YEARBOOK ON HUMAN RIGHTS FOR 1960

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INTRODUCTION

Ninety-five States are represented in this volume, together with certain Trust and Non-Self-Governing Territories. The increasing number of independent States whose activities are dealt with in the *Yearbook on Human Rights* continues to be a reflection of the advance towards self-government of territories previously in a dependent status.

As in 1959, the same evolution is one reason for the adoption in 1960 of a relatively large number of new constitutions or constitutional amendments. Representation is given in this *Yearbook*, principally by extracts, to such texts adopted in the Byelorussian Soviet Socialist Republic, Cameroun, the Central African Republic, Chad, Congo (Leopoldville), Cuba, Cyprus, the Czechoslovak Socialist Republic, Dahomey, the Dominican Republic, Ecuador, the Federation of Malaya, France, Gabon, Ghana, Ivory Coast, Madagascar, Mali, Mexico, Niger, Nigeria, the Republic of Korea, Senegal, Somalia, Turkey and Upper Volta, in the Swiss canton of Geneva and in four non-self-governing territories: American Samoa, the Bechuanaland Protectorate, the Gambia and Kenya. There also appear herein extracts from or references to constitutional amendments made in India, Nicaragua and South Australia in 1959 and in Panama in 1956. The Basic Law on Israel Lands of 1960 added a further chapter to the future written constitution of Israel. Apart from the *Yearbook on Human Rights for 1946* and that for 1947, which consisted mainly of extracts from constitutions then in force, the present *Yearbook* and that for 1959 probably contain a record amount of constitutional material.

Nearly all written constitutions nowadays have provisions concerning human rights, and it is widely felt that the inclusion of such provisions in constitutions is important as providing a standard against which the legality of legislation and governmental action, if not also of the activities of private citizens, may be judged; as establishing a mandate to be followed by public authorities in exercising their functions; and as contributing to the moulding of public opinion. The constitutions in question vary greatly, however, in the range of rights covered. Some contain provisions on economic, social and cultural rights in addition to the more traditional personal, civil and political rights. On the other hand, some constitutions limit themselves to providing for only a few rights. In an attempt to allay the possible fear that rights not constitutionally guaranteed may enjoy less protection than those enumerated in the constitution, there is inserted in some constitutions a provision analogous to section 5 (1) of the Canadian Act for the Recognition and Protection of Human Rights and Fundamental Freedoms of 1960, according to which, "Nothing in part I [which contains the Canadian Bill of Rights] shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act." Article 28 of the Constitution of the Republic of Korea (amended in 1960) provides that: "Liberties and rights of the people not enumerated in this Constitution shall not be ignored." Article 11 of the Constitution of the province of Chaco, Argentina, of 1957 provides that: "The rights, duties, declarations and guarantees enumerated in the National Constitution, which are considered to be provided for in the present constitution, and those which this constitution itself enunciates, shall not be regarded as excluding others, not enumerated, inherent in democracy, the republican form of government, and the freedom, dignity and security of the human person."

Where human rights provisions occur in a constitution, they usually appear in its operative part. In some constitutions, however, rights are mentioned in both the preamble

and the body thereof; this is true of, for instance, the constitutions adopted in 1960 in Cameroun, Chad, Dahomey, Gabon, Ivory Coast, Niger and Upper Volta and the constitutions of Mali and Senegal, both amended in 1960.

Article 13 of the Constitution of the Republic of Ghana of 1960 requires the President to make a solemn declaration before the people immediately after his assumption of office. In this declaration, which is set out in the article, he solemnly declares his adherence to certain fundamental principles relating to human rights.

Constitutions containing provisions on human rights usually also specify the limitations which may legitimately be placed on the exercise of those rights. The limitations are essentially of two types: those of continuing application and those to be imposed in the event of defined emergency situations.

Two possible approaches to the drafting of limitations of continuing application may be found in a study of existing constitutions: to include the appropriate limitations in each article dealing with a right or group of rights, the limitations varying from article to article, or to insert in the constitution a general article of limitation applying to all the provisions dealing with human rights; some constitutions combine these approaches. In the present *Yearbook*, the constitutions of Cyprus and Nigeria of 1960 represent examples of the first approach.

The present volume includes a number of examples of general constitutional provisions limiting the exercise of rights in the event of war or certain other emergency situations. Such general provisions frequently lay down the type of situations which may be declared to be emergencies; the rights which may be derogated from, or types of action which may be taken by the authorities and which, in fact, derogate from rights; the authority or authorities entitled to declare an emergency and the authorities entitled to take the exceptional action during the emergency; the period during which a declaration of emergency may endure and whether it may be renewed; and the methods of parliamentary control over the power to declare an emergency or over the exercise of emergency powers.

Provisions on such matters are contained in, for instance, sections 149–50 of the Constitution of the Federation of Malaya, which underwent amendment in 1960. Acting under section 149, the Parliament of the Federation adopted in 1960 an Internal Security Act, extracts from which appear in this *Yearbook*.

Some limiting provisions relating to emergency situations specify the extent to which a right may be limited, as when section 28 of the Constitution of Nigeria of 1960, which permits certain derogations from the fundamental rights provided for in that Constitution, specifies that nothing in that section is to authorize any derogation from the provisions of section 17, concerning deprivation of life, except in respect of deaths resulting from acts of war.

Article 29 of the Constitution of Nigeria of 1960 and section 151 of the Constitution of the Federation of Malaya (amended in 1960) entitle a person, detained as the result of the exercise of emergency powers, to appeal to a tribunal or advisory board concerning his detention.

Article 20 of the Constitution of Cameroun of 1960 enables the President of the Republic to proclaim a state of emergency, thereby conferring special powers on the Government "according to conditions to be determined by an organic law governing the matter". Extracts also appear in this *Yearbook* from that organic law, contained in Ordinance No. 60–52 of 7 May 1960, which defines the precise powers which may be exercised by the authorities during a state of emergency; article 9 thereof provides that citizens are to continue to exercise the rights guaranteed by the Constitution to the extent not suspended in accordance with the organic law.

Many constitutions define the relationship which is to exist between constitutional provisions (and, hence, constitutional provisions on human rights) on the one hand and

other types of law on the other. Article 77 of the Constitution of Chad of 1960 provides that the legislation in force in Chad at the time of the entry into effect of the Constitution is to remain applicable in so far as it does not contravene the Constitution, subject to the enactment of new legislation; while article 78 stipulates that the provisions necessary for the application of the Constitution are to be the subject of laws to be passed by the legislature. Substantially the same provisions are contained in the constitutions of 1960 of Dahomey, Ivory Coast, Mali, Niger and Upper Volta. Attention may also be drawn in this connexion to article 35 of the Constitution of Cyprus of 1960 (the "part" referred to is "Part II — Fundamental Rights and Liberties" of the Constitution):

"*Art. 35.* The legislative, executive and judicial authorities of the Republic shall be bound to secure, within the limits of their respective competence, the efficient application of the provisions of this part."

Some constitutional provisions on human rights are specified as being intended for future application; thus section 2 (2) of the Fourth Schedule (on Fundamental Rights), which was inserted into the Kenya (Constitution) Order in Council, 1958 by the Kenya (Constitution) (Amendment No. 2) Order in Council, 1960, states that nothing in section 2 (which related to questions of punishment) is to invalidate any law by reason only that it authorizes the infliction of any punishment that was lawful in Kenya on 30 November 1960. Similarly section 10 (2) of the Schedule provides that nothing in section 10 (concerning property) is to affect the operation of any existing law.

A number of constitutions refer to the remedies which are available to the individual for the enforcement of his constitutional rights. Attention may be drawn, as instances, to section 31 of the Constitution of Nigeria of 1960 and to section 64c of the Kenya (Constitution) Order in Council, 1958, as amended in 1960.

Article 5 (2) of the Constitution of Somalia of 1960 provides that "legislative acts inconsistent with the Constitution may be rendered nul and void at the instance of the persons concerned in accordance with the provisions of the Constitution". Articles 38 and 39 concern, respectively, the right of legal redress and safeguards against administrative abuse.

Many constitutions also permit a legislative or executive action to be declared unconstitutional by a judicial organ if it contravenes constitutional provisions. Article 167 of the Constitution of Panama (amended in 1960) requires the Supreme Court of Justice to rule on "the constitutionality of laws, decrees, agreements, resolutions and other acts which have been challenged in the Court by any citizen". Article 62 of the Constitution of Senegal of 1960 and article 83 III of the Constitution of the Republic of Korea (amended in 1960) entrust the Supreme Court of Senegal and the Constitutional Court of the Republic of Korea, respectively, with determining the constitutionality of laws. Article 146 of the Constitution of Cyprus of 1960 defines the power of the Supreme Constitutional Court of Cyprus to declare an executive or administrative act unconstitutional. Articles 98–9 of the Constitution of Somalia of 1960 make provisions concerning the rendering by the Constitutional Court of decisions on the constitutionality of laws.

Some constitutions provide machinery for the securing of a judicial opinion on constitutionality at some stage in advance of the final adoption of a bill as law. According to some constitutions, a declaration of unconstitutionality by the Supreme Court or a special judicial body prevents a bill from becoming law. These procedures are not available to the private individual but are commonly open to the Head of State or president of the legislature of the country in question. For instance, article 67 of the Constitution of Gabon of 1960 requires the Supreme Court to rule upon the conformity to the constitution of laws and regulations passed by the National Assembly, when requested to do so by the President of the Republic or the President of the National Assembly; article 68 lays down that a provision declared unconstitutional is not to be promulgated or put into effect. Article 32 of the Constitution of the Central African Republic, as amended

in 1960, requires the Constitutional Court to pronounce on the constitutionality of ordinary and organic acts referred to it, before promulgation, by the President of the Republic or the President of the National Assembly. In the Constitution of Chad of 1960, article 43 enables the Head of State, the President of the National Assembly and a number of deputies representing at least one-fifth of the members of the National Assembly to refer laws, prior to their promulgation, to the Supreme Court for a ruling on their constitutionality, while article 36 requires that organic laws are to be promulgated only after the Supreme Court has found them constitutional. Article 167 of the Constitution of Panama, as amended in 1960, requires the Supreme Court of Justice to rule on the acceptability of bills objected to by the Executive as unconstitutional.

The Constitution of India includes the following article 143 (1):

"143 (1). If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to the court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon."

As has been reported in this *Yearbook* by the correspondent of India, the President of India, acting under this provision, referred the Kerala Education Bill, 1957 to the Supreme Court for its opinion on certain questions relating to the constitutional validity of some of its provisions. One of these provisions was found by the Court to be unconstitutional and the Bill was subsequently adopted in an amended form.

Constitutions sometimes declare certain of their provisions to be incapable of being amended, and these provisions frequently relate to human rights. Thus the constitutions of 1960 of Chad (article 68), Dahomey (article 73), Ivory Coast (article 73), Mali (article 49), Niger (article 73) and Upper Volta (article 73) provide that the republican form of the Government is not to be subject to constitutional amendment. The Constitution of Gabon of 1960 similarly protects "the republican and democratic form of the State". The Constitution of Cameroun of 1960 provides in its article 50 that no amendment is to be admissible which threatens "the republican form of the State of Cameroun . . . or the democratic principles governing the Republic". According to article 105 of the Constitution of Somalia of 1960, the procedure of constitutional revision is not to be applied for the purpose of altering the republican and democratic form of the State or for restricting the fundamental rights and freedoms guaranteed by the Constitution.

In addition to these aspects of the constitutional protection of human rights, the material in the present *Yearbook* includes examples of a number of methods of ensuring the protection of human rights which are not necessarily linked with provisions in constitutions.

