures the provision of adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups. Article 350 B provides for the appointment of a special officer for linguistic minorities to investigate all matters relating to the safeguards provided for such minorities under the Constitution and submit periodical reports.

The relevant provisions of the Constitution of India, as amended by the Constitution (Seventh Amendment) Act, 1956, read as follows.[6]

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[1] Information kindly furnished 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. 1033–52 of 19 October 1956.

[3] See *Yearbook on Human Rights for 1949*, pp. 99–111.

[4] See p. 118.

[5] See p. 119.

[6] To the extent that the provisions of the Constitution and amendments thereto reproduced in *Yearbook on Human Rights for 1949*, pp. 99–111; idem for 1951, pp. 147–9; idem for 1952, p. 112; idem for 1953, p. 127; and idem for 1955, pp. 110–11, were amended by the Constitution (Seventh Amendment) Act, 1956, the changes made are reflected either in the provisions quoted above or in the following less important or merely consequential changes:

(i) In article 16 (3), for "under any state specified in the first schedule or any local or other authority within

PART I

THE UNION AND ITS TERRITORY

1. (1) India, that is Bharat, shall be a union of states.

(2) [*as amended in 1956*][1] The states and the territories thereof shall be as specified in the first schedule.

(3) The territory of India shall comprise —

(*a*) The territories of the States;

(*b*) [*as amended in 1956*][1] the Union territories specified in the First Schedule; and

(*c*) Such other territories as may be acquired.

. . .

PART V

THE UNION

. . .

Chapter III. — Parliament

GENERAL

. . .

81. [*as amended in 1956*][2] (1) Subject to the provisions of article 331, the House of the People shall consist of:

(*a*) Not more than five hundred members chosen by direct election from territorial constituencies in the states, and

(*b*) Not more than twenty members to represent the union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (*a*) of clause (1):

(*a*) There shall be allotted to each state a number of seats in the House of the People in such manner that the ratio between that number and the population of the state is, so for as practicable, the same for all states; and

(*b*) Each state shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the state.

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

. . .

PART VI

THE STATES

. . .

Chapter III. — The State Legislature

GENERAL

168. (1) For every state there shall be a legislature which shall consist of the Governor, and

(*a*) In the states of Bihar, Bombay, *Madhya Pradesh*[3] Madras, *Mysore*,[3] Punjab, Uttar Pradesh and West Bengal, two houses;

(*b*) In other states, one house.

. . .

170. [*as amended in 1956*][4] (1) Subject to the provisions

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its territory, any requirement as to residence within that state "there was substituted "under the government of, or any local or other authority within, a state or union territory, any requirement as to residence within that state or union territory."

(ii) In article 31 A, (2)(a), for "Travancore-Cochin" there was substituted "Kerala."

(iii) In article 80(1)(b), after the word "states," the words "and of the union territories" were inserted.

(iv) In article 80(2), after the words "of the states," the words "and of the union territories" were inserted.

(v) In article 80(4), the words "specified in part A or part B of the first schedule" were deleted.

(vi) In article 80(5), for the words "states specified in part C of the first schedule," the words "union territories" were substituted.

(vii) Part VII was deleted.

(viii) In part VIII, for the heading "The States in Part C of the First Schedule," the heading "The Union Territories" was substituted.

(ix) For articles 239 and 240, the following articles were substituted:

"239. (1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.

"(2) Notwithstanding anything contained in part VI, the President may appoint the governor of a state as the administrator of an adjoining union territory, and where a governor is so appointed, he shall exercise his functions as such administrator independently of his council of ministers.

"240. (1) The President may make regulations for the peace, progress and good government of the union territory of —

(*a*) The Andaman and Nicobar Islands;

(*b*) The Laccadive, Minicoy and Amindivi Islands.

"(2) Any regulation so made may repeal or amend any Act made by Parliament or any existing law which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory."

(x) Part IX was deleted.

(xi) In article 330(2), after "state", wherever it occurs, the words "or union territory" were inserted.

(xii) In article 332(1), the words "specified in part A or part B of the first schedule" were deleted.

(xiii) In article 333, the words "or rajpramukh" were deleted.

(xiv) In article 339(1), the words "specified in part A and part B of the first schedule" were deleted.

(xv) In article 339(2), for "any such state" the words "a state" were substituted.

(xvi) In article 341(1), after "any state" the words "or union territory" were inserted; the words "specified in part A or part B of the first schedule" and "or rajpramukh were deleted; and after "that state" the words "or union territory, as the case may be" were inserted.

(xvii) In article 342(1), after "any state" the words "or union territory" were inserted; the words "specified in part A or part B of the first schedule" and "or rajpramukh" were deleted; and after "that state" the words "or union territory, as the case may be" were inserted.

[1] For former text, see *Yearbook on Human Rights for 1949*, p. 99.

[2] For former text, see *Yearbook on Human Rights for 1949*, p. 105 and *Yearbook on Human Rights for 1952*, p. 112.

[3] Words in italics have been inserted by the Constitution (Seventh Amendment) Act, 1956.

[4] The former text reads as follows:

"170. (1) Subject to the provisions of article 333, the legislative assembly of each state shall be composed of members chosen by direct election.

"(2) The representation of each territorial constituency in the legislative assembly of a state shall be on the basis of the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published and shall, save in the case of the auto-

of article 333, the legislative assembly of each state shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the state.

(2) For the purposes of clause (1), each state shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the state.

Explanation. In this clause, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

. . .

171. (1) The total number of members in the legislative council of a state having such a council shall not exceed *one-third*[1] of the total number of members in the legislative assembly of that state:

Provided that the total number of members in the legislative council of a state shall in no case be less than forty.

. . .

PART XVII. — OFFICIAL LANGUAGE

. . .

Chapter IV — Special Directives

. . .

350-A [*as added in 1956*] It shall be the endeavour of every state and of every local authority within the state to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any state as he considers necessary or proper for securing the provision of such facilities.

350-B. [*as added in 1956*] (1) There shall be a special officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the special officer to investigate all matters relating to the safeguards provided for linguistic minorities under this constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each house of Parliament, and sent to the governments of the states concerned.

. . .

nomous districts of Assam and the constituency comprising the cantonment and municipality of Shillong, be on a scale of not more than one member for every seventy-five thousand of the population:

"Provided that the total number of members in the legislative assembly of a state shall in no case be more than five hundred or less than sixty.

"(3) The ratio between the number of members to be allotted to each territorial constituency in a state and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the state."

. . .

[1] The word in italics has been substituted by the Constitution (Seventh Amendment) Act, 1956, for "one-fourth".

FIRST SCHEDULE[2]

(Articles 1 and 4)

I. *The States*

[The fourteen States here enumerated, together with a definition of their extent, are: (1) Andhra Pradesh, (2) Assam, (3) Bihar, (4) Bombay, (5) Kerala, (6) Madhya Pradesh, (7) Madras, (8) Mysore, (9) Orissa, (10) Punjab, (11) Rajasthan, (12) Uttar Pradesh, (13) West Bengal and (14) Jammu and Kashmir.]

II. *The Union Territories*

[The six territories here enumerated, together with a definition of their extent, are: (1) Delhi, (2) Himachal Pradesh, (3) Manipur, (4) Tripura, (5) The Andaman and Nicobar Islands and (6) the Laccadive, Minicoy and Amindivi Islands.]

II. OTHER LEGISLATION

A. POLITICAL RIGHTS

1. *The States Reorganization Act, 1956*[3]

(Act No. 37 of 1956)

The states of India had been originally formed largely as a result of historical accidents and circumstances. There was therefore a demand for the reorganization of the component units of the Indian Union on a more rational basis after taking into account not only the importance of the regional languages, but also financial, economic and administrative considerations. The States Reorganization Act, 1956, was passed by the Parliament of India to meet this demand, and it came into force on 1 November 1956.

The Act includes detailed provisions for the territorial changes and the formation of new states and has made necessary supplemental, incidental, and consequential provisions as to representation in Parliament and in the state legislatures. It has provided for necessary changes in the composition of the legislative assemblies of some of the states in consequence of territorial changes effected in those states. It has further provided for legislative councils in the new states of Madhya Pradesh, Bombay, Mysore and Punjab and for modifications in the constitution of the Legislative Council of Madras.

The territorial changes and the formation of new states effected by the Act necessitated the amendment of the Constitution by the Constitution (Seventh Amendment) Act, 1956,[4] discussed above. The Act has also repealed the Government of Part C States Act, 1951[5] (Act XLIX of 1951) consequent on the abolition of the category of States which were pre-

[2] Substituted by the Constitution (Seventh Amendment) Act, 1956, for the original schedule. For the former text, see *Yearbook on Human Rights for 1949*, p. 111.

[3] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 747–814, of 31 August 1956.

[4] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 1033–52 of 19 October 1956.

[5] See *Yearbook on Human Rights for 1951*, pp. 143–4 and 152–3.

viously specified in part C of the first schedule to the Constitution.

2. *The Bihar and West Bengal (Transfer of Territories) Act, 1956* [1]

(Act No. 40 of 1956)

This Act of the Parliament of India provides for the transfer of certain territories from the state of Bihar to the state of West Bengal and makes necessary supplemental and incidental provisions in regard to representation in the legislatures and other matters.

3. *The Representation of the People (Amendment) Act, 1952* [2] (Act No. 2 of 1956) and *The Territorial Councils Act, 1956* [3] (Act No. 103 of 1956)

These two Acts of the Parliament of India have made several changes in the Representation of the People Act, 1950 (Act XLIII of 1950).[4] Only the most important provisions are here described.

The Territorial Councils Act. 1956 makes provision for the establishment of territorial councils in the union territories of Himachal Pradesh, Manipur and Tripura. It is provided in this Act that not more than two members of a territorial council will be nominated by the Central Government and that the remaining members will be elected by direct election on the basis of adult suffrage from territorial constituencies. The council will deal with matters of local concern. This Act has amended the Representation of the People Act, 1950, so as to provide that the elected members of the territorial council in each of the said union territories would serve as an electoral college for the election of representatives of that union territory to the Council of States.

Section 19 of the Representation of the People Act, 1950, laid down two conditions for registration in the electoral roll for any constituency — namely, (*a*) that the person should have been ordinarily resident in the constituency for not less than 180 days during the preceding calendar year and (*b*) that he should not have been less that twenty-one years of age in March of the year in which the roll was prepared or revised. Section 19 has now been amended by the Representation of the People (Amendment) Act, 1956, by omitting the reference to the qualifying period of 180 days and by relating "ordinary residence" to the "qualifying date" instead of to any "qualifying period".

The relevant provisions of the Representation of the People Act, 1950, as amended by the Representation of the People (Amendment) Act, 1956, and the Territorial Councils Act, 1956, are reproduced below:

PART III

[*as amended in 1956*] [5]

ELECTORAL ROLLS FOR ASSEMBLY CONSTITUENCIES

14. [*as amended in 1956*] [5] *Definitions.* In this part, unless the context otherwise requires —

(*a*) "Constituency" means an Assembly constituency;

(*b*) "Qualifying date", in relation to the preparation or revision of every electoral roll under this part, means the first day of March of the year in which it is so prepared or revised.

. . .

17. *No person to be registered in more than one constituency.* No person shall be entitled to be registered in the electoral roll for more than one constituency *in the same state.*[6]

. . .

19. [*as amended in 1956*] [7] *Conditions of registration.* Subject to the foregoing provisions of this part, every person who, on the qualifying date

(*a*) Is not less than 21 years of age, and

(*b*) Is ordinarily resident in a constituency, shall be entitled to be registered in the electoral roll for that constituency.

. . .

PART IV

[*as amended in 1956*] [7]

ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES

26. *Preparation of electoral rolls for assembly constituencies.* [Repealed by the Representation of the People (Amendment) Act, 1956.] [7]

27. [*as amended in 1956*] [7] *Preparation of electoral rolls for council constituencies.* (1) . . .

(2) . . .

(*e*) The provisions of sections 15, 16, 18, 22 and 23 shall apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies.

. . .

(4) The provisions of sections 15, 16, 18, 21, 22 and 23 shall apply in relation to graduates' constituencies and teachers' constituencies as they apply in relation to assembly constituencies.

4. *The Representation of the People (Second Amendment) Act, 1956* [8]

(Act No. 27 of 1956)

This Act passed by the Parliament of India has introduced a number of changes in the Representation of the People Act, 1951 [9] (Act XLIII of 1951). The

[1] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 815–32, of 1 September 1956.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 415–22, of 2 March 1956.

[3] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 1433–58, of 31 December 1956.

[4] See *Yearbook on Human Rights for 1951*, pp. 144 and 153–4.

[5] For former text, see *Yearbook on Human Rights for 1951*, p. 153.

[6] The words in italics have been inserted by the Representation of the People (Amendment) Act, 1956.

[7] For the former text, see *Yearbook on Human Rights for 1951*, p. 154.

[8] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 581–611, of 8 June 1956.

[9] See *Yearbook on Human Rights for 1951*, pp. 144 and 154–7.

following are some of the more important changes made.

The Election Commission has been empowered by an amendment of section 7 (*a*) of the Act of 1951 to remove the disqualification incurred under that section.

The maximum period of disqualification to be incurred under section 7 (*c*) of the Act of 1951 for default in lodging the account of election expenses has been reduced from five years to three years.

Section 8 (1) (*b*) of the Act of 1951 has been amended to provide that a disqualification under section 7 (*c*) of that Act shall not take effect until the expiration of two months from the date on which the Election Commission has decided that there has been a default in lodging the account of election expenses, as the period of time previously provided in the said section 8 (1) (*b*) was found to be insufficient for the purpose of taking a decision on the point.

The relevant provisions of the Representation of the People Act, 1951, as amended by the Representation of the People (Second Amendment) Act, 1956, are reproduced below.

PART I

PRELIMINARY

. . .

2. *Interpretation.* (1) In this Act, unless the context otherwise requires:

. . .

(*e*) [as amended in 1956] [1] "Elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950;

. . .

PART II

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP

. . .

Chapter III. — Disqualifications

7. [as amended in 1956] [2] *Disqualifications for membership of parliament or of a state legislature.* A person shall be disqualified for being chosen as, and for being, a member of either house of parliament or of the legislative assembly or legislative council of a state —

(*a*) If, whether before or after the commencement of the Constitution, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt practice which has been declared by section 139 or section 140 to be an offence or practice entailing disqualification for membership of parliament and of the legislature of every state, unless such period has elapsed as has been provided in that behalf in the said section 139 or section 140, as the case may be, or the Election Commission has removed the disqualification;

(*b*) If, whether before or after the commencement of the Constitution, he has been convicted by a court in India of any offence and sentenced to imprisonment [3] for not less than two years, unless a period of five years, or such less period as the Election Commission may allow in any particular case, has elapsed since his release;

(*c*) If he has failed to lodge an account of his election expenses within the time and in the manner required by or under this Act, unless three years have elapsed from the date by which the account ought to have been lodged or the Election Commission has removed the disqualification;

. . .

8. *Savings.* (1) Notwithstanding anything in section 7,

. . .

(*b*) [as amended in 1956] [4] A disqualification under clause (*c*) of that section shall not take effect until the expiration of two months from the date on which the Election Commission has decided that the account of election expenses has not been lodged within the time and in the manner required by or under this Act;

. . .

(*g*) [Deleted by the Representation of the People (Second Amendment) Act, 1956] [4]

. . .

5. The Representation of the People (Third Amendment) Act, 1956 [5] (Act No. 60 of 1956) and *The Representation of the People (Fourth Amendment) Act, 1956* [6] (Act No. 72 of 1956)

These two Acts of the Parliament of India made special provisions for the inclusion of displaced persons, who had been newly registered as citizens of India, in the electoral rolls before the general elections in 1957.

6. The Representation of the People (Miscellaneous Provisons) Act, 1956 [7]

(Act No. 88 of 1956)

This Act of the Parliament of India made provision for the removal of disqualifications for membership of, and voting at elections to, Parliament and state legislatures in certain cases.

It has also amended clause (*e*) of section 7 of the Representation of the People Act, 1951 (XLIII of 1951) [8] which contained provisions disqualifying for

[1] For former text, see *Yearbook on Human Rights for 1951*, p. 154.

[2] For former text, see *Yearbook on Human Rights for 1951*, p. 155.

[3] The words "to transportation or" which had appeared before "to imprisonment" have been deleted.

[4] For former text, see *Yearbook on Human Rights for 1951*, pp. 155–6.

[5] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 971–2, of 26 September 1956.

[6] Published in the *Gazette of India Extraordinary*, part II, section 1, p. 1151, of 17 December 1956.

[7] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 1293–4, of 29 December 1956.

[8] See *Yearbook on Human Rights for 1951*, pp. 144 and 155.

membership any person who was a director or managing agent of, or held any office of profit under, any corporation in which Government had any share or financial interest, by restricting the scope of that clause to companies and corporations (other than co-operative societies) in the capital of which Government has not less than a 25 per cent share. Clause (*e*) of section 7 of the Act of 1951 as amended by this Act reads as follows: "(*e*) If he is a director or managing agent of, or holds any office of profit under, any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent share;".

B. Certain Aspects of Family Rights

The Hindu Succession Act, 1956 [1]

(Act No. 30 of 1956)

This Act, which has been passed by the Parliament of India, amends and codifies the law relating to intestate succession among Hindus. 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 inheritance if this Act had not been passed.

The most important feature of this enactment is that it introduces the daughter and the mother as "simultaneous heirs" along with the son and the widow in the matter of succession to the property of a male Hindu dying intestate. Before the year 1937, the "simultaneous heirs" of a male Hindu dying intestate comprised only the son, the son of a predeceased son and the son of a predeceased son of a predeceased son. The Hindu Women's Rights to Property Act, 1937 (Act XVIII of 1937), added to the list of "simultaneous heirs" the widow of a predeceased son, the widow of a predeceased son of a predeceased son and the intestate's own widow. Under the Hindu Succession Act, 1956, the children, the widow and the mother of the deceased each take simultaneously an equal share. On the side of the daughter the list of simultaneous heirs under the Act of 1956 includes the sons and daughters of a predeceased daughter, and the share of the predeceased daughter is divided equally between them. But on the son's side the list of simultaneous heirs under this Act includes the children and the widow of a predeceased son as well as the children and the widow of a predeceased son of a predeceased son, and such children and widow take the share of the predeceased son or of the predeceased son of a predeceased son, as the case may be, equally between them.

Another very important feature of this enactment is that it has abolished what is commonly known as the limited estate of a Hindu woman. Before the Hindu Succession Act, 1956, a Hindu woman succeeding as heir to the property of a male, and in certain cases also to the property of a female, took only a limited interest in the property so inherited by her, or, in other words, she became the owner of the property inherited by her subject to certain restrictions on alienation and subject to its devolving upon the next heir of the last full owner upon her death. The Hindu Succession Act, 1956, has declared that any property possessed by a female Hindu, whether before or after the commencement of that Act, shall be held by her as full owner thereof and not as a limited owner, except in the case where a restricted estate in such property has been acquired by her by way of gift or under a will or other instrument or under a decree or order of a civil court or under an award.

As regards succession to the property of a female Hindu dying intestate, the enactment provides that her sons and daughters and her husband would simultaneously become her first heirs, each taking an equal share. In the case of the death of a son or daughter before the intestate's death, the "simultaneous heirs" would under the enactment include the children of such predeceased son or daughter and the share of the predeceased son or daughter would be divided equally between the children left behind by such son or daughter, as the case may be.

C. Personal Freedom

The Abducted Persons (Recovery and Restoration) Continuance Act, 1956 [2]

(Act No. 65 of 1956)

This Act of the Parliament of India has extended the life of the Abducted Persons (Recovery and Restoration) Act, 1949 [3] (Act LXV of 1949), which was due to expire on 30 November 1956, up to 30 November 1957, to enable the work of recovery of abducted persons to be continued for another year.

D. Social and Economic Rights

1. *The Employees' Provident Funds (Amendment) Act, 1956* [4]

(Act No. 94 of 1956)

The Employees' Provident Funds Act, 1952 [5] (Act XIX of 1952), applied originally to factories engaged

[1] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 641–54 of 18 June 1956.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, p. 1122, of 30 November 1956.

[3] 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.

[4] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 1278–80, of 24 December 1956.

[5] See *Yearbook on Human Rights for 1952*, p. 113.

in six industries — namely, cement, cigarettes, electrical, mechanical or general engineering products, iron and steel, paper and textiles. The Central Government was, however, empowered to extend the application of the Act to factories engaged in other industries. But there was no provision in the Act enabling its extension to other types of establishment, such as plantations, mines and commercial establishments. The Employees' Provident Funds (Amendment) Act, 1956, passed by Parliament has amended the Act of 1952 so as to include therein a provision for the application of the Act to any other establishment or class of establishments specified in this behalf by the Central Government.

2. *The Suppression of Immoral Traffic in Women and Girls Act, 1956* [1]

(Act No. 104 of 1956)

Article 23 of the Constitution of India prohibits "traffic in human beings" and also provides that any contravention of this prohibition shall be an offence punishable by law. In 1950 the Government of India ratified an international convention for the suppression of traffic in persons and of the exploitation of the prostitution of others. The Suppression of Immoral Traffic in Women and Girls Act, 1956, has accordingly been enacted by the Parliament of India for the suppression of immoral traffic in women and girls. A "girl" has been defined in the Act to mean a female who has not completed the age of twenty-one years and a "woman" has been defined therein to mean a female who has completed that age. The Act provides punishment for

(i) Keeping, or allowing premises to be used as, a brothel;
(ii) Living on the earnings of prostitution;
(iii) Procuring, inducing or taking a woman or girl for the sake of prostitution;
(iv) Detaining a woman or girl in premises where prostitution is carried on;
(v) Prostitution in or in the vicinity of public places;
(vi) Seducing or soliciting for purpose of prostitution; and
(vii) Seduction of a woman or girl in custody.

In the event of a second or subsequent conviction for such offences, higher punishment sufficiently deterrent for the purpose has been provided for in the Act.

The Act provides for the appointment of special police officers for dealing with offences under the Act in different areas. Provision has also been made in the Act for the association with the special police officer of a non-official advisory body consisting of leading social welfare workers (both men and women) of the area to advise on questions of general importance regarding the working of the Act. The special police officers have been also provided with powers to arrest without warrant.

The Act empowers magistrates to pass orders for the rescue of girls from brothels, for the closure of brothels run in the vicinity of public places and for the removal of a prostitute from any place. A "public place" has been defined in the Act to mean any place intended for use by, or accessible to, the public, and includes any public conveyance.

A special feature of the Act is that it enables the state government to establish protective homes and provides that no person or authority other than the state government shall establish or maintain any protective home except under a licence issued by the state government, so as to check the establishment of homes which are of an undesirable character.

3. *The Women's and Children's Institutions (Licensing) Act, 1956* [2]

(Act No. 105 of 1956)

Article 39 in part IV of the Constitution of India, containing the Directive Principles of State Policy, lays down, *inter alia*, that "the state shall, in particular, direct its policy towards securing that childhood and youth are protected against exploitation and against moral and material abandonment". The Women's and Children's Institutions (Licensing) Act, 1956, has accordingly been enacted by the Parliament of India to protect women and children against exploitation. The Act provides for the licensing of institutions established or maintained for the reception, care, protection and welfare of women who have completed the age of eighteen years or children who have not completed that age, and also provides that no person shall establish or maintain any such institution except under and in accordance with the conditions of a licence granted under the Act.

The Act does not apply to hostels and boarding houses attached to, or recognized by, educational institutions or to any protective home established under the Suppression of Immoral Traffic in Women and Girls Act, 1956. [3]

4. *The Madhya Pradesh Primary Education Act, 1956* [4]
(Madhya Pradesh Act No. XXIII of 1956)

This Act passed by the Madhya Pradesh legislature makes provision for the development and expansion of primary education in the state of Madhya Pradesh with a view to introducing free and compulsory primary education in the State under schemes to be operated by the local authorities in that State.

[1] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 1459–76, of 31 December 1956.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 1476–80, of 31 December 1956.

[3] See previous section.

[4] Published in the *Madhya Pradesh Gazette Extraordinary* of 27 October 1956.

III. JUDICIAL DECISIONS

(1) Equality before the Law and the Equal Protection of the Laws — Contravention — Constitution of India, Article 14

BIDI SUPPLY CO. *v.* THE UNION OF INDIA AND OTHERS

Supreme Court of India [1]
20 March 1956

The facts. The petitioner — a registered firm — was carrying on business as manufacturer and seller of Bidi, having its head office in Calcutta, where its books of account were kept and maintained and it had its banking account. The factories of the petitioner firm were situated near Chakradharpur in the state of Bihar, but the firm had no banking account there. The firm had since its inception been assessed for income-tax by the income-tax officer, district III, Calcutta. On 25 January 1955, however, the petitioner received a letter from the said income-tax officer informing him "that in pursuance to orders under section 5 (7–A) of the Income-tax Act your assessment records are transferred from this office to the income-tax officer, Special Circle, Ranchi, with whom you may correspond in future regarding your assessment proceedings". The petitioner had no previous notice of the intention of the income-tax authorities to transfer the assessment proceedings from Calcutta to Ranchi (which was hundreds of miles from Calcutta); nor had the petitioner any opportunity to make any representation against such decision, and this was not denied by the respondent. On 2 May 1955 the income-tax officer, Special Circle, Ranchi, called upon the petitioner to submit its return for the assessment year 1955–56. Thereupon the petitioner presented a petition to the Supreme Court under article 32 of the Constitution challenging the validity of the order of transfer and of sub-section (7–A) of section 5 of the Indian Income-tax Act, 1922, under which the order purported to have been made, on the ground that they infringed the fundamental rights guaranteed to him by articles 14, 19 (1) (*g*) and 31 of the Constitution and as such were unconstitutional.

Held. That the petition should be allowed. The impugned order of transfer denied to the petitioner, as compared with other Bidi merchants who were similarly situate, equality before the law or the equal protection of the laws, for the Income-tax authorities picked out the petitioner and transferred all his cases without any limitation as to time by an omnibus order calculated to inflict considerable inconvenience and harassment on him. The impugned order thus infringed the fundamental right guaranteed to the petitioner by article 14 of the Constitution [2] and was therefore void. The court cited that part of its decision in the case of *Budhan Chowdhry and others* v. *the State of Bihar* in which it had defined the conditions under which a classification was permissible under article 14.[3] The court did not consider it necessary to examine the constitutionality of sub-section (7–A) of section 5 of the Indian Income-tax Act, 1922, since it found that the impugned order of transfer, which was expressed in general terms without any reference to any particular case and without any limitation as to time, was not contemplated or sanctioned by sub-section (7–A). Nor did the court find it necessary to decide whether the treatment of the petitioner had violated his rights under articles 19 (1) (*g*) and 31 of the Constitution.

[1] Report (1956) S.C.R. 267.

[2] 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."

(2) Government's Right to Lay Down Qualifications for Recruitment to Government Service — Exclusion of those who had resigned and were not amenable to Discipline — Whether this amounts to denial of Equality before the Law and Equal Opportunity in Matters of Public Employment — Constitution of India, Articles 14 and 16

BANARSI DAS AND OTHERS *v.* THE STATE OF UTTAR PRADESH AND OTHERS

Supreme Court of India [4]
16 April 1956

The facts. In 1940 the *patwaris* in the state of Uttar Pradesh numbering about 28,000 organized themselves into an association called the U.P. Patwaris Association with a view to improving their prospects and emoluments. They were part-time servants of the Government. The association passed resolutions demanding increases in pay and allowances and improvement of their service conditions. While these matters were under the consideration of the Government, a large number of *patwaris* went on a "pens down strike" on 9 January 1953, with the result that the Government withdrew official recognition of the association. In the meantime revised rules regarding recruitment, conditions of service and duties of *patwaris* were issued. The association protested against the issue of the revised rules and passed a resolution, at a special session of the association held on 26 January 1953, calling upon the *patwaris* to submit their resignations on 2 February 1953. Thereupon about 26,000 *patwaris* resigned with a view to paralysing the whole revenue administration in the state and to coercing the Government to accept their demands. The Government, however, accepted the resignations and relieved them of their duties soon after the submission of the resignations. On 5 March 1953 the Government announced the creation of a new service of *Lekhpals* and proceeded to organize that service by the recruitment of the new personnel which included most of the old *patwaris*. All those *patwaris* whose record of service was free from blemishes and who had with-

[3] See *Yearbook on Human Rights for 1955*, p. 114.

[4] Report (1956) S.C.R. 357.

drawn their resignations were included in the new cadre. Thereupon the petitioners whose grievance was that they had been prevented from re-entering the government service upon the reorganization of the cadre under the new name presented a petition to the Supreme Court under article 32 of the Constitution for the enforcement of their fundamental rights under articles 14 and 16 of the Constitution on the allegation mainly that they had been denied equality before the law and equal opportunity for employment under the state.

Held. That the petition should be dismissed. The contention of the petitioners was without substance, for it was open to the Government to lay down the requisite qualifications for appointment to government service and to exclude those persons who had betrayed a lack of proper sense of discipline and of responsibility. The Government had not thus denied an equal opportunity to those who were equal in all respects. The action of the Government did not amount to an infringement of the fundamental rights guaranteed by articles 14 and 16 of the Constitution.[1]

(3) FREEDOM OF MOVEMENT AND RESIDENCE — LAW IMPOSING RESTRICTIONS — VALIDITY — ORDER OF EXTERNMENT — CONSTITUTION OF INDIA, ARTICLE 19

HARI KHEMU GAWALI *v.* THE DEPUTY COMMISSIONER OF POLICE, BOMBAY AND ANOTHER

Supreme Court of India[2]

8 May 1956

The facts. The petitioner Hari Khemu Gawali who was an Indian citizen residing in the city of Bombay was served in October 1954 with a notice under section 59 of the Bombay Police Act, 1951 (Bombay Act XXII of 1951), informing him of certain allegations made against him in proceedings under section 57 of the Act and requiring him to appear before the Superintendent of Police, Crime Branch (I), C.I.D., Bombay, to show cause against an order of externment proposed to be passed against him under section 57 of that Act. One of the allegations contained in the statement of allegations served on the petitioner was that he was convicted in 1938 for an offence under chapter XVI of the Indian Penal Code. The petitioner appeared before the Superintendent of Police on 8 November 1954 and filed a petition showing cause against the order of externment proposed to be passed against him. He accepted the correctness of the allegation about his previous conviction, but denied the truth of the other allegations contained in the statement of allegations, which he characterized as being based on "old prejudice and suspicion". As regards his conviction in 1938, he stated that there was unfortunately a conviction when he was a mere youth, but that he had lived a clean and honourable life ever since. On the same day the Deputy Commissioner of Police, Bombay, passed an order of externment which, after reciting the previous conviction (for offences under chapter XVI of the Indian Penal Code) and saying that the petitioner was likely again to engage in the commission of similar offences and that he (the Deputy Commissioner) was satisfied about the matters contained in the previous notice, directed the petitioner under section 57 of the Act to remove himself outside the limits of Greater Bombay within two days and not to enter or return for a period of two years to Greater Bombay without the permission in writing of the Commissioner of Police, Greater Bombay, or the Government of Bombay.

The petitioner then preferred an appeal against the order of externment to the Government of Bombay but it was dismissed. He thereafter presented a petition to the Supreme Court under article 32 of the Constitution, contending *inter alia* that section 57 of the Bombay Police Act, 1951, contravened clauses (*d*) and (*e*) of article 19 (1) of the Constitution and that the provisions of that section imposed unreasonable restrictions on the petitioner's fundamental rights of free movement and residence.

Held. That the petition should be dismissed. Section 57 of the Bombay Police Act, 1951[3] did not contravene clauses (*d*) and (*e*) of article 19 (1) of the

[1] Article 14 is quoted on p. 123, footnote 2, above. Article 16 concerns equality of opportunity in matters of public employment.

[2] Report (1956) S.C.R. 506.

[3] This provison reads as follows:

"Removal of persons convicted of certain offences.

"If a person has been convicted

"(*a*) Of an offence under Chapter XII, XVI or XVII of the Indian Penal Code, or

"(*b*) Twice of an offence under s. 9 or 23 of the Bombay Beggars Act, 1945, or under the Bombay Prevention of Prostitution Act, 1923, or

"(*c*) Thrice of an offence within a period of three years under section 4 or 12-A of the Bombay Prevention of Gambling Act, 1887, or under the Bombay Prohibition Act, 1949,

"the Commissioner, the District Magistrate or the Sub-Divisional Magistrate specially empowered by the State Government in this behalf, if he has reason to believe that such person is likely again to engage himself in the commission of an offence similar to that for which he was convicted, may direct such person to remove himself outside the area within the local limits of his jurisdiction, by such route and within such time as the said officer may prescribe and not to enter or return to the area from which he was directed to remove himself.

"*Explanation.* For the purpose of this section 'an offence similar to that for which a person was convicted' shall mean

"(i) In the case of a person convicted of an offence mentioned in clause (*a*), an offence falling under any of the chapters of the Indian Penal Code mentioned in that clause, and

"(ii) In the case of a person convicted of an offence mentioned in clauses (*b*) and (*c*), an offence falling under the provisions of the Act mentioned respectively in the said clauses."

Constitution [1] because it was an instance of the State taking preventive measures in the interests of the public and for safeguarding the individual's rights by preventing a person who had been proved to be a criminal from acting in a way which might be a repetition of his criminal propensities, and the restrictions imposed by that section on the individual's right to reside in and move freely in any part of India were reasonable within the meaning of clause (5) of article 19 of the Constitution.[2]

[1] Article 19 (1) (*d*) and (*e*) provide:

"19. (1) All citizens shall have the right:

". . .

"(*d*) To move freely throughout the territory of India;

"(*e*) To reside and settle in any part of the territory of India."

[2] Article 19 (5) provides:

"(5) Nothing in sub-clauses (*d*), (*e*) and (*f*) of the said clause (i.e., clause (1) of article 19) shall affect the operation of any existing law in so far as it imposes, or prevent the state from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any scheduled tribe".

IRAN

DECREE No. 11331 REGULATING THE ESTABLISHMENT OF OCCUPATIONAL ASSOCIATIONS

of 9 November 1955 [1]

SUMMARY

The decree provided that any group of fifteen or more workers belonging to a particular trade or category of trades or employed in a particular undertaking may establish an occupational association if each member of the group (*a*) is an Iranian national; (*b*) has not been convicted of a penal offence involving the loss of civic rights; (*c*) has not been guilty of fraudulent bankruptcy; (*d*) is 25 years of age or over; (*e*) is sufficiently able to read and write the Persian language; (*f*) has not been a responsible official or member of the executive committee of an occupational association or federation that has been dissolved by a court decision, unless a period of five years has elapsed since the date of dissolution of such organization, or the date of resignation or withdrawal of responsibility; (*g*) has, at the date on which the association is established, been resident for six months or more in the locality where it has its registered address; (*h*) has an occupational status and has been employed for six months or more in the undertaking or the trade or category of trades in question; and (*i*) has not belonged to any political group or party or worked on behalf thereof. The group of workers wishing to form the association were required also so to inform the Labour Service and to submit certain facts concerning the proposed association and its members. No worker or employer was to be permitted to be a member of more than one occupational association. Employers were forbidden to discriminate against, dismiss or refuse to employ workers because of their membership of an association or federation. No worker was to be subjected to any pressure or threat for the purpose of forcing him to join or resign from an association.

Other provisions of the decree related to amalgamation of occupational associations, formation of federations of such associations, rules and organization of such associations and federations, their executive committees, interruption of their activities, their dissolution, and financial matters.

Translations of the decree into English and French have appeared in International Labour Office: *Legislative Series* 1955 — Iran 2.

[1] Published in *Official Gazette* No. 3140, of 20 November 1955.

IRAQ

ELECTION OF DEPUTIES ACT No. 53 OF 1956[1]

INTRODUCTORY PROVISIONS

ELECTORAL QUALIFICATIONS

Art. 1. Members of the Chamber of Deputies shall be elected by direct suffrage in accordance with the provisions of this Act.

Art. 2. Every male Iraqi national who has completed his twentieth year and whose name appears on the electoral register shall be entitled to vote unless he:

1. Has been declared bankrupt and has not obtained his discharge;

2. Has been placed under a disability and the disability has not been removed;

3. Has been sentenced to imprisonment for a term of not less than one year for a non-political offence or has been sentenced to imprisonment for theft or bribery or other similar offence involving loss of civil or civic rights unless his forfeited rights have been restored to him;

4. Is of unsound mind or mentally defective.

Art. 3. A person shall not become a deputy if he:

1. Is not an Iraqi national by birth or by virtue of the Treaty of Lausanne or, being a member of an Ottoman family which was ordinarily resident in Iraq before 1914, by naturalization, provided that ten years have elapsed since his naturalization;

2. Is under thirty years of age;

3. Has been declared bankrupt and has not obtained his legal discharge;

4. Has been placed under a disability by a court order and that order has not been rescinded;

5. Has been sentenced to imprisonment for a term of not less than one year for a non-political offence or has been sentenced to imprisonment for theft, bribery, breach of trust, forgery or fraud or, in general, any offence involving loss of civil or civic rights;

6. Holds a post or an appointment under or is in the service of any person or establishment under contract with a government department, or has any material interest, direct or indirect, in the contract held by that person or establishment, unless that interest arises out of his being a shareholder in a company consisting of more than twenty-five persons, though this provision shall not apply to lessees of government lands or property;

7. Is of unsound mind or mentally defective;

8. Is related to the King within the fourth degree of consanguinity.

. . .

Art. 8. The Christian minority shall have the following number of deputies:

In the *qadha* of the provincial capital of Baghdad, 3;

In the *qadha* of the provincial capital of Basra, 1;

In the *qadha* of the provincial capital of Mosul, 3;

In the *qadha* of the provincial capital of Kirkuk, 1.

This number shall be additional to the number of deputies provided for in articles 4 and 6.[2] For the purpose of the election of these deputies the President of the Court of Appeal shall designate in each of the aforesaid *qadhas* a number of electoral districts in which the Christians are in a majority corresponding to the number of deputies assigned to the *qadha*; and the districts so designated shall be deemed to constitute one electoral district for the purpose of the election of the Christian deputies in each *qadha*.

. . .

CHAPTER III

NOMINATION OF CANDIDATES

Art. 22. 1. Any Iraqi national who satisfies the conditions governing eligibility may submit his candidature.

2. If the candidate is a person to whom the provisions of article 8 of this Act apply, he may submit his candidature only in the districts specified in that article.

Art. 23. 1. Provincial administrators [mutasarrifs], or assistant administrators [qa'immaqams], mayors of communes, judges, heads of land survey commissions [Ru'asa al-taswiya], commissioners of police or military commanders may not submit their candidatures in the electoral district or districts in which they exercise their functions.

2. Members of the Committee of Inspection may not submit their candidatures in the electoral district in which they exercise their functions.

Art. 24. A person may not be a candidate in more than two electoral districts.

. . .

[1] Published in *Official Gazette* No. 3808, of 19 June 1956. Translation by the United Nations Secretariat.

[2] Articles 4 and 6 concern electoral units in the country as a whole and the number of deputies to represent electoral units of different sizes of population.

Election Propaganda

Art. 29. Election propaganda shall be freely permitted within the limits of the law.

Art. 30. Posters or manifestos may not be displayed or posted for propaganda purposes during the elections except in places to be specified by the municipal authorities. No writing or inscription on walls for propaganda purposes shall be permitted in any circumstances.

Art. 31. Material used for election propaganda at the time of the elections shall be exempt from all dues and charges.

Art. 32. The affixing or distribution of any printed matter such as posters, manifestos, popular tracts, and the like, as election propaganda shall be prohibited as from the morning of the second day preceding the day appointed for the election.

. . .

SOCIAL SECURITY ACT, No. 27 OF 1956

of 17 May 1956 [1]

SUMMARY

The Act provided that every employer to whom the Act applied or to whom its application had been extended by regulations made under it was to pay stated contributions, in respect of each of his employees, to a social security fund to which the State was also to contribute. The benefits payable to or in respect of qualified insured persons were to be (*a*) old-age benefit; (*b*) permanent invalidity benefit; (*c*) survivor's benefit; (*d*) marriage benefit; (*e*) maternity benefit; (*f*) death benefit (funeral, burial and shroud); (*g*) unemployment benefit; and (*h*) sickness benefit.

Translation of the Act into English and French have appeared in International Labour Office: *Legislative Series* 1956 — Iraq 1.

[1] Published in *Official Gazette* No. 3799, of 2 June 1956.

IRELAND

SOCIAL WELFARE LEGISLATION, 1956 [1]

SOCIAL WELFARE (AMENDMENT) ACT, 1956

This Act, which came into effect in September, 1956, increased the rates of disability benefit, unemployment benefit, maternity allowance and widows' (contributory) pensions. The previous basic rate of 24*s.* per week was increased to 30*s.* a week. The allowance for a wife, invalid husband or housekeeper of a recipient of disability or unemployment benefit, formerly 12*s.* a week, was increased to 15*s.* a week. The allowance for a dependent child was increased from 7*s.* to 8*s.* per week. The former rate of 18*s.* payable to persons under eighteen years of age without dependants and to a married woman living with her husband was increased to 22*s.* 6*d.* a week. The rates of contribution payable under the Acts were also increased. The ordinary rate for a man, formerly 4*s.* 8*d.* a week, became 5*s.* 6*d.* and the woman's rate was increased from 3*s.* 4*d.* to 4*s.* 1*d.* The rates payable in respect of persons employed in agriculture or domestic service and other classes to which special rates applied were also increased.

STATUTORY INSTRUMENTS

Social Welfare (Modification of Contribution Conditions for Benefit) Regulations, 1956 (No. 156 of 1956)

One of the contribution conditions for the receipt of unemployment, disability and marriage benefit required that not less than fifty contributions had been paid or credited to the claiment in the governing contribution year. For the purpose of satisfying this condition, contributions actually paid in respect of insurable employment and credited contributions in respect of periods of certified illness and proved unemployment were counted. In practice, many insured persons failed to satisfy this condition. These regulations modified the condition, as from 5 July 1956, to the effect that the number of contributions paid or credited required for full benefit was reduced from fifty to forty-eight.

Workmen's Compensation Act, 1934 (Industrial Diseases), Order, 1956 (No. 60 of 1956)

This order added pneumoconiosis among colliery workers to the schedule of industrial diseases under the Workmen's Compensation Acts. The effect of the order is that a workman who is suffering from pneumoconiosis is able to claim workmen's compensation in the same way as if his disability were due to an accident at his work.

[1] Information kindly furnished by the Permanent Representative of Ireland to the United Nations.

IRISH NATIONALITY AND CITIZENSHIP ACT, 1956

No. 26 of 1956 of 17 July 1956 [1]

PART I

PRELIMINARY

. . .

2. In this Act

"The Act of 1935" means the Irish Nationality and Citizenship Act, 1935 (No. 13 of 1935);

. . .

"Full age" means the age of twenty-one years, and upwards;

"Ireland" means the national territory as defined in Article 2 of the Constitution;

"Irish citizen" means a citizen of Ireland;

. . .

5. (1) The Irish Nationality and Citizenship Act, 1935 (No. 13 of 1935), and the Irish Nationality and Citizenship (Amendment) Act, 1937 (No. 39 of 1937), are hereby repealed.

(2) Every person who, immediately before the passing of this Act, was a citizen of Ireland shall remain an Irish citizen, notwithstanding the foregoing repeals.

PART II

CITIZENSHIP

6. (1) Every person born in Ireland is an Irish citizen from birth.

(2) Every person is an Irish citizen if his father or mother was an Irish citizen at the time of that person's birth or becomes an Irish citizen under subsection (1) or would be an Irish citizen under that subsection if alive at the passing of this Act.

[1] Text contained in *Acts of the Oireachtas 1956*, published by the Stationery Office, Dublin.

(3) In the case of a person born before the passing of this Act, subsection (2) applies from the date of its passing. In every other case, it applies from birth.

(4) A person born before the passing of this Act whose father or mother is an Irish citizen under subsection (2), or would be if alive at its passing, shall be an Irish citizen from the date of its passing.

(5) Subsection (1) shall not confer Irish citizenship on the child of an alien who, at the time of the child's birth, is entitled to diplomatic immunity in the State.

7. (1) Pending the reintegration of the national territory, subsection (1) of section 6 shall not apply to a person, not otherwise an Irish citizen, born in Northern Ireland on or after 6 December 1922, unless, in the prescribed manner, that person, if of full age, declares himself to be an Irish citizen or, if he is not of full age, his parent or guardian declares him to be an Irish citizen. In any such case, the subsection shall be deemed to apply to him from birth.

(2) Neither subsection (2) nor (4) of section 6 shall confer Irish citizenship on a person born outside Ireland if the father or mother through whom he derives citizenship was also born outside Ireland, unless (*a*) That person's birth is registered under section 27, or (*b*) His father or mother, as the case may be, was at the time of his birth resident abroad in the public service.

8. (1) A woman who is an alien at the date of her marriage to a person who is an Irish citizen (otherwise than by naturalization) shall not become an Irish citizen merely by virtue of her marriage, but may do so by lodging a declaration in the prescribed manner with the Minister, or with any Irish diplomatic mission or consular office, either before or at any time after the marriage accepting Irish citizenship as her post-nuptial citizenship.

(2) A woman who lodges a declaration under subsection (1) shall be an Irish citizen from the date of her marriage, if the declaration was lodged before the marriage, or if lodged thereafter, then from the date of lodgement.

(3) A woman who, before the passing of this Act, married a person who was an Irish citizen (otherwise than by naturalization) and became a naturalized Irish citizen shall be deemed to have lodged a declaration under subsection (1) on the passing of this Act and thereafter shall be an Irish citizen by virtue thereof and not by naturalization.

9. A child born posthumously whose father was on the date of his death an Irish citizen shall acquire Irish citizenship under this Act on the same conditions as if his father were alive when he was born.

10. Every deserted infant first found in the State shall, unless the contrary is proved, be deemed to have been born in Ireland.

11. (1) Upon an adoption order being made, under the Adoption Act, 1952 (No. 25 of 1952), in a case in which the adopter or, where the adoption is by a married couple, either spouse is an Irish citizen, the adopted child, if not already an Irish citizen, shall be an Irish citizen.

(2) Section 25 of the Adoption Act, 1952, is hereby repealed.

12. (1) The President may grant Irish citizenship as a token of honour to a person or to the child or grandchild of a person who, in the opinion of the Government, has done signal honour or rendered distinguished service to the nation.

. . .

13. (1) A person born in an Irish ship or an Irish aircraft wherever it may be is deemed to be born in Ireland.

(2) A person who is born the child of aliens in a foreign ship or in a foreign aircraft while the ship or aircraft is within Ireland or its territorial seas is deemed not to be born in Ireland, if at the birth the child acquired the citizenship of another country.

PART III

NATURALIZATION

14. Irish citizenship may be conferred on an alien by means of a certificate of naturalization granted by the Minister.

15. Upon receipt of an application for a certificate of naturalization, the Minister may, in his absolute discretion, grant the application, if satisfied that the applicant complies with the following conditions (in this Act referred to as conditions for naturalization):

(*a*) He is of full age;

(*b*) He is of good character;

(*c*) He has (in the case of application made after the expiration of one year from the passing of this Act) given notice of his intention to make the application at least one year prior to the date of his application;

(*d*) He has had a period of one year's continuous residence in the State immediately before the date of his application and, during the eight years immediately preceding that period, has had a total residence in the State amounting to four years;

(*e*) He intends in good faith to continue to reside in the State after naturalization;

(*f*) He has made, either before a justice of the district court in open court or in such manner as the Minister, for special reasons, allows, a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State.

16. The Minister may, if he thinks fit, grant an application for a certificate of naturalization in the following cases, although the conditions for naturalization (or any of them) are not complied with:

(*a*) Where the applicant is of Irish descent or Irish associations;

(*b*) Where the applicant is a parent or guardian acting on behalf of a minor of Irish descent or Irish associations;

(*c*) Where the applicant is a naturalized Irish citizen acting on behalf of his minor child;

(*d*) Where the applicant is a woman who is married to a naturalized Irish citizen;

(*e*) Where the applicant is married to a woman who is an Irish citizen (otherwise than by naturalization);

(*f*) Where the applicant is or has been resident abroad in the public service.

. . .

19. (1) The Minister may revoke a certificate of naturalization if he is satisfied

(*a*) That the issue of the certificate was procured by fraud, misrepresentation whether innocent or fraudulent, or concealment of material facts or circumstances, or

(*b*) That the person to whom it was granted has, by any overt act, shown himself to have failed in his duty of fidelity to the nation and loyalty to the State, or

(*c*) That (except in the case of a certificate of naturalization which is issued to a person of Irish descent or associations) the person to whom it is granted has been ordinarily resident outside Ireland (otherwise than in the public service) for a continuous period of seven years and without reasonable excuse has not during that period registered annually in the prescribed manner his name and a declaration of his intention to retain Irish citizenship with an Irish diplomatic mission or consular office or with the Minister, or

(*d*) That the person to whom it is granted is also, under the law of a country at war with the State, a citizen of that country, or

(*e*) That the person to whom it is granted has by any voluntary act other than marriage acquired another citizenship.

. . .

20. Acquisition of Irish citizenship by a person shall not of itself confer Irish citizenship on his or her spouse.

PART IV

LOSS OF CITIZENSHIP

21. (1) If an Irish citizen, who is either of full age or a married woman under that age, is or is about to become a citizen of another country and for that reason desires to renounce citizenship, he or she may do so, if ordinarily resident outside the State, by lodging with the Minister a declaration of alienage in the prescribed manner, and, upon lodgment of the declaration or, if not then a citizen of that country, upon becoming such, shall cease to be an Irish citizen.

(2) An Irish citizen may not, except with the consent of the Minister, renounce Irish citizenship under this section during a time of war as defined in article 28.3.3° of the Constitution.

22. (1) The death of an Irish citizen shall not affect the citizenship of his or her surviving spouse or children.

(2) Loss of Irish citizenship by a person shall not of itself affect the citizenship of his or her spouse or children.

23. A person who marries an alien shall not, merely by virtue of the marriage, cease to be an Irish citizen, whether or not he or she acquires the nationality of the alien.

24. No person shall be deemed ever to have lost Irish citizenship under section 21 of the Act of 1935 merely by operation of the law of another country whereby citizenship of that country is conferred on that person without any voluntary act on his part.

25. If a person ceases to be an Irish citizen the cesser of his citizenship shall not of itself operate to discharge any obligation, duty or liability undertaken, imposed or incurred before the cesser.

PART V

GENERAL

. . .

29. An Irish citizen, wherever born, shall be entitled to all the rights and privileges conferred by the terms of any enactment on persons born in Ireland.

. . .

ISRAEL

HUMAN RIGHTS IN ISRAEL IN 1956 [1]

I. LEGISLATION

1. An Act was passed in January 1956, to amend the Prisons Ordinance, 1946.[2] The new law empowers the Parole Board — which consists of a judge as chairman, a psychiatrist, and the Commissioner of Prisons [3] — to release prisoners on parole, without imposing on them all or any of the conditions enumerated in the Prisons Ordinance, 1946 (such as daily reports at a police station). While, under the old law, those conditions automatically attached to all releases on parole, the imposing of conditions is now a matter for the discretion of the Parole Board.

2. In July 1956, the Names Act [4] was enacted. This law is the first part of a Code on the Law of Persons and Families, which was published in the form of a Bill in December 1955. Under the new law, every person shall have a private name and a family name, but may have more than one private name and a double family name.[5] A woman obtains her husband's name upon marriage, but she may, at any time, add to her husband's name her pre-marital name, or she may, upon marriage or at any time thereafter, retain her pre-marital name only;[6] upon dissolution of marriage, she may either retain her husband's name or abandon it, as she chooses.[7] A child obtains his parents' name from his birth; where his parents had different names, he obtains his father's name unless the parents have agreed that he should receive the name of the mother; a child born out of wedlock receives his mother's name, unless the parents have agreed that he should receive the name of the father; and a child born to a mother who is the reputed (though not the legal) wife of his father, is not, for the purpose of this Law, considered born out of wedlock.[8] The child is given a private name by both his parents; failing agreement between them, each of them may give him a private name.[9] An adopted child receives, on adoption, the family name of his adopter, but does not change his private name unless the court, in the adoption order, directs otherwise.[10] The law imposes an obligation on persons who have no family name or no private name, or in respect of whose names it is uncertain which is their private and which is their family name, to choose their family and their private name within six months from the commencement of the law, otherwise the competent authority may determine what their names shall be.[11] A person may at any time change either his private name or his family name or both,[12] but may not do so more than once in seven years,[13] nor in a manner prejudicial to public morals or for purposes of fraud.[14] Husband and wife may not change their family name except by mutual consent,[15] and parents or guardians may not change the names of children except with the approval of the court.[16] The choice or change of a name does not affect any rights acquired or liabilities incurred prior to such choice or change.[17] Any decision of a competent authority under this law is appealable to the Minister of Interior.[18]

II. ADMINISTRATIVE MEASURES AND DELEGATED LEGISLATION

1. Equality of Women

Civil service regulations [19] provided that a married man was entitled to an addition of I £6.640 to his monthly salary where his wife was not earning, and to an addition of I £3.640 to his monthly salary where his wife had earnings of her own. A female civil servant was not entitled to any additional salary even though she was married, irrespective of whether her husband had earnings of his own or not; she was, however, entitled to the additional salary which would be paid to a civil servant in respect of his non-earning

[1] Note kindly furnished by Mr. Haim H. Cohn, Attorney-General of Israel, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Prisons Ordinance (Amendment) Act, 5716–1956; *Sefer Ha-Hukim* 195, p. 23.

[3] Criminal Law Amendment (Modes of Punishment) Act, 5714–1954, sect. 38.

[4] Names Act, 5716–1956; *Sefer Ha-Hukim* 207, p. 94.

[5] Sect. 2.

[6] Sect. 6.

[7] Sect. 7.

[8] Sect. 3.

[9] Sect. 4.

[10] Sect. 5.

[11] Sects. 8 and 9.

[12] Sect. 10.

[13] Sect. 20.

[14] Sect. 16.

[15] Sect. 11.

[16] Sects. 13 and 14.

[17] Sect. 22.

[18] Sect. 24.

[19] Regulations made by the Civil Service Commission and forming part of the contract of employment between the State and the Civil Servants Union. A Civil Service Act under which these regulations will be given the force and effect of statutory instruments is now under consideration by the Government.

wife, if she could prove by medical evidence that her husband was incapable of working.[1]

On an administrative complaint to the Civil Service Commissioner, the regulations were, in so far as they restricted the rights of female civil servants, revoked as being inconsistent with the provisions of Sect. 1 of the Women's Equal Rights Act, 5711–1951.[2] It was directed that "the same additional salary which a man is paid in respect of his wife, a woman must be paid in respect of her husband; and the condition that she must first prove her husband's incapacity to work is illegal and unenforceable. Where both husband and wife are civil servants, there is nothing to prevent the direction that both should, for the purposes of additional salaries, be regarded as if they were unmarried; but the additional salary is to be paid either to both or to none. The general rule is that anything paid to a man in respect of his wife, must be paid to a woman in respect of her husband; and what is not paid to a man in respect of his wife, need not be paid to a woman in respect of her husband".[3]

2. Rights of Children

Several cases arose in 1956 in which teachers and schoolmasters were accused of assaults on children under their care and supervision. The education authorities maintained that teachers must have freedom of reasonable castigation for disciplinary purposes, and that it was for them to decide, according to pedagogic principles, what in any particular case was a reasonable punishment or deterrent. On an application to the Attorney-General for a *nolle prosequi*, the following direction was given: "It is for the prosecuting attorney, before charging a teacher with striking or assaulting a child in school, to consider, in each case upon its particular circumstances, whether a court might accept the plea that the act was a reasonable punishment calculated and intended to educate the child, and not flowing from any desire of revenge or from hatred or other emotions or motives, nor done with an instrument or in a measure that might get out of control. Where the attorney thinks the court might accept such a plea, he is justified in not prosecuting; in all other cases it is his duty to prosecute. Neither law nor justice requires that teachers should be given some sort of special immunity and not be made answerable for their unlawful assaults on children. As against the pedagogic interest that the standing and dignity of the teacher in the eyes of his pupils should not be impaired by his being brought as an accused before the criminal court, there is the public and humanitarian interest that children be effectively protected against the cruelty of their teachers; and the prosecuting authorities have to safeguard, first and foremost, public and humanitarian interests."[4]

[1] Chapter D, para. 3.

[2] See *Yearbook on Human Rights for 1951*, p. 185.

[3] Opinion of the Attorney-General dated 25 April 1956.

[4] Opinion of the Attorney-General dated 2 May 1956.

3. Imprisonment

Under rules of court governing the procedure in magistrates' Court, a magistrate had power to give judgement and pass sentence in a criminal case in the absence of the accused where it was proved to his satisfaction that the accused had been duly summoned and served with a copy of the charges against him.[5] The maximum punishment which a magistrate is competent to impose is one year's imprisonment.[6]

When a case was brought to the notice of the Minister of Justice (the rulemaking authority), in which a magistrate had imposed one year's imprisonment on an accused who had not appeared before him in person and was not represented by counsel, although he had been duly served and summoned, the rule under which a magistrate could sentence a person to imprisonment in his absence was repealed. The rule now is that a magistrate may, upon proof of service and summons, proceed in the absence of the accused and may impose on him a fine or a suspended sentence: but no person may be sentenced to imprisonment otherwise than in his presence.[7]

4. Military Prisons

Rules were made in 1956 for the organization and government of military prisons.[8] They contain special provisions for the separation of convicted from non-convicted detainees;[9] for the automatic remission of one-third of every prison sentence, unless the prisoner was found guilty of prison misconduct;[10] for medical examinations of prisoners at regular intervals and the transfer of sick prisoners to hospital;[11] for facilities for religious worship for all religious denominations,[12] and prison libraries;[13] for lectures and other tuition, at least seven hours a week;[14] and for vacations which a prisoner may, for special reasons, be given from prison for 72 hours at a time.[15] Generally speaking, the regulations follow the provisions enacted in the Prisons Ordinance, 1946, in respect of civil prisons.

III. INTERNATIONAL AGREEMENTS

The following international instruments bearing on human rights were ratified by Israel in 1956:

[5] Rule 267 of the Magistrates' Courts Procedure Rules, 1940.

[6] Magistrates' Courts Procedure Ordinance, 1947, sect. 3.

[7] Magistrates' Courts Procedure (Amendment) Rules, 1956, *Kovetz Hatakanot* 669, p. 712.

[8] Military Prisons Regulations, 5716–1956. *Kovetz Hatakanot* 565, p. 206.

[9] Regulations 8 and 33.

[10] Regulation 21.

[11] Regulations 30 and 37.

[12] Regulation 28.

[13] Regulation 27.

[14] Regulation 41.

[15] Regulation 63.

(i) International Labour Convention No. 81 concerning labour inspection in industry and commerce, 1947 (ratified on 7 June 1956);[1]

(ii) International Labour Convention No. 29 concerning forced or compulsory labour, 1930 (ratified on 7 June 1956);[2]

(iii) Slavery Convention of 25 September 1926 (ratified on 6 January 1956];[3]

(iv) International Labour Convention No. 102 concerning minimum standards of social security, 1952 (ratified on 16 December 1956).[4]

IV. JUDICIAL DECISIONS

1. Freedom of Opinion — Conscientious Objectors

MENAHEM MENDEL COHEN *v.* ATTORNEY-GENERAL

Supreme Court sitting as Court of Criminal Appeal[5]

4 March 1956

The appellant was convicted of failing to present himself for medical examinations, contrary to the Defence Service Act, 5709–1949. He argued, on appeal, that he objected to military service on religious grounds, and that such service would unlawfully restrict the freedom of religion guaranteed in the Declaration of Independence.

Per curiam: ". . . Any person may hold any opinion he likes, and there is nobody in the State who may compel him to hold any different opinion; but this fact does not in any way justify the violation of any law which is in force in this country. There is no need to dwell at any length on the situation which would arise if every citizen could choose the laws which his opinions would allow him to obey and the laws which his opinions would prevent him from obeying . . .."

2. Minorities — Equality before the Law — Military Service

HASSUNA *v.* PRIME MINISTER

Supreme Court sitting as High Court of Justice[6]

20 April 1956

Per curiam: ". . . The applicant, a young Druze of military age, who was born in the country, always lived here, and who fulfils all the conditions laid down in the law to render him capable to serve the State in which he lives and whose protection he enjoys — claims that because he belongs to a minority group, he may not be called up for military service. There is no foundation whatever for this claim. The law does not bind only a portion of the people, but all the people in the State, without distinction . . ."

3. Right to Speedy Trial — Undue Delay — Measure of Punishment

ZOHAR *v.* ATTORNEY-GENERAL

Supreme Court sitting as Court of Criminal Appeal[7]

16 February, 1956

The accused was brought to trial more than one year after his offence had been committed, and, when the trial was concluded, eighteen months had expired since the commission of the offence. No satisfactory reason was given to explain the delay.

Held. There had been undue delay in bringing the accused to trial.

Where there has been such undue delay, the trial court should take it into consideration as a mitigating circumstance in passing sentence upon the accused; and where it has not done so, the sentence will be reduced on appeal.

4. Punishment — Right to Speedy Execution of Judgement

ANONYMOUS *v.* MINISTER OF POLICE

Supreme Court sitting as High Court of Justice[8]

17 May 1956

Per curiam: ". . . We have no hesitation in saying that the petitioner has been severely wronged . . . His appeal against a sentence of imprisonment was dismissed on 30 January 1956, while he was released on bail. The next day he presented himself at one of the police stations in Tel Aviv and asked to be sent to prison so that he may serve his sentence. The officer in charge of the police station told him to go home; he would, he was told, in due course be arrested to serve his term of imprisonment. He was not arrested until two months later. . . The petitioner argues, and quite rightly so, that he was, during those two months, bound to stay at his house and could not leave his town for fear he might be considered a fugitive from justice . . . We feel constrained to express our misgivings at the astonishing fact that this warrant of arrest was not executed until after the expiration of two months. An accused person on whom sentence has been passed has the right to serve his sentence immediately after its pronouncement . . ."

[1] *Kitvei Omana* 237, p. 33.
[2] *Kitvei Omana* 206, p. 377.
[3] *Kitvei Omana* 202, p. 307.
[4] *Kitvei Omana* 211, p. 423.
[5] Reported in: 10 *Piskei Din* 452 (1956).
[6] Reported in: 10 *Piskei Din* 710 (1956).
[7] Reported in: 10 *Piskei Din* 404 (1956).
[8] Reported in: 10 *Piskei Din* 861 (1956).

5. FAIR TRIAL — CONFESSION — WHETHER ADDITIONAL EVIDENCE REQUIRED

WATAD ET AL. *v.* ATTORNEY-GENERAL

Supreme Court sitting as Court of Criminal Appeal[1]

31 May 1956

Per Cheshin, J.: ". . . The appellant argues that the court below erred in convicting him on the strength of his confession only, and the case of Andelarsky[2] was cited in support of this argument. In that case it was laid down by this court that although there was nothing in law to prevent a court from convicting a person on the strength of his confession only, it is never secure to do so: the court should first probe into the confession and find that it was true and reliable. There is no need for additional independent evidence to corroborate the confession . . . What is needed is an investigation into the confession in the light of all the circumstances of the case, and a finding that there is good cause to believe the confession to be true. That is what in Andelarsky's case the court called the 'something additional to strengthen the confession'; this 'something' the judge can find by comparing the contents of the confession with other evidence produced by the prosecution or by the defence . . . and by investigating into other circumstances of the case which might tend to show that what the accused said in his confession was true, and that he had the opportunity to commit the crime to which he had confessed. . . In this case the appellant went back on his confession and claimed in court that it was not true. The court convicted him without first searching for that 'something' additional, that is, without probing into the confession for its truth, and without warning himself that there might be danger in convicting a man upon his confession alone, however freely and voluntarily it may have been made. For this reason, the conviction cannot be supported. . ."

6. FAIR TRIAL — CONFESSION — EXAMINATION BY POLICE OFFICER

TVEIG *v.* ATTORNEY-GENERAL

Supreme Court sitting as Court of Criminal Appeal[3]

21 June 1956

Per Silberg, J.: ". . . The appellant says his confession was inadmissible in evidence — not because he had been threatened or given promises, but because he was asked questions when making his statement, and because he was told by the police interrogator that he should 'help to find justice'. The police officer himself testified that at the beginning the appellant was not prepared to disclose everything, but later he 'broke into a confession'; and it is argued that this language shows that the appellant was not treated fairly when making his statement. . . We think that this confession was not obtained by any illegal means. It is well established that questioning as such does not necessarily invalidate a confession, so long as the questioner did not make any misrepresentation, or did not put leading questions, or did not put his questions in a threatening or confusing manner. . . The paramount consideration must always be whether the confession was made by the accused of his own free will, without inducement or solicitation, and without compulsion. . . In this particular case, the offences with which the accused was charged were not of a simple nature. They were most complicated transactions, not only in regard to their planning, but also in regard to their execution and scope. There were combined here the mentality of tricksters with the talent and experience of financiers. No lay investigator could hope to find his way through the network of these interwoven financial transactions, without the guidance of an expert. The officer sought some explanations from the expert, the accused, who was making his statement to him: we can see nothing wrong in questions of this kind. Nor was the officer's remark, the accused should 'help to find justice', an inducement or a solicitation which could render the confession inadmissible. Justice is not found, but done; and the officer surely meant to say (and probably did say) that the accused should help in finding the *truth*. . . There is no inducement without some potential benefit to the person induced, in consideration of his making a confession; but however great a moral achievement and satisfaction there may be in finding the truth — there is not in it any potential or other benefit to the accused in consideration for his confession. It would be absurd, indeed, were a confession to be held inadmissible for the very reason that it was given for the purpose of finding truth. . . ."

7. FAIR TRIAL — DOUBLE JEOPARDY — PUNISHMENT

BRANDWEIN ET AL. *v.* ATTORNEY-GENERAL

Supreme Court sitting as High Court of Justice[4]

24 October, 1956

The two petitioners were prisoners who escaped from lawful custody. On being returned into prison, they were each put into solitary confinement. Subsequently, indictments were served on them charging them with the offence of escaping from lawful custody. On a petition to restrain the Attorney-General from prosecuting them for an offence for which they had already been punished by solitary confinement, it was held that the solitary confinement was a matter which the trial court might take into consideration when sentencing petitioners for the offence, but was not a reason to prevent their being brought to trial.

[1] Reported in: 10 *Piskei Din* 935, at p. 937 (1956).

[2] Reported in: 2 *Pesakim* 87 (1949).

[3] Reported in: 10 *Piskei Din* 1083, at p. 1087 (1956).

[4] Reported in: 10 *Piskei Din* 1582 (1956).

8. COMPULSORY LABOUR — PRISON WORK — DISCIPLINARY PUNISHMENT

HOLZER *v.* DIRECTOR OF CENTRAL PRISON

Supreme Court sitting as High Court of Justice [1]
6 June 1956

Per Olshan, P.: "This is a petition for an order *nisi* directed to the Director of the Central Prison at Ramla to show cause why he should not abstain from depriving the petitioner, a prisoner, of certain things he had previously enjoyed, such as four cigarettes a day, outdoor walks, and the like. The petitioner admitted before us that the cause of his complaints arose three weeks ago when he refuced to do the work which he had been ordered to do. Now what work is to be performed by prisoners is a matter for the discretion of the prison authorities. [2] The benefits which the petitioner claims — except for outdoor walks — are such as the prison authorities are under no legal obligation to grant, and it was not seriously argued before us that the petitioner has any legal right to obtain them. And as for the outdoor walks, we do not believe the petitioner that he was deprived of this right: on the evidence before us it appears that he was only required to take his walks alone and not in the company of his fellow-prisoners. The only matter which troubled me during the hearing of this petition was, whether the respondent should not have given the petitioner opportunity to be heard, before he decided to deprive him of those benefits; but I am satisfied that, as was argued on behalf of the Attorney-General, the respondent was not under a legal obligation to give the petitioner such opportunity, except where he was going to inflict on him any of the punishments provided for in the Prisons Ordinance, 1946; and the deprivation of benefits such as these, which the petitioner cannot claim as of right, is not a punishment within the meaning of the ordinance. The petition is dismissed. We would, however, observe that the respondent would do wisely to give the petitioner opportunity to adduce his reasons why he would not do the work he had been ordered to do."

[1] Reported in: 10 *Piskei Din* 955 (1956).

[2] Section 16 of the Criminal Law Amendment (Modes of Punishment) Act, 1954, provided:

"(*a*) Every prisoner is under obligation to work.

"(*b*) The Parole Board may, for reasons of health or for any other adequate reason, exempt a prisoner from his obligation to work or restrict the same.

"(*c*) A prisoner may not be employed for any work other than in State institutions, except with his consent and on customary terms of employment.

"(*d*) Prison labour shall be in accordance with the Prisons Ordinance, 1946, and regulations made thereunder; such regulations shall prescribe the wages every prisoner shall receive for his work and the terms of his employment outside the precincts of the prison."

9. FREEDOM TO WORK — LICENSING — CANCELLATION OF LICENCE — LICENSEE SUSPECTED OF INCOMPATIBLE BEHAVIOUR — DUTIES OF LICENSING AUTHORITY

LANDAU *v.* DIRECTOR OF CUSTOMS

Supreme Court sitting as High Court of Justice [3]
31 July 1956

The petitioner was for many years a customs agent. Customs agents require annual licences to practice; the issue of such licences is in the discretion of the respondent.[4] The petitioner's licence was cancelled by the respondent. An order *nisi* had been issued to the respondent to show cause why the licence should not be restored to the petitioner.

Per Berenson, J.: ". . . It is now well established that an authority competent to issue licences to engage in a trade or profession has a discretion in the matter, and may refuse to grant or renew, and may cancel, a licence, if there is sufficient cause to suspect that the applicant has committed such offences or such other acts as disqualify him from engaging in that trade or profession. . . The discretion to refuse or cancel a licence should not, however, be exercised except where the suspicion of which I spoke is real, and where the acts of which the applicant is suspected are such that according to reasonable and customary standards they are not compatible with such trade or profession; and it should not be exercised upon any considerations extraneous to that particular trade or profession, nor without the applicant having been given notice of the suspicions against him and fair opportunity to disprove them. . . 'Sufficient cause to suspect' means a suspicion founded on adequate evidence—e.g., the judgement of a competent court, or on proper inferences from established circumstances; and normally you cannot draw any proper inference without having heard the explanations of the person concerned, or at least without having given him an opportunity to explain which he chose not to take. . ." The rule was made absolute, the respondent having acted on the strength of a statement made by the petitioner to the police, without having given the petitioner opportunity to be heard before him.

[3] Reported in: 10 *Piskei Din* 1405, at p. 1408 (1956).

[4] Customs House Agents Ordinance, Cap. 45 of the Laws of Palestine (as amended in 1937), section 3: "The Director may grant licences . . . to such persons as he thinks fit, to act as agents for transacting business with customs authorities . . . The Director may, by order, revoke any such licence on account of the fraud or misconduct of the licensee, and a copy of such order stating the cause of revocation shall be delivered to the licensee...."