In El Salvador, decree No. 2996 of 15 January 1960, containing the Constitutional Proceedings Law, lays down the procedures to be followed in proceedings with respect to laws, decrees and regulations alleged by a citizen to be unconstitutional; in proceedings for the protection of the rights of the citizen (amparo), and in proceedings for the production of a person before the court in cases of alleged unlawful restriction of individual freedom (habeas corpus). The contribution of Argentina to this volume includes examples of the operation of the remedy of amparo.

In connexion with the right of petition or complaint, attention may be drawn to article 29 of the Constitution of Cyprus of 1960, which provides as follows:

"Art. 29. 1. Every person has the right individually or jointly with others to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously; an immediate notice of any such decision taken duly reasoned shall be given to the person making the request or complaint and in any event within a period not exceeding thirty days.

2. Where any interested person is aggrieved by any such decision or where no such decision is notified to such person within the period specified in paragraph 1 of this article, such person may have recourse to a competent court in the matter of such request or complaint."

Article 29 of the Constitution of the Czechoslovak Socialist Republic of 1960 accords citizens and organizations the right to submit proposals, suggestions and complaints to representative bodies and to other state organs, and makes it the duty of state organs to take responsible and prompt action. Article 57 (1) of the same constitution lays down the duty of a deputy of the National Assembly to work in his constituency, maintain constant contact with his constituents, heed their suggestions and account to them regularly for his activities. Article 27 of the Constitution of the Republic of Korea (amended in 1960) accords all citizens the right to petition for the removal of any public official having acted unlawfully. Article 10 of the Constitution of Somalia of 1960 provides that: "All citizens shall have the right to address written petitions to the President of the Republic, the National Assembly and the Government" and that: "Every petition which is not manifestly unfounded shall be considered". In Iran, the Act on the Conseil d'Etat defines the duty of the Conseil d'Etat to deal with certtain complaints of the people against action on the part of official agencies other than courts. The contribution of Spain to the present volume includes a description of an Act of 22 December 1960 regulating the right of petition.

In a number of countries the Office of the Procurator has wide powers in relation to the protection of human rights, including the taking of action upon complaints of individuals. Article 97 (1) of the Constitution of the Czechoslovak Socialist Republic of 1960 provides, *inter alia*, that the Office of the Procurator is to protect the rights and true interests of citizens and of the organizations of the working people. The extracts which appear in this volume from the Code of Criminal Procedure of the Byellorussian Soviet Socialist Republic, which was adopted by the Supreme Soviet of the Republic on 29 December 1960, place responsibilities on the procurator in relation to the inviolability of the person (article 7), the right of the accused to defence (article 14), the exhaustive, complete and objective investigation of the circumstances of the case (article 15), the duty to explain their rights to all persons concerned in the case (article 60) and the right to appeal and to contest the verdict (article 334). Article 18 of the Code specifically concerns the "supervisory functions of procurators in criminal procedure" and article 114 "supervision by the procurator to ensure observance of the law in the institution of criminal proceedings". Article 48 entitles the accused to lodge complaints against the actions and decisions of the procurator.

In connexion with the prevention of discrimination, attention may be drawn to the Fair Accommodation Practices Act of 1960 of Manitoba, Canada, which prohibits the denying of accommodation, services or facilities customarily available to the public to any person on grounds of race, religion, religious creed, colour, ancestry or ethnic or national origin. The present volume contains extracts from the Race Relations Ordinance, 1960, of Northern Rhodesia, according to section 12 of which no racial discrimination is to be practiced during business hours in tea rooms, cafés, restaurants, hotel dining-rooms, hotel lounges (other than bar lounges) and licensed cinemas. The ordinance also includes provisions for action to be taken upon complaints received from persons alleging that racial discrimination has been practiced against them in contravention of section 12 or that they are personally aggrieved by preferential discrimination practiced in favour of another person or class of persons. Also included are provisions concerning action to be taken on complaints or grievances relating to racial discrimination in shops, banks, hotels and offices open to the public.

Provisions concerning the responsibility of the State and its agencies are of great importance from the point of view of human rights. Article 27 of the Constitution of the Republic of Korea (amended in 1960) includes the following: "If a person has suffered damage by unlawful acts of public officials done in the exercise of their official duties, he

may request redress from the State or from the public entity concerned; however, the public officials concerned shall not be exempted thereby from their civil or criminal liability". Article 40 (1) of the Constitution of Somalia of 1960 provides that: "Any person who suffers injury as a result of acts or omissions which violate his rights and for which officials or employees of the State or of public bodies are responsible in the performance of their duties shall be entitled to compensation from the State or from the public bodies concerned."

As in previous years, certain instruments adopted in 1960 made reference to the Universal Declaration of Human Rights of 10 December 1948. Apart from the Multilateral Agreement on the Fundamental Rights of Nationals of States Members of the Community, signed on 22 June 1960 by France, the Federation of Mali and Madagascar, which guaranteed the exercise of certain rights and freedoms "in conformity with the Universal Declaration of Human Rights," the texts in question were all constitutional. In the preambles to the new constitutions of Cameroun, Chad, Dahomey, Gabon, Ivory Coast, Niger, Senegal and Upper Volta, the peoples of the countries concerned reaffirm, or proclaim their adherence to, the principles set out in the Universal Declaration. In the revised Constitution of Mali of 1960, the Republic of Mali solemnly reaffirms the rights and the freedoms enshrined in the Universal Declaration. Article 7 of the Constitution of Somalia of 1960 requires the Republic to comply with the Declaration, in so far as applicable.

In addition to these extracts from, or references to, texts relating to the protection of human rights in general or to a range of rights, the present volume contains much constitutional, legislative and judicial material on specific rights. An examination of the index to this volume will reveal that this material covers a wide range of personal, civil, political, social, economic and cultural rights, being based as it is on the contents of the Universal Declaration of Human Rights.

Limitations of space have reduced the size of part III (International Agreements) in the present *Yearbook*, but there appear therein notes on instruments adopted by the International Labour Conference and by the General Conference of UNESCO, the text of the Multilateral Agreement on the Fundamental Rights of Nationals of the States of the Community, signed on 22 June 1960 by France, the Federation of Mali and Madagascar, and a statement of the status of certain international agreements.

PART I

STATES

AFGHANISTAN

NOTE[1]

1. *The Act of 2 Saur 1339 hegira year, 22 April 1960, concerning recruitment of employees by the State (mustakhdimîn wa ajirân)*

This Act establishes sick leave, paid holidays and other special benefits for "employees" of the State, who are distinct from state officials.

2. *Extracts from the Registration of Marriages Act (izdiwâj wa tartib nikâh-khat)* (promulgated on 27 Mizan 1339 hegira year, 19 October 1960)

"*Art. 1:* Marriage is entered into with the consent of both spouses, who must be of age and of sound mind.

"Every marriage shall be registered by a tribunal which shall issue a printed certificate of registration of the marriage.

"*Art. 2:* The minimum legal age for marriage is fifteen years. If the prospective spouses are under the age of fifteen, the marriage shall not constitute a marriage between persons of age.

. . .

"*Art. 18:* The marriage of a female who is under age shall not be valid unless a competent tribunal agrees to register it and to issue a certificate of registration of the marriage to the legal representative of such female under age.

"*Art. 19:* Marriage may not be entered into by a female who is under age if her legal representative is not of good character or if it is considered that the interests of the female under age do not require that the marriage be entered into.

. . .

"*Art. 27:* Mayors, prefects and sub-prefects shall be responsible for giving, to mayoral representatives in the various town districts, municipal councillors, village chiefs and imams of mosques, periodical information regarding the contents of this Act."

[1] Note furnished by the Government of Afghanistan.

ARGENTINA

NOTE[1]

I. Constitutions (Extracts) [2]

1. PROVINCE OF CHACO

(Approved on 7 December 1957)

Art. 2. All power emanates from the people and belongs to the people, which exercises it through its representatives in accordance with this constitution and without prejudice to the rights of initiative, referendum and repeal.

Art. 11. The rights, duties, declarations and guarantees enumerated in the National Constitution, which are considered to be provided for in the present constitution, and those which this constitution itself enunciates, shall not be regarded as excluding others, not enumerated, inherent in democracy, the republican form of government, and the freedom, dignity and security of the human person.

Art. 12. The security of the individual is inviolable. Freedom of conscience, physical and moral integrity, defence in legal proceedings, and the secrecy of private documents and of any other form of communication are guaranteed. The home is the inviolable shelter of the person. Only by a written order of the competent judge, based on strong suspicion of a punishable act, may a dwelling be entered or private documents and other forms of communication be examined. A dwelling may not be entered at night, except on the basis of an order stating reasons and in the presence and under the supervision of the dweller.

Chapter III

THE RIGHTS OF THE WORKER

Art. 26. Every worker enjoys the right:

(1) To work and to the free selection of his occupation. The province shall promote the creation of opportunities for employment.

(2) To a minimum and movable reward sufficient to satisfy the vital needs of himself and his family; to guaranteed annual remuneration, and to an annual supplementary reward. There shall be equal pay for equal work. Remuneration for night work shall be higher than that for day-time work. Work by minors less than sixteen years of age in manufacturing enterprises or in factories incompatible with the age of such minors is prohibited.

(3) To a limitation of days of work because of the worker's age or sex and the nature of the work.

(4) To weekly rest and to annual paid vacations.

(5) To adequate professional training reflecting technological progress.

(6) To security in work, such as will duly preserve his physical and moral health. Night-time, dangerous and unhealthy work shall be suitably regulated and supervised. Work by women and minors shall be governed by special regulations. Rural workers shall be guaranteed hygienic and decent living conditions and the establishment of such conditions shall be controlled.

(7) To stability of employment and to compensation for arbitrary discharge and lack of notice. The law shall establish guarantees against mass discharges.

(8) To a share in the profits of enterprises and to participation in control of the processes of production and management in enterprises.

(9) To adequate compensation and insurance on the part of the employer in respect of professional risks, and to complete rehabilitation in respect of incapacitation.

(10) To movable retirement and pension benefits.

(11) To complete and compulsory social security.

(12) To form and participate in free and democratic trade union organizations.

THE FAMILY

Art. 32. The law shall ensure:

(1) Complete protection of the family, as the primary and fundamental nucleus of society.

(2) The legal protection of mothers, infants and minors.

(3) Protection of the family estate.

(4) Financial allowances for the family.

2. PROVINCE OF LA PAMPA

(Approved on 7 October 1960)

Art. 5. All legal and administrative provisions shall be governed by the principle of equality and

[1] Except where indicated, the information in this note was furnished by the Government of Argentina.

[2] The Government of Argentina also drew attention to article 14 of the National Constitution, as amended in 1957 (see *Yearbook on Human Rights for 1946*, p. 6 and *Yearbook on Human Rights for 1957*, p. 5) and to articles 16, 18 and 20 of the National Constitution (see *Yearbook on Human Rights for 1946*, pp. 6–7).

by the obligations of human solidarity: they shall be such as to guarantee the personal freedom, work, dignity, and physical and mental health of the inhabitants.

Art. 11. Victims of judicial errors in criminal proceedings shall be entitled to claim compensation from the State. The cases concerned, and the relevant procedures, shall be regulated by law.

Art. 28. The economic activity of the province shall have, as its objective, the harmonization of the rights of the individual with those of the community.

Art. 29. Property must fulfil a social function, and its exploitation must be to the advantage of the community. Expropriation, based on the interests of society, must be authorized by law and compensated for in advance, with the community gaining from the increased value of the land which is not brought about by the personal effort or economic activity of the owner, in accordance with regulations prescribed by law.

II. National Laws [1]

1. Act No. 14467 confirms the legislative decrees of the provisional government, such as: Legislative decree 7/55, which provides for the liberation of all political prisoners, and legislative decree 5148/55, establishing the National Council for Rehabilitation (Junta Nacional de Recuperación Patrimonial), which acted as a court in cases involving loss of civil rights, with the granting of the most extensive right of defence, etc.

2. *Act No. 14436 (General Amnesty) (extract)*

Art. 1. Full and general amnesty is granted in respect of all political offences committed either by civilians or by military personnel prior to the promulgation of the present Act. The amnesty covers acts and facts brought about for political or union purposes.

3. *Act No. 14557 (Free Education) (extract)*

Art. 1. . . . There may be established, by private initiative, universities entitled to confer degrees and/or academic diplomas. Entitlement to exercise a profession shall be conferred by the State. Examinations qualifying persons to exercise the various professions shall be public and shall be the responsibility of the bodies designated by the State. Such universities shall not be granted state resources and shall submit their statutes, curricula and syllabuses for prior approval by the administrative authorities, which shall prescribe all other conditions for their operation.

4. Act No. 14394, instituting the "family estate", regulated by decree No. 25013/60, is concerned with the financial defence of the family, creating for that purpose an instrument which makes it possible to protect the estate in question from the action of creditors and from alienation at the will of its owners.

In its message proposing the institution of the "family estate", realized under article 34 of the above-mentioned Act, the Executive Power stated that it must not "be forgotten that all members of the family, in one way or another, contribute to the accumulation of property the owner of which is, usually, the head of the group. Hence it is no exaggeration to regard the property of the father of a family as a form of property in joint ownership, which should to some extent be removed from the risks stemming from the improvidence, needs and even misbehaviour of its titular owner, and the institution of the "family estate" is designed to provide the germinating cell of all organized society with the minimum amount of security essential to its rational development and to prevent what has been built up by close co-operation between father and offspring from being lessened or destroyed by the action of one of its producers" (Record of sessions of the Chamber of Deputies, 1954, p. 2731). Hence it is laid down that (*article 34*) a family estate may be constituted from real property, in an urban or rural area, the value of which does not exceed the requirements for the housing and maintenance of the family; that (*article 35*) the constitution of such an estate may produce its effects as from the date of its entry in the Register of Real Estate; and that (*article 36*) the family consists of the owner and his spouse, his descendants or ascendants or adoptive children or, in default of them, his collaterals up to and including the third degree of consanguinity, living with the constitutor of the estate. Under articles 37 and 38, the estate constituted is exempt from attachment or distraint, except in respect of liabilities for levies or taxes to which the real estate is directly subject. Encumbrance of the estate can be by explicit authorization alone, and the estate is exempt from the tax on the charge-free transfer of property (*article* 40).

III. Decrees

Decree No. 6666/57, instituting the Statute for the Civilian Staff of the National Public Administration, ensures stability and progress in his career for the civil servant.

IV. Supreme Court Decisions

Amparo

The decisions of the Nation's Supreme Court of Justice, quoted below, have usefully helped in the task, which could not be postponed, of filling a gap in the matter of protecting and safeguarding the human rights provided for, in essence, by the spirit and the letter of our National Constitution. Thus they have said, *inter alia*:

"There is nothing in the letter or spirit of the

[1] The Government of Argentina also drew attention to Act No. 14455, on industrial associations of employees (see *Yearbook on Human Rights for 1958*, p. 3).

Constitution which justifies the statement that human rights (so called because they are the basic rights of man) are protected solely from attack on the part of the authorities. Nor is there anything to authorize the statement that an illegitimate, serious and patent attack upon any of the rights which go to make up freedom, in the broad sense, does not set in motion suitable protective procedure under the Constitution — such procedure being, of course, that of *habeas corpus* and of *amparo*, not that of ordinary judgements and prohibitory orders, with communications, trials and the adducing of evidence — for the sole reason that such attack emanates from particular groups or organized groups of individuals.

"Where it is obvious that any restriction placed upon any basic right of the individual is illegitimate, and that serious and irreparable damage would be caused if the matter were to be dealt with by ordinary administrative or judicial procedure, the judges should at once re-establish the restricted right by providing for recourse to *amparo*. In such cases the judges should be extremely careful not to settle, by the swift process of this constitutional guarantee, questions which are susceptible of further discussion and which should be decided in accordance with ordinary procedure." [T. 92, page 826, *Case of Kot Samuel S.R.L.*]

Legal Protection (Amparo) of Freedom

"Direct proof that an individual freedom is being clearly restricted, without an order by a competent authority or a statement of the reasons justifying it, is sufficient for the constitutional guarantee invoked to be restored in its entirety by the Judicial Power, without it being possible to allege, in opposition, the non-existence of a law regulating such guarantees; since the constitutional guarantees exist and protect the individual by the mere fact of their being sanctioned by the Constitution, and independently of the regulating Acts, which are only required to establish in what cases and on what grounds the issue may be submitted to judicial decision and procedure, as article 18 of the Supreme Law states in regard to one such Act; and since the country's constitutional principles and institutional experience require that there should be both enjoyment and full exercise of individual guarantees, for the effective operation of a state of law, and impose on the judges the duty of ensuring such operation." [T. 89, page 532, *Case of Siri Angel S.*]

V. Other Decisions [1]

1. *The Case of Armando del Castillo*

Dr. Raul A. Pizarro Miguens instituted a complaint against Armando del Castillo, director of the magazine *Ahora*, charging him with the crime of slander in consequence of the publication of an article in *Ahora* concerning the death of Juan Duarte. The investigation of the case had been conducted by Dr. Raul A. Pizarro Miguens, then examining judge, and the case had been dismissed as suicide. The magazine article maintained that it was a case of murder and that the former judge had concealed the truth. The court of first instance condemned Armando del Castillo to one year's imprisonment, with suspended sentence, and to the payment of 200,000 pesos as indemnification for moral and material damages caused to Dr. Raul A. Pizarro Miguens. The defendant appealed against this decision.

The Court of Appeal of Buenos Aires, on 22 March 1960, denied the appeal, stating, *inter alia*, that freedom of the press does not authorize the publication of what is not true or what is negligently or maliciously distorted, and that the director of a publication should therefore see to it that his publication does not contain malicious or libellous remarks affecting the honour or reputation of any person.

2. *The Case of* Azul y Blanco, *Recourse of Amparo*

In an action instituted in a court of first instance of Buenos Aires, the legal representative of the weekly newspaper *Azul y Blanco* applied for *amparo* against decree No. 15125/60, whereby the Executive Power during a state of siege ordered the seizure of the newspaper, the prohibition of its circulation and the closing of its editorial offices. The court, in granting the *amparo*, held that the decree was unconstitutional in that it violated the guarantees of the Constitution, which prohibited the President from exercising judicial functions (*article 95*) and from imposing penalties during a state of siege.

On appeal, the decision was reversed by the Court of Appeal of Buenos Aires, which stated, *inter alia*, that the suspension, authorized under article 23, of the constitutional guarantees of freedom of the press did not have the character of a criminal conviction. The measure was not repressive, but merely preventive, "amounting to no more than a particular intensification of the police power justified by the need to defend, in exceptional circumstances, the imperium of the Constitution against the dangers threatening it." The court further pointed out that the Supreme Court of Justice had recognized, through repeated decisions, the legality of the suspension of the guarantees of freedom of the press during the state of siege.

VI. Conclusion

The foregoing summary clearly reveals the trends which, in the fields of regulation and judicial precedent, are today operating in our country in the matter of human rights.

1. *Regulation*

Both in the substantive acts and in the decrees and legislative decrees quoted, the governing principle is that of implanting in our country's in-

[1] The texts of the judicial decisions here summarized were furnished by the Government of Argentina.

stitutions, to an ever greater degree, more effective legal safeguards to promote order, security and the defence of our democratic system.

This statement is warranted by the effective respect for private property, the guaranteeing of freedom of worship, the better and more rational development of economic activity — based essentially on private initiative — and the resolute and legitimate defence of the basic structure of the democratic system whose laws and legislative decrees are determinant.

2. *Judicial Precedent*

The main factor here is the essential action of the Nation's Judicial Power in the attainment of its principal objective within the republican form of government with interdependence of powers, action which has the effect of introducing into our legal order the necessary elements of judicial precedent that confirm and supplement, in our country, the constitutional guarantees, the rule of order, and legal stability.

AUSTRALIA

HUMAN RIGHTS IN AUSTRALIA, 1960

I. Legislation

1. Political Rights — Fair Trial

The Commonwealth *Crimes Act* 1960 embodies an extensive revision of previous statutory provisions relating to the public security. The provision protecting legitimate political activities now appears as section 24F (1) of the *Crimes Act* 1914–1960, and reads as follows:

"24F (1). Nothing in the preceding sections of this part (which deal with the offences of treason, treachery, sabotage, seditious enterprise and seditious words) makes it unlawful for a person —

"(*a*) To endeavour in good faith to show that the Sovereign, the Governor-General, the Governor of a State, the Administrator of a Territory, or the advisers of any of them, or the person responsible for the government of another country, has or have been, or is or are, mistaken in any of his or their counsels, policies or actions;

"(*b*) To point out in good faith errors or defects in the government, the constitution, the legislation or the administration of justice of or in the Commonwealth, a State, a Territory or another country, with a view to the reformation of those errors or defects;

"(*c*) To excite in good faith another person to attempt to procure by lawful means the alteration of any matter established by law in the Commonwealth, a State, a Territory or another country;

"(*d*) To point out in good faith, in order to bring about their removal, any matters that are producing, or have a tendency to produce, feelings of ill-will or hostility between different classes of persons; or

"(*e*) To do anything in good faith in connexion with an industrial dispute or an industrial matter."

Sub-section (2) of section 24F provides that, for the purpose of sub-section (1) just quoted, an act or thing done —

(*a*) For a purpose intended to be prejudicial to the safety or defence of the Commonwealth;

(*b*) With intent to assist an enemy at war with the Commonwealth or specified by proclamation to be at war with the Commonwealth;

(*c*) With intent to assist a "proclaimed enemy", as defined by section 24AA (4); or

(*d*) With intent to assist persons, being persons specified by proclamation, against whom a part of the Defence Force is or is likely to be opposed,

is not an act or thing done in good faith.

The Crimes Act as originally enacted in 1914 provided that, in prosecutions for the offence of espionage, "character evidence" is admissible to prove the purpose with which an act was done. Amendments have now been made designed to ensure that the introduction of the evidence does not prejudice the fair trial of any defendant. The relevant provisions appear as subsections (2), (3) and (4) of section 78 of the *Crimes Act* 1914–1960:

"(2) On a prosecution under this section —

"(*a*) It is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions and, notwithstanding that such an act is not proved against him, he may be convicted, if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions; and

"(*b*) . . .

"(3) On a prosecution under this section, evidence is not admissible by virtue of paragraph (*a*) of the last preceding sub-section if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that the evidence, if admitted —

"(*a*) Would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions; or

"(*b*) Would, having regard to all the circumstances of the case and notwithstanding the next succeeding sub-section, prejudice the fair trial of the defendant.

"(4) If evidence referred to in the last preceding sub-section is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the

[1] Note funished by Mr. Patrick Brazil, Attoney-General's Department, Canberra, government-appointed correspondent of the *Yearbook on Human Rights*.

Commonwealth or a part of the Queen's dominions and must be disregarded by the jury in relation to any other question."

Similar provisions now appear in sections 24AB (offences of sabotage) and 79 (offences relating to official secrets).

2. Right to Privacy

Section 5 of the *Telephonic Communications (Interception) Act* 1960 passed by the Commonwealth Parliament prohibits the interception of telephone communications as follows:

"5.—(1.) A person shall not—

"(*a*) Intercept;

"(*b*) Authorize, suffer or permit another person to intercept; or

"(*c*) Do any act or thing that will enable him or another person to intercept,

"a communication passing over the telephone system.