ITALY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1956 [1]

I. LEGISLATION

The decisions of the Constitutional Court (which was established under articles 134 to 137 of the Constitution and entered upon its duties on 21 January 1956) have given further impetus to legislative enactments designed to bring Italian municipal law into line with the principles and rules of the Constitution,[2] the principles and rules of which are entirely in conformity with the principles embodied in the Universal Declaration of Human Rights. One of the first legislative provisions consequent upon the decisions of the Constitutional Court referred to public security regulations. The consolidated text of the public security laws of fascist origin has been found, on many points, to be not entirely in harmony with the principles underlying the Italian Constitution. Even before the establishment of the Constitutional Court, a bill had been submitted to Parliament providing for the partial revision of those laws.

As a result of decisions 2 and 11 of the Constitutional Court,[3] Parliament approved Act No. 1423, of 27 December 1956 (*Gazzetta Ufficiale* No. 327, of 31 December 1956) containing *preventive measures in respect of persons who are a danger to security and public morality*. These new regulations replaced the provisions of the consolidated text of the public security laws concerning the forcible transfer of persons under an order issued by the public security authorities for the return to their place of origin of persons deemed harmful to public security, and also the provisions relating to admonition in articles 164 to 176 of the said consolidated text, which were rendered null by the Constitutional Court when it ruled that they were inadmissible under the Constitution.

Like the decision of the courts, this new government-sponsored Act is also intended to reconcile the respect for individual liberty (Universal Declaration, articles 9, 10 and 13) with the need to safeguard the social order to which every society is entitled (Universal Declaration, article 28 and article 29, paragraph 2). In addition to the matters dealt with by the Constitutional Court, the Act of 27 December 1956 lays down rules, in harmony with the Constitution, regulating custody by the police, since the legislator considered that the provisions of articles 180 *et seq.* of the consolidated text governing such preventive measures were manifestly unconstitutional. Taken as a whole, the new Act is designed to meet the indispensable needs of the community, and at the same time to specify the limits of the discretionary powers allowed to the public security officials in the difficult and delicate task of preventing crime, while at the same time taking care to ensure that accused persons have every opportunity to defend themselves against possible abuses or errors.

Article 1 of the Act of 27 December 1956 contains regulations concerning the "injunction", by which the local chief of police (questore) "requires the persons enjoined to be of good behaviour, warning them that, if they fail to do so, recourse will be had to the preventive measures referred to in the following articles". The categories of persons who may be thus enjoined by the chief of police are defined as follows: (1) idlers and habitual vagabonds who are fit for work; (2) persons who are known to be habitually engaged in illicit traffic; (3) persons whose conduct and manner of living give reason to believe that they subsist habitually, wholly or partly on the proceeds of criminal activities or by abetting such activities, or who give sufficient grounds for supposing that they have delinquent tendencies; (4) persons whose conduct gives reason to believe that they encourage or exploit the prostitution of or traffic in women or the corruption of minors, engage in contraband or the illicit traffic of toxic or narcotic substances, or culpably facilitate their use; (5) persons who habitually engage in other activities contrary to public morality and decency.

Under article 2, the local chief of police is authorized to issue an order, stating the reasons, to which an obligatory voucher showing the itinerary to be followed is attached, for the return to his place of residence of any person who is deemed dangerous to public security and public morality and who belongs to the category specified in article 1 as liable to be placed under an injunction. Forcible transfer is not permitted, but any person refusing to obey is liable to a penalty to be imposed by the judicial authorities.

Articles 3 and 4 authorize special supervision, prohibition against residing in one or more communes or in one or more provinces, and, in particularly dangerous cases, enforced residence in a prescribed commune. These measures may be taken when the injunction has proved ineffective, but only by the court, upon an

[1] Note prepared by Dr. Maria Vismara, Director of Studies and Publications of the Italian Association for the United Nations, chief editor of *La Communità internazionale*, a publication of the association, and government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1947*, pp. 163–8.

[3] See below, pp. 142–4.

information laid by the chief of police. Accused persons may defend themselves by submitting petitions, and may be assisted by counsel. Objections to the court's action may be lodged with the Court of Appeal, as regards substance, and with the Court of Cassation for breach of the law.

The Act specifies the type of orders (article 5) that the judicial authorities may place upon persons under supervision and persons whose freedom of movement has been restricted (i.e., to seek employment, to take up a fixed abode, to live honestly, to respect the law, not to give grounds for suspicion, not to associate habitually with persons who have been convicted, not to return home later in the evenings or to leave home earlier in the mornings than at specified hours without sufficient reason or without previous authorization, etc.). It lays down the penalties for contravention (articles 9 to 12); and, in the case of persons placed under confinement before the approval of this bill, it provides for confirmation by the competent judicial authorities of the action taken against them (article 8).

As regards *women's rights*, further progress has been made in Italian legislation by the gradual elimination of sex discriminations, which still persist in Italy in spite of the provisions, whether mandatory or directory, of the Constitution. For some time now, there has been an active — although not widely publicized — movement in Italy carried on by national women's organizations, representatives of political parties and members of Parliament, for the formal application of the constitutional provisions concerning equality of men and women in the holding of public office and, in particular, favouring the admission of women to the exercise of judicial functions. As regards this last, a bill was submitted to Parliament, as the result of an initiative within the Parliament, as early as December 1953 with a view to allowing women to serve as jurors in courts of assizes and as experts in juvenile courts. A second bill, government-sponsored this time, was submitted to the Chamber some two years later, and led to the adoption of Act No. 1441, of 27 December 1956 (*G.U.* No. 2, of 3 January 1957), which envisaged the *participation of women in the administration of justice in courts of assizes and juvenile courts*. In the parliamentary report with which it was submitted to Parliament, this Act was said to be based on article 51, paragraph 1, and article 102, final paragraph, of the Constitution.[1]

The Act of 27 December 1956 is in two parts. Part I, entitled "Amendments to the laws governing courts of assize", comprises the first three articles. Article 1 contains the revised texts of articles 3, 4, 22, 23, 24, 25, 26, 27 and 30 of Act No. 287 of 10 April 1951 as amended by Act No. 405 of 5 May 1952. Articles 3 and 4 concerning, respectively, the *composition of assize courts and assize courts of appeal*, provide that these courts shall be composed of "six jurors, of whom at least three must be men", in addition to the prescribed number of regular judges (paragraph *c* of articles 3 and 4).[2] Article 22, concerning *jurors' lists*, adds to the earlier text a new clause, which provides as follows: "For each assize court and for each assize court of appeal there shall be two lists, one of women and one of men, for both regular jurors and alternate jurors." Article 23 (*procedure for the compilation of general lists of jurors*), article 24 (*the placing of jurors' names in a sealed box*), article 25 (*selection of jurors for the session*), article 26 (*establishment of the panel*), article 27 (*alternate jurors*), and article 30 (*the oath*) contain the necessary amendments for the application of both the provision admitting women to juries and the provision requiring that at least half of the jurors should be men. A particularly important aspect of the new article 25 is the provision, applicable to women, whereby "the necessity under which a woman may be to attend to the needs of her family or the fact that a woman is pregnant or nursing" is admitted as a lawful excuse for exempting a juror from serving at a particular session.

Article 2 of the 1956 Act provides for the compilation of the first separate registers of women who may serve as jurors, and of the relevant general lists, and for the successive unification of those registers with the registers of men jurors.

Under article 3, the Government shall determine, within six months from the promulgation of the Act, the number of jurors to be included on the new lists of the assize courts and of the assize courts of appeal, to be drawn up separately for men and women.

Part II, entitled "Amendments to the regulations concerning the composition of the juvenile court and the juvenile division of the Court of Appeal", covers articles 4, 5, 6 and 7 of the Act.

Article 4 contains the amended text of articles 2 and 5 of royal legislative decree No. 1404, of 20 July 1934, converted, with certain amendments, into Act No. 835, of 27 May 1935, to replace those previously in force. Article 2, concerning the *establishment and composition of juvenile courts*, lays down that every court shall be composed "of a judge of the Court of Appeal, who shall preside, a judge of a lower court and two citizens, a man and a woman, who are prominent in social work, to be selected from among practitioners of biology, psychiatry, criminal anthropology, pedagogy or psychology, who have completed thirty years of age".[3]

Article 5, concerning the *establishment and composition of the juvenile Court of Appeal*, lays down that the special division of the Court of Appeal dealing with decisions of the juvenile court, "shall sit with the participation of two private citizens, a man and a woman, with the

[1] See *Yearbook on Human Rights for 1947*, pp. 167 and 168.

[2] Paragraph *c* of the earlier articles mentioned only "six jurors".

[3] According to the earlier text, in addition to the regular judges, the court was to be composed of "an officer of the judiciary, with the rank of a councillor of appeal, who shall preside, an officer of the judiciary with the rank of judge and a citizen prominent in social welfare, etc."

qualifications stated in article 2, who shall replace two of the judges of the division"[1]

Article 5 of the 1956 Act contains the new text of articles 50 and 58 of royal decree No. 12 of 30 January 1941, which are to replace those previously in force. Article 50, concerning the *composition of the juvenile court*, provides that it shall be "composed of a judge of the Court of Appeal who shall preside, a judge of a lower court and two experts, a man and a woman, with the qualifications required by law, who shall be given the title of honorary judges of the juvenile court. . ."[2]

These experts "are appointed under a decree of the Head of State, at the proposal of the Minister of Justice, for a term of three years, which may be renewed". Article 58, concerning the *juvenile division*, lays down that the division of the court competent to deal with objections to the action of the juvenile court "shall adjudicate with the participation of two experts, a man and a woman, with the qualifications required by law, who shall replace two of the judges of the division."[3] These experts are given the title of honorary counsellor of the juvenile division of the Court of Appeal, and are appointed subject to the same requirements as specified in article 50.

Article 7 of the Act provides for the budgetary allocations necessary to meet the increased expenditure occasioned by the increase in the private members of the courts and the juvenile divisions of the Court of Appeal due to the admission of women.[4]

It should be noted with regard to this Act that whereas the participation of citizens of both sexes under the provisions concerning juvenile courts is according to a rule of absolute equality, the same cannot be said of the provisions for the composition of the panel of jurors, since more than half of its members may be men.

The principle of the *right to work* and of the safeguard of that right, as set forth in the Universal Declaration, was reaffirmed in 1956 by a series of enactments regulating the handicraft industry. These enactments are based on the Constitution, which states in article 35, paragraph 1, that the republic protects labour of every kind, and specifies in article 45, paragraph 2, that the law "shall provide for the protection and development of handicraft workers". Handicrafts constitute, in fact, an essential part of Italy's economic and social life, on account of the number of handicraft workers (it is estimated that 11 per cent of the Italian population derives its livelihood from handicrafts), the volume, variety and the quality of its products, which provide the trade balance with a steady source of capital assets, and, lastly, because handicrafts, when properly organized and equipped, may develop sufficiently to absorb a considerable amount of unemployed labour. Handicrafts constitute a typically individual and family trade, and have hitherto been all but overlooked by Italian legislation — at least from the point of view of systematic organization.

Handicrafts have been governed by three enactments: Act No. 860, of 25 July 1956 (*G.U.* No. 200, of 10 August 1956), entitled *Legal provisions governing handicrafts*, Act No. 1524, of 19 December 1956 (*G.U.* No. 15, of 17 January 1957), putting into effect the credit policy for handicrafts, and Act No. 1533, of 29 December 1956 (*G.U.* No. 16, of 18 January 1957), which provides for a system of *compulsory sickness insurance for handicraft workers*. Under the last-mentioned Act, handicraft workers and their families, coming within the compulsory assistance scheme, are eligible for the following benefits: hospital care, specialist diagnosis and curative treatment, and maternity benefits. The expenditure incurred under this Act is financed by the following: (*a*) an annual contribution of 1,500 lire payable by the State in respect of each handicraft worker and family member eligible for benefit; (*b*) an annual contribution of 1,000 lire payable by each handicraft worker and family member eligible for benefit; (*c*) where necessary a supplementary contribution payable by the handicraft worker, and to be fixed by the provincial mutual fund according to the means of the individual handicraft establishment, to cover any increase in the cost of health benefits.

Important regulations for the *protection of the worker*, especially against the risks inherent in certain occupations, were issued during 1956 by the Executive, on the basis of two Enabling Acts, Nos. 51 and 52, of February 1955.[5] To this series of decrees of the President of the Republic must be added the introduction in 1956 of various ordinary laws prescribing social welfare measures for certain categories of workers and unemployed persons.

Seven decrees were issued by the Executive under Enabling Act No. 51, and one was issued under Enabling Act No. 52.

In conformity with the principles embodied in Enabling Act No. 52, decree No. 648 of the President of the Republic, dated 20 March 1956 (*G.U* No. 173, of 13 July 1956), contains *regulations to amend Act No. 455, of 12 April 1943, respecting compulsory insurance against silicosis and asbestosis*. In this decree, effect is given to the provisions of article 1 of Enabling Act No. 52. Under articles 2 and 3 of the decree, which

[1] The original text read: ". . . sit with the participation of a private citizen . . . to replace one of the judges of the division."

[2] The original text provided for only one expert.

[3] The earlier text read: ". . . shall sit with the participation of an expert . . . who shall replace one of the magistrates of the division."

[4] Articles 50 and 58 of royal decree No. 12, of 30 January 1941, concerning *judicial organization*, employ a terminology which is different from that of articles 2 and 5 of legislative decree No. 1404, of 20 July 1934, concerning the *establishment and conduct of the juvenile court*, since it employs the term "expert" for the "citizen" mentioned in the above articles 2 and 5. The substance of the provision remains unchanged.

[5] See *Yearbook on Human Rights for 1955*, pp. 147–8.

correspond to article 1 (*a*) of the Enabling Act, the workers are required to undergo a medical examination before engaging in the type of work for which insurance against silicosis and asbestosis is compulsory (or, in any event, within five days of engaging in that type of work), and the medical examination must be repeated at intervals not exceeding one year, at the expense of the employer. No worker found to be suffering from silicosis or asbestosis accompanied by active pulmonary tuberculosis, even in its early stages, is admitted to or allowed to remain in the occupation in question; independently of these medical examinations, the Inspectorate of Labour may order, of its own accord or at the request of the worker, special examinations in order to verify the worker's state of health. Article 2 also relates to paragraph (*b*) in stating that the operating costs of the medical boards of the Inspectorate of Labour shall be borne by the National Social Welfare Institute and the National Industrial Accident Insurance Institute. Effect is given to the principle embodied in paragraph (*c*) by article 7, which introduces improvements to the previous regulations, as regards the amount and the conditions of the "temporary annuity" paid by the insurance carrier to workers ceasing for prophylactic reasons to be engaged in their earlier occupation — in which they contracted the disease — where, on account of the direct sequelae of silicosis or asbestosis, they are found to have a permanent incapacity up to any degree, not exceeding 80 per cent.

Under article 4, the minimum permanent incapacity from silicosis and asbestosis is reduced to 20 per cent for purposes of insurance benefits, and these benefits are made payable "irrespective of the degree of incapacity" when either of the two diseases is accompanied by tuberculosis (paragraph (*d*)). In conformity with paragraph (*e*), article 6 provides for arrangements more favourable to workers as regards the remuneration to be taken as a basis for the payment of pensions. Finally, it should be mentioned that the schedule (annexed to the new Act) of processes for which insurance against silicosis and asbestosis is compulsory, considerably extends the category of occupations subject to protection, and increases to fifteen years (ten under the earlier Act) the time-limit within which compensation is payable after the cessation of employment. The other provisions of the Act (eighteen articles in all) also introduce a number of improvements in this type of insurance.

Each of the seven presidential decrees issued under Enabling Act No. 51 deals with a separate sector of labour, and lays down the same technical and hygienic standards as are contained in Act No. 547, of 27 April 1955.[1] The new decrees are as follows:

Decree No. 164 of the President of the republic, dated 7 January 1956 (*G.U.* No. 78, supplement, of 31 March 1956) containing *regulations for the prevention of accidents in construction work.*

Decree No. 302 of the President of the republic, dated 19 March 1956 (*G.U.* No. 105, supplement, of 30 April 1956) contains *regulations for the prevention of industrial accidents supplementary to the general regulations issued by decree No. 547 of the President of the republic, dated 27 April 1955.* In addition to the "general provisions" (see the original Act of 1955) the five sections of which it is composed deal with the manufacture and use of explosives; the testing of installations and machinery which are liable to explode, catch fire or disintegrate or generate gas or toxic or radio-active emanations; the testing and maximum velocity of synthetic abrasive grinding wheels; and, lastly, penalties for persons violating the provisions of the decree.

Decree No. 303 of the President of the republic, dated 19 March 1956 (*G.U.* No. 105, supplement, of 30 April 1956) to issue *general regulations for industrial hygiene*, applicable to all employed workers (article 1), by which are meant all persons who work away from home, in the employment of or under the direction of others, with or without remuneration, even if only for the purpose of learning a trade, craft or occupation (article 3). After defining the obligations of employers and workers for compliance with the provisions of this decree, regulations are laid down for industrial and commercial establishments (section II). These regulations specify in detail the sanitary requirements for the working environment (adequate space, ventilation, protection against atmospherical agents, lighting, temperature, cleanliness, etc.); protection against harmful agents (noxious substances, air pollution, dust, heat and light rays, ionizing radiations, noise and vibration, etc.); health services (first aid and medication, medical attention, etc.); sanitary facilities (drinking and washing water, showers, latrines, dressing rooms, dining rooms, shelters for open-air workers, sleeping accommodation of various kinds, etc.). Special regulations are prescribed for environmental hygiene for agricultural workers (section III). These regulations, which refer to living quarters and sleeping accommodation, sanitary facilities, stables, cowsheds and manure sheds, processing plants, first aid and prophylactic treatment, apply to establishments engaging not only in activities directly related to agriculture, forestry and animal husbandry, but also in industrial and commercial work entailing the preparation, conservation and transport of their own produce, where that work is done entirely by land workers or persons in charge of livestock. The application of the regulations set forth in the decree is to be supervised by the Ministry of Labour and Social Welfare, through the Inspectorate of Labour.

Four decrees of the President of the republic, Nos. 320, 321, 322 and 323, issued on 20 March 1956 (*G.U.* No. 109, supplement, of 5 May 1956), which prescribe regulations for the prevention of accidents and for industrial hygiene in work underground, work in compressed-air caissons, and work in the cinematograph and television industries, and for the prevention of accidents in telephone installations.

[1] See *Yearbook on Human Rights for 1955*, p. 148.

Ordinary *social welfare legislation* enacted during 1956 includes: Act No. 293 of 31 March 1956 (*G.U.* No. 102, of 27 April 1956), to establish under the National Social Welfare Institute a "provident fund for employees in private electricity companies", which was put into effect on 1 January 1949, and prescribes that membership of this fund is compulsory for workers in private electricity companies employing not less than fifteen persons, engaged in technical, administrative and commercial activities; and Act No. 1450, of 4 December 1956 (*G.U.* No. 4, of 5 January 1957), regulating the social welfare benefits payable in respect of employees in concessionary public telephone services.

II. TREATIES AND CONVENTIONS WHICH CAME INTO FORCE IN ITALY IN 1956

Administrative agreement for the application of the convention on social insurance between the Italian Republic and the Federal Republic of Germany (*G.U.* No. 139, supplement, of 8 June 1956).

Administrative agreement for the application of the convention on unemployment insurance concluded on 5 May 1953 between the Italian Republic and the Federal Republic of Germany (*G.U.* No. 139, supplement, of 8 June 1956).

Conventions Nos. 100, 101 and 102, adopted at the thirty-fourth and thirty-fifth sessions of the General Conference of the International Labour Organisation held at Geneva.[1] Ratified and put into force in Italy by Act No. 741, of 22 May 1956 (*G.U.* No. 186, supplement, of 27 July 1956).

Universal Copyright Convention, signed at Geneva on 6 September 1952, and Protocols Nos. 2 and 3 to the Convention.[2] Convention and protocols ratified and put into force in Italy by Act No. 923, of 19 July 1956 (*G.U.* No. 210, of 23 August 1956).

III. JUDICIAL DECISIONS

Our brief review of the practice of Italian courts in cases concerning human rights will be confined this year to three decisions of the Constitutional Court, which was inaugurated in April 1956. In view of its competence to inquire into the constitutional legality of laws, and the outstanding qualifications of its members, this new judicial body is bound to exercise a considerable influence on Italian national life, and its decisions on questions having a direct bearing on fundamental human rights will undoubtedly be of international interest.

The decisions given below relate to freedom of expression and personal liberty.

The first decision of the Constitutional Court, issued on 5 June 1956, upholds the right to freedom of expression and thereby confirms the principle stated in article 19 of the Universal Declaration, which is fully in accord with article 21, paragraphs 1 and 2, of the Italian Constitution.[3]

Apart from the statement of principle involved, this decision is of fundamental importance on account of the court's ruling on the question of competence raised by the State Advocate's Office. The court thus confirms its own exclusive competence "to judge disputes concerning the constitutional legality of laws and of instruments having force of law even if enacted before the entry into force of the Constitution. This decision, which was based on article 134 of the Constitution and on article 1 of Constitutional Act No. 1, of 9 February 1948,[4] has always been cited by the court in subsequent decisions, whenever the same objection has been lodged in cases brought before it. It is easy to envisage the far-reaching effects of this decision of the court on its own competence, since it gives the Italian citizen recourse to the Constitutional Court in any legal proceeding involving the application, to his particular case, of any provision of the law in force in the republic, which he considers to be an infringement of the rights and principles embodied in the Constitution. Moreover, the Italian Constitution, promulgated in December 1947, as a general rule upholds the same rights and the same personal freedoms as are affirmed by the Universal Declaration of December 1948.

Decision No. 1 of the court covers a series of thirty cases dealing with a single question of constitutional legality, raised in the course of various criminal proceedings (some at first instance and others at the stage of appeal) instituted in respect of individuals accused of having violated the provisions of article 113 of the consolidated text of public security laws by the circulation of printed matter in the public streets, the posting of notices or newspapers or the use of loudspeakers for addressing the public, without previous authorization from the public security authorities pursuant to article 113, or in disregard of the orders of such authorities.

The question of the constitutional legality of article 113 was raised by the defendants or the State Counsel's Department or both, inasmuch as the authorization provided for therein was considered to be inconsistent

[1] Convention No. 100 concerning equal rumuneration for men and women workers for work of equal value (see *Yearbook on Human Rights for 1951*, pp. 469–70); Convention No. 101 concerning holidays with pay in agriculture; and Convention No. 102 concerning minimum standards of social security (see *Yearbook on Human Rights for 1952*, pp. 377–89).

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

[3] Constitution, article 21:

"Every person shall have the right to express his personal views freely by word of mouth, in writing or by any other means of communication.

"The press shall not be subject to licensing or censorship.

" . . . "

[4] Constitutional Act No. 1, article 1: "If a question of the constitutional legality of a law or an instrument having the force of a law of the republic is raised *ex officio* or by one of the parties in a lawsuit and is not ruled by the judge to be manifestly untenable, it is referred to the Constitutional Court for decision."

with article 21, paragraphs 1 and 2, of the Constitution. Consequently, the criminal proceedings were dropped and the matter was brought before the Constitutional Court.

Having confirmed its competence to deal with the matter (as already stated), the court recalled that the question of compatibility between article 113 of the public security laws and article 21 of the Constitution had already been debated, both in judicial practice and in doctrine, with a view to abrogating article 113, and that the discussions had mainly been concerned with the mandatory or directory nature of article 21. The court did not give an opinion on the latter point, since it held that if the mandatory nature was essential for purposes of abrogation, constitutional illegality might exist even in the case of provisions of a directory nature. It therefore confined itself to the consideration of the substance of article 21 as it related to article 113.

The court first pointed out that the granting of a right does not imply that its exercise should not be subject to regulation, in the interests of an orderly society, which requires that the exercise of a right by an individual should in no way impair the rights of others. That principle was precluded, however, by article 113, since the powers it conferred on the public security authorities did not appear to be "restricted to the prevention of acts constituting an offence or which might reasonably be supposed to be likely to lead to an offence"; on the contrary, this article "seems almost to subject the right conferred on all persons by article 21 of the Constitution to a concession by the public security authorities in conferring on those authorities unlimited powers of discretion, such that, irrespective of the specific purpose of maintaining order and preventing crime, the granting or the refusal of authorization may virtually mean permitting or preventing freedom of expression according to individual cases".

The court thus affirmed the constitutional illegality of paragraphs 1, 2, 3, 4, 6 and 7 of article 113 of the consolidated text of public security laws (paragraph 5, however, was not found to be inconsistent with the Constitution). Consequently, article 663 of the Penal Code,[1] the application of which was requested in respect of accused persons, was declared by the court to be invalid in relation to article 113.

In its decision, the court held that the provisions of article 113 might be replaced by others governing the application of article 21, in order to prevent any abuse, without impairing the right laid down therein, having in mind also the final paragraph of article 21.[2]

The court also expressed the hope that various provisions of the public security laws that were insufficiently in harmony with the principles and provisions of the new Italian Constitution would be revised in the near future to conform to the latter, and pointed out that various bills had already been submitted to Parliament for the purpose.

Decisions Nos. 2 and 11 of the Constitutional Court, of 14 and 19 June 1956 respectively, both deal with personal freedom, and uphold the principles laid down in the Universal Declaration, with special reference to those set forth in articles 3, 9 and 13.

Decision No. 2 declares constitutionally illegal a public security regulation which gives the public security authorities the power to return a person to his commune of residence under an order of removal, where there are sufficient grounds for suspicion. This decision relates to a series of twelve judgements on the constitutional legality of article 157 of the consolidated text of public security laws,[3] passed in the course of twelve penal actions for violation of the aforesaid article. As grounds for objection, the defendants claimed that article 157 conflicted with articles 13 and 16 of the Constitution.[4]

Both articles of the Constitution were interpreted by the court according to the constant criterion of the need to reconcile the safeguarding of separate individual rights with the safeguarding of social life.

The court considered that the regulations concerning measures for the return of a person to his place of residence with an obligatory voucher showing the itinerary to be followed, and resulting injunction, did not in themselves conflict with the provisions of article 13, since the latter "cannot be construed as a guarantee of the citizen's unconditional and unrestricted freedom of conduct". Inconsistency with the constitutional provision is, however, apparent on two points: firstly, the power to order the removal of the person returned to his place of residence, inasmuch as it infringes the personal freedom guaranteed in article 13 (removal is lawful only if ordered by the judicial authorities: see final paragraph of article 157); and secondly, the admission of suspicion as sufficient grounds for ordering compulsory return of a person to his place of residence. For this to be in order, it must be "justified by specific actions" coming within the restrictions referred to in article 16 of the Constitution; thus "suspicion, even if well-founded, is not sufficient, because, arising out of vague and uncertain considerations, it would leave room for arbitrary conclusions, and thereby exceed the powers of discretion which must inevitably be acknowledged as a requisite for administrative action. . ."

[1] Article 663 of the Penal Code provides that if any person sells, distributes or affixes any written or pictorial matter in any public place or any place open to the public, without first obtaining authorization as required by the law, he shall be liable to certain penalties.

[2] Constitution, article 21 (final paragraph): "All printed publications, spectacles and all other performances contrary to public decency are prohibited. The law shall make adequate provision for the prevention and punishment of any contravention of this provision."

[3] Article 157 authorizes the public security authorities to return to his place of residence, with an obligatory voucher showing the itinerary to be followed, or by forcible removal, any person whose conduct, outside his own commune, gives sufficient grounds for suspicion.

[4] See *Yearbook on Human Rights for 1947*, p. 164.

The "obligation to state the reasons" is thus inherent in the order for the return of a person to his place of residence. In that respect, the court observed first, "that article 16 of the Constitution explicitly stated that restrictions on freedom of movement could not be imposed on political grounds. Hence measures for returning a person to his place of residence must be accompanied by a statement of reasons, to enable the public security authorities and (especially) the judicial authorities to ascertain that the return was not prompted by political considerations or other motives for which provision is not made in article 16 of the Constitution and article 157 of the public security laws, that is, unlawfully". Secondly, it observed that "the statement of reasons appears to be necessary in order to allow the citizen to exercise his right of defence", as guaranteed by article 24 of the Constitution in relation to judicial decisions.[1]

The court therefore considered article 16 of the Constitution in relation to the second and third paragraphs of article 157, with a view to ascertaining whether the considerations of "order, public security and public morality", referred to therein, come within the "grounds of public health or security" laid down in article 16 as governing the restrictions that may be imposed by law on the freedom of movement of citizens. The court decided in the affirmative, concluding that those paragraphs were not constitutionally illegal except as regards suspicion and orders of removal. The "grounds of public health and security" referred to in article 16 should be interpreted as "acts constituting a danger to the security of citizens", "security" being taken to mean a "situation in which citizens are, in so far as possible, guaranteed the peaceful exercise of the right to freedom which the Constitution so firmly upholds". The court concluded that the purpose of the constitutional provision "is to reconcile the necessity of not allowing socially dangerous persons to move about freely with the need to prevent the police from acquiring complete and unrestricted power".

The decision therefore rules as constitutionally illegal: (*a*) the first paragraph of article 157 of the consolidated text of public security laws in so far as it relates to the compulsory return or removal of suspect persons to their place of residence; and (*b*) the second and third paragraphs of the same article, where they relate to the return of persons to their place of residence by forcible removal.

Decision No. 11 rules that the existing public security regulations concerning admonition are constitutionally illegal, in that they conflict with articles 2, 3 and 13 of the Constitution.

The court made one decision covering two judgements passed by order of examining judges (pretors) in two criminal cases against admonished persons who were accused of having violated the terms of the admonition order.

[1] See *Yearbook on Human Rights for 1947*, p. 165.

The court was called upon to decide on the constitutional legality of articles 164 to 176 of the consolidated text of public security laws, which confer on a special commission, presided over by the prefect, jurisdiction to pronounce an admonition with all its effects. It first considered whether the institution of the admonition, as governed by the consolidated text of public security laws, was compatible with the provisions of the Constitution concerning the personal freedom of the citizen and, next whether, if incompatible, the provisions of the Constitution invalidated the articles in question. To this end, the court first debated the provision in article 2 of the Constitution, which states that "The republic recognizes and guarantees the inviolable rights of man, both as an individual and in the social organizations in which he develops his personality." In its decision, the court pointed out that this principle "clearly indicates that the law elevates to a fundamental rule of the State, in all matters pertaining to relations between the community and individuals, the recognition of those rights which are the inalienable heritage of the human person and which belong to man as a free being". Having stated in article 3 that all citizens are of equal social dignity, the Constitution specifically enumerates the various rights that are inviolable, the first being the right to personal freedom, dealt with in detail in article 13, which states in the first two paragraphs: "Personal freedom is inviolable. No form of detention, inspection or personal search or any other restriction whatsoever on personal freedom shall be allowed except on an order from the judicial authorities accompanied by a statement of reasons and then only in the cases and according to the form specified by law."

"It is apparent from this provision," the court further states, "that the right to personal freedom is by no means envisaged as the unlimited power of a person to determine his own actions, but as the right to ensure that the contrasting power of personal coercion, vested in the State, should be exercised only in specific circumstances and with due regard to certain formalities."

The problem of reconciling the two fundamental necessities of preventing crime and respecting the rights of the human person is thus solved by "recognition of the traditional rights of *habeas corpus* within the bounds of strict legality". No individual may thus be deprived of or restricted in his personal freedom except after a regular trial and on an order from the judicial authorities accompanied by a statement of reasons.

Having established those principles, the court considered whether the public security laws in question were "definitely harmful to personal freedom as guaranteed by the Constitution". The court held that there could be no doubt that "the admonition regulations in the present consolidated text of public security laws were decidedly restrictive of personal freedom", and had no hesitation in confirming that, *inter alia*, they were juridically degrading to the individual. As to

JAPAN

NOTE[1]

I. LAWS AND ORDINANCES

1. *Prostitution Prevention Act (Act No. 118, enacted on 24 May 1956)*

The purpose of this Act is, in view of the fact that prostitution impairs the dignity of the human being, corrupts sex morals and debases the good manners of society, to prevent prostitution by punishing acts promoting prostitution (such as procurement, making a woman prostitute herself, furnishing places for prostitution, receiving compensation for prostitution, advancing loans binding prostitutes, operation of brothels and furnishing of funds — these being acts directly or indirectly obtaining profit from prostitution or binding a female to prostitute herself) and by taking measures at the same time for the protection and rehabilitation of females, who, by reason of their character, behaviour or environment are likely to engage in prostitution (article 1).[2]

2. *Act concerning Loans, etc., from the Mother and Child Welfare Fund*

(Amendment by Act No. 148, of 12 June 1956 and Act No. 156, of 20 June of the same year, of Act No. 350, enacted on 29 December 1952.)

By the amendment of the Act, house repair expenses have been added to the items of expense for which loans may be made under article 3, which provides for loans to females having no husbands and bringing up children (article 3(6)). The amount of loans for school expenses for those who are attending high schools, which had been 700 yen a month, has been changed by the amendment of the Act to a sum of up to 1,000 yen per month (article 4(7)). In the Act as amended, provisions have been made for grace and exemption from repaying the loan to be allowed under certain conditions (article 10(2) and (3)).

3. *Act concerning State Aid to Local Public Bodies in Furnishing Text Books to School Children and Students in Distress (Act No. 40, enacted on 30 March 1956)*

The purpose of this Act is to facilitate compulsory education in primary and middle schools by giving the necessary state aid to the local public bodies which furnish textbooks to schoolchildren and students who find it difficult to go to school for financial reasons.

II. JUDICIAL DECISIONS

1. *Order to make a public apology and freedom of conscience*

The Supreme Court rendered a judgement on 4 July 1956 in a case in which an appeal was lodged against a decision, on the grounds that to be ordered to make a public apology was an infringement on the freedom of conscience. The following is a summary of the judgement:

To require the making of the following public apology: "The broadcast and news account is contrary to the truth. And we have defamed you and caused you trouble by it. Therefore we apologize to you" is to require the announcement through the media of mass communication that the information published was false, and that it should not have been made public. Therefore, the judgement ordering the appellant to publicize his apology in a newspaper is not to be regarded as one inflicting on him humiliating or servile pains or requiring of him something infringing his freedom of conscience.

2. *Indemnification in criminal cases*

The following is a summary of a decision delivered by the Supreme Court on 2 December 1956:

Where (i) a person has been arrested or detained, and the investigation has then related to a suspected offence other than the offence specified in the warrant of arrest or detention on the basis of which the investigation was carried out, (ii) he has been prosecuted only for the offence which was the subject of the investigation, and (iii) he has been acquitted of the offence charged, there is no reason for treating the case differently from a case in which the warrant of arrest or detention specified all the suspected offences involved. The arrests and detentions mentioned in article 40 of the Constitution[3] are not limited to arrests and detentions connected with the suspected offences for which the accused is acquitted in court proceedings, but include also arrests and detentions for suspected offences for which it was decided not to prosecute, provided that the decision was based upon the fact that the person involved was, in fact, not guilty. The

[1] Information kindly furnished by Mr. Saizo Suzuki, Director of the Civil Liberties Bureau of the Japanese Ministry of Justice, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] A fuller summary of the Act appears in *International Review of Criminal Policy*, No. 11, of January 1957 (United Nations publication, Sales No.: 1957.IV.5).

[3] Article 40 reads: "Any person, if he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law."

Criminal Indemnity Act makes detailed provisions, and provides procedures concerning indemnification in accordance with article 40 of the Constitution.

3. *State redress*

The following is a summary of a judgement delivered by the Supreme Court on 30 November 1956:

When a policeman in uniform, pretending to be performing his official duties, but with intent to profit himself, interrogates a victim and takes his belongings into his custody on pretence of taking evidence, and on his way to his office with the victim kills him with the pistol he carries with him, with intent to steal his belongings, the case must be regarded as being one in which a public servant, in performing his official duties, illegally gives injuries to any other person, and the State or public entity is reponsible for the payment of compensation for the damage. The reason is that, where damage is inflicted on a citizen in an apparent performance of official duties, the State or public entity must assume the responsibility for the payment of compensation for the damage, the rights of the people in general being thus protected.

KOREA

NOTE[1]

The following were promulgated during 1956:

1. The Judges Disciplinary Act, which came into force on 20 January 1956.
2. The Prison Management Act, which came into force on 2 February 1956.
3. The Regulations on Requirements for Parole, which came into force on 29 October 1956.

[1] Information kindly furnished by the Ministry of Foreign Affairs of the Republic of Korea.

LAOS

CONSTITUTION OF THE KINGDOM OF LAOS

Adopted by the National Congress on 29 September 1956[1]

PREAMBLE

. . .

The present constitution recognizes, as fundamental principles, the rights of the Lao people: equality before the law, legal protection of the means of livelihood, freedom of conscience and the other democratic freedoms under the conditions defined by law; it also lays certain obligations upon the Lao people: service to their country, respect for conscience, the acceptance of mutual obligations, the observance of duties towards the family, a diligent application to work, a proper concern for education, honesty and the observance of the law.

SECTION I

GENERAL PRINCIPLES

Art. 1. Laos is a unitary, indivisible and democratic Kingdom. . .

Art. 4. All persons who belong to races permanently established in Laos territory and have no other nationality shall be deemed to be Lao citizens.

The conditions under which Lao nationality shall be acquired or lost are determined by law.

Art. 5. All citizens of both sexes who have reached their majority and enjoy civil and political rights shall be entitled to vote, subject to the conditions prescribed by law.

. . .

SECTION IV

THE NATIONAL ASSEMBLY

Art. 24. The National Assembly shall be composed of deputies elected every five years by universal suffrage in accordance with the provisions of the electoral law.

The deputies are the representatives of the nation as a whole, and not only of those who have elected them. They shall not be bound by any imperative instructions from the electorate.

. . .

SECTION VII

FINAL PROVISIONS

Art. 43 . . .

The provisions relating to the monarchical, unitary and indivisible form of State, the representative character of the system of government and the principles of freedom and equality guaranteed by the present constitution shall not be the subject of any proposal for revision.

. . .

[1] English translation by the United Nations Secretariat from the French translation made by the Office of the National Congress of Laos, and reproduced in *La Documentation française: Notes et Etudes documentaires* No. 2340, of 19 October 1957.

LEBANON

NOTE

The Ministry for Foreign Affairs of Lebanon has communicated to the Secretariat of the United Nations that no constitutional, legislative or judicial developments concerning human rights took place in Lebanon during 1956.

LIBERIA

NOTE

On 22 March 1956 the Legislature of Liberia adopted the Liberian Code of Laws of 1956,[1] embracing the general laws of Liberia in force on 31 December 1955, with a few recent exceptions. In addition to the Constitution of the republic, the following titles of the code, among others, have a bearing on human rights: Title 1, Aborigenes Law; Title 3, Aliens and Nationality Law; Title 8, Criminal Procedure Law; Title 10, Domestic Relations Law; Title 11, Education Law; Title 12, Election Law; Title 17, Injuries Law; Title 19, Labour Law; Title 25, Patent, Copyright and Trademark Law; Title 27, Penal Law; Title 31, Public Health and Safety Law; and Title 33, Public Welfare Law.

The Copyright Act of 1911, the provisions of which became part of title 25 of the code, was amended by an Act adopted on 26 January 1956. Title 25, chapter 2 (Copyrights), of the code as thus amended permitted the author of a literary, scientific or artistic work to file an application for copyright, and provided that a certificate of copyright must be issued, on payment of a fee of five dollars, if it appears "that the work is an original composition by the applicant". Section 34 of the title read: "34. Effect of Copyright. — The author of a work copyrighted under the provisions of this chapter or his representative shall have the exclusive right within this republic during his lifetime and for twenty-five years after to reproduce them, to sell or authorize reproductions, and to forbid the sale in Liberia of reproductions made abroad without his permission." Section 35 provided for criminal sanctions while safeguarding the right to civil action of the owner of a copyright. Section 30 (2) read as follows: "2. As used in this chapter, the term 'literary, scientific, and artistic work' comprises books, pamphlets, and other writings, dramatic or dramatico-musical works, chirographic works, pantomimes and musical compositions, cinematographic works, designs, paintings, architectural drawings, sculpture, engravings, lithography, illustration, geographic maps, plans, sketches, and plastic works relative to geography, topography, architecture or the sciences, translations, adaptations, musical arrangements, or other literary, scientific or artistic works."

[1] Published in three volumes, together with an index volume, by Cornell University Press, Ithaca, New York, U.S.A.

LIBYA

ROYAL DECREE REGARDING THE ORGANIZATION OF PUBLIC MEETINGS AND DEMONSTRATIONS

of 30 October 1956 [1]

Art. 1. Public and private meetings

(1) Individuals shall have the right to meet quietly and in tranquillity. No police officer may attend their meetings, and notice of the meetings need not be given.

(2) Public meetings may be held freely subject to the regulations and provisions set forth in this decree.

(3) For the purposes of this decree, a public meeting shall be deemed to be any meeting held for the purpose of discussing a matter of general interest. Persons shall attend or be able to attend such meetings, whether held in a public or private place, without special authorization or personal invitation.

Art. 2. Notice of meetings

(1) Any person wishing to organize a public meeting shall give notice thereof in writing to the District Commissioner (Mutassarif) not less than forty-eight hours before the meeting is to be held.

(2) This period shall be reduced to twelve hours if the meeting is an electoral meeting.

(3) For the purposes of this decree, an electoral meeting shall be deemed to be any meeting held in the interval between the date of the electoral notice and the date fixed for the elections for the purpose of campaigning on behalf of candidates for election to the House of Representatives or to the legislative or municipal councils or of hearing their speeches or statements.

Art. 3. Particulars to be given in notice

Notice of a meeting shall be given by not less than two persons, and shall specify the time and place appointed for the meeting, and its purpose. It shall be signed by the persons wishing to organize the meeting, who shall be in possession of their civil and political rights. Each of the signatories shall enter his name, capacity, occupation and place of residence and his chosen address in the district in which it is desired to hold the meeting, if he is not resident therein.

In the case of an electoral meeting, notice may be given by a single person.

Art. 4. Prohibition

(1) The authority referred to in article 2 may not prohibit a public meeting unless it is likely to lead to a disturbance of the peace or public order.

(2) The prohibition order shall be communicated to one or all of the organizers of the meeting at his or their chosen address as soon as possible, and not less than twelve hours before the time appointed for the meeting. A copy of the order shall be posted outside the premises of the authority which made the order, and it shall be published in the local press, if this is possible.

(3) The organizers of the meeting may appeal against the prohibition order to the Nazir of the Interior.

(4) In no circumstances may electoral meetings be prohibited.

Art. 5. Organizing committee

Every meeting shall have a committee consisting of a chairman and not less than two members, which shall be responsible for maintaining order and preventing any infringements of the law. The committee shall ensure that the meeting retains the character specified in the notice, and shall prohibit any speech which is contrary to public order or decency, or which contains an incitement to crime.

If the persons participating in the meeting do not choose a committee, the committee shall be deemed to consist of the persons who signed the notice.

Art. 6. Attendance by police, and closure of the meeting

(1) Police officers may attend a meeting, but shall take up a position at a distance from the person addressing the meeting.

(2) They may close the meeting if requested to do so by the committee, or if any serious disturbance of the peace or public order occurs or threatens to occur at the meeting.

(3) In no circumstances may a public meeting continue after eleven o'clock at night, except by special permission of the police.

Art. 7. Demonstrations and processions

The provisions of article 1 (2), article 2 (1), article 3, article 4 (1), (2) and (3), article 5 and article 6 (2) shall apply to processions and demonstrations of all kinds held in or proceeding through the public highways

[1] Published in the *Official Gazette* of 12 November 1956, kindly furnished by the Ministry of Foreign Affairs of the United Kingdom of Libya. Translation by the United Nations Secretariat.

or squares. Nevertheless, the provisions concerning notification and the constitution of a committee shall not apply in the case of religious processions or gatherings held in accordance with local custom.

Art. 8. Route to be followed

The authority referred to in article 2 may, in all cases, determine the route to be followed by the procession or demonstration, provided that notice thereof is given to the organizers of the procession or demonstration in accordance with article 4.

Art. 9. Attendance by police officers

Police officers may attend a procession or demonstration and select the position they are to take up.

Art. 10. Times at which demonstrations and processions may be held

Processions and demonstrations may not be held before dawn or continue after sunset except by special authorization of the police. This provision shall not apply in the case of religious processions or gatherings held in performance of local custom.

Art. 11. Penalties for violation of provisions relating to meetings

If a public meeting is held without notice given or in spite of a prohibition order, the persons issuing invitations thereto, the organizers thereof and the members of the organizing committee shall be punished with imprisonment for a term not exceeding two months, or a fine not exceeding twenty pounds, or both.

Any person who, though warned by the police, participates in a public meeting of which notice has not been given or in respect of which a prohibition order has been made, and any person who continues to participate in a meeting which is ordered to be dispersed, shall be punished with imprisonment for a term not exceeding one month or a fine not exceeding ten pounds or both.

The penalty shall be doubled if the offence is committed by a person carrying arms even if he has a permit to carry them.

Art. 12. Penalties for violation of provisions relating to demonstrations and processions

(1) If a demonstration or a procession is held without notice being given or in spite of a prohibition order, the persons issuing the invitations thereto, the organizers thereof and the members of the organizing committee shall be punished with imprisonment for a term not exceeding six months, or a fine not exceeding fifty pounds, or both.

(2) Any person who, though warned by the police, participates in a demonstration or procession of which notice has not been given or in respect of which a prohibition order has been made, and any person who continues to participate in a demonstration or procession which is ordered to be dispersed shall be punished with imprisonment for a term not exceeding three months, or a fine not exceeding thirty pounds, or both.

(3) The penalty shall be doubled if the offence is committed by a person carrying arms, even if he has a permit to carry them.

Art. 13. Carrying of arms

Any person who participates in a public meeting, a demonstration or a procession in circumstances other than those specified in articles 11 and 12 and carries arms shall, even if he has a permit to carry them, be punished with imprisonment for a term not exceeding three months, or a fine not exceeding twenty pounds, or both.

Art. 14. Riotous assembly

If ten or more persons assemble together and the nature of the assembly is such as to threaten the peace and the order to disperse is given by the authorities, any person who being aware of the order fails to comply with it shall be punished with imprisonment for a term not exceeding two months, or a fine not exceeding ten pounds, or both. The penalty shall be doubled in the case of any participant in the assembly who is carrying arms.

Art. 15. Unlawful assembly

If ten or more persons gather in an assembly for the purpose of committing an offence, of preventing or hindering the execution of laws or regulations, or, by the use of the threat of force, of influencing the actions of the authorities or depriving a person of his freedom of action, any person who, knowing the purpose of the assembly, participates therein or who, having been informed of that purpose, fails to leave the assembly, shall be punished with imprisonment for a term not exceeding three months, or a fine not exceeding fifty pounds, or both.

The penalty shall be doubled in the case of any participant in the assembly who is carrying arms.

Art. 16. Other offences

Any other offence under the provisions of this ordinance shall be punishable with a fine not exceeding ten pounds.

Art. 17. Reservation as to any heavier penalty

The provisions of this ordinance shall be without prejudice to the application of any heavier penalties prescribed by the Penal Code or by any other law.

. . .

ROYAL DECREE REGARDING THE STATE OF EMERGENCY of 5 October 1955 [1]

Art. 1. Grounds for proclaiming a state of emergency

A state of emergency may be proclaimed in the following events:

(*a*) Where public peace has been disturbed to such an extent as may interrupt the natural progress of public life or menace the normal activities of the inhabitants,

(*b*) Where the lives, peace, and security of the inhabitants are endangered by the visitation of some violent natural phenomena, epidemics or other catastrophe, or

(*c*) Where public peace is seriously threatened by the occurrence of any formidable events.

Art. 2. Procedure for the proclamation of a state of emergency

A state of emergency shall be proclaimed and terminated by a royal decree promulgated on the advice of the Council of Ministers. The decree proclaiming the state of emergency shall state the grounds therefor, and designate the area to which it shall apply.

Application of a state of emergency shall be restricted to the area which has given rise to the grounds for the proclamation.

Any procedures or measures followed or taken in pursuance of the decree shall not be valid unless they are necessary to meet the grounds defined under the proclamation decree.

. . .

Art. 4. Measures for a state of emergency

Within the limits of the exigencies demanding the proclamation of a state of emergency, the provincial executive council concerned may take all or any of the following measures:

(*a*) Suspending the grant or validity or all or any permits for firearms, collection of arms, ammunitions, explosives or any particular kind thereof, or placing the same under the control or watch of the Government; likewise, ordering the submission of any information relative thereto: provided that all such measures shall only be provisional.

(*b*) Restricting public meetings by providing that these meetings may be held only by permission of such authorities as are designated for the purpose by the executive council.

The police, nevertheless, may dissolve any meeting where there is reasonable cause to believe that a riot is very likely to ensue therefrom.

(*c*) Forbidding the publication, by papers and pamphlets, of any matter likely to aggravate the situation which motivated the proclamation of the state of emergency, providing also for the seizure of all copies of any paper or pamphlet publishing the aforementioned matter.

(*d*) Imposing censorship on mail and telecommunications.

(*e*) Fixing the business hours for public places, and restricting the hours during which the inhabitants may be abroad.

(*f*) Requisitioning any means of transport and any provisions whatsoever; likewise requiring, where requisition is necessary, any persons to render certain essential services, provided that an equitable recompense is given therefor; in which case the executive council shall designate the authorities competent to issue the requisition orders and conditions therefor as well as the basis on which recompense shall be assessed.

(*g*) Fixing, for a period not exceeding one month, the places of habitation for persons who are reasonably believed to endanger public peace and, where necessary, removing such persons to other places within the boundaries of the Province.

. . .

Art. 6. Search

The executive council concerned may make regulations authorizing the peace officers appointed thereunder, or any other officers, to search places and houses, and seize any chattels to the extent fixed by discretion of the Council; provided that search and seizure as hereinbefore mentioned shall, in all cases, be by authorization of the Parquet, and subject only to such rules of procedure as are laid down by the aforesaid regulations.

Each of these regulations shall fix the term during which it shall remain in force. Such term shall not exceed a period of fifteen days, provided that it may be renewed by regulation of the Council.

. . .

[Article 8 deals with penalties.]

. . .

[1] English translation published in the *Official Gazette* of 31 January 1956, kindly furnished by the Ministry of Foreign Affairs of the United Kingdom of Libya.

ROYAL DECREE ON MARTIAL LAW

of 5 October 1955 [1]

Art. 1. 1. Martial law may be proclaimed where public order and security, on Libyan territory or any part thereof, have been endangered by attack of enemy forces from without or the breaking out of disturbances within, or the occurrence of violent natural phenomena or the visitation of epidemics.

2. Likewise, it may be proclaimed for the purpose of ensuring the security of Libyan armies and supplies thereof as well as the protection of the lines of communication and all objects relating to movements and actions thereof outside the Kingdom of Libya.

3. Martial law may be proclaimed only where a declaration of a state of emergency proves to be inadequate for the authorities to deal with the circumstances for which martial law is to be proclaimed.

Art. 2. Martial law shall be proclaimed by a decree stating the conditions and circumstances giving rise thereto, and designating the territory to which it shall apply as well as fixing the date of its coming into force. Such decree shall also provide for the appointment of the person who is to be charged with the extraordinary authorities prescribed by this law, and to be known as the military governor-general.

Proclamation of martial law shall be presented to Parliament in order to decide whether it shall continue or be repealed. If that proclamation is made when Parliament is not in session, Parliament must be urgently convened.

[Article 3 deals with delegation of powers by the military governor-general.]

Art. 4. The military governor-general may, by notice, or by a written or oral command, provide for the following measures:

1. Withdrawal of licences for the possession and carriage of arms as well as the delivery and confiscation of firearms, ammunitions and explosives wherever found and the closing of all shops dealing in arms.

2. Issue of warrants for the search of persons or houses at any hour of the day or the night.

3. Issue of orders for censorship of the press and periodicals before publication, for suspending such publication without any prior notification, for closing any printing press and confiscating any printed matter, pamphlets and drawings likely to disturb public tranquillity or excite enmity between the people or lead to a breach of the peace or public order, whether such matter is prepared for publication, distribution, public exhibition, sale, or for any other purpose.

4. Issue of orders for censorship of mail correspondence, telegraph and telephone communications.

5. Prohibition and dissolution by force of any public meeting, club or society.

6. Restoration of persons residing away from their places of birth or domicile to their respective place of birth or domicile, if they are not justified in residing where they happen to be, or commanding such persons to be in possession of identity cards, or sojourn permits.

7. Issue of warrants of arrest detention against persons who are under suspicion or are dangerous to peace or public order and keeping such persons in a secure place of confinement.

8. Prohibition, during certain hours of the day and the night, of movement throughout localities which are under martial law, save with a special pass or for some urgent purpose.

9. Fixing the opening and closing hours for public places and certain localities, as well as modifiying any provisions for same, and closing of all or any of such public places.

10. Organization of the use of all kinds of means of transport throughout the entire locality under martial law, or any part thereof, and prohibition of such use where necessary.

11. Evacuation or isolation of certain localities, limitation and restriction of communications between districts under martial law, and organization of such communications.

12. Confiscation of any means of communication or seizure of any public or private concern, any factory, workshop, industrial centre, realty or personalty, and any food provisions; provided that in all such cases an equitable compensation is given therefor.

Art. 5. The Council of Ministers may qualify the powers granted to the military governor-general under the preceding article. Likewise it may, in relation to a whole locality or a part thereof, authorize him to take any other measure necessary to achieve the end for which martial law was proclaimed. In the latter case hereinbefore mentioned, resolutions of the Council shall be void unless submitted to Parliament within fifteen days from the date of promulgation thereof.

. . .

[Article 6 concerns the functions of police and military forces and other public servants in executing notices and orders given under the decree. Articles 7 and 8 deal with penalties, and articles 9 to 17 with trials of offences.]

[1] English translation published in the *Official Gazette* of 31 January 1956, kindly furnished by the Ministry of Foreign Affairs of the United Kingdom of Libya.

LIECHTENSTEIN

NOTE[1]

On the occasion of the 150th anniversary of the sovereignty of the Principality of Liechtenstein, the Prince granted a general amnesty on 9 September 1956, under which uncompleted sentences of imprisonment were commuted into conditional sentences subject to a period of probation of three years. The benefit of the amnesty does not extend to sentences of imprisonment for sex offences or arson, or to expulsion or the revocation of residence permits.

[1] Information kindly furnished by Mr. Joseph Büchel, formerly Secretary of Government, Vaduz, government-appointed correspondent of the *Yearbook on Human Rights*.

MEXICO

NOTE[1]

I. LEGISLATION

Labour Legislation

A decree to amend and supplement various articles of the Federal Labour Act (*Diario Oficial*, 7 January 1956) contains several amendments which improve substantially the situation of workers, particularly the provisions contained in articles 124, 298, 301 and 303.

Article 124 states that if an employer dismisses an employee for any of the reasons mentioned in article 123, he shall not incur any liability; if, however, due proof of the reason for dismissal is not subsequently forthcoming, the employee is entitled to three months' wages in compensation and to the wages due from the date of his dismissal to the date on which effect is given to the final decision by the competent conciliation and arbitration board, without prejudice to any other action that he may be entitled to bring for wrongful dismissal.

Articles 298 states that in the event of the employee's death the compensation due to the persons mentioned in article 297 [2] shall be a sum equal to 730 days' wages, without deduction of any compensation that the employee may have received during his period of incapacity.

Article 301 states that if an occupational injury incurred by an employee produces permanent and total incapacity, the compensation shall consist of an amount equal to 1,095 days' wages.

Finally, article 303 lays down that if an occupational injury incurred by an employee produces temporary incapacity, the compensation shall consist of the full wage which he ceases to receive during his incapacity for work. In addition, if an employee is unable to return to work after three months' incapacity, he may request a decision on the question whether he should continue to undergo the same medical treatment and receive the same compensation or whether his incapacity should be declared permanent and the due compensation granted.

A further decree of 1956 to amend and supplement various articles of the Federal Labour Act (*Diario Oficial*, 31 December 1956) gives employees the right to an annual period of leave which shall not in any case be less than six working days, and is increased by two working days for each additional year of service, subject to a maximum period of twelve days. The amended provisions also give preference for purposes of employment to persons who have previously served satisfactorily over those who have not so served, and to members of industrial associations over those who are not members; employers are required to provide their employees with suitable and healthy dwellings at extremely low rents, and with schools for the children where the undertakings in question are situated more than three kilometres from a centre of population, and on condition that the number of children of school age is more than twenty; provision is made for a schedule of occupational diseases much wider in scope then the one previously contained in the above-mentioned Labour Act, and for a schedule of degrees of disablement, as well as other benefits for workers.[3]

Social Insurance

A decree amending various articles of the Social Insurance Act (*Diario Oficial*, 31 December 1956) changes the content of, *inter alia*, articles 2, 3 and 4 of the Act, which now have the following effect: Article 2 sets up an autonomous body with the status of a body corporate and domiciled in the city of Mexico, with the title of "Mexican Social Insurance Institution", for the purpose of the organization and administration of social insurance. According to article 3 of the Act, social insurance covers industrial accidents and occupational diseases; sickness not due to an occupational disease; maternity; invalidity, old age and death; and unemployment at an advanced age. Article 4 provides that the compulsory insurance scheme shall cover persons who are bound to others by a contract of employment, whatever may be the legal personality or economic nature of the employer, and even where the latter has been exempted by special legislation from

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[1] Information kindly furnished by the Permanent Mission of Mexico to the United Nations. Translation by the United Nations Secretariat.

[2] Article 297 provides:

"The following persons shall be entitled to receive compensation in the event of death:

"I. The widow and the legitimate or illegitimate children under sixteen years of age and the relatives in the ascending line, unless it is proved that they were not financially dependent upon the employee. The compensation shall be divided equally among such persons;

"II. In default of children, a widow and relatives in the ascending line, as laid down in the preceding item, the compensation shall be divided among the persons who were partially or totally financially dependent upon the employee in the proportion in which they were dependent upon him, as the conciliation and arbitration board may decide after examination of the evidence submitted."

[3] Translations in English and French of this decree appear in International Labour Office: *Legislative Series*, 1956–Mex. 2.

the payment of taxes, fees, or contributions in general, persons who furnish their services under a contract of apprenticeship, members of production co-operative societies and members of undertakings under management by the workers or under mixed management, whether such societies or undertakings exist *de jure* or merely *de facto*.[1]

Housing

Under article 2 of the regulations governing the housing, social insurance and invalidity assistance services of the Mexican Social Security Institute (*Diario Oficial*, 2 August 1956), persons insured by the Mexican Social Security Institute, persons in receipt of pensions and persons who have maintained their right to insurance against invalidity, old age and death, industrial accidents and occupational diseases, shall be entitled to lease a low-cost dwelling acquired or built by that Institute.

Copyright

Article 1 of the Federal Copyright Act (*Diario Oficial*, 31 December 1956) states:

"The author of a literary, educational, scientific or artistic work has the exclusive right to use and exploit it and to grant total or partial licences in respect of its use or exploitation; he has the exclusive power to dispose of these rights, in whole or in part, in any manner whatsoever, and to make a testamentary disposition of these rights. A work may be used or utilized for the purpose of profit, according to its nature, by such means as publication, whether by printing or in any other manner; performance, recital, exhibition or public presentation, reproduction, adaptation, or rendering by means of the cinematograph, television, photography, recording on discs or any other suitable means and diffusion by means of photography, telephotography, television, radio broadcasting or by any other means at present known or which may in the future be invented to reproduce signs, sounds or images."

Article 20 provides that the term for which copyright shall subsist shall be the life of the author and a period of twenty-five years after his death; after the said period, or if the copyright holder dies without heirs, the right to use or utilize the work for the purpose of profit shall pass into public domain.

III. DECISIONS OF THE SUPREME COURT OF JUSTICE[2]

1. *Order of arrest.* An order of arrest shall not be issued except by the judicial authority, in pursuance of an information, a complaint or a charge lodged in respect of an offence punishable by law with a penalty affecting the offender in his person or liberty, and provided also that such information, complaint or charge is supported by a statement from a trustworthy person or by other evidence indicating the probable responsibility of the accused. Ruling No. 738, page 1347.

2. *Order of arrest.* If the offence for which the order of arrest is issued is not punishable with a penalty affecting the offender in his person or liberty, the order constitutes a violation of constitutional guarantees (article 16 of the Constitution).[3] Ruling No. 741, page 1353.

3. *Order of arrest.* The prerequisite conditions for the issue of an order of arrest do not include taking a statement from the accused or serving a summons upon him to hear the charges against him. The statements made by witnesses must be examined for a formal order of imprisonment or for the acquittal or conviction of the accused, by a final decision, but not for purposes of issuing an order of arrest. Ruling No. 734, page 1355.

4. *An application for remedy in case of unlawful restraint of the person is always receivable.* Even in cases where technically an order of committal to prison does not constitute a penalty affecting the person, the principal effect — namely, deprivation of liberty, is always open to appeal by way of an application for remedy against restraint of the person, although use has not been made of the ordinary forms of appeal. Ruling No. 152, page 333.

5. *Detention.* Detention shall not exceed three days, unless a formal order of committal to prison is produced in conformity with the law. Ruling No. 307, page 679.

6. *Detention.* Where the action which is the subject of the application for remedy for unlawful restraint consists in the detention of the complainant by an administrative authority, the effects of the wrongful imprisonment shall be deemed to have ceased upon the person concerned being handed over to the competent judge. Ruling No. 369, page 682.

7. *Criminal proceedings.* Criminal proceedings may not be instituted by judges, but only by officers of the Ministerio Público. Proceedings may be initiated by officers of the Ministerio Público and of the judicial police, the latter acting under the authority and subject to the orders of the former. One of the most important reforms effected by the 1917 Constitution in the judicial organization was that of separating judges from the judicial police, so that they are no longer judges and parties at the same time as was the case before the introduction of that constitution, when they were called upon not only to decide on criminal liability, but also to gather *ex officio* material in support of the charges. Ruling No. 14, page 43.

8. *Summons.* The fact that an accused was not legally summoned to appear vitiates the proceedings and constitutes a violation, to the detriment of the

[1] Translations in English and French of this decree appear in International Labour Office: *Legislative Series*, 1956–Mex. 1.

[2] From the appendix to volume XCVII of the fifth period of the *Semanario Judicial de la Federación*.

[3] See *Yearbook on Human Rights for 1946*, p. 191.

accused, of the constitutional safeguards set forth in articles 14 and 16 of the Constitution.[1] Ruling No. 427, page 804.

9. *Penalties.* Penalties may be imposed only by the judicial authority. Ruling No. 760, page 1380.

10. *Penalties.* Penalties that are not imposed in strict compliance with the law represent a violation of the constitutional safeguards protecting the person upon whom they are imposed. Ruling No. 761, page 1381.

11. *Penalties.* It is forbidden to impose a penalty by mere analogy, and with even stronger reason it is forbidden to impose a penalty which is not prescribed by a law and exactly applicable to the offence. Ruling No. 764, page 1386.

12. *Freedom to work.* No person may be prevented from engaging in the profession or industry which suits him, provided it is lawful. The exercise of this freedom may be limited only by judicial action, when the rights of the third parties are infringed, or by government order issued in accordance with the law if the interests of society are adversely affected. Ruling No. 672, page 1209.

13. *Industrial accidents.* Article 123 (XIV) of the Constitution [2] does not require that an immediate and direct relationship of cause and effect should exist between the work fulfilled and an industrial accident; it holds employers liable for industrial accidents occurring to workers as a result, or in the course, of employment in the occupation or work in which they are engaged. Ruling No. 6, page 29.

14. *Compensation for occupational diseases.* For purposes of compensation for occupational diseases, it is sufficient that the worker should contract a disease in the course or as a result of employment, for him to be entitled to compensation. The onus of proof whether the disease is an occupational disease or not lies on the employer. Ruling No. 441, page 849.

15. *Labour hygiene.* Suspension of the Industrial Hygiene Regulations requested in an application for remedy against giving effect to the regulations shall be refused. The provisions of the Industrial Hygiene Regulations are in the interest of the community and public policy, since their general purpose is to prevent industrial accidents and occupational diseases, and to ensure that places of employment are provided with medicine chests containing the appropriate instruments, medicaments and equipment, and with medical practitioners to carry out medical examinations, at the time of admission and periodically, of the workers to determine whether or not they suffer from occupational diseases. The regulations also lay down certain requirements in respect of the construction and maintenance of buildings in the interests of the workers, and for their protection when at work. Accordingly, these regulations cannot be suspended inasmuch as they do not come within the scope of article 124 (II) of the Injunction Proceedings Act (Ley de Amparo); if suspension were ordered, the general interest would suffer as a result of the disregard of provisions of the regulations. Ruling No. 528, page 986.

16. *Waiver without effect in law.* In accordance with article 123 (XXVII (*b*)) of the federal Constitution,[3] any stipulation that may imply the waiver of any right favourable to the workers and prescribed in the legislation for the workers' protection and assistance is considered null and void, and does not bind the parties to the contract, although it may be expressed therein. Ruling No. 354, page 661.

17. *Waiver without legal validity.* In accordance with the provisions of article 123 (XXVII (*g*) and (*b*)) of the federal Constitution,[3] any condition expressed in a contract of employment which constitutes a waiver by the worker of the compensation to which he is entitled, and other stipulations that may imply the waiver of any right favourable to the workers and prescribed in the legislation for the workers' protection and assistance, are null and void, and do not bind the parties. Ruling No. 731, page 1335.

18. *Schools in centres of employment.* The fact that a secondary form of legislation such as the Federal Labour Act has omitted to include among the employers who must maintain schools those undertakings which do not constitute rural centres is not a sufficient reason to exempt or release such employers from the duty laid down in article 123 (XII) of the Constitution; [4] the provision in question is one of those which, by virtue of transitional article 11 of the federal Constitution, must be put in force even if no regulations have been issued. Ruling No. 449, page 863.

19. *Patents for foreign inventions.* In accordance with article 11, paragraph II, of the Patents of Invention Act, Mexican law places Mexicans in the same position as aliens when it is sought to protect with a Mexican patent inventions already patented abroad. In other words, the said paragraph II does not grant any privilege to Mexicans; it gives Mexicans and aliens the same rights and makes them subject to the same conditions; it therefore follows that there are no grounds in such cases for the application of article 3 of the Paris Convention of the Union for the Protection of Industrial Property, which refers to cases in which aliens are placed in an unfavourable position when compared to nationals. Ruling No. 754, page 1369.

[1] See *Yearbook on Human Rights for 1946*, p. 191.

[2] See *Yearbook on Human Rights for 1946*, p. 200.

[3] See *Yearbook on Human Rights for 1946*, p. 201.

[4] See *Yearbook on Human Rights for 1946*, p. 199.

MONACO

ACT No. 619 TO PROVIDE FOR ANNUAL HOLIDAYS WITH PAY

of 26 July 1956 [1]

Art. 1. Wage-earning employees who, during the period specified in article 6 hereunder, are able to show that they have worked for one and the same employer for a period equivalent to a minimum of one month of actual work within the meaning of article 3, shall be entitled to holidays at the rate of one and three-quarter working days for each month of work, but the total period of the holiday shall not exceed twenty-one working days. If the number of working days calculated in this manner is not a whole number the length of the holiday shall be increased to the nearest number of complete days.

Art. 2. For young workers and apprentices under the age of eighteen years, the duration of the holidays as fixed in the foregoing article shall be increased to two working days for each month of actual work; but the total period of the holiday shall not exceed twenty-four working days. Young workers and apprentices who submit a request before 15 April and are between the ages of eighteen and twenty-one years on this date shall be entitled, irrespective of the length of their employment in the undertaking, to a holiday of twenty-four and twenty-one working days respectively. They shall not be entitled to demand any compensation in the form of holidays with pay in respect of any holidays which they may claim over and above the holidays which they have earned, for work done during the period in question.

Art. 3. Periods of work amounting to four weeks or twenty-four working days shall be considered as equivalent to one month of actual work in determining the duration of the holiday. Periods of holiday with pay, rest periods for pregnant women, as laid down in the regulations at present in force, and periods limited to one year without interruption during which compliance with the contract of work is suspended as a result of an industrial accident or occupational disease shall be deemed to be periods of actual work.

Art. 4. The duration of holidays fixed under article 1 of the present Act shall be increased by two working days after twenty years of employment, whether continuous or not, in the same undertaking, by four days after twenty-five years of employment, and by six days after thirty years, provided that the aggregate of these extra days together with the main holiday shall not exceed twenty-seven working days, the total holiday which may be claimed.

Art. 5. For the purposes of the provisions of article 4, periods during which compliance with the contract of work was suspended without the contract being terminated, especially by reason of illness or industrial accident, shall be deemed to be periods of actual work. The length of employment entitling employees to supplementary holidays for length of service shall be calculated either at the expiry of the period on the basis of which normal holidays are calculated, or else on the date of the expiry of the contract, provided that the termination of that contract entitles the employee to an allowance for holidays with pay as provided under article 16.

Art. 6. The first day of May of each year shall be the starting date of the period to be taken into account for calculating the right to a holiday.

Art. 7. The foregoing provisions shall in no way affect any stipulations embodied in collective agreements or individual contracts of work, nor any customs by which longer annual holidays are granted. Nevertheless, the holidays provided in the said stipulations shall not be added to those provided in the statutory provisions respecting annual holidays.

. . .

[Articles 10 to 15 and 19 deal with payments during the holidays provided for by article 1.]

. . .

Art. 23. The present Act shall not apply to seamen.

. . .

[1] Published in the *Journal de Monaco*, No. 5157, of 6 August 1956, and kindly furnished 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 [1]

Right to a Fair Trial

Under *dahir* No. 1-56-014 of 6 Shaban 1375 (19 March 1956) (*Bulletin officiel* No. 2273, 18 May 1956), all general or special controls over the administration of Shereefian law were abolished. There had been formerly a fusion of administrative and legal powers, particularly in the basic structure of the system.

Decree No. 2-56-008 of 24 Rajab 1375 (7 March 1956) concerning the exercise of the profession of approved defender and pleader in the *Makhzen* courts (*Bulletin officiel* No. 2267, 6 April 1956) made it possible for the accused to be assisted by an approved defender or pleader in all the ordinary courts (juridictions de droit commun), whereas previously he only had that right in some of them.

Dahir No. 1-56-270 of 6 Rabia II 1376 (10 November 1956) (*Bulletin officiel* No. 2299 *bis*, 21 November 1956) promulgated the Code of Military Justice.

Minimum wages

A *dahir* of 12 Joumada II 1375 (26 January 1956) (*Bulletin officiel* No. 2258, 3 February 1956) amended the *dahir* of 28 Rabia I 1355 (18 June 1936) concerning minimum wages for manual workers and salaried employees. Pursuant to that *dahir*, a decree of 13 Joumada II 1375 (27 January 1956) provided for an increase, as from 1 February 1956 — at an hourly rate of ten francs, a daily rate of eighty francs and a monthly rate of 2,080 francs — in the minimum wages in industry, trade and the liberal professions as prescribed in the order of 4 Shaban 1374 (29 March 1955) to provide for an increase in the minimum wage; and the minimum wages prescribed in the order of 29 Moharram 1374 (28 September 1954) to establish the minimum agricultural wage were increased from 230 francs a day to 300 francs a day.

[1] Information kindly furnished by the Government of Morocco. Translation by the United Nations Secretariat.

NEPAL

SUPREME COURT ACT, 2013

Enacted on 8 Jesth, 2013 (21 May 1956)[1]

. . .

3. *Establishment and constitution of the Supreme Court*

(1) There shall be a Supreme Court of Nepal consisting of a chief justice and four other permanent judges.

(2) Every permanent judge shall be appointed by the King, on the advice of his Council of Ministers, by warrant under the Red Seal.

(3) Every permanent judge shall hold office until he attains the age of 62 years, and an additional judge shall hold office for the period specified in the orders of his appointment;

Provided that:

(*a*) A judge may by writing under his hand addressed to the King resign his office;

(*b*) A judge may be removed from office by the King if a commission appointed by the Government holds that such judge is unfit to discharge his duties by reason of misconduct or incapacity.

(4) No person shall be qualified for appointment as a judge unless: (*a*) he is a citizen of Nepal; (*b*) a person learned in law; and (*c*) holds a degree of a recognized university.

. . .

[Section 5 (*Temporary provisions relating to judges*) contains exceptions to section 3, concerning the appointment of persons not citizens of Nepal as judges, and the appointment of additional judges. Section 5 is to cease to have effect after six years from the entry into force of the Act. Section 6 concerns *ad hoc* judges.]

. . .

10. *Ordinary jurisdiction of the Supreme Court.* The Supreme Court shall have such jurisdiction, appellate, revisional or other, as may be conferred upon it by the law for the time being in force.

11. *Extraordinary jurisdiction of the Supreme Court.* The Supreme Court shall have powers to issue directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate for the enforcement of any rights conferred on citizens and others by law for the time being in force, if the law does not provide any other remedy for the enforcement thereof.

12. *The Law declared by the Supreme Court to be binding.* The law declared by the Supreme Court shall be binding on all courts within the territory of Nepal.

. . .

15. *Proceedings in the Supreme Court.* All proceedings in the Supreme Court shall be in the Nepali language;

Provided that it shall be lawful for the Supreme Court to allow any person to address it in any other language;

Provided further that it shall be lawful for a judge appointed under sub-section (1) of section 5 to deliver his judgements in the English language.

16. *Rules of court, etc.*

. . .

(3) No judgement shall be delivered by a judge save in open court.

. . .

24. *Saving of royal prerogatives.* Nothing in this Act shall be deemed to extinguish or to abridge or derogate from the prerogatives of the King in relation to the administration of justice.

[1] English translation kindly furnished by the Ministry of Foreign Affairs of Nepal. The Act entered into effect upon its enactment.

NETHERLANDS

NOTE[1]

Economic Affairs

The Act on economic competition (*Government Gazette*, 1956, No. 401), replacing the cartel decree, which dates back to the period of German occupation, and the Act on Employers' Agreements, 1935, which was rendered inoperative by the above-mentioned decree, aims at encouraging co-operation in the economic field, where this co-operation is directed towards combating the destructive consequences of unchecked competition, and at restricting this co-operation where the monopolistic power of employers' combinations is used in a way which is at variance with the public benefit. To this end, the Act confers on the Minister of Economic Affairs, together with any other minister jointly responsible for the matter concerned, the power to declare arrangements concerning competition generally binding in whole or in part, or to publish data concerning an arrangement.

Apart from this, the Act renders it possible by Order in Council to determine that arrangements concerning competition of the nature laid down in the measure concerned are not binding. This generally applies to all existing arrangements on competition as well as to arrangements which have not yet been made. Furthermore, the Act confers on the Minister of Ecomomic Affairs, together with any other minister jointly responsible for the matter concerned, the power to take measures against economic positions of power by which the law means actual or legal relationships in industry according a preponderant influence to one or more owners of undertakings operating on the market for goods and services in the Netherlands. The said measures are the publishing of suitable data or the giving of certain directions to the employers and organizations concerned.

The Act also contains the obligation to publish every arrangement concerning competition. The Act has not yet entered into force.

Property Rights

Under an Act of 28 June 1956 (*Statutebook* 385), which entered into force in 1956, the decree on the alienation of non-arable land was discontinued, and consequential amendments were made in the Compulsory Purchase Act, the Reconstruction Act and the Act on the alienation of arable land. In pursuance of the Act, the price-control on non-arable land, including arable land which in accordance with extension or reconstruction plans has been used for other than agricultural purposes, was discontinued.

The operation of the Reconstruction Act, which was to be discontinued on 1 January 1957, has been renewed. This Act, which is of a temporary nature, will be discontinued when the new Housing Act and the Act on Physical Planning are adopted. For the implementation of section 24 of the Reconstruction Act, the decree for the promotion of house-property, of 26 May 1956 (*Statutebook* 273) entered into force, and the ministerial decree for the promotion of house-property entered into force on 30 May 1956 (*Government Gazette*, 1956, No. 104). It has been laid down in which cases and under what conditions the State may grant financial aid to private individuals for the building of their own houses.

Social Security

The General Old-age Act (*Statutebook* No. 281, of 31 May 1956), which entered into force on 1 January 1957, provides for a general old-age pension, covering the whole population as from the age of 65. This pension right is based on an insurance for which a contribution is payable.[2]

Provisions for the Blind

Ministerial decree No. 3852, of 21 April 1956, promulgated a provision for the blind, aimed at giving financial assistance to blind persons whose income is under a certain limit, in order to increase their social independence. The benefit is subjected to the condition that a blind person who is capable of performing work should be prepared to accept suitable work.

Two kinds of benefits may be granted:

1. Standard allowances for maintenance, which may be increased by a children's allowance and from which the blind person's income (with the exception of additional allowances under poor relief or charity) is deducted in whole or in part. A compensation may be given for the cost of sick-fund insurance.

2. Individual allowances adapted to the needs of the individual to provide for social needs which are directly connected with the person's blindness, and to cover the cost of enabling the blind person to take part in church activities and in cultural life in the same way as seeing persons of the same social level. The special allowance may also relate to the cost of

[1] Information kindly furnished by Dr. A. A. van Rhijn, Secretary of State for Social Affairs, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Translations of this Act into English and French appear in International Labour Office: *Legislative Series*, 1956 — Neth. 2.

study and of the training which is necessary to enable the blind person or the members of his family to earn their own living, and to the cost of medical treatment and nursing.

The provision for the blind is implemented by the municipalities, which receive a state subsidy of 60 per cent towards the cost of the allowances.

The Secretary of State for Social Affairs, in his letter of 20 September 1955, No. 9190, Department for Social Assistance and Employment Opportunities, had given directions for the extension and improvement of employment opportunities for the blind.

Workshops for the blind receive subsidies for each blind person working in them, as well as subsidies towards operating costs, costs of extension and the cost of purchasing or renewing equipment.

The municipal boards may receive subsidies towards the cost of purchasing or renewing apparatus indispensable for the placement of blind persons (for example, the reconstruction of a telephone switchboard), the cost of training for a certain occupation, and of buying the books required for obtaining or keeping a position. Furthermore, state contributions are granted towards the remuneration or additional remuneration to be given to blind persons during a trial period, and towards the cost of transport.

Workers' Protection

1. By the royal decree of 21 March 1956 (*Statutebook* 150), based on the Act on dangerous tools, new safety regulations were made for threshing machines, straw balers and straw-binding machines. These machines may be included among the most dangerous agricultural implements driven by mechanical power.

2. The royal decree of 23 March 1956 (*Statutebook* 167) (Lift Decree I), which is also based on the Act on dangerous tools, laid down that lifts generally need to be provided with a certificate of approval. This certificate is issued only if certain conditions with regard to manufacture and safety protection have been complied with.

3. The royal decree of 20 July 1956 (*Statutebook* 434) (Sandblasting Decree), based on the Silicosis Act, prohibited sandblasting — which is very dangerous to health — since, on account of the pulverizing of sand into fine matter, a considerable amount of quartz is developed.

Education

In the field of higher education, the following provisions were enacted:

1. The Act of 24 May 1956 (*Statutebook* 292), under which the subsidy for certain private universities and university economics colleges was raised.

2. The Act of 7 June 1956 (*Statutebook* 310), under which the Netherlands system of technical education at university level was revised.

3. The Act of 24 May 1956 (*Statutebook* 328), providing for a modification of the Act on higher education, under which the tuition fees were lowered from 325 to 200 guilders. In this Act, and in the royal decree of 18 June 1956 (*Statutebook* 340), based on this Act, it was provided, *inter alia*, that a reduction in the tuition fee was to be granted if tuition fees were to be paid for two or more persons of one and the same family in the same academic year and that, in exceptional cases, to be defined in detail, the tuition fee was to amount to less than 200 guilders.

4. The Act of 21 June 1956 (*Statutebook* 381) approving the European Convention on the Equivalence of Diplomas leading to Admission to Universities, signed in Paris on 11 December 1953.

Furthermore, it may be pointed out in this connexion that the total sum granted in study allowances, which in the academic year 1955/56 amounted to about 10.4 million guilders, was raised by nearly 40 per cent in the academic year 1956/57.

With regard to nursery schools, the following decrees were enacted:

1. Decree of 28 May 1956 (*Statutebook* 291), fixing further conditions for the appointment of female teachers at private nursery schools, and providing rules for the composition and procedure of commissions of appeal for these teachers.

2. Decree of 8 October 1956 (*Statutebook* 500), providing rules concerning the legal status of female teachers at nursery schools. It provides for, *inter alia*, the payment of survivors' benefits, sickness benefits, entitlements during holidays and holiday allowances.

3. Decree of 15 October 1956 (*Statutebook* 507), under which a new chapter was added to appendix G of the decree on the salaries of civil servants, 1948. This addition deals with the salaries of female head teachers and female teachers of nursery schools.

ACT TO ABOLISH THE LEGAL INCAPACITY OF MARRIED WOMEN of 14 June 1956 [1]

NOTE

By this Act, the married woman in the Netherlands has been accorded full legal capacity, and no longer requires either her husband's consent to her contracts or his assistance in court proceedings. She may enter a profession or engage in independent work outside the home, without her husband's concurrence. She may independently accept inheritances, and she is capable of being an executor under a will.

Her property rights have been substantially changed under the new statutory matrimonial regime. In place of the former Dutch regime of universal community of property administered exclusively by the husband, the Act provides for a new regime under which, while there is complete community of property, each spouse separately administers the property which he or she either brought to the community at the time of marriage or acquired during the marriage. Thus, with some exceptions equally applicable to both spouses, the rules on administration of property during the marriage are similar to those of the separate property regime. When the community is dissolved, all the common estate is divided equally between the spouses, without regard to which spouse had the rights of administration.

[1] Published in *Staatsblad* (Statutebook) No. 343, of 1956.

NEW ZEALAND

NOTE[1]

I. LEGISLATION

Electoral Act, 1956

Consolidates and amends the Electoral Act, 1927, and its amendments which comprise the body of legislative provisions relating to the qualifications and election of members of the House of Representatives, the qualifications and enrolment of electors and the regulation and conduct of elections.

The new Act does not affect the universal adult suffrage, which has existed in New Zealand since 1893. Its principal changes were designed to remedy certain anomalies in the legislation relating to the following matters:

(1) All electors in New Zealand are required to register afresh after each readjustment of electoral boundaries following a census.

(2) In addition to the existing requirements of British nationality, a year's residence in New Zealand and three months' residence in an electoral district, an elector is now required to be an ordinary resident of New Zealand. This provision will enable persons, who in the normal course of events are ordinarily resident in New Zealand, to remain qualified as electors while outside the country so long as they retain an intention to return as ordinary residents, and at the same time will exclude persons who reside in New Zealand, but not as ordinary residents.

(3) The provisions as to Maori electors and Maori elections which had previously been separate from provisions relating to Europeans have now been combined with the provisions for European elections, so that the same laws for the qualifications and registration of electors (including compulsory re-registration) and for elections apply to Maoris and Europeans alike. There are still, however, 4 Maori electoral districts and 76 European districts, and half-castes retain their right to register in a Maori or in a European district. (This legislative representation of the Maori people was designed to ensure the protection of their separate interests.)

Health Act, 1956

Consolidates the Health Act, 1920, and its amendments together with the operative provisions of the Social Hygiene Act, 1917. No substantial changes have been made in the existing legislation, which establishes a department of health to administer the Act and, *inter alia*, to promote and conserve health, to advise local authorities in their duties and powers relating to public health and sanitary services, to prevent, limit and suppress infectious and other diseases, and to organize and control medical, dental and nursing services so far as such services are paid for out of public money. The most important features of the changes in the law are the following:

(1) The Board of Health is reconstituted, and in addition to its existing powers is given advisory functions in relation to the general health policy for the promotion of health, the prevention of disease and disability, and the adequate and effective treatment of disease.

(2) The existing provisions relating to quarantine have been rewritten to bring them into line with the International Sanitary Regulations of the World Health Organization and international practice.

(3) Entirely new provisions have been introduced dealing with the prevention of pollution of the air by noxious or offensive gases and fumes.

Workers' Compensation Act, 1956

This Act consolidates the Workers' Compensation Act, 1922, and its many amendments, and makes a number of changes in the law, which are to the advantage of the worker.

The more important of these changes relate to:

(1) *Compensation for death*

The amount of compensation for the death of a worker who leaves total dependants is increased and, in addition, the allowable maximum amount of compensation payable to the worker before death for the injury that causes death has also been increased.

(2) *Computation of compensation for incapacity*

The new Act has altered the basis for computing the compensation for incapacity in respect of lump sum payments. In the past, when future weekly payments have been commuted to a lump sum, the future payments have been discounted at the rate of 3 per cent. Under the new Act, such lump-sum payments are to be computed to present value without reduction.

(3) *Dependants' allowance*

The new Act makes provision for the first time in workers' compensation law in New Zealand for the payment of allowances to dependants of injured workers. This is in addition to compensation otherwise payable. The effect of the new Act is that allowances are payable:

[1] Note kindly furnished by the New Zealand Government. The Acts summarized here are published in *New Zealand Statutes*, 1956, vols. I and II. The regulations are published in *Statutory Regulations*, 1956.

(*a*) Where the worker dies, to total dependants under the age of sixteen, and in proportion to the injury to partial dependants under the age of sixteen; and,

(*b*) Where the worker suffers total incapacity, to the wife, to a dependent woman who is in the position of a parent to any dependants under the age of sixteen and to dependants under the age of sixteen. Children under eighteen receiving full-time courses of education or training without pay are deemed to be dependants.

(4) *Industrial diseases*

The provisions of the earlier Act concerning compensation for diseases arising out of employment have been widened. Under the previous legislation, death or incapacity by reason of industrial disease was compensable only if contracted within the preceding twelve months. The new legislation provides that the test for compensation is whether the disease is due to the nature of any employment in which the worker was employed within a prescribed period before death and incapacity, and not whether the disease was actually contracted within that period.

(5) *Accidents in meal and rest times*

In the past, injury incurred by a worker during a meal or rest period, at least while on premises not occupied by the employer, was not compensable. It is now provided that in the case where an accident happens during a temporary interruption of work for meals, rest or refreshment, and the accident is one that would have been compensable if it had happened at the place of employment, it will be compensable if it happens on premises occupied by the employer or on premises to which workers have special right of access during breaks in the day's work, or on premises to which workers are permitted to resort during such interruption from work.

(6) *Artificial aids*

This term is extended to include crutches, spectacles, or any other artificial aid, and extends the medical benefits which injured workers could receive by way of aids.

II. REGULATIONS

Agricultural Workers (Orchardists) Extension Order, 1955, Amendment No. 1

This order prescribes increased wages for agricultural workers employed in orchards, and amends the requirements as to union membership, which is made obligatory for every worker within the scope of the order.

Industrial Conciliation and Arbitration Regulations, 1956

These consolidate all the existing regulations under the Industrial Conciliation and Arbitration Act, 1925, and bring them into line with the new 1954 Act.

Minimum Wage Order, 1956

This order increases minimum rates of wages for adult workers.

Offenders' Legal Aid Regulations, 1956

These provide procedure under the Offenders' Legal Aid Act, 1954, which empowers courts, in proper cases, to grant legal aid to persons charged with or convicted of offences.

Public Service Salary Order, 1956

This order increases salaries in the Public Service.

Workers' Compensation Order, 1956

This order increases the maximum and minimum payments of workers' compensation.

III. INTERNATIONAL INSTRUMENTS

1. Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of, International and Wholesale Trade in, and Use of Opium, opened for signature at New York on 23 June 1953.

Instrument of ratification deposited on 2 November 1956. Applies to New Zealand, the Cook Islands (including Niue), the Tokelau Islands and the Trust Territory of Western Samoa.

2. Penal Sanctions (Indigenous Workers) Convention, 1939, adopted by the International Labour Conference at Geneva on 27 June 1939 (No. 65).

In force for New Zealand, the Cook Islands (including Niue) and the Trust Territory of Western Samoa on 8 July 1948. Application extended to the Tokelau Islands on 13 June 1956.

NICARAGUA

DECREE No. 209 RESPECTING PERIODICAL PUBLICATIONS

of 19 October 1956 [1]

Art. 1. Every periodical publication shall have a managing editor. If the managing editor enjoys immunity from prosecution, is absent from the country, or does not manage the publication in person, there shall also be an assistant managing editor who does not possess immunity, and who is domiciled in the office of the undertaking.

Art. 2. Every issue of a periodical publication shall contain the names of the managing editor, the assistant managing editor, if any, and the owner of the undertaking where it is published.

Art. 3. The following shall be deemed to constitute an abuse of the freedom to express and publish ideas:

(*a*) The publication of material calculated to subvert the public or social order established in the republic;

(*b*) The incitement to acts in violation of the Political Constitution and other laws, or acts of disobedience against the established authorities;

(*c*) The dissemination of communist propaganda or ideas, or ideas directed against the institutions and foundations of the State or the republican and democratic form of the government;

(*d*) Open or covert persistence in the commission of crimes against persons or property;

(*e*) Any act of such a nature as to endanger the international or economic policy of the State, or to cause a panic in business circles; and

(*f*) The issue of publications which are pornographic, or constitute in any other way an offence against public morality or decency.

Art. 4. If any of the abuses mentioned in the preceding article should be committed by a periodical publication, the representative of the Public Prosecutor's Department shall lodge a complaint with the criminal court of the respective court of appeals.

As soon as the complaint has been lodged, the court shall grant a hearing within forty-eight hours to the managing editor, or to the assistant managing editor as the case may be, of the periodical publication, and to the owner of the undertaking where it is published, to enable them to reply to the complaint and to present any pertinent evidence.

The court shall pronounce its decision, against which there shall be no appeal, within seventy-two hours after expiry of the period prescribed for the hearing.

Art. 5. If the decision states that any of the abuses referred to in article 3 have been committed, it shall at the same time prescribe a period, not exceeding three months, during which publication of the offending periodical shall be forbidden. During the period of suspension, the managing editor of the publication shall not be permitted to act as managing editor of any other publication, nor shall the publishing firm be permitted to publish any periodical publication whatsoever.

Art. 6. A periodical publication shall be bound to insert free of charge, in the following edition, any explanation or correction requested by any authority, corporation or private person to whom they have made a reference. Such explanation or correction shall be printed in the same type and in the same place as that of the original reference.

In the event of non-compliance with this requirement, the party concerned may apply to the district or local criminal judge, who shall hear the managing editor of the periodical publication within twenty-four hours. If the judge finds that the explanation or correction is justified, that it is expressed in moderate language, and is not excessively long, he shall order the managing editor to publish it under penalty of a fine of thirty córdobas for each day of non-compliance. There shall be no appeal against the judge's order, and the proceeds of the fine shall be paid to the National Board of Social Assistance.

The fine shall be collected through the administrative channels.

Art. 7. Offences of insult and libel committed through the press shall be tried and punished in accordance with the Penal Code and Code of Criminal Procedure.

Art. 8. Radio broadcasting stations and amateur

[1] Published in *La Gaceta* No. 242, of 25 October 1956. Translation by the United Nations Secretariat.

radio operators shall be subject to such provisions of this decree as are applicable to them, including the provision in article 5 which forbids a radio announcer or announcers who have been found guilty of abuses to exercise their profession.

Art. 9. The present decree, which is transitional, shall be published in *La Gaceta (Diario Oficial)*, and shall take effect on the date on which the restriction of the guarantee laid down in article 113 of the Political Constitution is removed.[1]

[1] See *Yearbook on Human Rights for 1950*, p. 211. A decree of 21 September 1956 suspending certain constitutional guarantees throughout Nicaragua, including that laid down in article 113 of the Constitution (*La Gaceta*, Nos. 215 and 219, of 22 and 27 September 1956, respectively) was restricted in its application by decree No. 73, of 29 October 1956, to the Departments of León and Managua (*La Gaceta*, No. 246, of 30 October 1956).

NORWAY

NOTE[1]

I. CONSTITUTIONAL PROVISIONS AND STATUTES

A. During 1956, a constitutional amendment was passed, which must be deemed significant for human rights. Article 2 of the Constitution establishes that the Evangelical-Lutheran faith "shall remain the public religion of the State"; further, it includes no specific provisions expressing the principle of freedom of worship. In 1814, at the time the Constitution was drawn up, the view still prevailed that the State was obligated to take positive steps as well as to lay down prohibitions designed to prevent Norwegian citizens from giving up the Norwegian Lutheran faith. In time, however, various constitutional amendments, as well as the Dissenter Act, led to a shift in juridical approach where this earlier view was concerned. Accordingly, the Catholic Church — among others — has, since the middle of the nineteenth century, enjoyed the right to propagate its faith and to establish parishes in Norway. There was one respect, however, in which Catholics until recently continued to be assigned a separate status: one of their orders was banned from operating in Norway by a provision in the Constitution's article 2, paragraph 3, stating that "Jesuits shall not be tolerated". Upon ratification of the European Convention on Human Rights on 4 November 1950, Norway therefore found it correct to make a certain reservation with respect to its article 9.[2] A proposal was in the meantime placed before the Storting, calling for abrogation of the Constitution's article 2, paragraph 3, with the result that this provision was repealed by an Act of the Storting on 1 November 1956.

The statute is included in the *Norwegian Law Gazette (Norsk Lovtidend)* for 1956, sect. 2, p. 726.

B. The following enactments of significance for human rights were passed during 1956:

(1) Through the Act of 14 June 1956 (No. 4) repealing the Act of 24 June 1938 (No. 5) concerning "admission of women to employment in the public service", the last remaining provision under Norwegian law laying down special conditions for the *admission of women to the public service* — aside from the Constitution's article 6, governing the order of succession to the Norwegian throne — was removed. The Act of 24 June 1938 provided that women should not be appointed as priests in the state Church where the congregations concerned had voiced opposition on grounds of principle. Repeal took place in connexion with the question of Norway's ratification of the United Nations Convention on the Political Rights of Women (see the convention's art. 3 in *Yearbook on Human Rights for 1952*, p. 376), as it was found desirable for ratification to take place without reservation.

Norway had previously signed the convention, but with reservations regarding the matter of clerical office.

The statute may be found in the *Norwegian Law Gazette* for 1956, sect. 2, p. 279.

(2) The Act of 27 July 1956, governing *admission af aliens* to the kingdom and other matters (Aliens Act), replacing the former Aliens Act of 22 April 1927, contains new provisions concerning *political refugees*.

The most important provision under former statutes regarding political refugees is that found in article 3 of the Act on extradition of criminals, of 13 June 1908. This statute bans extradition for political offences, as well as for any ordinary offence committed in connexion with a political offence for the express purpose of attaining the ends of the latter. A similar provision was also included in the earlier Aliens Act's article 16 (*e*), under which resort cannot be made to extradition on grounds of a sentence imposed abroad when the alien has been sentenced for a political offence, or for acts committed in conjunction with, and for the express purpose of attaining the ends of, a political offence. The earlier statute, on the other hand, included no specific provisions governing political asylum, though this did not prevent its being granted; in practice, the authorities actually went to considerable lengths to guard the interests of political refugees. A definition of principle was therefore included in the new Aliens Act's article 2, though no unconditional right to asylum is provided. This provision reads:

"In the absence of special grounds to the contrary, the political refugee shall be granted refuge (asylum) in the kingdom if he so requests.

"Under this statute, a political refugee is defined as an alien who justifiably fears political persecution in his homeland. Political persecution is understood to mean that the person concerned, because of race, religion, nationality, political opinion, membership in a certain social group or on political grounds, is subject to persecution aimed at his life or freedom or of otherwise serious nature, and that, similarly, the

[1] Information kindly furnished by the Permanent Representative of Norway to the United Nations.

[2] See *Yearbook on Human Rights for 1950*, p. 421.

person concerned, on grounds of a political offence already committed, can be subjected to severe punishment."

The statute also contains provisions assuring that a refugee will not be turned away without his case having first been reviewed by the central aliens authority, and that he will not be deported from the kingdom to areas where he may fear political persecution. (See the statute's article 11, paragraph 3, and article 17, paragraph 3.)

Under the new Aliens Act, another amendment of interest for human rights is made. The former Aliens Act contained a provision which could be construed as racial discrimination — namely, article 3, paragraph 3: "Gypsies and other vagrants who cannot prove their right to Norwegian citizenship shall be denied entry to the kingdom." This provision was directed, in the first instance, against vagrants. When it was found incorrect, however, on principle, to retain a special provision in the statute which could be construed as directed against specific folk groups, Gypsies were not mentioned in the corresponding provision of the new Aliens Act's article 11 (*d*). This provides that an alien seeking entry to the kingdom shall, as a rule, be denied admission (rejected) "when it must be assumed that he will seek a livelihood, in whole or in part, by illegal or dishonourable means, or as a vagrant or the like".

The new Aliens Act may be found in the *Norwegian Law Gazette* for 1956, sect. 2, pp. 481–488.

(3) A new statute of 7 December 1956 (No. 2), concerning the *protection of workers*,[1] replaces the earlier Workers' Protection Act of 19 June 1936. The new Act, based in all major respects upon the former statute, improves the status of workers in a large number of areas. Without going into its relationship with the former law, the following short résumé covers its major features:

The statute applies to every business undertaking employing wage-earners, or utilizing mechanical motive power of one horsepower or more, with the exception of shipping; fishing, sealing and whaling; air transport and agriculture. The civil service is covered by the statute to such extent as the Crown may decide. The employer is obligated to make sure that the working site and conditions are such that the life and health of the employees are extended the maximum protection that conditions permit. Employees, in turn, are obligated to contribute thereto, and to co-operate with the employer toward a planned protection programme. Medical inspection and control are to be carried out by the plant physician in instances where such action is found necessary.

Regular working hours are between 6 a.m. and 9 p.m., and work performed outside this period is considered night work, which may be carried on only under the conditions specified by the statute. In principle, the hours between 6 p.m. on the day preceding Sundays or holidays, and 10 p.m. on that preceding the next working day, shall be regarded as hours of rest. The normal working day must not exceed eight hours; the normal work week, forty-eight. Additional hours spent at work are considered overtime, and must not exceed 10 hours per week.

A woman who has given birth shall not be required to return to her job until six weeks after her child is born. Further, she may remain away from work for an additional six weeks, either before or after the birth, at her discretion. Any woman absent from her job due to the birth of her child may not be dismissed by her employer for that reason. While she is nursing her child, she may demand such time off as may be required for feeding — at least 30 minutes twice daily.

The extent to which children under 15 years of age may be employed is fixed by the statute. In all cases, they must have attained 12 years of age at least; they may thereupon be employed in certain ways (for instance, as messengers) but only to the extent that considerations of health, schooling and morals permit. Extremely demanding regulations as to medical examinations and working hours are in force where children and young employees are concerned.

Wages are to be paid in cash, and in principle no deductions may be made except as authorized by written agreement, or when warranted by statute.

Further, the law contains detailed provisions governing terms of notice and protection against unreasonable dismissal. Any employer discharging an employee, without such dismissal being reasonably justified by circumstances involving either proprietor, employee or plant, is to be liable to pay compensation when the employee concerned has been employed for at least two years consecutively by the same firm after becoming 20 years of age. Under the same conditions, an employer, following charges by a discharged employee, can be forced to reinstate the latter in his old job or in one equal to it, when such action is deemed reasonable. Compensation must not exceed half of the employee's earnings during his last year with the firm. If, however, the dismissed employee has been enployed by the firm concerned for at least 10 consecutive years after becoming 20 years of age, compensation can be increased to a figure equal to the whole of his last year's earnings in that firm. Similarly, if he has been employed by the same firm for 20 years, compensation can be adjusted upward to the equivalent of his total earnings during his last three years with the firm. The new law also protects employees against dismissal on grounds of absence due to illness or accident. Those who have had a minimum of two consecutive years of employment in the same firm after becoming 20 years of age are covered by such dismissal protection provisions for a period of three months following incurrence of disability. In instances where the disabled person has at least 10 consecutive years of employment in

[1] Translations of the Act into English and French appear as International Labour Office: *Legislative Series*, 1956 — No. 2.

the same firm, the dismissal ban applies to disability lasting up to 12 months consecutively. Protection, however, does not apply in instances where the employee has become ill due to deliberate action or gross negligence, or has deceitfully concealed the fact that he suffered from an illness at the time he was engaged.

Responsibility for assuring compliance with the statute is assigned to the State Labour Inspection Office (Statens arbeidstilsyn). Each municipality is also required to set up a municipal labour inspection service.

The statute may be found in the *Norwegian Law Gazette* for 1956 (sect. 2, pp. 760–788).

(4) The Act of 21 December 1956 (No. 1) governing the *age of retirement* for civil servants sets 70 years as the retirement age for women as well as for men. This statute replaces, among others, the Retirement Age Act of 14 May 1917, where the retirement age was set, in principle, at 70 years for men and 65 for women. Upon reaching this age, the public servant concerned is obliged to retire — though exemption may be granted, for a maximum period of 5 years in all — and is entitled thereupon to begin to draw a pension from either the State Pension Fund or the State Railway Pension Fund, as the case might be.

This statute may be found under sect. 2 (pp. 855–857) of the *Norwegian Law Gazette* for 1956.

(5–6) The Act of 21 December 1956 (No. 9) concerning *children* born in wedlock, and another Act of the same date (No. 10) concerning children born out of wedlock, replace the two earlier Acts dealing with these subjects passed on 10 April 1915. Neither of the new Acts contains any revisions in principle where the legal status of children is concerned. Already under the statute of 1915, children born out of wedlock were placed on an equal juridical footing with children born in wedlock. The law thus established a true family relationship between the illegitimate child and its father and paternal relatives, not least where inheritance rights are concerned. Determination of paternity and collection of support payments was made the concern of the public authorities. Where this latter responsibility is concerned, however, earlier provisions have been replaced by the Act of 9 December 1955, covering collection of support payments and other matters. As before, responsibility for assuring that these payments are made is assigned to the bailiff or deputy concerned with their collection (bidragsfogden).

Provisions governing determination of paternity of children born out of wedlock as set forth under the new statute of 21 December 1956 (No. 10) may be summarized as follows:

Any unmarried woman finding herself with child is to contact a physician or midwife at least three months prior to the expected date of birth, stating the time at which she believes conception to have taken place as well as the name of the father. If the physician or midwife is able to confirm pregnancy, a report to this effect is to be sent at once to the bailiff in the prospective mother's place of residence. This report must note the expected date of birth as well as other information which she might have been able to provide. If she has not already done so, the physician or midwife assisting at the birth must urge the expectant mother to reveal the identity of the father, which information should be forwarded at once to the bailiff. Should there have been neither physician nor midwife present at the birth, the mother is bound to report the birth to the bailiff in her district within a period of four weeks thereafter. This official, who is charged with the collection of support payments, must thereupon forward notice of birth immediately to the provincial governor — the superior administrative authority — accompanied by such information concerning the economic status of the mother and the reported father as he has been able to assemble. On the basis of this information, the provincial governor is to prepare a documentation of paternity, which is thereupon to be presented to the reported father. This documentation must state that the latter will be regarded as father of the child if he so admits; it must further state that, if he does not, he is obliged within a period of four weeks, following presentation of documentation, to inform the subordinate magistrate in the mother's place of residence, either orally or in writing, of his intention to file suit denying paternity. The male indicated may thus be considered father of the child if he so admits or if he fails to bring suit within the allotted time. Even though he should bring suit, however, he may still be adjudged father of the child. If the man in question has had sexual intercourse with the mother within the period that the child was in all likelihood conceived, the courts will, in the absence of circumstances providing decided indications to the contrary, adjudge him to be father of the child. Should evidence provide grounds for assuming that the mother had had sexual intercourse with more than one man during the period that the child was conceived, no one of them will be adjudged father of the child unless there are credible indications that one among them was in all likelihood the father. (Concerning this point, the law of 1915 had included somewhat different provisions. If the mother, at the time of conception, had had sexual intercourse with several men who, on the basis of natural indications, could have been father of the child, all would have been bound to forward support payments. This involved a purely economic obligation on the part of the payees, and established no legal family relationship. Several persons could thus be held responsible for the support of a child — all of them bound equally.)

The provincial governor may forward the case to the courts without a documentation of paternity in instances where the mother has admitted sexual intercourse with several men during the period of conception, or has failed to provide information as to who is, or may be, father of the child. The same applies in instances where the reported father is dead, insane, feeble-minded or residing abroad. Further,

the provincial governor need not prepare a paternity documentation: (1) when the mother has so requested, and the reported father has in writing and in the presence of the bailiff, a member of the Norwegian diplomatic service abroad or in the presence of the captain of a Norwegian vessel in overseas trade, admitted paternity of the child; (2) when the child is still-born or dies immediately after birth, or when the identity of the reported father cannot be established and, similarly, when establishment of paternity is not considered necessary out of consideration for mother or child or the public interest, and when the ministry agrees that such documentation need not be prepared.

In principle, the child born out of wedlock is accorded the same legal status in relation to its parents as is one born in wedlock. Such exceptions as exist are few, and of minor importance. Children born out of wedlock can choose their family name: either that of their father or their mother. Where citizenship is concerned, the child assumes that of its mother, and it is she who is granted parental authority over the child born out of wedlock. Should the father wish to visit the child and the mother disagrees, it will be up to the Child Welfare Board to decide whether he shall enjoy this right, and, if so, to determine when and in what manner such visits shall take place.

Corresponding provisions regarding parental authority and the right to visit a child born in wedlock whose parents are not living together are as follows: Disputes over who shall retain parental authority over a child born in wedlock are decided by the court, unless the parents have agreed to relegate this decision to the provincial governor. Such a decision must be based first and foremost on consideration for the child's welfare. Such children, especially when they are small, should as a rule remain with the mother, except when she is considered unfit to raise them. The same also applies when the parents are in agreement as to which of them shall be granted parental authority, though in such event the wishes of the parents are also taken into consideration. Similarly, the parent who is not awarded this authority can demand that a decision be reached as to whether and to what extent he or she can spend time together with the child. Permission to spend such periods together will not be granted when there are grounds to fear that such will react to the detriment of the child.

Children born in — as well as those born out of — wedlock enjoy the right to be reared by both parents — this including maintenance and education. Parental obligation, in this respect, continues until the child has reached 18 years of age, though it can be required that the provision of support for the child's education continue beyond this age, when this is found reasonable in the light of the parents' economic status, the child's interests, capacities, etc. The same applies when the child is so feeble in mind or body as not to be able to provide for itself.

These two child welfare acts may be found in sect. 2 of the *Norwegian Law Gazette* for 1956 (pp. 873–881 and 882–893).

(7) Regarding the right to *insurance* and *pensions*, the following may be noted:

(*a*) The Act of 2 March 1956 (No. 2) concerning health insurance,[1] replacing the earlier Health Insurance Act of 6 June 1930, provides in principle that all persons residing in the country be compulsorily insured. Further, this insurance programme includes various groups of persons — first and foremost Norwegian citizens — who, though not residing in Norway have, nevertheless, a close connexion with the country.

Through this insurance, as under the provisions of the earlier statute, employees are extended the right to remedial aid (medical care, hospitalization, etc.) as well as to sickness compensation. For non-employees (self-employed, pensioners and those deriving a living from interest on investments), the insurance programme entails only remedial aid, though those insured can voluntarily take out supplementary insurance providing sickness compensation when they derive an income from their labours. Neither is sickness compensation paid to civil servants who, in the event of sickness, continue to draw a salary corresponding at least to the value of the insurance compensation they might otherwise receive.

The spouse and minor children (under 18 years) of a family provider insured under the programme are automatically insured as "family members", unless the dependants concerned have a yearly earned income exceeding 1,000 kroner — in which event they are obliged to join the health insurance programme as compulsory members.

The cost of the health insurance programme is covered by premiums paid by members, plus contributory premium payments made by the employers, the municipality and the State. Where non-employees are concerned, these contributory payments are made by only the last two mentioned.

This statute may be found in sect. 2 of the *Norwegian Law Gazette* for 1956 (pp. 67–107).

(*b*) Otherwise the right to insurance and pensions has been extended under the following statutes:

Provisional Act of 31 May 1956 (No. 1) supplementing (1) the Act of 3 December 1948 concerning the pensioning of seamen, (2) the Act of 30 June 1950 concerning pensioning of state employees, and (3) the Act of 3 December 1951 concerning pensioning of loggers;

Act of 31 May 1956 (No. 2) revising the provisional Act of 16 July 1936 concerning aid for the blind and disabled;

Act of 31 May 1956 (No. 3) revising the Old-age Pension Act of 16 July 1936;

[1] Translations of the Act into English and French appear as International Labour Office: *Legislative Series*, 1956 — No. 1.

Act of 31 May 1956 (No. 5) revising the Children's Insurance Act (Barnetrygd) of 24 October 1946;

Act of 8 June 1956 (No. 6) revising the provisional Act of 29 June 1951; see also Act of 14 December 1951 and Act of 19 June 1953 supplementing the Act of 13 December 1946 concerning (1) war pensions for Home Guard personnel and civilians, and (2) war pensions for military personnel;

Provisional Act of 8 June 1956 (No. 7) supplementing (1) the Act of 10 December 1920 concerning accident insurance for fishermen, (2) the Act of 24 June 1931 concerning accident insurance for industrial workers and others, and (3) the Act of 24 June 1931 concerning accident insurance for seamen;

Provisional Act of 8 June 1956 (No. 8) supplementing the Act of 19 June 1953 concerning disability insurance for military personnel;

Act of 21 June 1956 (No. 4) revising the Seamen's Accident Insurance Act of 24 June 1931;

Act of 21 June 1956 (No. 5) revising the Act of 24 June 1931 concerning accident insurance for industrial workers and others;

Act of 21 June 1956 (No. 6) revising the Fishermen's Accident Insurance Act of 10 December 1920;

Act of 21 June 1956 (No. 7) revising the Act of 26 June 1953 concerning pensioning of apothecary personnel;

Act of 9 November 1956 (No. 1) supplementing the State Pension Fund Act of 28 July 1949;

Act of 9 November 1956 (No. 2) setting up a pension plan for persons temporarily employed;

Act of 21 December 1956 (No. 5) revising the Seamen's Pension Act of 3 December 1948;

Act of 21 December 1956 (No. 11) revising the Act of 14 December 1951 establishing a pension plan for members of the King's council (cabinet ministers);

Act of 21 December 1956 (No. 12) revising the Act of 15 December 1950 establishing a pension plan for representatives to the Storting (Parliament);

The above statutes may be found in sect. 2 of the *Norwegian Law Gazette* for 1956, pp. 237–238, 2382–39, 240, 253–254, 254, 254, 328–329, 329, 329–330, 330–331, 626–627, 627–628, 866–867, 893–894 and 895–896.

II. INTERNATIONAL AGREEMENTS [1]

During 1956, Norway became party to the following international agreements of significance for human rights:

1. Agreement between Norway, Denmark, Finland, Iceland and Sweden concerning Social Security, of 15 September 1955.
2. Agreement on the Exchange of War Cripples between Member Countries of the Council of Europe for Medical Treatment, of 13 December 1955.
3. Agreement on the Relationship between Compulsory Military Service and Citizenship in Norway, Denmark and Sweden, of 3 March 1956.
4. Agreement between Norway, Denmark, Iceland and Sweden providing for Multilateral Transfer Arrangement among the several Health Insurance Programmes as well as for Medical Aid during Temporary Residence, of 19 December 1956.

On 4 December 1956, Norway withdrew her reservation regarding article 9 of the European Convention on Human Rights.[2]

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[1] See also p. 300.

[2] See p. 169.

PAKISTAN

NOTE[1]

I. CONSTITUTION[2]

General Observations

The Constitution of the Islamic Republic of Pakistan was adopted on 29 February 1956, and entered into force on 23 March 1956. Part II of the Constitution guarantees fundamental rights, and article 4 thereof provides that any existing laws which are inconsistent with the provisions of that part shall, to the extent of that inconsistency, be considered void. Thus, the relevant laws have been preserved under article 4 of the Constitution in so far as they are not inconsistent with the fundamental rights that are necessary to safeguard the life, liberty, religion, culture and property of the people. Directive principles of state policy are set out in part III of the Constitution. Generally speaking, these two parts cover all the important provisions of the Universal Declaration of Human Rights and the proposed International Covenants on Civil and Political, and Economic, Social and Cultural Rights.

Governmental Structure

The Constitution establishes a federal democratic republic, and the government is to be carried on by the people's elected representatives. The Head of the State is to be elected by the people's own elected representatives, and can be impeached for violating the Constitution or for gross misconduct. The federal and the provincial cabinets are responsible to the National Assembly and the provincial legislatures, respectively. The provinces have been given provincial autonomy as far as possible. Fair and free elections have been guaranteed through an election commission.

Freedom of Speech and Expression

"Give me liberty to know, utter and to argue freely, according to conscience, above all liberties," said John Milton. This right of the citizen is the most important, and there has always been an attempt by those who wield power to suppress this right. Article 8 of the Constitution enunciates in clear and unmistakable terms that every citizen shall have the right to a free expression of his views in any manner he likes. He can express himself by word of mouth, through writings, paintings, cartoon pictures or any other form intended for the eye to see or the ear to hear.

Freedom from Fear

It has been declared in unambiguous terms that all citizens are equal before law, and entitled to equal protection of law, and that no person shall be deprived of life or liberty save in accordance with law; that no person shall be held in slavery; and that all forms of forced labour and untouchability in any form are prohibited. It has been laid down that a person who is arrested and detained in custody shall be informed of the grounds of arrest, and produced before the nearest magistrate within a period of 24 hours of such arrest; no person shall be kept in preventive detention beyond three months unless his case is referred to an advisory board composed of high court judges, and unless the board has reported that there is in its opinion sufficient cause for such detention. It has also been provided that no person shall be punished for an act which was not punishable by law when the act was done, nor shall any person be subjected to a punishment greater than that prescribed by law for an offence when that offence was committed.

Freedom from Want

The Constitution aims at building up a welfare state. It provides that every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business; that no citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth.

Freedom of Thought and Belief

It has been guaranteed that, subject to law, public order and morality, every citizen has the right to profess, practise and propagate any religion or belief, and every religious denomination or sect thereof has the right to establish, maintain and manage its religious institutions; and that any section of citizens having a distinct language, script or culture shall have the right to preserve the same. It has further been guaranteed that no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of his religious belief; that no religious community shall be prevented from providing religious instruction for pupils of the community in any educational institution maintained

[1] Information kindly furnished by the Permanent Representative of Pakistan to the United Nations.

[2] Extracts from the Constitution of the Islamic Republic of Pakistan appear below.

wholly by that community; and that no person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship if such instruction, ceremony or worship relates to a religion other than his own.

Although the Constitution lays down that no law shall be enacted which is repugnant to the injunctions of Islam as laid down in the Holy Quran and Sunnah, it makes the concession that this provision shall not affect the personal laws of non-Muslim citizens or their status as citizens, and, in the application of the Islamic provisions to the personal law of any Muslim sect, the expression "Quran and Sunnah" shall mean the Quran and Sunnah as interpreted by that sect.

These fundamental rights ensure all "freedoms" equally to all the citizens of Pakistan. Fundamental rights guaranteed in the Constitution can be enforced by resort to the Supreme Court and the high courts. The high courts have been further empowered to issue to any person or authority directions, orders or writs including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* in order to compel compliance with law and these rights.

Pakistan is a country where, besides Muslims, many races, religions, languages and cultures exist. The Constitution places all non-Muslims on a basis of equality with the Muslims in all respects. They are entitled to all the fundamental rights enumerated above, and their status is equal to that of the Muslims in every respect. They are also guaranteed the right to profess, practise and propagate their religion, to establish educational and religious institutions of their own choice, to hold and acquire property, and to enter into any profession or occupation on equal terms with the Muslims. The Constitution contains specific provisions to ensure that there shall be no discrimination against them. In fact, these rights were guaranteed to non-Muslims by the Founder of the State soon after the birth of Pakistan when he declared:

"We have many non-Muslims — Hindus, Christians and Parsis — but they are all Pakistanis. They will enjoy the same rights and privileges as any other citizens, and will play their rightful part in the affairs of Pakistan.

"Islam demands from us the tolerance of other creeds, and we welcome in closest association with us all those who, of whatever creed, are themselves willing and ready to play their part as true and loyal citizens of Pakistan."

The provisions in the Constitution have translated these promises of the Quaid-i-Azam into practice.

Recruitment to the superior services is to be on the basis of free and open competition, and if the members of the minority communities stand high in competitive examinations held for recruitment to these services, they can hold these offices far in excess of their proportion in the population of the country. Special provision has been made for the protection and promotion of the interests of scheduled castes and backward classes. Under article 206, the President may appoint a Commission to investigate the conditions of the scheduled castes and backward classes, and make recommendations as to the steps to be taken by the Government to improve their conditions; copies of his report are to be laid before the National Assembly and the provincial assemblies. Article 207 requires the President to appoint a special officer to investigate all matters relating to the safeguards provided for some under-privileged classes, and report upon the working of these safeguards. The members of the minority communities have equal opportunity of being members of the National Assembly and the Cabinet. They are equally eligible to hold the most important offices of the prime minister and the chief ministers. There is no constitutional bar against their acquiring a place in the seat of real power. They are only made ineligible to the office of the President because it is an office which symbolically represents the State, and the person occupying that office represents the spirit of the State and does not exercise any executive power. The constitutions of many democratic countries contain provisions that the sovereign or head of the State should belong to a particular religious denomination, but such a provision has not been construed as conferring an inferior status on persons not belonging to that religious denomination.

Directive Principles of State Policy

A word may also be said about the directive principles of state policy contained in part III of the Constitution. The value of these directives lies not only in the fact that they pledge the State to make endeavours to put these ideas into practice, but also because they give a definite reorientation to the State by defining its aims and objectives. This part not only contains provisions for the promotion of Islamic principles and directions for safeguarding the legitimate rights and interests of minorities, but also contains principles of social uplift, provisions for the promotion of the social and economic well-being of the people, and the separation of the judiciary from the executive. The State is required to promote with special care the educational and economic interests of the backward classes, to remove illiteracy and provide free and compulsory primary education within the minimum possible period, to make provision for securing just and humane conditions of work — especially for children and women — and to enable the people of different areas through education, training and industrial development to participate fully in all forms of national activities. The State is also required to endeavour to secure the well-being of the people, irrespective of caste, creed or race, by raising the standard of living of the common man, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of the interests of the common man, and by ensuring an equitable adjustment of rights

between employers and employees, and landlords and tenants; to provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure; to provide for all persons in the service of Pakistan and private concerns social security by means of compulsory social insurance or otherwise; and to provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.

II. LEGISLATION

All the laws of preventive detention have been adapted in accordance with the provisions of the Constitution. The effect of these changes in the various laws on the subject are discussed below.

The Security of Pakistan Act, 1952 [1]

(*a*) In the first instance it is noted that, by the adaptations made in this Act, the scope of the Act has been restricted to activities which are prejudicial to the security, defence and external affairs of Pakistan, or any part thereof, and measures for the maintenance of public order in the federal capital. Previously, the Act was also available for curbing activities prejudicial to the maintenance of supplies and services essential to the community, but the change consequent to the passing of the Constitution has now restricted the scope of the Act, and there is no provision in the Act for dealing with such activities;

(*b*) The cases of détenus have now to be referred to the advisory board immediately after passing of the detention order, so as to get the opinion of the advisory board within the prescribed period of three months;

(*c*) Previously, the opinion of the advisory board had to be considered by the Government, and necessary orders passed thereon. It was, therefore, in the discretion of the Government to accept or reject the opinion of the advisory board. Since the adaptation of the Act to the Constitution, it is obligatory on the Government to accept the opinion of the advisory board;

(*d*) The advisory board was constituted previously under the orders of the Government. The advisory board for dealing with cases of detention has now to be appointed by the Chief Justice of Pakistan, and not by the Government.

Restriction and Detention Ordinance, 1944

Detention under this ordinance has now been subjected to a reference to the advisory board constituted under article 7 (4) of the Constitution, for which it made no provision previously.

The new laws which were promulgated in the provinces of East and West Pakistan are noted below.

[1] See *Yearbook on Human Rights for 1952*, pp. 212–6, and *Yearbook on Human Rights for 1954*, p. 223.

East Pakistan

1. *The East Bengal Public Safety (Repeal) Act, 1956 (E. P. Act VIII, of 1956)* repealed the East Bengal Public Safety Act 1954 (East Bengal Act XVIII, of 1954). The latter provided for detention without trial of persons acting in a manner prejudicial to the maintenance of public order, communal harmony and the safety and stability of the Province of East Bengal, and for the maintenance of supplies and services essential to the life of the community. As a result of the repeal of the East Bengal Public Safety Act, 1954, the people now enjoy complete freedom of person in all respects.

2. *The Bengal State Prisoners Regulation, 1818*, made no provision for communicating the reason for detention to the state prisoner or referring his case to the advisory board. These provisions have now been made in the regulation in accordance with the provisions of the new Constitution.

West Pakistan

1. *The Police (Amendment) Act, 1956*, empowers the district magistrate in the province to regulate the movement of persons at sites and places where, in the opinion of the district magistrate, special regulations may be necessary for the public safety and convenience.

2. *The West Pakistan Requisitioning of Immoveable Property (Temporary Powers) Act, 1956*, empowers the Government to requisition a building for the use of its offices on payment of the necessary compensation to the owner.

3. *The West Pakistan Preventive Detention Laws (Amendment) Ordinance, 1956*, safeguards the right of personal freedom. It provides that no person who is arrested shall be detained in custody without being informed of the grounds of arrest, or be detained beyond three months unless an advisory board to be appointed by the Chief Justice of the High Court is of the opinion that there is sufficient cause for detention.

4. *The West Pakistan National Calamities (Prevention and Relief) Ordinance, 1956*, safeguards the right of safety of the person and property of the citizen. The State is authorized to mobilize all resources to combat national calamities.

5. *The West Pakistan Rent Restriction Ordinance, 1956*, safeguards the right of the tenant to the continuity of his tenancy. It regulates the rights and liabilities of the landlord and the tenant.

6. *The West Pakistan Food Stuffs (Control) Ordinance, 1956*, empowers the Government to regulate the production, manufacture and distribution of foodstuffs.

7. *The West Pakistan Essential Services (Maintenance) Ordinance, 1956*, provides for the continuity of employment which is essential to the life of the community. It prohibits any person from abandoning such employment, or any employee from closing an establishment or causing the discontinuance of any such employment.

CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN

Adopted on 29 February 1956, and entered into force on 23 March 1956

PREAMBLE

In the name of Allah, the Beneficent, the Merciful,

Whereas sovereignty over the entire universe belongs to Allah Almighty alone, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust;

Whereas the Founder of Pakistan, Quaid-i-Azam Mohammed Ali Jinnah, declared that Pakistan would be a democratic State based on Islamic principles of social justice; and

Whereas the Constituent Assembly, representing the people of Pakistan, have resolved to frame for the sovereign independent State of Pakistan a constitution;

Wherein the State should exercise its powers and authority through the chosen representatives of the people;

Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, should be fully observed;

Wherein the Muslims of Pakistan should be enabled individually and collectively to order their lives in accordance with the teachings and requirements of Islam, as set out in the Holy Quran and Sunnah;

Wherein adequate provision should be made for the minorities freely to profess and practise their religion and develop their culture;

. . .

Wherein should be guaranteed fundamental rights including such as equality of status and of opportunity, equality before law, freedom of thought, expression, belief, faith, worship and association, and social, economic, and political justice, subject to law and public morality;

Wherein adequate provision should be made to safeguard the legitimate interests of minorities and backward and depressed classes;

Wherein the independence of the Judiciary should be fully secured;

. . .

Now, therefore, we, the people of Pakistan, in our Constituent Assembly this twenty-ninth day of February, 1956, and the seventeenth day of Rajab, 1375, do hereby adopt, enact and give to ourselves this constitution.

. . .

PART II

FUNDAMENTAL RIGHTS

3. In this part, unless the context otherwise requires, "the State" includes the federal government, Parliament, the provincial governments, the provincial legislatures, and all local or other authorities in Pakistan.

4. (1) Any existing law, or any custom or usage having the force of law, in so far as it is inconsistent with the provisions of this part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this part, and any law in contravention of this clause shall, to the extent of such contravention, be void.

(3) Nothing in this article shall apply to any law relating to the members of the Armed Forces, or the forces charged with the maintenance of public order, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them.

5. (1) All citizens are equal before law and are entitled to equal protection of law.

(2) No person shall be deprived of life or liberty save in accordance with law.

6. No person shall be punished for an act which was not punishable by law when the act was done, nor shall any person be subjected to a punishment greater than that prescribed by law for an offence when the offence was committed.

7. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate 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 of the magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply to any person (*a*) who for the time being is an enemy alien; or (*b*) who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorize the detention of a person for a period exceeding three months unless the appropriate advisory board has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention.

Explanation. In this clause "the appropriate advisory board" means, in the case of a person detained under a Central Act or an Act of Parliament, a board consisting of persons appointed by the Chief Justice of Pakistan, or, in the case of a person detained under a Provincial Act or an Act of a provincial legislature,

a board consisting of persons appointed by the Chief Justice of the High Court for the province.

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order:

Provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against the public interest to disclose.

8. Every citizen shall have the right to freedom of speech and expression, subject to any reasonable restrictions imposed by law in the interest of the security of Pakistan, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

9. Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.

10. Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of morality or public order.

11. Subject to any reasonable restrictions imposed by law in the public interest, every citizen shall have the right (*a*) to move freely throughout Pakistan and to reside and settle in any part thereof; (*b*) to acquire, hold and dispose of property.

12. Every citizen possessing such qualifications, if any, as may be prescribed by law in relation to his profession or occupation, shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:

Provided that nothing in this article shall prevent (*a*) the regulation of any trade or profession by a licensing system, or (*b*) the carrying on, by the federal or a provincial government or by a corporation controlled by any such government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons.

13. (1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

(2) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination.

(3) No citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste, or place of birth:

Provided that nothing in this article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens.

(4) In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.

(5) Every religious community or denomination shall have the right to establish and maintain educational institutions of its own choice, and the State shall not deny recognition to any such institution on the ground only that the management of such institution vests in that community or denomination.

14. (1) In respect of access to places of public entertainment or resort not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex or place of birth.

(2) Nothing in this article shall prevent the making of any special provision for women.

15. (1) No person shall be deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefore, and either fixes the amount of compensation or specifies the principles on which and the manner in which compensation is to be determined and given.

(3) Nothing in this article shall affect the validity of

(*a*) Any existing law, or

(*b*) Any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health, or

(*c*) Any law relating to the administration or acquisition of any property which is or is deemed to be evacuee property under any law, or

(*d*) Any law providing for the taking over by the State for a limited period of the management of any property for the benefit of its owner.

(4) In clauses (2) and (3), "property" shall mean immovable property, or any commercial or industrial undertaking, or any interest in any such undertaking.

16. (1) No person shall be held in slavery.

(2) All forms of forced labour are prohibited, but the State may require compulsory service for public purposes.

17. (1) No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth:

Provided that for a period of fifteen years from the Constitution Day, posts may be reserved for persons

belonging to any class or area to secure their adequate representation in the service of Pakistan:

Provided further that in the interest of the said service, specified posts or services may be reserved for members of either sex.

(2) Nothing in clause (1) shall prevent any provincial government or any local or other authority from prescribing, in relation to any class of service under that government or authority, conditions as to residence in the province prior to appointment under that government or authority.

18. Subject to law, public order and morality, (*a*) every citizen has the right to profess, practise and propagate any religion; and (*b*) every religious denomination and every sect thereof has the right to establish, maintain and manage its religious institutions.

19. Any section of citizens having a distinct language, script or culture shall have the right to preserve the same.

20. Untouchability is abolished, and its practice in any form is forbidden, and shall be declared by law to be an offence.

21. No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other then his own.

22. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this part is guaranteed.

(2) The Supreme Court shall have power to issue to any person or authority, including in appropriate cases any government, directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this part.

(3) The right guaranteed by this article shall not be suspended, except as otherwise provided by the Constitution.

(4) The provisions of this article shall have no application in relation to the Special Areas.

PART III

DIRECTIVE PRINCIPLES OF STATE POLICY

23. (1) In this part, unless the context otherwise requires, "the State" has the same meaning as in part II.

(2) The State shall be guided in the formulation of its policies by the provisions of this part, but such provisions shall not be enforceable in any court.

[Article 24 deals with promotion of Muslim unity and international peace.]

25. (1) Steps shall be taken to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the Holy Quran and Sunnah.

(2) The State shall endeavour, as respects the Muslims of Pakistan, (*a*) to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah; (*b*) to make the teaching of the Holy Quran compulsory; (*c*) to promote unity and the observance of Islamic moral standards; and (*d*) to secure the proper organization of zakat, wakfs and mosques.

26. The State shall discourage parochial, racial, tribal, sectarian and provincial prejudices among the citizens.

27. The State shall safeguard the legitimate rights and interests of the minorities, including their due representation in the federal and provincial services.

28. The State shall endeavour to:

(*a*) Promote, with special care, the educational and economic interests of the people of the Special Areas, the backward classes and the Scheduled Castes;

(*b*) Remove illiteracy, and provide free and compulsory primary education within the minimum possible period;

(*c*) Make provision for securing just and humane conditions of work, ensuring that children and women are not employed in avocations unsuited to their age and sex, and for maternity benefits for women in employment;

(*d*) Enable the people of different areas, through education, training and industrial development, to participate fully in all forms of national activities, including employment in the service of Pakistan;

(*e*) Prevent prostitution, gambling and the taking of injurious drugs; and

(*f*) Prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes.

29. The State shall endeavour to:

(*a*) Secure the well-being of the people, irrespective of caste, creed or race, by raising the standard of living of the common man, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of the interest of the common man, and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants;

(*b*) Provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure;

(*c*) Provide for all persons in the service of Pakistan and private concerns social security by means of compulsory social insurance or otherwise;

(*d*) Provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;

(*e*) Reduce disparity, to a reasonable limit, in the emoluments of persons in the various classes of service of Pakistan; and

(*f*) Eliminate *riba* as early as possible.

30. The State shall separate the Judiciary from the Executive as soon as practicable.

31. (1) Endeavour shall be made by the State to enable people from all parts of Pakistan to participate in the defence services of the country.

(2) Steps shall be taken to achieve parity in the representation of East Pakistan and West Pakistan in all other spheres of federal administration.

PART IV

THE FEDERATION

Chapter I. — The Federal Government

32. (1) There shall be a President of Pakistan, in the Constitution referred to as the President, who shall be elected by an electoral college consisting of the members of the National Assembly and the provincial assemblies, in accordance with the provisions contained in the First Schedule.

(2) Notwithstanding anything in part II, a person shall not be qualified for election as President unless he is a Muslim; nor shall he be so qualified (*a*) if he is less than forty years of age; or (*b*) if he is not qualified for election as a member of the National Assembly; or (*c*) if he has previously been removed from the office of President by impeachment under article 35.

. . .

[Article 35 deals with impeachment of the President.]

. . .

Chapter II. — The Parliament of Pakistan

43. There shall be a Parliament of Pakistan consisting of the President and one House, to be known as the National Assembly.

44. (1) Subject to the succeeding clauses, the National Assembly shall consist of three hundred members, one half of whom shall be elected by constituencies in East Pakistan, and the other half by constituencies is West Pakistan.

(2) In addition to the seats for the members mentioned in clause (1), there shall, for a period of ten years from the Constitution Day, be ten seats reserved for women members only, of whom five shall be elected by constituencies in East Pakistan, and five by constituencies in West Pakistan; and constituencies shall accordingly be delimited as women's territorial constituencies for this purpose:

Provided that a woman who, under this clause, is a member of the Assembly at the time of the expiration of the said period of ten years shall not cease to be a member until the Assembly is dissolved.

. . .

45. (1) A person shall be qualified to be elected to the National Assembly: (*a*) if he is not less than twenty-five years of age, and is qualified to be an elector for any constituency for the National Assembly under article 143; and (*b*) if he is not disqualified for being a member by the Constitution or an Act of Parliament.

. . .

46. (1) No person shall at the same time be a member of the National Assembly for two or more constituencies.

. . .

PART V

THE PROVINCES

Chapter I. — The Provincial Government

70. (1) There shall be a governor for each province, who shall be appointed by the President, and shall hold office during the pleasure of the President.

(2) No person shall be eligible for appointment as governor unless he is a citizen of Pakistan, and is not less than forty years of age.

. . .

[Chapter II concerns the provincial legislatures of the Provinces, and includes a provision for reservation of ten seats in each provincial assembly for women members, similar to article 44 (2), provisions on qualifications and disqualifications for membership of provincial assemblies and bars against simultaneous membership of national and provincial assemblies, or of both provincial assemblies and against representing more than one constituency in a provincial assembly.]

. . .

PART VIII

ELECTIONS

. . .

143. (1) A person shall be entitled to be an elector in a constituency if:

(*a*) He is a citizen of Pakistan;

(*b*) He is not less than twenty-one years of age on the first day of January in the year in which the preparation or revision of the electoral roll commences;

(*c*) He is not declared by a competent court to be of unsound mind;

(*d*) He has been resident in the constituency for a period of not less than six months immediately preceding the first day of January in the year in which the preparation or revision of the electoral roll commences;

(*e*) He is not subject to any disqualification imposed by the Constitution or Act of Parliament.

(2) Until Parliament by Act otherwise provides, the word "resident", for the purposes of this article, shall have the same meaning as in the Fourth Schedule.

. . .

147. Nothing in this part shall apply to the Special Areas; but the President may by order make such provision for the representation of the Special Areas in the National Assembly and the Provincial Assembly of West Pakistan as he may think fit.

PART IX

THE JUDICIARY

. . .

Chapter II. — The High Courts

. . .

170. Notwithstanding anything in article 22, each high court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any government directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, for the enforcement of any of the rights conferred by part II and for any other purpose.

. . .

PART X

THE SERVICES OF PAKISTAN

Chapter I. — Services

179. (1) No person who is not a citizen of Pakistan shall be eligible to hold any office in the service of Pakistan:

Provided that the President or, in relation to a province, the governor, may authorize the temporary employment of a person who is not a citizen of Pakistan:

Provided further that a person who is, immediately before the Constitution Day, a servant of the Crown in Pakistan, shall not be disqualified from holding any office in the service of Pakistan on the ground only that he is not a citizen of Pakistan.

. . .

PART XI

EMERGENCY PROVISIONS

191. (1) If the President is satisfied that a grave emergency exists in which the security or economic life of Pakistan, or any part thereof, is threatened by war or external aggression, or by internal disturbance beyond the power of a provincial government to control, he may issue a proclamation of emergency, in this article referred to as a proclamation.

. . .

192. (1) While a proclamation issued under article 191 is in operation, the President may, by order, declare that the right to move any court for the enforcement of such of the rights conferred by part II as may be specified in the order, and all proceedings pending in any court for the enforcement of the rights so specified, shall remain suspended for the period during which the proclamation is in force.

. . .

(3) Every order made under this article shall, as soon as may be, be laid before the National Assembly.

. . .

195. (1) A proclamation issued under this part may be varied or revoked by a subsequent proclamation.

(2) The validity of any proclamation issued or order made under this part shall not be questioned in any court.

196. Nothing in the Constitution shall prevent Parliament from making any law indemnifying any person in the service of the federal or a provincial government, or any other person, in respect of any act done in connexion with the maintenance or restoration of order in any area in Pakistan where martial law was in force, or validating any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

PART XII

GENERAL PROVISIONS

Chapter I. — Islamic Provisions

. . .

198. (1) No law shall be enacted which is repugnant to the Injunctions of Islam as laid down in the Holy Quran and Sunnah, hereinafter referred to as Injunctions of Islam, and existing law shall be brought into conformity with such Injunctions.

. . .

(4) Nothing in this article shall affect the personal laws of non-Muslim citizens, or their status as citizens, or any provision of the Constitution.

Explanation. In the application of this article to the personal law of any Muslin sect, the expression "Quran and Sunnah" shall mean the Quran and Sunnah as interpreted by that sect.

. . .

Chapter IV. — Scheduled Castes and Backward Classes

204. The castes, races and tribes, and parts or groups within castes, races and tribes which, immediately before the Constitution Day, constituted the Scheduled Castes within the meaning of the Fifth Schedule to the Government of India Act, 1935, shall, for the purposes of the Constitution, be deemed to be the Scheduled Castes until Parliament by law otherwise provides.

205. The federal and provincial governments shall promote, with special care, the educational and economic interests of the Scheduled Castes and backward classes in Pakistan, and shall protect them from social injustice and exploitation.

206. (1) The President may appoint a Commission to investigate the conditions of Scheduled Castes and backward classes in Pakistan, and make recommendations as to the steps to be taken and grants to be made by the federal or provincial governments to improve their conditions.

(2) The Commission appointed under clause (1) shall investigate the matters referred to them and submit a report to the President with such recommen-

dations as the Commission thinks fit, and copies of the report shall be laid before the National Assembly and the provincial assemblies.

207. (1) There shall be a special officer for the Scheduled Castes and backward classes in Pakistan, to be appointed by the President.

(2) It shall be the duty of the special officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and backward classes by article 205, to investigate the extent to which any recommendations of the Commission appointed under article 206 are carried out, and to report his findings to the President at such intervals as the President may direct; and the President shall cause all such reports to be laid before the National Assembly.

Chapter V. — Miscellaneous

. . .

214. (1) The state languages of Pakistan shall be Urdu and Bengali:

Provided that for the period of twenty years from the Constitution Day, English shall continue to be used for all official purposes for which it was used in Pakistan immediately before the Constitution Day, and Parliament may by Act provide for the use of English after the expiration of the said period of twenty years, for such purposes as may be specified in that Act.

(2) On the expiration of ten years from the Constitution Day, the President shall appoint a Commission to make recommendations for the replacement of English.

(3) Nothing in this article shall prevent a provincial government from replacing English by either of the state languages for use in that province before the expiration of the said period of twenty years.

. . .

217. Until other provision in that behalf is made by law, the provisions of the Fourth Schedule shall apply in respect of the matters specified therein.

Chapter VI. — Interpretation

218. (1) In the Constitution, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:

. . .

"Constituent Assembly" means the Constituent Assembly of the Dominion of Pakistan;

"Constitution Day" means the day fixed by the Constituent Assembly under clause (4) of article 224;

. . .

"Elector" means a person whose name is included in an electoral roll prepared in accordance with the Constitution;

. . .

"Special Areas" means the areas of the Province of West Pakistan which immediately before the commencement of the Establishment of West Pakistan Act, 1955, were (*a*) the tribal areas of Baluchistan, the Punjab and the North-West Frontier, and (*b*) the States of Amb, Chitral, Dir and Swat;

. . .

FOURTH SCHEDULE

(Article 217)

TEMPORARY PROVISIONS

. . .

PART II

PROVISIONS RELATING TO ELECTIONS

2. *Residence.* (1) A person shall be deemed to be a resident in a constituency if he ordinarily resides in that constituency, or owns or is in possession of a dwelling house therein:

Provided that:

(*a*) Any person who holds the office of minister of the federal or a provincial government, or speaker or deputy speaker of the national or a provincial assembly shall be deemed, during any period in which he holds such office, to be a resident in the constituency in which he would have been resident if he had not held such office;

(*b*) Any person who holds a public office, or is in the service of Pakistan, shall during any period for which he holds such office or is employed in such service be deemed to be a resident in the constituency in which he would have been a resident if he had not held such office or had not been so employed.

(2) Where a person becomes qualified to have his name entered in the electoral roll of a constituency under the proviso to paragraph 2, his wife, if otherwise qualified, shall become so qualified.

3. (1) A person shall be qualified to be elected to the National Assembly if his name appears on the electoral roll of any constituency for that assembly.

(2) A person shall be qualified to be elected to a provincial assembly if his name appears on the electoral roll of any constituency for that assembly.

4. *Disqualifications for election to the National Assembly or a Provincial Assembly.* (1) A person shall be disqualified for being elected or for being a member of the National Assembly or a provincial assembly:

(*a*) If he is of unsound mind, and stands so declared by a competent court;

(*b*) If he is an undischarged insolvent:

Provided that this disqualification shall cease after the expiration of ten years from the date on which he has been adjudged insolvent;

(*c*) If he holds any office of profit in the service of Pakistan;

(*d*) If he has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found guilty of any offence of corrupt or illegal practice relating to elections which has been declared by law to be an offence or practice entailing disqualification for membership of the National Assembly or a provincial assembly, unless such period has elapsed as may be specified in that behalf by the provisions of that law;

(*e*) If, having been nominated as a candidate for election to the National Assembly or a provincial assembly, or having acted as election agent to any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by law:

Provided that this disqualification shall not take effect until one month after the date on which the return ought to have been lodged, or until such time as the President in the case of a return relating to an election to the National Assembly, and the governor, in the case of a return relating to an election to a provincial assembly, may allow:

Provided further that this disqualification shall cease when (i) five years have elapsed since the date on which the return ought to have been lodged; or (ii) the disqualification is removed by the President, in the case of a return relating to an election to the National Assembly, and by the governor, in the case of a return relating to an election to a provincial assembly;

(*f*) If he has been convicted of any offence before the date of the establishment of the Federation by a court in British India, or on or after that date by a court in Pakistan, and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the President in the case of election to the National Assembly and the governor in the case of election to a provincial assembly may allow in any particular case, has elapsed since his release;

(*g*) If he has been dismissed for misconduct from the service of Pakistan on the recommendation of the Supreme Court or a public service commission:

Provided that this disqualification shall cease after the expiry of five years from the date of the dismissal, or may, at any time within that period be removed by the governor in the case of dismissal from a service of a province, and by the President in any other case;

(*h*) If he has ceased to be a citizen, or has voluntarily acquired the citizenship of a foreign State, or has made a declaration of allegiance or adherence to a foreign State.