"Penalty: Five hundred pounds or imprisonment for two years.

"(2.) The last preceding sub-section does not apply to or in relation to—

"(*a*) An act or thing done by an officer of the [Postmaster-General's] Department in the course of his duties for or in connexion with—

(i) The installation of a telephone line or of any apparatus or equipment or the operation or maintenance of the telephone system; or

(ii) the tracing of the origin of a telephone call during which a person has contravened or is suspected of having contravened or of being likely to contravene a provision of the *Post and Telegraph Act* 1901–1950 or of any regulation in force under that Act; or

"(*b*) The interception of a communication in pursuance of a warrant.

"(3) A person shall not divulge or communicate to another person, or make use of or record, any information obtained by intercepting a communication passing over the telephone system except—

"(*a*) In or in connexion with the performance by the organization of its functions or otherwise for the security of the Commonwealth; or

"(*b*) In the performance of any duty of the first-mentioned person as an officer of the [Postmaster-General's] Department.

"Penalty: Five hundred pounds or imprisonment for two years.

"(4) . . .

"(5) Subject to sub-section (2) of this section, this section extends to a person in the service of the Commonwealth."

The Organization referred to in section 5 (3) is the Australian Security Intelligence Organization.

The "warrant" referred to in section 5 (2) (*b*) means a warrant issued by the Attorney-General under section 6 of the Act or, in cases of emergency, by the Director-General of Security under section 7, authorizing interception of telephonic communications by the organization in the interests of the security of the Commonwealth. Section 6 (1) reads as follows:

"6 (1). Where, upon receipt by the Attorney-General of a request by the Director-General of Security for the issue of a warrant under this section in respect of a telephone service, the Attorney-General is satisfied that—

"(*a*) The telephone service is being or is likely to be—

(i) Used by a person engaged in, or reasonably suspected by the Director-General of Security of being engaged in, or of being likely to engage in, activities prejudicial to the security of the Commonwealth; or

(ii) Used for purposes prejudicial to the security of the Commonwealth; and

"(*b*) The interception by the organization of communications passing to, from or over the telephone service will, or is likely to, assist the organization in carrying out its function of obtaining intelligence relevant to the security of the Commonwealth, the Attorney-General may, by warrant under his hand, authorize the organization to intercept communications passing over any telephone line that forms part of the telephone service or connects the service to a telephone exchange."

3. Equality

The *Constitution Act Amendment Act*, 1959, of South Australia amends the Constitution Act by inserting a new section 48a providing that a woman shall not be disqualified by sex or marriage from being elected to, or sitting or voting as a member of, either House of Parliament.

By the *Native Welfare Act Amendment Act*, 1960, the Parliament of Western Australia has amended the proviso to the definition of "native" appearing in the Native Welfare Act to read as follows:

"Provided that any person of the full blood or less than the full blood descended from the original inhabitants of Australia who has served in the Territory of New Guinea or beyond the limits of the Commonwealth of Australia as a member of the Naval, Military or Air Forces of the Commonwealth and has received or is entitled to receive an honourable discharge; or who has served a period of not less than six months' full time duty as a member of the Naval, Military or Air Forces of the Commonwealth and who has received or is entitled to receive an honourable discharge, *has all the rights, privileges and immunities and is subject to the duties and liabilities of a natural born or naturalized subject of Her Majesty who is of the same age.*"

The words underlined were inserted in place of

the following words: "shall be deemed to be no longer a native for the purpose of this or any other Act." In explaining a similar amendment made in 1951 to the *Native (Citizenship Rights) Act*, 1944 (Western Australia) the Minister said that the original formula was objectionable because it involved for the aboriginal a statutory denial of his race; he should not be asked to repudiate or be anything other than conscious and proud of his aboriginal blood (see *Western Australian Parliamentary Debates*, vol. 129, p. 317).

4. Health — Childhood and Motherhood

Four of the States (New South Wales, Victoria, Queensland and South Australia) passed laws authorizing the administration of a blood transfusion to a minor where it is necessary to save the minor's life and the consent of the parents has been refused. The New South Wales provision, which appears as section 39 B of the Public Health Act, 1920–1960, reads as follows:

"39 B (1). A legally qualified medical practitioner may perform the operation of transfusion of human blood upon a minor without the consent of the parents or surviving parent of such minor or any other person legally entitled to consent to such operation if —

"(*a*) Such parents, parent or other person when requested so to do have or has not consented to such operation, or after such search and inquiry as is reasonably practicable in the emergency such parents, parent or other person cannot be found; and

"(*b*) Such legally qualified medical practitioner and at least one other legally qualified medical practitioner have agreed —

(i) Upon the condition from which the minor is suffering; and

(ii) That such operation is a reasonable and proper one to be performed for such condition; and

(iii) That such operation is essential in order to save the life of such minor; and

"(*c*) Such legally qualified medical practitioner has had previous experience in performing the operation of transfusion of human blood and before commencing such operation has assured himself that the blood to be transfused is compatible with that of the minor."

The *Health Act Amendment Act*, 1960, of Western Australia provides for the constitution of a Maternal Mortality Committee with the function of inquiring into deaths that occur as a result of pregnancy or childbirth and determing whether death might have been avoided. The committee may make constructive comments for the future assistance and guidance of medical pratitioners and nurses.

The *National Fitness Council of Victoria Act*, 1960, of Victoria provides for the incorporation of a National Fitness Council and prescribes its objects and powers. The President of the Council is the Minister of Health, and the objects include, among other things, the co-ordination of all activities in Victoria in relation to national fitness, fostering the formation of voluntary organizations and movements in the community which promote national fitness and advising the Minister on matters relating thereto.

5. Social Welfare — Childhood

The *Social Welfare Act*, 1960, of Victoria is an extensive enactment which establishes a Social Welfare Branch of the Chief Secretary's Department and makes provision for its functions. The Branch is divided into a Family Welfare Division, a Youth Welfare Division, a Prisons Division, a Research and Statistics Division, a Training Division and a Probation and Parole Division. The Branch was established "for the better promotion and development of services, organizations and institutions relating to the social welfare of the community and, in particular, of children and young persons" (section 3).

The *Child Welfare Act*, 1960, of Tasmania consolidates and amends previous enactments relating to children and other persons who have not attained the age of twenty-one years. It deals, *inter alia*, with criminal and other proceedings in respect of children, state wards, maintenance of state wards and other children, children's boarding homes and day nurseries, and the protection, and regulation of the employment of, children.

6. Just and Favourable Conditions of Work

The Factories and Shops Act of 1960 of Queensland replaces previous legislation on the subject contained in *The Factories and Shops Acts*, 1900 to 1958. The enactment deals at length with the supervision and regulation in Queensland of factories and shops. Special provisions are made for safety, health and welfare in factories and shops (part V, ss. 36–38). A Factories and Shops Health, Welfare and Safety Board is to be established (part VI, ss. 39–42), which has, *inter alia*, the duties of advising upon matters pertaining to the prevention generally of industrial accidents, of making recommendations to the Minister for securing the safety and health and improving the welfare of persons employed in factories and shops, and of reporting on matters relating to their safety, health and welfare.

The *Inspection of Machinery Act*, 1960, of Tasmania consolidates and amends the previous law relating to the inspection and regulation of machinery. It provides for the inspection of machinery and boilers and deals with the safety required for the operators in charge of, and persons who might come into touch with, machinery and boilers.

The *Workers' Compensation (Further Amendment) Act*, 1960, of New South Wales increases the amounts payable by way of compensation under the Workers' Compensation Act, the Workers' Compensation (Silicosis) Act, 1942, and the Workmen's Compensa-

tion (Broken Hill) Act, 1920. Compensation is made available for voluntary ambulance workers who without remuneration or reward voluntarily and without obligation engage in any ambulance work with the consent of or under the authority and supervision of or in co-operation with the New South Wales Ambulance Transport Service Board or any district committee within the meaning of the Ambulance Transport Service Act, 1919 (New South Wales).

7. Right to Periodic Holidays with Pay

The *Stevedoring Industry Long Service Leave Act*, 1960, of Tasmania provides for the granting of long service leave to waterside workers employed in the stevedoring industry of the State. (This Act is, however, now regarded as superseded by the provisions for long service leave in the *Stevedoring Industry Act*, 1961, of the Commonwealth.)

The *Long Service Leave Act*, 1960, of the same State provides that an employee cannot be required to take long service leave granted by the *Long Service Leave Act*, 1956, during any period in respect of which he is paid or entitled to be paid workers' compensation and in which he is unable to work in his ordinary employment by reason of the injury or disablement in respect of which he is entitled to the compensation.

The *Holidays Act Amendment Act*, 1958, of South Australia, which came into operation on 8 January 1960, provides that Saturdays shall be bank holidays, after arrangements have been made to keep trading banks open till 5 p.m. on Fridays.

8. Social Security

Further increases were made during 1960 in rates of age, invalid and widows' pensions available under the Commonwealth social services scheme (see *Social Services Act*, 1960). Rates of pensions payable under the *Seamen's War Pensions and Allowances Act*, 1940–1959 (Commonwealth) and the *Coal Mines (Pensions) Act*, 1958 (Victoria) were also increased.

II. Court Decisions

1. RIGHT TO FAIR TRIAL

R. *v.* Martin

(1960) State Reports (New South Wales) 286
Court of Criminal Appeal of New South Wales

At the trial of a person for stealing a motor-car, the trial judge cross-examined the accused as to apparent inconsistencies or improbabilities in his evidence as to his alibi. He also asked further questions during the examination-in-chief of a witness which were critical of the witness's evidence and during the cross-examination of this witness constantly intervened and asked numerous questions, amounting to about two-fifths of the total questions asked. The accused was convicted and appealed.

The Court of Criminal Appeal by majority did not order a new trial, because the only reasonable and proper verdict on the evidence was one of guilty.

Held, nevertheless, that a judge should refrain from taking an unduly active part in a trial at which he is presiding.

Per Herron, J. (at pp. 289–90):

"With great respect to this learned Chairman of Quarter Sessions, who has had a wealth of experience in the administration of the criminal law of this State, he would have been well advised to adhere to the more conventional method of presiding over a trial at Quarter Sessions and to have refrained from taking the active part he did. I am far from suggesting that the place of a judge is merely that of an umpire of a game whose duty it is to interfere only so far as needed to decide whether the rules of the game have been violated. In the practice of British Courts of Justice the judge has never ceased to perform an active and virile part as a director of proceedings and as an administrator of justice and the right of the judge to interrogate as he thinks best has always been preserved in theory. . . . The undesirability [of undue cross-examination by the judge during examination-in-chief] lies in the examination-in-chief of a prisoner by his counsel being constantly interrupted by cross-examination from the judge. The reason for this appears to be that the judge is not so much assisting the defence as throwing his weight on the side of the prosecution and also that it is undesirable that the examination by his counsel of a witness who is himself accused should be constantly interrupted by cross-examination from the Bench."

R. *v.* Lawson

(1960) Victorian Reports 37
Supreme Court of Victoria

The accused was tried on a charge of murder before a judge and jury. A witness who had given evidence at the coronial inquest was named as a Crown witness on the presentment and was present and available at the trial but the Crown intimated that it did not propose to call the witness. Counsel for the accused sought a direction from the trial judge that the Crown call the witness.

Held that, although the trial judge probably cannot compel the Crown actually to call the witness, nevertheless, he has a discretion in a proper case, where he considers such refusal unfair to the accused, to make a statement to the jury that in the Court's opinion the Crown ought to call, or to have called, the witness whose name is on the presentment, and who is available.

2. FREEDOM OF EXPRESSION — RIGHT TO FAIR TRIAL

EX PARTE THE ATTORNEY-GENERAL: RE TRUTH & SPORTSMAN LTD.

(1961) 78 Weekly Notes (New South Wales) 212
Supreme Court of New South Wales

On the day following upon the conviction of a person, an editorial appeared in a newspaper discussing and commenting adversely upon the sentence imposed by the trial judge. It was alleged that this editorial, as well as a second editorial two days later relating to the sentencing of another person by the same judge, amounted to contempt of court in that they were calculated to bring the judge into contempt and lower his authority, also to bring the administration of the criminal law by the judiciary into disrepute and disregard, and otherwise to interfere with the course of justice.

Held, that there had been a contempt of court and a penalty should be imposed on the newspaper publishers of £250 and on the editor of £50. Criminal proceedings remain *sub judice* until the time for lodging an appeal or an application for leave to appeal has expired.

Per the court:

"The press stands in no special or protected position, but the liberty of the press is in no danger. The same right of free criticism within the well recognized limits is accorded to them as it is to all individuals. Newspapers have no special rights, they are under no special duties. The respondent company is a commercial undertaking, carried on for the profit of its shareholders. It is not free to publish anything its directors think proper, calculated to increase its sales, and then claim that it is performing a public duty in publishing any reports or comments it may see fit to make if believed to be true. The tyranny of the press is not to be substituted for the rule of law. Newspapers must observe the same standards of propriety, no higher and no lower, as must be observed by any member of this community, and the rule of law, based on public policy, against scandalizing a court applies to all in the same degree and within precisely the same limitations.

. . .

"The court is faced with the problem of reconciling the right of every member of this community, and the press stands in no special position, to criticise in a rational manner and for a *bona fide* purpose the conduct of proceedings of courts and judges, with the necessity for preventing unfair discussion and comment calculated to lessen confidence in the judicial system and to impair the authority of the courts by exciting misgivings as to the conduct of those exercising judicial office in the matter of their competence or impartiality, remembering that the court will not exercise its summary jurisdiction unless the matter calls for prompt intervention and punishment.

. . .

"A convicted person who appeals against his sentence knows that he does so at the risk of having that sentence increased by the court of appeal. If he were aware that a campaign of vilification was in progress against himself and that newspapers were urging that his sentence was inadequate, this would be calculated to cause him to hesitate before instituting an appeal. He might reasonably fear that he would be sentenced by newspapers rather than by the courts, however groundless such fears might be in reality. It is inescapable that an intending appellant might genuinely feel that he would be prejudiced in the matter of such an appeal, and while it is not to be supposed that the court itself would be influenced by extraneous matters of this nature, still members of the bench are human beings and the difficulties of their task would be very considerably increased and they would be hampered in their consideration of the case."

3. PRIVILEGE AGAINST SELF-INCRIMINATION

EX PARTE GRINHAM: RE SNEDDON

(1961) State Reports (New South Wales) 862
Supreme Court of New South Wales

Unless there is statutory authority in the clearest possible terms, a regulation cannot confer powers repugnant to the privilege against self-incrimination.

Held that regulation 137A of the Regulations for Public Vehicles (New South Wales) was, in so far as it required the furnishing of self-incriminating information and made a failure to supply such information an offence, *ultra vires* the power to make regulations conferred by section 262 (6) of the Transport Act, 1930–1956 (New South Wales).

4. RIGHT TO DETERMINATION OF RIGHTS AND OBLIGATIONS

EX PARTE HERMAN: RE MATHIESON

(1961) 78 Weekly Notes (New South Wales) 6
Supreme Court of New South Wales

At the hearing of a plaint in a court of petty sessions, the magistrate purported to deal with the matter under section 7 of the Small Debts Recovery Act, 1912–1957 (N.S.W.) as a court of equity and good conscience and gave a verdict for the plaintiff in a lesser sum than the amount of the debt proved.

Held that the words "according to equity and good conscience" in section 7 do not give the court power to depart from established principles of law nor do they give it power to dispense justice otherwise than according to law. If a tribunal refuses to apply the law and gives judgement on personal views of what is fair and proper it refuses to administer the law and thereby denies natural justice to a litigant who seeks to have his claim determined according to law. The magistrate's decision should therefore be quashed.

AUSTRIA

PROTECTION OF HUMAN RIGHTS IN LEGISLATION AND JUDICIAL DECISIONS, 1960[1]

A. LEGISLATION (ACTS AND ORDINANCES)

I. FUNDAMENTAL FREEDOMS

1. *Right to own Property*

(*a*) The Second Nationalization Compensation Act (*BGBl.* (*Bundesgesetzblatt*) No. 2/1960) provided for the award of compensation for nationalized participants' rights and for claims arising out of the nationalization of enterprises and industrial undertakings. Ordinance *BGBl.* No. 170/1960, which was issued under this Act, provides that compensation should take the form of federal bonds.

(*b*) Federal Act *BGBl.* No. 287/1960 made certain amendments to the Act respecting reception organizations (*BGBl.* No. 73/1957), which established "collection offices" for the purpose of receiving claims in respect of the property, legal rights and interests referred to in article 26, paragraph 1, of the Austrian State Treaty (cf. reports in previous issues of the *Yearbook*).

2. *Right to a Fair Hearing*

The republication of the Austrian Code of Criminal Procedure (*BGBl.* No. 98/1960) made it possible to make again readily and generally available the regulations therein laid down.

3. *Freedom of Education and Instruction*

This freedom was further extended through the repeal of the Imperial Decree of 17 September 1856 concerning permission to study for public employees (cf. Federal Act *BGBl.* No. 220/1960).

4. *Right to Security and Protection of Physical Integrity*

The detailed provisions of section 5 of the Road Traffic Order, 1960 (*BGBl.* No. 159) guaranteed the protection of this right even where an examination to determine the alcoholic content of the blood is necessary in connexion with traffic offences.

II. CULTURAL RIGHTS

1. Under Federal Act *BGBl.* No. 221/1960 the Federation was bound to make regular payments to the Old Catholic Church. Federal Act *BGBl.* No. 222/1960 contained a similar regulation in respect of the Jewish religious community.

2. In order to promote the highest possible rate of school construction, Federal Act *BGBl.* No. 246/1960 established a fund to finance the building of schools.

III. SOCIAL RIGHTS

1. The Protection of Maintenance Act 1960 (*BGBl.* No. 59) contained new regulations for the protection of legal claims to maintenance, care, education and supervision, in accordance with modern practice.

2. Ordinances *BGBl.* Nos. 48, 71, 158 and 261/1960 extended sickness insurance under the Federal Salaried Employees' Sickness Insurance Act of 1937 to public employees of a number of communes in the Federal Länder of Lower Austria and Styria.

3. The General Social Insurance Act (cf. previous reports) was recently amended in a number of ways by Federal Act. *BGBl.* Nos. 87, 168 and 294/1960.

4. Federal Act *BGBl.* No. 88/1960 amended the Unemployment Insurance Act of 1958 (cf. previous reports).

5. Federal Act *BGBl.* Nos. 167 and 296/1960 amended the Agricultural Supplementary Pensions Insurance Act (cf. previous reports).

6. The Self-employed Persons Pensions Insurance Act (cf. previous reports) was also amended during the course of 1900 (cf. in this connexion Federal Acts *BGBl.* Nos. 169 and 295/1960).

7. Federal Act *BGBl.* No. 239/1960 amended the Family Liabilities Equalization Act and the Children's Allowances Act by increasing the amounts of benefits.

8. An amendment to the Maternity Protection Act (cf. Federal Act *BGBl.* No. 240/1960) made it possible for female domestic staff to take maternity leave.

9. Federal Act *BGBl.* No. 217/1960 provided for the establishment of a war victims' fund.

IV. LEGISLATION RELATING TO ECONOMIC QUESTIONS

The regulations laid down in Federal Act *BGBl.* No. 155/1960 (Agriculture Act) ensure the protection, nourishment and maintenance of an economically sound farming community.

B. JUDICIAL DECISIONS

The decisions of the Constitutional Court concerning fundamental rights and freedoms did not undergo any change in 1960 as compared with previously

[1] Note furnished by the Government of Austria.

reported years. As in previous years, the decisions of the Constitutional Court attributed particular importance to the right to equality before the law. In this matter also, however, no new aspects emerged. Considering the body of the decisions of the Constitutional Court, therefore, only the following warrant special mention:

1. In its decisions of 27 February 1960 (B393/1959) and 13 October 1960 (B17/1960), the Constitutional Court dealt with the question of the right to proceedings before a statutory judge. In the first named decision, the Constitutional Court ruled that an unlawful refusal to deliver judgement infringed the constitutionally guaranteed right to proceedings before the statutory judge. In the second decision, the Constitutional Court indicated that the unlawful non-recognition of the right to be a party to the proceedings amounted to denying a person access to his statutory judge.

2. In its decision of 27 June 1960 (B469/1959), the Constitutional Court ruled that the provisions of article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms[1] did not constitute an immediately effective and applicable right, because this provision of the convention was not, in any event, self-executing.

3. In its decision of 13 October 1960 (Zl. 102/1960), the Court again gave ruling in connexion with a provision of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In this decision, the Constitutional Court ruled that, in the light of the reservation made by Austria which, in the view of the Constitutional Court, was compatible with article 64 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the imposition of administrative penalties under the Administrative Penalties Act of 1950 did not conflict with article 5 of that convention.

[1] See *Yearbook on Human Rights for 1950*, p. 421.

C. INTERNATIONAL AGREEMENTS

I. Cultural Rights

A number of questions relating to property rights between the Republic of Austria and the Catholic Church were settled by an agreement with the Holy See dated 23 June 1960 (*BGBl.* No. 195).

II. Economic Rights

1. The Convention establishing the European Free Trade Association (*BGBl.* No. 100/1960) entered into force for Austria on 3 May 1960.

2. Agreements for the avoidance of double taxation in respect of taxes on income and property were concluded with the Kingdom of Norway and the Kingdom of Sweden (*BGBl.* Nos. 39 and 204/1960).

BELGIUM

NOTE[1]

1. *Act to institute a Guaranteed Weekly Wage. Dated 20 July 1960* (*Moniteur belge* of 22–23 July 1960).

The Act of 20 July 1962 to institute a guaranteed weekly wage is aimed at improving the position of manual workers.

Its purpose is to bring about a gradual narrowing of the gap between the status of the non-manual worker and that of the manual worker by guaranteeing the latter greater security of income.

This Act contains definitive provisions (articles 1 to 13) amending the Act of 10 March 1900 respecting workmen's contracts of service and temporary provisions (art. 14 *et seq.*) as to the payment of wages during the initial days of incapacity for work due to an illness or accident other than an industrial accident.

It is applicable only to workers employed under a contract of service governed by the Act of 10 March 1900.

The definitive provisions concern, *inter alia*:

1. Payment by the employer of the normal wage for a working day which has not been begun or which has been interrupted for reasons beyond the control of the worker;

2. The period of notice to be given by the employer when notice is given to the worker under a system of short-time working;

3. Payment by the employer to the worker of his normal wage during a seven-day period if the contract is suspended as a result of a technical breakdown within the undertaking;

4. Payment by the employer to a woman worker of her normal wage during a seven-day period either at the beginning of the last six weeks of pregnancy or at the beginning of the six weeks following confinement;

5. Payment by the employer of the normal wage during a seven-day period to a worker who has been the victim of an industrial accident or an accident sustained on the way to or from work;

6. Payment by the employer of the normal wage to a worker who is absent from work on the occasion of family events or in order to comply with his civic obligations or carry out his civil duties.