(2) For the purpose of clause (*c*) of sub-paragraph (1) of this paragraph, the judges of the Supreme and High Courts, and the Comptroller and Auditor-General shall be deemed to be holding offices of profit in the service of Pakistan.

. . .

PANAMA

ACT No. 25, OF 9 FEBRUARY 1956, AMPLIFYING ARTICLE 21 OF THE NATIONAL CONSTITUTION REGARDING THE PROHIBITION OF ALL DISCRIMINATION ON GROUNDS OF BIRTH, RACE, SOCIAL STATUS, SEX, RELIGION OR POLITICAL BELIEFS [1]

The National Assembly of Panama,

Considering that instances of discrimination on grounds of colour or race have recently occurred in various places in Panama City, and that these represent flagrant violations of article 21 of the National Constitution,[2] and of the Universal Declaration of Human Rights approved and proclaimed by the General Assembly of the United Nations on 10 December 1948,[3]

HEREBY DECREES:

Art. 1. The following acts of discrimination shall be deemed to be correctional police offences and shall be punishable as hereinafter appears:

(*a*) Any refusal to sell an article or render a service to any person in any commercial establishment, restaurant, canteen, trading booth, amusement centre, sports ground, barber's shop or beauty salon on the pretext of his birth, race, social status, sex, religion or political beliefs;

(*b*) Any refusal, on the same grounds, to register or admit a student to an educational establishment, such as a school, college or other institution of private or public education;

(*c*) Any refusal, on the same grounds, to admit any person to appointment under the public authorities; and

(*d*) Any refusal, on the same grounds, to engage an applicant for employment in a public or private undertaking of any category.

Art. 2. Any breach of the provisions of this Act shall be attributed to the manager, director or chairman of the establishment or undertaking, or the individual or body corporate legally representing the same, and shall be punishable by a fine of 50 to 500 balboas for the first offence; such penalty may be converted into detention for a period of one day for each balboa of the fine.

In the event of a second offence, the fine shall be doubled; and on the third offence the establishment concerned shall be closed or the services of the body or person responsible shall be suspended, for a period of one to six months or permanently, according to the gravity of the offence.

Art. 3. The chiefs of police shall be responsible for imposing the penalties specified in this Act in accordance with the relevant administrative regulations.

Art. 4. This Act shall come into effect on the date of its publication in the *Gaceta Oficial.*

[1] Published in *Gaceta Oficial* No. 12960, of 19 May 1956. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1946*, p. 219.

[3] See *Yearbook on Human Rights for 1948*, pp. 466–8.

ACT No. 46 ON FUNDAMENTAL GUARANTEES of 24 November 1956 [1]

TITLE I

HABEAS CORPUS

Chapter I

NATURE AND PURPOSE OF THE REMEDY

Art. 1. Every individual who is detained otherwise than in the cases and in the manner prescribed by the Constitution and the law, as the result of any act of the authorities or of officials or establishments instituted under public law of whatsoever department or branch, shall have the right to apply for a writ of *habeas corpus* entitling him to appear immediately and publicly before the court so that the latter shall hear him and decide whether his detention, arrest or imprisonment is justified and, if not, order him to be set free and thus restore matters to the previous situation.

Art. 2. The following shall be deemed to be illegal acts within the meaning of the preceding article:

[1] Published in *Gaceta Oficial* No. 13117, of 6 December 1956, kindly furnished by the Minister of Foreign Affairs of the Republic of Panama. Translation by the United Nations Secretariat.

(*a*) The detention of an individual without application of the legal guarantees prescribed in article 22 of the Constitution;[1]

(*b*) Deprivation of liberty with intent to try the same person more than once for the same crime or misdemeanour;

(*c*) The detention of any person by an authority or official not empowered to detain him;

(*d*) The detention of any person protected by an act of amnesty or by a decree granting a free pardon; and

(*e*) Internment or deportation without legal cause.

Art. 3. The right of *habeas corpus* shall extend to persons punished for serious or petty offences the definition of which, with the relevant penalties, is given in book III of the Administrative Code, if the punishment imposed exceeds fifteen days' arrest or imprisonment, or a fine of 15 balboas.

Art. 4. An authority which orders the detention of any person or deprives him of his personal freedom shall do so in writing, setting forth the reasons for its action. Every person who makes or carries out an order for the deprivation of liberty of any person shall be bound to give a copy thereof to the parties concerned at their request. An order for detention shall not be made orally, except in urgent cases; it shall be confirmed in writing and delivered by the competent authority within the twenty-four hours next following the detention, arrest or imprisonment.

Art. 5. The proceedings initiated by a writ of *habeas corpus* shall be conducted orally, with the exception of the report and the final judgement, which shall be in writing. Other documents and applications shall be recorded by means of a statement before the court signed by all the parties thereto. Applications lodged under the *habeas corpus* procedure shall be decided entirely without reference to any question of substance on which they may have a bearing.

Art. 6. Wherever possible, the court which is hearing an application for *habeas corpus* shall remain in permanent session during the whole proceedings, and shall not suspend its sitting except to decide and deliver the final judgement. The depositions of the parties and the findings of the court shall be recorded on plain unstamped paper.

Art. 7. Every authority, official or individual, whose co-operation is required by the judge in a *habeas corpus* case, shall give his assistance to the court without delay; the matter shall be given priority over any other, so that the hearing of the appeal may not be delayed at any time or for any cause.

Art. 8. *Habeas corpus* proceedings shall be terminated as soon as the detained person has regained his physical freedom for whatever reason, but the injured party may denounce or enter a charge against the authority or official responsible for ordering his arbitrary detention, arrest or imprisonment.

[1] See *Yearbook on Human Rights for 1946*, p. 219.

Chapter II

LODGING OF THE APPLICATION

Art. 9. An application for a writ of *habeas corpus* may be made by the injured party, or by any other persons without need of power of attorney. The application may be made orally, by telegram or in writing and shall state:

(1) That the person making the application, or the person on whose behalf it is lodged, has been deprived of his personal freedom; the place where he is detained, imprisoned or arrested; the name of the body, authority or public official responsible for depriving him of, or restricting him in, his freedom, mentioning the official title of the authorities or officials concerned, and their names if known, and the name of the authority or of its representative, in whose power or custody he is being held;

(2) The reason or pretext for the detention, arrest or imprisonment, in the opinion of the injured party or of the person speaking in his behalf;

(3) A brief statement of the alleged illegality.

If the applicant is unaware of any of these circumstances, he shall make an express statement to that effect.

Art. 10. An application for a writ of *habeas corpus* shall be accompanied, where possible, by the original order for detention, imprisonment or arrest, or in default thereof by a certified copy.

If the individual has been deprived of his personal freedom under some order, judgement or judicial resolution, a copy thereof shall be appended to the application for a writ, unless the applicant confirms that, either because the person detained or imprisoned has been removed, concealed or transferred to another jail, prison or locality, or because the authority or official responsible for ordering his detention can no longer be found, the said copy could not be demanded or was demanded and refused.

Art. 11. An application for a writ of *habeas corpus* may be lodged at any time and on any day.

Chapter III

SUBSTANTIATION OF THE REMEDY

Art. 12. As soon as the application has been lodged, the competent court shall issue a writ of *habeas corpus*, provided that the application complies with the formalities prescribed in article 8. The judicial decision granting the writ must therefore state that the remedy is admitted.

Art. 13. A writ of *habeas corpus* shall contain:

(1) The title of the authority, official or public body on whose instructions it is delivered, together with the place and date of issue;

(2) The title of the authority, official or public body against whom it is directed;

(3) A categorical order to bring the detained person immediately before the court of remedy;

(4) The signatures of the judge who delivers the writ, and of his clerk.

Art. 14. A writ of *habeas corpus* shall be served without delay on the person, whoever he may be, who ordered the detention, in order that he may comply therewith. The person or officer in charge of the prison who has the imprisoned or detained individual in his custody shall also be notified by the most suitable and effective means for the sole purpose that he may deliver the prisoner immediately to the court of remedy, together with a written copy of the relevant order for detention, imprisonment or arrest.

When the detention, imprisonment or arrest has been ordered by a public body, the official who legally represents the latter shall be called upon to comply with the writ by the most effective means.

Art. 15. A writ of *habeas corpus* shall preferably be served in person within the two hours next following its delivery. It shall be the duty of the clerk of the court to ensure that it is served within the time-limit mentioned. Nevertheless, if the clerk of the court, for reasons outside his control, is unable to serve the notice, he shall proceed to effect service by means of a summons which he shall post, in the presence of two witnesses, on the door of the respondent's office or residence. Service shall be deemed to have been effected legally two hours after such posting. The clerk of the court and the two witnesses shall record the act of service by means of a signed statement, which shall be appended to the documents in the case.

Art. 16. After notice of the writ has been served, the authority or official responsible for ordering the detention shall be bound to deliver immediately the person who has been imprisoned or deprived of or restricted in his personal freedom to the judge of the court of *habeas corpus*, if the said person is in the same place as the court or the trial judge. If the detained person is at a distance not exceeding fifty kilometres, a period of two hours, plus the statutory allowance for distance, shall be granted within which to deliver the person concerned, and the same period shall be allowed for each additional fifty kilometres, where transport is by land.

In the case of transport by air, sea or rail the transfer of the prisoner or detained person shall be effected by the first aircraft, ship or train departing after notice of the writ has been received.

Art. 17. An authority, official or individual called upon to comply with an order of *habeas corpus* shall not be absolved from presenting or causing delivery of the detained person unless the latter, on account of sickness or other impediment, cannot be transported because of danger to his health or his life. In that event, a medical certificate giving particulars shall be attached.

In such cases, the court shall move to the place where the person in question is detained, or shall appoint a medical practitioner to examine and report on his condition, and shall order his immediate appearance if the fears for his health and life are unjustified, or shall make any other arrangement which it may deem expedient.

Art. 18. Simultaneously with the delivery of the detained person, the authority or official to whom the writ of *habeas corpus* is addressed shall submit a written report, clearly stating:

(1) Whether or not it is true that such authority or official ordered the detention of the applicant and, if so, whether orally or in writing;

(2) The reasons for the order or the facts and statutory provisions justifying it;

(3) If the authority or official in question has the person whose delivery is ordered in his custody or under his orders, or the exact designation of any third party to whom such person may have been transferred, and if he has been so transferred, at what time and for what reason.

The respondent authority or official shall be entitled to record in the report such other information or statement as may be deemed expedient. In addition, if the applicant has been detained under any judicial decision, resolution or written order, the original text, or a copy thereof, shall be appended to the report.

Art. 19. A writ of *habeas corpus* shall not be rejected by reason of any defect of form provided that:

(1) The authority or official responsible for ordering the detention, imprisonment or arrest is designated by his official title or his name;

(2) The arrested, imprisoned or detained person whose delivery or presentation is requested is designated by name or is described in a manner which leaves no doubt of his identity.

Whatever the public authority or official upon whom the writ was served, such authority or person shall be deemed to be the addressee of the writ, even though the writ may have been wrongly addressed, provided that the said authority or official was responsible for ordering the detention, imprisonment or arrest.

Art. 20. When the detained person has been delivered and placed at the disposal of the court of *habeas corpus*, he may refute orally the facts and other circumstances stated in the report, or he may submit other evidence with the object of proving that his detention, arrest or imprisonment is illegal and that he is therefore entitled to be released. A record shall be made of his statements and attached to the file of the case.

Art. 21. After the detained person has been delivered, and until the decision on his application for remedy has been put into effect, the judge of the court of *habeas corpus* may recommend custody of the applicant to any authority, official or prison governor he wishes, or may indicate the place of detention which he deems most expedient.

Art. 22. If any person required to comply with a writ of *habeas corpus* in conformity with article 12 should refuse to do so within the proper time-limit

without proper cause, the court shall address an order to his superior officer or to such political authority or body as it may deem expedient, demanding the immediate production of the recusant before the court which issued the writ.

Immediately upon the appearance of the recalcitrant official or authority, the judge shall admonish him to make his report immediately and orally. If he refuses, the judge shall order his arrest for the whole of the time during which he persists in his refusal.

Art. 23. In the case envisaged in the preceding article, the court of *habeas corpus* may, when issuing an order against the recalcitrant authority or official, if it deems expedient, instruct any of the higher police authorities to bring the detained or imprisoned person before the court, so that the proceedings for remedy may continue. If this measure proves ineffective, the judge of the court of remedy, together with his clerk and two witnesses, shall proceed to the prison or place of detention in question, and there demand the immediate delivery of the appellant. Whatever may be the result of this action, it shall be recorded in a statement signed by all those who participated therein.

Art. 24. If, when the writ of *habeas corpus* is served, the authority upon which it is served places or has placed the detained or imprisoned person under the orders of some other authority or official, the said writ shall automatically be deemed to be served upon the latter, provided that the case continues to be under the jurisdiction of the same judge. If it is no longer within his jurisdiction, the documents in the case shall be transmitted immediately to the competent judge, so that he may continue the proceedings and make a decision.

Art. 25. In addition to the evidence which the parties are required to submit, in any application for *habeas corpus* the applicant may bring forward such further proofs as he considers necessary. The respondent authority or official may also, in answering the appeal, adduce any evidence deemed to be relevant.

The judge shall make the appropriate arrangements to ensure that the evidence is submitted at the proper time during the hearing. If time is needed in which to produce it, he shall grant a time-limit not exceeding twenty-four hours, unless the person deprived of or restricted in his liberty requests a longer period.

Art. 26. As soon as the detained person has been delivered, together with the relevant report and other documents, the court of *habeas corpus* shall meet immediately and shall hear the parties and the witnesses, if any, and shall take such evidence as is already available. The court may also request to see the original statements on which the report is based.

No hearing shall take place if the detention is the consequence of an investigation, legal process or any form of judicial decision. In such cases the application shall be decided in accordance with the documents of the case, which shall be appended to the report by the respondent official.

Art. 27. Within the twenty-four hours following the end of the hearing, if any, or the receipt of the report and judicial decision, the court of *habeas corpus* makes its decision, notice of which shall immediately be posted in a public place for a period of twenty-four hours. Judgement shall be executed one hour after the notice has been removed from display.

Art. 28. If the detention, imprisonment or arrest is found to have no legal justification, the court of *habeas corpus* shall declare null and void the act or document by which the detained, imprisoned or arrested person has been injured or restricted in his personal freedom, and shall order the immediate release of the person arbitrarily detained, imprisoned or arrested. A copy of the relevant documents shall be passed to the competent authority, so that the criminal liability of the authority or official found guilty of an abuse of power or of having acted *ultra vires* may be established.

If the detention, imprisonment or arrest is found to be legal, the judgement shall contain a statement to that effect, and the applicant shall be handed over immediately to the authority or official named in the writ, so that his original detention may continue.

Art. 29. It shall be the duty of the court of *habeas corpus* to ensure the execution of the order for release and of any other provisions of the judgement rendered in the case.

Art. 30. A person who has been released under a writ of *habeas corpus* shall not be detained again in connexion with the same facts or for the same reasons.

Art. 31. Whenever a judge or court competent in the matter has been informed by a denunciation that it is intended to detain any person illegally, the said judge or court shall issue the necessary orders to prevent such action, and shall command the appropriate authority or official to bring the person to the court forthwith in order to decide in accordance with the law.

In that event, if the authority, official or public body which is attempting to effect the detention or deportation or both are present, the order shall be notified to them. Such notification shall have the full effect of a writ of *habeas corpus*, and shall make it compulsory for the authority or official concerned to make an immediate report on the case, which shall be governed by the formalities set forth in article 16 above.

Art. 32. The same procedure may be followed where a judge competent to issue a writ of *habeas corpus* finds upon visiting a prison or a penal establishment that it contains persons detained, arrested or apprehended without a known cause and without having been placed under the orders of any specified authority or official.

Art. 33. All orders or decisions made by the

judge of a court of *habeas corpus* shall be carried out immediately by the authority or official to whom they are addressed.

Art. 34. The oral or written instructions issued by the courts in matters of this kind shall be carried out one hour after having been communicated to the persons concerned. Any person who wishes to appeal against them must do so within that time-limit.

Art. 35. An appeal with suspensive effect against a decision made by the court of *habeas corpus* shall lie only if the judgement upholds the detention. The appeal must be made within one hour from the posting of the notice containing the decision.

When the appeal has been lodged, the court hearing the case shall send the file to the appropriate higher court and the appellant shall substantiate the appeal within six hours from the posting of the notice informing the persons concerned that the case has been sent before the higher court. The authority or official named as the respondent in the appeal proceedings may present his case within the same time-limit.

The appeal court shall examine all the documents and judge the case within the following twenty-four hours.

Art. 36. Where, in the course of *habeas corpus* proceedings, facts or circumstances are brought to light justifying a criminal investigation against the authority or official who ordered the detention, arrest, imprisonment, confinement or deportation of a person, the judge or court concerned with the case shall prepare authenticated copies of the relevant documents and shall transmit them to the competent authority so that it may initiate the said investigation.

Art. 37. In *habeas corpus* proceedings, no subsidiary issues of any kind may be raised. Nether may the authority of any member of the court be challenged, and the judges and legal officers shall be disqualified only if they are related to either of the parties or their representatives within the fourth degree of consanguinity or the second of affinity.

If a legal officer or judge who is disqualified by law fails to make this fact known before the writ is issued, he shall be liable to a fine of not less than 50 nor more than 250 balboas, which shall be paid into the finance office of the court.

Chapter IV

COMPETENCE

Art. 38. The following shall be competent to take cognisance of *habeas corpus* proceedings:

(*a*) The full bench of the Supreme Court of Justice for acts ordered by authorities or officials having jurisdiction in the whole country or in two or more provinces which are not in the same judicial district;

(*b*) A higher judicial district court for acts ordered by authorities or officials having jurisdiction within one province or two or more provinces which are in the judicial district of the court;

(*c*) Circuit judges of the criminal branch for acts ordered by authorities or officials having jurisdiction within a district in their competence;

(*d*) Municipal judges for acts ordered by authorities or officials having partial jurisdiction in the district.

Chapter V

PENALTIES

Art. 39. Where, at the end of *habeas corpus* proceedings, the judgement is that the detention, imprisonment or arrest is legal, and where the claim is shown to be frivolous, the judge or court shall impose a fine of not less than 10 nor more than 100 balboas or an equivalent term of imprisonment.

This fine must be paid within a time-limit of forty-eight hours from the date of notification of the judgement on the remedy. If payment is not made within this time limit, the appropriate tax official shall levy the amount of the said fine, making use, where necessary, of coercive powers.

Art. 40. In order to ensure the discharge of the duty prescribed in article 29 above, the judge of a court of *habeas corpus* may impose successive fines of 50 balboas or a term of imprisonment of not less than five nor more than fifty days, without prejudice to subsequent criminal proceedings for disobedience or failure to comply.

Art. 41. Failure to obey the writ of *habeas corpus* and refusal to supply copies requested by the plaintiff or the judge shall be punishable in particular by fines of not less than 25 nor more than 200 balboas. The same penalty shall apply to the person or officer in charge of a prison who fails to comply with the binding obligation set forth in article 14 above. These fines shall be imposed by the judge of the court of *habeas corpus*, and shall be deducted from the salary of the respondent official by the competent paymaster. The amount of these fines shall be paid into the national or municipal treasury, as the case may be.

Art. 42. Any offences for which no specific penalty is provided in this title shall be punished by the court of *habeas corpus* by a fine of not less than 5 nor more than 25 balboas.

TITLE II

PROTECTION PROVIDED BY CONSTITUTIONAL GUARANTEES

Chapter I

COMPETENCE

Art. 43. The following shall be competent to deal with the protection of rights as set forth in article 51 of the Constitution: [1]

(*a*) The full bench of the Supreme Court of Justice in the case of acts ordered by the President of the republic;

[1] See *Yearbook on Human Rights for 1946*, p. 221.

(*b*) A higher judicial district court in the case of acts ordered by officials having jurisdiction in a province;

(*c*) Circuit judges in the case of officials having jurisdiction in a district or part of a district.

Where civil and criminal matters are dealt with by different courts, the application shall be made to the court dealing with civil suits.

Chapter II

PROCEDURE

Art. 44. In the course of proceedings for the protection of rights, the person who brings the action shall be deemed to be the plaintiff, and the official who issued the order which it is sought to revoke, the defendant.

Art. 45. The parties shall appoint representatives with powers of attorney to represent them.

Art. 46. In his complaint, the applicant shall expressly mention the order given by the official or public body concerned, shall state the grounds in fact and law on which the application for remedy is based, and shall submit such proofs as he may deem appropriate. If the applicant does not reside in the district where the competent court sits, he may submit his application by telegraph and confirm it by post within a time-limit of three days, with such supporting documents as he may have.

Chapter III

PROCEDURE APPLICABLE TO THE COMPLAINT

Art. 47. The pleas of the parties and the proceedings of the court shall be recorded on unstamped paper.

Art. 48. The court to which the application is addressed shall receive it without delay, provided that it is in due form, and shall at the same time instruct the accused authority to send to it the record of — or, if none is available, a report on — the facts for which remedy is sought.

Art. 49. The official so instructed shall carry out the order within two hours from the receipt of the document in his office, and immediately suspend the further accomplishment of the act if it has begun, or shall refrain from carrying it out pending a decision on the remedy; he shall at once report to the court.

Art. 50. If the respondent official or public body is not resident in the locality in which the competent court of judge holds session, the record shall be sent by the quickest mail service, or, where necessary, the report shall be sent by telegraph.

Art. 51. If the respondent official or public body fails to carry out the order received or to comply with it within the legal time-limit, the court shall provisionally suspend the order against which a remedy is sought, shall collect such evidence as it may deem appropriate to establish the facts, and, after the examination thereof, shall make its decision, dispensing with the record or report mentioned in article 49 above.

Chapter IV

JUDGEMENT AND APPEAL

Art. 52. When the official has complied with the instructions mentioned in article 47 above, the court shall make its decision within the two days following, rejecting or granting the application for protection of rights in accordance with the established facts.

Art. 53. When the judgement has been delivered, it shall be notified forthwith to the applicant and to the official against whose order remedy was sought. Either of them may appeal within a time-limit of twenty-four hours from the time of notification.

The appeal shall have the effect of placing the case before a higher court if the order challenged has been revoked by the decision of the court, and the effect of a stay of execution if it has been maintained.

The appellant may substantiate the appeal when he initiates it, and the court shall transmit the documents in the case to the higher court, so that it may judge the appeal.

There shall be no appeal from a decision made by the Supreme Court of Justice on a recourse in proceedings for protection of rights brought before it.

Art. 54. After examination of the records of the case, the court of second instance shall deliver its judgement within a time-limit of three days without further procedure.

Chapter V

SUBSIDIARY MATTERS AND PENALTIES

Art. 55. If the action for protection of rights is declared frivolous, the applicant shall be sentenced to a fine of not less than 25 nor more than 50 balboas, payable to the State. If the order is revoked, the applicant shall be entitled to sue the respondent official for damages through the ordinary courts.

Art. 56. The law officers and judges who take cognizance of cases of this kind shall disqualify themselves only if they are related to either of the parties or their attorneys within the fourth degree of consanguinity or the second of affinity.

Art. 57. In proceedings for the protection of rights, the only ground on which a judge may be challenged shall be that provided in article 56 above.

Art. 58. Orders issued by a court during proceedings for protection of rights shall not be subject to appeal.

Art. 59. If an official fails to comply with the stay of execution mentioned in article 49 above, or to respect and comply with the decision of the court if the order which has given rise to proceedings for protection of rights is revoked, he shall be sentenced for contempt to a fine of not less than 25 nor more than 500 balboas by the court or judge conducting the proceedings.

[Title III deals with safeguards of the integrity of the Constitution.]

. . .

PERU

NOTE

Act No. 12654, of 28 July 1956, repealing the internal security laws of the republic, and granting amnesty and pardon to civilians and military persons prosecuted for politico-social reasons (*El Peruano* No. 4611, of 2 August 1956) repealed, *inter alia*, legislative decree No. 11049, of 1 July 1949, on the internal security of the republic,[1] Act No. 12552 amending legislative decree No. 11049, and articles 7 and 95–9 of the electoral statute promulgated in legislative decree No. 11172.[2]

Decree No. 18, of 24 April 1956, concerning the purposes of ordinary education and evening courses (*El Peruano* No. 4538, of 3 May 1956) provided that the types of education in question were, on the secondary level, to be based upon certain stated foundations, purposes and objectives, and were to conform to a certain plan of studies. Among the stated purposes of education were the following: to contribute to the harmonious development of the student's personality, to strengthen family ties; to inculcate in the student respect for the human person and tolerance for the ideas of others; to eliminate all prejudice tending to cause division among people; to accustom pupils to participate in cultural activities; and to equip them to fulfil their public duties and exercise their rights.

[1] See *Yearbook on Human Rights for 1949*, pp. 164–6.

[2] See *ibid.*, pp. 167–8.

PHILIPPINES

NOTE [1]

Equal Pay for Equal Work

Recognition of the principle of equal pay for equal work is reflected in the classification and standardized pay plans adopted by the Government Survey and Reorganization Commission in pursuance of Republic Act No. 997, which provides for the classification of positions and standardization of salaries in the government. These plans were approved by Congress on 5 May 1956.

[1] Information kindly furnished by the Government of the Philippines.

Inventors' rights

Republic Act No. 1287, approved on 15 June 1955, provides for the granting, to any person who discovers or invents a new process, discovery or invention for the conversion of any native agricultural raw product into a product which will stabilize not only the national economy but also the dollar resources, of the special privilege to exploit, produce and benefit from such process, discovery or invention to the exclusion of all others for a period of twenty-five years.

POLAND

NOTE

I. LEGISLATION

Criminal Procedure

A decree of 21 December 1955 (*Dziennik Ustaw Polskiej Rzeczypospolitej Ludowej*, No. 46, of 30 December 1955, item 309) amended the Code of Criminal Procedure. Changes concerning temporary detention were introduced; obligatory arrest was abolished; and limitations on the duration of the period of investigation, inquiry and temporary detention during investigation and inquiry were prescribed. Subject to the consent of the competent officer, the suspected person and his counsel were entitled to be present during the inquiry and investigation, to question witnesses and to present suggestions as to the conduct of the investigation.

The provisions of the Code of Criminal Procedure relating to compensation (articles 510–518) were amended by an Act of 15 November 1956 (*Dziennik Ustaw Polskiej Rzeczypospolitej Ludowej*, No. 54, of 28 November 1956, item 243), which introduced the right to compensation in cases of acquittal, quashing of proceedings or of a sentence pursuant to a milder penal provision or to a special review, and also in cases of wrongful restraint of liberty as a result of temporary arrest. Damages could also be requested from the plaintiff if he had knowingly submitted false accusations, or had made use of illicit means in order to obtain the conviction of the accused.

Electoral Rights

Extracts from the Act concerning Elections to the Sejm of the Polish People's Republic, adopted on 24 October 1956, appear below.

Contracts of Employment

The decree to restrict the right to terminate contracts of employment without notice and to ensure continuity of employment, of 18 January 1956 (*Dziennik Ustaw Polskiej Rzeczypospolitej Ludowej*, No. 2, of 25 January 1956, item 11) forbade the termination of contracts of employment without notice, by establishment or worker, except in accordance with its provisions. Translations of the decree into English and French appear in International Labour Office: *Legislative Series* 1956 — Pol. 1. The decree was amended by an Act of 10 September 1956 (*Ibid.*, No. 41, of 1 October 1956, item 187).

II. JUDICIAL DECISION

Supreme Court Verdict of 17 January 1956 (11.K.1139/55)

"By virtue of article 79, paragraph 2, of the Code of Criminal Procedure, every defendant must have a counsel in the proceedings of first instance before the provincial court. As a consequence, the accused may in no manner waive the help of counsel, since in this case the defence is obligatory.

"Accordingly, this method of defence is the practice throughout the proceedings conducted before the provincial court, and may not be limited to certain functions only. If judicial proceedings were reopened in the absence of counsel for the accused M. because the court considered that it was necessary to complete the file of documents produced as evidence of the charge, in such a case to carry on the proceedings in the absence of counsel for the accused M., even with the consent of the latter, would manifestly be contrary to the provision of article 79, paragraph 2, and would obviously be detrimental to the interests of the accused, especially in view of the fact that

"(*a*) After the reopening of the proceedings, it came to light that there existed certain reports which included the testimony of witnesses given during the hearing and which were used by the court to establish culpability of the accused M., and

"(*b*) After the proceedings were closed, the defence of the accused M. was not heard (article 315). The defendant has therefore been partially deprived of the help of counsel, and he has been deprived of such help during the decisive phase of the proceedings."

(Rulings of the Supreme Court of the Civil and Penal Chamber. Book III, 1956, page 139.)

ACT CONCERNING ELECTIONS TO THE SEJM OF THE POLISH PEOPLE'S REPUBLIC

of 24 October 1956 [1]

Chapter 1

General Principles

Art. 1. 1. Suffrage shall be universal: every Polish citizen who is eighteen years of age on the day of the election shall have the right to vote, irrespective of sex, nationality, race, religion, education, length of residence in his electoral district, social origin, occupation or property status.

2. Members of the armed forces shall have all electoral rights on equal terms with civilians.

Art. 2. The following citizens shall not have the right to vote: (1) those deprived of their legal capacity, or restricted therein, by reason of their mental condition; (2) those deprived of public and civic rights by a valid court order made after 22 July 1944, while such order remains in effect.

Art. 3. Every person who is qualified to vote and has reached the age of twenty-one may stand for election.

Art. 4. Suffrage shall be equal: Citizens taking part in elections shall all be subject to the same conditions; each elector shall have one vote.

Art. 5. 1. Suffrage shall be direct: Electors shall directly elect deputies to the *Sejm* of the Polish People's Republic.

2. A vote may be cast only by the elector in person.

Art. 6. Elections shall take place by secret ballot.

. . .

Chapter 7

Nomination of Candidates

Art. 33. The right to nominate candidates for deputies is vested in political, trade-union and co-operative organizations, the Peasant Self-Help Association, the Polish Youth Association and other social mass organizations of the workers.

. . .

Art. 39. The number of candidates on a list should exceed the number of deputies from the district concerned, but not by more than two-thirds.

. . .

Chapter 9

Voting Procedure

. . .

Art. 51. 1. The chairman of the district electoral commission shall ensure order during the voting and maintain the secrecy of the ballot, for which purpose he may issue the appropriate procedural instructions.

2. The competent state authorities shall place at the disposal of the chairman such guards as he may request.

3. The provocation of disturbances at the polling station during the voting shall be forbidden.

. . .

Chapter 13

Expiration of a Deputy's Mandate and Filling of a Vacant Seat during the Term of the Sejm

Art. 76. 1. The mandate of a deputy shall expire upon his: (1) death, (2) resignation of the mandate, (3) disqualification for election, (4) recall by the electors.

2. The means whereby the electors may recall a deputy shall be specified in a separate Act.

3. The expiration of a mandate shall be confirmed by the *Sejm* of the Polish People's Republic.

. . .

Chapter XIV

Transitional and Final Provisions

. . .

Art. 87. This Act shall enter into force on the day of its publication.

. . .

[1] Published as item 210 in *Dziennik Ustaw Polskiej Rzeczypospolitej Ludowej*, No. 47, of 26 October 1956. Translation by the United Nations Secretariat.

PORTUGAL

DECREE No. 40216 PROMULGATING THE STATUTE OF THE STATE OF PORTUGUESE INDIA

of 1 July 1955 [1]

Divisions V and XCII of Act No. 2066, of 27 June 1953 (Organic Law relating to Portuguese Overseas Provinces),[2] provide that a political and administrative statute shall be drawn up in the form of a decree for each of the overseas provinces.

Paragraph III of the first of the aforesaid divisions, in the form in which it appears in Act No. 2076, of 25 May 1955, provides that the Statute of the State of Portuguese India, in so far as the particular circumstances require, may differ from the provisions of the organic law concerning the functions and powers of government bodies and other administrative arrangements.

Wherefor, after consultation with the Governor-General and the Council of Government of the State of Portuguese India, as well as with the Council for Overseas Territories;

In the exercise of the powers conferred by article 150, paragraph 3, of the Constitution, the Minister for Overseas Territories decrees, and I do hereby promulgate the following:

STATUTE OF PORTUGUESE INDIA

. . .

Chapter II

CENTRAL ADMINISTRATION

Art. 7. The Minister for Overseas Territories may make regulations on matters relating to the higher interests of national policy or matters that must be uniformly dealt with in all the overseas provinces, and may in particular:

(*a*) Regulate the exercise of the rights, freedoms and guarantees referred to in part II, title VII, chapter II of the Constitution; [3]

. . .

(*e*) Establish the fundamental principles governing the form and system of education;

. . .

Chapter III

PROVINCIAL ADMINISTRATION

. . .

Section II. — The Governor-General

. . .

Sub-section II. — Executive Powers of the Governor-General

Art. 20. With regard to the administration of the State of Portuguese India, the Governor-General shall exercise the powers of higher authority conferred upon him by the organic law relating to Portuguese overseas provinces and shall perform all functions which are incumbent upon him under the law or which are not within the exclusive competence of some other central or provincial organ.

Art. 21. 1. The exercise of the following functions shall be conditional upon previous consultation with the Council of Government:

. . .

(7) Regulation of the entry, transit, residence and departure of nationals and aliens, in accordance with the principles of the general law and the defence of Portuguese sovereignty;

. . .

Section III. — Legislative Council

Sub-section I. — Powers and Composition of the Legislative Council

. . .

Art. 26. The Legislative Council shall be composed of twenty-three members, eighteen of whom shall be elected and five appointed.

Art. 27. 1. The election of members of the Legislative Council shall be governed by the following provisions:

(*a*) One member shall be elected by individuals of Portuguese nationality recorded as having paid not less than 5,000 escudos in direct taxes;

(*b*) One member shall be elected by corporate bodies and business associations;

(*c*) Two members shall be elected by the bodies representing spiritual and moral interests;

(*d*) Two members shall be elected by the rural communities;

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[1] Published in *Diario do Governo*, Series I, No. 144, of 1 July 1955. (Corrigendum in *ibid.*, Series I, No. 181, of 17 August 1955.) Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1953*, pp. 327–9.

[3] See *Yearbook on Human Rights for 1951*, p. 301.

(*e*) One member shall be elected by the administrative bodies;

(*f*) Eleven members shall be elected directly by citizens whose names are entered in the general electoral registers.

2. The bodies and associations referred to in paragraph 1, sub-paragraphs (*b*) and (*c*), shall be specified by the Governor-General, after consultation with the Council of Government, in a list published not later than sixty days before the date of the elections, and an appeal shall lie to the Minister for Overseas Territories concerning the omission of any body or association.

. . .

Art. 29. The membership of the Legislative Council shall also include the Secretary-General, the Public Prosecutor, the Director of the Department of Finance and two persons of recognized moral fitness and proven merit, chosen by the Governor-General, one of whom shall in particular represent the interests of emigrants.

. . .

Art. 31. 1. A member as referred to in article 27, paragraph 1, sub-paragraph (*f*), must, in order to meet the general conditions of eligibility:

(*a*) Be a Portuguese citizen by birth;

(*b*) Be of full age;

(*c*) Be able to read and write Portuguese;

(*d*) Have been resident in the State of Portuguese India for more than three years;

(*e*) Not be employed in active service by the Government or by an autonomous agency unless he is a teacher.

2. The members to be elected for the districts of Damao and Diu must have been resident in their respective districts for at least one year.

3. A person, even though he fulfils the aforesaid conditions, may not be elected to the Legislative Council if:

(*a*) By reason of a decision no longer subject to appeal he is not in possession of his civil or political rights;

(*b*) He is an undischarged bankrupt or an undischarged insolvent;

(*c*) He has been tried, and final sentence has been pronounced;

(*d*) He has been convicted of an offence punishable by a major penalty;

(*e*) He has been dismissed from public service on grounds of dishonesty;

(*f*) He is performing consular functions or is employed by a foreign consulate.

. . .

Art. 33. Members of the Legislative Council shall be bound to perform the duties consequent upon such membership and shall receive for each meeting that they attend a fee equal to one-thirtieth of the monthly salary of the Director of Civil Administration Services.

2. Resignation of an elected member from office or refusal to accept nomination shall be permitted only if the person in question is:

(*a*) Over seventy years of age;

(*b*) Prevented by sickness from taking an active part in the work of the Council, and such sickness is duly certified;

(*c*) Prevented from performing his duties by circumstances beyond his control.

. . .

Art. 34. 1. An elected member shall cease to hold office if:

(*a*) He is absent without justification from more than half the meetings held each calendar year;

(*b*) He accepts paid employment or a paid assignment, other than a study assignment, from the Government or an administrative body;

(*c*) He loses Portuguese nationality, establishes permanent residence outside the State of Portuguese India, or is disqualified for any of the reasons stated in article 31, paragraph 3.

2. The Legislative Council may, in secret session and by a majority of two-thirds of the members present, vote to dismiss from office any member who, by his public or private conduct, shows himself to be manifestly unworthy of holding office.

. . .

Chapter VII

MISCELLANEOUS PROVISIONS

Art. 67. Economic and social conditions in the State of Portuguese India shall in general be regulated and co-ordinated in harmony with the objectives set forth in part I, title VIII, and in part II, title VII, chapter V, of the Constitution,[1] and, in particular, with the following objectives:

(*a*) Development of the resources and utilization of the natural potentialities of the territory;

(*b*) The maximum degree of socially beneficial production and wealth;

(*c*) Social justice.

. . .

Art. 69. 1. The expansion and advancement of instruction, education and scientific research shall be based on the cultural traditions of the State of Portuguese India, and shall be closely co-ordinated with similar activities in the other Portuguese territories.

2. The State shall maintain such official schools offering the degrees of instruction provided for in

[1] See *Yearbook on Human Rights for 1951*, pp. 298–9 and 302–3.

the Constitution as appear appropriate. In the primary schools, the Konkani language may be taught, without prejudice to the teaching of Portuguese. Instruction in Konkani shall likewise be included in the teacher-training courses for primary-school teachers.

3. The establishment of private schools side by side with state schools shall be permitted; such private schools shall be subject to state inspection, and may be subsidized by the State or authorized to grant diplomas if their curricula and the standard of their teaching staff are not inferior to those of the corresponding public institutions.

4. All private schools providing their own secondary courses shall likewise offer primary instruction in Portuguese, without which pupils may not advance to the secondary course.

5. The object of the instruction provided by the State and by the private schools shall be not only the physical fitness and the improvement of the intellectual faculties of the pupil, but also the development of his character, occupational skill and moral and civic qualities, in keeping with the principles of Christian doctrine and ethics. Pupils shall not, however, be obliged to attend classes in Christian doctrine and ethics if their parents do not so desire.

6. Funds shall be appropriated in the budget o the Sate for scholarships to be awarded in order to facilitate attendance at educational institutions in Portugal or in other provinces, if corresponding institutions do not exist in the State of Portuguese India, and also to permit students from Damao and Diu to obtain in Goa schooling not provided in those districts.

Art. 70. Candidates for admission to a school of a type which does not exist in the State of Portuguese India and admission to which is subject to an aptitude examination may take the examination, which shall be in writing only, in Goa. The examination papers shall be sent to the competent examining boards to be marked.

The same procedure shall apply to candidates from Damao and Diu for admission to schools in Goa.

. . .

DECREE No. 40223 PROMULGATING THE STATUTE OF THE PROVINCE OF PORTUGUESE GUINEA

of 5 July 1955 [1]

[The first paragraph of the preamble is identical with the first paragraph of that of decree No. 40216.[2]]

Wherefore, after consulation with the Governor and the Council of Government of the Province of Portuguese Guinea, as well as with the Council for Overseas Territories;

[Third paragraph identical with fourth paragraph of preamble of decree No. 40216.]

STATUTE OF THE PROVINCE OF PORTUGUESE GUINEA

. . .

Chapter II

ORGANS OF GOVERNMENT OF THE PROVINCE

. . .

Section I. — The Governor

. . .

Sub-section III. — Executive Functions of the Governor

. . .

Art. 12. In the exercise of his executive functions, it shall be the particular responsibility of the Governor to:

. . .

(4) Ensure to nationals and aliens in the territory of the province the individual rights and guarantees of citizens in accordance with the laws in force and with the interests and requirements of national sovereignty;

(5) Guarantee the freedom, independence and full authority of the judicial authorities;

. . .

(26) Promote the improvement of the moral and material living conditions of the indigenous inhabitants, the development of their natural skills and abilities, and, in general, their education, instruction, security and advancement;

(27) Direct and supervise the application of the policy concerning the indigenous inhabitants and, specifically, ensure compliance with the laws and regulations providing for personal protection, freedom of work and protection of property (both individual and collective) and of the indigenous usages and customs that should be respected;

. . .

Art. 13. It shall likewise be the responsibility of the Governor, in the exercise of his executive powers and after consultation with the Permanent Section of the Council of Government, to:

. . .

(9) Regulate the entry, transit, residence and departure of nationals and aliens, in accordance with

[1] Published in *Diario do Governo*, Series I, No. 147, of 5 July 1955. Translation by the United Nations Secretariat.

[2] See above, p. 194.

the principles of the general law and the defence of Portuguese sovereignty;

(10) Order the expulsion or prohibit the admission of nationals or aliens if their presence or admission might give rise to serious internal or international difficulties;

. . .

Section II. — Council of Government

Sub-section I. — Powers and Composition of the Council of Government

. . .

Art. 17. The Council of Government shall be composed of the following members:

(*a*) Three *ex officio* members — namely, the delegate of the Public Prosecutor, the head of the Civil Administration Services and the head of the Financial and Accounting Services;

(*b*) Three members elected directly by the body of voters whose names are entered in the general register;

(*c*) One member elected by individuals of Portuguese nationality recorded as having paid not less than 1,000 escudos in direct taxes;

(*d*) One member appointed by the Governor from a list of three names proposed by the heads of the private associations and organizations in the province;

(*e*) One member appointed by the Governor to represent the indigenous population;

(*f*) One member appointed by the Governor from among the presidents of the administrative bodies as the representative of those bodies.

Sole paragraph. For the purposes of the election referred to in item (*b*), the territory of the province shall constitute a single constituency.

. . .

Art. 21. To be eligible for membership in the Council of Government, a person must:

(*a*), (*b*) and (*c*) [Identical with corresponding provisions of article 31.1. of decree No. 40216.]

(*d*) Have been resident in the province for more than one year;

(*e*) [Identical in substance with corresponding provision of article 31.1 of decree No. 40216.]

Art. 22. A person, even though he fulfils the requirements of the previous article, may not be a member of the Council of Government if:

(1)-(6) [Identical with article 31.3 (*a*)-(*f*) of decree No. 40216.]

Art. 23. Members of the Council of Government shall be bound to perform the duties consequent upon such membership, and shall receive for each meeting that they attend a fee equal to one-thirtieth of the monthly salary of the Director of Civil Administration.

1. Members who do not reside in the capital of the province shall receive a travel and a general allowance in an amount to be determined by the Governor in an administrative order.

2. Resignation of an elected member from office or refusal to accept nomination shall he permitted only if the person in question is:

(*a*) Over sixty years of age;

(*b*) and (*c*) [Identical in substance with corresponding clauses of article 33.2 of decree No. 40216.]

3. The Council itself shall pass on the legitimacy of the reasons given by members for not performing their duties and on resignations and dismissals.

Art. 24. An elected member shall cease to hold office if:

(*a*) [Identical with the corresponding clause of article 34.1 of decree No. 40216.]

(*b*) He accepts paid employment or a paid assignment, other than a normal promotion or a study assignment, from the Government or an administrative body;

(*c*) He loses Portuguese nationality, establishes permanent residence outside the province, or is disqualified for any of the reasons stated in article 22.

. . .

DECREE No. 40224 PROMULGATING THE STATUTE OF THE PROVINCE OF S. TOMÉ E PRÍNCIPE

of 5 July 1955 [1]

[The first paragraph of the preamble is identical with the first paragraph of that of decree No. 40216.[2]]

Wherefore, after consultation with the Governor and the Council of Government of the province of S. Tomé e Príncipe, as well as with the Council for Overseas Territories;

[Third paragraph identical with fourth paragraph of preamble of decree No. 40216.]

[1] Published in *Diario do Governo*, Series I, No. 147, of 5 July 1955. (Corrigendum in *ibid.*, Series I, No. 182, of 18 August 1955.) Translation by the United Nations Secretariat.

[2] See above, p. 194.

STATUTE OF THE PROVINCE OF S. TOMÉ E PRÍNCIPE

. . .

Chapter II

ORGANS OF GOVERNMENT OF THE PROVINCE

. . .

Section I. — The Governor

. . .

Sub-section III. — Executive Functions of the Governor

. . .

Art. 12. [Introductory clause and items (4) and (5) identical with corresponding clauses of article 12 of decree No. 40223.[1]]

. . .

Art. 13. [Introductory clause and items (9) and (10) identical with corresponding clauses of article 13 of decree No. 40223.]

. . .

Section II. — Council of Government

Sub-section I. — Powers and Composition of the Council of Government

. . .

Art. 17. The Council of Government shall be composed of the following members:

(*a*) Four *ex officio* members — namely, the delegate of the Public Prosecutor, the head of the Civil Administration Services, the head of the Financial and Accounting Services, and the head of the Labour and Welfare Services;

(*b*) Three members elected directly by the body of voters whose names are entered in the general register, two of whom shall represent the constituency of S. Tomé and one the constituency of Príncipe;

(*c*) One member elected by individuals of Portuguese nationality recorded as having paid not less than 1,000 escudos in direct taxes;

(*d*) Two members appointed by the Governor from a list of three names proposed by the heads of the private associations and organizations in the province;

(*e*) The president of the Municipal Chamber of S. Tomé, as the representative of the administrative bodies.

. . .

[Articles 21–24 are identical with articles 21–24 respectively of decree No. 40223.]

. . .

[1] See above, p. 196.

DECREE No. 40225 PROMULGATING THE STATUTE OF THE PROVINCE OF ANGOLA

of 5 July 1955 [1]

[The first paragraph of the preamble is identical with the first paragraph of that of decree No. 40216.[2]]

Wherefore, after consultation with the Governor-General and the Council of Government of the province of Angola, as well as with the Council for Overseas Territories;

[Third paragraph identical with fourth paragraph of preamble of decree No. 40216.]

STATUTE OF THE PROVINCE OF ANGOLA

. . .

Chapter II

ORGANS OF GOVERNMENT OF THE PROVINCE

. . .

Section I. — The Governor-General

. . .

Sub-section III. — Executive Functions of the Governor-General

. . .

Art. 12. In the exercise of his executive functions, it shall be the particular responsibility of the Governor-General to:

[Items (4) and (5) identical with corresponding items of article 12 of decree No. 40223.[3]]

. . .

(28) [Identical with item (26) of article 12 of decree No. 40223.]

. . .

(30) Supervise the implementation of the policy concerning indigenous affairs, and in particular to ensure compliance with the laws and regulations relating to the protection of persons, freedom to work, freedom to own property both individually and collectively, and such usages and customs of the indigenous inhabitants as are to be observed.

. . .

Art. 13. It shall likewise be the responsibility of the Governor-General, in the exercise of his executive functions and after consultation with the Council of Government, to:

. . .

(9) and (10) [Identical with article 13 (9) and (10) of decree No. 40223.]

. . .

[1] Published in *Diario do Governo*, Series I, No. 147, of 5 July 1955. (Corrigendum in *ibid.*, Series I, No. 182, of 18 August 1955.) Translation by the United Nations Secretariat.

[2] See above, p. 194.

[3] See above, p. 196.

Section II. — Legislative Council

Sub-section I. — Powers and Composition of the Legislative Council

. . .

Art. 19. The Legislative Council shall be composed of twenty-six members, eighteen of whom shall be elected and eight appointed.

Art. 20. The election of the members shall be governed by the following provisions:

(*a*) One member shall be elected by individuals of Portuguese nationality recorded as having paid not less than 10,000 escudos annually in direct taxes;

(*b*) One member shall be elected by the corporate bodies representing employers' organizations and business associations;

(*c*) One member shall be elected by the corporate bodies representing the workers;

(*d*) Two members shall be elected by the bodies representing spiritual and cultural interests, one such member in every case being a Roman Catholic missionary;

(*e*) Two members shall be elected by the administrative bodies;

(*f*) Eleven members shall be elected directly by citizens whose names are entered in the general electoral registers.

1. Not later than sixty days before the scheduled date of the elections, the Governor-General shall cause to be published in the *Boletim oficial* a list of the bodies referred to in items (*b*), (*c*), (*d*) and (*e*) of this article.

If any body or association is omitted from the list, an appeal shall lie to the Minister for Overseas Territories, whose decision shall be final.

. . .

Art. 25. To be eligible for membership in the Legislative Council, a person must:

(*a*), (*b*) and (*c*) [Identical with corresponding items of article 31.1 of decree No. 40216.]

(*d*) Have been resident in the province for more than three years;

(*e*) [Identical in substance with corresponding item of article 31.1 of decree No. 40216.]

1. A person, even though he fulfils the conditions of the present article, may not be elected to the Legislative Council if:

(1)-(6) [Identical with article 31.3 (*a*)-(*f*) of decree No. 40216.]

2. The provisions of this article shall apply to the members referred to in article 21 (members appointed by the Governor-General), provided that in the case of directors of services and comparable officials as referred to in article 21, the provisions of item (*e*) of the present article shall not apply. One of the members representing the interests of the indigenous population may be a public official.

Art. 26. Members of the Legislative Council shall be bound to perform the duties consequent upon such membership, and shall receive for each meeting that they attend a fee equal to one-thirtieth of the monthly salary of the Director of Civil Administration Services.

1, 2 and 3. [Identical with article 23, 1, 2 and 3 of decree No. 40223.]

Art. 27. An elected member shall cease to hold office if:

(*a*) and (*b*) [Identical in substance with the corresponding provisions of article 24 of decree No. 40223.]

(*c*) He loses Portuguese nationality, establishes permanent residence outside the province, or is disqualified for any of the reasons stated in article 25, paragraph 1.

. . .

DECREE No. 40226 PROMULGATING THE STATUTE OF THE PROVINCE OF MOZAMBIQUE

of 5 July 1955 [1]

[The first paragraph of the preamble is identical with the first paragraph of that of decree No. 40216.[2]]

Wherefore, after consultation with the Governor-General and the Council of Government of the province of Mozambique, as well as with the Council for Overseas Territories;

[Third paragraph identical with fourth paragraph of preamble of decree No. 40216.]

STATUTE OF THE PROVINCE OF MOZAMBIQUE

. . .

Chapter II

ORGANS OF GOVERNMENT OF THE PROVINCE

. . .

Section I. — The Governor-General

. . .

Sub-section III. — Executive Functions of the Governor-General

. . .

Art. 12. [Introductory clause identical with corresponding clause of article 12 of decree No. 40225.[3]]

. . .

[1] Published in *Diario do Governo*, Series I, No. 147, of 5 July 1955. (Corrigendum in *ibid.*, Series I, No. 182, of 18 August 1955.) Translation by the United Nations Secretariat.

[2] See above, p. 194.

[3] See above, p. 198.

(4) and (5) [Identical with article 12 (4) and (5) of decree No. 40223.[1]]

. . .

(28) [Identical with article 12 (26) of decree No. 40223.]

. . .

(30) Supervise the implementation of the policy concerning indigenous affairs, and in particular to ensure compliance with the laws and regulations relating to the protection of persons, freedom to work, freedom to own property both individually and collectively, and such usages and customs of the indigenous inhabitants as are to be observed.

. . .

Art. 13. [Introductory clause identical with corresponding clause of article 13 of decree No. 40225.]

. . .

(9) and (10) [Identical with article 13 (9) and (10) of decree No. 40223.]

. . .

[1] See above, p. 196.

Section II. — Legislative Council

Sub-section I. — Powers and Composition of the Legislative Council

. . .

Art. 19. The Legislative Council shall be composed of twenty-four members, sixteen of whom shall be elected and eight appointed.

Art. 20. The election of the members shall be governed by the following provisions:

(*a*), (*b*), (*c*), (*d*) and (*e*) [Identical with corresponding items of article 20 of decree No. 40225.]

(*f*) Nine members shall be elected directly by citizens whose names are entered in the general electoral registers.

1. [Identical with paragraph 1 of article 20 of decree No. 40225.]

. . .

[Articles 25–27 are identical with articles 25–27 of decree No. 40225.]

. . .

DECREE No. 40227 PROMULGATING THE STATUTE OF THE PROVINCE OF MACAO

of 5 July 1955 [1]

[The first paragraph of the preamble is identical with the first paragraph of that of decree No. 40216.[2]]

Wherefore, after consultation with the Governor and the Council of Government of the province of Macao, as well as with the Council for Overseas Territories;

[Third paragraph identical with fourth paragraph of preamble of decree No. 40216.]

STATUTE OF THE PROVINCE OF MACAO

. . .

Chapter II

ORGANS OF GOVERNMENT OF THE PROVINCE

. . .

Section I. — The Governor

. . .

Sub-section III. — Executive Functions of the Governor

. . .

Art. 12. [Introductory clause and items (4) and (5) identical with the corresponding provisions of article 12 of decree No. 40223.[3]]

. . .

Art. 13. [Introductory clause and items (9) and (10) identical with the corresponding provisions of article 13 of decree No. 40223.]

. . .

[1] Published in *Diario do Governo*, Series I, No. 147, of 5 July 1955. Translation by the United Nations Secretariat.

[2] See above, p. 194.

[3] See above, p. 196.

Section II. — Council of Government

Sub-section I. — Powers and Composition of the Council of Government

. . .

Art. 17. The Council of Government shall be composed of the following members:

(*a*)–(*d*) [Identical with items (*a*), (*b*), (*c*) and (*d*) of article 17 of decree No. 40223.]

(*e*) One member appointed by the Governor to represent the Chinese community;

(*f*) The President of the Senate, as the representative of the administrative bodies;

Sole paragraph. [Identical with corresponding paragraph of article 17 of decree No. 40223.]

. . .

Art. 21. [Identical with article 21 of decree No. 40223, except for the addition of the following:]

Sole paragraph. The representative of the Chinese community on the Council of Government shall for the time being be exempt from the conditions set forth in items (*a*) and (*c*).

Art. 22. [Identical with article 22 of decree No. 40223.]

Art. 23. [Introductory clause identical with corresponding clause of article 23 of decree No. 40223.]

1. [Identical with paragraph 2 of article 23 of decree No. 40223.]

2. [Identical with paragraph 3 of article 23 of decree No. 40223.]

Art. 24. An elected member shall cease to hold office if:

(*a*) and (*b*). [Identical with article 24 (*a*) and (*b*) of decree No. 40223.]

(*c*) He loses Portuguese nationality, establishes permanent residence outside the province or is disqualified for any of the reasons stated in article 23.

. . .

DECREE No. 40228 PROMULGATING THE STATUTE OF THE PROVINCE OF TIMOR

of 5 July 1955 [1]

[The first paragraph of the preamble is identical with the first paragraph of that of decree No. 40216.[2]]

Wherefore, after consultation with the Governor and the Council of Government of the province of Timor, as well as with the Council for Overseas Territories;

[Third paragraph identical with fourth paragraph of preamble of decree No. 40216.]

STATUTE OF THE PROVINCE OF TIMOR

. . .

Chapter II

ORGANS OF GOVERNMENT OF THE PROVINCE

. . .

Section I. — The Governor

. . .

Sub-section III. — Executive Functions of the Governor

. . .

Art. 12. [Introductory clause and items (4) and (5) identical with the corresponding provisions of article 12 of decree No. 40223.[3]]

. . .

Art. 13. [Introductory clause and items (9) and (10) identical with the corresponding provisions of article 13 of decree No. 40223.]

. . .

Section II. — Council of Government

Sub-section I. — Powers and Composition of the Council of Government

. . .

Art. 17. The Council of Government shall be composed of the following members:

(*a*)–(*c*) [Identical with items (*a*), (*b*) and (*c*) of article 17 of decree No. 40223.]

(*d*) Two members appointed by the Governor from a list of three names proposed by the heads of the private associations and organizations in the province;

(*e*) One member appointed annually by the Governor from among the heads of services in the province;

. . .

(*f*) [Identical in substance with item (*f*) of article 17 of decree No. 40223.]

Sole paragraph. [Identical with corresponding paragraph of article 17 of decree No. 40223.]

. . .

[Articles 21–24 are identical with articles 21–24 respectively of decree No. 40223.]

. . .

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[1] Published in *Diario do Governo*, Series I, No. 147, of 5 July 1955. (Corrigendum in *ibid.*, Series I, No. 187, of 24 August 1955.) Translation by the United Nations Secretariat.

[2] See above, p. 194.

[3] See above, p. 196.

ROMANIA

LEGISLATION ON HUMAN RIGHTS ENACTED DURING THE YEAR 1956[1]

1. Act No. 3 amending the Code of Criminal Procedure of the Romanian People's Republic (*Official Bulletin of the Grand National Assembly of the Romanian People's Republic*, No. 11, of 4 April 1956): This Act introduced a series of amendments to the Code of Criminal Procedure, which are mainly designed to strengthen the safeguards of individual rights, and so far as possible to preclude the arbitrary treatment of individuals. To this end, the Act fixes the maximum duration of the preliminary investigation and of detention pending trial.

2. Decree No. 563 concerning the citizenship of a certain category of persons (*ibid.*, No. 28, of 5 November 1956): Under this decree, persons who have obtained Romanian citizenship as a result of the retroactive application of the provisions of decree No. 125 of 1948, and 33 of 1952 [2] (persons with only one parent of Romanian citizenship) may retain Romanian citizenship provided that they submit within a period of six months a formal declaration of their intention to do so; those who fail to submit such a declaration will be deemed never to have possessed Romanian nationality.

3. Act No. 7 amending Act No. 9 of 1952 [3] concerning the election of deputies to the Grand National Assembly (*ibid.*, No. 31, of 3 December 1956): The provisions of this Act abolished electoral disqualifications of every kind. In consequence, all workers who are citizens of the Romanian People's Republic and have reached the age of eighteen years, irrespective of race, nationality, sex, religion, education, profession or length of residence, have the right to vote, the only exceptions being insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

4. Decree No. 369 amending the Labour Code (*ibid.*, No. 20, of 24 July 1956): [4] This decree deals with the posting, detachment and transfer of employees. Particular attention is drawn to the provision limiting the period of detachment and to the stipulation that an employee may not be transferred without his consent.

The decree contains other new provisions favourable to employees — in particular, those relating to the termination of the contract of employment and to the financial liability of employees for damage caused to the undertaking in which they work.

Expectant mothers are entitled to fifty-two days' leave before, and sixty days' leave after, confinement. The decree prohibits the employment of women on night work in industrial undertakings, except by order of the Council of Ministers in special cases. The employment of expectant mothers on such work is completely prohibited after the fifth month of pregnancy.

5. Decision No. 907 of the Council of Ministers of of the Romanian People's Republic reducing hours of work to below eight a day for certain categories of workers (*Collection of Decisions and Directives of the Council of Ministers of the Romanian People's Republic*, No. 27, of 31 May 1956): This decision provides for the reduction of hours of work to below eight a day, without loss of earnings, in order to protect the health of workers engaged in arduous or unhealthy occupations.

The decision specifies eighty-eight categories of workers whose hours of work have been reduced to seven, six, four or two a day.

With the agreement of the central committee of the trade unions concerned, and on the advice of the Central Council of Trade Unions, ministries may reduce the hours of work of other categories of workers engaged in occupations similar to those specified in the decision whenever the welfare of the workers so requires.

6. Decision No. 5 of the Central Council of Trade Unions of the Romanian People's Republic on the granting of pensions under the state social insurance scheme to the artistic personnel of institutions concerned with the arts (*ibid.*, No. 13, of 17 March 1956): This decision makes the artistic personnel of institutions concerned with the arts eligible for pensions in accordance with the provisions of the Labour Code. It grants old-age pensions to men of sixty years of age who have been engaged in the arts for at least twenty-five years, and to women of fifty-five years of age who have been engaged in the arts for at least twenty years.

The decision also lays down rules for the grant of disability and long-service pensions to such personnel.

If a person receiving or entitled to receive a personal pension dies, his children will receive a pension at a

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[1] Information received through the courtesy of the Permanent Mission of the Romanian People's Republic to the United Nations.

[2] See *United Nations Legislative Series: Laws Concerning Nationality* (United Nations publication, Sales No.: 1954.V.1) pp. 395–6.

[3] See *Yearbook on Human Rights for 1952*, pp. 242–3.

[4] Translations of decree No. 369 in English and French appear in International Labour Office: *Legislative Series*, 1956, Rom. 1.

rate varying between 50 and 100 per cent of the pension he himself was receiving or was entitled to receive.

7. Decree No. 446 concerning the grant of social assistance pensions to wage-earners who have not completed the qualifying period of service for a social insurance pension and to members of their families (*Official Bulletin of the Grand National Assembly of the Romanian People's Republic*, No. 26, of 24 September 1956): The right to a social assistance pension is granted to wage-earners who have not completed the qualifying period of service for a social insurance pension, but who have been engaged in gainful employment for at least five of the preceding ten years, and also to workers who, as a result of sickness or of an accident which was unconnected with their employment, but which occurred during the period of such employment, have become disabled persons of the first or second degree. Such a pension is payable irrespective of age or length of service.

If a person receiving a social assistance pension, or a wage-earner who would have been entitled to such a pension, dies, his dependants are entitled to a social assistance pension.

8. Decision No. 1118 of the Council of Ministers of the Romanian People's Republic concerning the establishment of first-aid posts of the Romanian Red Cross (*Collection of Decisions and Directives of the Council of Ministers of the Romanian People's Republic*, No. 31, of 4 July 1956): This decision provides for the establishment of Red Cross first-aid posts in state organizations, co-operatives, collective farms, districts and regions for the purpose of rendering first-aid in case of accidents, providing transportation for casualties and taking the necessary measures for the prevention of occupational and contagious diseases, and for the maintenance of industrial hygiene.

These first-aid posts will be organized by the Romanian Red Cross in collaboration with the Ministry of Health.

9. Decision No. 368 of the Council of Ministers of the Romanian People's Republic concerning the organization and operation of children's day care centres in the Romanian People's Republic (*ibid.*, No. 13, of 17 March 1956): This decision provides for the establishment of state children's day care centres for children from three to seven years of age, who are prepared for elementary school. Mothers whose household responsibilities are thus lightened can practise a trade or profession and take part in social and cultural activities. The decision provides for the establishment of three types of children's day care centres: (*a*) centres with normal working hours (9 to 12 hours); (*b*) centres with shorter working hours (6 hours); and (*c*), seasonal centres in rural areas (from 6 to 12 hours). The centres are organized by the Executive Committees of People's Councils, by state economic institutions and organizations, and by mass organizations. The centres with normal working hours accommodate at least fifty children, and centres with shorter working hours and seasonal centres at least twenty-five children.

The instruction and training given in the centres are under the direction and supervision of the Ministry of Education.

10. Decree No. 571 concerning the payment of state allowances in respect of the children of wage-earners and pensioners (*Official Bulletin of the Grand National Assembly of the Romanian People's Republic*, No. 28, of 5 November 1956): For the purpose of improving the standard of living of the families of wage-earners and pensioners with children, a state allowance, which varies according to the monthly income and the number of children, is paid monthly in respect of each child.

11. Decision No. 1380 of the Central Committee of the Romanian Workers' Party and the Council of Ministers of the Romanian People's Republic concerning the improvement of general education in the Romanian People's Republic (*Collection of Decisions and Directives of the Council of Ministers of the Romanian People's Republic*, No. 35, of 20 July 1956): This decision defines the purpose of general education in Romania in conformity with the directives of the Second Congress of the Romanian Workers' Party. It stresses the need to train students for polytechnical education through the study of the natural sciences, higher mathematics, physics and chemistry, and also to broaden their intellectual outlook through the introduction of the elements of Marxism-Leninism and political economy.

On the basis of proposals put forward by the teaching profession and by parents and of those made during teachers' conferences held in April and May 1956, the decision lays down the character, organization and duration of general education; it establishes a network of schools for the provision of such education, prescribes rules for the teaching profession, and provides for the supply of educational equipment and materials.

1. General education covers a period of eleven years and includes an elementary course (classes I to VII) and an intermediate course (classes VIII to XI). From class X onwards two sections may be formed: one for science and one for arts. If only one section is possible, preference is to be given to science. From class V onwards, evening and correspondence courses may also be organized.

2. The general education system is composed of the following categories of schools: eleven-year secondary schools, which provide a complete general education; seven-year elementary schools comprising the first seven years of general education; and four-year elementary schools. Junior secondary schools comprising classes V to VII or senior secondary schools comprising either classes V to XI or classes VIII to XI may be set up as required.

3. The decision also outlines the programme for the development of general education. It is envisaged

that, during the period covered by the present five-year plan, ninety per cent of the students who have completed class IV will proceed to class V, and that, during the period covered by the third five-year plan, universal and compulsory seven-year elementary education will become an established fact.

The decision also deals with the system of scholarships and the establishment of boarding schools.

4. Chapter V of the decision emphasizes the need for better qualified teachers at the elementary and secondary levels of the general educational system.

5. In order to ensure that the general schools have the necessary physical equipment and are in a position to combine academic and practical training, the decision establishes the procedure for supplying schools with the necessary apparatus and materials.

This decision, which takes account of actual conditions and of the stage of development of general education, is an important contribution to the cultural revolution in the Romanian People's Republic.

12. Decision No. 1959 of the Council of Ministers of the Romanian People's Republic concerning the award of scholarships and merit grants to students (*ibid.*, of 10 October 1956): This decision provides for the award of state scholarships to deserving students who give proof of ability, industry and good conduct. Scholarships are awarded on the basis of (*a*) the progress made by the student in his studies and his conduct, and (*b*) the financial situation of the student's parents or legal guardian, or of the student himself.

Students who have regularly received the rating of "good" or "very good" may, in addition, receive a monthly merit grant.

Students receive free medical treatment in the event of illness; their scholarships continue to be paid throughout the period of hospitalization or sick leave.

Students holding scholarships are paid the full cost of vacation travel from the educational establishment to the place of residence of their parents or legal guardian.

13. Decree No. 321 concerning copyright (*Official Bulletin of the Grand National Assembly of the Romanian People's Republic*, No. 18, of 27 June 1956): This decree provides for the protection of copyright. It deals with the subject matter of copyright, the assignment of copyright ownership after the author's death and the temporary waiver of copyright. Other provisions define the purpose of copyright and the different types of works to which it is applicable. The final section concerns the exercise of copyright and deals with contracts for the publication, public performance and adaptation of works for films and for radio and television programmes.

SAAR

NOTE[1]

Since the end of 1947, the Saar has been in a currency and customs union with France. The preamble of the Saar Constitution of 15 December 1947[2] provided that the future status of the territory should be determined by an international statute, and on 23 October 1954 an agreement on the Statute of the Saar[3] was concluded between the French Republic and the Federal Republic of Germany (*Bundesgesetzblatt*, 1955, II, p. 296). Under article I of the agreement, a referendum was to be organized to determine whether the people of the Saar favoured "a European statute" for the Saar "within the framework of the Western European Union", and on 23 October 1955 the people of the Saar rejected such a statute by a large majority. The Saar legislation in force was not affected — at any rate, formally — by the result of the referendum.

The French Government and the Government of the Federal Republic of Germany properly interpreted the result of the referendum to mean that the people of the Saar not only rejected a European statute, but also wanted their country to become part of the Federal Republic of Germany. The French Government and the Government of the Federal Republic of Germany immediately entered into negotiations to this end, and on 27 October 1956 concluded the Treaty on the Settlement of the Saar Question (*Bundesgesetzblatt*, 1956, II, p. 1589).[4] The treaty (which was approved by the Landtag of the Saar on 13 December 1956 by a declaration of accession in accordance with article 23 of the Bonn Basic Law) and the Federal Act of 23 December 1956 concerning the incorporation of the Saar (*Bundesgesetzblatt*, I, p. 1011) provide the basis for the realization of the aspirations expressed by the Saarlanders in the referendum of 23 October 1955.

The Land legislation enacted in the Saar in 1956 is on the other hand of no political significance, principally because the Government and Landtag of the Saar refrained from taking action on general political problems until such time as the Saar treaty was concluded, in order to avoid disturbing the negotiations between the French Republic and the Federal Republic of Germany. The Saar Government and Landtag were, however, conscious of the necessity of adapting Saar legislation with a view to the anticipated political incorporation of the Saar in the Federal Republic of Germany on 1 January 1957.

The Saar Constitution of 15 December 1947 was accordingly amended by the Saar Constitution Amendment Act of 20 December 1956 (*Amtsblatt des Saarlandes*, 1956, p. 1657). The most important provision is the amended text of article 60, which declares the Saar to be part of the Federal Republic. In addition, every reference in the Constitution to Saarland nationality was replaced by a reference to German nationality. Saarland nationality was abolished by the Act of the same date (20 December 1956) to repeal the Saarland Nationality Acts (*Amtsblatt des Saarlandes*, 1956, p. 1659). The Acts entered into force on the same date as the Saar treaty and the Incorporation Act — i.e., 1 January 1957.

As legislation in the Saar and in the Federal Republic of Germany had not developed on uniform lines in previous years, the most important civil and criminal statutes were amended to conform with the provisions of the laws in force in the other parts of the Federal Republic (Statutes Assimilation Act of 22 December 1956, *Amtsblatt*, p. 1667, and the Criminal Code Amendment Act of 9 July 1956, *Amtsblatt*, p. 973).

The amendments mentioned are only a portion of the legislative work necessitated by the incorporation of the Saar in the Federal Republic of Germany. Further changes were made in 1957, but it will not be possible to complete the process of adjusting the laws in force in the Saar to those in force in the Federal Republic until the end of the economic transitional period (within the meaning of article 3 of the Saar treaty) — i.e., after the economic incorporation of the Saar in the Federal Republic of Germany.

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[1] Note kindly furnished by the Office of the Permanent Observer of the Federal Republic of Germany to the United Nations. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1947*, p. 277.

[3] See *Yearbook on Human Rights for 1954*, p. 401.

[4] The French text appears in *Notes et études documentaires*, No. 2267, of 2 March 1957, published by the Ministry of Foreign Affairs, Paris.

SAUDI ARABIA

ROYAL DECREE No. 17/2/23/2639 [1]

Art. 1. Enployees and workers of concessionary companies and employees and workers of private institutions which engage in activities of a public interest or execute a public project for the Government shall not abandon or discontinue their work if such action is the result of an agreement between three or more of them. Violators of this provision shall be imprisoned for a term of not less than one week.

Any person who, by word or deed, by sign or writing, by drawing or by any other method, incites the above-mentioned employees or workers to abandon or discontinue their work shall be punished with imprisonment for not less than one year, even if such incitement does not, in fact, lead the said persons to abandon or discontinue their work.

Art. 2. The employees or workers of the companies and institutions mentioned in article 1 may not participate in any demonstration or strike with the aim of presenting any claims or supporting previously submitted claims, even where such participation is not the result of a previous agreement, and any violator of this provision shall be punished with imprisonment for not less than one year.