Under the temporary provisions, which are being tried out as an experiment, a worker who is unable to work as a result of an illness or accident other than an industrial accident is entitled to payment of 80 per cent of his normal wage for a period of seven days reckoned from the first day of incapacity for work.

These temporary provisions will remain in force until 31 December 1961 and the King may extend them by orders made after discussion in the Council of Ministers. Such orders shall, however, cease to have effect on 31 December 1964 at the latest.

2. *Act respecting the Compensation payable to Workers dismissed on the Closure of their Undertaking. Dated 27 June 1960* (*Moniteur belge* of 30 June 1960, p. 5042)

The purpose of this Act is to counteract the social repercussions of the closure of an undertaking and to minimize the financial consequences for the workers dismissed.

Under the Act workers dismissed on the closure of their undertakings shall be entitled, if they meet certain requirements, to dismissal compensation ranging from 5,000 to 15,000 francs, depending on their length of service with the undertaking.

3. *Act to amend the Act of 9 July 1926 respecting Probiviral Courts. Dated 12 July 1960* (*Moniteur belge* of 22–23 July 1960, p. 5564)

This Act makes important amendments in the Act of 9 July 1926 respecting probiviral courts, which do not change the structure of such courts but extend their competence and jurisdiction and improve their procedures.

4. *Royal Order of 18 February 1960 amending the General Regulations for the Protection of Labour* (*Moniteur belge* of 24 March 1960, p. 2050)

This royal order represents an important new step forward in improving health conditions for workers.

It supplements and greatly amends a number of provisions of parts II and III of the General Regulations for the Protection of Labour.

It is basically concerned with: protection against the effects of injurious or harmful substances, particularly means of protecting individuals against such substances; work in places likely to contain dangerous gases; means of preventing pollution of the atmosphere in workplaces; health inspection for workers; places

[1] Note furnished by Mr. Edmond Lesoir, Honorary Secretary-General of the International Institute of Administrative Science, government-appointed correspondent of the *Yearbook on Human Rights*.

of work; marking of toxic products; use of volatile solvents; use of beryllium compounds.

5. *Royal Order of 29 November 1959 making compulsory the Decision of 25 May 1959 of the Commission paritaire nationale de l'industrie de l'habillement et de la confection establishing the Status of Trade Union Delegations* (*Moniteur belge* of 8 February 1960)

This royal order makes compulsory the Convention of 25 May 1959 concluded in implementation of the national agreement signed at the national labour conference of 16 and 17 June 1947 concerning the general principles governing the status of trade union delegations of the personnel of undertakings.

6. *Ministerial Order of 5 January 1960 to amend the Ministerial Order of 20 March 1956 concerning the Engagement of Unemployed Workers by the Provinces, the Communes and Public Institutions* (*Moniteur belge* of 26 January 1960, p. 465)

This ministerial order is aimed at filling a gap by granting to unemployed persons who have been given work by public authorities or institutions and their beneficiaries advantages equivalent to those extended to workers by the legislation covering occupational diseases.

7. *Various Decisions of Commissions paritaires made compulsory by a Royal Order reducing Working Hours in Certain Sectors*

The sectors in question include the following: Manufacture of arms by hand (royal order of 7 April 1960, *Moniteur belge* of 21 May 1960, p. 3845); laundries and dye-works (royal order of 24 June 1960, *Moniteur belge* of 27–28 May 1960, p. 4019); timber (royal order of 21 November 1960, *Moniteur belge* of 2 November 1960, p. 9156); Brickworks (royal order of 14 June 1960, *Moniteur belge* of 29 July 1960, p. 5756); Ceramics (royal order of 10 April 1960, *Moniteur belge* of 12 September 1960, p. 6834); Cinema (royal order of 21 March 1960, *Moniteur belge* of 5 April 1960, p. 2506); Food trade (royal order of 27 January 1960, *Moniteur belge* of 8 February 1960, p. 779); Women's clothing (royal order of 19 May 1960, *Moniteur belge* of 30 May 1960, p. 4053); Skins and hides (royal order of 12 February 1960, *Moniteur belge* of 1 March 1960, p. 1344); Furs and pelts (royal order of 22 June 1960, *Moniteur belge* of 6 August 1960, p. 5954); Printing and graphic arts (royal order of 27 July 1960, *Moniteur belge* of 9 September 1960, p. 6769); Food industry (royal order of 19 January 1960, *Moniteur belge* of 26 January 1960, p. 455); Glass (royal order of 4 May 1960, *Moniteur belge* of 1 July 1960, p. 5099).

BRAZIL

NOTE

1. Act No. 3764 of 25 April 1960 (*Diario Oficial* of 28 April 1960, section I; corrigenda in *Diario Oficial* of 3 May 1960, section I) set up a summary procedure for having corrections made in the civil register. The procedure could be set in motion by either the interested person or his lawyer. No fees were to be charged if the interested person was recognized as being a needy person or if the error in the civil register was committed by the official in charge.[1]

[1] Summary by the United Nations Secretariat of the text drawn to its attention by Dr. Carlos Medeiros Silva, Procurator-General of Brazil, government-appointed correspondent of the *Yearbook on Human Rights*.

2. Act No. 3807 of 26 August 1960 (*Diario Oficial* of 5 September 1960, section I) promulgated a Social Insurance Act, of which the purpose, according to its article 1, was to be "to ensure that the persons covered thereby have the essential means of support in the event of the old age, incapacity, long service, imprisonment or death of the persons on whom they are financially dependent, and to provide services for the protection of their health and the improvement of their living conditions." Translations of the Act into English and French have appeared in *Legislative Series 1960* — Bra. 1, published by the International Labour Office.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC[1]

ACT AMENDING ARTICLE 94 OF THE CONSTITUTION (FUNDAMENTAL LAW) OF THE BYELORUSSIAN SSR

of 28 July 1960

In connexion with the USSR Act concerning the completion in 1960 of the changeover to a seven- or six-hour working day for all manual and non-manual workers of May 1960, the Supreme Soviet of the Byelorussian Soviet Socialist Republic resolves to amend article 94 of the Constitution of the Beylorussian SSR accordingly, to read as follows:

"Article 94. Citizens of the Byelorussian SSR have the right to rest and leisure.

"The right to rest and leisure is ensured by the establishment of a seven-hour working day for manual and non-manual workers, the reduction of the working day to six hours for arduous trades and to four hours in shops where working conditions are particularly arduous, the institution of annual vacations with full pay for manual and non-manual workers and the provision of a wide network of sanatoria, rest-homes and clubs for the accommodation of the working people."

ACT CONCERNING THE ADOPTION OF THE CRIMINAL CODE OF THE BYELORUSSIAN SSR

of 29 December 1960

The Supreme Soviet of the Byelorussian Soviet Socialist Republic hereby resolves:

Art. 1. To adopt the Criminal Code of the Byelorussian SSR, which shall enter into force as of 1 April 1961.

Art. 2. To establish that in respect of periods of deprivation of liberty, article 23 of the Criminal Code of the Byelorussian SSR shall not apply to persons who were convicted before the adoption of the principles of the criminal legislation of the USSR and the Union Republics on 25 December 1958, of particularly serious offences against the State, as provided in chapter six of the special section of the Criminal Code of the Byelorussian SSR, or of banditry, premeditated murder with aggravating circumstances, large-scale misappropriation of state or public property, or robbery.

Art. 3. To request the Presidium of the Supreme Soviet of the Byelorussian SSR to make provision for the entry into force of the Criminal Code of the Byelorussian SSR and to compile a list of legislative acts of the Byelorussian SSR rendered inoperative by the entry into force of the Criminal Code of the Byelorussian SSR.

CRIMINAL CODE OF THE BYELORUSSIAN SSR

EXTRACTS

Art. 1. The Purposes of the Criminal Code of the Byelorussian SSR

The purpose of the Criminal Code of the Byelorussian SSR is to protect the Soviet social and state system, socialist property, the person and rights of citizens and in general socialist law and order from criminal encroachment.

To this end, the Criminal, Code of the Byelorussian SSR defines which acts endangering the well-being of society are criminal and establishes penalties to be imposed on persons committing these offences.

Art. 3. Grounds of Criminal Responsibility

Only persons guilty of crimes, that is, persons having by intent or negligence committed acts described in criminal law as endangering the well-being of society, shall be held criminally responsible and liable to penalty.

[1] Texts furnished by the Government of the Byelorussian Soviet Socialist Republic.

A criminal penalty shall be imposed only by sentence of the court.

Art. 6. Effect of Criminal Legislation ratione temporis

The criminal character of an act, and whether it is punishable, is determined by the law in force at the time when the offence was committed.

A law abolishing liability to penalty for a given offence, or mitigating the penalty therefor, shall be retroactive, that is, it shall apply also to offences committed before its coming into force.

A law establishing liability to penalty for a given offence, or increasing the penalty therefor, shall not be retroactive.

Art. 7. The Concept of Crime

Any act (of commission or omission) defined in criminal law as endangering the well-being of society and encroaching upon the Soviet social or state system, the socialist economic system, socialist property, the person or the political, labour, property and other rights of citizens, as well as any other act encroaching on socialist law and order defined in criminal law as an act endangering the well-being of society shall be deemed to be a crime.

Any act of commission or omission which presents certain features of a crime defined in the Criminal Code but which is so insignificant as to constitute no danger to society shall not be deemed to be a crime.

Art. 10. The Responsibility of Minors

Persons who commit a crime after attaining the age of sixteen years shall be held criminally responsible.

Persons who commit a crime between the ages of fourteen and sixteen shall be held criminally responsible only for murder (articles 100–104), wilful infliction of bodily injury resulting in damage to health (articles 106–109, 110, first part), rape (article 115), assault and robbery (articles 89 and 143), robbery (articles 88 and 142), theft (articles 87 and 141), vandalism (article 201, second part), intentional destruction of, or damage to, state or public property or the private property of individual citizens, where the destruction or damage caused has serious consequences (article 96, second part, and article 146, second part), and for intentional acts likely to cause railway accidents (article 83).

If the court finds that a person who, before attaining the age of eighteen, has committed a crime which does not seriously endanger the well-being of society can be reformed without the imposition of a criminal penalty, it may apply in respect of such a person compulsory educative measures, which do not constitute penalty for crime (article 60), or it may absolve a minor from criminal responsibility and remand him to a commission on juvenile affairs which shall consider whether compulsory educative measures should be applied to him.

Art. 20. The Purposes of Punishment

Punishment is not only retribution for a crime committed, but is intended to reform and re-educate convicted persons so as to instil into them an honest attitude towards work, strict compliance with the laws and respect for the principles of socialist society, and also to prevent the commission of further crimes both by convicted persons and by other persons.

Punishment is not intended to inflict physical suffering or personal humiliation.

Art. 52. Reprieve and Mitigation of Sentence for Persons committing Crimes before attaining the Age of Eighteen

Where a person sentenced to deprivation of liberty or correctional labour for a crime committed before he had attained the age of eighteen has by exemplary behaviour and an honest attitude towards work and training given proof that he has been reformed, the court may, after the convicted person has served not less than one-third of his sentence:

(1) Grant him a conditional reprieve, in cases where the reprieve is granted after he has already attained the age of eighteen, or

(2) Grant him an unconditional reprieve, in cases where the reprieve is granted before he has attained the age of eighteen, or

(3) Substitute a less severe penalty for the uncompleted portion of his sentence.

Art. 71. Infringement of Equality of Rights on Grounds of Nationality or Race

Any propaganda or agitation aimed at inciting racial or national enmity or discord, or any direct or indirect restriction of the rights of, or any establishment of direct or indirect privileges for, citizens on account of their race or nationality shall be punishable by deprivation of liberty for a term of six months to three years or by local banishment for a term of two to five years.