Any person who, by word or deed, by sign or writing, by drawing or by any other method, incites the above-mentioned employees or workers to demonstrate or to declare a strike shall be punished with imprisonment for not less than two years, even where such incitement does not, in fact, lead to a demonstration or strike.

Art. 3. Any person who resorts to violence, assault, intimidation, threats or acts of destruction, or any other unlawful means of violence, whether for the purpose of facilitating the commission of one of the offences mentioned in the two preceding articles or for the purpose of preventing the employees and workers referred to in the said two articles from continuing their work or of compelling them to stop such work, or for the purpose of compelling the managements of the companies and institutions referred to in the said two articles to employ or to refrain from employing any employee or worker or to stop the work, shall be punished with imprisonment for a period of not less than two years.

Any person who, by word or deed, by sign or writing or by any other method, incites another to commit any of the offences mentioned in paragraph 1 of this article, shall be punished with imprisonment for not less than three years, even where such incitement does not, in fact, lead to a commission of the offence.

Art. 4. An employer may dismiss an employee or worker who has been punished for committing any of the offences referred to in the preceding three articles.

Art. 5. The prince of the area concerned may decide, when necessary, to require an employer to dismiss any of his employees or workers who have been punished for committing any of the above-mentioned offences. The prince may also decide to banish any person convicted of having committed any of the above-mentioned offences from the area in which such offence was committed or from the area where he works, for a period and to a place to be determined by the prince.

Art. 6. The Prime Minister shall enforce this decree, which shall become effective from this date.

[1] Published in *Um El Qura*, No. 1621, of 22 June 1956. Translation by the United Nations Secretariat.

SPAIN

NOTE

The prison regulations approved by a decree of 2 February 1956 (*Boletín Oficial*, No. 75, of 15 March 1956) included provisions concerning the health, education and spiritual care of prisoners, correspondence and visits, discipline, payment for work, and conditional release.

The regulations provided as a general rule that imprisonment was to take place on the order of a judge, a civil or military authority authorized to arrest suspects, or other competent authority defined in the regulations. Nevertheless, when, in view of the impossibility of observing this rule or in view of the urgency of the case, a person was presented for detention without the order of a competent authority, the governor of the prison was to accept him on the basis of a document containing certain stated details, and was immediately so to inform the above-mentioned competent authority. If the competent authority, having received this notice, had not delivered the appropriate order of imprisonment or release within twenty-four hours of the entry of the detainee into the prison, the latter was to be set free. It was further provided, in accordance with article 18 of the Charter of the Spanish People,[1] that if within seventy-two hours the proper order had not been received by the prison for the prisoner's release or his delivery to the judicial authorities, the governor was to take steps to secure that order from the authority which had ordered the detention.

The Organic Regulations for the Judicial Profession approved by a decree of 10 February 1956 (*Boletín Oficial*, No. 60, of 29 February 1956) included provisions for security of tenure of office of judge and magistrates.

A decree of 26 October 1956 amending the Act concerning contracts of employment (*Boletín Oficial*, No. 360, of 25 December 1956) concerned termination of contracts of employment by dismissal. Translations of the decree into English and French appear in International Labour Office: *Legislative Series*, 1956 — Sp. 3.

A decree of 22 June 1956 approved the consolidated text of the legislation on industrial accidents (*Boletín Oficial*, No. 197, of 15 July 1956). Translations of the decree into English and French appear in International Labour Office: *Legislative Series*, 1956 — Sp. 1.

An order of 12 July 1956 (*Boletín Oficial*, No. 201, of 19 July 1956) provisionally approved the statutes of the workers' universities, these being higher educational institutions providing free education and boarding facilities for suitably qualified Spanish workers.

[1] See *Yearbook on Human Rights for 1947*, p. 287.

THE SUDAN

THE SUDAN TRANSITIONAL CONSTITUTION

Adopted by the Sudanese Parliament on 1 January 1956 [1]

Chapter I

GENERAL [2]

(Title)

1. This instrument shall be known and cited as The Sudan Transitional Constitution.

(Name and Territory of the Sudan)

2. (1) The Sudan shall be a sovereign democratic republic.

(2) Its territory shall comprise all those territories which were included in the Anglo-Egyptian Sudan immediately before the commencement of this constitution.

(Paramountcy of the Constitution)

3. The provisions of this constitution shall prevail over all other laws, existing and future, and such provisions thereof as may be inconsistent with the provisions of this constitution shall, to the extent of such inconsistency, be void.

Chapter II

FUNDAMENTAL RIGHTS

(Right to Freedom and Equality)

4. (1) All persons in the Sudan are free and are equal before the law.

(2) No disability shall attach to any Sudanese by reason of birth, religion, race, or sex in regard to public or private employment or in the admission to or in the exercise of any occupation, trade, business or profession.

(Freedom of Religion, Opinion and Association)

5. (1) All persons shall enjoy freedom of conscience, and the right freely to profess their religion, subject only to such conditions relating to morality, public order, or health, as may be imposed by law.

(2) All persons shall have the right of free expression of opinion, and the right of free association and combination, subject to the law.

(Freedom from Arrests and Confiscations)

6. No person may be arrested, detained, imprisoned, or deprived of the use or ownership of his property except by due process of law.

(The Rule of Law)

7. All persons and associations of persons, official or otherwise, are subject to the law as administered by the courts of justice, saving only the established privileges of Parliament.

(Right to Constitutional Remedy)

8. Any person may apply to the High Court for protection or enforcement of any of the rights conferred by this chapter, and the High Court shall have power to make all such orders as may be necessary and appropriate to secure to the applicant the enjoyment of any of the said rights.

(Independence of Judiciary)

9. The Judiciary shall be independent and free from interference or control by any organ of the Government, executive or legislative.

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Chapter V

THE LEGISLATURE

(Parliament)

41. There shall be constituted a parliament for the Sudan, which shall consist of two Houses — namely, a Senate and a House of Representatives.

. . .

(Qualifications for Membership of Parliament)

46. (1) Sudanese who are not less than 40 years of age shall be eligible for membership of the Senate.

Provided that Sudanese standing for southern constituencies shall be eligible if not less than 30 years of age.

(2) Sudanese who are not less than 30 years of age shall be eligible for membership of the House of Representatives.

. . .

(Disqualifications)

48. (1) The following persons shall be disqualified from membership of either House:

[1] Printed text kindly made available by the Government of the Sudan, which has intimated that Parliament adopted the Transitional Constitution pending the enactment of the Constitution of the Sudan by the Constituent Assembly.

(*a*) Persons who hold an office of profit under the Government of the Sudan, other than an office declared by Parliament by law not to disqualify its holder;

(*b*) Undischarged bankrupts or persons whose property is subject to a composition or arrangement with creditors;

(*c*) Persons who have within the past seven years been sentenced to a term of imprisonment for a period of not less than two years;

(*d*) Persons who have within the past seven years been convicted of a corrupt practice or any abetment thereof at any parliamentary or local government election;

(*e*) Persons of unsound mind;

(*f*) Illiterates.

(2) For the purpose of this article, a person shall not be deemed to hold an office of profit under the Government of the Sudan by reason only that he is a minister or a parliamentary under-secretary.

(3) No person shall be a member of more than one House at the same time.

(Vacation of Seats)

49. The seat of a member of either House shall become vacant in any of the following events:

(*a*) Upon his death;

(*b*) If without leave of the House he shall be absent from 25 consecutive sittings of the House;

(*c*) If he shall become subject to any of the disqualifications specified in the preceding article;

(*d*) If any other person is convicted of any corrupt practice carried out on his behalf or with his knowledge or connivance in respect of the election at which he was elected;

(*e*) If he shall become a member of the other House;

(*f*) If he shall give to the Speaker of the House written notification of his resignation from membership.

. . .

Chapter IX

THE JUDICIARY

. . .

(Custody of the Constitution)

102. (1) The Judiciary shall be the custodian of the Constitution, and shall have jurisdiction to hear and determine any matter involving the interpretation of the Constitution hereby established, or the enforcement of the rights and freedoms conferred by chapter II.

. . .

SWEDEN

NOTE

I. LEGISLATION

Act No. 74, of 23 March 1956, amended Act No. 1, of 3 January 1947, on public sickness insurance. Translations of Act No. 74 into English and French appear in International Labour Office: *Legislative Series*, 1954 — Swe. 1 (A). Translations into English and French of Act No. 1 of 1947 as previously amended in 1953, 1954 and 1955 appear in *Legislative Series*, 1956 — Swe. 1 (B).

[1] Information kindly furnished by the Permanent Representative of Sweden to the United Nations.

II. INTERNATIONAL INSTRUMENTS [1]

A convention of 9 June 1956 was concluded with the United Kingdom regarding social security.

On 31 August 1956, Sweden ratified the convention on social security signed by Sweden, Denmark, Finland, Iceland and Norway on 15 September 1955.

On 19 December 1956, an agreement was signed in Copenhagen by Sweden, Denmark, Iceland and Norway regarding transfers between sickness benefit societies and sickness benefits during temporary residence.

SWITZERLAND

NOTE[1]

I. CONFEDERATION

A. LEGISLATION

Right to change Nationality

The federal Act of 7 December 1956, amending the federal Act concerning the acquisition and loss of Swiss nationality, added the following article 58 *bis* to the previous Act of 29 September 1952:[2]

"1. Swiss nationality may be restored to any woman formerly of that nationality who, before this Act became operative, lost that nationality through marriage or through her inclusion in her husband's renunciation of nationality, as long as the marriage is not dissolved and the parties not separated.

"2. The procedure and consequences of such restoration of nationality shall be governed by articles 18; 24; 25; 51, paragraph 1; and 52. Articles 28 and 37–41 shall be applicable, *mutatis mutandis*."

Conditions of Work

A federal ordinance of 20 November 1956 and regulations of 15 November 1956, both adopted under the federal Act of 23 September 1953 on maritime navigation under the Swiss flag, made provisions concerning conditions of work on board ships.

A federal Act of 8 June 1956 accorded certain transport workers the right to 60 days of leave annually.

Subject to certain conditions, a federal Act of 28 September 1956 permitted the extension of the application of a collective agreement so as to bind employers and workers in the branch of industry or the profession in question, and not already bound by the agreement. The authority empowered to make such an extension was that designated by the canton, if its effect was not to exceed the boundaries of the canton, and otherwise the Federal Council. The Act entered into force on 1 January 1957.

Social Security

The federal ordinance of 11 November 1952 concerning occupational diseases[3] was repealed by the federal ordinance of 6 April 1956 on the same subject,[4] which contained, in pursuance of the Federal Sickness and Accident Insurance Act, (i) a new list of substances "the production or use of which causes serious illness", and (ii) a list of occupational diseases.

Property Rights

A federal ordinance of 28 December 1956 placed rent controls upon certain types of accommodation, and also granted cantonal authorities a certain power to prevent the otherwise legal annulment of leases by landlords, at the request of their tenants.

Right to Education

The federal ordinance of 1 June 1956 on the domestic and vocational training of countrywomen defines these types of training and the duties and powers of the Confederation in their promotion.

B. JUDICIAL DECISION

In a decision of 3 July 1956, the Federal Court ruled that any collective agreement requiring an employer to employ only persons belonging to a particular trade union was contrary to the law. The right to form unions did not include the right to coerce workers to join unions by preventing non-members from supporting themselves and their families by working.[5]

II. CANTONS

Social Security

Old-age and survivors' assistance was the subject of an Act of 9 December 1956 of Berne, an order of 5 March 1956 of Vaud and an ordinance of 16 March 1956 of Zug. Family allowances were the concern of Acts of 14 June and 19 July 1956 of Basel-Town and Zug respectively. In Vaud, an Act of 3 September 1956 and regulations of 17 December 1956, implementing the Act, related to the promotion of sickness insurance. An Act of 27 January 1956 of Basel-Town regulated the granting of cantonal assistance to invalids.

Conditions of Work

Two further standard contracts for agricultural workers[6] were adopted under articles 96 *et seq.* of the Federal Act on Agriculture of 3 October 1951, and article 324 of the Obligations Code (Code des Obligations): in Neuchâtel by an order of 28 October 1955, and in Zug by an order of 28 February 1956.

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[1] This note is based upon texts received through the courtesy of the Permanent Observer of Switzerland to the United Nations.

[2] See *Yearbook on Human Rights for 1952*, p. 261.

[3] See *Yearbook on Human Rights for 1952*, p. 256.

[4] See International Labour Office: *Legislative Series*, 1956 — Swi. 1.

[5] The German text of this decision appears in *Entscheidungen des Schweizerischen Bundesgerichtes aus dem Jahre 1956*, vol. 82, part II, pp. 308–21.

[6] See *Yearbook on Human Rights for 1955*, p. 224.

Six orders of 1956 made certain specific collective agreements generally binding, in some cases with qualifications; these orders were adopted under the federal order of 23 June 1943 permitting general binding force to be given to collective agreements.[1] An order of 27 March of Saint Gall applied to joiners and glass workers. Orders adopted in Vaud on 16 March and 4 May referred to, respectively, the collective agreement on work in garages and similar enterprises and a separate agreement on sickness insurance for workers in such enterprises. The remaining three orders were also adopted in Vaud, on 4 May, 29 May and 22 June, and concerned, respectively, garment workers, dental mechanics and road transport workers.

An ordinance of 26 October 1956 of Berne regulated the leave rights of male and female apprentices.

Protection of Children

The Juvenile Court Act of 5 September 1956, of Vaud, made provisions concerning the jurisdiction, composition and procedures of the juvenile court of the canton. Proceedings were to be closed to the public, and the interest of educating the child was to govern the application of the Act.

In Valais, an order of 13 March 1956, amending the regulations of 9 May 1952 on the execution of the Act of 12 November 1915 on cinema shows and similar entertainments, forbade persons under 16 years of age to attend cinema shows, whether or not accompanied by an adult. The same prohibition was to apply to children under 18 when justified by the character of the film displayed.

Right to Health

Of the varied cantonal legislation on accident prevention, food control, vaccination and other aspects of public health and medical care, particular mention may be made of the regulations of 2 August 1956 on the health service in schools, adopted in Basel-Landschaft in implementation of an Act of 12 December 1955 on the same subject. An Act of 28 May 1956 of Vaud governed the organization and operations of hospitals in that canton.

Right to Education

Of the cantonal legislation on scholarships, educational loans and other aspects of education, mention may be made of the regulations of 27 December 1956 of Berne on the duties of primary-school boards.

[1] See *Yearbook on Human Rights for 1949*, p. 195, and *for 1954*, p. 254. The validity of the federal order of 23 June 1943 had been extended to the end of 1956 by a federal order of 24 September 1954.

THAILAND

NOTE[1]

Political Rights

No new constitutional provisions have been promulgated in Thailand during the year 1956, but it may be noted that, by a constant evolution of the freedom of political and democratic institutions proclaimed by the Constitution, the new Act on Political Parties of 26 September 1955, the promulgation of which was mentioned in the *Yearbook on Human Rights for 1955*, page 227, has received its full application in the year 1956. Political parties registered at the Ministry of the Interior have been steadily increasing in number, showing the interest and the freedom of the people in the public development of the nation. General elections have taken place over the whole of the country. The Assembly of Representatives still has members appointed by the Government in accordance with one of the temporary provisions of the Constitution;[2] but this provision will no longer be applicable after the completion of the transitory period of ten years.

Freedom of speech, public meetings, etc., as also specified in the Constitution, continue to be permitted in public places under the conditions mentioned in the *Yearbook on Human Rights for 1955*, page 227.

Labour Legislation

The Labour Act of 1 November 1956 constitutes great progress in the application of human rights. It has for the first time made provisions which are now incorporated in the legislation of most countries for the protection of workers' rights in accordance with the modern concept of the relation which should exist between workers and their employers. The appointment of labour inspectors has been provided for. The normal hours of work are not to exceed 48 hours per week (less in certain dangerous occupations). Periods of rest are to be provided in the course of the working day, as well as regular rest days and vacations. A part of the new law deals with workers' welfare.

This enactment on labour is completed by provision for the lawful organization of labour unions, which are to have executive boards, and register their regulations, and are juristic persons. The new law contains rules for the settlement of labour disputes through machinery providing permanent contact between the employers and the labour unions (Labour Relations Committee). If conciliation cannot be achieved, strikes or lock-outs become legal.[3]

Protection of Motherhood and Childhood

The legislation concerning families has been added to by an Act of 30 August 1956 concerning aid to be given to the families having many children. The law applies to persons who have at least five (legitimate) children of less than 14 years of age under their guardianship. Financial assistance is given when, according to a fixed scale, the income of the family (earnings of the parents and children) is found to be insufficient in relation to the number of children. The birth of additional children gives a right to additional financial assistance. Provision is also made for the birth of twins or triplets. Interested persons must submit an application for each year. The money granted is exempt from the usual taxation.

Furthermore, there have been instituted a Mother's Day (in April) and a Children's Day (in October) in which appropriate measures and propaganda call the attention of the people to the importance of, and the consideration to be given to, those questions.

In the new Penal Code of 1956, the abandonment of children, once punishable with imprisonment and with a fine not exceeding 100 ticals, is now punished by imprisonment and an increased fine of up to 6,000 baht (art. 306).

In the Labour Act of 1 November 1956, special provisions have been included concerning the employment of women and children. Work during the night is practically prohibited. Special rules protect the health of women during pregnancy and maternity. Employment of children under 12 years of age is forbidden, and, from 12 to 14, children can be employed only in "light work" as defined in the law. Thirty-six hours per week is the maximum amount of employment for persons between 12 to 16 years of age, and dangerous work is specifically prohibited.

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[1] Information kindly furnished by the Minister of Foreign Affairs of Thailand.

[2] See *Yearbook on Human Rights for 1952*, p. 270.

[3] See International Labour Office: *Legislative Series*, 1956, Tha. 1. Title III, chapter V, of the Act deals with unfair labour practices.

PEOPLE'S REPRESENTATIVES ELECTION ACT, B.E. 2499 (of 29 February 1956) [1]

. . .

Chapter 1

GENERAL

. . .

Section 10. All employers shall give reasonable facilities to their employees for the exercise of their right to vote and to stand as candidates.

The provisions of the preceding paragraph shall apply to political bodies and government organizations, *mutatis mutandis.*

Section 11. In no case may a voter be required to say for whom he voted.

Section 12. On election day, it is forbidden to campaign either for or against a candidate within a radius of thirty metres of a polling place or to use a loud-speaker or make other noise disturbing or interfering with balloting, whether or not done within the said area.

In the event there is advertising either for or against a candidate, whether printed matter under the law on printing or other thing within a radius of thirty metres of a polling place placed there prior to election day, election officials shall have the right and duty to destroy, cover, or remove to a place beyond the thirty-metre radius such advertising.

Section 13. No one who is not a Thai national may do anything in the interest of the election whether for or against candidates, nor may he take any part whatsoever in the election.

. . .

Chapter 2

RIGHT TO VOTE AND CANDIDACY

Section 16. A voter shall not be a person detained by order of the court on election day, shall be qualified under section 17, and shall not be disqualified under section 18.

Section 17. Qualifications for voters are as follows:

(1) Thai nationality by law, but anyone of Thai nationality:

(*a*) If his father was an alien, shall have passed at least Matayom 6 according to the curriculum of the Ministry of Education, and shall also have the following qualifications:

1. Have done military service under the law on military service;
2. Shall be or have been a government official, municipal official, sanitation district official, or local schoolteacher on a regular salary for not less than five years; or
3. Shall be or have been a member of the Assembly of People's Representatives, member of the House of Representatives, member of a Changvad Council, member of a municipal council, sanitation district committeeman, kamnan, poo yai ban, or Tambol physician.

(*b*) If a naturalized Thai, he shall have the qualifications set forth in (*a*) and have been continuously domiciled in the kingdom not less than ten years from the time of naturalization.

(2) Be fully 20 years of age on 1st January of the year in which elections are held.

Section 18. Those disqualified from voting are as follows:

(1) Insane or feeble-minded persons;

(2) Persons deaf in both ears and dumb who are unable to read and write Thai or blind in both eyes;

(3) Monks, novices, persons bound by religious vows; or

(4) Persons whose right to vote has been withdrawn by judgement of the court.

Section 19. Candidates shall be qualified under section 17, and neither disqualified under section 20 nor prohibited under section 21.

Section 20. Those disqualified as candidates are as follows:

(1) Persons disqualified under section 18;

(2) Persons addicted to harmful habit-forming drugs;

(3) Bankrupts not yet discharged from bankruptcy by the court;

(4) Persons with leprosy, tuberculosis in its dangerous stage or chronic alcoholism;

(5) Persons imprisoned or who have been imprisoned under a final judgement of the court for six months or more and who have been released by the day for entering candidacy for less than ten years, or persons imprisoned or who have been imprisoned under a final judgement of the court two or more times, unlees for a petty offence or an offence punishable as a petty offence or an offence committed through negligence; or

(6) Government officials dismissed or removed for malfeasance without bonus, gratuity or pension or municipal or sanitation district officials or officials of a government organization dismissed, removed, or discharged for malfeasance less than five years from the day for entering candidacy.

[1] Published in *Royal Thai Government Gazette*, vol. 73, No. 320, of 14 March 1956. The Act was to enter into force on the day following such publication. Among the enactments repealed by the Act were the Election Act, 1932, Amendment Act (No. 3), 1936 and the amendment thereto of 1947 (see *Yearbook on Human Rights for 1949*, pp. 209–211).

Section 21. Government officials, municipal or sanitation district officials may not be candidates excepting:

(1) Political officials, members of the Assembly of People's Representatives, presidents or members of municipal councils;

(2) Those who have left their positions more than six months before the date for entering candidacy unless the Assembly of People's Representatives has been dissolved, or there is a by-election, in which case they may be candidates if having left their positions before the date of entering candidacy; or

(3) Persons obliged by law to do government service who are neither soldiers nor police serving under the Military Service Act or Military Training Act.

Section 22. In any one election, candidates have the right to stand for only one electoral area.

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Chapter 7

VOTING

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Section 52. A voter whose name appears in the lists of any electoral district shall vote only in that district. A voter whose name appears in the lists of more than one electoral district shall vote in one district only.

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TUNISIA

NOTE[1]

Election of the Constituent National Assembly

Extracts from the decree of 6 January 1956 concerning the election of the Constituent National Assembly appear below; this decree was issued under the terms of article 2 of the decree of 29 December 1955 convening the Constituent National Assembly.[2] The Assembly was elected on 25 March 1956.

Abolition of the Sharia Courts and Promulgation of the Personal Status Code

This is a measure for the legislative and judicial reform of the administration of justice, secular and religious, the unification of which is thus achieved. The twofold reform was dictated by the interests of the people and by the urgent need to adapt the law and the machinery of justice to the requirements of the modern world. One of the main features of the new personal status code is the simplicity of style and the conciseness of its new elements which, while in no way contrary to the spirit of Islam, are in keeping with modern life:

1. Women will thus find new guarantees of their dignity and interests. Divorce, for example, will no longer be at the sole discretion of the husband. Only a court will have the power to pronounce a divorce, since in the eyes of Islam the matrimonial bond is sacred.

2. Polygamy is abolished in accordance with the opinions expressed by Moslem scholars on the authority of the Koran itself.

3. The new code decides a vital question by establishing the length of the gestation period in accordance with scientific data.

4. Only the moral and material interests of the child have been taken into account in the new code in its new provisions on guardianship.

5. Women now enjoy greater freedom of action with regard to marriage, for henceforth they will have the right to conclude the contract of marriage personally when they have come of age. Since marriage vitally affects social life, inasmuch as the family is the basic unit of society, age qualifications have been fixed for the two parties.

In conformity with the principles of Islam, women will retain the right freely to dispose of their property.

A woman with property of her own will be required, under the new code, to share in the household expenses, for her responsibilities must keep pace with the benefits accorded her by the new legislation.

Extracts from the code appear below.

Revisions in the Penal Code

Article 52 of the Code of Penal Procedure, as revised by the decree of 15 November 1956, guarantees the right of the accused to choose counsel, "and if he does not make a choice, the prisoner may, when charged with a crime, request that a defence counsel be appointed *ex officio*". The same article stipulates: "The accused shall have the right to communicate with his counsel at any time after his first appearance in court."

As a further guarantee, article 53 of the Code, as amended by the same decree, adds:

"The judge first hears the accused separately, then confronts them with one another or with the witnesses, if any. He records the questions and answers, as well as any incidents which have occurred during the examination, in a report which is drawn up on the spot.

"The report shall be read to the accused, numbered and initialled on each page, and signed by the judge, the court clerk and the accused. . . .

"Unless the accused expressly waives the right, he shall be examined only if his counsel is present or has been given at least twenty-four hours' notice to appear.

"The rules of procedure shall be made available to the defence counsel the day before that on which the accused is to be examined."

Establishment of Juries

Under the terms of the decree of 3 August 1956, providing that criminal trials shall be held in courts of the first instance, the court shall be composed of "a president having the rank of a judge of the court of appeal, two judges of a court of first instance, and a jury of four members chosen from among the citizens."

Conditions of Employment

The decree of 30 April 1956, fixing general conditions of the wages and employment of agricultural workers (*Journal officiel tunisien*, 1 May 1956), provides that the wages of agricultural workers may not be lower than the minima established by a joint order of the

[1] Information kindly furnished by the Permanent Representative of Tunisia to the United Nations. Translation by the United Nations Secretariat.

[2] See *Tearbook on Human Rights for 1955*, p. 228.

Minister of Social Affairs and the Minister of Agriculture, which fixes:

1. The daily minimum wage rates for ordinary agricultural workers of not less than eighteen years of age;
2. The minimum rate for seniority bonuses and those awarded for proficiency in rural techniques;
3. Conditions of payment for women and children.

Article 3 of this decree sets the legal maximum working day, which is to be determined on the basis of the seasons, regions and methods of cultivation.

Article 4 requires employers to grant their workers a weekly day of rest.

Article 5 provides for sick leave without pay for permanent workers.

Article 6 provides for severance pay for permanent workers and establishes rules for calculating it.

Article 7 establishes an agricultural labour commission in each caïdat to study the situation in each circonscription caused by the application or further expansion of the agricultural labour legislation.

Finally, article 9 establishes a network of agricultural welfare funds to provide family and old-age allowances and, when necessary, other social benefits for agricultural wage-earners.

Urban Planning and Housing

As a step to improve living conditions and maintain health and sanitation in large urban centres, the Tunisian Government instituted "MELJA" operations by the decree of 15 March 1956 (*Journal officiel tunisien*, 16 March 1956). The decree fixes the limits and conditions of state financial and technical aid in the construction of low-cost and sanitary housing. The primary purpose of the "MELJA" operations is to improve sanitary conditions in suburban and rural housing (*a*) by demolishing unsanitary dwellings, especially those concentrated or tending to concentrate in heavily built up areas, and (*b*) by relocating the occupants benefiting under the decree.

Welfare Measures for Children and Youth

When independence was achieved in March 1956, the new Tunisian Government faced an extremely grave social situation. More than 500,000 children were not attending school, and there were tens of thousands of juveniles with neither education nor a trade.

Aware of the importance of this problem and anxious to solve it quickly and effectively, the first government of independent Tunisia established on 15 April 1956 a special ministerial department for youth, children and sports. The purpose of the new ministry is:

1. To protect children who do not attend school;

2. To integrate into society the tens of thousands of young persons who have been deprived of the right to education and are now beyond school age.

Children

1. *Comprehensive care of abandoned children, including housing, food and clothing.* These children are kept in communal groups of 500 each. The State Secretariat for National Education is responsible, wherever possible, for their education. The educational role of the State Under-Secretariat for Youth and Sports consists of ridding the children of habits acquired in the streets, imbuing them with healthy ideas of comradeship, and developing their personality along constructive lines. The methods generally employed are modelled on those favoured in the Scout movements. The State Under-Secretariat also provides elementary education in those cases where the Department of National Education is not yet able to do so. Older children are prepared for a trade in apprentice shops designed especially for the villages.

It is worth mentioning that the democratic organization of the village is a powerful formative factor in the children's development, providing them with an interesting introduction to the exercise of their rights. The children are represented in the administration at all levels of responsibility, and sometimes assume complete direction, under the benevolent eye of the instructor, of such important parts in the life of the villageas the Community Municipal Council, the Court of Justice, etc.

A year's experience of these conditions has revealed a complete transformation in the child's habits and patterns of thinking. The child becomes more and more aware of his own personality; thanks to the friendship and affection of his instructors and comrades, who impart to him a feeling of love for his fellows, the child begins to show a definite aptitude for group living.

2. *Children's homes.* The children's villages are reserved for abandoned children, generally orphans picked up in the streets by the State Under-Secretariat for Youth and Sports. Thousands of other children, though they have homes, are undernourished, deprived of minimum hygienic facilities, and not yet attending school. The Government has established children's homes to accommodate 5,000 of these children. Sixty or 120 young people spend three hours a day in each of the homes, where they receive elementary instruction in reading, writing and arithmetic and take part in guided activities (manual work, sports, etc.). Special importance is attached to familiarizing the children with nature, and regular visits to workshops, merchants and the like are organized. The Government also provides for the children's clothing, and gives them a substantial meal each day. When they become older, they are apprenticed to a trade. A children's aid committee, composed of representatives of national organizations, philanthropic societies, and women's and youth associations, ensure the proper functioning of the children's homes.

3. *Children's food programme.* At the beginning of October 1956, the Government opened 130 children's food centres. Thanks to the generosity of the United

States Government, 130,000 children, including both school and non-school children, receive a daily lunch consisting of a glass of milk, bread and cheese. These centres are supervised by committees similar to those at the children's homes. An educational programme is also planned for the children and their parents.

4. *Private organizations.* The Government also takes a great interest in child welfare organizations, giving them all the assistance they require as regards office space, personnel and subsidies. It should be emphasized that all these organizations are managed by committees which are freely elected at general meetings, without interference by the Government. The latter assumes responsibility for training personnel when the organization is not yet able to do so. The various departments grant susidies amounting to more than 200 million francs annually. It should be noted that these subsidies are distributed among all the organizations without regard to race, religion or nationality.

In order to carry through successfully its child welfare policy, so that the new generation will be a healthy one, the Tunisian Government has set up a Higher Children's Committee and a special Children's Fund in a number of the specialized departments.

The purpose of the Higher Children's Committee (presidential decree of 10 January 1957) is to promote a general policy of child welfare — e.g.:

1. To co-ordinate the work of the various departmental sections concerned with the welfare of underprivileged children threatened by material, physical or moral neglect, and of delinquent children;

2. To suggest general rules and, when necessary, to induce the departments concerned to study and draw up the necessary legislative drafts respecting the detection, observation and readaptation of these children;

3. To prepare a plan for equipment and financing and specify the methods of supervision;

4. To assist the Prime Minister, President of the Council, in administering the Children's Fund.

The Children's Fund is maintained from the following sources:

(*a*) A state subsidy;

(*b*) Assessments on the salaries of government employees;

(*c*) Earnings from gifts, bequests, etc.

Youth

A grave problem exists with regard to youth. Tens of thousands of young people, without education or professional skills of any kind, roam the towns and the countryside seeking food and work. The State Secretariat has established "youth workshops", which are designed to educate young people through work. Composed of volunteers who stay for a period of at least three months, the projects also contribute to building up the country. The young volunteer devotes four hours to public works (roads, dikes, bridges, athletic fields, tree-planting, etc.); for four hours, he also receives a varied education which follows a fixed programme: one hour of reading instruction; one hour of general education; one hour of civic training; one hour of sports.

During the work hours, the youth learns a trade, and at the same time is productive. The technical personnel devote a great deal of effort to vocational training, so that the young volunteer will be able to find work when he leaves the project. Many prefer to extend their stay. It is a noteworthy fact that the youth workshops become educational centres for the inhabitants of the surrounding villages. Dozens of people come to the projects to take reading courses and attend lectures in general education.

More than 6,000 young volunteers have already passed through the workshops. The State Under-Secretariat for Youth and Sports hopes to be able to expand this undertaking in the coming months for the benefit of uneducated and unemployed young persons.

Those who have had the good fortune to take courses or to learn a trade take part in youth activities in the most varied kinds of organizations: Destour youth groups, student societies, Scout movements, youth hostels, etc. As in the case of child welfare organizations, the Government provides assistance by helping to train personnel and granting subsidies for essential needs.

The children's villages and homes, the child welfare centres and the youth projects represent an effort to salvage the country's children and youth, and the Government intends to expand these organizations in the coming months.

Vocational Training

The decree of 12 January 1956 concerning vocational training (*Journal officiel tunisien*, 17 January 1956; *erratum* in *Journal officiel*, 14 February 1956) has as its purpose to organize and make regulations governing vocational training in the various sectors of industry and commerce. It establishes a Vocational Training Council, defines the nature and form of contracts of apprenticeship as well as the conditions for their termination and cancellation, prescribes the employer's duties towards an apprentice who is a minor, determines how apprenticeship is to be organized, and, finally, establishes a vocational training tax.

The French text of the decree and its English translation have been published by the International Labour Office as *Legislative Series*, 1956 — Tun. 1.

DECREE PROMULGATING THE CODE OF PERSONAL STATUS of 13 August 1956 (6 Moharrem 1376) [1]

Art. 1. The texts published below concerning questions of personal status constitute a single consolidated law to be known as the Code of Personal Status.

Art. 2. The provisions of the code shall enter into force and be applied from 1 January 1957, and shall not have retroactive effect. Nevertheless, proceedings in progress on 1 January 1957 shall continue to be governed by the legislation in force on the date of this decree, until such time as the questions at issue are finally settled.

Art. 3. As a transitional measure, persons of the Jewish faith shall continue to be governed in matters pertaining to their personal status by the rules in force on the date of this decree, and shall continue to be subject to the jurisdiction of the rabbinical courts in such matters.

Persons who are neither Moslems nor Jews shall continue to be governed in matters pertaining to their personal status by the provisions of our decree of 12 July 1956 (3 doul hidja 1375).[2]

Art. 4. Notwithstanding the foregoing, the Code of Personal Status shall be applied to a person to whom the preceding article refers upon application by him in the manner laid down in the following article.

In such case, the code shall also be applied automatically and on the same basis as to their father or widowed mother to unmarried children of under twenty full years of age.

. . . .

Book I
MARRIAGE

. . .

Art. 3. Marriage shall not be concluded save with the consent of both spouses.

To be valid, the marriage must be performed in the presence of two witnesses of good repute, and a marriage portion must be fixed for the wife.

Art. 4. Proof of marriage may only be established by a certificate in conformity with the requirements to be prescribed by law.

Proof of marriage concluded abroad shall be established in accordance with the laws of the country in which the marriage was performed.

Art. 5. Both prospective spouses must have attained the age of puberty, and must not be barred from marriage by any of the impediments established by law.

The age of puberty shall be fifteen years of age for women, and eighteen years of age for men.

A person below the age of puberty may not be married except by special licence of a magistrate who, before granting such licence, shall satisfy himself of the physical maturity of the person to be married.

Art. 6. The marriage of a man or woman who has not attained the age of legal majority [twenty years of age] shall be subject to the consent of his or her guardian.

If the guardian withholds his consent and the future spouses persist in their desire to marry, the matter shall be referred to the magistrate.

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Impediments to Marriage

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Art. 18. Polygamy is prohibited.

Any person committing polygamy shall be liable to imprisonment for one year and to a fine of 240,000 francs, or to one of these penalties only.

. . .

Reciprocal Duties of Spouses

Art. 23. The husband shall treat his wife with benevolence, and live on good terms with her. He shall take care not to inflict any injury on her.

He shall defray the expenses of the household and provide for the needs of his wife and children to the extent of his ability and according to his wife's circumstances. The wife shall contribute to the expenses of the household if she possesses any property.

The wife shall respect her husband's prerogatives as head of the family, and to this extent shall owe obedience to him.

The wife shall perform her marital duties in accordance with usage and custom.

Art. 24. The husband shall have no power of administration over the property belonging to his wife.

Disputes between Spouses

Art. 25. If one of the spouses complains of any injury to him committed by the other spouse but fails to produce proof thereof, the magistrate shall, if he is unable to determine which spouse is responsible, appoint two arbiters. After investigating the circumstances, the arbiters shall make every effort to reconcile the spouses, and shall in any case furnish a report on their actions to the magistrate.

Art. 26. In the event of a dispute between the spouses concerning the ownership of property in the conjugal home, the claims of each spouse shall, in

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[1] Published in the *Journal officiel tunisien* of 28 December 1956. Translation by the United Nations Secretariat.

[2] Article 1 of the decree of 12 July 1956 determining the personal status of non-Moslem and non-Jewish Tunisians provides that, as a provisional measure, non-Moslem and non-Jewish Tunisians shall be governed in matters pertaining to their personal status by the provisions of French civil law in force on the date of the decree.

the absence of proof, be admitted on oath, the husband being permitted to take the property normally belonging to men, and the wife property normally belonging to women.

If the disputed property is in the nature of merchandise, it shall be attributed on oath to whichever of the spouses is engaged in commerce. Property customarily belonging to either men or women shall be divided between the spouses, on their oath.

. . .

Book II

DIVORCE

Art. 29. Divorce is the dissolution of marriage.

Art. 30. Divorce may not be granted except by a court.

Art. 31. A court may order divorce:

1. On the petition of either the husband or the wife on any of the grounds provided for in this code;

2. If both the spouses consent thereto;

3. On the petition of either the husband or the wife; in such case, the court shall determine the indemnity payable to the wife for the injury done to her or payable by the wife to the husband.

Art. 32. The court shall not order divorce until it has made every effort to ascertain the cause of the dispute between the two spouses, and all attempts to reconcile them have failed.

The court may order any emergency measures that may be necessary in regard to living accommodation for the spouses, maintenance and the upbringing of the children.

. . .

[Books IV, V, VI, VII and IX deal respectively with maintenance, custody, filiation, foundlings and inheritance.]

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DECREE TO ENACT THE TUNISIAN NATIONALITY CODE of 26 January 1956 (12 djoumada II 1375)[1]

Considering the conventions between France and Tunisia signed in Paris on 3 June 1955 and, in particular, articles 7 to 14 of the Convention on the Status of Individuals,[2]

. . .

Art. 1. The following provisions relating to Tunisian nationality constitute a single consolidated law to be known as the Tunisian Nationality Code.

Art. 2. The provisions of this code shall come into force on 1 March 1956. All former provisions, including the above-mentioned decrees of 19 June 1914 (25 redjeb 1332) and 8 November 1921 (7 rabia I 1340), shall be repealed with effect from that date.

. . .

TUNISIAN NATIONALITY CODE

PRELIMINARY TITLE

GENERAL PROVISIONS

Art. 1. This decree, which shall be known as the Tunisian Nationality Code, shall determine which persons at birth possess Tunisian nationality as their nationality of origin.

Tunisian nationality is acquired, or is lost, after birth, through the operation of law or pursuant to a decision made by the constituted authorities in accordance with the procedure prescribed by law.

Art. 2. Provisions relating to nationality contained in duly ratified and published international treaties, conventions or agreements shall apply, even if they conflict with the provisions of Tunisian internal legislation.

Art. 3. The new legislative provisions relating to the attribution of Tunisian nationality as the nationality of origin shall apply even with respect to persons who were born before the date on which these provisions became operative, but who have not attained their majority by that date. Nevertheless, the application of the said provisions shall not affect the validity of instruments executed by the person concerned or rights acquired by third parties on the basis of earlier legislative provisions.

Art. 4. The conditions governing the acquisition and loss of Tunisian nationality after birth shall be those laid down in the legislative provisions in force at the time of the occurrence of the event, or of the execution of the instrument, which is capable of leading to the acquisition or loss.

Art. 5. For the purposes of this code, a person who has attained his majority shall be deemed to be any person who has attained the age of twenty-one (Gregorian) years.

Art. 6. For the purposes of this code, the term "in Tunisia" means all Tunisian territory, waters under Tunisian sovereignty, and Tunisian ships, vessels and aircraft.

TITLE I

TUNISIAN NATIONALITY

Chapter I

TUNISIAN NATIONALITY AS THE NATIONALITY OF ORIGIN

Section I. — Attribution by reason of relationship

Art. 7. The child of a prince of the reigning family is a Tunisian national.

[1] Published in *Journal officiel tunisien* of 27 January 1956. Translation by the United Nations Secretariat..

[2] See *Yearbook on Human Rights for 1955*, p. 341.

Art. 8. The following persons are Tunisian nationals:

1. The child of a Tunisian father;
2. An illegitimate child in the case where the parent with respect to whom relationship is first proved to exist is a Tunisian national.

Art. 9. The following persons are Tunisian nationals:

1. The child of a Tunisian mother and an unknown or stateless father;
2. An illegitimate child, where the parent with respect to whom relationship is proved to exist in the first place is stateless and the parent who has acknowledged him in the second place is a Tunisian national.

Section II. — Attribution by Reason of Birth in Tunisia

Art. 10. A child born in Tunisia of unknown parents shall be a Tunisian national.

Nevertheless, he shall be deemed never to have been a Tunisian national if, during his minority, relationship is proved to exist with respect to a parent who is an alien and if, under that parent's national law, the child possesses that parent's nationality.

Art. 11. A new-born child found in Tunisia shall be presumed, until the contrary is proved, to have been born in Tunisia.

Art. 12. A child born in Tunisia of stateless parents who have resided in Tunisia for at least five years shall be a Tunisian national if one of the parents is of the same ethnic origin as the majority of the population in a country where the majority speaks Arabic or practises the Moslem religion.

Section III. — Common Provisions

Art. 13. A child who is a Tunisian national by virtue of the provisions of this title shall be deemed to have been a Tunisian national at birth, even if proof of the conditions prescribed by statute for the attribution of Tunisian nationality is not produced until after his birth.

Nevertheless, in the last-mentioned case, the attribution of Tunisian nationality at birth shall not affect the validity of instruments executed by the person concerned, or rights acquired by third parties on the basis of the child's apparent nationality.

Art. 14. The rules applicable to the acknowledgement of an illegitimate child shall be determined by the personal status of the parents.

Where the relationship of an illegitimate child is proved, with respect to both the father and the mother, by the same instrument or the same judgement, relationship shall be deemed to have been first proved to exist with respect to the father.

Art. 15. The nationality of an illegitimate child shall not be affected by relationship unless the latter is proved during his minority.

Chapter II

ACQUISITION OF TUNISIAN NATIONALITY

Section I. — Acquisition through the Operation of Law

Art. 16. A child acquires Tunisian nationality in the following cases, provided that he claims the said nationality in accordance with the procedure laid down in article 39 of this code during the year before he attains his majority:

1. If he was born in Tunisia of a Tunisian mother and an alien father and if, at the time of his declaration, he is resident in Tunisia;

2. If he was born in Tunisia of alien parents, one of whom was born in Tunisia.

Art. 17. An alien woman acquires Tunisian nationality in the following cases, provided that she claims the said nationality by a declaration as set out in article 39 of this code:

1. If her husband is a Tunisian national, and husband and wife have had their joint residence in Tunisia for at least two years;

2. If, being married to a Tunisian national, she ceases to be a national of her country of origin, by virtue of that country's legislation, in consequence of her marriage to an alien.

Nevertheless, in the case referred to in paragraph 1 of this article the Government, on the recommendation of the Council of Ministers, may by decree refuse the acquisition of Tunisian nationality.

In the event of a refusal by the Government, the woman concerned shall be deemed never to have acquired Tunisian nationality.

Art. 18. Subject to the provisions of article 41,[1] the declarant shall acquire Tunisian nationality on the date on which the declaration is registered.

Section II. — Acquisition by Naturalization

Art. 19. Tunisian nationality may be granted by decree on the recommendation of the Council of Ministers made on the basis of a report by the Minister of Justice.

Art. 20. Save as otherwise provided in article 21, naturalization may not be granted to an alien who cannot prove that he has been habitually resident in Tunisia during the five years preceding the submission of his application.

Art. 21. The following persons may be naturalized without any condition as to length of residence:

1. A person who proves that his nationality of origin was Tunisian;
2. An alien married to a woman of Tunisian nationality, if husband and wife have their joint residence in Tunisia at the time when the application for naturalization is submitted;
3. An alien who has rendered outstanding services to Tunisia or whose naturalization is of exceptional

[1] Article 41 concerns the obligation of the Minister of Justice to refuse to register a declaration by an applicant who does not fulfil the statutory requirements.

value to Tunisia. In this case, the decree of naturalization may not be granted except on the recommendation of the Council of Ministers made on the basis of a report submitted, together with a statement of reasons, by the Minister of Justice.

Art. 22. An alien against whom an expulsion order or a restricted residence order has been issued shall not be eligible for naturalization unless the order has been duly rescinded. Residence in Tunisia while the said administrative order is in effect shall not be taken into consideration in calculating the qualifying period referred to in article 20.

Art. 23. A person may not be naturalized:

1. If he has not attained his majority;

2. If he cannot give proof of an adequate knowledge of Arabic in keeping with his circumstances;

3. If he is not found to be of sound mind;

4. If his physical health is not found to be such that he is unlikely to constitute a burden on or a danger to the community;

5. If he is not of good conduct and moral character, or if he has not been restored to his full rights after having been sentenced to a term of more than one year's imprisonment for an offence under the ordinary law punishable under Tunisian law by a criminal penalty or by a term of correctional imprisonment. Nevertheless, sentences imposed abroad may not be taken into consideration.

Section III. — Effects of the Acquisition of Tunisian Nationality

Art. 24. A person who acquires Tunisian nationality under articles 16, 17 and 19 of this code shall enjoy as from the date of such acquisition all the rights attaching to Tunisian nationality, subject to the disabilities mentioned in article 25 of this code or in special legislative provisions.

Art. 25. A naturalized alien shall be subject to the following disabilities for a period of five years following the naturalization decree:

1. He may not be appointed to an elective function or office for the discharge of which the possession of Tunisian nationality is necessary;

2. He may not vote in elections where registration on the electoral roll is conditional on possession of Tunisian nationality;

3. He may not be appointed to a post in the Tunisian public service.

Art. 26. An alien may be relieved by the decree of naturalization of some or all of the disabilities referred to in the preceding article on the recommendation of the Council of Ministers made on the basis of a report submitted, together with a statement of reasons, by the Minister of Justice.

Art. 27. The following persons shall automatically acquire Tunisian nationality with their parents, provided that they have not contracted marriage:

1. A legitimate minor child whose father or whose mother, if a widow, acquires Tunisian nationality;

2. An illegitimate minor child, where the parent with respect to whom relationship was first proved to exist or the surviving parent, as the case may be, acquires Tunisian nationality.

Section IV. — Common Provisions

Art. 28. The residence requirements referred to in articles 16, 17, 20, 21 and 22 shall be met without any element of fraud.

Art. 29. Nationality shall not be affected by marriage unless the latter is solemnized in one of the forms recognized either by Tunisian law or by the law of the country where the marriage takes place.

Chapter III

Loss, Deprivation and Withdrawal of Tunisian Nationality

Section I. — Loss of Tunisian Nationality

Art. 30. A Tunisian national who has attained the age of majority loses Tunisian nationality if he voluntarily acquires a foreign nationality, provided that the Minister of Justice is notified of such acquisition.

The person shall be released from his allegiance to Tunisia on the date of the signature of the decree declaring him to have lost Tunisian nationality.

Art. 31. A Tunisian national who holds an appointment in the public service of a foreign State or in a foreign army and who retains the appointment six months after he has been directed to resign it by the Tunisian Government shall lose his Tunisian nationality unless it is proved that he was totally unable to resign the appointment. In the last-mentioned case, the six-month time limit shall run only from the date on which the impediment was removed. He shall be released from his allegiance to Tunisia as from the date of the decree declaring him to have lost Tunisian nationality.

Art. 32. A woman of Tunisian nationality does not lose the said nationality by reason of her marriage to an alien.

Art. 33. The loss of Tunisian nationality by virtue of article 30 may be extended to the wife and minor unmarried children of the person concerned if they themselves possess a foreign nationality; it may not, however, be extended to his minor children unless it is also extended to his wife.

Section II. — Deprivation of Tunisian Nationality

Art. 34. A person who has acquired Tunisian nationality may be deprived thereof by decree on the recommendation of the Council of Ministers made on the basis of a report by the Minister of Justice:

1. If he is convicted of an act held to constitute a crime or offence against the internal or external security of the State;

2. If he engages, to the advantage of a foreign State, in acts incompatible with Tunisian nationality and detrimental to the interests of Tunisia;

3. If he is convicted in Tunisia or abroad of an act held to constitue a crime under Tunisian law, for which he is sentenced to a term of at least five years' imprisonment.

Art. 35. A person shall not suffer deprivation of nationality unless the acts with which he is charged and which are specified in article 34 occurred following the date on which he acquired Tunisian nationality. Deprivation of nationality may not be ordered except within five years following the commission of the said acts.

Art. 36. Deprivation of nationality may be extended to the wife and unmarried minor children of the person concerned, if they are of foreign origin and have retained a foreign nationality. Nevertheless, it may not be extended to his minor children unless it is also extended to his wife.

. . .

[Title II (articles 39–54) deals with the administrative procedure relating to declarations of nationality, their registration, etc., and title III (articles 55–73) deals with disputes involving nationality.]

DECREE RESPECTING PRINTING, BOOKSELLING AND THE PRESS of 9 February 1956 (26 djoumada II 1375)[1]

Chapter I

PRINTING AND BOOKSELLING

Art. 1. Printing and bookselling are free.

Art. 2. All printed matter which is to be published, with the exception of so-called jobbing work, shall bear the name and address of the printer who, in default thereof, shall be liable to a fine of not less than 1,200 nor more than 3,600 francs.

If the printer has been convicted of a similar offence during the preceding twelve months he shall be liable to imprisonment for a term of not less than six days nor more than one month.

Art. 3. A printer shall deposit four complete copies, in the state in which they are ordinarily to be sold, of every publication printed by him in Tunisia; one copy shall be for the Ministry of National Education (Public Library). Failure to do so shall render the printer liable to a fine of not less than 4,000 nor more than 72,000 francs.

Copies of the first published issues of periodicals and copies of all non-periodical works must be deposited twenty-four hours before publication; they must be accompanied by a declaration stating the title of the work and the number of copies printed.

The deposit shall be made against a receipt, at the Office of Security Services at Tunis or, if the printing works is situated outside Tunis, at the nearest police headquarters or station, which shall send the printed matter in question to the competent department of the Office of Security Services.

The following shall be exempted from this provision: ballot papers, commercial or industrial circulars, announcements of births, marriages and deaths, and so-called jobbing work in general.

Art. 4. The preceding provisions shall apply to every kind of matter for publication, whether printed, engraved, lithographed or reproduced by any process, including photographs intended for commercial use.

Chapter II

THE PERIODICAL PRESS

Section 1. — Right of publication, direction, declaration and deposit

Art. 5. Newspapers or periodicals may be published without previous authorization and without deposit of security after the declaration prescribed by article 7 has been made.

Art. 6. There shall be a managing editor for every newspaper or periodical. The managing editor shall be Tunisian if the newspaper or periodical is published in Arabic or Hebrew.

The managing editor must be domiciled in Tunisia, of full age, in full exercise of his civil rights, and must not have been deprived of his civic rights by any judicial sentence, either in Tunisia or in his country of origin.

Art. 7. Before any newspaper or periodical is published, a declaration shall be lodged with the French and Tunisian court offices of the State Counsel and with the Office of Security Services giving the following particulars:

1. The title of the newspaper or periodical and the method of publication;
2. The name, domicile and nationality of the proprietor or proprietors;
3. The name, domicile and nationality of the managing editor;
4. The name of the printing works where it is to be printed;
5. The language in which it is to be published.

A further declaration shall be made within five days of any change in the above particulars.

Art. 8. Declarations shall be made in writing, on stamped paper, and signed by the managing editor. A receipt shall be issued.

[1] Published in the *Journal officiel tunisien* of 24 February 1956 (Corrigenda published in the *Journal officiel* of 13 March 1956). Translation by the United Nations Secretariat.

Art. 9. In the event of any contravention of the provisions of articles 6, 7 and 8 the proprietor and the managing editor, or in their default, the printer, shall be liable on conviction to a fine of not less than 12,000 nor more than 120,000 francs.

It shall not be lawful for the publication of any newspaper or periodical to be continued until the formalities prescribed above have been complied with. If unlawful publication continues, the persons mentioned above shall be jointly liable to a fine of 24,000 francs for each number published from the day sentence was pronounced, if the parties were heard, and from the third day after notification, if judgement was given by default. If provisional enforcement of the sentence is ordered, these penalties may be imposed even if an objection or appeal has been lodged.

In addition, the court may order the suspension of the newspaper. In that case, an appeal shall not have the effect of a stay of execution.

The convicted person may lodge an appeal even if sentenced by default. The Court of Appeal or the Ouzara Court shall give its judgement within ten days.

Art. 10. On publication of each number or instalment of the newspaper or periodical, two copies signed by the managing editor shall be deposited with the French and Tunisian court offices of the State Counsel or, in towns where there is neither a court of first instance nor a regional court; with the justice of the peace and the cantonal judge.

The managing editor shall, at the same time, deposit four copies with the Office of Security Services under the conditions and in the form required by article 3 above.

Failure to deposit copies as herein prescribed shall render the managing editor liable to a fine of 12,000 francs.

Art. 11. The name of the managing editor shall be printed at the foot of every copy, and in default the printer shall be liable to a fine of not less than 4,000 nor more than 24,000 francs in respect of each number published in contravention of this regulation.

Section 2. — Corrections

Art. 12. The managing editor shall insert free of charge at the head of the next number of the newspaper or periodical any corrections communicated to him by a public official with regard to acts, carried out in the exercise of his office, which have been incorrectly reported by the said newspaper or periodical.

Such corrections may not, however, be more than double the length of the article to which they refer.

If the managing editor fails to comply with these provisions, he shall be liable on conviction to a fine of not less than 24,000 nor more than 240,000 francs.

Art. 13. The managing editor shall insert within three days of receipt the reply of any person named or designated in the daily newspaper or periodical, and in default shall be liable to a fine of not less than 12,000 nor more than 120,000 francs, without prejudice to any other penalties or damages to which the article may render him liable.

In the case of newspapers or periodicals not published daily, the managing editor shall insert the reply in the number immediately following the second day after receipt, and in default he shall be liable to the aforementioned penalties.

A reply shall be inserted in the same place and in the same type as the article whichgave rise to it, and shall be printed without intercalations of any kind.

Excluding the address, customary forms of courtesy, covering note and signature, which shall in no case be counted in the reply, the latter shall be limited to the length of the article which gave rise to it. It may, however, amount to fifty lines, even if the article was shorter, but shall not exceed two hundred lines, even if the article was longer. These provisions also apply to further rejoinders in cases where the first reply was accompanied by further comment by the journalist concerned.

Replies shall always be free of charge, and the person requesting the insertion shall not be entitled to exceed the limits prescribed in the preceding paragraph by offering to pay for space in excess of the fixed limits.

The right of rejoinder may be claimed only in the edition or editions in which the article appeared.

Publication, in the area served by the aforesaid edition or editions, of a special edition not containing the reply which the corresponding number of the newspaper was required to publish, shall be considered as equivalent to a refusal to insert a reply, and shall be punishable by the same penalties, without prejudice to an action for damages.

Actions for refusal to insert a reply shall be decided by the court within ten days of the issue of the summons or the order to appear before the judge. The court may decide that a judgement ordering the insertion of a reply shall be enforceable immediately, notwithstanding objection or appeal; but this shall apply to insertion of the reply only. If an appeal is lodged, the decision shall be notified within ten days after it is lodged with the clerk of the court.

During an electoral period, the time-limit of three days for insertion prescribed in the first paragraph of the present article shall be reduced, for daily newspapers, to twenty-four hours. The reply must be delivered not less than six hours before the printing of the newspapers in which it is to be published. As soon as the electoral period begins, the managing editor shall be required, subject to the penalties prescribed in paragraph 1, to notify the French and Tunisian court offices of the State Counsel of the hour at which his newspaper is to be published during this period.

The time-limit for a summons or the order to appear before the judge on the charge of refusal to insert a reply shall be reduced to twenty-four hours, without increase for distance, and the summons or order to appear before the judge may even, by special order of the president of the court or the president of the regional court, be served without notice. The judgement ordering insertion shall be immediately enforceable, notwithstanding objection or appeal; but this shall apply to insertion only.

The right of legal action to compel insertion shall lapse after one complete year from the day of publication.

Section 3. — Newspapers or Periodicals published outside Tunisia

Art. 14. The circulation, distribution and sale in Tunisia of a newspaper or other printed matter, whether periodical or not, which is published outside the kingdom and is harmful to public law and order or public decency, may be prohibited by an order, stating the reasons of our Minister of the Interior.

If in spite of the prohibition, any person knowingly offers for sale or distributes or reproduces by any method whatsoever all or part of the prohibited newspaper, printed matter or periodical, he shall be liable to a fine of not less than 12,000 nor more than 120,000 francs and, in the case of a repetition of the offence, to imprisonment for not less than six days nor more than three months.

Chapter III

BILLPOSTING, HAWKING AND SALE ON PUBLIC THOROUGHFARES

Section 1. — Billposting

Art. 15. In each commune, the president of the municipality and in other localities the Caïd shall designate by an order the places to be used exclusively for posting laws and other announcements of the public authorities.

It shall be unlawful to post private notices in such places.

Notices of official acts shall be printed on white paper only.

Any violation of the provisions of the present article shall be punishable by the penalties provided in article 2 of this decree.

Art. 16. Electoral manifestos, circulars and placards may be posted, except in the places reserved under the preceding article, on all public buildings other than religious buildings, and especially at the approaches to polling-booths.

Art. 17. If any person removes, mutilates, covers or otherwise spoils notices posted in accordance with an order of the administration in places reserved for that purpose in such a way as to deface them or render them illegible he shall be liable to a fine of not less than 1,200 nor more than 6,000 francs. If an official or public servant is found guilty of any of these acts as aforesaid, he shall be liable to a fine of not less than 4,000 nor more than 24,000 francs, and to imprisonment for not less than six days nor more than one month, or to one of these penalties only.

If any person removes, mutilates, covers or otherwise spoils in such a way as to deface them or render them illegible electoral placards posted by private individuals on property not owned by the person who committed these acts, he shall be liable to a fine of not less than 1,200 nor more than 6,000 francs. If the act is committed by a public official, the penalty shall be a fine of not less 4,000 nor more than 24,000 francs, and imprisonment for not less than six days nor more than one month, or one of these penalties only.

If any person, whatever process he may use, places any inscription, mark or drawing on the movable or immovable property of the State, a public establishment or the property of the public services, without authorization from the administration, and if any person, whatever process he may use, places any inscription, mark or drawing on immovable property, not being the owner, life tenant or lessee thereof, or not being authorized for this purpose by the said owner, life tenant or lessee, he shall be liable to a fine of not less than 4,000 nor more than 24,000 francs, and to imprisonment for not less than six days nor more than one month, or one of these penalties only.

Section 2. — Hawking and Sale on Public Thoroughfares

Art. 18. If any person desires to engage in the occupation of hawking or distributing on public thoroughfares, or in any other public or private place, books, written matter, pamphlets, newspapers, drawings, engravings, lithographic prints and photographs, he shall submit a declaration to that effect at Tunis, at the Cheikhat-el-Médina (municipal authority) and elsewhere in the country at the central administrative office of the Caïdat (judicial district) where he is domiciled.

The declaration shall state the surname, first name, nationality, occupation, domicile, age and birthplace of the signatory. A receipt for the declaration shall be issued immediately free of charge.

It shall be an offence to engage in the occupation of hawking or distributing without having made the declaration or to make a false declaration, or to fail to produce the receipt on demand. Offenders shall be liable to a fine of not less than 1,200 nor more than 3,600 francs, and may in addition be sentenced to imprisonment for not less than one day nor more than six days. The sentence of imprisonment shall be obligatory in the event of a second or further offence or a false declaration.

Art. 19. Any hawker or distributor who has knowingly hawked or distributed any book, written matter, pamphlet, newspaper, drawing, engraving,

lithographic print or photograph, which constitutes an offence against the law, shall be liable to proceedings under the ordinary law, without prejudice to the cases enumerated in article 42.

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Chapter IV

CRIMES AND OFFENCES COMMITTED THROUGH THE PRESS OR ANY OTHER MEDIUM OF PUBLICATION

Section 1. — Incitement to Crimes and Offences

Art. 21. If any person directly incites another by speeches, cries or threats uttered in a public place or meeting, or by written or printed matter sold, distributed, offered for sale or exhibited in a public place or meeting, or by posters or notices exhibited to the public, or by any other intentional means of publication, to commit an act constituting a crime or an offence, he shall be punishable, if such incitement is followed by an overt act, as accessory thereto.

This provision shall also be applicable if the incitement is followed only by an attempt to commit a crime within the meaning of article 2 of the French Penal Code, or article 59 of the Tunisian Penal Code.

Art. 22. If any person, by any of the means enumerated in the preceding article, directly incites another to commit a theft or the crimes of murder, looting or arson, or any of the crimes or offences punishable under articles 309–313 of the French Penal Code and articles 208–213, 218 and 219 of the Tunisian Penal Code, or any of the crimes and offences against the external security of the State provided against in articles 75–85 inclusive of the French Penal Code, he shall be liable, if such incitement is not followed by an overt act, to imprisonment for not less than one year nor more than five years, and to a fine of not less than 24,000 nor more than 720,000 francs.

If any person using the methods mentioned above directly instigates any of the crimes against the internal security of the State provided against in articles 86–101 inclusive of the French Penal Code and articles 63–81 of the Tunisian Penal Code, he shall be liable to the same penalties.

If any person using any of the methods enumerated in article 21 defends the crimes of murder, looting, arson or theft, or any crime mentioned in article 435 of the French Penal Code and articles 304–306 of the Tunisian Penal Code, he shall be liable to the same penalty.

If any person using any method as aforesaid directly instigates race hatred or any of the offences mentioned in article 24, or incites the people to infringe the law, he shall be punishable by imprisonment for not less than two months nor more than three years, and a fine of not less than 24,000 nor more than 720,000 francs.

If any person utters seditious shouts or songs in a public place or meeting he shall, without prejudice to any statutory provision or municipal ordinances relating to petty offences, be liable to imprisonment for not less than six days nor more than one month, and to a fine of not less than 4,000 nor more than 120,000 francs, or to one of these penalties only.

If a court sentences a person to imprisonment without suspension of sentence for a contravention of the provisions of this article, it may in addition deprive the convicted person of his right to vote or to be eligible for office for a period of not more than five years. As soon as a decision to this effect becomes definitive it shall entail disqualification for any existing elective mandate.

Art. 23. If any person by any of the methods enumerated in article 21 incites serving members of the Beylic Guard with the object of seducing them from their military duty and from the obedience which they owe to their superior officers in all commands relating to the execution of the military laws and regulations, or of preventing or delaying the departure of young soldiers, or of seducing from their military duty those who have not yet been, but are destined to be called up under the recruitment law, he shall be liable to imprisonment for not less than one year nor more than five years and a fine of not less than 24,000 nor more than 720,000 francs.

Section 2. — Offences against the State

Art. 24. If any person by any of the means referred to in article 21 insults, whether directly or indirectly, or falsely accuses His Highness the Bey, his ministers, the princes of his family or the religions the exercise of which is authorized in Tunisia, he shall be punishable by imprisonment for not less than two months nor more than three years, and a fine of not less than 24,000 nor more than 720,000 francs.

Art. 25. The malicious publication, dissemination or reproduction by any means whatsoever of false reports or documents which are forged, fraudulently altered or falsely attributed to third persons shall be punishable, if a disturbance of public order results or might result from such acts, by imprisonment for not less than two months nor more than three years, and a fine of not less than 24,000 nor more than 720,000 francs, or one of these penalties only.

Art. 26. Proceedings for an offence against public decency committed through the medium of books shall be barred after one year from the date of the publication or introduction thereof into Tunisian territory.

Section 3. — Offences against Persons

Art. 27. Any allegation or imputation of an act prejudicial to the honour or good name of the person to whom or the body to which the act is imputed shall be deemed defamation. Publication of such allegations or imputations, whether direct or by a process of reproduction, shall be punishable, even if the allegations or imputations are ambiguous or refer

to a person or a body not explicitly named, but identifiable by the terms of the speeches, shouts, threats, written or printed matter, posters or notices which are the subject of the complaint.

Any offensive expression, term of contempt or invective which does not contain the imputation of any act shall be deemed to be an insult.

Art. 28. Defamation by any of the methods enumerated in article 21 of courts, tribunals, the armed forces or public authorities and public administrative departments shall be punishable by imprisonment for eight days and a fine of not less than 24,000 nor more than 720,000 francs, or by one of these penalties only.

Art. 29. Defamation by the same methods, in respect of their functions or qualities, of one or more members of the Tunisian Government, a public official, a depository or agent of public authority, whether temporary or permanent, or an assessor or witness in respect of his deposition, shall be punishable by the same penalty.

Defamation in regard to the private lives of any of the aforesaid persons shall be governed by article 30 hereunder.

Art. 30. Defamation of private persons by any of the methods enumerated in article 21 shall be punishable by imprisonment for not less than five days nor more than six months, and a fine of not less than 6,000 nor more than 480,000 francs, or by one of these penalties only.

Art. 31. Insults uttered by the same methods against the bodies or persons specified in articles 28 and 29 of the present decree shall be punishable by imprisonment for not less than six days nor more than three months, and a fine of not less than 4,000 nor more than 120,000 francs, or by one of these penalties only.

Insults uttered in the same manner against private persons shall be punishable, when not preceded by provocation, by imprisonment for not less than five days nor more than two months and a fine of not less than 4,000 nor more than 120,000 francs, or by one of these penalties only. If the insult is not uttered in public, it shall be punishable only by the penalty prescribed in article 471 of the French Penal Code and article 315 of the Tunisian Penal Code.

If any person uses the services of the Postal and Telegraphic Department to send an open message containing a defamation either of private individuals or of the bodies or persons designated in articles 24, 28, 29 and 35 of the present decree, he shall be liable to imprisonment for not less than five days nor more than six months, and to a fine of not less than 6,000 nor more than 720,000 francs, or one of these penalties only.

If the message contains an insult, the offence shall be punishable by imprisonment for not less than five days nor more than two months, and a fine of not less than 4,000 nor more than 72,000 francs, or one of these penalties only.

Art. 32. Articles 29, 30 and 31 shall not be applicable to any defamation or insult in respect of the memory of deceased persons unless the authors of the defamation or insult intended them to reflect on the honour or good name of the living heirs, spouses or residuary legatees.

Irrespective of the intention of the authors of the defamation or insult to reflect on the honour or good name of the living heirs, spouses or residuary legatees, the latter shall be entitled to claim the right of rejoinder as provided under article 13.

Art. 33. The truth of a defamatory statement which concerns public bodies, the military, naval and air forces and public administrations or any of the persons specified in article 29 of the decree, may be established by the ordinary procedure, but only in so far as it relates to their official functions. The truth of a defamatory or insulting allegation against the manager or director of an industrial, commercial or financial undertaking which publicly solicits savings or credit may also be established.

In the cases specified in the preceding paragraph, the truth of a defamatory statement may always be established, save:

(*a*) When the allegation concerns the private life of the individual;

(*b*) When the allegation refers to facts which occurred more than ten years previously;

(*c*) When the allegation refers to an act constituting an offence which is covered by amnesty or limitation of time, or which led to a conviction cancelled by rehabilitation or review.

In the cases specified in the two preceding paragraphs, the right to offer evidence to the contrary is reserved. If the truth of the defamatory matter is established, the accused shall be acquitted. In all other circumstances and in relation to any other person not specified, when the alleged act is the subject of proceedings initiated by the Ministère publique (Office of the State Counsel) or of an action by the accused, proceedings and trial for the offence of defamation shall be suspended during the preliminary examination.

Art. 34. A reproduction of any allegation which has been judged defamatory shall be deemed malicious, failing proof to the contrary by its author.

Section 4. — Offences against Heads of States and Diplomatic Agents

Art. 35. If any person insults the High Commissioner of France in Tunisia by any of the methods enumerated in article 21, he shall be liable to imprisonment for not less than three months nor more than one year, and a fine of not less than 24,000 nor more than 720,000 francs.

Art. 36. If any person publicly insults the head of a foreign State, the head of a foreign government or the minister of foreign affairs of a foreign government, he shall be liable to imprisonment for not less than three months nor more than one year, and a fine of not less than 24,000 nor more than 720,000 francs, or one of these penalties only.

Art. 37. If any person publicly insults an ambassador or plenipotentiary minister, envoy, chargé d'affaires or any other diplomatic and consular agent accredited to His Highness the Bey, he shall be liable to imprisonment for not less than eight days nor more than one year and a fine of not less than 12,000 nor more than 480,000 francs, or one of these penalties only.

Section 5. — Prohibited Publications; Immunities of the Defence

Art. 38. It shall be unlawful to publish a criminal charge or accusation or any other document relating to procedure before the criminal or correctional courts before it has been read in public audience on pain of a fine of not less than 12,000 nor more than 240,000 francs.

The same penalty shall be applicable on conviction for the publication by any method of photographs, engravings, drawings or portraits purporting to reproduce, wholly or partly, the circumstances of any of the crimes and offences enumerated in articles 295–340 inclusive of the French Penal Code or in articles 201–240 inclusive of the Tunisian Penal Code.

No offence shall, however, be deemed to have been committed if publication was undertaken at the written request of the examining judge. The request shall be attached to the file of the investigation.

Art. 39. It shall be unlawful to publish reports of actions for defamation in the cases mentioned in sub-paragraphs (*a*), (*b*) and (*c*) of article 33 of this decree, or of affiliation, divorce and separation proceedings. This prohibition shall not apply to judgements, which may always be published.

In all civil cases the courts and tribunals may prohibit the publication of reports of the trial.

It shall also be unlawful to publish reports of the private deliberations of judges, courts or tribunals.

If a person contravenes these provisions, he shall be punishable by a fine of not less than 24,000 nor more than 240,000 francs.

Art. 40. It shall not be lawful to open and advertise a public subscription to meet the expenses of fines, costs and damages imposed by a judgement of the courts in criminal or correctional cases on pain of imprisonment for not less than eight days nor more than six months, and a fine of not less than 24,000 nor more than 240,000 francs, or one of these penalties only.

Art. 41. No action shall lie with respect to reports of the public meetings of the Assembly published in good faith in newspapers.

No action for defamation, insult or slander shall lie with respect to accurate reports of judicial proceedings or of statements made or writings produced in courts if published in good faith.

Judges trying a case and deciding on its substance may, however, make an order for the omission of insulting, slanderous or defamatory speeches and sentence any person who fails to obey the order to pay damages. Judges may also, in the same circumstances, admonish advocates, *mouhamis* and ministerial officers, and may even suspend them from the performance of their functions. The duration of such suspension may not exceed two months, or six months in the event of a further offence within a year.

Defamation in connexion with matters unrelated to the case before the court may give rise to criminal proceedings or to civil action by the parties if their right thereto has been reserved by the court, and in any case to civil action by third parties.

Art. 42. In the event of a conviction the sentence may in the cases enumerated in article 22, paragraph 1, and in article 23 include the confiscation of the writ ten or printed matter, placards or notices seized, and may in all cases contain an order for the seizure and suppression or destruction of all copies on sale, distributed or exhibited to the public.

Nevertheless, the suppression or destruction may apply only to certain parts of the copies seized.

Conviction for a second or further offence of blackmail shall entail the suppression of the newspaper or periodical concerned.

Printing, offering for sale or distributing the suppressed publication shall be punishable by a fine of not less than 24,000 nor more than 1,200,000 francs. The courts may apply articles 463 of the French Penal Code and 53 of the Tunisian Penal Code.

Chapter V

PENAL PROCEEDINGS AND PENALTIES

Art. 43. Crimes, offences and contraventions set forth in this decree and any infringements of its various provisions shall be referred to the French and Tunisian courts in accordance with their respective jurisdictions.

Art. 44. The following, in the order named, shall be liable as principals to the penalties enacted for the repression of crimes and offences committed through the press: (1) managing editors or publishers, whatever their profession or description; (2) in their default, the authors; (3) in default of the authors, the printers; (4) in default of the printers, the vendors, distributors or bill-posters.

Art. 45. Where proceedings are taken against the managing editors or publishers, the authors shall be prosecuted as accessories.

Proceedings may also be taken on the same grounds and in all cases against persons to whom article 60 of the French Penal Code or article 32 of the Tunisian Penal Code may apply. The said articles shall not be

deemed to apply to printers in respect of offending printed matter save in the cases and under the conditions specified in article 6 of the French Act of 7 June 1848 respecting unlawful assemblies or in article 7 of the decree of 5 April 1905 (29 moharram 1323) respecting unlawful assemblies.

Art. 46. The proprietors of newspapers or periodicals shall be responsible for any pecuniary sentences imposed on the persons designated in the two preceding articles, and payable to third persons, in accordance with articles 1382, 1383 and 1384 of the French Civil Code and articles 82, 83 and 96 of the Tunisian Code of Obligations and Contracts.

Art. 47. . . .

6. Proceedings based on articles 22–25 of this decree or on the general provisions respecting blackmail shall be taken *ex officio* and at the request of the Ministère publique or at the request of our Minister of the Interior.

Whenever penal proceedings may be initiated at the request of the Minister of the Interior, the suspension of the newspaper concerned may be ordered, at the request of the Ministère publique, for a fixed period not extending beyond the final decision of the trial judges of the correctional court sitting in judges' council chamber after hearing the parties, within eight days. The decision shall take effect provisionally. Appeal may be lodged with the Court of Appeal or the Ouzara Court, the decision to be given in the same form within ten days after the appeal is lodged with the clerk of the court.

Publication of a suspended newspaper shall cease. Publication shall be deemed to be continuous even if the periodical appears under a different title, provided that the evidence as to fact — namely, the collaboration of all or part of the staff of the suspended newspaper or periodical, the outward appearance of the newspaper or periodical, consideration of the policy advocated, or similar facts — indicates that the new periodical is actually a continuation of the suspended periodical.

. . .

DECREE CONCERNING THE ELECTION OF THE CONSTITUENT NATIONAL ASSEMBLY of 6 January 1956 (22 Jomada I 1375)[1]

Art. 1. The purpose of this decree is to determine, in accordance with article 2 of our decree of 29 December 1955 (14 Jomada I 1375),[2] the conditions for the election of the Constituent National Assembly.

Title I

THE ELECTORATE

Art. 2. Subject to the exceptions set out below, every male Tunisian who has attained the age of twenty-one years (Gregorian) living in Tunisia on the date of closure of the final registers of voters shall be entitled to vote.

Art. 3. Subject to the provisions of article 4 below, no person may be enrolled in the register of voters if he:

(1) Has been sentenced by final judgement of a court of law to imprisonment for a term of more than three months or to a heavier penalty;

(2) Has been sentenced by final judgement of a court of law to a fine for an offence against the companies act;

(3) Is an undischarged bankrupt;

(4) Is of unsound mind;

(5) Is a member of the armed forces on active service.

Art. 4. Enrolment in the register of voters shall not be precluded by reason of:

(1) Conviction of a political or trade union offence;

(2) Conviction of an offence involving negligence, except where accompanied by evasion.

Art. 5. The requirements for registration as a voter set out in articles 2, 3 and 4 above must be satisfied on the date of closure of the registers of voters.

Art. 6. No person may exercise the right to vote in an electoral district unless he is enrolled in a register of voters in that district.

Art. 7. No person may be enrolled in more than one register of voters. Voters who are enrolled in several registers must state the register on which they wish their names to be retained. Failing such a statement on their part, their names shall remain on the register in which they were last enrolled.

. . .

Title II

RIGHT TO BE ELECTED

Art. 11. Any voter who can read and write and who has attained the age of thirty (Gregorian) may stand for election anywhere in the kingdom, provided that he is not under a disability resulting from a conviction subsequent to the compilation of the register of voters and that he is not:

(1) A senior official on the list of senior officials to be promulgated by subsequent decree,[3] a territorial sheikh or tax collector;

(2) A magistrate in the religious or secular courts.

[1] Published in the *Journal officiel tunisien* of 6 January 1956. Translation by the United Nations Secretariat.

[2] See the *Yearbook on Human Rights for 1955*, p. 228.

[3] Decree of 23 February 1956 concerning persons not entitled to stand for election to the Constituent National Assembly and incompatibility of membership of the Assembly and the holding of public office (*Journal officiel tunisien* of 24 February 1956).

TURKEY

NOTE[1]

Act to amend the title and certain articles of Act No. 6334 concerning certain offences committed by way of publication or radio broadcast, and addition of a new article

By Act No. 6732,[2] which was adopted on 7 June 1956, and was promulgated and came into force on 8 June 1956, the title of Act No. 6334[3] has been amended to read as follows: "Act concerning certain offences committed by way of publication or radio broadcast or committed at meetings."

Article 2 of the new Act amends articles 1, 3, 4 and 5 of Act No. 6334, and adds a new article.

The new Act amends the articles formerly in force to read as follows:

"*Art. 1.* If a person is guilty of any of the following offences by publishing matter in the press, he shall be liable upon conviction to imprisonment for a term of not less than one year nor more than three years and to a heavy fine[4] of not less than 3,000 nor more than 10,000 Turkish pounds — that is to say:

"(1) If he publishes an attack or slur on the honour, good repute or dignity of any person;

"(2) If he imputes to a person any act likely to cause prejudice to his good name,[5] his reputation, his career or his financial position;

"(3) If he publishes or discloses details of a person's private or family life against his will;

"(4) If he threatens to commit any of the acts mentioned in paragraphs 1 to 3;

"(5) If, except in cases prescribed by law, he publishes any matter which is offensive to the dignity of a person holding public office or likely to arouse feelings of contempt or hostility against such person or if he publishes any insinuations which may expose them to unfavourable public opinion.

"Where the aforesaid offences are committed against a person holding public office, because of his public office or of his duties, the penalty shall be increased by not less than one-third nor more than one-half.

"*Art. 3.* If any person publishes or writes any false information or news, or false documents, which cause harm to the political and financial security of the State or cause a public disturbance or agitation, or undermine public order or the people's confidence in the State or disturb public safety and order in any way, he shall upon conviction be liable to imprisonment for not less than one year nor more than three years, and to a heavy fine of not less than 10,000 Turkish pounds. The same penalties shall be applied to any person who has in bad faith or with culpable intent written or has caused to be published in any foreign country information, news or reports which are false, exaggerated or likely to be detrimental to the external security or the influence abroad of the State or Government, or instigated the publication thereof or published any matter directed against the authorities, the administration, the constituted organs and the official institutions or against persons holding public office.

"The same penalties shall be imposed on any person who publishes articles, information, news, pictures and documents after having falsified or altered the text, contents or character of such matter.

"The penalties set forth in the first paragraph shall be imposed on any person who publishes false information which might cause the decrease of goods in stock or the instability of prices of goods essential for the needs of the people, or endanger the internal security or undermine the people's respect for and confidence in the Government and other authorities and administrative bodies empowered to take decisions concerning public affairs. The said penalties shall also be applicable to any person who publishes information or news for which there are no grounds whatsoever concerning the decisions or acts of the public authorities or administrative bodies, or who in any publication falsifies information, news or the facts concerning such decisions and acts.

"If the published material referred to in the above paragraphs is such as to cause personal harm only, whether moral or material, then, upon complaint made by the injured party, the offender shall be liable to imprisonment for not less than three months nor more than one year and a heavy fine of not less than 2,000 nor more than 10,000 Turkish pounds.

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[1] Note kindly prepared in French by 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, which has been appointed by the Government of Turkey to prepare the Turkish contribution to the *Yearbook on Human Rights*. Translation by the United Nations Secretariat.

[2] The text of this law was published in *Official Gazette* No. 9327, of 8 June 1956.

[3] See *Yearbook on Human Rights for 1954*, p. 262.

[4] Turkish penal law prescribes two types of fine: those imposed for the commission of crimes are called *heavy fines*, and those imposed for the commission of petty offences are called *lesser* (or *light*) *fines*.

[5] Translation of the Turkish word "itibar" (standing, honour, credit).

If any person reproduces the offensive material in question or publishes a part thereof, he shall be liable to the same penalties.

"*Art. 4.* If any person repeats an offence as defined in articles 1, 3 and 7 of the present Act he shall be liable to double the penalty.

"*Art. 5.* If the offender, irrespective of whether he is the owner of the periodical or the publisher, an individual or a body corporate, is not responsible in accordance with the criminal law, he shall be ordered by the court to pay a fine of ten times the amount of the heavy fine which a person convicted of the offences specified in this Act may be sentenced to pay.

"The fine shall be imposed and collected in accordance with the provisions of Act No. 6183[1] concerning the procedure for the collection of public debts. This fine shall not be taken into account for the purpose of determining whether an offence has been repeated.

"*Art.* 7. If any person acts in contravention of the provisions of this Act in any meeting, held either indoors or in the open air, he shall be liable to the penalties laid down above under the conditions prescribed by this Act."

Act to amend certain articles of the Press Act and to add a provisional article

Article 1 of Act No. 6733, which was adopted on 7 June 1956, promulgated and put into force on 8 June 1956,[2] amends articles 4, 5, 7, 8, 13, 16, 17, 19, 25, 29, 30, 32, 34 and 39 of the Press Act No. 5680,[3] and adds a provisional third article to that Act.

Act concerning rallies, meetings and demonstration marches

Act No. 6761,[4] which was adopted on 27 June 1956, promulgated and put into force on 30 June 1956, consists of ten chapters regulating rallies and meetings, as well as demonstration marches.

The first chapter, entitled "Free rallies and meetings", comprises the first two articles of the Act. Article 1 provides that individuals or bodies corporate are free to conduct rallies, meetings and demonstration marches subject to the provisions of this Act. Article 2 provides that rallies, meetings and demonstration marches organized by political parties or by individuals or bodies corporate for the purposes of political propaganda may be conducted only during the periods prescribed by the electoral law for electoral propaganda. This article likewise prescribes that bodies corporate may convoke meetings of their members on the condition that they hold such meetings indoors.

Chapter II, which begins with article 3, is entitled "The holding of rallies, meetings and demonstration marches subject to a written application for authorization". Article 3 provides that a written statement must be submitted to the highest local civil authority before a rally, meeting or demonstration march may be organized. The statements must be submitted by an organizing committee composed of three members. Under article 4, the authority must inform the organizing committee, before the hour indicated in the statement, whether authorization is granted for the rally or demonstration march. Under article 5, paragraph 2, it is prohibited to deliver addresses or public speeches or to engage in propaganda during a demonstration march. The object and purpose of the march may be expressed only by means of signs.

"The establishment of an administrative committee and its obligations" are regulated by article 6, the sole article of chapter III. Persons who organize rallies (meetings) or demonstration marches must form an administrative committee composed of not less than three members. The committee must take the necessary measures to ensure the preservation of law and order, to prevent the commission of unlawful acts, etc. In case of necessity, it shall request the assistance of the police.

Chapter IV is entitled "Public officials who must attend rallies, meetings and demonstration marches and the powers of the highest civil official of the locality". Under article 7, the highest civil official of the locality shall designate one or more officials, other than judges and members of the armed forces including gendarmes, to serve as state commissioners and attend at rallies (meetings) or demonstration marches.

Chapter V is entitled "Exceptions and prohibited acts". Under article 11, the provisions of this Act do not apply to meetings such as ceremonies, social gatherings, weddings and dances, meetings and conferences organized by schools or official institutions and gatherings of the people at markets and fairs. It is forbidden to make speeches or perform acts at such gatherings and meetings which are incompatible with their object and purpose.

Article 12, which is the sole article in chapter VI, defines "unlawful rallies, meetings and demonstration marches", and chapter VII (article 13) deals with the procedure for breaking them up.

Chapter VIII (article 14) is entitled: "Penal provisions". Chapter IX (article 15) defines the procedure to be applied.

The tenth and final chapter of the Act contains articles 16–22, which make provisions for any changes to be made in the articles of association of bodies corporate, the number of their general meetings, entry into force of the Act, etc.

[1] Act of 28 July 1953, published in *Official Gazette* No. 8469.

[2] See p. 233 below.

[3] See *Yearbook on Human Rights for 1952*, pp. 272–3 and 275, and *Yearbook on Human Rights for 1955*, p. 230.

[4] Turkish text in *Official Gazette* No. 9346, of 30 June 1956.

Act concerning the registration of matrimonial unions and of the children born of such unions

Act No. 6652[1] which was adopted on 30 January 1956 and promulgated and put into force on 7 February 1956, provides in its first article that any child born of the union of a man and woman living together as man and wife, such union not having been contracted before an official authorized to celebrate marriages but having been entered into between 4 October 1926 (the date of entry into force of the Turkish Civil Code) and the date of promulgation of the present Act, shall be registered as legitimate. With the consent of the parties thereto, such a union shall be registered as a marriage in the civil register.

Children born of a married man and an unmarried woman who live together as man and wife shall be registered as the legitimate children of their mother and father, but the union of the parents shall not be registered as a marriage in the civil register (article 1, paragraph 2).

The children born of such a union which has been dissolved by reason of death or separation shall be registered in the space reserved to the father in the civil register, stating the names of their father and their mother, provided that the children were born during the period of cohabitation of the parents (article 1, paragraph 3).

Regulations consisting of twenty-six articles were published in *Official Gazette* No. 9274, of 2 April 1956, prescribing the procedure for the application of Act No. 6652.

Expropriation Law

Act No. 6830, consisting of thirty-eight articles, was adopted on 31 August 1956, and came into force one month after the date of its promulgation.[2] It regulates and prescribes the conditions of expropriation, the authorities competent to deal with matters relating to expropriation, the formalities to be complied with, method of purchase, election of members of the assessment commission, general principles of assessment, partial expropriation, notification and objection, time limits, appointment of experts, attachment in urgent cases, waiver of expropriation, expropriation by exchange, urgent expropriation, penal provisions, etc.

Other Legislative Developments

During the year 1956, amendments of secondary importance were made to certain Acts concerning human rights, as indicated below.

Act No. 6707 to amend certain articles of the Industrial Accidents, Occupational Diseases and Maternity Insurance Act and to add two provisional articles (adopted on 2 April 1956, promulgated on 11 April 1956, and punt into force on the first day of the month following the date of its promulgation and published in *Official Gazette* No. 9282, of 11 April 1956).

Act No. 6708 to amend articles 7, 16 and 22, as amended by Act No. 6391[3] of the Old-age Insurance Act and to add a provisional article (adopted on 2 April 1956, promulgated on 11 April 1956, put into force on the first day of the month following its promulgation; published in *Official Gazette* No. 9282, of 11 April 1956).

Act No. 6709 to amend articles 7 and 27 of the Sickness Insurance and Maternity Insurance Act and to add a provisional article (adopted on 2 April 1956, promulgated on 11 April 1956, put into force on the first day of the month following its promulgation; published in *Official Gazette* No. 9282, of 11 April 1956).

Act No. 6710 to amend article 3 of the Week-end Holiday Act, and to add a paragraph to article 4 (adopted on 2 April 1956, promulgated and put into force on 11 April 1956; published in *Official Gazette* No. 9282, of 11 April 1956).

Act No. 6734 to amend certain articles of the Holidays (Payment of Wages) and Week-end Holiday Act (adopted on 8 June 1956, promulgated and put into force on 14 June 1956 and published in *Official Gazette* No. 9332, of 14 June 1956).

Acts to amend or add new articles to the Public Officials and Employees' Pension Fund Act: Act No. 6740, of 22 June 1956, published in *Official Gazette* No. 9345, of 29 June 1956; Act No. 6741, of 22 June 1956, published in *Official Gazette* No. 9345, of 29 June 1956; Act No. 6745, of 22 June 1956, published in *Official Gazette* No. 9345, of 29 June 1956; Act No. 6795, of 11 July 1956, published in *Official Gazette* No. 9361, of 18 July 1956; Act No. 6807, of 16 July 1956, published in *Official Gazette* No. 9363, of 24 July 1956.

In conclusion, the following regulations concerning penal and penitentiary law should be noted:

Internal regulations for penal establishments and houses of detention, published in *Official Gazette* No. 9319, of 30 May 1956.

Regulations concerning disciplinary measures to be applied in the penal establishments of Istanbul, Uskûdar, Toptaşi, Izmir, Edirne and Sinop, published in *Official Gazette* No. 9323, of 4 June 1956.

General regulations applying to penitentiary and correctional establishments for juvenile delinquents, published in *Official Gazette* No. 9329, of 9 June 1956.

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[1] Text published in *Official Gazette* No. 9227, of 7 February 1956.

[2] This Act was promulgated on 8 September 1956 in *Official Gazette* No. 9402.

[3] See *Yearbook on Human Rights for 1954*, p. 260.

ACT No. 6733 OF 7 JUNE 1956 AMENDING CERTAIN ARTICLES OF THE ACT CONCERNING THE PRESS AND ADDING A PROVISIONAL ARTICLE THERETO[1]

Art. 1. Articles 4, 5, 6, 7, 8, 13, 16, 17, 19, 25, 29, 30, 32, 34 and 39 of the Act concerning the press are amended as follows, and provisional article 3 is hereto appended:

Art. 4. All matter printed for publication shall bear the place and year of its publication and show the name or names and the place of business of the printer or printers and of the publisher or publishers, if any. This clause does not apply to advertisements, tariffs, timetables, circulars and similar publications.

Periodical publications shall furthermore show the date of printing, the name of the owner and the name of the responsible editor actually in charge of the editing.

Art. 5. Every periodical publication shall have a responsible editor in actual charge of the editing.

Individual requirements that shall be fulfilled by every responsible editor are as follows:

1. The responsible editor shall be a Turkish citizen and a graduate of a secondary school, at the least.

2. He shall be over 21 years of age.

3. He shall be domiciled in Turkey as a permanent resident.

4. He shall not be in government employment, a soldier or any member of the armed forces.

5. He shall not be under guardianship or relieved from public duties.

6. He shall not have served a term of hard labour and, with the exception of cases of offences due to imprudence, he shall not have been sentenced to more than six months of imprisonment or convicted of malicious prosecution, of misleading officials, of libel or slander, of bearing false witness, of perjury, of forgery and counterfeiting, of obscene and indecent publication, of incitement to prostitution, of larceny or fraud, of fraudulent bankruptcy or of embezzlement.

7. In the event that the person to be responsible editor has at any time either been relieved from public duties or been placed under police surveillance or has been sentenced to banishment, sentences shall have been fully carried out or the measures adopted duly executed.

Art. 7. The owner of a periodical shall fulfill all the requirements of the provisions of article 5, with the exception of the minimum secondary education requirement of sub-paragraph 1; he must, however, be able to read and write.

If the owner of a periodical publication is not its responsible editor or cannot assume responsibility because of failure to fulfill the legal requirements of the position, he may appoint a responsible editor.

The following shall be shown as owner of the periodical in the written declaration to be filed in accordance with this law: if the periodical is published by a society or an association, the president of the said society or association; if by a public company or enterprise, the largest shareholder in the company or enterprise; in the case of equality in the distribution of shares, any share-owner so designated; if all shares are owned by one and the same person, that person; and if the owner is a minor, his legal representative. The declared owner must qualify for ownership according to the legal requirements stated above.

In the event of a periodical's being published in Turkey by an alien, permission for publication shall be secured from the Ministry of the Interior, following an opinion expressed by the highest local civil authority. The responsible editor of any such periodical, besides fulfilling all the normal legal requirements, must also be conversant with the language in which the said periodical is published.

Art. 8. No permission has to be requested for publication of a periodical; but a written declaration shall be filed that shall contain the following information:

1. The name and type (subject matter) of the publication together with the proposed days for issue and the address of the offices of administration.

2. The name, in full, of the owner, and in case of a separate responsible editor, the full name of that editor; if the owner is a minor, the full name of his or her legal representative listed jointly with his or her name should appear on the above-mentioned declaration. Nationality and legal domicile of all persons whose names are listed in the said declaration shall be indicated in it. The declaration mentioned shall be signed by the owner of the periodical, and in the case of a separate responsible editor, by the responsible editor.

Art. 13. Reporters and correspondents employed by periodicals are expected to fulfil the requirements of article 5 (with the exception of sub-paragraph 3) to qualify as reporters or correspondents.

Art. 16. Penal responsibility for offences committed through press publications shall be determined as follows:

1. In the case of periodicals, responsibility shall rest with the author of the article or the dispatch, the delineator of the picture, or the person or persons who have sent the news, or the information, or produced the documents, causing the offence, together with the responsible editor and the owner if he has

[1] Published in *Resmî Gazete* No. 9327, of 8 June 1956. Translation kindly made available by Dr. Ilhan Lütem.

not accepted the position of responsible editor, as provided above.

2. The responsible editor shall at the request of the public prosecutor and within twenty-four hours of the prosecutor's request disclose the full identity of the author of any articles and items having appeared in the periodical unsigned or signed with a pen name or a distinguishing sign, whenever the contents of the said articles and items are considered by the public prosecutor's office the proper subject of prosecution for infringement of the law.

3. In all publications which cannot be defined as periodicals, the responsibility for any offence committed shall rest with the compiler, the author or the translator of the article or picture which constitutes the offence; if, however, these are unknown, or if the person or persons concerned cannot be prosecuted in a Turkish court of law, or if publication was made without the author's consent or without his knowledge, responsibility shall rest with the publisher and, if the publisher is not known, the seller or the distributor.

Art. 17. In all material and moral damage arising through offences committed through the press the owner of the periodical concerned, or in the case of non-periodicals the publisher, shall have joint liability with the person who may be held penally responsible.

Right of Correction and Denial

Art. 19. The responsible editor of a periodical is obliged to publish wholly and in full, with no alterations to or comments on the text whatsoever, any signed letter of contradiction or denial of facts published in the said periodical which affect, or have been detrimental to, the signatory's honour, self-respect or interests, and which have represented in an untrue manner the said person's behaviour, ideas or words either overtly or by implication.

Letters of contradiction or denial shall appear on the day following their reception in daily periodicals, and in the first issue to be published subsequent to the date of their receipt in all other periodicals, and shall be printed in the same page and the same column in which the offending article or item has appeared; such a letter shall furthermore be composed in type of the same size with an appropriate heading, that may be chosen by the writer of the letter, and with pictures, if the offending article carried pictures that require correction, the whole item starting at the same position in the column as the original offending item.

No letter of contradiction may be more than twice the length of the article or item it refers to; however, in items less than 20 lines, space up to 20 lines shall be permissible.

Contradictions and denials may be delivered personally or sent to the public prosecutor of the district together with the periodical concerned. The public prosecutor's office shall reach a decision on the case after a study of its various aspects, having examined whether it is of nature to constitute an offence, whether the said offence bears any relation to publication, whether the conditions and forms laid down by the law are complied with, and whether three months have elapsed since publication. This being done, the prosecutor's office shall send the periodical concerned the correction or denial as it stands or after having made such alterations as the public prosecutor deems fit. The decision of the public prosecutor is final, and must be carried out.

Corrections and denials issued by government departments, public institutions and corporate bodies shall be subject to the provisions above.

In the case of the decease of a person prior to exercising his right of contradiction or denial, his heirs shall be entitled to use his unexercised right.

Art. 25. Any persons employing personnel who are not qualified as laid down in article 13 shall be liable to imprisonment up to one month and to payment of a heavy fine that shall not be less than 5,000 liras.

Art. 29. Anyone failing to comply with the obligation to publish a contradiction or denial, in accordance with article 19, shall be liable to imprisonment from fifteen days to three months, and to payment of a heavy fine from 2,000 to 5,000 liras, and shall furthermore be requested to publish the said contradiction pursuant to the provisions of article 19.

If the said contradiction is still not published in spite of a court's request, fines may be doubled, or a further fine of 1,000 liras for every day following the request during which the said contradiction does not appear may be decided upon.

Art. 30. It shall be forbidden to publish a part or the whole of the text of an indictment or a sentence or any other document referring to or connected with a criminal suit, before a public hearing of these in court or before a charge is dismissed in preparatory or preliminary examination by a magistrate. Publication of any sort that may affect the conduct of a case in court or the pronouncement of a sentence may be forbidden at the request of the public prosecutor, by the examining magistrate during examination, or by order of the court during proceedings in court.

Publication is forbidden of any comments on decisions, on judgements passed or on the conduct of the case by the judge and the court from the start of a criminal suit until such time as final sentence is pronounced.

Publication shall be forbidden of all debates held and decisions taken during meetings declared secret by law, accepted regulation or decision taken by an official body. It shall be equally forbidden to publish proceedings declared secret of examinations or debates in courts of justice, as well as sentences and decisions thereto attached.

In the event of conviction, decisions for suspension of publication from one month to three months may

be passed through application of articles 141 and 142 of the Turkish Penal Code and the Act on Certain Offences Committed through Radio Broadcasting and Public Meetings.

The owner and responsible editor of any suspended periodical may not publish any other periodical with a different name during the term of the periodical's suspension.

Anyone acting in a manner contrary to the clauses of the above article may be punished with imprisonment from one to six months, and a penalty of a heavy fine of not less than 5,000 liras.

Art. 32. Anyone relating, describing or depicting by illustration events or happenings, actual or imaginary, with details capable of arousing emotion or in any manner inciting or provoking the individual to crime, or of such a nature as to debase national morality or disrupt the family order, and any person or persons publishing pictures and details of cases of suicide in a manner that exceeds the limits of news information and in a form capable of exercising influence on the reader are liable to sentence for penalties from 1,000 to 10,000 liras.

Art. 34. All political, economic and commercial periodicals which have more than 50 subscribers for copies of each number published shall have the names, addresses and nationality of these subscribers recorded in a special book having that purpose, together with the number of copies printed of each edition, and the legal position of the printers of the periodical in relation to the said periodical, all certified in due form by a notary public.

In the event that such a book is not kept, or is incompletely kept or shows entries of untrue information, or if this book or parts of the records inscribed therein are withheld from examination when requested by the office of the public prosecutor, then the owner of the periodical or his representative shall become liable to a term of imprisonment from three months to one year, and the payment of a heavy fine of 500 to 5,000 liras.

Any scientific, literary, technical and artistic periodical undertaking in any way the publication of political, economic and commercial matters shall become subject to the provisions of the first and second paragraphs above.

Any person or persons selling or putting up for sale or causing to be sold periodicals or non-periodical publications with a description of their contents such as news, articles and pictures or any other feature they contain shall be penalized with heavy fines from 100 to 500 liras. In the case of a repetition of the offence, liability to imprisonment up to one month may be incurred.

Art. 39. All suits dealing with offences committed through the press and within the purview of the Press Law shall be regarded as urgent, and shall be dealt with henceforth even during the annual recess period of the courts.

The cases for the prosecution and the defence, and the evidence are submitted at once.

Hearings shall not be postponed for longer than is strictly necessary during the proceedings.

Provisional Art. 3. All persons who find their positions, qualifications and conditions out of conformity with the provisions of the present law are to bring into conformity such position, qualification or condition within a year of the publication of the present law.

Nevertheless, any reporters or correspondents employed with any periodical at the time of publication of the present law who have been so employed for a period of three years shall, irrespective of the provisions of articles 5 and 13, retain their qualifications as reporters and correspondents.

Art. 2. This law enters into effect from the date of its publication.

Art. 3. Execution of the provisions of the present law lies with the Council of Ministers.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

EXTRACTS FROM THE 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 SOVIET SOCIALIST REPUBLIC IN 1956 [1]

In 1956, state undertakings, institutions and local councils, and urban residents with their own financial resources and state loans constructed and put to use housing with a total area of approximately 4.8 million square metres. In addition, 112,000 dwellings were built by collective farmers and members of the rural intelligentsia.

In 1956, further improvement was achieved in the material conditions and the cultural level of the people.

The new National Pensions Act was put into effect; working hours on the day before public holidays and rest days were reduced by two hours; a six-hour working day was introduced for young persons between the ages of sixteen and eighteen years, and a four-hour working day for those between the ages of fifteen and sixteen; the change-over of workers in the coal-mining industry to a shorter working day was begun; longer maternity leaves were introduced; tuition fees in secondary and higher educational establishments were abolished; the length of the working day of the workers in the Donbas coal-mining industry was reduced, and their system of wages was changed; legislation to increase the pay of low-salaried workers and employees as from 1 January 1957 was adopted. The prices paid by the State for supplies of agricultural products were increased.

In addition, as in previous years, the population received, free of charge or at reduced rates, at state expense, passes to sanatoria, rest homes and children's establishments, free education and courses for vocational advancement, free medical treatment, and a number of other facilities.

There was a further rise, in 1956, in the real wages of workers and employees and in the real income of collective farmers.

As a result of the higher incomes of workers, employees and peasants, individual deposits in savings banks rose by 2,100 million roubles — an increase more than twice greater than that in 1955.

In 1956, there were further successes in the sphere of cultural development. In urban and rural communities of the republic, the number of general secondary schools, including schools for young workers in industry and agriculture, rose during the year by 10 per cent. The beginning of the 1956/57 school year saw the establishment of boarding schools, which have an enrolment of approximately 10,000 pupils.

In 1956, the number of pupils graduating from secondary schools was more than 349,000 — 40,000 more than in 1955.

The number of students in higher educational establishments (including correspondence course students) was more than 344,000 and, in specialized secondary educational establishments (including correspondence course students), more than 368,000. In 1956, the number of students who, without interrupting their employment, took evening and correspondence courses at higher educational establishments was 129,000, or 13 per cent greater than in 1955, while those who took similar courses at technical and other specialized secondary educational establishments numbered 101,000, or 17 per cent more than in 1955.

In 1956, 48,600 specialists graduated from higher educational establishments, or 8 per cent more than in 1955. In 1956, technical and other specialized secondary educational establishments trained 100,600 specialists, or 28 per cent more than in 1955.

The number of scientific workers at the end of 1956 was 32,000, 5 per cent more than in 1955. Of this number, almost 13,000 hold the degree of Doctor, or Candidate, of Science.

During the summer of 1956, 1.2 million children and adolescents stayed at pioneer camps, sanatoria and excursion and tourist centres, or went to summer kindergartens, children's homes or creches.

In 1956, there wa sfurther improvement in the medical services furnished to the population of the Ukrainian SSR.

[1] The report was published in *Pravda Ukrainy* of 17 February 1957. The extracts were kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations, acting on behalf of the Ministry for Foreign Affairs of the Ukrainian Soviet Socialist Republic. Translation by the United Nations Secretariat.

The network of hospitals, public health institutions and permanent nurseries was expanded.

The number of hospital beds increased by almost 13,000. The capacity of sanatoria and rest homes increased by 3,000 persons. The capacity of permanent creches rose by 6 per cent.

The number of doctors in the Ukrainian SSR increased in 1956 by 2,700.

As a result of the increased prosperity of the population and the improvement in medical services, the total number of births in the Ukraine in 1956 exceeded that in 1955 by 25,000, or 3 per cent. Over the same period, infant mortality declined by 16 per cent.

Work continued in 1956 on urban redevelopment and on the expansion of existing, and the construction of new, communal undertakings.

Systems of gas mains, constructed in Vinnitsa, Zhitomir, Stanislav, Khmelnitsky and Chernigov, began to supply gas to the population. Dwellings in other towns are being provided with natural gas from recently discovered deposits and manufactured gas. More dwellings were equipped with gas in Kiev, Lvov, Kharkov and other towns.

NATIONAL PENSIONS ACT, 1956

NOTE[1]

The National Pensions Act, passed in 1956, establishes a new system of pension benefits for workers and employees, persons attending higher and intermediate technical education institutions, and various other schools and courses, all other citizens in the event of their becoming invalids in connexion with the performance of governmental or community duties, and also members of their families who are incapable of working, in case of loss of the bread-winner.

Under the new Act, many pensions have been doubled, tripled and even further increased.

An important feature of the National Pensions Act is that it is retroactive; in other words, it can be applied in cases in which the entitlement arose before the Act came into force.

Under this Act, students of higher and intermediate technical education institutions, schools, centres and training courses are entitled to all types of national pensions.

Moreover, women who have borne five or more children and brought them up to the age of eight years are entitled to an old-age pension on privileged conditions: they receive the pension at the age of fifty on completion of fifteen years or more of employment.

Blind manual and non-manual workers who are in receipt of an invalidity pension are entitled to an old-age pension on specially privileged conditions, as follows: men at the age of fifty on completion of fifteen years or more of employment and women at the age of forty on completion of ten years or more of employment.

The system of granting old-age pensions on privileged conditions will greatly increase the numbers of workers and employees entitled to pension benefits of this type.

The range of persons who are entitled to an invalidity pension has been broadened. Citizens entitled to this pension include those who became invalids in connexion with the performance of governmental or community duties, in saving human lives — the duty of every citizen of the USSR — in protecting socialist property and also in defending the socialist order.

An important feature of the system is that the right to an invalidity pension is recognized to those who became invalids even before entering upon employment, and who are generally termed "invalids from childhood".

The new National Pensions Act provides for a sizeable increase in the amount of the pensions. The payment of pensions is effected by the State out of funds allotted each year in the national budget, including the funds under the state social insurance budget obtained from contributions by undertakings, offices and organizations, without any deductions from the workers' earnings. Pensions are not liable to taxation.

As a result of the passage of the National Pensions Act, the sums expended on the payment of pensions in the Ukrainian SSR have increased considerably. Whereas in 1955 pensions in the amount of 4,361.1 million roubles were paid out throughout the country, in 1956, after the National Pensions Act had come into effect, the amount rose to 5,555.4 million roubles, and for 1957 it is estimated at 9,574.5 million roubles.

[1] Information kindly furnished by the Deputy Minister for Foreign Affairs of the Ukrainian Soviet Socialist Republic. Translation by the United Nations Secretariat. See also p. 244.

UNION OF SOUTH AFRICA

NOTE[1]

1. The General Law Amendment Act, 1956 (Act No. 50 of 1956, assented to on 7 June 1956) made a number of amendments to the Criminal Procedure Act, 1955 (No. 56 of 1955). Section 26 of the amending Act extended the provisions of section 111 of the Criminal Procedure Act (concerning the possibility of trial before a judge without a jury)[2] to offences under section 11 (*a*) and (*b*) of the Suppression of Communism Act, 1950 (Act No. 44 of 1950).[3] Section 27 of the amending Act extended to the same offences the application of section 112 of the Criminal Procedure Act (concerning the possibility of trial before a special criminal court).[4] Section 11 of the Official Secrets Act, 1956 (Act No. 16 of 1956, assented to on 8 March 1956) made any trial in respect of an offence under its provisions subject to the above-mentioned section 111 of the Criminal Procedure Act, 1955, while section 12 empowered a court to direct that any trial or preparatory examination in respect of any such offence shall take place behind closed doors if it appeared to the court to be in the interest of the safety of the Union.

2. Section 3 of the Group Areas Act, 1950 (Act No. 41 of 1950),[5] as amended,[6] was further amended as to points of detail by the Group Areas Amendment Act, 1956 (Act No. 29 of 1956, assented to on 8 May 1956). The Natives (Urban Areas) Amendment Act, 1956 (Act No. 69 of 1956, assented to on 18 June 1956) inserted a new section 29 *bis* in the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), empowering an urban local authority to order any native, whose presence in the area under its jurisdiction is, in its opinion, detrimental to the maintenance of peace and order in the area, to depart from that area within a specified period and not to return to it without the permission of the authority making the order. Any authority making such an order was empowered also, at the request of the native or any of his dependants residing in the same area, to remove the dependant and the personal effects of the native and the dependant to the new place of residence of the native, and to charge any resulting expense to its native revenue account.

3. Extracts from the Riotous Assemblies Act, 1956 (Act No. 17 of 1956, assented to on 8 March 1956) appear below.

4. The Industrial Conciliation Act, 1956 (Act No. 28 of 1956, assented to on 7 May 1956) consolidated and amended the law relating to, *inter alia*, the registration and regulation of trade unions and employers' organizations, the prevention and settlement of disputes between employers and employees, and the regulation of terms and conditions of employment by agreement and arbitration.

Section 4 of the Act contained provisions concerning the registration of employers' organizations and of trade unions consisting of employees as defined in the Act.[7] Section 18 permitted registered trade unions, acting together with registered employers' organizations or approved employers, to form industrial councils with the functions, under section 23, of the prevention or settlement of disputes and the regulation or settlement of matters of mutual interest to employers and employees by the negotiation of agreements or otherwise.

Section 4 (6) prohibited the registration of any trade union (*a*) in respect of both white[8] and coloured persons[9] or (*b*) if membership of the union is open to both white and coloured persons, unless the Minister of Labour permits registration of a trade union referred to under (*b*), having found that the number of white or coloured persons eligible for membership thereof is too small to enable them to form an effective separate union. Provision was made in section 8 (3), subject to possible exemption by the minister, for the establishment of separate branches for white and coloured persons by trade unions already registered

[1] The legislation dealt with in this note appears in *Statutes of the Union of South Africa, 1956*, published by authority of the Government of the Union.

[2] See *Yearbook on Human Rights for 1955*, p. 241.

[3] See *Yearbook on Human Rights for 1950*, p. 305.

[4] See *Yearbook on Human Rights for 1955*, p. 241.

[5] See *Yearbook on Human Rights for 1950*, p. 294.

[6] See *Yearbook on Human Rights for 1952*, p. 277, and *Yearbook on Human Rights for 1955*, p. 233.

[7] Under its section 1 (1) (xi), natives were excluded from the definition of "employee" as used in the Act, unless the context otherwise indicated. "Native" was defined in section 1 (1) (xx) as meaning "a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa".

[8] "White person", according to section 1 (1) (xliv), "means a person who in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a coloured person".

[9] "Coloured person" was defined in section 1 (1) (vi) as meaning "a person who is not a white person or a native".

whose membership is open to both white and coloured persons.

According to section 24 (1) (x), agreements entered into by parties to an industrial council or conciliation board which may be declared binding under section 48 may include provisions prohibiting the employment, by an employer who is a party to the agreement or who is a member of an employers' organization which is a party to the agreement, of employees or employees of a particular class, who, while being eligible for membership of a trade union which is a party to the agreement, are not members of such union, and provisions prohibiting acceptance, by members of such trade union or by members of a particular class of such members, of employment with an employer who is neither a party to such agreement nor a member of an employers'organization which is a party to such agreement.

Section 77 empowered the minster, if it appears to him that measures should be taken in order to safeguard the economic welfare of employees of any race (including natives) in any undertaking, industry, trade or occupation, to set in motion a procedure, defined in the Act, which may result in his reserving certain types of work for persons of a specified race or for persons of a specified class of such persons. No such action was to be binding in any undertaking, industry, trade or occupation in any area while an agreement between the parties to an industrial council was binding in that undertaking, industry, trade or occupation and area, without the council's consent.

Under section 78 (1), no employer was to require that any employee shall not be or become a member of a trade union or other similar association of employees. Section 66 prohibited victimization of an employee on the grounds (among others) of his having joined a trade union or similar association of employees or having formed or taken part in the activities of such a union or association outside working hours or, with the consent of the employer, within working hours.

The text of the Act in English and a translation into French appear in International Labour Office: *Legislative Series*, 1956 – S.A.1.

5. The South Africa Act Amendment Act, 1956 (Act No. 9 of 1956, assented to on 1 March 1956) gave the force of law to the Separate Representation of Voters Act, 1951 (Act No. 46 of 1951), which had previously been declared invalid.[1] The Act of 1956 also amended the South Africa Act, 1909 by (among other changes) deleting subsection (2) and part of subsection (1) of section 35[2] so as to make the section read as follows: "Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly."

6. The Separate Representation of Voters Amendment Act, 1956 (Act No. 30 of 1956, assented to on 16 May 1956) amended the Separate Representation of Voters Act, 1951. The following paragraph was added to section 12 (1) of the Act of 1951:[3] "(iii) A person shall not be qualified for election as a member of the said provincial council unless he is a white person." In addition, sections 14–19, concerning a Board for Coloured Affairs,[4] were replaced by new provisions concerning the establishment, membership and functions of a Union Council for Coloured Affairs.

7. The Mines and Works Act, 1956 (Act No. 27 of 1956, assented to on 2 May 1956) consolidated and amended the law relating to the operation of mines and works and of machinery used in connexion therewith. The Act included provisions concerning rest days, hours of work, safety and hygiene, and restrictions upon the employment of women and young persons.

[1] See *Yearbook on Human Rights for 1951*, pp. 351–3.
[2] See *Yearbook on Human Rights for 1948*, p. 394.
[3] See *Yearbook on Human Rights for 1951*, pp. 352–3.
[4] See *Yearbook on Human Rights for 1951*, p. 353.

THE RIOTOUS ASSEMBLIES ACT, 1956

Act No. 17 of 1956, assented to on 8 March 1956[1]

1. In this Act, unless the context otherwise indicates —

(i) "Documentary information" means any book, foreign magazine, pamphlet, manifesto, foreign newspaper, hand-bill or poster, or any article or advertisement cartoon, picture or drawing in any periodical publication or newspaper;

(ii) "Minister" means the Minister of Justice;

. . .

(iv) "Public gathering" means any gathering, concourse or procession in, through, or along any public place, of twelve or more persons having a common purpose, whether such purpose be lawful or unlawful;

(v) "Public place" means any street, road, passage, square, park or recreation ground, or any open space, to which all members of the public habitually or by right have access, and includes any place described in this definition notwithstanding that it is private property and has not been dedicated to the use of the public.

[1] The text of the Act appears in *Statutes of the Union of South Africa*, 1956. The Act, which is a consolidating statute, repealed those parts of the Riotous Assemblies and Criminal Law Amendment Act, 1914 which were still in force (see *Yearbook on Human Rights for 1947*, p. 306), as well as the Riotous Assemblies (Amendment) Act, 1930 and section 2 of the Riotous Assemblies and Suppression of Communism Amendment Act, 1954 (see *Yearbook on Human Rights for 1954*, p. 267 and p. 269, footnote 3).

Chapter I

RIOTOUS GATHERINGS AND GATHERINGS, PUBLICATIONS AND CONDUCT ENGENDERING FEELINGS OF HOSTILITY

2. (1) Whenever a magistrate has reason to apprehend that the public peace would be seriously endangered by the assembly of a particular public gathering in any public place, he may, if authorized thereto by the minister, prohibit the assembly of that public gathering in any public place in his district.

(2) A magistrate who, under sub-section (1), prohibits the assembly of a particular public gathering shall do so —

(*a*) By notice in newspapers circulating in the locality in respect of which the prohibition is to apply;

(*b*) By notices distributed amongst the public and affixed upon public buildings or in prominent public places in that locality; or

(*c*) If, owing to urgency or any other cause whatever any such notice cannot be printed, published, distributed, or affixed, then by sufficient oral public announcement in that locality.

(3) Whenever, in the opinion of the minister, there is reason to apprehend that feelings of hostility would be engendered between the European inhabitants of the Union on the one hand and any other section of the inhabitants of the Union on the other hand —

(*a*) By the assembly of any public gathering during any period or on any particular day of the week in any public place within any area; or

(*b*) If a particular person were to attend any such gathering,

the Minister may, in the manner provided in sub-section (2), prohibit the assembly of such a gathering, or may, by notice under his hand addressed and delivered or tendered to that particular person, prohibit him from attending any public gathering in any public place within an area and during a period specified in such notice.

. . .

3. (1) Whenever the Governor-General is of opinion that the publication or other dissemination of any documentary information is calculated to engender feelings of hostility between the European inhabitants of the Union on the one hand, and any other section of the inhabitants of the Union on the other hand, he may by a notice published in the *Gazette* and in any newspaper circulating in the area where that documentary information is made available to the public, prohibit any publication or other dissemination thereof.

(2) Whenever the Governor-General prohibits, in terms of sub-section (1), the publication or other dissemination of any documentary information contained in a periodical publication, the minister shall cause to be delivered or to be posted in a registered letter to the editor of such publication or to any other person responsible for its issue, a copy, bearing his signature, of the notice referred to in sub-section (1).

(3) Any person affected by a prohibition imposed in terms of sub-section (1) may, within fourteen days after the first publication of the notice containing such prohibition, apply to the provincial or local division of the Supreme Court having jurisdiction within the area referred to in sub-section (1), to set such prohibition aside, and if he proves to the satisfaction of such division that the documentary information to which such prohibition applies is not of such a nature that the natural and probable result of its publication or other dissemination will be to engender feelings of hostility between the European inhabitants of the Union on the one hand, and any other section of the inhabitants of the Union on the other hand, such division may set such prohibition aside.

. . .

(5) Whenever the minister is satisfied that any person is in any area promoting feelings of hostility between the European inhabitants of the Union on the one hand, and any other section of the inhabitants of the Union on the other hand, he may by notice under his hand, addressed and delivered or tendered to such person, prohibit him from being within any area, defined in such notice, after a period stated in such notice, being not less than seven days from the date of such delivery or tender, and during a period likewise stated therein.

(6) The minister may at any time withdraw or modify any such notice or grant such person permission in writing to visit temporarily any place where he is not permitted to be in terms of such notice.

(7) Whenever any person to whom a notice has been delivered or tendered in terms of sub-section (5) is necessarily put to any expense in order to comply with such notice, the minister may, in his discretion, cause such expense, or any part thereof, to be defrayed out of public funds and may, further, in his discretion, cause to be paid out of such funds to such person a reasonable subsistence allowance during any period whilst such notice applies to him.

. . .

4. If any person to whom a notice has been delivered or tendered under sub-section (3) of section two, or sub-section (5) of section three, requests the minister in writing to furnish him with the reasons for such notice, and with a statement of the information which induced the minister to issue such notice, the minister shall furnish such person with a statement in writing setting forth his reasons for such notice and so much of the information which induced the minister to issue such notice as can, in his opinion, be disclosed without detriment to public policy.

. . .

Chapter II

OFFENCES IN RELATION TO EMPLOYMENT AND PUBLIC SAFETY

. . .

11. Any person who, in order to compel any other person to become a member, or to refrain from becoming a member, of any society or association, does any of the acts specified in paragraphs (*a*), (*c*) and (*d*) of section ten, shall be guilty of an offence.[1]

. . .

[1] Paragraphs (*a*), (*c*) and (*d*) of section 10 read as follows:

"(*a*) Threatens or suggests the use of violence to, or restraint upon, that other person or any of his relatives or dependants, or threatens or suggests any injury to the property of that other person or of any of his relatives or dependants;

. . .

"(*c*) Hides any tool, clothes or other property owned or used by, or in charge of, that other person, or deprives him thereof or hinders him in the use thereof; or

Chapter III

AMENDMENT OF THE CRIMINAL LAW

17. A person shall be deemed to have committed the common law offence of incitement to public violence if, in any place whatever, he has acted or conducted himself in such a manner, or has spoken or published such words, that it might reasonably be expected that the natural and probable consequences of his act, conduct, speech or publication would, under the circumstances, be the commission of public violence by members of the public generally or by persons in whose presence the act or conduct took place, or to whom the speech or publication was addressed.

. . .

"(*d*) Having followed that other person or any one of his relatives or dependants along a public place, or accosted him or any of them therein, behaves towards him or any of them in a disorderly or offensive manner by jeers, jibes or other like conduct,".

UNION OF SOVIET SOCIALIST REPUBLICS

GROWTH OF THE NATIONAL INCOME AND RISE IN THE MATERIAL WELL-BEING AND CULTURAL LEVEL OF LIVING OF THE PEOPLE IN THE UNION OF SOVIET SOCIALIST REPUBLICS IN 1956

(Extracts from the 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 USSR for 1956".)[1]

In 1956, there was a further improvement in the people's material situation, and a further rise in their cultural level of living. The national income of the USSR showed an increase of 12 per cent over the figure for 1955. The growth of the national income made it possible to increase the incomes of workers, employees and collective farm workers, and to bring about a further expansion of socialist production in town and country.

The average wage of workers and employees showed a rise of 3 per cent over the 1955 figure, while the pensions and allowances drawn by workers and employees during the year increased by 19 per cent. The incomes of peasants in cash and in kind, in comparative prices, rose by 12 per cent in 1956.

During the past year the Party and the Government introduced sweeping measures designed to effect a further improvement in the material well-being and cultural level of the Soviet people. A new State Pensions Act was passed, which considerably improves the pension system. A considerable increase in the state pensions of almost 15 million persons came into force on 1 October 1956. In addition, about 1 million new pensioners received an increase in pension rates under the new Act before the end of 1956. The payment of fees for secondary and higher education was abolished; working hours on the day before the weekly rest day and the day before national holidays were reduced; the length of pregnancy and maternity leave was increased; a six-hour working day was established for minors aged sixteen to eighteen years, and a four-hour working day for young persons aged fifteen to sixteen years; the change-over to a shorter working day for workers in the coal industry was begun; and an order was issued to increase the wages of workers and employees in the lower wage brackets from 1 January 1957.

. . . As in previous years, the population received at the State's expense allowances and lump-sum payments out of workers' and employees' social insurance; social security pensions; allowances for mothers of large families and unmarried mothers; students' grants; free medical aid; vouchers for admission to sanatoria and rest homes free of charge or at reduced rates; free education and further training; and various other payments and privileges. In addition, all workers and employees received at least two weeks' paid leave, while workers in some occupations received longer periods of leave. The total value of the payments and privileges enjoyed by the population in 1956 was approximately 169,000 million roubles, or 15,000 million roubles more than in 1955.

. . . Further advances were made in all aspects of socialist culture during the past year.

The total number of persons receiving education in some form or other in the past year was approximately 50 million. The number of students completing their secondary education was 17 per cent higher than the corresponding figure for 1955. The organization of boarding schools was begun in 1956. Over 56,000 children were admitted to such schools at the beginning of the 1956/57 academic year.

Higher educational establishments (including correspondence schools) had 2 million students, while approximately the same number studied at technical and other specialized secondary schools (including correspondence schools). Over 760,000 young skilled workers, or 126,000 more than in 1955, graduated from higher and secondary specialized schools. A total of 3.4 million persons, as compared with 3 million in 1955, took evening and correspondence courses at higher and secondary specialized educational institutions, general education schools for young industrial and agricultural workers, and schools for adults, without loss of working time.

The number of scientific workers increased by over 15,000 during the year, reaching 239,000 by the end of 1956. Over 95,000 of these scientific workers hold the degree of doctor or candidate of sciences.

There are now more than 400,000 libraries of all types, containing some 1,500 million volumes, in the USSR. A total of 1,100 million copies of books were printed and published during the past year, and the circulation of newspapers, magazines and other

[1] Text published in *Journal of the Council of Workers' Deputies of the USSR*, No. 26 (12333), of 31 January 1957. Extracts kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the United Nations Secretariat.

periodicals increased. The number of cinemas rose to 63,000, as compared with 59,000 in 1955.

In the summer of 1956, some 6 million children and young people enjoyed recreation at pioneer camps and children's sanatoria or on excursions or on tours, or spent the summer in the country at kindergartens, children's homes and creches.

The medical care of the population was further improved and developed in 1956. The network of hospitals, obstetric wards, dispensaries, creches and kindergartens was expanded. A broad network of preventive health clinics, women's and children's clinics, sanatoria and other public health institutions was developed. The number of beds in in-patient institutions exceeded the 1955 figure by more than 64,000, and the number of places in permanent creches by more than 50,000. The number of physicians increased by almost 14,000. The output of medicaments, medical equipment and instruments was 22 per cent greater than that for the preceding year.

The steady rise in the population's material and cultural level and the improvement of medical care led to a continued decline in the general and infant mortality rates, and a continued increase in the mean length of life. The total number of deaths per 1,000 inhabitants was 7.7 in 1956, as against 8.2 in 1955.

. . . Buildings providing cultural and various other community services were erected on a large scale. State capital investment in the construction of general educational institutions, hospitals, polyclinics, kindergartens, creches, pioneer camps, cinemas and other cultural establishments exceeded the corresponding figure for 1955 by 18 per cent. Many schools, kindergartens, creches, clubs and various other buildings providing cultural and community services were constructed by collective farms.

. . . Dwelling-houses providing 36 million square metres of living space were built and brought into use in 1956 by state and co-operative organizations, and by the urban population building on their own account with the aid of state credit facilities. In addition, collective farm workers and the rural intelligentsia built some 700,000 dwelling-houses in rural areas during the past year.

During 1956, the planning of towns, villages and rural district centres was continued; the existing network of communal undertakings was extended, and new ones — water mains, drainage systems, baths and laundries — were built; tramway, trolley-bus and motor-bus services were expanded, and heating and gas were installed in dwellings. The construction of new lines for the Moscow and Leningrad metropolitan train systems was continued.

. . .

The progress made in fulfilling the state plan for the development of the national economy of the USSR in 1956 shows that the Soviet people, pursuant to the decisions of the Twentieth Congress of the Communist Party of the Soviet Union, achieved further progress in the development of all branches of the national economy, and a further improvement of their material well-being and cultural standard.

AN ACT TO AMEND ARTICLE 121 OF THE CONSTITUTION (FUNDAMENTAL LAW) OF THE USSR of 14 July 1956 [1]

[The Supreme Soviet of the USSR decides:]

In view of the introduction in the USSR of universal seven-year education in urban and rural communities, and of the abolition of fees for tuition in the upper classes of secondary schools, in specialized secondary schools and in higher schools, to amend article 121 of the Constitution (Fundamental Law) of the USSR [2] accordingly to read as follows:

"*Art. 121.* Citizens of the USSR have the right to education.

This right is ensured by universal compulsory seven-year education; by extensive development of ten-year education; by free education in all schools, higher as well as secondary; by a system of state grants for students of higher schools who excel in their studies; by instruction in schools being conducted in the native language; and by the organization in the factories, state farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people."

[1] Text published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, No. 15 (857), 1956, and kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation of the amended article 121 as contained in *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics*, Foreign Languages Publishing House, Moscow, 1957.

[2] See *Yearbook on Human Rights for 1947*, p. 308.

NATIONAL PENSIONS ACT

of 14 July 1956

SUMMARY[1]

The National Pensions Act of 14 July 1956 entitled the following to national pensions:

(*a*) Employed persons (manual and non-manual);

(*b*) Persons serving with the armed forces;

(*c*) Persons attending higher and intermediate technical education institutions, schools or centres and supervisor training courses;

(*d*) All other citizens in the event of their becoming invalids in connexion with the performance of governmental or community duties;

(*e*) Members of the families of citizens specified in this article, in case of loss of the breadwinner.

National pensions paid in accordance with the Act were to be awarded in respect of old age, invalidity and loss of the breadwinner.

Subject to certain provisions concerning entitlement to old-age pensions on privileged conditions, the right to old-age pensions was to accrue to employed persons as follows: men, at the age of 60 on completion of 25 years or more of employment; women, at the age of 55 on completion of 20 years or more of employment.

Provision was made for the granting of reduced pensions to persons having reached the required age, but not having been employed for the required period of time.

The Act entitled every employee to an invalidity pension in the event of permanent or protracted loss of working capacity, without regard to whether the contingency materialized during the employment, before the employment started, or after the employment ceased. The pension granted was to vary according to the degree of loss of working capacity, and whether the loss of working capacity was due to employment injury or occupational disease on the one hand, or ordinary disease on the other.

The surviving dependants (as defined in the Act) of a deceased employed person or pensioner, if incapable of working, were to be entitled to a survivor's pension.

The Act contained special provisions concerning the payment of pensions to persons serving with the armed forces, and their families.

Any citizen simultaneously entitled to more than one pension was to be awarded one pension according to his choice. The payment of pensions was to be made out of state funds, without any deductions from workers' earnings. Pensions were exempted from taxation.

The Act entered into force on 1 October 1956.

Translations of the Act into English and French appear in International Labour Office: *Legislative Series*, 1956 – USSR.4.

[1] Text published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, No. 15 (857), 1956, and kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Summary by the United Nations Secretariat.

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR CONCERNING THE SHORTENING OF THE WORKING DAY OF MANUAL AND NON-MANUAL WORKERS ON DAYS PRECEDING THE WEEKLY DAY OF REST AND ON DAYS PRECEDING HOLIDAYS

of 8 March 1956[1]

With effect from 10 March 1956, the normal working hours of manual and non-manual workers on days preceding the weekly day of rest and on days preceding holidays shall be reduced by two hours — that is to say, to six hours.

[1] Text published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, No. 5 (847), 1956, and kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the United Nations Secretariat.

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR CONCERNING AN INCREASE IN THE DURATION OF MATERNITY LEAVE

of 26 March 1956 [1]

For the purpose of further improving maternal and child welfare, the Presidium of the Supreme Soviet of the USSR hereby resolves:

From 1 April 1956, to increase maternity leave from 77 to 112 calendar days, the duration of leave being fixed at 56 days before and 56 days after childbirth, and allowances being paid during this period according to the established procedure.

In cases of abnormal or multiple births, the post-natal portion of the leave shall be extended to 70 calendar days.

[1] Text published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, No. 6 (868), 1956, and kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the United Nations Secretariat.

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR CONCERNING THE ESTABLISHMENT OF A 6-HOUR WORKING DAY FOR YOUNG PERSONS BETWEEN 16 AND 18 YEARS OF AGE

of 26 May 1956 [1]

With a view to further improving the working conditions of young persons between 16 and 18 years of age, the Presidium of the Supreme Soviet of the USSR hereby resolves:

To establish, from 1 July 1956, a six-hour working day for manual and non-manual workers between 16 and 18 years of age.

[1] Text published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, No. 12 (854), 1956, and kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the United Nations Secretariat.

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR CONCERNING THE STRENGTHENING OF THE LABOUR PROTECTION OF YOUNG PERSONS

of 13 December 1956 [1]

For the purpose of strengthening the labour protection of young persons, the Presidium of the Supreme Soviet of the USSR hereby resolves:

1. To prohibit the employment of persons under sixteen years of age. In exceptional cases, persons who have reached the age of fifteen years may be employed by agreement with factory, plant or local trade-union committees.

The Presidia of the Supreme Soviets of the Union Republics shall amend the labour codes accordingly.

2. As a partial amendment to the decree of the Presidium of the Supreme Soviet of the USSR "concerning holidays and working conditions of minors" dated 15 August 1955,[2] to amend article 1 of the said decree to read as follows:

"To establish a working day of four hours for apprentices of fifteen to sixteen years of age who are undergoing individual or group training, such working day to apply to the period of training, and for manual and non-manual workers of fifteen to sixteen years of age."

[1] Text published in *Vedomosti Verkhovnova Soveta Soyuza Sovetskikh Sotsialiticheskikh Respublik*, No. 24 (866), 1956, and kindly furnished by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1955*, p. 245.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

LEGISLATIVE AND OTHER DEVELOPMENTS RELATING TO HUMAN RIGHTS IN THE UNITED KINGDOM IN 1956 [1]

Article 3 of the Universal Declaration of Human Rights. — Life, Liberty and Security of Person

During 1956, because of the recurrence of outbreaks of violence in Northern Ireland, it was found necessary to make regulations under the Civil Authorities (Special Powers) Acts (Northern Ireland) 1922–43, giving powers of arrest of suspected persons without warrant, detention of such persons pending investigation (regulation 11), and internment and restriction of the residence of a suspected person to a special area (regulation 12). Another regulation (19) was made, enabling the Civil Authority to require persons in any specified area to remain within doors during such hours as may be specified. The powers under regulation 11 have been exercised only to the extent strictly required by the exigencies of the situation; the powers conferred by regulations 12 and 19 were not used during 1956.

Article 7. — Equality before the Law

A statutory instrument, applicable to England and Wales, made on 25 November 1955, called The Legal Aid and Advice Act, 1949 (Commencement No. 5), Order 1955, came into effect on 1 January 1956. This brought into operation the provisions of the Legal Aid and Advice Act, 1949, making legal aid available to litigants in the county courts and in certain less important local courts of similar jurisdiction. Legal aid was previously available only in cases in the High Court and the Court of Appeal. (To qualify for assistance in any court, the litigant must satisfy a committee that he has a reasonable case. He may have to contribute towards the cost of proceedings, and is not eligible at all if his disposable income or capital exceeds £420 per annum or £500 respectively.) The jurisdiction of the county courts was extended by the County Courts Act, 1955, which also came into operation on 1 January 1956. The limit to the sum which may be recovered in ordinary cases was raised from £200 to £400, and the limit to jurisdiction in special cases was also raised. The county courts accordingly now try the majority of civil cases all over the country.

[1] Information kindly furnished by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

Article 22. — Social Security

The rate of family allowances for the third child and subsequent children was raised, widowed mother's allowance was increased, and provision was made to extend the power to make reciprocal arrangements with other countries in respect of family allowances (Family Allowances and National Insurance Act, 1956, and Family Allowances and National Insurance Act (Northern Ireland), 1956). A reciprocal agreement with Malta (National Insurance and Industrial Injuries (Malta) Order, 1956) covering all national insurance and industrial injuries benefits except maternity benefit and death grant, and a further agreement with New Zealand (National Insurance (New Zealand) Order, 1956) covering pensions and sickness and unemployment benefits came into force. In consequence of social security agreements between the United Kingdom and certain other States parties to the United Nations Convention relating to the Status of Refugees, the Family Allowances, National Insurance and Industrial Injuries (Refugees) Order, 1956, provided for the extension to refugees of the benefits of these and any future agreements of the same nature, in accordance with the relevant provisions of the convention.

Article 25 (1). — An Adequate Standard of Living

Under the National Assistance Act, 1948, cash assistance is available to any person aged 16 years or over who is not in remunerative full-time employment or involved in a trade dispute, and whose resources including any state pension or benefit are insufficient to meet his needs, generally on a prescribed scale. With effect from 23 January 1956, assistance rates, which are kept under constant review, were improved to keep them abreast of the cost of living under the National Assistance (Determination of Need) Amendment Regulations, 1955, and National Assistance (Determination of Need) Amendment Regulations (Northern Ireland), 1955.

Article 25 (2). — Motherhood and Childhood

The Occasional Licences and Young Persons Act, 1956, extended to a particular class of premises the existing law which prohibited employment of, and

restricted the sale of liquor to, persons under 18 years of age in licensed premises.

The Agriculture (Safety, Health and Welfare Provisions) Act, 1956, enabled regulations to be made to prohibit children who are still too young to be employed from riding on or driving agricultural vehicles, machinery or implements.

Article 27(2). — Protection of Rights of Authors of Scientific, Literary and Artistic Works

The Copyright Act, 1956, made a number of changes in the laws affecting the rights of authors and performers. These included the creation of new types of copyright in cinematograph films, in television and sound broadcasts, and in published editions of works.

UNITED STATES OF AMERICA

HUMAN RIGHTS IN 1956

A SUMMARY OF PERTINENT ACTIONS TAKEN BY FEDERAL, STATE AND OTHER GOVERNMENTAL AUTHORITIES [1]

INTRODUCTION

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. Constitutional guarantees have been fortified by action at all levels of government to protect and keep inviolate the people's freedoms.

In the United States of America, the year 1956 was one of continuing progress in the field of human rights. This survey is confined to those official acts and decisions of consequence which contributed significantly to the protection, enhancement and enjoyment of individual rights and freedoms. A more nearly complete picture would encompass the countless day-to-day activities of the various agencies of government and of the American people themselves 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 1956 as United Nations Human Rights Day. He called upon the citizens of the United States to join with peoples throughout the world in its observance.

In a further statement issued on Human Rights Day, the President called for increased American vigilance to protect human rights at home and throughout the world.

Treaty with the Federal Republic of Germany

A Treaty of Friendship, Commerce and Navigation between the United States and the Federal Republic of Germany became effective on 14 July 1956. The twenty-nine articles of the treaty provided that nationals and commercial companies of either country shall enjoy certain reciprocal rights and guarantees in the territory of the other, including:

(*a*) Freedom of movement, residence, conscience, religious worship, and freedom to gather data and to transmit material for dissemination to the public, subject to measures necessary for the maintenance of public order, morals and safety.

(*b*) Fair and prompt trial, and reasonable and humane treatment if taken into custody.

(*c*) Acquisition, ownership, and protection of property with national and most-favoured-nation treatment regarding access to courts of justice and administrative tribunals in pursuit or defence of their rights; the same treatment as nationals with respect to obtaining patents, leasing land, buildings, etc., and engaging in scientific, religious, educational, philanthropic and commercial activities.

(*d*) Compensation or other benefits on the same basis as nationals for disease, injury or death incurred in the course of employment, and the application of social security laws under which benefits are provided without examination of financial need in the cases of sickness, old age or disability, or against loss of financial support due to death of the person liable for maintenance.

In addition, the parties undertake to co-operate in furthering the interchange and use of scientific and technical knowledge, particularly in the interests of increasing productivity and improving standards of living within their respective territories.

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. These rights, along with implementing legislation adopted by Congress and state legislatures, are upheld through court action and

[1] Information kindly made available by the Permanent Representative of the United States of America to the United Nations.

judicial opinions under provisions for "due process" and "equal protection of the laws" likewise embodied in the federal and state constitutions.

Court decisions of 1956 of special significance for the safeguarding of civil and political rights related principally to assurance of fair trial and equal protection of the laws.

Fair Trial

The constitutional protections afforded persons charged with crimes were considered by the United States Supreme Court in the case of *Herman* v. *Claudy*.[1] This case involved a petition for *habeas corpus* filed by a person sentenced upon his plea of guilty to prison for various crimes, including burglary and larceny. Eight years after sentence, and while still in prison, the petitioner asked that his conviction be held invalid as in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution. In particular, the petitioner alleged that his pleas of guilty were the result of coercion and threats by state officers, and that at no stage in the proceedings was he either advised of his rights to or given the benefit of counsel. Certain allegations in the petition were challenged by the prosecuting officer, and the petition was opposed by the state authorities on the ground of the petitioner's tardiness in challenging the judgement. The petition was dismissed without a hearing by the trial court, and this dismissal was upheld on appeal to the Pennsylvania Superior Court. The United States Supreme Court reversed the judgement, dismissing the petition for *habeas corpus*. In its opinion, the court set out the law established by its prior decisions:

"(1) A conviction following trial or on a plea of guilty based on a confession extorted by violence or by mental coercion is invalid under the federal Due Process Clause; (2) where a person convicted in a state court has not intelligently and understandingly waived the benefit of counsel and where the circumstances show that his rights could not have been fairly protected without counsel, the Due Process Clause invalidates his conviction; (3) where a denial of these constitutional protections is alleged in an appropriate proceeding by factual allegations not patently frivolous or false on a consideration of the whole record, the proceeding should not be summarily dismissed merely because a state prosecuting officer files an answer denying some or all of the allegations."

The court was of the opinion that the allegations in the petition and the answer of the prosecuting officer revealed a sharp dispute as to the facts material to a determination of the constitutional question involved. The court held that the dispute presented by the petitioner's allegations should have been decided only after a hearing, and that a hearing could not be denied the petitioner merely because the allegations of his petition were contradicted by the prosecuting officers.

[1] 350 U.S. 116.

The integrity of a criminal trial in the federal courts was dealt with by the United States Supreme Court in the case of *Mesarosh* v. *United States*.[2] The case involved persons who had been convicted in Federal District Court of conspiring to advocate the overthrow of the Government of the United States by force and violence. Subsequent to their conviction, which was affirmed on appeal, the Government filed a motion in the Supreme Court calling attention to the fact that one of the witnesses for the Government in the case had, in other proceedings, given testimony which the Government doubted to be truthful. The Government consequently moved that the issue of the truthfulness of that witness in the present case should be determined after a hearing by the Trial Court. In its opinion, the Supreme Court noted that the credibility of the witness had been wholly discredited by the disclosures of the government officials, and the Court was of the opinion that instead of returning the case to the District Court for consideration of the credibility of the testimony of the witness, a new trial should be granted.

"The Government of a strong and free nation does not need convictions based upon such testimony. It cannot afford to abide with them. The interests of justice call for a reversal of the judgements below with direction to grant the petitioners a new trial."

The Grand Jury

In the case of *Costello* v. *United States*,[3] the United States Supreme Court considered the provision of the Fifth Amendment to the United States Constitution, which provides that federal prosecutions for capital or otherwise infamous crimes must be instituted by presentments or indictments of grand juries. The case involved a motion made by a defendant in a criminal case in a federal court to dismiss the indictment charging him with wilfully attempting to evade payment of income taxes. It was argued that the indictment of the grand jury was based solely on hearsay evidence, and therefore violated the Fifth Amendment. In its opinion, the court described the historical basis for the constitutional provision regarding indictments of grand juries. The court noted that the grand jury is an English institution, brought to the country by the early colonists and incorporated in the Constitution by the founders. It described the basic purpose of the English grand jury as being to provide a fair method for instituting criminal proceedings against persons believed to have committed crimes. "Grand jurors were selected from the body of the people and their work was not hampered by rigid procedural or evidential rules. In fact, grand jurors could act on their own knowledge and were free to make their presentments or indictments on such information as they deemed satisfactory. . . . [The grand jury] acquired an independence in England free from control by the Crown or judges. Its adoption

[2] 352 U.S. 1.

[3] 350 U.S. 359.

in our constitution as the sole method for preferring charges in serious criminal cases shows the high place it held as an instrument of justice. And in this country as in England of old the grand jury has convened as a body of laymen, free from technical rules, acting in secret, pledged to indict no one because of prejudice and to free no one because of special favor."

The court concluded that, although all the evidence before the grand jury had been in the nature of hearsay, the Fifth Amendment did not require that the indictment be held open to challenge on this ground. The court observed that to permit such a challenge would result in great delay while adding nothing to the assurance of a fair trial, and it pointed out that, in the trial on the merits, the defendant was entitled to a strict observance of all the rules designed to bring about a fair verdict.