Section 9

CRIMES AGAINST THE POLITICAL, LABOUR, HOUSING AND OTHER RIGHTS OF CITIZENS

Art. 130. Prevention of the Exercise of the Right to Vote

The prevention, by means of force, fraud, threats or bribery, of the exercise by a citizen of the USSR of his right to vote shall be punishable by deprivation of liberty for a term not exceeding two years or by corrective labour for a term not exceeding one year.

Art. 131. Forgery of Ballot Papers, Incorrect Tally of the Votes Cast or Breach of the Secrecy of the Ballot

The forging of ballot papers or the wilful miscounting of the votes cast, or any breach of the secrecy of the ballot, committed by a member of the electoral commission or other official, shall be punishable by deprivation of liberty for a term not exceeding

two years or by corrective labour for a term not exceeding one year.

Art. 132. Infringement of the Inviolability of the Homes of Citizens

Any unlawful search, or unlawful eviction, or other unlawful actions infringing the inviolability of the homes of citizens shall be punishable by deprivation of liberty for a term not exceeding one year or by corrective labour for the same period, or by a fine not exceeding fifty roubles, or by dismissal from employment, or shall entail the imposition of measures of social suasion.

Art. 133. Violation of the Legal Rights of Trade Unions

Prevention of the lawful activities of trade unions or their organs shall be punishable by corrective labour for a term not exceeding one year or by a fine not exceeding 100 roubles or by dismissal from employment.

Art. 134. Violation of Labour Legislation

The unlawful dismissal of a worker from his employment for personal motives, non-compliance with court decisions for the reinstatement of a worker in his employment, or any other substantial and intentional violation of labour legislation committed by an official of a state or public enterprise or institution shall be punishable by corrective labour for a term not exceeding one year or by dismissal from employment.

Art. 135. Violation of the Privacy of Correspondence

Any violation of the privacy of the correspondence of citizens shall be punishable by corrective labour for a term not exceeding six months, or by a fine not exceeding thirty roubles, or by public reprobation or shall entail the imposition of measures of social suasion.

Art. 136. Refusal to employ, or Dismissal of, a Pregnant Woman or Nursing Mother

Refusal to employ, or dismissal from employment of, a woman on the ground of pregnancy and refusal to employ, or dismissal from employment of, a nursing mother because of her condition shall be punishable by corrective labour for a term not exceeding one year or by dismissal.

Art. 137. Violation of Industrial Safety Regulations

Any violation by an official of the regulations concerning safety precautions, industrial sanitation or other regulations to ensure safety of labour, which is likely to cause accidents to persons or other serious consequences shall be punishable by deprivation of liberty for a term not exceeding one year or by corrective labour for the same period or by a fine not exceeding 100 roubles or by dismissal from employment.

If such violation results in bodily injury or the loss of the ability to work, it shall be punishable by deprivation of liberty for a term not exceeding three years or by corrective labour for a term not exceeding one year.

If the violation mentioned in the first paragraph of this article causes the death of any individual or serious bodily injury to several individuals, it shall be punishable by deprivation of liberty for a term not exceeding five years.

Art. 138. Infringement of the Rights of Authors and Inventors

The publication by any person under his own name of the scientific, literary or musical work or a work of art, of another, the misappropriation of the authorship of such a work, or the unlawful reproduction or distribution of such a work, and also coercing another person to appear as co-author, shall be punishable by corrective labour for a term not exceeding one year, or by a fine not exceeding 500 roubles, or shall entail the imposition of measures of social suasion.

The public announcement of an invention before its registration without the consent of the inventor, the misappropriation of the authorship of an invention, the coercion of another person to appear as co-inventor, and the misappropriation of the authorship of any suggestion for the rationalization of the process of work, shall be punishable by corrective labour for a term not exceeding one year or by a fine not exceeding 500 roubles, or shall entail the imposition of measures of social suasion.

Art. 139. Violation of the Laws concerning the Separation of the Church from the State and the School from het Church

Any violation of the laws concerning the separation of the church from the State and the school from the church shall be punishable by corrective labour for a term not exceeding one year or by a fine not exceeding fifty roubles.

Art. 140. Prevention of the Celebration of Religious Rites

The prevention of the celebration of religious rites, where such rites do not infringe law and order and are not accompanied by any encroachment on the right of citizens, shall be punishable by corrective labour for a term not exceeding six months or by public reprobation.

ACT CONCERNING THE ADOPTION OF THE CODE OF CRIMINAL PROCEDURE OF THE BYELORUSSIAN SSR

of 29 December 1960

The Supreme Soviet of the Byelorussian Soviet Socialist Republic hereby resolves:

Art. 1. To adopt the Code of Criminal Procedure of the Byelorussian SSR, which shall enter into force as of 1 April 1961.

Art. 2. To request the Presidium of the Supreme Soviet of the Byelorussian SSR to make provision for the entry into force of the Code of Criminal Procedure of the Byelorussian SSR and to compile a list of legislative acts of the Byelorussian SSR rendered inoperative by the entry into force of the Code of Criminal Procedure of the Byelorussian SSR.

CODE OF CRIMINAL PROCEDURE OF THE BYELORUSSIAN SSR

EXTRACTS

Art. 2. Purposes of Criminal Procedure

The purposes of Soviet criminal procedure are the rapid and complete detection of crime, the conviction of guilty persons and the correct application of the law to ensure that, while all persons who have committed crimes are awarded a just punishment, no innocent person is charged with and convicted of a crime.

Criminal procedure is also designed to promote the consolidation of socialist law, the prevention and elimination of crime and the education of citizens to induce in them strict compliance with Soviet laws and respect for the principles of community life in a socialist society.

Art. 4. Inadmissibility of preferring Charges against Persons except on the Grounds Specified by the Law and in Accordance with the Statutory Procedure

Charges may not be preferred against any person except on the grounds specified by the law and in accordance with the statutory procedure.

Art. 7. Inviolability of the Person

No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

The procurator shall without delay release any person who is unlawfully detained, or detained for a period exceeding that prescribed by the law or by sentence of a court.

Art. 8. Administration of Justice by the Courts alone

The courts alone have power to administer justice in criminal cases. No person may be found guilty of a crime and sentenced to a penalty, except by decision of a court.

Art. 9. Administration of Justice on the Principle of the Equality of Citizens before the Law and before the Court

In criminal cases justice is administered on the principle of the equality before the law and before the courts of all citizens, irrespective of their social, property or occupational status, nationality, racial origin or religion.

Art. 10. The Participation of People's Assessors, and the Hearing of all Cases by a Full Court

In all courts, criminal cases shall be heard by judges and people's assessors, elected in accordance with the statutory procedure.

In all courts of first instance, criminal cases shall be heard by a judge and two people's assessors.

In judicial proceedings, the people's assessors shall enjoy the same rights as the presiding judge in deciding all matters which arise in the hearing of the case and pronouncement of sentence.

Appeals shall be heard by courts consisting of three members, and retrials at the demand of the supervisory authorities by courts consisting of not less than three members.

Art. 11. Independence of Judges, who shall be Subject only to the Law

In the administration of justice in criminal cases, judges and people's assessors shall be independent and subject only to the law. Judges and people's assessors shall decide criminal cases on the basis of the law, in accordance with the socialist concept of justice, and under conditions which preclude the exercise of any extraneous influence upon them.

Art. 12. Language in which Judicial Proceedings are conducted

Judicial proceedings in the Byelorussian SSR shall be conducted in the Byelorussian or the Russian language.

Persons not knowing the language in which judicial proceedings are conducted shall be guaranteed the right to make statements, give evidence, address the court and make submissions in their own language, and also to make use of the services of an interpreter according to the procedure laid down in this code.

Copies of documents submitted during the preliminary investigation and the trial, translated into the native language of the accused, or into another language which he understands, shall, in accordance with the procedure laid down in this Code, be handed to the accused.

Art. 13. Hearing of Cases in Public

In all courts, cases shall be heard in public, except where a public hearing might prejudice the security of state secrets.

A court may also decide to sit *in camera*, provided that it states its reasons for so doing, to hear cases relating to crimes committed by persons who have not attained the age of sixteen, or cases relating to sexual crimes, or other cases where it is desired to avoid public discussion of intimate details of the lives of persons concerned.

In all cases, the sentence of the court shall be pronounced in public.

Art. 14. The Right of the Accused to Defence

The accused shall have the right of defence.

The court, the procurator, the investigator and the examining official shall provide the accused with the opportunity of defending himself according to the statutory procedure against the charge preferred against him, and shall ensure the protection of his personal and property rights.

Art. 15. Exhaustive, Complete and Objective Investigation of the Circumstances of the Case

The court, the procurator, the investigator and the examining official shall take all steps prescribed by the law to ensure an exhaustive, complete and objective investigation of the circumstances of the case, and shall ascertain the circumstances adverse to and in favour of the accused and all other circumstances, whether aggravating or extenuating.

Neither the court, nor the procurator, nor the investigator nor the examining official shall place responsibility for proving his innocence on the accused.

Evidence shall not be extracted from the accused by force, threats or other unlawful methods.

Art. 16. Disqualification of the Judge, Procurator or Other Participants in the Proceedings

A judge, people's assessor, procurator, investigator, examining official, secretary of the court, expert or interpreter who has a personal interest, whether direct or indirect, in the case, may not take part in the criminal proceedings and shall withdraw from the case.

Art. 18. Supervisory Functions of Procurators in Criminal Procedure

In accordance with article 20 of the Principles of Criminal Procedure in the USSR and the Union Republics:

The Procurator-General of the USSR shall exercise supervision, both directly and through the Procurator of the Byelorussian SSR and other procurators under his authority, to ensure strict observance of the laws of the USSR and the laws of the Byelorussian SSR, in criminal proceedings.

At all stages of criminal proceedings, the procurator shall take immediate steps in the manner prescribed by statute to remedy any violations of the law, whosoever may be responsible for them.

The procurator shall exercise his powers in criminal proceedings independently of any organs or officials, shall be subject only to the law and shall be guided by the instructions of the Procurator-General of the USSR.

Decisions of the procurator, pronounced in accordance with the law, shall be binding on all institutions, undertakings, organizations, officials and citizens.

Art. 48. The Accused

"The accused" means a person who has been summoned by the authorities, in accordance with the procedure laid down in this Code, to answer charges preferred against him. After the accused has been committed for trial he is referred to as "the defendant", and after a verdict of guilty has been pronounced, as "the convicted person".

The accused shall be entitled to be informed of the charge preferred against him, and to submit statements in explanation thereof; to give evidence; to make submissions; on completion of the preliminary investigation or inquiry, to inspect all the records of the case; to make use of the services of defending counsel from the time specified in article 49 of this Code; to be present at the hearing by the court of first instance; to challenge participants in the proceedings; to lodge complaints against the actions and decisions of the examining official, the investigator, the procurator and the court.

The defendant shall be entitled to the last word.

Art. 49. Participation of Defending Counsel in Criminal Proceedings

Defending counsel shall be permitted to participate in the case from the time when the accused is informed that the preliminary investigation has been completed, and the records are forwarded to the accused for his information.

In cases relating to crimes committed by minors, or persons who by reason of their physical or mental disabilities are unable to exercise their right to defend themselves, defending counsel shall be permitted to take part in the case from the time when the charge is preferred.

In cases in which no preliminary investigation is conducted, defending counsel shall be permitted to participate from the time when the accused is committed for trial.

Lawyers and representatives of trade unions and other public organizations may act as defending counsel.

By a decision of the court or a ruling of the judge, close relatives and legal representatives of the accused, or other persons, may act as defending counsel.