Segregation in Public Transportation

In the case *Browder* v. *Gayle*,[1] a federal district court considered the constitutionality of statutes of the state of Alabama and ordinances of the city of Montgomery requiring segregation of the white and coloured races on motor-buses in Montgomery, Alabama. The court held that such statutes violated the due process and equal protection of the law clauses of the Fourteenth Amendment to the Constitution of the United States. The court was of the opinion that, in view of holdings of other federal courts and the the Supreme Court rejecting a separate but equal doctrine as applied in the field of public education, to public recreational centres, and to municipal golf courses, there was no rational basis upon which the separate but equal doctrine could be validly applied to public-carrier transportation in the city of Montgomery. The judgement of the district court was affirmed by the United States Supreme Court.[2]

Segregation in Education

In its historic decisions of 17 May 1954 on education, the Supreme Court held that segregation on the basis of race in all publicly supported schools is forbidden by the "equal protection of the laws" clause of the Fourteenth Amendment to the United States Constitution. The Supreme Court, in 1955, laid down for the guidance of lower courts criteria for the transition from the system of public schools operated in certain states on a racially segregated basis to a non-segregated system. This process of transition continued in 1956, which was a year marked on the one hand by a considerable amount of progress in this direction by local educational agencies in some of these states, and litigation in lower courts dealing with particular local situations involving this problem, and, on the other hand, by legislative activity in several states tending to slow the transition.

In the field of higher education, the Supreme Court ruled that the possible factors of delay recognized by the court in the desegregation of public elementary and secondary schools are not involved in the case of graduate professional schools. In *Hawkins, State of Florida* v. *State Board of Control*, the court held that a qualified Negro applicant is entitled to prompt admission to a state law school under the rules and regulations applied to other qualified candidates.[3] The same result was reached in three other cases involving undergraduate schools in which the court either affirmed[4] or refused to review[5] judgements of lower federal courts which held racial segregation in public undergraduate colleges unconstitutional, and enjoined officials of such institutions from excluding qualified applicants because of their race.

In cases involving elementary and secondary school education, the Supreme Court refused to review two judgements of federal courts of appeal which required local school officials to desegregate their schools,[6] thereby allowing the judgements to stand. In one instance, the lower court made it clear that public opinion in the community as to the desirability of segregation may not be used as an excuse for delaying desegregation of the schools in accordance with the Supreme Court ruling.

ECONOMIC, SOCIAL AND CULTURAL MATTERS

Under the traditional system of free enterprise in the United States, economic and social progress is achieved principally through individual initiative. This is in line with the commonly accepted principle that men should be permitted to advance in accordance with their ambitions and abilities, and to assume any job or responsibility for which they are qualified. The Government endeavours to provide the basis of equal opportunity, to maintain the means for steady economic development and full productive employment, and to promote those social and cultural activities fundamental to the development of human personality and to the general welfare. 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.

Work and Remuneration

Official studies and demonstration projects on the problems of older workers carried out by the United States Department of Labor in 1956 showed, among other findings, that the number of older applicants placed through public employment systems could be quadrupled by intensive counseling and effort. Steps were taken for the appointment of older-worker specialists in headquarters offices of all state employment services, and in seventy major cities. Results

[1] 142 F. Supp. 707.

[2] 352 U.S. 903.

[3] 350 U.S. 413.

[4] 352 U.S. 925.

[5] 351 U.S. 924; 351 U.S. 931.

[6] *Clemons* v. *Board of Education of Hillsboro*, 228 F ad 853, *certiorari* denied 350 U.S. 1006; *Jackson* v. *Rawdon*, 235 F. 2d 93, *certiorari* denied 352 U.S. 925.

were published of basic research on characteristics of employed older workers, and on employer policies and practices in their hiring, retention and retirement. Pilot projects were conducted in Baltimore and Boston to stimulate job and training opportunities for mature women throughout the country. Several states also took legislative action to prohibit discrimination in employment, because of age, of persons between 45 and 65 years, and to authorize study of ways to absorb the labour surplus of older persons, and of special counselling, placement services, and occupational rehabilitation programmes for them.

Another 1956 survey made by the President's Committee on Government Employment Policy on Federal Employees found that 23.4 per cent of the federal workers in five large cities were Negroes, and that they were employed in supervisory, executive and professional positions as well as in clerical and other posts. The data also indicated that the proportion of Negroes in the federal service is substantially greater than their proportion in the population as a whole.

In the field of remuneration, minimum wage laws were revised in several areas during 1956. Rhode Island, for the first time, set a statutory minimum wage rate, and Massachusetts raised the previous minimum. New Jersey wage orders applicable to three important women-employing occupations — laundry, restaurant, and mercantile — included provisions requiring time and one-half of the employee's regular rate of pay for hours of work in excess of forty a week. The Virgin Islands established minimum wage and maximum hour standards and general provisions for improved labour conditions and employment opportunities. A special industries committee to establish minimum wages for American Samoa was authorized.

Massachusetts and South Carolina enacted legislation dealing with special health and safety hazards in the peaceful use of atomic energy, while Massachusetts and New York extended the coverage of various health and safety provisions.

To improve conditions under which migrant agricultural workers and their families live and work, state migratory labour committees were established by Arizona, Florida, Idaho, Ohio and Minnesota, bringing to thirteen the number of states which now have such committees. Localities continued to provide summer schools and special child care centres for migrant workers. New York's Sanitary Code provisions were extended to cover farm labour camps housing as few as five persons.

HEALTH

The Federal Government, through the Public Health Service, carries international and interstate responsibility for the prevention and control of communicable diseases and, in addition, supports and assists the states and communities in the development and execution of their public health programmes. The Federal Government also provides medical services to certain groups, such as members of the uniformed services and their dependants and merchant seamen, and assists the states in financing the cost of medical services to crippled children and persons receiving public assistance. In general, medical and hospital services in the United States are provided by private means, 108 million persons being covered in 1956 by insurance for hospital care, and 92 million by some insurance against the cost of surgical care.

During 1956, the President took executive action to strengthen national leadership in research and in health programmes for young people. He established a Council on Youth Fitness to co-ordinate the functions of federal agencies, and a Citizens Committee to study governmental and private measures conducive to the achievement of a more completely fit American youth.

The Federal Congress adopted legislation designed to intensify the national research effort, to increase the supply of professional public health personnel, to improve the health services and facilities of the territories of Alaska and Guam, and to assist the states and territories in meeting problems of water pollution. The Virgin Islands authorized a voluntary health insurance plan for its government employees. The problems of mental and chronic illness and of the ageing received attention at both federal and state levels. Congress approved the Alaska Mental Health Enabling Act, and authorized federal grants over a period of ten years, and 1,000,000 acres of public land to assist the Territory of Alaska in this programme. State health legislation provided for clinics, training and research in the field of mental health, and facilities for the chronically ill, admission and retention of patients in tuberculosis sanatoria, regulation of narcotics, expansion of vital statistics reporting, multi-county water and sewer districts and inter-municipal co-operation therefor, and an interstate sanitation commission to study air pollution.

By presidential proclamation, 1 May 1956 was designated Child Health Day in accordance with the congressional resolution of 18 May 1928. In 1956 for the first time, observance of a Universal Children's Day was combined with the Child Health Day proclamation — "to salute the work which the United Nations, through its specialized agencies, and the United Nations Children's Fund, are doing to build better health for children".

Appropriation legislation adopted by the Federal Congress increased the amount for maternal and child health services, and specifically instructed that a portion of this increase be expended for services for mentally retarded children.

In another field of health, the Food and Drug Administration continued its scientific and law enforcement programmes for protection of the public through food and drug standards. Research covered new and improved testing methods for the growing volume of products in the food, drug and cosmetic industries, their increasing use of new ingredients, and toxicity studies of proposed new additives.

Education

Free public schools covering the twelve grades of elementary and secondary education, and often the kindergarten and nursery years, exist throughout the United States. These are primarily the responsibility of local and state governments, with the Federal Government assisting through various types of educational grants and in other ways. In general, school attendance is compulsory for children up to the age of at least 16 years. Each state has universities and colleges where higher education can be had free or at low cost. Private schools are also numerous, and parents are free to send their children to the school of their choice, either public or private.

Federal and state legislation in 1956 contributed substantially to both pupil and student and teacher welfare. The Federal Congress provided educational assistance for children of servicemen who died as a result of disability or disease incurred in World Wars I or II, or the Korean conflict. It increased funds for the school lunch programme, and also the annual amount authorized for the nation's special milk programme, extending it to numerous non-profit institutions giving care and training to children.

Twenty-five of the forty-eight states adopted legislation in 1956 in the field of education. Seven improved safety and health regulations in schools, and four which had not previously done so provided bus transportation for children living a considerable distance from school. Ten enacted laws pertaining to education for retarded, handicapped, and otherwise exceptional children. The Virgin Islands established a territorial scholarship fund for grants and loans to qualified candidates for study in the fields of medicine, engineering, etc., and also a high-school equivalency programme for students who for certain reasons are unable to complete the twelfth grade. Eleven states generally increased teacher salaries or their minimum base, and a number improved teacher retirement benefits, or provided group health and accident insurance for teachers or retired teachers.

In the field of higher education, a number of states expanded provision for junior colleges, teachers' colleges and universities, including higher faculty salaries. Maryland, New York and Pennsylvania provided scholarship aid, mostly for attendance at institutions of higher learning. Congress authorized funds for the Committee on Education Beyond the High School appointed by the President of the United States, and to aid the states in setting up similar committees.

Vocational Rehabilitation

The federal and state governments combine their efforts to provide an integrated vocational rehabilitation programme to preserve, develop or restore the work ability of disabled adults and young persons, and establish them in employment. Fruits of co-ordinated planning were evident in 1956, when a record of 66,273 of the nation's disabled were established in productive employment, an increase of 14 per cent above the number rehabilitated in 1955.

The Federal Congress extended the full benefits of the Vocational Rehabilitation Act to Guam, entitling the territory to a share of federal funds for help in providing medical diagnosis, physical restoration, counselling, guidance, training, placement, and follow-up services for the disabled.

Massachusetts created an independent Rehabilitation Commission headed by a commissioner directly responsible to the governor, while the state of Kentucky established a State Rehabilitation Agency within the Department of Education. Pennsylvania increased employment opportunities for the blind by granting its State Council for the Blind power to establish and operate workshops or other rehabilitation facilities where not otherwise available.

Funds granted by the Federal Government in 1956 aided public and private agencies in 41 states and territories, providing partial support for 102 projects for expansion of rehabilitation facilities and services, 104 grants to state agencies for special benefits to several disability groups, and 29 new grants for special research and demonstration projects. The amount granted for training of rehabilitation personnel was more than doubled in 1956, with 154 teaching grants made to educational institutions, and scholarship assistance given to 2,070 students.

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, to persons with resources inadequate for subsistence; and (3) maternal and child health and child welfare services, and vocational rehabilitation and other welfare services.

Federal old-age and survivors' insurance under the Social Security Act was broadened in 1956 to provide a new type of benefit — monthly cost disability payments to workers aged 50–64; to permit child's benefits to continue to be paid after age 18 to a child disabled before that age, as well as mother's benefits to a mother with such child in her care; to lower to 62 the age at which women may receive benefits; to extend coverage to additional self-employed groups (lawyers, dentists, etc.), to more farmers, and to members of the armed forces and commissioned members of the other federal uniformed services. The new coverage provisions bring under federal old-age, survivor, and disability insurance about 900,000 additional persons in civilian jobs, and about 3,000,000 members of the federal uniformed services.

With regard to retirement, payments were increased for most beneficiaries under the Federal Railroad Retirement Act, and the Federal Civil Service Retirement Act was amended to liberalize the benefit formula and

broaden protection for disabled workers and their dependent children. Congress also provided survivor protection for federal judges.

In the field of workmen's compensation, the amount of weekly cash benefits payable to injured workers was increased by nine states and the District of Columbia in 1956, while maximum medical benefits were improved in Louisiana, New Jersey and Pennsylvania. Several jurisdictions liberalized other workmen's compensation benefits.

Coverage under the law was extended in Massachusetts, Michigan, New Jersey, Virginia, Pennsylvania and Kentucky. Under special provisions, New Jersey extended coverage to newsboys, and Pennsylvania raised the amount of extra compensation to be awarded to minors who may be injured while illegally employed. Kentucky and Pennsylvania adopted full coverage of occupational diseases, thus bringing to thirty-one the number of jurisdictions providing such coverage.

Recent changes in federal and state unemployment insurance laws resulted in a sharp increase in 1956 in the number of workers with this protection, and a rise in the weekly benefit checks paid to qualified jobless workers.

The increase in the number of workers covered, bringing the total qualified to receive benefits if unemployed to about 43,000,000, was due largely to extension of the Federal Unemployment Tax Act to employers of four or more workers, instead of eight or more. All forty-eight states now cover employers of four or more, and about half extend coverage to employers of fewer.

A similar increase in the average weekly payment for total unemployment under the federal-state unemployment insurance programme was due largely to higher wages earned by workers on which benefits are based. Various states increased the maximum weekly payment or the potential duration of benefits.

Throughout the United States and most of its territories, persons in need may receive aid through public assistance programmes operated by the states and localities, and through the efforts of voluntary charitable agencies. The Federal Government shares in the cost of those state programmes that help certain types of needy persons — the aged, the blind, children in need of support, and the disabled. All forty-eight states now receive federal grants for the first three of these programmes, and the establishment in 1956 of Kentucky's programme for the disabled brought to forty-six the number of jurisdictions qualifying for grants for this purpose.

In 1956, Congress adopted amendments to the Federal Social Security Act permitting the Federal Government to pay a larger share of the cost of public assistance, thus increasing resources available to the states to aid persons in need. The amendments made more explicit the statement of the objective of these programmes as encouragement of needy persons toward independent living, and authorized activities to increase the number of adequately trained public welfare personnel. Other amendments broadened the definition of dependent child to permit aid to more needy children cared for in families of relatives. Provisions were also liberalized for families with needy children in Puerto Rico and the Virgin Islands.

State and local agencies also provide extensive maternal and child health services, services to crippled children, and other aids to child welfare. The Federal Government contributes to the costs of these programmes through grants to the states, and 1956 amendments to the Federal Social Security Act increased potential resources for this purpose.

The legislature of Hawaii authorized the Territorial Department of Public Welfare to establish standards for licensing day care facilities for children. South Carolina passed legislation providing for the licensing of foster homes for children, and Louisiana strengthened the licensing provision of its state child welfare laws.

A Commission for the Prevention and Treatment of Juvenile Delinquency was established in the state of Maryland, bringing to twenty-one the number of such commissions or authorities functioning in the various states and the District of Columbia.

Standards of Living

While the attainment of an adequate standard of living in the United States is primarily the responsibility of the individual, the federal and state governments take steps to encourage and supplement private initiative. Extensive research by government agencies aims at constant improvement of living standards, and contributes to the betterment of what families eat and wear, and to their comforts and conveniences. The Department of Agriculture, for example, administers more than fifty regulatory laws designed to help the farmer and the consuming public and provides advice to home-makers on new advances in nutrition, fabrics and household textiles, and on the economical use of all family resources. The Federal Department of Labor regularly investigates retail prices in major cities and publishes cost-of-living figures based on typical goods and services. Measures instituted through the Security and Exchange Commission to protect private savings and investments further illustrate government interest in maintaining stable family resources.

The provision of adequate housing for the nation's population, the proper development of the nation's communities, and the prevention and elimination of slums are of concern to local as well as to federal and state governments. Federal housing programmes encourage home ownership and the construction of homes so far as possible by private industry through stimulating the use of private savings and funds for home mortgages, and other means. The fact that for the eighth year in succession the number of homes placed under construction topped the million mark and residential building stood at 3.8 per cent of the gross national product indicates progress in the housing field. A 1956 Bureau of Census survey showed 60

per cent of American families own the home they live in, more than at any previous time since information on this subject was first collected in 1890.

A 1956 Housing Act provided new federal assistance to private individuals in the financing of sales and rental housing for the nation's elderly people, and to make public low-rent housing more readily available for this group. Additional aid was authorized for low-rent public housing in communities which had adopted workable programmes for the prevention and elimination of slums and urban blight. The Act also included new financial assistance in the relocation of families and businesses displaced by urban renewal and slum clearance. Among local actions to advance such programmes, Puerto Rico exempted from taxation the land substantially affected, and provided assistance for persons displaced by the slum clearance.

In 1956, legislation extended to Puerto Rico and U.S. territories provisions of the federal housing programmes for loans to communities to aid the planning and development of public facilities, such as water works and sewer systems.

Michigan strengthened its existing law against discrimination by extending the definition of places of public accommodation to include government-assisted housing. New York State also amended its civil rights provisions to extend jurisdiction of the State Commission against discrimination in housing. In December 1956 the admission of Hungarian refugees to any available local low-rent public housing was authorized.

In 1956, the United States Congress enacted legislation for protection against losses by flood and tidal disaster, through the Federal Flood Insurance Act. This established a system for insurance at reasonable cost, re-insurance of policies issued by private insurers, and for guarantee of loans, where necessary, for the restoration and reconstruction of property damaged by flood.

Benefits of Scientific Advancement

Varous state and federal agencies are engaged in research to utilize human and natural resources more effectively, and thus assure the people of the United States full benefit of scientific advance. Government grants and scholarships also aid long-range study and experimental programmes in educational and scientific institutions of the country. Federal funds for this purpose are administered chiefly by the National Science Foundation, which promotes the national science policy through basic research and education. It also fosters international scientific exchange.

In 1956, the Foundation made available the results of a major survey of the nation's scientific potential through publication of reports on the volume, subject-matter and costs of scientific research conducted by American industry, private foundations and other organizations, and the federal government, for the period 1953/54. In addition to educational institutions, governmental agencies and other research organizations, more than 10,000 business enterprises co-operated in this project, which was planned to provide statistical bases for federal science programmes and policies.

In terms of expenditures, the Foundation's support of basic scientific research in 1956 reached the sum of $9.6 million, for 734 grants to 258 institutions in various states, the District of Columbia, Hawaii and Puerto Rico, and also in Canada, France, England and Italy. Among the projects facilitated were the completion of a 60-foot radio telescope at Harvard University; operating high speed computing centres in several universities; and the isolation of kinetin, a new compound which causes a marked increase in cell division. During the summer of 1956, 1,300 high-school and college science teachers improved their teaching skills in 25 institutes sponsored by the Foundation.

To make the results of research in other countries available to American scientists, a number of foreign scientific journals and papers were translated and published in English. Further in the international field, the Foundation is providing funds for the support of United States participation in the International Geophysical Year.

The National Academy of Sciences, which was established by an Act of Congress in 1863 and functions in an advisory capacity to the Government, initiated a programme to help in the placement of scientifically qualified persons among Hungarian refugees arriving in the United States. More than 1,000 Hungarian refugee scientists and scholars were assisted in the United States, and a special mission was also sent to Austria to aid refugee scientists and engineers still in that country.

Atomic Energy

Under the leadership of the United States Atomic Energy Commission, substantial progress was made in 1956 in expanding the peaceful uses of atomic energy, as well as in the basic production of nuclear materials available for peaceful uses. The Commission functions under the Atomic Energy Act, which provides (*inter alia*) for government control of the possession, use and production of atomic energy and special nuclear material.

Pursuant to the President's proposal at the Panama Conference in July 1956, for action "to hasten the beneficial use of nuclear forces throughout the [western] hemisphere", the Commission undertook three special projects: support for the development of a nuclear training centre for Spanish-speaking peoples at the University of Puerto Rico; aid to nuclear research and training at Turrialba, Costa Rica; and preparation for a symposium for the exchange of information by scientists and atomic energy officials of the twenty-one American republics.

In other research activities, the Commission sponsored its fifty-third basic radioisotope-techniques course at the Oak Ridge Institute of Nuclear Studies, with enrollment of thirty scientists, half from the United States, and half from thirteen other countries.

Also expanded was the Commission's programme to assist educational institutions and industry in training engineers, scientists, and medical personnel with specialized knowledge and skills in the field of atomic energy.

An additional 40,000 kilogrammes of special nuclear material was made available for fueling power and research reactors at home and abroad. Under the U.S. "Atoms-For-Peace" programme, 31 co-operative agreements with other nations were in effect at the end of the year, 27 for research programmes, and 4 for power reactor development. During 1956, the Commission put into effect eight basic regulations dealing with the licensing of nuclear reactors and other facilities utilizing nuclear materials, individuals responsible for operating these facilities, and the possession and use of special nuclear materials and radio-isotopes. The first three conditional permits authorizing construction of large nuclear power plants were issued, and licences for the construction of six research reactors. The number of licensed users of radio-isotopes in medicine, industry and agriculture expanded rapidly, bringing the total to over 3,600 users by the year's end. The number of radio-isotope shipments also rose, with over 100,000 at the end of 1956, in the ten-year isotopes programme which began in 1946.

Construction work continued on the Brookhaven Medical Reactor, the first designed exclusively for medical research and treatment; a forty-eight-bed research hospital adjacent to the reactor will make possible research in the use of a number of short-lived radio-isotopes produced in the reactor for diagnosis and treatment of a wide variety of diseases.

Cultural Opportunities

The individual in the United States is free to pursue his own cultural interests and inclinations. Basically, the constitutional guarantees of freedom of speech, press and assembly assure artists and writers freedom to express their thoughts and aspirations without limitation or compulsion. While publications, the theatre and similar artistic productions are generally matters of private enterprise, public funds are frequently used to extend enjoyment of the arts and other cultural resources through provision of museums and art galleries, auditoriums, exposition grounds, parks, public libraries and similar facilities. Outstanding examples of cultural institutions supported in large measure by the government are the Library of Congress and the National Art Gallery in Washington, D.C., the Metropolitan Museum in New York and Independence Hall in Philadelphia.

Various actions by the Federal Government in 1956 contributed substantially to cultural resources. Congress, for example, authorized funds through the National Park Service for a festival commemorating the founding 350 years ago of Jamestown, the earliest permanent settlement in the United States. The Park Service, custodian of a vast range of scenic beauties and natural wonders throughout the United States and territories, also initiated a ten-year conservation programme for wide development and improvement in its system of 29 parks and other recreational areas. Legislation came into effect in 1956 for a new Museum of History and Technology building as a part of the Smithsonian Institution, through which the Federal Government provides a variety of related scientific and cultural services.

The Federal Library Services Act of 1956 authorized monetary grants over a five-year period to states and territories to aid in developing library services in rural areas. This programme will supplement existing library services, which include public libraries in large cities and small communities, as well as travelling "bookmobiles", loans and exhibits.

In 1956, the Library of Congress, in addition to filling the reference and reading needs of the Federal Government, served more that half a million readers in its public rooms with more than a million items from its varied collections, and lent more than 100,000 pieces to other libraries. The national programme to provide reading materials for the blind, directed by the library, increased in the circulation of Braille and Moon type books and recorded or "talking books" by more that 6 per cent. The library began publication of *The National Union Catalog*, a bibliographical tool which records the location of current research books in its own collections and in the nation's research libraries; and it published numerous bibliographies to aid scholarship in various fields.

The United States participated extensively in 1956 in the various reciprocal activities authorized by its Information and Educational Exchange Act. Some 6,000 persons exchanged under the programmes — Americans going abroad and foreign nationals coming to the United States — included students, teachers, lecturers and scholars, and other leaders and specialists. One of the significant and characteristic education exchange projects was a teacher workshop at the University of Puerto Rico which brought together thirty-five teachers and school administrators from Central American and Caribbean countries. Some of the participants followed up with similar workshops in their home areas to demonstrate new education methods they had observed. In another characteristic exchange, journalists and television specialists from nineteen countries participated in on-the-job training made possible through co-operation between the government and private enterprise. In addition, the United States aided tours abroad of a number of distinguished American artists and cultural productions, and took part in international trade fairs in eleven foreign cities.

VENEZUELA

ACT ON INDUSTRIAL PROPERTY

of 2 September 1955 [1]

Chapter I

GENERAL PROVISIONS

Art. 1. This Act shall govern the rights of inventors, discoverers and promoters in their creations, inventions or discoveries related to industry and the rights of producers, manufacturers or merchants in the special phrases or marks they adopt to distinguish the results of their work or activity from other similar products.

Art. 2. The State shall grant registration certificates to the owners of trademarks, advertising phrases and trade names which are submitted for registration, and it shall also grant patents to the owners of industrial inventions, improvements, models or designs and to the promoters of inventions or improvements which are submitted for registration.

Art. 3. The person in whose name the registration has been made shall be presumed to be the owner of the industrial invention, improvement, model or design, or of the trademark, advertising phrase or trade name, or the promotor of the invention or improvement.

. . .

Chapter II

PATENTS

Art. 5. Patents for industrial inventions, improvements, models or designs and patents for the promotion of an invention or improvement shall confer on the persons holding them the privilege of exclusive production or industrial processing of the article covered by the patent, under the terms and conditions laid down in this Act.

Patents for the introduction of an invention or improvement shall not confer on the patent-holder the right to prevent other persons from importing into the country articles similar to those covered by the said patents.

. . .

Art. 7. Any person shall have the right to improve the invention of another, but he shall not be entitled to use that invention without the inventor's consent. The inventor shall not be entitled to use the improvement or improvements without the consent of the author of the improvement.

. . .

Art. 9. Patents of invention, improvement, industrial model or design shall be issued for five or ten years, according to the wishes of the applicant; patents of promotion shall be issued for five years only.

Art. 10. Inventions, improvements, industrial models or designs patented in a foreign country may, if they have not yet passed into the public domain, also be patented in Venezuela subject to the legal formalities and requirements. The patent shall be issued for the period allowed by Venezuelan law, or for the time remaining before the foreign patent expires, if the latter period is shorter.

Art. 11. A person who has obtained a patent abroad shall have priority, within a time-limit of twelve months from the date of the foreign patent, for obtaining the patent corresponding in Venezuela.

Art. 12. An application for a patent for the promotion of an invention or improvement filed in Venezuela before the time-limit referred to in article 11 of this Act has elapsed may be opposed by the holder of the corresponding foreign patent who requests the registration of his invention or improvement in Venezuela within the time-limit fixed. Similarly, a patent of promotion issued in Venezuela before the time-limit referred to in article 11 has elapsed may be declared null and void on an application made by the holder of the corresponding foreign patent who requests the registration of his invention or improvement in the country within the time-limit fixed, and obtains such registration in accordance with the law. In the latter case, the patent of promotion may be declared null and void by the Registrar of Industrial Property when he grants the patent for which application has been made.

. . .

Art. 14. The following articles may be patented:

1. Any new, specific, and useful product;
2. Any new machine or tool and any new instrument or apparatus for industrial, medical, technical or scientific use;
3. Parts or elements of machines, mechanisms, apparatus, or accessories which result in greater economy or perfection in the products or results;

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[1] Printed in *Gaceta Oficial* No. 24873, of 14 October 1955. Translation by the United Nations Secretariat.

4. New processes for the preparation of materials or articles for industrial or commercial use;
5. New processes for the preparation of chemical products and new methods for the processing, extraction and separation of natural substances;
6. Changes, improvements or modifications introduced in known articles;
7. Any new model or design for industrial use;
8. Any other invention or discovery suitable for industrial application; and
9. Any invention, improvement or industrial model or design which has been patented abroad but which has not been made public, patented or placed in operation in Venezuela.

The enumeration in this article is only illustrative and not exhaustive, as a patent may be issued, generally speaking, in respect of the result of inventive effort of human ingenuity, subject to the exceptions specified in this Act.

Art. 15. The following articles may not be patented:

1. Beverages and foodstuffs whether for human or animal consumption; medicaments of all kinds; medicinal pharmaceutical preparations and chemical preparations, reactions and combinations;
2. Financial, speculative, commercial and advertising systems, combinations or schemes, or systems, combinations or schemes designed solely for control or supervision;
3. The mere use or development of natural substances or forces, even if they are of recent discovery;
4. The new use of articles, objects, substances or elements, already known or employed for specific purposes, and simple changes or variations in their form and dimensions or in the materials of which they are made;
5. Working methods or manufacturing secrets;
6. Merely theoretical or speculative inventions whose practicability and specific industrial application have not been described and demonstrated;
7. Inventions contrary to national laws, public health or order, morals or good customs and the security of the State;
8. The combination of elements which have already been patented or which are in the public domain, unless they are combined in such a way that they cannot function independently and thereby lose their characteristic function;
9. Inventions which were made known in the country by publication or description in printed works or in any other form and inventions which are in the public domain because they were put to use, sold or published in the country or abroad before the patent application was filed.

Art. 16. When an invention or discovery is of interest to the State, or is properly considered to be in the public interest, the National Executive may, on the grounds of public or social utility, order the expropriation of the rights of the inventor or discoverer, subject to the conditions laid down by the law for the expropriation of property.

The documents published for this purpose shall refrain from mentioning the subject of the invention or discovery, and shall merely indicate that it falls under the conditions laid down in this article.

Art. 17. Patents shall have no force in the following cases:

(*a*) When they are rendered null and void by the competent courts because they have been issued despite the prior claims of a third party;

(*b*) When they are declared null and void in accordance with articles 12 and 21 of this Act;

(*c*) When the holder of a patent has allowed two years to elapse from the date of issue without putting the invention concerned to use in Venezuela, or when the use of the invention is interrupted for two years, save by accident or *force majeure* duly proved to the Registrar of Industrial Property;

(*d*) When the holder fails to pay any of the annual fees as provided in article 49;

(*e*) When the period for which the patent was issued has expired; and

(*f*) When the inventor expressly renounces the patent;

. . .

Art. 21. The Minister for Economic Affairs acting on a report from the Registrar of Industrial Property may at any time issue an order stating the reasons for the annulment of the registration of any invention, improvement or industrial model or design obtained in contravention of this Act. The party concerned may appeal to the federal court within threee months reckoned from the date on which the order was published in the *Gaceta Oficial.*

Chapter III

INDUSTRIAL MODELS AND DESIGNS

Art. 22. The term "industrial design" shall mean any arrangement or joining of lines or colours, or lines and colours intended to give a special appearance to any industrial article.

The term "industrial model" shall mean any plastic form whether or not combined with colours, and any industrial, commercial or domestic article or utensil that might be used as the prototype for the production or manufacture of other articles or utensils, and that has a specific form or shape distinguishing it from similar articles and utensils.

Containers shall be included among the articles which may be protected as industrial models.

Both industrial designs and industrial models must show novelty and originality in form.

Industrial designs and models shall not include artistic works, which are protected by the Copyright Act, or articles of clothing of any kind.

Art. 23. The articles mentioned under sub-paragraphs 1, 2, 3, 4, 7, 8, 11 and 12 of article 33 concerning trademarks and those which have been registered as trademarks may not be registered as industrial designs or models.

Art. 24. The protection granted by the State to an industrial design or model relates to the outward appearance of the design or model, and does not extend to the product itself, or to the use of the manufactured object.

Art. 25. The previous use of the design or model by the applicant shall not preclude its registration.

Art. 26. Only industrial models or designs of products which are to be manufactured in Venezuela may be registered.

The privilege shall lapse if the product is not manufactured in Venezuela within two years after the patent is granted or if the patent-holder imports the article from abroad at any time.

[Chapters IV, VI, IX and XII deal with, respectively: trademarks; registration dues, annual patent fees and taxes on applications; procedure; and penalties.]

VIET-NAM

NOTE

CONSTITUTION OF THE REPUBLIC OF VIET-NAM

Extracts from the Constitution of the Republic of Viet-Nam, promulgated on 26 October 1956, appear below.

Agrarian Reform

Ordinance No. 57 specifying regulations governing agrarian reform (*Journal officiel* No. 53, of 17 November 1956) was signed and entered into force on 22 October 1956. The purposes of the agrarian reform established under the ordinance are the equitable distribution of land, assistance to farmers to enable them to acquire smallholdings, the development of agricultural production, and the orientation of large land-owners towards industrial activities. The ordinance permits the expropriation of land, and provides a procedure for calculating and paying an indemnity in the event of such expropriation. The French text of the ordinance and an English translation have been published in *Food and Agricultural Legislation, 1957*, vol. VI, No. 2, of the United Nations Food and Agriculture Organization.

Maternity Aid and Assistance

Under article 194 of ordinance No. 15, of 8 July 1952, promulgating the Labour Code,[1] as amended by ordinance No. 27, of 30 April 1956 (*Journal officiel* No. 21, of 12 May 1956), pregnant female workers are entitled, pending the institution of the social security system, to one-half of their wages at the expense of their employers. All cash allowances and, where appropriate, all allowances in kind continue to be payable.

[1] See *Yearbook on Human Rights for 1954*, p. 297.

CONSTITUTION OF THE REPUBLIC OF VIET-NAM

Promulgated on 26 October 1956[1]

Chapter I

BASIC PROVISIONS

. . .

Art. 4. The Executive, the Legislative and the Judiciary have as their responsibility the defence of freedom, democracy, the republican form of government, and public order.

The Judiciary shall have a status which guarantees its independent character.

Art. 5. All citizens, without distinction of sex, are born equal in dignity, rights and duties, and must act towards each other in a spirit of fraternity and solidarity.

The State recognizes and guarantees the fundamental rights of the human person in his individual capacity, and in his capacity as member of the community.

The State shall endeavour to establish for all, equal opportunities and the necessary conditions for the enjoyment of their rights and the performance of their duties.

The State shall aid the economic development, cultural creation, scientific and technical expansion and progress.

Art. 6. Every citizen has duties towards the fatherland, the community, and fellow citizens in the pursuit of the harmonious and complete development of his personality and that of others.

Art. 7. All activities having as their object the direct or indirect propagation or establishment of communism in whatever form shall be contrary to the principles embodied in the present constitution.

. . .

Chapter II

RIGHTS AND DUTIES OF THE CITIZEN

Art. 9. Every citizen has the right to life, liberty and security and integrity of his person.

Art. 10. No one may be illegally arrested, detained, or exiled.

Except in cases of *flagrante delicto*, no arrest may be carried out without a mandate of the competent authorities, and which does not conform with the conditions and procedures prescribed by law.

In accordance with the procedures prescribed by law, the accused in cases of crimes or misdemeanour

[1] Official English translation published by the Secretariat of State for Information, Saigon, and kindly made available by the Minister of Foreign Affairs of the Republic of Viet-Nam.

shall have the right to choose their defence, or request that one be designated for them.

Art. 11. No person may be tortured or subjected to brutal, inhuman or degrading punishment or treatment.

Art. 12. The private life, family, home, dignity and reputation of every citizen shall be respected.

The privacy of correspondence may not be violated, except on order of the courts, or in cases necessitated by the protection of public security or the preservation of public order.

Everybody shall be entitled to the protection of the law against illegal interference.

Art. 13. All citizens have the right to circulate and likewise reside freely on the national territory, except in those cases prohibited by law for reasons of public health or public security.

All citizens have the right to go abroad, except in the cases of restrictions by law for security, national defence, economic, [or] financial reasons, or in the public interest.

Art. 14. Everyone has the right and the duty to work. Pay shall be equal for equal work.

Everyone who works shall be entitled to an equitable remuneration guaranteeing to him and to his family an existence consistent with his human dignity.

Art. 15. Every citizen has the right to freedom of thought, and, within the limits set by law, of meeting and association.

Art. 16. Every citizen has the right to freedom of expression. This right may not be used for false accusations, slander, outrages against public morals, incitations to internal disturbances, or for the overthrow of the republican form of government.

Every citizen has the right to liberty of [the] press in order to establish a truthful and constructive opinion which the state must defend against all effort to distort the truth.

Art. 17. Every citizen has the right to freedom of belief, religious practice and teaching, provided that the exercise of these rights shall not be contrary to morality.

Art. 18. In accordance with the procedures and conditions prescribed by law, every citizen has the right to vote, and to take part in the direction of public affairs either directly or through his representatives.

Art. 19. Every citizen has the right to hold public office, according to his abilities and on a basis of equality.

Art. 20. The State recognizes and guarantees the right of private property.

The law shall fix the procedures of acquisition and enjoyment of the right of property so that everyone may become a proprietor and in order to assure to the human person a worthy and free life, and at the same time to construct a prosperous society.

In the circumstances prescribed by law and on the condition of compensation, the State may expropriate private property in the public interest.

Art. 21. The State shall facilitate the use of savings in acquiring dwelling[s], agricultural land and shares in business corporations.

Art. 22. Every citizen has the right to set up economic associations, provided the aim of such associations is not to establish illegal monopoly in order to engage in speculation and manipulation of the economy.

The State shall encourage and facilitate associations for the purpose of mutual aid, the intent of which is not speculation.

The State does not recognize business monopoly, except in cases determined by law for reasons of national defence, security or public utility.

Art. 23. The right to free trade unions and the right to strike are recognized, and shall be exercised in conformity with the procedures and conditions prescribed by law.

Public officials have no right to strike.

The right to strike is not recognized . . . for the personnel and the workers in those activities related to national defence, public security or the needs indispensable to the life of the community.

A law shall determine the branches of activities mentioned hereabove, and guarantee to the personnel and workers of those branches a special status with the purpose of protecting the rights of the personnel and workers in those branches.

Art. 24. Within the limits of its capacity and economic progress, the State shall take effective measures of assistance in cases of unemployment, old age, illness, or natural or other disasters.

Art. 25. The State recognizes the family as the foundation of society.

The State shall encourage and facilitate the formation of families and the fulfilment of the mission of the family, especially in regard to maternity and infant care.

The State shall encourage the cohesion of the family.

Art. 26. The State shall endeavour to give every citizen a compulsory and free education.

Every citizen has the right to pursue his studies.

Those who are capable but lack private means shall be helped in the pursuit of their studies.

The State shall recognize the right of parents to choose the schools for their children, and of associations as well as individuals to open schools in accordance with conditions fixed by law.

The State can recognize private institutions of university or technical education which satisfy the legal requirements. The diplomas granted by these institutions can be recognized by the State.

Art. 27. Every citizen has the right to participate in cultural and scientific activities, and to enjoy the

benefits, of the fine arts and technical progress. Authors shall enjoy legal protection for their spiritual and material rights relating to scientific inventions, literary or artistic production.

Art. 28. The rights of each citizen shall be exercised in conformity with the procedures and conditions prescribed by law.

The rights of each citizen shall be subjected only to those legal restrictions fixed by law, in order to ensure respect for the rights of other citizens and satisfaction of the legitimate requirements of general security, morality, public order, [and] national defence.

Whoever abuses the rights recognized by the Constitution with the object of jeopardizing the republican form of government, the democratic regime, national freedom, independence, and unity shall be deprived of his rights.

Art. 29. Every citizen has the duty of respecting and defending the Constitution and the law.

Every citizen has the duty of defending the fatherland, the republican form of government, freedom and democracy.

Every citizen must fulfil his military obligations in conformity with the procedure and in the limits prescribed by law.

Everyone has the duty of contributing to public expenditure in proportion to his means.

Chapter III

THE PRESIDENT OF THE REPUBLIC

Art. 30. The President of the republic shall be elected by universal and direct suffrage with secret ballot, in an election in which all electors throughout the country may participate.

. . .

Art. 31. Those citizens shall have the right to be a candidate for president or vice-president of the republic who shall have fulfilled all of the following conditions:

1. To have been born on Vietnamese territory and possess Vietnamese nationality without interruption since birth, or to have recovered Vietnamese nationality prior to the date of the promulgation of the Constitution;

2. To have had residence on the national territory with or without interruption for a period of at least fifteen years;

3. To be forty years of age;

4. To enjoy the rights of citizenship.

The offices of president or vice-president of the republic shall be incompatible with any paid or unpaid activity in the private domain.

. . .

Art. 40. The President of the republic may, with the consent of the Assembly, organize a referendum. The results of the referendum must be respected by the President of the republic and the National Assembly.

. . .

Chapter IV

THE NATIONAL ASSEMBLY

Section 1. — The Deputies

. . .

Art. 49. The Deputies shall be elected by universal and direct suffrage with secret ballot, according to procedures and conditions fixed by the electoral law.

Art. 50. Those citizens may be candidates for the National Assembly who:

1. Possess Vietnamese nationality without interruption since birth, or have obtained Vietnamese nationality at least five years [before], or recovered Vietnamese nationality at least three years [before], exclusive of those who have recovered Vietnamese nationality before the date of the promulgation of the Constitution;

2. Enjoy their rights of citizenship;

3. Are fully twenty-five years of age before election day;

4. Fulfil all the other conditions laid down in the electoral law.

However, in special cases where persons have recovered or acquired Vietnamese nationality and have rendered exceptional service to the fatherland, the President may by decree reduce the five- and three-year requirements cited above.

. . .

Chapter V

THE JUDGES

Art. 70. To discharge the duties set forth in article 4, the judicial system shall be organized in accordance with the principles of the equality of all persons before the law and of the independence of the magistrates on the bench.

. . .

Chapter X

GENERAL PROVISIONS

. . .

Art. 95. The National Assembly elected on 4 March 1956 shall be the first Legislative Assembly according to the Constitution of the Republic of Viet-Nam.

The term of office of the Legislative Assembly shall begin as of the promulgation of the Constitution and shall end on 30 September 1959.

Art. 96. The present president of the republic who was charged by the people in the referendum of 23 October 1955 with establishing a democratic regime shall be the first president of the republic according to the Constitution of the Republic of Viet-Nam.

The President's term of office shall begin as of the date of promulgation of the Constitution, and shall end on 30 April 1961.

. . .

Art. 98. During the first legislative term, the President of the republic may decree a temporary suspension of the rights of freedom of circulation and residence, of speech and the press, of assembly and association, and of formation of labour unions and strikes, to meet the legitimate demands of public security and order and of national defence.

PART II

TRUST AND NON-SELF-GOVERNING TERRITORIES

A. Trust Territories

AUSTRALIA

TRUST TERRITORY OF NAURU

NOTE[1]

NAURUAN COMMUNITY ORDINANCE, 1956

Admission of Persons to Nauruan Community

This ordinance defines those persons who constitute the Nauruan community, and provides for the admission of other persons to this community. The Nauruan community is made up of aboriginal natives of the Island of Nauru, Pacific Islanders married to aboriginal natives, and the children of these people. Pacific Islanders, who are twenty-one years of age, of good character and have resided in Nauru for seven years, following the customs of the aboriginal natives, are permitted to apply for admission to the Nauruan community. Such applications are submitted to the Nauru Local Government Council for consideration. Pacific Islanders married to aboriginal natives may lodge a notice in writing to the Council stating that they do not wish to be included in the Nauruan community. Any children born of a marriage between an aboriginal native and a Pacific Islander need not become members of the Nauruan community if either of the parents does not wish it. The Central Court of Nauru has authority to include such children in the community if it considers that it is in the children's interests to do so.

The text of this ordinance was published in the *Nauru Gazette* of 18 August 1956, but no date for commencement has yet been notified.

SOCIAL SERVICE ORDINANCE, 1956

This ordinance provides for the payment of old-age, invalid and widows' pensions and child endowment to Nauruans.

Notification by the administrator of the making of this ordinance was given in the *Nauru Gazette* of 18 September 1956. The date of commencement has not yet been published.

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

BELGIUM

TRUST TERRITORY OF RUANDA URUNDI

NOTE

All the texts summarized or referred to in the section relating to the Belgian Congo[1] are in force also in Ruanda Urundi.

Accession to Property

Ordinance No. 41/102, of 5 July 1956 (*Bulletin officiel du Ruanda Urundi*, 31 July 1956) gives effect in Ruanda Urundi to legislative ordinance No. 35/44, of 17 February 1956, amending a previous text under which certain benefits were granted in respect of loans to indigenous inhabitants for the purpose of promoting, in particular, their accession to real and movable property.

Labour Conditions

Ordinance No. 21/182, of 23 December 1955 (*Bulletin officiel du Ruanda Urundi*, 15 January 1956), gives effect to the legislative provisions and regulations co-ordinated by the royal order of 19 July 1954,[2] with respect to the contract of employment: fixing of the minimum wage, specification of benefits in kind (food, lodging, household equipment and bedding), regulations concerning the payment of fines for damages and the use of a work book and card, and provisions relating to financial penalties for failure to observe the ordinance.

Preservation of Cultural Works

Ordinance No. 21/112, of 4 August 1956 (*Bulletin officiel du Ruanda Urundi*, 31 August 1956), gives effect in Ruanda Urundi to the decree of 16 August 1939 concerning the sites, monuments and products of indigenous art.

[1] See p. 274.

[2] See *Yearbook on Human Rights for 1954*, p. 327.

FRANCE

TRUST TERRITORY OF THE CAMEROONS UNDER FRENCH ADMINISTRATION

NOTE[1]

With a view to carrying into effect the institutional reforms provided for in the loi-cadre of 23 June 1956,[2] the existing Territorial Assembly was dissolved, and arrangements were made under the decree of 16 November 1956[3] for the selection of a new assembly, so that the institutions to be established under the Territory's future statute could be studied by a genuinely representative body.

Nationals of the Cameroons possess Cameroonian citizenship, and may also claim French citizenship under the French Nationality Code,[4] the provisions of which were supplemented by a decree of 27 March 1956.[5]

[1] Note prepared by Mr. E. Dufour, Maître des requêtes au Conseil d'Etat, Paris, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat. See also pp. 67 and 69.

[2] See p. 275.

[3] Decree No. 56-1155 (*Journal officiel de la République française*, November 1956, p. 11027).

[4] Ordinance No. 45-2441, of 19 October 1945 (*ibid.*, October 1945, p. 6700).

[5] Decree No. 56-361 (*ibid.*, April 1956, p. 3431).

TRUST TERRITORY OF TOGOLAND UNDER FRENCH ADMINISTRATION

NOTE[1]

Pursuant to the loi-cadre of 23 June 1956,[2] a new statute was promulgated in Togoland which, subject first to ratification by a referendum, and subject secondly to international action putting an end to the Trusteeship System, confirms the accession of the Territory to the status of an autonomous republic.[3] Decree No. 56-847, of 24 August 1956, defines the relations between the autonomous republic and the French Republic, provides for the institution of the new republic's legislative power and executive power, and defines the distribution of responsibilities between the departments under the central organs of the French Republic and those under local authority. This provisional statute was approved by a large majority in the referendum that was held by universal suffrage on 28 October 1956.

Nationals of Togoland possess Togolese citizenship, and are also entitled to receive or acquire French nationality under the French Nationality Code,[4] whose provisions were supplemented by a decree of 27 March 1956.[5]

[1] Note prepared by Mr. E. Dufour, Maître des Requêtes au Conseil d'Etat, Paris, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat. See also pp. 67 and 69.

[2] See p. 275.

[3] Decrees No. 56-847 and No. 56-848 (*Journal officiel de la République française*, August 1956, p. 8173). See below.

[4] Ordinance No. 45-2441 of 19 October 1945 (*ibid.*, October 1945, p. 6700).

[5] Decree No. 56-361 (*ibid.*, April 1956, p. 3431).

DECREE No. 56-847 SETTING FORTH THE STATUTE OF TOGOLAND of 24 August 1956[1]

Part I

THE AUTONOMOUS REPUBLIC OF TOGOLAND

Art. 1. Togoland is an autonomous republic, whose relationship with the French Republic, based on a community of thought and of interests, is defined in this statute.

. . .

Art. 4. The French Republic shall delegate a High Commissioner to Togoland.

. . .

[1] Text in *Journal officiel de la République française* of 26 August 1956, p. 8173.

Part II

THE TOGOLAND LEGISLATIVE ASSEMBLY

Art. 6. The legislative power shall be vested in the Togoland Legislative Assembly. The decisions of the Assembly in this field shall be termed "laws of Togoland".

The Assembly shall be elected for five years, by direct universal suffrage.

. . .

Art. 10. Laws of Togoland and the regulations issued by the authorities of the autonomous Republic of Togoland must be in conformity with treaties, international conventions, the principles set forth in the Universal Declaration of Human Rights, and in the preamble to the Constitution of the French Republic and the provisions of this statute.

. . .

Art. 12. Within a period of ten clear days from the second reading, the High Commissioner may apply to the Conseil d'Etat sitting as a court, for a declaration that the Assembly has exceeded its powers, if he considers that the draft law of Togoland constitutes a violation of the provisions of article 10 above.

This time period and this application have the effect of suspending the promulgation of the law. The application must be ruled on within a period of not more than six months; if the Conseil d'Etat fails to hand down a decision within that time, the law shall become operative at once.

. . .

Part IV

TOGOLAND CITIZENSHIP

Art. 23. The nationals of Togoland [ressortissants du Togo] are Togoland citizens. They shall enjoy the rights and freedoms guaranteed to French citizens.

Art. 24. Togoland citizens shall not be subject to military service. They may, however, enlist voluntarily in the armed forces of the French Republic.

Art. 25. Togoland citizens shall have free access to public office, and may vote and stand for election anywhere in the French Republic, under the same conditions as French citizens. French citizens shall enjoy in Togoland all the rights and freedoms attached to the status of Togoland citizens.

. . .

Part X

TRANSITIONAL PROVISIONS

Art. 39. As long as Togoland remains under the international system, such provisional trusteeship as seems advisable [une tutelle provisoire d'opportunité] shall be exercised over the powers of the Togoland authorities in order to enable the French Administration to discharge all its obligations under chapter XII of the United Nations Charter, and under the Trusteeship Agreement.[1]

Art. 40. This *tutelle provisoire d'opportunité* shall be exercised by means of a right of veto on the part of the Minister for Overseas France over the laws of Togoland, and a right of veto on the part of the High Commissioner over the decisions of the Council of Ministers and of the ministers. The right of veto may only be exercised within a period of ten clear days from the date of the second reading of the relevant law in accordance with article 11, or from the date of publication of the decision. . . .

[1] See *Yearbook on Human Rights for 1947*, pp. 405–6.

DECREE No. 56–848 SPECIFYING THE DATE AND PROCEDURE OF THE PLEBISCITE TO BE HELD IN TOGOLAND PURSUANT TO ARTICLE 8 OF THE ACT OF 23 JUNE 1956

of 24 August 1956 [1]

Part I

GENERAL PROVISIONS

Art. 1. The electors of Togoland are hereby summoned to take part, on Sunday, 28 October 1956, in the plebiscite authorized by article 8 of the Act of 23 June 1956.

Art. 2. The purpose of the plebiscite is to enable the population of Togoland to choose one of the following alternatives:

The Statue of Togoland, as set forth in decree 56–847 of 24 August 1956, and the termination of the Trusteeship System established pursuant to the agreement of 13 December 1946,[2] or the continuation of the Trusteeship System established pursuant to the agreement of 13 December 1946.

. . .

[1] French text in *Journal officiel de la République française* of 26 August 1956, p. 8176. Translation by the United Nations Secretariat.

[2] Trusteeship Agreement for the Territory of Togoland under French Administration; see *Yearbook on Human Rights for 1947*, pp. 405–6.

Part II

QUALIFIED VOTERS

Art. 4. The plebiscite shall be by universal suffrage.

In each commune or electoral sector, and in each administrative circonscription, a vote in the plebiscite may be cast by every man and woman who has attained the age of twenty-one, and whose name is already entered on the electoral register or is added thereto pursuant to articles 6 to 8 hereunder.

. . .

Part IV

ORGANIZATION OF THE BALLOT

. . .

Art. 14. The plebiscite shall be by secret ballot.

. . .

Part V

OBJECTIONS

Art. 18. Any voter entitled to take part in the plebiscite may within twenty-four hours challenge the regularity of the procedure followed by the polling committee, and submit evidence to support his contention.

. . .

Part VI

PROPAGANDA

Art. 20. In order to ensure equal opportunities for all political parties which have given notice of their intention to take part in the plebiscite, no political campaign may be initiated before 15 October 1956.

Such political parties may exhibit posters on boards specially reserved for the display of electoral posters.

The boards shall be numbered and allocated in the order in which notices of intention to take part are received.

The display of posters relating to the plebiscite at places other than the boards reserved for electoral posters shall be prohibited. All posters displayed in breach of the provisions of this part may be defaced and destroyed.

. . .

ITALY

TRUST TERRITORY OF SOMALILAND

NOTE

The Legislative Assembly

Ordinance No. 1, of 5 January 1956 (*Bollettino ufficiale*, supplement No. 1 to No. 1 of 10 January 1956), gave the new title "Legislative Assembly" to the Territorial Council referred to in ordinance No. 6, of 31 March 1955,[1] and made provisions concerning its operation. Ordinance No. 2, of 5 January 1956 (*ibid.*), concerned the powers and legislative procedures of the Legislative Assembly. Articles 1 and 2 thereof provided as follows:

"*Art. 1.* The Legislative Assembly in the exercise of its functions shall conform to the principles and provisions of the Trusteeship Agreement for the Territory of Somaliland under Italian Administration.[2]

"*Art. 2.* All provisions relating to the matters referred to in articles 15, 19 and 20 of the agreement mentioned in article 1 above and in articles 8 and 9 of the Declaration of Constitutional Principles annexed thereto, together with those relating to the approval of the budget and the balance-sheet, direct and indirect taxation and any other fiscal charge, shall be submitted to the Assembly for its approval."

Judicial Regulations

Ordinance No. 5, of 2 February 1956 (*Bollettino ufficiale*, supplement No. 3 to No. 3 of 29 March 1956), approved the judicial regulations, extracts from which appear below. Among the enactments repealed thereby were ordinance No. 6, of 3 April 1952,[3] ordinance No. 10, of 4 July 1952,[4] and ordinance No. 14, of 2 August 1954.[5] Regulations containing further procedural provisions were made under authority of the ordinance by decrees Nos. 28, 29, 30 and 31 of 24 February 1956 (*ibid.*).

[1] See *Yearbook on Human Rights for 1955*, pp. 277–8. The Legislative Assembly was elected on 29 February 1956 in accordance with the provisions of ordinance No. 6, of 31 March 1955.

[2] See *Yearbook on Human Rights for 1950*, pp. 366–70.

[3] See *Yearbook on Human Rights for 1952*, pp. 347–8.

[4] *Ibid.*, p. 348.

[5] See *Yearbook on Human Rights for 1954*, p. 321.

ORDINANCE No. 5 OF 2 FEBRUARY 1956 APPROVING JUDICIAL REGULATIONS [1]

PART TWO

PROCEDURE

Chapter I

GENERAL PROVISIONS

. . .

Art. 22. — The Exercise of Rights

Any person enjoying a given right shall be bound to exercise that right in a way not incompatible with the purpose for which it was recognized.

. . .

Chapter III

RULES GOVERNING CRIMINAL CASES

. . .

Art. 44. — Arrest of Persons Suspected of an Offence

The duration of arrest of a person seriously suspected of an offence shall not exceed seven days. If within this time-limit the arrest is not confirmed by the judge, it shall be inoperative, and the person arrested shall be released without delay.

Art. 45. — Interrogation of the Arrested Person

The interrogation of the arrested person by the judge may not be delayed for more than three days from the day on which the person reaches the prison of the place where the judge resides.

. . .

Art. 47. — Appeals against Measures relating to Personal Liberty

Appeal against measures relating to personal liberty may be lodged, either by the defendant or by the Public Prosecutor, within a period of ten days from the date of notification or execution of the measure.

. . .

Art. 48. — Date of Commencement of Detention pending Trial

For all purposes, the duration of detention pending trial shall commence on the day on which the defendant is arrested or detained.

Art. 49. — Duration of Detention pending Trial

Release from prison shall be granted *ex officio* when the duration of detention pending trial has exceeded

[1] Published in *Bollettino ufficiale*, supplement No. 3 to No. 3 of 29 March 1956. Translation by the United Nations Secretariat.

two months, if the trial falls within the competence of the Qadi, without a day having been fixed for the proceedings; three months, if the trial falls within the competence of the regional judge, without a summons to trial having been issued.

For proceedings falling within the conpetence of the Assize Court, when the duration of detention pending trial has exceeded six months without the Public Prosecutor having requested that a summons be issued either for trial or for dismissal of the case, the Public Prosecutor shall immediately send a report to the Chairman of the Court of Justice explaining the reasons for the delay.

. . . .

Art. 51. — Acts at which Defending Counsel may be Present

When the parties have already designated defending counsel, these may be present at judicial investigations, verifications and surveys, notice of which shall be given to them in advance. In the same way, they may be present at house searches if they happen to be on the spot. Defending counsel shall be bound to secrecy regarding acts at which he is present.

. . .

[Chapter IV of part two deals with appeals in civil, criminal and administrative matters.]

. . .

PART THREE

JUDICIAL PERSONNEL AND LEGAL DEFENCE

Chapter I

JUDICIAL PERSONNEL

[Chapter I of part three concerns, *inter alia*, the independence of judges.]

Chapter II

LEGAL DEFENCE

. . .

Art. 99. — Counsel for the Defence

In cases held in the Court of Justice, with the exception of those falling within the competence of the Sharaitic section, as well as before the Judge of Appeal or the Assize Court of Appeal, the parties shall be assisted by a counsel inscribed in the roll mentioned in the first paragraph of article 95.

In civil cases held before the regional judge, the parties may conduct their own cases. However, should the judge consider it advisable, he may decide that the party appearing in person shall be assisted by a defending counsel inscribed in one of the rolls mentioned in article 95 or, in case of necessity ascertained by the judge, chosen from among capable persons even if they are not inscribed in the said rolls.

In criminal cases held before the Assize Court, the defendants shall be assisted by a defending counsel, inscribed in one of the rolls mentioned in article 95 or, in case of necessity ascertained by the chairman of the court, chosen from among capable persons even if they are not inscribed in the said rolls.

In criminal cases held before the regional judge, the defendant need not be assisted by a counsel, unless the judge, taking into account the nature and seriousness of the trial, deems it advisable to designate *ex officio*, a counsel to assist the defendant or to authorize the nomination of a counsel chosen by the defendant (difensore di fiducia) according to the procedure prescribed in the preceding paragraph.

In trials held before the Qadi, the parties may be assisted by attorneys designated by them.

The officials of the administration may not discharge the functions of counsel chosen by the defendant (difensore di fiducia) without having received the authorization of the administration.

. . .

Art. 101. — Free Legal Assistance

A commission for free legal assistance in civil matters to destitute persons is hereby established at the office of the Public Prosecutor. The commission shall be composed of the Public Prosecutor, who shall be its chairman, of a judge designated by the Chairman of the Court of Justice, and of a counsel or attorney designated each year by the commission for legal assistance.

Free legal assistance shall be requested by means of an application accompanied by a document to the effect that the applicant is destitute.

The chairman of the commission may request from the competent office any supplementary information he may think necessary. The commission may, when the circumstances warrant it, appoint a counsel to assist the party.

. . .

Art. 103. — Free Legal Assistance in Criminal Matters

In criminal matters, free legal assistance is granted by the judge before whom the trial is to be held.

PART FOUR

MISCELLANEOUS PROVISIONS, RULES OF IMPLEMENTATION AND TRANSITORY AND FINAL PROVISIONS

. . .

Chapter II

RULES OF IMPLEMENTATION AND TRANSITORY AND FINAL PROVISIONS

. . .

Art. 114. — Use of the Official Language

The hearings, except those of the Qadis and of the tribunal of Qadis, shall be conducted in the Italian language.

When one of the assessors, parties or witnesses is not acquainted with the Italian language, recourse shall be had to an interpreter.

. . .

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

TRUST TERRITORY OF TANGANYIKA

THE TRADE UNIONS ORDINANCE, 1956

NOTE

The Trade Unions Ordinance, No. 48 of 1956 (assented to on 27 December 1956, and entered into force on 1 February 1957) [1] is entitled: an Ordinance to provide for the Registration and Control of Trade Unions and for matters relating thereto. The text of the Act and a translation into French appear in International Labour Office: *Legislative Series*, 1956 — Tan.1.

[1] Text published as *Tanganyika, Chapter 381 of the Laws, Trade Unions, Annual Supplement, 1956*, by the Government Printer, Dar-Es-Salaam.

TRUST TERRITORY OF TOGOLAND UNDER BRITISH ADMINISTRATION

Several sets of regulations [1] were made in exercise of powers conferred by the Togoland under United Kingdom Trusteeship (Plebiscite) Order in Council, 1955.[2] Of these, mention may be made of the Togoland Plebiscite Regulations, 1956 and the Togoland Plebiscite (Voting Petitions) Regulations, 1956. The former included provisions concerning secrecy of voting, and prohibiting the publication in writing of matter reasonably calculated to deceive the public as to any matter provided for by the regulations, interference with lawful public meetings and the display of certain emblems, and the making of certain speeches, within stated distances of voting places. The Togoland Plebiscite (Voting Petitions) Regulations, 1956, were made in fulfilment of the requirement of section 5 (2) (*e*) of the order in council that regulations be made "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".

[1] Items C – H in annex I to the *Report of the United Nations Plebiscite Commissioner for the Trust Territory of Togoland under British Administration* (United Nations document A/3173 and Add.1).

[2] See *Yearbook on Human Rights for 1955*, pp. 282–3.

B. Non-Self-Governing Territories

BELGIUM

BELGIAN CONGO

NOTE[1]

I. Legislation

Industrial Accidents

The decree of 23 February 1956 (*Bulletin officiel du Congo belge*, 15 April 1956), to amend the decree of 20 December 1945, on the payment of compensation to non-indigenous inhabitants for injuries incurred as a result of industrial accidents, lays down that compensation shall be paid even in the case of work carried out during paid leave or temporary employment outside the Belgian Congo. Accidents occurring on the way to work are treated as industrial accidents. Temporary partial incapacity for work, for which compensation was not paid under the former system, shall henceforth give the right to compensation subject to certain conditions.

Sickness and Invalidity Insurance

The decree of 2 July 1956 (*Bulletin officiel du Congo belge*, 1 August 1956), to amend the decree of 7 August 1952, extends sickness and invalidity insurance for colonial salaried employees to cover industrial accidents or occupational diseases involving unfitness, for which compensation is not payable on account of the absence of a statutory condition. Furthermore, the amount of the allowances is increased.

Insurance against Old-age and Premature Death

The decrees of 18 January (*Bulletin officiel du Congo belge*, 15 February 1956) and 20 June 1956 (*Bulletin officiel du Congo belge*, 1 August 1956), to amend the royal order of 25 January 1952, make the system of insurance against old age and premature death for salaried employees more flexible, notably by extending the granting of benefit to persons permitted to reside temporarily outside Belgium or the Belgian Congo for reasons of health.

Pension System for Workers

The decree of 6 June 1956 (*Bulletin officiel du Congo belge*, 10 June 1956)[2] establishes a system of retirement pensions and grants for widows and orphans for workers in the Belgian Congo. Unskilled workers and those who have not been in regular residence for three years outside a tribal-law district are not covered by the decree. The financing shall be covered by contributions in equal parts by the employer and the worker.

II. International Agreements

International Labour Convention No. 14 concerning the application of the weekly rest in industrial establishments, dated 17 November 1921, was extended to cover the Belgian Congo on 25 January 1956 (*Moniteur belge*, 12 February 1956).

International Labour Convention No. 94 concerning labour clauses in public contracts, dated 29 June 1949, was extended to cover the Belgian Congo on 8 March 1956 (*Moniteur belge*, 15 April 1956).

[1] This note is based on 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] The text of the decree of 6 June 1956, amended by legislative ordinance No. 22/29, of 8 February 1957, and the English translation of the decree as amended, are to be found in the International Labour Office: *Legislative Series*, 1956, Bel.C.2.

FRANCE

PROVISIONS AFFECTING THE OVERSEAS TERRITORIES AS A WHOLE[1]

The outstanding event of 1956 was the enactment of the Act of 23 June 1956, known as the loi-cadre, by which the French Parliament committed itself to a *progressive evolution of the relations between metropolitan France and the overseas territories*, the final outcome of which will inevitably be the establishment of autonomous federal States within the community of the French Republic.[2]

It is not intended in this study to make a thorough analysis of the provisions of the Act, the contents of which will in any event be summarized in reporting the progress achieved in implementing the reform. It need only be said at this stage that the reforms which the Government is invited to promote by decree in the various territories include the achievement of genuine administrative autonomy, in particular by granting new assemblies more extensive powers of decision with regard to a number of matters, and by the division of administrative functions between the state services and the territorial services responsible for administering the affairs of the territories. With the introduction of universal suffrage formale and female citizens in elections to all administrative and political assemblies, the distinction between the two electoral colleges hitherto maintained in most territories is abolished.

In application of this Act, two decrees were issued on 3 December 1956.[3] The first defines the general interests of the republic, which are the responsibility of the state services: defence, foreign affairs, the protection of public freedoms, monetary and financial regulations, the solidarity of the constituent elements of the republic, representation of the central power and economic, social and cultural expansion, while the second makes rules concerning the organization of the state and territorial services.

Further steps to organize machinery to promote the *economic development* of the overseas territories were taken in the decrees of 13 November 1956,[4] relating to finance corporations for the development of the overseas territories, mutual rural development societies, regulations concerning co-operatives, overseas agricultural credit, credit for small and middle-sized businesses, price stabilization funds, the organization of companies and various provisions according fiscal advantage to undertakings and companies operating in the overseas territories.

As stated above,[5] the provisions of the metropolitan Act of 6 June 1956 granting an *amnesty* for acts committed during or on the occasion of collective labour disputes were applicable in all the overseas territories, including Togoland and the Cameroons.

A further Act dated 27 March 1956[6] granted an amnesty for acts committed during or on the occasion of the political incidents which occurred from 1947 to 1953 in various territories of French Equatorial Africa (Gabon, Middle Congo, Ubangi-Shari and Chad), in French West Africa (Ivory Coast and Sudan), in Togoland and in Madagascar.

Similarly, an Act of 8 August 1956[7] granted an amnesty in connexion with certain offences committed in Tunisia between 1 January 1952 and 3 August 1955.

Attention must be drawn to two decisions of the Conseil d'Etat relating to *freedom of association* for nationals of the French Union. A decision given in assemblée plénière found that "nationals of the French Union have the status of citizens of the French Union", which guarantees them the rights and freedoms guaranteed by the French Constitution, and the fundamental principles recognized by the laws of the republic. Freedom of association is one of those principles; accordingly, under French law, the Government could not refuse to acknowledge the legal existence of an association formed without authorization by Vietnamese nationals. The association could not be regarded as an association of aliens, for which authorization would be required.[8]

On the other hand, the metropolitan regulations prohibiting associations having the character of

[1] Note prepared by Mr. E. Dufour, Maître des requêtes au Conseil d'Etat, Paris, government-appointed correspondent of the *Yearbook on Human Rights*. Translation by the United Nations Secretariat. See also pp. 67 and 69.

[2] Act No. 56-619 (*Journal officiel de la République française*, June 1956, p. 5782).

[3] Decrees Nos. 56-1227 and 1228 (*Journal officiel de la République francaise*, December 1956, p. 11, 572).

[4] Fourteen decrees of 13 November 1956 (*ibid.*, November 1956, p. 10914 *et seq.*) and decree No. 56-1249 of 10 December 1956 (*ibid.*, December 1956, p. 11829).

[5] See p. 67.

[6] Act No. 56-353 (*Journal officiel de la République française*, April 1956, p. 3342).

[7] Act No. 56-791 (*ibid.*, August 1956, p. 7600).

[8] Conseil d'Etat, Association amicale des Annamites de Paris, 11 July 1956, *Recueil des décisions du Conseil d'Etat*, p. 317, Sirey.

"private armies" or engaging in armed demonstrations in the public highway were declared *ipso jure* applicable to a political association organized in the Cameroons, which, under the trusteeship agreement approved by the United Nations General Assembly on 13 December 1946, is to be administered in accordance with French law "as an integral part of French territory".[1]

[1] Conseil d'Etat, Sieurs M'Pape, N'Gom et Moumie, 12 July 1956, *Recueil des décisions du Conseil d'Etat*, p. 331, Sirey.

The amendments, under the Act of 27 March 1956 referred to above,[2] of the regulations concerning *holidays with pay* in metropolitan France are applicable to the overseas departments and the overseas territories. The corresponding provisions of the Overseas Labour Code, published in 1952, are therefore repealed.[3]

[2] See p. 68.

[3] Act No. 52–1322, of 15 December 1952. See *Yearbook on Human Rights for 1952*, pp. 73 and 352.

NETHERLANDS

NETHERLANDS NEW GUINEA[1]

NOTE[2]

In 1956, the Elementary Education and Subsidy Ordinance of Netherlands New Guinea was further implemented by the entry into force of a number of regulations for the various types of schools.

[1] There is a dispute about this territory, as regards its political status, between the Government of Indonesia and the Government of the Netherlands.

[2] Information kindly furnished by Dr. A. A. van Rhijn, Secretary of State for Social Affairs, government-appointed correspondent of the *Yearbook on Human Rights*.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

BRITISH GUIANA

NOTE

The British Guiana (Constitution) (Temporary Provisions) (Amendment) Order in Council, 1956, made on 19 December 1956,[1] amended the British Guiana (Constitution) (Temporary Provisions) Order in Council, 1953.[2] Changes were made in the composition of the Legislative Council, including provision for the election of certain of its members. The amending order included other provisions dealing with, *inter alia*, qualifications and disqualifications for elected members and tenure of office of elected members.

[1] Text published as *Statutory Instruments*, 1956, No. 2030, by H.M. Stationery Office, London.

[2] See *Yearbook on Human Rights for 1954*, p. 343.

CYPRUS

NOTE

1. The Emergency Powers (Collective Punishment) Regulations, 1955 [1] were revoked by the Emergency Powers (Collective Punishment) (Revocation) Regulation, 1956, made on 19 December 1956.[2]

2. The Social Insurance Law, 1956 (No. 31 of 1956, of 25 October 1956) [3] provided for the payment of fixed lump sums for marriage, maternity and death and weekly payments in the event of sickness, unemployment, widowhood, orphanhood and old age. The scheme was to be financed by contributions by employers, workers and government, insurance being compulsory for all persons employed under a contract of service or apprenticeship with some exceptions principally affecting those employed in agriculture and some part-time occupations. Self-employed persons and others exempt from compulsory insurance were entitled voluntarily to insure for widows' and old-age pensions. The law entered into force on 7 January 1957.[4]

[1] See *Yearbook on Human Rights for 1955*, pp. 305–6.

[2] Published in Supplement No. 3 to *The Cyprus Gazette*, No. 4012, of 19 December 1956.

[3] Published in Supplement No. 2 to *The Cyprus Gazette*, No. 3990, of 26 October 1956.

[4] Reference may also be made here to developments in the area of social security in Gibraltar and Malta. The Social Insurance Ordinance, 1955 of Gibraltar (No. 14 of 1955, assented to on 14 July 1955 and entered into force on 1 October 1955) (Supplement to the *Gibraltar Gazette* No. 375 of 15 July 1955) established a system of compulsory social insurance providing maternity grants, widows' benefits, guardians' allowances, old-age pensions and death grants. The National Insurance Act, 1956 of Malta (Act No. VI of 1956, assented to on 28 April 1956 and entered into force in May 1956) (*The Malta Government Gazette*, No. 10791 of 30 April 1956) set up a system of compulsory and voluntary insurance providing marriage grants, sickness, unemployment, injury, disablement and death benefits, widows' and old-age pensions and guardians' allowances.

KENYA

THE LEGISLATIVE COUNCIL (AFRICAN REPRESENTATION) ORDINANCE, 1956

No. 10 of 1956, assented to on 21 March 1956 (as amended) [1]

PART I. — PRELIMINARY

1. (1) This ordinance may be cited as the Legislative Council (African Representation) Ordinance, 1956, and shall be read and construed as one with the Legislative Council Ordinance.

. . .

[1] The ordinance was amended by the Legislative Council (African Representation) (Amendment) Ordinance, 1956 (No. 30 of 1956, assented to on 11 August 1956), by the Rules and Regulations (Laying) Ordinance, 1956 (No. 39 of 1956, assented to on 11 December 1956) and by the Legislative Council (African Representation) (Amendment) (No. 2) Ordinance, 1956 (No. 53 of 1956, assented to on 17 December 1956). The four ordinances were published in *Ordinances enacted during the Tear 1956*, Government Printer, Nairobi.

(3) This ordinance shall not apply to or in respect of the Northern Province, save to such part or parts thereof (if any) as the governor may, by order, direct.

2. In this ordinance, unless the contrary intention appears, "British subject" includes persons who have been naturalized under any imperial statute or under any enactment of a British possession, as well as the natural-born subjects of Her Majesty;

. . .

PART II. — AFRICAN MEMBERS OF LEGISLATIVE COUNCIL TO BE ELECTED

3. (1) There shall be elected to the Legislative Council in accordance with the provisions of this ordinance eight Africans, each of whom shall represent one electoral area and each of whom shall be elected for, and by the African voters of, such electoral area.

. . .

4. (1) The election of members shall be by secret ballot, and every election shall be held in accordance with the provisions of this ordinance and the prescribed procedure.

(2) No voter shall vote in respect of more than one electoral area in the same election nor except in respect of an electoral area containing the district in respect of and for which he is registered as a voter.

(3) Every voter shall be entitled to vote for only one candidate in the electoral area containing the district in respect of and for which the voter is registered as a voter, and, where a voter is entitled to cast more than one vote, all his votes shall be cast for one candidate.

. . .

PART IV. — VOTERS

12. Subject to the provisions of this ordinance, an African shall be entitled to be included in the register of voters for any district who:

(*a*) Is a British subject or a British protected person; and

(*b*) Has attained the age of twenty-one years; and

(*c*) Is a member of an African tribe indigenous to East Africa; and

(*d*) Was born in the colony or has been resident in the colony for a period of at least ten years in the aggregate; and

(*e*) Is entitled to at least one vote, as hereinafter provided,

but not otherwise.

13. No African shall be included in the register of voters for any district who:

(*a*) Has been convicted of a criminal offence and has been sentenced to imprisonment for a term of twelve months or more and has not received a pardon:

Provided that such disqualification shall cease two years after the date of the expiration of the sentence, save in the case of a person convicted of an offence against section 70 or 71 of the Penal Code, or against any regulation made under the Emergency Powers Order in Council, 1939, and punishable with imprisonment for a term of seven years or more, in which case such disqualification shall continue for such period as the governor may, either generally or in any particular case, specify; or

(*b*) Is adjudged by a competent court to be of unsound mind or is detained as a criminal lunatic under any law for the time being in force in the colony; or

(*c*) Is suffering from any disqualification provided by any law for the time being in force relating to offences connected with elections; or

(*d*) Is, or has been, at any time during the period of two years immediately preceding an application to be registered as a voter, subject to police supervision in consequence of a valid order made under section 343 of the Criminal Procedure Code; or

(*e*) Is the subject of a restriction order made under the Deportation (Immigrant Britsh Subjects) Ordinance, 1949, or is or has been the subject of a detention order made under the Emergency Regulations, 1952:

Provided that a provincial commissioner may in any particular case remove such disqualification in respect of an African who has been, but is no longer, detained by virtue of a detention order made as aforesaid, being the provincial commissioner of the province in which such African normally resides; or

(*f*) Has not resided or carried on business or been employed in the district in which the application to have his name entered on the register of voters is made for a period of at least six months immediately preceding the date of such application:

Provided that the provisions of this paragraph shall not apply to an African who applies to have his name entered on a register of voters in respect of a district in which his native land unit is situated.

14. No African shall be entitled to be registered as a voter in respect of more than one district at the same time, but such district may be either within the native land unit (if any) of the tribe to which such African belongs or the district in which such African resides, carries on business or is employed.

15. An African who is otherwise eligible to be registered as a voter shall be entitled to one vote in respect of each of the qualifications possessed by him or her and set forth in the schedule to this ordinance, but no African shall be entitled to more than three votes.

PART V. — CANDIDATES

16. (1) Any African who is qualified to be and is registered as a voter shall, subject to the provisions of this ordinance, be eligible for election as a member for any electoral area.

(2) No African shall be qualified to be elected as a member to represent any electoral area unless such African:

(*a*) Has attained the age of 25 years; and

(*b*) Has conpleted the full educational course at an intermediate school (as defined in regulation 2 of the Education (Classification and Nomenclature of Schools) Regulations, 1953) or has attained such other standard of education as may be prescribed; and

(*c*) Had an income from all sources of £120 during the twelve months immediately preceding nomination day, and possesses at least one of the qualifications set forth in the schedule to this ordinance, other than item 1 or 2 thereof; and

(*d*) Is able to read, write and speak the English language with reasonable proficiency; and

(*e*) Has a place of residence in the electoral area for which he is a candidate; and

(*f*) Takes, at the time of nomination, the prescribed oath of allegiance to Her Majesty; and

(*g*) Makes, at the time of nomination, the prescribed statutory declaration.

(3) (*a*) For the purposes of paragraph (*d*) of subsection (*2*) of this section, an African shall be deemed to be able to read, write and speak the English language with reasonable proficiency only:

(i) If he has at any time been a member of the Legislative Council; or

(ii) If he possesses a degree from any university or diploma of Makerere College; or

(iii) If he satisfies a language board (as hereinafter provided) that his knowledge of the English language is sufficient to enable him to take an active part in the proceedings of the Legislative Council.

. . .

17. (1) No African shall be qualified to be nominated as a candidate for, or to be elected as a member to represent, any electoral area who:

(*a*) Has been convicted of a criminal offence and has been sentenced to imprisonment for a term of six months and has not received a pardon:

Provided that the Governor in Council of Ministers may, by order, in any particular case remove such disqualification; or

(*b*) Is adjudged by a competent court to be of unsound mind or is detained as a criminal lunatic under any law for the time being in force in the colony; or

(*c*) Has been declared bankrupt or insolvent by a competent court in the colony or elsewhere, and has not received his discharge; or

(*d*) Is suffering from any disqualification provided by any law for the time being in force relating to offences connected with elections; or

(*e*) Is holding or acting in any office, the functions of which involve any responsibility for or any connexion with the conduct of any election of African members or any responsibility for or any connexion with the compilation or revision of any register of voters under this ordinance.

(2) A candidate for election who has undertaken either directly or indirectly himself or by anyone in trust for him any contract with a government department for which the consideration exceeds one thousand five hundred shillings, shall not be disqualified for election provided that, at least fourteen days before the date appointed for the election, he publishes in a newspaper circulating in the electoral area for which he is a candidate a notice of the fact of such contract, giving particulars thereof.

. . .

PART VI. — SPECIAL PROVISIONS REGARDING KIKUYU, EMBU AND MERU

19. (1) Notwithstanding the provisions of this ordinance, no person being a member of the Kikuyu, Embu or Meru tribe shall be eligible to be registered as a voter unless the district commissioner of the district in which such person normally resides certifies in writing that such person, on account of his loyal and active support of the Government in the emergency, may be so registered; and the grant or refusal of any certificate under this sub-section shall lie in the absolute discretion of the district commissioner.

. . .

(4) Notwithstanding the provisions of this ordinance, no person being a member of the Kikuyu, Embu or Meru tribe shall register or be registered as a voter except in respect of a district situated in the Central Province or the Nairobi extra-provincial district.

(5) Notwithstanding the provisions of this ordinance, no person being a member of the Kikuyu, Embu or Meru tribe shall be qualified to be elected as a member to represent any electoral area other than an electoral area situated in the Central Province or in the Nairobi extra-provincial district.

. . .

SCHEDULE

(Sections 15 and 16)

(1) *Males*	(2) *Females*
1. *Education*	1. *Education*
Completed the full educational course at an intermediate school (as defined in regulation 2 of the Education (Classification and Nomenclature of Schools)	Completed the full educational course at an intermediate school (as defined in regulation 2 of the Education (Classification and Nomenclature of Schools)

Regulations, 1953), or attained such other standards of education as may be prescribed.

2. *Property*

Received income of at least £120 from all sources during the twelve months immediately preceding application for registration, *or*

Possessed of property worth at least £500 at time of such application.

3. *Long Service*

Completed at least five years' service in the armed forces of the Crown, or in the police, prisons or tribal police, provided that discharge shall not have been for misconduct; or seven years' continuous service in any form of government or local government employment or in the employment of the High Commission, provided that such employment shall not have been terminated by dismissal; or seven years' employment in commerce, industry or agriculture, such employment having been undertaken within the eight years immediately preceding application for registration:

Provided that membership of an African court shall not be deemed, for the purposes of this item, to be service in any form of government or local government employment.

4. *Seniority*

Having reached the grade of elder or the age of 45 years.

5. *Higher Education*

Obtained a degree or diploma of a prescribed institution of university or university college standing or a prescribed professional qualification, or awarded a scholarship, approved for the purpose of this ordinance by the Director of Education, at an institution for post-secondary education and successfully completed the course of studies in respect of which the scholarship was awarded.

6. *Legislative Experience*

Membership, past or present, of the Legislative Council or the Central Legislative Assembly;[1] or three years' continuous membership of a prescribed local government authority, a prescribed African advisory council or an African court.

7. *Meritorious Service*

A civil or military decoration, including Badge of Honour or Chief's Medal.

Regulations, 1953), or attained such other standards of education as may be prescribed.

2. *Property*

Received income of at least £120 from all sources during the twelve months immediately preceding application for registration, *or*

Possessed of property worth at least £500 at time of such application.

3. *Long Service*

Completed at least five years' service in the police or prisons, provided that discharge shall not have been for misconduct; or seven years' continuous service in any form of government or local government employment or in the employment of the High Commission, provided that such employment shall not have been terminated by dismissal; or seven years' employment in commerce, industry or agriculture, such employment having been undertaken within the eight years immediately preceding application for registration:

Provided that membership of an African court shall not be deemed, for the purposes of this item, to be service in any form of government or local government employment.

4. *Higher Education*

Obtained a degree or diploma of a prescribed institution of university or university college standing or a prescribed professional qualification, or awarded a scholarship, approved for the purposes of this ordinance by the Director of Education, at an institution for post-secondary education and successfully completed the course of studies in respect of which the scholarship was awarded.

5. *Legislative Experience*

Membership, past or present, of the Legislative Council or the Central Legislative Assembly;[1] or three years' continuous membership of a prescribed local government authority, a prescribed African advisory council or an African court.

6. *Meritorious Service*

Outstanding service to the community as certified by a provincial commissioner.

[1] The organ referred to is the East Africa Central Legislative Assembly set up by the East Africa (High Commision) Order in Council, 1947 (amended most recently by the East Africa (High Commission) (Amendment) Order in Council, 1956).

SARAWAK

THE SARAWAK (CONSTITUTION) ORDER IN COUNCIL, 1956

Made on 3 August 1956,[1] as amended by

THE SARAWAK (CONSTITUTION) (AMENDMENT) ORDER IN COUNCIL, 1956

Made on 31 October 1956 [2]

PART I. — PRELIMINARY

Interpretation

1. (1) In this order, unless the context otherwise requires:

. . .

"Meeting" means any sitting or sittings of the Council Negri, commencing when the Council Negri first meets after being summoned at any time, and terminating when the Council Negri is adjourned *sine die* or at the conclusion of a session.

. . .

PART IV. — COUNCIL NEGRI

Establishment and Constitution of Council Negri

21. (1) There shall be a Council Negri in and for Sarawak, which shall consist of:

(i) Not more than fourteen *ex officio* members;

(ii) Twenty-four elected members;

(iii) Four nominated members; and

(iv) Three standing members.

. . .

(3) 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 for the time being in force in Sarawak.

Qualifications for Elected and Nominated Members

22. (1) Subject to the provisions of section 23 of this order, any person who:

(*a*) Is at the date of his nomination for election a British subject or a British Protected Person of the age of twenty-five years or upwards; and

(*b*) Has such other qualifications (if any) as may be prescribed, shall be qualified to be elected as an elected member of the Council Negri, and no other person shall be qualified to be so elected.

. . .

Disqualifications for Membership

23. A person shall not be qualified to be elected an elected member or appointed a nominated member of the Council Negri 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*) In the case of an elected member, holds or is acting in any public office; 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 Sarawak for or on account of the public service and has not disclosed the nature of such contract, and his interest, or the interest of any such firm or company, therein, in such manner and at such time before his election as may be prescribed; or

. . .

(*d*) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being 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 for the time being in force in Sarawak; or

(*f*) Has, in any part of Her Majesty's dominions, been sentenced by a court to death or imprisonment (by whatever name called) for a term of or exceeding twelve months or been convicted of any offence involving dishonesty, and has not been granted a free pardon:

Provided that if ten years or more have elapsed since the termination of the imprisonment or, in the case of conviction of an offence involving dishonesty in respect of which no sentence of imprisonment has been passed, since the conviction, the person shall not be disqualified from membership of the Council Negri by reason only of such sentence or conviction; or

(*g*) Is disqualified for membership of the Council Negri under any law for the time being in force in Sarawak relating to offences connected with elections; or

(*h*) Is, in the case of an elected member, disqualified for election by any law for the time being in force in Sarawak by reason of his holding, or acting in, any office the functions of which involve any responsi-

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[1] Published on pp. 3044–65 of the appendix to *Statutory Instruments, 1956*, H.M. Stationery Office, London. Among other innovations, the order provides for the first time for a majority of unofficial members of the Council Negri (the legislative body). The provisions here quoted entered into force on 1 April 1957.

[2] Published on pp. 3066–7 of the appendix to *Statutory Instruments, 1956*.

bility for, or in connexion with, the conduct of any election or the compilation or revision of any electoral register; or

(*i*) Is subject to any such other disqualification as may be prescribed.

Tenure of Office of Nominated, Elected and Standing Members

24. . . .

(2) Every elected and nominated member of the Council Negri shall cease to be a member at the next dissolution of the Council Negri after he has been elected or appointed, or previously thereto if his seat shall become vacant under the provisions of this order.

(3) The seat of an elected or nominated member of the Council Negri shall become vacant:

(*a*) If he shall cease to be a British subject or British protected person; or shall take any oath, or make any declaration 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

(*b*) If, in the case of an elected member, he shall be appointed to or to act in any public office; or

(*c*) If he shall be adjudged or otherwise declared bankrupt under any law for the time being in force in any part of Her Majesty's dominions; or

(*d*) If he shall be sentenced by a court in any part of Her Majesty's dominions to death or imprisonment (by whatever name called) for a term of or exceeding twelve months or be convicted by such court of any offence involving dishonesty; or

(*e*) If he shall become a party to any contract with the Government of Sarawak 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 a director or manager of a company which is a party to any such contract:

Provided that, if in the circumstances it so appears 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 Council Negri, 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 Governor or to the president of the Council Negri, as the case may be, the nature of such contract or the interest of any such firm or company therein; or

(*f*) If, in the case of a nominated member, he is nominated as a candidate in any election of a member to the Council Negri or, in the case of an elected member, is appointed as a nominated member to the Council Negri; or

(*g*) If by writing under his hand addressed to and received by the president of the Council Negri and, in the case of a nominated member who holds a public office, with the prior consent of the Governor, acting in his discretion, he shall resign his seat in the Council Negri; or

(*h*) If he shall be absent from two consecutive meetings of the Council Negri without having obtained from the president, before the termination of either of such meetings, permission to be or to remain absent therefrom; or

(*i*) If he shall become subject to any of the disqualifications specified in paragraphs (*e*), (*g*) and (*h*) of section 23 of this order; or

(*j*) If he shall become subject to any such other disqualification as may be prescribed.

. . .

(6) Any person whose seat in the Council Negri has become vacant may, if qualified, again be appointed or elected as a member of the Council Negri from time to time.

. . .

SIERRA LEONE

NOTE

1. Extracts from the Sierra Leone (House of Representatives) Order in Council, 1956 appear below.

2. The Prohibition of Forced Labour Ordinance, 1956[1] (No. 33 of 1956, assented to on 6 December 1956) is entitled: an Ordinance to make better Provision for the Prohibition of Forced Labour and to regulate Labour for Communal Services.[2] The text of the ordinance and a translation into French appear in International Labour Office: *Legislative Series*, 1956 — S.L.1.

[1] Published in *Supplement to the Laws* of Sierra Leone, 1956, by the Government Printing Department, Sierra Leone.

[2] Compare the Labour Code (Amendment) Ordinance No. 3 of 1956 of the Federation of Nigeria, assented to on 28 February 1956, and published in the *Federation of Nigeria Official Gazette*.

THE SIERRA LEONE (HOUSE OF REPRESENTATIVES) ORDER IN COUNCIL, 1956

Made on 29 November 1956 [1]

Part I

PRELIMINARY

Interpretation

1. (1) In this order, unless the context otherwise requires:

. . .

"The colony" means the colony of Sierra Leone;

. . .

"Meeting" means any sitting or sittings of the House, commencing when the House first meets after being summoned at any time, and terminating when the House is adjourned *sine die* or at the conclusion of a session;

. . .

"The Protectorate" means the Protectorate of Sierra Leone;

. . .

"Sierra Leone" means the colony and Protectorate;

. . .

Part II

THE HOUSE OF REPRESENTATIVES

House of Representatives

4. There shall be a House of Representatives in and for Sierra Leone, which shall, subject to the provisions of this order, consist of a speaker, four ex-officio members, fifty-one elected members and two nominated members:

. . .

Elected Members

9. (*a*) The elected members of the House 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, of whom (i) fourteen shall be elected in the colony, and (ii) thirty-seven shall be elected in the Protectorate.

. . .

Qualifications for Elected and Nominated Membership

12. Subject to the provisions of section 13 of this order, a person shall be qualified to be elected as an elected member or appointed as a nominated member of the House if:

(*a*) He is a British subject or a British protected person of the age of twenty-one years or more; and

(*b*) He is at the date of his election or appointment, as the case may be, seized or possessed of property, whether real or personal, of an aggregate value of not less than one hundred pounds; and

(*c*) In any case in which an election of members to the House is carried out by a process of:

(i) Indirect election, he is a member of such local government body and of such class of persons as may be prescribed;

(ii) Direct election, he is registered in any electoral district as an elector for the election of members to the House; and

(*d*) If so provided in respect of any specified part of Sierra Leone by any law or regulation in force for the time being in Sierra Leone, he is liable to pay such tax, or is entitled to such exemption from liability to pay tax, as may be prescribed,

and no other person shall be qualified to be so elected or appointed.

Disqualification for Membership

13. No person shall be qualified to be elected as an elected member or appointed as a nominated member of the House 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 adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions; or

(*c*) Has been convicted of treason or has been convicted of felony or of any offence involving dishonesty and has been sentenced to imprisonment therefore without the option of a fine, and has not received a free pardon; or

(*d*) Being a person possessed of professional qualifications, has been or is disqualified (otherwise than at his own request) in any part of Her Majesty's dominions from practising his profession by the order of any competent authority made in respect of him personally; or

(*e*) Holds, or is acting in, any public office; or

(*f*) Is a party to, or is a partner in a firm, or a director or manager of a company, which is a party to, any subsisting contract (the amount or value of the consideration for which exceeds one hundred pounds or which forms part of a larger transaction or series of transactions in respect of which the amount or value, or the aggregate amount or value, of the

[1] Text published as *Statutory Instruments*, 1956, No. 1893, by H.M. Stationery Office, London. The order was made on 29 November 1956, and was laid before Parliament on 5 December 1956. The provisions here quoted entered into force on 8 April 1957. The House of Representatives established by the order replaced the Legislative Council which was the subject-matter of the Sierra Leone (Legislative Council) Order in Council, 1951, extracts from which appear in *Yearbook on Human Rights for 1951*, pp. 463–4.

consideration exceeds one hundred pounds) with the Government of Sierra Leone for or on account of the public service, and,

(i) In the case of an elected member, has not published within one month before the day of the election, in the *Gazette* and in some newspaper circulating in the area for which he is a candidate, a notice setting out the nature of such contract and his interest, or the interest of any such firm or company therein; or

. . .

(*g*) Is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law for the time being in force in Sierra Leone; or

(*h*) Is unable to speak, or (unless prevented by blindness or other physical cause) to read or write, the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the House; or

(*i*) Is, in the case of an elected member, disqualified for election by any law or regulation for the time being in force in Sierra Leone by reason of his holding, or acting in, any office the functions of which involve any responsibility for, or in connexion with, the conduct of any election or the compilation or revision of any electoral register; or

(*j*) Is disqualified for membership of the House under any law or regulation for the time being in force in Sierra Leone relating to offences connected with the election of members.

Tenure of Office of Elected and Nominated Members

14. . . .

(2) Every elected and nominated member of the House shall cease to be a member at the next dissolution of the House after he has been elected or nominated, or previously thereto if his seat shall become vacant under the provisions of this order.

(3) The seat of an elected member or of a nominated member of the House shall become vacant:

(*a*) If he shall be elected or appointed speaker; or

(*b*) If, in the case of an elected member, he shall be absent from two consecutive meetings of the House without having obtained from the speaker or, as occasion may require, the deputy speaker, before the termination of either of such meetings, permission to be or to remain absent therefrom; or

. . .

(*d*) If, being an elected member, he is appointed as a nominated member of the House or, being a nominated member, he is nominated as a candidate in any election of a member to the House; or

(*e*) 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

(*f*) If he shall be adjudged or otherwise declared a bankrupt under any law in force in any part of Her Majesty's dominions; or

(*g*) If he shall become subject to any of the disqualifications specified in paragraphs (*c*) and (*d*) of section 13 of this order; or

(*h*) If he shall become a party to any contract (the amount or value of the consideration for which exceeds one hundred pounds, or which forms part of a larger transaction or series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds one hundred pounds) with the Government of Sierra Leone for or on account of the public service, or 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 a director or manager of a company, which is a party to any such contract:

Provided that, if in the circumstances it shall appear to them or him to be just to do so, the House may by resolution exempt any elected member, and the Governor, according to his discretion, may exempt any nominated 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 as director or manager of a company), disclose to the House or to the Governor, as the case may be, the nature of such contract and his interest, or the interest of any such firm or company, therein; or

(*i*) If, under any law for the time being in force in Sierra Leone, he shall be adjudged to be of unsound mind or shall be detained as a criminal lunatic; or

(*j*) If he shall become disqualified for membership of the House under any law or regulation for the time being in force in Sierra Leone relating to offences connected with the election of members; or

(*k*) If, being an elected member, he shall be appointed to, or to act in, any public office; or

. . .

(*m*) If he shall otherwise cease to possess qualification for election or appointment, as the case may be, under the provisions of this order.

(4) An elected member of the House may by writing under his hand addressed to the speaker, and a nominated member of the House may by writing under his hand addressed to the Governor, resign his seat in the House, and upon receipt of such resignation by the speaker or deputy speaker, or by the Governor, as the case may be, the seat of such member shall become vacant.

. . .

(6) A person whose seat in the House has become vacant may, if qualified, again be elected or appointed as a member of the House from time to time.

. . .

UNITED STATES OF AMERICA

DEVELOPMENTS IN NON-SELF-GOVERNING TERRITORIES

See pages 250-5 above.

PART III

INTERNATIONAL INSTRUMENTS

UNITED NATIONS

SUPPLEMENTARY CONVENTION ON THE ABOLITION OF SLAVERY, THE SLAVE TRADE, AND INSTITUTIONS AND PRACTICES SIMILAR TO SLAVERY

Adopted and opened for signature on 4 September 1956 [1]

PREAMBLE

The States parties to the present convention,

Considering that freedom is the birthright of every human being;

Mindful that the peoples of the United Nations reaffirmed in the Charter their faith in the dignity and worth of the human person;

Considering that the Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations as a common standard of achievement for all peoples and all nations, states that no one shall be held in slavery or servitude and that slavery and the slave trade shall be prohibited in all their forms;

Recognizing that, since the conclusion of the Slavery Convention signed at Geneva on 25 September 1926, which was designed to secure the abolition of slavery and of the slave trade, further progress has been made towards this end;

Having regard to the Forced Labour Convention of 1930 and to subsequent action by the International Labour Organisation in regard to forced or compulsory labour;

Being aware, however, that slavery, the slave trade and institutions and practices similar to slavery have not yet been eliminated in all parts of the world;

Having decided, therefore, that the Convention of 1926, which remains operative, should now be augmented by the conclusion of a supplementary convention designed to intensify national as well as international efforts towards the abolition of slavery, the slave trade and institutions and practices similar to slavery;

HAVE AGREED AS FOLLOWS:

SECTION I

INSTITUTIONS AND PRACTICES SIMILAR TO SLAVERY

Article 1

Each of the States parties to this convention shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of the following institutions and practices, where they still exist and whether or not they are covered by the definition of slavery contained in article 1 of the Slavery Convention signed at Geneva on 25 September 1926:

(*a*) Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

(*b*) Serfdom, that is to say, the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status;

(*c*) Any institution or practice whereby:

(i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or

(ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or

(iii) A woman on the death of her husband is liable to be inherited by another person;

(*d*) Any institution or practice whereby a child or young person under the age of 18 years is delivered

[1] Adopted by the United Nations Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Geneva, 13 August–4 September 1956. The Final Act of the Conference appears in United Nations document E/CONF.24/23.

by either or both of his natural parents, or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.

Article 2

With a view to bringing to an end the institutions and practices mentioned in article 1 (*c*) of this convention, the States parties undertake to prescribe, where appropriate, suitable minimum ages of marriage, to encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority, and to encourage the registration of marriages.

SECTION II

THE SLAVE TRADE

Article 3

1. The act of conveying or attempting to convey slaves from one country to another by whatever means of transport, or of being accessory thereto, shall be a criminal offence under the laws of the States parties to this convention and persons convicted thereof shall be liable to very severe penalties.

2. (*a*) The States parties shall take all effective measures to prevent ships and aircraft authorized to fly their flags from conveying slaves and to punish persons guilty of such acts or of using national flags for that purpose.

(*b*) The States parties shall take all effective measures to ensure that their ports, airfields and coasts are not used for the conveyance of slaves.

3. The States parties to this convention shall exchange information in order to ensure the practical co-ordination of the measures taken by them in combating the slave trade and shall inform each other of every case of the slave trade, and of every attempt to commit this criminal offence, which comes to their notice.

Article 4

Any slave who takes refuge on board any vessel of a State party to this convention shall, *ipso facto*, be free.

SECTION III

SLAVERY AND INSTITUTIONS AND PRACTICES SIMILAR TO SLAVERY

Article 5

In a country where the abolition or abandonment of slavery, or of the institutions or practices mentioned in article 1 of this convention, is not yet complete, the act of mutilating, branding or otherwise marking a slave or a person of servile status in order to indicate his status, or as a punishment, or for any other reason, or of being accessory thereto, shall be a criminal offence under the laws of the States parties to this convention and persons convicted thereof shall be liable to punishment.

Article 6

1. The act of enslaving another person or of inducing another person to give himself or a person dependent upon him into slavery, or of attempting these acts, or being accessory thereto, or being a party to a conspiracy to accomplish any such acts, shall be a criminal offence under the laws of the States parties to this convention and persons convicted thereof shall be liable to punishment.

2. Subject to the provisions of the introductory paragraph of article 1 of this convention, the provisions of paragraph 1 of the present article shall also apply to the act of inducing another person to place himself or a person dependent upon him into the servile status resulting from any of the institutions or practices mentioned in article 1, to any attempt to perform such acts, to being accessory thereto, and to being a party to a conspiracy to accomplish any such acts.

SECTION IV

DEFINITIONS

Article 7

For the purposes of the present convention:

(*a*) "Slavery" means, as defined in the Slavery Convention of 1926, the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, and "slave" means a person in such condition or status;

(*b*) "A person of servile status" means a person in the condition or status resulting from any of the institutions or practices mentioned in article 1 of this convention;

(*c*) "Slave trade" means and includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a person acquired with a view to being sold or exchanged; and, in general, every act of trade or transport in slaves by whatever means of conveyance.

SECTION V

CO-OPERATION BETWEEN STATES PARTIES, AND COMMUNICATION OF INFORMATION

Article 8

1. The States parties to this convention undertake to co-operate with each other and with the United Nations to give effect to the foregoing provisions.

2. The parties undertake to communicate to the Secretary-General of the United Nations copies of any laws, regulations and administrative measures enacted or put into effect to implement the provisions of this convention.

3. The Secretary-General shall communicate the information received under paragraph 2 of this article to the other parties and to the Economic and Social

Council as part of the documentation for any discussion which the Council might undertake with a view to making further recommendations for the abolition of slavery, the slave trade or the institutions and practices which are the subject of this convention.

SECTION VI

FINAL CLAUSES

Article 9

No reservations may be made to this convention.

Article 10

Any dispute between States parties to this convention relating to its interpretation or application, which is not settled by negotiation, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute, unless the parties concerned agree on another mode of settlement.

Article 11

1. This convention shall be open until 1 July 1957 for signature by any State Member of the United Nations or of a specialized agency. It shall be subject to ratification by the signatory States, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations, who shall inform each signatory and acceding State.

2. After 1 July 1957 this convention shall be open for accession by any State Member of the United Nations or of a specialized agency, or by any other State to which an invitation to accede has been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations, who shall inform each signatory and acceding State.

Article 12

1. This convention shall apply to all non-self-governing, trust, colonial and other non-metropolitan territories for the international relations of which any State party is responsible; the party concerned shall, subject to the provisions of paragraph 2 of this article, at the time of signature, ratification or accession declare the non-metropolitan territory or territories to which the convention shall apply, *ipso facto*, as a result of such signature, ratification or accession.

2. In any case in which the previous consent of a non-metropolitan territory is required by the constitutional laws or practices of the party or of the non-metropolitan territory, the party concerned shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the convention by the metropolitan State, and when such consent has been obtained the party shall notify the Secretary-General. This convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.

3. After the expiry of the twelve-month period mentioned in the preceding paragraph, the States parties concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are responsible and whose consent to the application of this convention may have been withheld.

Article 13

1. This convention shall enter into force on the date on which two States have become parties thereto.

2. It shall thereafter enter into force with respect to each State and territory on the date of deposit of the instrument of ratification or accession of that State or notification of application to that territory.

Article 14

1. The application of this convention shall be divided into successive periods of three years, of which the first shall begin on the date of entry into force of the convention in accordance with paragraph 1 of article 13.

2. Any State party may denounce this convention by a notice addressed by that State to the Secretary-General not less than six months before the expiration of the current three-year period. The Secretary-General shall notify all other parties of each such notice and the date of the receipt thereof.

3. Denunciations shall take effect at the expiration of the current three-year period.

4. In cases where, in accordance with the provisions of article 12, this convention has become applicable to a non-metropolitan territory of a party, that party may at any time thereafter, with the consent of the territory concerned, give notice to the Secretary-General of the United Nations denouncing this convention separately in respect of that territory. The denunciation shall take effect one year after the date of the receipt of such notice by the Secretary-General, who shall notify all other parties of such notice and the date of the receipt thereof.

Article 15

This convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations Secretariat. The Secretary-General shall prepare a certified copy thereof for communication to States parties to this convention, as well as to all other States Members of the United Nations and of the specialized agencies.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective governments, have signed this convention on the date appearing opposite their respective signatures.

DONE at the European Office of the United Nations at Geneva, this seventh day of September, one thousand nine hundred and fifty-six.

COUNCIL OF EUROPE

EUROPEAN CONVENTION ON ESTABLISHMENT

Signed at the Seventeenth Session of the Committee of Ministers of the Council of Europe, Paris, 13 December 1955 [1]

The governments signatory hereto being members of the Council of Europe,

Considering that the aim of the Council of Europe is to safeguard and to realize the ideals and principles which are the common heritage of its members and to facilitate their economic and social progress;

Recognizing the special character of the links between the member countries of the Council of Europe as affirmed in conventions and agreements already concluded within the framework of the Council, such as the Convention for the Protection of Human Rights and Fundamental Freedoms, signed on 4 November 1950, the Protocol to this convention signed on 20 March 1952, the European Convention on Social and Medical Assistance and the two European Interim Agreements on Social Security signed on 11 December 1953;

Being convinced that, by the conclusion of a regional convention, the establishment of common rules for the treatment accorded to nationals of each member State in the territory of the others may further the achievement of greater unity;

Affirming that the rights and privileges which they grant to each other's nationals are conceded solely by virtue of the close association uniting the member countries of the Council of Europe by means of its statute;

Noting that the general plan of the convention fits into the framework of the organization of the Council of Europe;

HAVE AGREED AS FOLLOWS:

CHAPTER I

ENTRY, RESIDENCE AND EXPULSION

Article 1

Each contracting party shall facilitate the entry into its territory by nationals of the other parties for the purpose of temporary visits, and shall permit them to travel freely within its territory except when this would be contrary to '*ordre public*', national security, public health or morality.

Article 2

Subject to the conditions set out in article 1 of this convention, each contracting party shall, to the extent permitted by its economic and social conditions, facilitate the prolonged or permanent residence in its territory of nationals of the other parties.

Article 3

1. Nationals of any contracting party lawfully residing in the territory of another party may be expelled only if they endanger national security or offend against *ordre public* or morality.

2. Except where imperative considerations of national security otherwise require, a national of any contracting party who has been so lawfully residing for more than two years in the territory of any other party shall not be expelled without first being allowed to submit reasons against his expulsion and to appeal to, and be represented for the purpose before, a competent authority or a person or persons specially designated by the competent authority.

3. Nationals of any contracting party who have been lawfully residing for more than ten years in the territory of any other party may only be expelled for reasons of national security, or if the other reasons mentioned in paragraph 1 of this article are of a particularly serious nature.

CHAPTER II

EXERCISE OF PRIVATE RIGHTS

Article 4

Nationals of any contracting party shall enjoy in the territory of any other party treatment equal to that enjoyed by nationals of the latter party in respect of the possession and exercise of private rights, whether personal rights or rights relating to property.

Article 5

Notwithstanding article 4 of this convention, any contracting party may, for reasons of national security or defence, reserve the acquisition, possession or use of any categories of property for its own nationals, or subject nationals of other parties to special conditions applicable to aliens in respect of such property.

Article 6

1. Apart from cases relating to national security or defence,

[1] Text published as *European Treaty Series*, No. 19.

(*a*) Any contracting party which has reserved for its nationals or, in the case of aliens including those who are nationals of other parties, made subject to regulations the acquisition, possession or use of certain categories of property, or has made the acquisition, possession or use of such property conditional upon reciprocity shall, at the time of the signature of this convention, transmit a list of these restrictions to the Secretary-General of the Council of Europe indicating which provisions of its municipal law are the basis of such restrictions. The Secretary-General shall forward these lists to the other signatories;

(*b*) After this convention has entered into force in respect of any contracting party, that contracting party shall not introduce any further restrictions as to the acquisition, possession or use of any categories of property by nationals of the other parties, unless it finds itself compelled to do so for imperative reasons of an economic or social character or in order to prevent monopolization of the vital resources of the country. It shall in this event keep the Secretary-General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary-General shall communicate this information to the other parties.

2. Each contracting party shall endeavour to reduce its list of restrictions for the benefit of nationals of the other parties. It shall notify the Secretary-General of any such changes, and he shall communicate them to the other parties.

Each party shall also endeavour to grant to nationals of other parties such exemptions from the general regulations concerning aliens as are provided for in its own legislation.

CHAPTER III
JUDICIAL AND ADMINISTRATIVE GUARANTEES

Article 7

Nationals of any contracting party shall enjoy in the territory of any other party, under the same conditions as nationals of the latter party, full legal and judicial protection of their persons and property and of their rights and interests. In particular they shall have, in the same manner as the nationals of the latter party, the rights of access to the competent judicial and administrative authorities, and the right to obtain the assistance of any person of their choice who is qualified by the laws of the country.

Article 8

1. Nationals of any contracting party shall be entitled in the territory of any other party to obtain free legal assistance under the same conditions as nationals of the latter party.

2. Indigent nationals of a contracting party shall be entitled to have copies of *actes de l'états civil* issued to them free of charge in the territory of another contracting party in so far as these are so issued to indigent nationals of the latter contracting party.

Article 9

1. No security or deposit of any kind may be required, by reason of their status as aliens or of lack of domicile or residence in the country, from nationals of any contracting party, having their domicile or normal residence in the territory of a party, who may be plaintiffs or third parties before the courts of any other party.

2. The same rule shall apply to the payment which may be required of plaintiffs or third parties to guarantee legal costs.

3. Orders to pay the costs and expenses of a trial imposed upon a plaintiff or third party who is exempted from such security, deposit or payment in pursuance either of the preceding paragraphs of this article or of the law of the country in which the proceedings are taken, shall without charge, upon a request made through the diplomatic channel, be rendered enforceable by the competent authority in the territory of any other contracting party.

CHAPTER IV
GAINFUL OCCUPATIONS

Article 10

Each contracting party shall authorize nationals of the other parties to engage in its territory in any gainful occupation on an equal footing with its own nationals, unless the said contracting party has cogent economic or social reasons for withholding the authorization. This provision shall apply, but not be limited, to industrial, commercial, financial and agricultural occupations, skilled crafts and the professions, whether the person concerned is self-employed or is in the service of an employer.

Article 11

Nationals of any contracting party who have been allowed by another party to engage in a gainful occupation for a certain period may not, during that period, be subjected to restrictions not provided for at the time the authorization was granted to them unless such restrictions are equally applicable to nationals of the latter party in similar circumstances.

Article 12

1. Nationals of any contracting party lawfully residing in the territory of any other party shall be authorized, without being made subject to the restrictions referred to in article 10 of this convention, to engage in any gainful occupation on an equal footing with nationals of the latter party, provided they comply with one of the following conditions:

(*a*) They have been lawfully engaged in a gainful occupation in that territory for an uninterrupted period of five years;

(*b*) They have lawfully resided in that territory for an uninterrupted period of ten years;

(*c*) They have been admitted to permanent residence.

Any contracting party may, at the time of signature or of deposit of its instrument of ratification of this convention, declare that it does not accept one or two of the conditions mentioned above.

2. Such party may also, in accordance with the same procedure, increase the period laid down in paragraph 1 (*a*) of this article to a maximum of ten years, provided that after the first period of five years renewal of an authorization may in no case be refused in respect of the occupation pursued up to that time, nor may such renewal be conditional upon any change in that occupation. It may also declare that it will not in all cases automatically grant the right to change from a wage-earning occupation to an independent occupation.

Article 13

Any contracting party may reserve for its own nationals the exercise of public functions or of occupations connected with national security or defence, or make the exercise of these occupations by aliens subject to special conditions.

Article 14

1. Apart from the functions or occupations mentioned in article 13 of this convention,

(*a*) Any contracting party which has reserved certain occupations for its own nationals or made the exercise of them by aliens, including nationals of the other parties, subject to regulations or reciprocity, shall at the time of signature of this convention transmit a list of these restrictions to the Secretary-General of the Council of Europe, indicating which provisions of its municipal law are the basis of such restrictions. The Secretary-General shall forward these lists to the other signatories;

(*b*) After this convention has entered into force in respect of any contracting party, that party shall not introduce any further restrictions as to the exercise of gainful occupations by the nationals of other parties unless it finds itself compelled to do so for imperative reasons of an economic or social character. It shall in this event keep the Secretary-General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary-General shall communicate this information to the other parties.

2. Each contracting party shall endeavour for the benefit of nationals of the other parties to reduce the list of occupations which are reserved for its own nationals or the exercise of which by aliens is subject to regulations or reciprocity; it shall notify the Secretary-General of any such changes, and he shall communicate them to the other parties; in so far as its laws permit, to allow individual exemptions from the provisions in force.

Article 15

The exercise by nationals of one contracting party in the territory of another party of an occupation in respect of which nationals of the latter party are required to possess professional or technical qualifications or to furnish guarantees shall be made subject to the production of the same guarantees or to the possession of the same qualifications or of others recognized as their equivalent by the competent national authority;

Provided that nationals of the contracting parties engaged in the lawful pursuit of their profession in the territory of any party may be called into the territory of any other party by one of their colleagues for the purpose of lending assistance in a particular case.

Article 16

Commercial travellers who are nationals of a contracting party and are employed by an undertaking whose principal place of business is situated in the territory of a contracting party shall not need any authorization in order to exercise their occupation in the territory of any other party, provided that they do not reside therein for more than two months during any half-year.

Article 17

1. Nationals of any contracting party shall, in the territory of another party, enjoy treatment no less favourable than nationals of the latter party in respect of any statutory regulation by a public authority concerning wages and working conditions in general.

2. The provisions of this chapter shall not be understood as requiring a contracting party to accord in its territory more favourable treatment as regards the exercise of a gainful occupation to the nationals of any other party than that accorded to its own nationals.

CHAPTER V
INDIVIDUAL RIGHTS

Article 18

No contracting party may forbid nationals of another party who have been lawfully engaged for at least five years in an appropriate occupation in the territory of the former party from taking part on an equal footing with its own nationals as electors in elections held by bodies or organizations of an economic or professional nature, such as chambers of commerce or of agricultural or trade associations, subject to the decisions which such bodies or organizations may take in this respect within the limits of their competence.

Article 19

Nationals of any contracting party in the territory of any other party shall be permitted, without any restrictions other than those applicable to nationals of the latter party, to act as arbitrators in arbitral proceedings in which the choice of arbitrators is left entirely to the parties concerned.

Article 20

In so far as access to education is under state control, nationals of school age of any contracting party

lawfully residing in the territory of any other party shall be admitted, on an equal footing with the nationals of the latter party, to institutions for primary and secondary education and technical and vocational training. The application of this provision to the grant of scholarships shall be left to the discretion of individual parties. School attendance shall be compulsory for nationals of school age residing in the territory of another contracting party if it is compulsory for the nationals of the latter party.

CHAPTER VI

TAXATION, COMPULSORY CIVILIAN SERVICES, EXPROPRIATION, NATIONALIZATION

Article 21

1. Subject to the provisions concerning double taxation contained in agreements already concluded or to be concluded, nationals of any contracting party shall not be liable in the territory of any other party to duties, charges, taxes or contributions, of any description whatsoever, other, higher or more burdensome than those imposed on nationals of the latter party in similar circumstances; in particular, they shall be entitled to deductions or exemptions from taxes or charges and to all allowances, including allowances for dependants.

2. A contracting party shall not impose on nationals of any other party any residence charge not required of its own nationals. This provision shall not prevent the imposition in appropriate cases of charges connected with administrative formalities such as the issue of permits and authorizations which aliens are required to have, provided that the amount levied is not more than the expenditure incurred by such formalities.

Article 22

Nationals of a contracting party may in no case be obliged to perform in the territory of another party any civilian services, whether of a personal nature or relating to property, other or more burdensome than those required of nationals of the latter party.

Article 23

Without prejudice to the provisions of article 1 of the Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms, nationals of any contracting party shall be entitled in the event of expropriation or nationalization of their property by any other party to be treated at least as favourably as nationals of the latter party.

[Chapter VII, which consists of article 24, binds each member of the Council of Europe which ratifies the convention to appoint a representative to a standing committee having certain functions, including the formulation of proposals for improving the practical implementation of the Convention and, if necessary, for amending or supplementing its provisions.]

CHAPTER VIII

GENERAL PROVISIONS

[Article 25 safeguards the operation of laws and agreements according more favourable treatment to nationals of a contracting party than the convention affords. Articles 26 and 27 of the Convention and section VII of the Protocol concern reservations.]

Article 28

1. In time of war or other public emergency threatening the life of the nation, any contracting party may take measures derogating from its obligations under this convention to the extent strictly required by the exigencies of the situation, and provided that such measures are not inconsistent with its other obligations under international law.

2. Any contracting party availing itself of this right of derogation shall keep the Secretary-General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary-General of the Council when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

CHAPTER IX

FIELD OF APPLICATION OF THE CONVENTION

[According to article 29, to which section VIII of the Protocol relates, the Convention is to apply to the metropolitan territories of the contracting parties, which may, however, declare it applicable to territories for whose international relations they are responsible. Section VIII of the Protocol provides, *inter alia*, that the Convention shall, in respect of France, also apply to Algeria and the overseas departments, and that the Federal Republic of Germany may extend its application to the Land Berlin.]

Article 30

1. For the purpose of this convention, "nationals" means physical persons possessing the nationality of one of the contracting parties.

2. No contracting party shall be obliged to grant the benefits of this convention to nationals of another contracting party ordinarily resident in a non-metropolitan territory of the latter party to which the Convention does not apply.

[Chapter X, which consists of article 31, and section IX of the Protocol, concern the settlement of disputes.]

CHAPTER XI

FINAL PROVISIONS

Article 32

The Protocol attached to this convention shall form an integral part of it.

[Article 33 concerns denunciation; and article 34, signature, ratification and entry into force.]

. . .

PROTOCOL

SECTION I

Articles 1, 2, 3, 5, 6 paragraph 1 (b) 10, 13 and 14, paragraph 1 (b)

(*a*) Each contracting party shall have the right to judge by national criteria:

(1) The reasons of "*ordre public*, national security, public health or morality" which may provide grounds for the exclusion from its territory of nationals of other parties;

(2) "The economic and social conditions" which may prevent the admission of nationals of other parties to prolonged or permanent residence or the exercise of gainful occupations in its territory;

(3) The circumstances which constitute a threat to national security or an offence against *ordre public* or morality;

(4) The reasons specified in the Convention for which a contracting party may reserve for its own nationals the acquisition, possession or use of any categories of property or the exercise of certain rights and occupations, or may make the exercise thereof by nationals of the other Parties aliens subject to special conditions.

(*b*) Each contracting party shall determine whether the reasons for expulsion are of a "particularly serious nature". In this connexion, account shall be taken of the behaviour of the individual concerned during his whole period of residence.

(*c*) A contracting party may only restrict the rights of nationals of other parties for the reasons set forth in this convention, and to the extent compatible with the obligations assumed by the parties.

SECTION II

Articles 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 17 and 20

(*a*) Regulations governing the admission, residence and movement of aliens and also their right to engage in gainful occupations shall be unaffected by this convention in so far as they are not inconsistent with it.

(*b*) Nationals of a contracting party shall be considered as lawfully residing in the territory of another party if they have conformed to the said regulations.

SECTION III

Articles 1, 2, and 3

(*a*) The concept of *ordre public* is to be understood in the wide sense generally accepted in continental countries. A contracting party may, for instance, exclude a national of another party for political reasons, or if there are grounds for believing that he is unable to pay the expenses of his stay or that he intends to engage in a gainful occupation without the necessary permits.

(*b*) The contracting parties undertake, in the exercise of their established rights, to pay due regard to family ties.

(*c*) The right of expulsion may be exercised only in individual cases.

The contracting parties shall, in exercising their right of expulsion, act with consideration, having regard to the particular relations which exist between the members of the Council of Europe. They shall in particular take due account of family ties and the period of residence in their territory of the person concerned.

SECTION IV

Articles 8 and 9

Articles 8 and 9 of this convention in no way affect obligations contracted under The Hague Convention on Civil Procedure.

SECTION V

Articles 10, 11, 12, 13, 14, 15, 16 and 17

(*a*) The provisions of articles 10, 11, 12, 13, 14, 15, 16 and 17 of this convention shall be subject to the conditions governing entry and residence laid down in articles 1 and 2.

(*b*) The husband or wife and dependent children of nationals of any contracting party lawfully residing in the territory of another party who have been authorized to accompany or rejoin them shall as far as possible be allowed to take up employment in that territory in accordance with the conditions laid down in this convention.

(*c*) The provisions of article 12 of this convention shall not apply to nationals of a contracting party residing in the territory of another party in pursuance of special regulations or engaged in a gainful occupation therein in pursuance of special rules or agreements, including such persons as members, or staff not locally recruited, of diplomatic or consular missions; members of the staff of international organizations; student employees, apprentices, students and persons employed for the purpose of completing their vocational training; crews of ships and aircraft.

(*d*) For the purposes of article 16 of this convention, the contracting parties shall not, in their municipal legislation or regulations, treat the occupation of commercial traveller as an itinerant trade or form of hawking.

(*e*) It is understood that article 16 applies only to commercial travellers acting under the orders of an undertaking situated outside the receiving country and remunerated solely by such undertaking.

(*f*) Article 17, paragraph 1, of this convention shall not apply to the special case of student employees in respect of their remuneration.

SECTION VI

Articles 2, 11, 12, 13, 14, 15, 16, 17 and 25

(*a*) It is understood that this convention shall not apply to industrial, literary and artistic property and new vegetable products, as these subjects are reserved for international conventions or other international agreements relating thereto which are already in force or will come into force.

(*b*) Those contracting parties to this convention which are now or will be bound by the decisions of the Organization for European Economic Co-operation governing the employment of nationals of its member countries shall, in their mutual relations and in respect of the exercise of wage-earnings occupations, apply the provisions of this convention or of the said decisions, whichever grant the more favourable treatment to wage-earners. In applying the provisions of articles 2, 10, 11, 12, 13, 14, 15, 16 and 17 of this convention, and judging the economic or social reasons mentioned in articles 10 and 14, they shall conform to the spirit and the letter of the said decisions in so far as the latter are more favourable to wage-earners than the provisions of this convention.

. . .

SECTION VIII

. . .

Article 30

The term "ordinarily resident" shall be defined according to the regulations applicable in the country of which the person concerned is a national.

. . .

OTHER INSTRUMENTS

FRANCO-VIET-NAMESE CONVENTION ON NATIONALITY

Signed and entered into force on 16 August 1955 [1]

Art. 1. For the purposes of this convention:

The term "of Viet-Namese origin" (originaire du Viet-Nam) shall mean persons whose father and mother are of Viet-Namese descent or belong to the ethnic minorities settled in the territory of Viet-Nam;

The term "Viet-Namese" shall mean a person "of Viet-Namese origin" who does not have or who has renounced French citizenship.

Art. 2. French persons of other than Viet-Namese origin who were domiciled in south Viet-Nam (Cochin-China) or in the former concessions of Hanoi, Haiphong or Tourane when those territories were incorporated in Viet-Nam, shall retain French nationality even if they have not effectively established their domicile outside Viet-Nam.

Art. 3. Former French citizens born in south Viet-Nam (Cochin-China) and the former concessions of Hanoi, Haiphong and Tourane, shall have Viet-Namese nationality, irrespective of where they were on 8 March 1949.

Art. 4. Persons of Viet-Namese origin who are over the age of eighteen years on the date of the entry into force of this convention and acquired French citizenship before 8 March 1949 by an individual or collective administrative measure or by a court ruling shall retain French citizenship, but may opt for Viet-Namese nationality in accordance with the provisions of this convention.

The same provisions shall apply to persons of Viet-Namese origin who before the entry into force of this convention acquired French nationality in France under the general law applicable to aliens.

Persons of Viet-Namese origin who are over the age of eighteen years on the date of the entry into force of this convention and acquired French citizenship after 8 March 1949 by an individual or collective administrative measure or by a court ruling shall have Viet-Namese nationality, but may opt for French nationality in accordance with the provisions of this convention.

Art. 5. Persons of Viet-Namese origin who are French citizens by birth and are over the age of eighteen years on the date of the entry into force of this convention shall retain French nationality, but may opt for Viet-Namese nationality in accordance with the provisions of this convention.

Art. 6. Persons over the age of eighteen years on the date of the entry into force of this convention, whether of legitimate or natural birth, shall have French nationality, but may opt for Viet-Namese nationality:

(1) If they were born of a father of Viet-Namese origin and a French mother;

(2) If they were born of a French father and a mother of Viet-Namese origin;

(3) If they were born of parents who were both born of either a father of Viet-Namese origin and a French mother, or of a French father and a mother of Viet-Namese origin;

(4) If they were born in Viet-Nam of an unknown father and a mother of Viet-Namese origin, are presumed to be of French origin or French nationality, and are recognized by the courts as being of French nationality.

Art. 7. In the event of persons opting for Viet-Namese nationality as provided in articles 4 (paragraphs 1 and 2), 5 and 6 above, minors under the age of eighteen years on the date of the entry into force of this convention shall have the nationality of their father, if consanguinity is established with him; they shall have the nationality of their mother, if consanguinity is established only with regard to the mother.

They shall be entitled to exercise an option in their own right at the age of eighteen years, if the option for Viet-Namese nationality was not exercised by the parent whose nationality they have.

Where, however, minors born of persons of Viet-Namese origin who obtained French citizenship after 8 March 1949 were either born after such citizenship was obtained or had themselves a status conferred upon them, they may not opt for French nationality at the age of eighteen years, if the parent whose nationality they have has not opted for French nationality, except where that parent died before the expiry of the time-limit for option provided in this convention. If the said parent has opted for French nationality, they shall have that nationality, but may opt for Viet-Namese nationality at the age of eighteen years.

Art. 8. Minors under the age of eighteen years born before the date of the entry into force of this convention of a French father and a mother of Viet-

[1] Published in *Notes et Etudes documentaires*, Ministry of Foreign Affairs, Paris, No. 2112 of 13 December 1955. Translation by the United Nations Secretariat.

Namese origin shall have French nationality, but may opt for Viet-Namese nationality at the age of eighteen years in accordance with the provisions of this convention.

Art. 9. Minors under the age of eighteen years born before the date of the entry into force of this convention of a Viet-Namese father and a French mother or a mother of Viet-Namese origin possessing French citizenship shall have Viet-Namese nationality, but may opt for French nationality at the age of eighteen years in accordance with the provisions of this convention.

Art. 10. Children born after the date of entry into force of this convention shall be:

(1) French, if born of a father of French nationality and a mother of Viet-Namese nationality;

(2) Viet-Namese, if born of a father of Viet-Namese nationality and a mother of French nationality.

In both these cases, such children may, at the age of eighteen years, opt either for Viet-Namese or French nationality in accordance with the provisions of this convention.

Art. 11. A Frenchwoman married to a Viet-Namese, and a woman of Viet-Namese origin married to a French national before the date of the entry into force of this convention may opt for Viet-Namese nationality in accordance with the provisions of this convention.

The authority of the husband shall not be required for the exercise of this option.

Art. 12. After the date of the entry into force of this convention:

(*a*) Where a marriage takes place in the territory of the French Republic or outside Viet-Nam, a woman of French nationality who marries a Viet-Namese shall retain French nationality, unless she expressly declares before her marriage in the form prescribed by French law that she wishes to acquire Viet-Namese nationality.

(*b*) Where a marriage takes place in Viet-Nam, a woman of French nationality who marries a Viet-Namese shall acquire Viet-Namese nationality, unless she declares before or at her marriage in the form prescribed by Viet-Namese law that she repudiates Viet-Namese nationality.

Art. 13. After the date of the entry into force of this convention:

(*a*) Where a marriage takes place in Viet-Nam or outside the territory of the French Republic, a woman of Viet-Namese nationality who marries a French national shall retain her nationality, unless she expressly declares before or at her marriage in the form prescribed by Viet-Namese law that she wishes to acquire French nationality;

(*b*) Where a marriage takes place in the territory of the French Republic, the wife shall acquire French nationality, unless she expressly declares before her marriage in the form prescribed by French law that she wishes to retain Viet-Namese nationality.

Art. 14. Married women who have acquired the nationality of their husband by marriage shall be entitled, after dissolution of the marriage, to apply for the resumption of their nationality of origin.

Art. 15. The option referred to in articles 4, 5, 6 and 11 above shall be exercised within six months from the date of the entry into force of this convention.

In the cases referred to in articles 7, 8, 9 and 10, the time-limit shall be reckoned from the date on which a minor reaches the age of eighteen years.

Where there is a serious impediment to the exercise of the option, this time-limit shall be reckoned to commence on the date when such serious impediment is removed.

. . .

Art. 18. The option shall take effect on the date when the declaration is filed with the authority competent to receive it. It shall entail, from the said date, a change in the nationality of the opting person and of his children under the age of eighteen years, subject to such option as the children themselves are entitled to exercise. It shall not affect the validity of documents signed by such persons or the rights regularly acquired by third persons on the basis of the former nationality.

Art. 19. A Viet-Namese may acquire French nationality by naturalization after consulting the Viet-Namese Government, which shall submit its comments, where necessary, within six months from the date on which it has been notified by the French Government of the application for naturalization.

Conversely, and on a basis of reciprocity, a French national may acquire Viet-Namese nationality by naturalization after consulting the Government of the French Republic, which shall submit its comments, where necessary, within six months from the date on which it has been notified by the Government of Viet-Nam of the application for naturalization.

Art. 20. The provisions of the French Code of Nationality and of the Viet-Namese Code of Nationality on the acquisition of nationality by birth and residence shall not apply to the nationals of the two countries.

. . .

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).

During 1956, Afghanistan, Argentina,[2] Burma,[2] Iran and Tunisia became parties to the convention, by instruments of ratification or accession deposited on 22 March, 5 June, 14 March, 14 August and 29 November, respectively.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplement No. 20.

2. *Convention relating to the Status of Refugees (Geneva, 1951)* (see *Yearbook on Human Rights for 1951*, pp. 581–8).

During 1956, the Holy See,[2] Ireland,[2] Morocco and Netherlands [2] became parties to the convention, by instruments of ratification or accession deposited on 15 March, 29 November, 7 November and 3 May, respectively.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplement No. 20.

3. *Convention on the Political Rights of Women (New York, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 375–6).

During 1956, Lebanon and Norway became parties to the convention, by ratifications deposited on 5 June and 24 August, respectively.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplement No. 19.

4. *Convention on the International Right of Correction (New York, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 373–5).

During 1956, Yugoslavia became a party to the convention, by instrument of accession deposited on 31 January.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplements Nos. 16–18.

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).

During 1956, the Byelorussian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United States of America, and Viet-Nam became parties to the convention as amended by the protocol, by instruments of ratification or accession deposited on 13 September, 8 August, 7 March and 14 August, respectively.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplement No. 20.

6. *Convention on the Status of Stateless Persons (New York, 1954)* (see *Yearbook on Human Rights for 1954*, pp. 369–75).

During 1956, Denmark[2] and Norway became parties to the convention, by instruments of ratification deposited on 17 January and 19 November, respectively.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplements Nos. 16–18.

7. *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery (Geneva, 1956)* (see pp. 289-291 above).

No States became parties to the convention during 1956.

II. INTERNATIONAL LABOUR ORGANISATION

1. *Social Policy (Non-Metropolitan Territories) Convention, 1947* (see *Yearbook on Human Rights for 1948*, pp. 420–5).

No States ratified the convention during 1956.

SOURCE: Information kindly furnished by the International Labour Office.

2. *Right of Association (Non-Metropolitan Territories) Convention, 1947* (see *Yearbook on Human Rights for 1948*, pp. 425–7).

No States ratified the convention during 1956.

SOURCE: Information kindly furnished by the International Labour Office.

3. *Freedom of Association and Protection of the Right to Organise Convention, 1948* (see *Yearbook on Human Rights for 1948*, pp. 427–30).

During 1956, the ratifications of the Byelorussion Soviet Socialist Republic, the Dominican Republic, Honduras, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics were registered, on 6 November, 5 December, 27 June, 14 September and 10 August, respectively.

SOURCE: Information kindly furnished by the International Labour Office.

[1] Concerning the status of these instruments at the end of 1955, see *Yearbook on Human Rights for 1955*, pp. 343–7.

[2] With reservations.

4. *Right to Organise and Collective Bargaining Convention, 1949* (see *Yearbook on Human Rights for 1949*, pp. 291–2.)

During 1956, the ratifications of Argentina, the Byelorussian Soviet Socialist Republic, the Federal Republic of Germany, Honduras, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics were registered on 24 September, 6 November, 8 June, 27 June, 14 September and 10 August, respectively.

SOURCE: Information kindly furnished by the International Labour Office.

5. *Equal Remuneration Convention, 1951* (see *Yearbook on Human Rights for 1951*, pp. 469–70).

During 1956, the ratifications of Argentina, the Byelorussian Soviet Socialist Republic, the Federal Republic of Germany, Honduras, Hungary, Italy, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics were registered, on 24 September, 21 August, 8 June, 9 August, 8 June, 8 June, 10 August and 30 April, respectively.

SOURCE: Information kindly furnished by the International Labour Office.

6. *Social Security (Minimum Standards) Convention, 1952* (see *Yearbook on Human Rights for 1952*, pp. 377–89).

The ratification of Italy was registered on 8 June 1956.

SOURCE: Information kindly furnished by the International Labour Office.

7. *Maternity Protection Convention (Revised), 1952* (see *Yearbook on Human Rights for 1952*, pp. 389–92).

During 1956, the ratifications of the Byelorussian Soviet Socialist Republic, Hungary, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics were registered on 6 November, 8 June, 14 September and 10 August, respectively.

SOURCE: Information kindly furnished by the International Labour Office.

8. *Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955* (see *Yearbook on Human Rights for 1955*, pp. 325–7).

The ratification of New Zealand was registered on 28 June 1956.

SOURCE: Information kindly furnished by the International Labour Office.

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).

No further States became parties to the convention during 1956.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplements.

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).

During 1956, Finland became a party to the agreement, by instrument of acceptance deposited on 30 April.

SOURCE: *Status of Multilateral Conventions of which the Secretary-General acts as Depository*, United Nations Sales No. 1952.V.2, supplement No. 20.

3. *Universal Copyright Convention (Geneva, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 398–403).

During 1956, Iceland, Italy, Japan, Liberia and Portugal became parties to the convention, by instruments of ratification deposited on 18 September, 24 October, 28 January, 27 April and 25 September, respectively. In addition to the States mentioned in the information transmitted in *Yearbook on Human Rights for 1955*, p. 345, Switzerland became a party on 30 December 1955.

SOURCE: Information kindly furnished by the secretariat of UNESCO.

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).

During 1956, Bulgaria, Burma, Ecuador, Hungary, Mexico, Poland, San Marino and Yugoslavia became parties to the convention, by instruments of ratification or accession deposited on 7 August, 10 February, 2 October, 17 May, 7 May, 6 August, 9 February and 13 February, respectively. Burma, Hungary, Mexico, Poland, San Marino and Yugoslavia also ratified the protocol.

The convention and protocol entered into force on 7 August, 1956.

SOURCE: United Nations Educational, Scientific and Cultural Organization: *Report of the Director-General on the Activities of the Organization in 1956.*

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).

No further States became parties to the convention during 1956.

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).

During 1956, Nicaragua and Peru became parties to the convention, by instruments of ratification dated 22 May and 26 January, and deposited on 22 August and 11 June, respectively.

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).

During 1956, Nicaragua became a party to the convention, by instrument of ratification dated 22 May and deposited on 22 August.

SOURCE: Information kindly furnished by the Pan American Union.

4. *Convention on Diplomatic Asylum (Caracas, 1954)* (see *Yearbook on Human Rights for 1955*, pp. 330–2).

No further States became parties to the convention during 1956.

SOURCE: Information kindly furnished by the Pan American Union.

5. *Convention on Territorial Asylum (Caracas, 1954)* (see *Yearbook on Human Rights for 1955*, pp. 329–30).

No further States became parties to the convention during 1956.

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).

No further States became parties to the convention during 1956.

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).

No further States became parties to the protocol during 1956.

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).

During 1956, the Federal Republic of Germany became a party to the interim agreement and the protocol by instrument of ratification deposited on 24 August.

SOURCE: Information kindly furnished by the Secretariat-General of the Council of Europe.

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).

During 1956, the Federal Republic of Germany became a party to the interim agrreement and the protocol, by instrument of ratification deposited on 24 August.

SOURCE: Information kindly furnished by the Secretariat-General of the Council of Europe.

5. *European Convention on Social and Medical Assistance and Protocol thereto (Paris, 1953)* (see *Yearbook on Human Rights for 1953*, pp. 359–61).

During 1956, Belgium and the Federal Republic of Germany became parties to the convention and the protocol, by instruments of ratification deposited on 24 July and 24 August, respectively.

SOURCE: Information kindly furnished by the Secretariat-General of the Council of Europe.

6. *European Convention on Establishment (Paris, 1955)* (see pp. 292-297 above).

At the end of 1956, the convention had received no ratifications.

SOURCE: Information kindly furnished by the Secretariat-General of the Council of Europe.

VI. OTHER INSTRUMENTS

Geneva Conventions of 12 August 1949 (see *Yearbook on Human Rights for 1949*, pp. 299–309).

In 1956, the following deposited ratifications of the conventions:

Venezuela (13 February), Peru (15 February), Greece (5 June), Argentina (17 September), Afghanistan (26 September) and the People's Republic of China (28 December). The following acceded to the conventions: Panama (10 February), Iraq (14 February), Libya (22 May), Morocco (26 July), Laos (29 October) and eastern Germany (30 November).

SOURCE: International Committee of the Red Cross: *Annual Report*, 1956.

ANNEX

DOCUMENTARY REFERENCES ON UNITED NATIONS ACTION IN RELATION TO HUMAN RIGHTS [1]

1. *Draft International Covenants on Human Rights*

Report of the Third Committee, Official Records of the General Assembly, Eleventh Session, Annexes, agenda item 31, document A/3525.

2. *Advisory services in the field of human rights*

Economic and Social Council resolution 605 (XXI).

3. *Periodic reports on human rights and studies of specific rights or groups of rights*

Economic and Social Council resulution 624 B (XXII).

4. *Celebration of the tenth anniversary of the Universal Declaration of Human Rights*

Economic and Social Council resolution 624 C (XXII).

5. *Status of women*

(*a*) General Assembly resolution 1040 (XI), entitled: "Convention on the Nationality of Married Women".

(*b*) Economic and Social Council resolution 625 B (XXII), entitled: "Economic Opportunities for Women".

(*c*) Economic and Social Council resolution 625 C (XXII), entitled: "Discrimination against Women in Education".

(*d*) Report of the tenth session of the Commission on the Status of Women, 12–29 March 1956 (E/2850).

6. *Slavery*

United Nations Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, held at Geneva, Switzerland, 13 August to 4 September 1956. *Final Act and Supplementary Convention* (E/CONF. 24/23. United Nations publication, Sales No. 1957.XIV.2).[2]

7. *Forced labour*

Economic and Social Council resolution 607 (XXI).

8. *Allegations regarding infringements of trade union rights*

Economic and Social Council resolution 606 (XXI).

9. *Children and other dependants*

(*a*) Economic and Social Council resolution 610 (XXI), entitled: "United Nations Children's Fund".

(*b*) United Nations Conference on Maintenance Obligations, New York, 29 May to 20 June 1956. *Final Act and Convention on the Recovery Abroad of Maintenance* (E/CONF.21/7. United Nations publication, Sales No. 1956.V.4).

10. *Refugees and stateless persons*

(*a*) General Assembly resolution 1018 (XI), entitled: "Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East".

(*b*) General Assembly resolution 1039 (XI), entitled: "Report of the United Nations High Commissioner for Refugees".

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[1] This annex includes references to action taken by the eleventh session of the General Assembly during the earlier months of 1957.

An account of United Nations action in the field of human rights in 1956 may be found in the *Yearbook of the United Nations, 1956*. Details on most topics are to be found in the relevant parts of *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)) and *Report of the Economic and Social Council covering the period from 10 August 1956 to 2 August 1957* (General Assembly, Official Records, Twelfth Session, Supplement No. 3 (A/3613)). On other matters see further *Annual Report of the Secretary-General on the Work of the Organization, 16 June 1955 to 15 June 1956* (General Assembly, Official Records, Eleventh Session, Supplement No. 1 (A/3137)) and *Annual Report of the Secretary-General on the Work of the Organization, 16 June 1956 to 15 June 1957* (General Assembly, Official Records, Twelfth Session, Supplement No. 1 (A/3594)). See also *Report of the Commission on Human Rights on its twelfth session, 5 to 29 March 1956* (E/2844).

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 and the Economic and Social 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.

The resolutions in question and here quoted are to be found in the following documents:

Resolutions adopted by the General Assembly during its Second Emergency Special Session from 4 to 10 November 1956 (General Assembly, Official Records, Second Emergency Special Session, Supplement No. 1 (A/3355)).

Resolutions adopted by the General Assembly from 12 November 1956 to 8 March 1957 during its Eleventh Session (General Assembly, Official Records, Eleventh Session, Supplement No. 17 (A/3572)).

United Nations Economic and Social Council, Official Records, Twenty-first Session, 17 April to 4 May 1956, Supplement No. 1, Resolutions (A/2889).

United Nations Economic and Social Council, Official Records, Twenty-second Session, 9 July to 9 August 1956, Supplement No. 1, Resolutions (A/2929).

[2] See above, pp. 289-291.

11. *Trust Territories*

(*a*) *Report of the Trusteeship Council covering the period from 23 July 1955 to 14 August 1956* (General Assembly, Official Records, Eleventh Session, Supplement No. 4 (A/3170)).

(*b*) *Report of the Trusteeship Council covering the period from 15 August 1956 to 12 July 1957* (General Assembly, Official Records, Twelfth Session, Supplement No. 4 (A/3595)).

(*c*) *Special Report of the Trusteeship Council* (General Assembly, Official Records, Eleventh Session, Annexes, agenda item 39, documents A/3169 and A/3169/Add.1).

(*d*) *Report of the Trusteeship Council to the Security Council on the Strategic Trust Territory of the Pacific Islands covering the period from 23 July 1955 to 14 August 1956* (S/3636).

(*e*) Official Records of the Seventeenth Session of the Trusteeship Council, 7 February–6 April 1956, Supplement No. 1, Resolutions (T/1237).

(*f*) Official Records of the Eighteenth Session of the Trusteeship Council, 7 June–14 August 1956, Resolutions (T/1276).

(*g*) General Assembly resolution 1045 (XI), entitled: "Report of the United Nations Plebiscite Commissioner for the Trust Territory of Togoland under British Administration".

(*h*) General Assembly resolution 1046 (XI), entitled: "The future of Togoland under French administration".

(*i*) General Assembly resolution 1062 (XI), entitled: "Travel documents of petitioners from Trust Territories".

(*j*) General Assembly resolution 1063 (XI), entitled: "Offers by States Members of the United Nations of study and training facilities for inhabitants of Trust Territories".

(*k*) General Assembly resolution 1065 (XI), entitled: "The future of the Trust Territory of Tanganyika".

12. *Non-Self-Governing Territories*

(*a*) General Assembly resolution 1049 (XI), entitled: "Educational development plans in Non-Self-Governing Territories".

(*b*) General Assembly resolution 1050 (XI), entitled: "Educational advancement in Non-Self-Governing Territories".

13. *South West Africa*

(*a*) General Assembly resolution 1047 (XI), entitled: "Admissibility of hearings of petitioners by the Committee on South West Africa: Advisory Opinion of the International Court of Justice".

(*b*) Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of 1 June 1956 of the International Court of Justice.

(*c*) General Assembly resolution 1054 (XI), entitled: "Report of the Committee on South West Africa".

14. *The situation in Hungary*

General Assembly resolutions 1004 (ES–II), 1005 (ES–II), 1006 (ES–II), 1007 (ES–II), 1127 (XI), 1128 (XI), 1129 (XI), 1130 (XI), and 1131 (XI).

15. *Union of South Africa*

(*a*) General Assembly resolution 1015 (XI), entitled: "Treatment of people of Indian origin in the Union of South Africa".

(*b*) General Assembly resolution 1016 (XI), entitled: "Question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa".

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