The same person may not act as defending counsel for two accused persons if the interests of the defence of one accused conflict with the interests of the other.

Art. 60. Duty to explain their Rights to all Persons concerned in the Case

The court, the procurator, the investigator and the examining official are under a duty to explain to all persons concerned in the case what rights they enjoy and to ensure that they are able to exercise these rights.

Art. 114. Supervision by the Procurator to ensure Observance of the Law in the Institution of Criminal Proceedings

The procurator shall exercise supervision to ensure that criminal proceedings are instituted in accordance with the law.

If proceedings are instituted by the investigator or agency of inquiry without legal grounds or justification the procurator shall, on his own initiative, rescind the decision of the investigator or the agency of inquiry and refuse permission to institute criminal proceedings, or terminate the proceedings if the investigation in connexion with them has been carried out.

In the event of an unwarranted refusal to institute proceedings the procurator shall, on his own initiative, rescind the decision taken to that effect by the investigator or agency of inquiry and shall institute the proceedings.

If proceedings are instituted by an order of the judge or a decision of the court without legal grounds or justification, or in the event of unwarranted refusal by an order of the judge or a decision of the court to allow the institution of proceedings, the procurator shall lodge a protest with a higher court.

Art. 238. Provision of an Opportunity to consult the Records of the Case

After the accused has been committed for trial, the judge shall provide the procurator, the defendant, his counsel, and also the injured party, the complainant, the respondent or their representatives, with an opportunity to consult all the records of the case and to transcribe the necessary particulars from them.

If a request is submitted by a public organization or a workers' collective for their representative to be allowed to consult the records of the case before the court meets, the judge may, after verifying the credentials of that representative, permit him to consult the records of the case.

Art. 243. Equality of Rights of all Participants in the Proceedings

The prosecutor, the defendant, the defending counsel and also the injured party, the complainant and the respondent and their representatives, shall all have equal rights with regard to giving evidence, examining the evidence and making submissions.

Art. 334. Right to appeal and to contest the Verdict

The defendant, his counsel and legal representative, and also the injured party and his representative shall be entitled to appeal against the verdict of the court.

The procurator is in duty bound to contest all verdicts pronounced unlawfully or without sufficient grounds.

The complainant, the respondent and their representatives shall be entitled to appeal against the verdict in so far as it relates to a civil action.

A person acquitted by the court may lodge an appeal against the statement of reasons and the grounds of the acquittal.

Verdicts of the Supreme Court of the Byelorussian SSR may not be appealed against or contested.

Art. 348. Incompetence of Courts of Appeal to impose a more severe Penalty on a Convicted Person, or to apply a Law relating to a more serious Crime

After hearing an appeal, the court may impose a less severe penalty than that imposed by the court of first instance, or may apply a law relating to a less serious crime; but it is not competent to impose a more severe penalty, or to apply a law relating to a more serious crime.

A verdict may be set aside on account of the need to apply a law relating to a more serious crime or on account of the leniency of the penalty only in cases where the procurator has lodged a protest or the injured party or his representative has lodged a complaint on those grounds.

ACT CONCERNING THE PROCEDURE FOR THE RECALL OF DEPUTIES TO THE REGIONAL, DISTRICT, CITY, SETTLEMENT AND RURAL SOVIETS OF WORKING PEOPLE'S DEPUTIES OF THE BYELORUSSIAN SSR

of 28 July 1960

The right to recall a deputy, as one of the fundamentals of socialist democracy, established in the Soviet State as a result of the great October Socialist Revolution, is an expression of the sovereignty of

the workers, and guarantees the genuine responsibility of the deputy to the electors. Accordingly, the Supreme Soviet of the Byelorussian Soviet Socialist Republic, in conformity with article 117 of the Constitution of the Byelorussian SSR, *resolves:*

Art. 1. A deputy to the regional, district, city, settlement or rural Soviet of working people's deputies of the Byelorussian SSR may be recalled at any time, by decision of a majority of the electors in his electoral district, if he has failed to justify their confidence in him or has been guilty of actions unworthy of the high office of deputy.

Art. 2. The right to move the recall of a deputy to a regional, district, city, settlement or rural Soviet of working people's deputies shall be enjoyed by public organizations and workers' associations (Communist Party organizations, trade unions, co-operative organizations, youth organizations and cultural associations) through their central, republic, regional, district or urban organs; by general meetings of manual and non-manual workers, held in their undertakings, work-shops or establishments; of peasants, held at their collective farms, in their work-groups or in their villages, and of members of the armed forces, held in their units or sub-divisions; and by meetings of electors, if the meetings are attended by not less than one-third of the total electorate in the electoral district concerned.

Art. 3. Public organizations or meetings of working people which move the recall of a deputy shall inform the deputy to that effect, stating the reason for their action.

The deputy shall have the right to submit to the public organization or meeting of working people which moves his recall an oral or written statement concerning the circumstances giving rise to the motion for his recall.

Art. 4. Motions passed by public organizations or meetings of working people for the recall of a deputy shall be transmitted to the executive committee of the Soviet of working people's deputies concerned.

The executive committee of the Soviet of working people's deputies shall examine the material submitted and, if the recall of the deputy has been moved in conformity with the requirements of this Act, it shall order a ballot on the matter.

Art. 5. The motion for the recall of a deputy to the regional, district, city, settlement or rural Soviet of working people's deputies shall be discussed and voted upon at meetings of the electors of the electoral district concerned, called by the public organizations mentioned in article 2 of this Act, and held in the undertakings, workshops, establishments, collective farms, work-groups, villages, military units and sub-divisions, or places of residence of the said electors.

The vote on the motion for the recall of the deputy shall be taken by a show of hands.

Art. 6. After the executive committee of the Soviet of working people's deputies concerned has ordered a ballot on the recall of the deputy, every public organization and every citizen of the Byelorussian SSR shall have the right freely to campaign for or against the recall of the deputy, in accordance with article 100 of the Constitution of the Byelorussian SSR.

Art. 7. In order to ensure due compliance with the provisions of this Act in the conduct of the ballot on the recall of a deputy, and in order to determine the results of such ballot, a district committee comprising representatives of public organizations and associations and general meetings of working people, and consisting of a chairman, a deputy chairman and two to four members, shall be set up in the electoral district concerned.

The district committee in charge of the ballot on the recall of a deputy shall be confirmed by the executive committee of the Soviet of working people's deputies concerned.

Art. 8. The minutes of the meeting of electors shall indicate the time and place of the meeting, the number of electors present, and the number of votes cast for and against the recall of the deputy.

The minutes of the meeting of electors shall be signed by all the officers of the meeting and shall be transmitted within three days to the district committee in charge of the ballot on the recall of the deputy.

Art. 9. On the basis of the minutes of meetings of electors, the district committee in charge of the ballot on the recall of the deputy shall count the votes cast in the district for and against the recall of the deputy, determine the results of the ballot and transmit a report on the results of the ballot on the recall of the deputy to the executive committee of the Soviet of working people's deputies concerned.

Art. 10. A deputy to the regional, district, city, settlement or rural Soviet of working people's deputies shall be considered to have been recalled if a majority of the electors of his electoral district has voted for his recall.

Art. 11. The results of the ballot on the recall of a deputy to the regional, district, city, settlement or rural Soviet of working people's deputies shall be published by the district committee in charge of the ballot on the recall of the deputy not later than five days after they have been determined.

Art. 12. Complaints of violations of this Act in the conduct of the ballot on the recall of a deputy shall be examined by the district committee in charge of the ballot on the recall of the deputy.

Complaints of irregularities on the part of the district committee in charge of the ballot on the recall of a deputy shall be examined by the executive committee of the Soviet of working people's deputies concerned.

ACT CONCERNING THE STATE BUDGET OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC FOR 1960

of 20 November 1959

The Supreme Soviet of the Byelorussian Soviet Socialist Republic resolves:

Art. 1. To approve the state budget of the Byelorussian SSR for 1960 submitted by the Council of Ministers of the Byelorussian SSR, together with the amendments adopted on the report of the Budget Commission of the Supreme Soviet of the Byelorussian SSR, providing for total revenue and expenditure of 11,278,911,000 roubles.

Art. 2. To establish the revenue from state and co-operative undertakings and organizations under the state budget of the Byelorussian SSR for 1960 at the sum of 10,163,558,000 roubles.

Art. 3. To provide under the state budget of the Byelorussian SSR for 1960 for the investment of the sum of 5,395,151,000 roubles in the national economy — for the further development of heavy industry, the building industry, light industry and the food industry, agriculture, transport, housing and communal services and other branches of the national economy.

Art. 4. To appropriate under the state budget of the Byelorussian SSR for 1960 funds totalling 5,271,371,000 roubles for social and cultural expenditure — general education schools, specialized secondary schools, higher educational establishments, scientific research institutes, factory training schools, libraries, clubs, theatres, the press and other educational and cultural activities; hospitals, crèches, sanatoria and other public health and physical culture establishments; pensions and allowances. . . .

FULFILMENT OF THE STATE PLAN FOR THE DEVELOPMENT OF THE NATIONAL ECONOMY OF THE BYELORUSSIAN SSR IN 1960

The following information illustrates the development of industry and agriculture, the increase in capital construction and the improvement in the material well-being and cultural level of people in 1960, the second year of the seven-year plan:

Industry

The 1960 state plan for the gross output of industry as a whole in the Byelorussian SSR and of industry operating under the authority of the National Economic Council of the Byelorussian SSR was fulfilled to the extent of 104 per cent. The Central Board of Local Industry of the Council of Ministers of the Byelorussian SSR fulfilled the annual plan to the extent of 103 per cent.

The annual plan envisaged an increase of 8.6 per cent in industrial production, but in actual fact the volume of aggregate industrial production in the Republic in 1960 increased by more than 12 per cent over 1959; the corresponding figure for industries of the Byelorussian SSR was 14 per cent.

The development of heavy industry continued.

The increase in gross output in particular branches of state industry is shown by the following figures:

	1960 (expressed as a percentage of 1959)
Production of electric and thermal energy	120
Machine building and metalworking industry	126
Timber, paper and woodworking industry	107
Chemical industry	120
Building materials industry	122
Light industry	109
Included in the above:	
Textile industry	111
Leather, fur and footwear industry	107
Food industry	110
Included in the above:	
Meat products industry	113
Milk and dairy products industry	114

The output of basic types of industrial production in 1960 is shown by the following figures:

	1960 (expressed as a percentage of 1959)
Electrical energy	116
Peat briquettes	160
Steel	115
Rolled metal	104
Machine tools	102
Automobiles	105
Tractors	114
Agricultural machinery	126
Silage combine-harvesters	119
Electrical overhead travelling cranes	129

	1960 (expressed as a percentage of 1959)
Electric motors up to 100 kw.	118
Power transformers	149
Gas stoves	285
Cement	120
Building brick (not including collective farm production)	103
Reinforced-concrete components and sub-assemblies (major producers)	141
Gypsum	114
Slate	105
Soft roofing materials	103
Heating radiators	128
Window glass	102
Matches	116
Paper	106
Cardboard	105
Clocks and watches	149
Motorcycles	124
Domestic sewing machines	133
Wireless sets, radio-gramophones, television sets	147
Upright pianos	123
Furniture	125
Glass wool	113
Artificial fibre	152
Cotton fabrics	110
Linen fabrics	104
Woollen fabrics	161
Silk fabrics	117
Carpeting	116
Hosiery	104
Knit underwear	108
Knitwear	112
Leather footwear	107
Granulated sugar	146
Confectionery products	100.2
Meat processed industrially (not including the output of collective farms and domestic production)	112
Sausages	109
Animal fats produced industrially (not including the output of collective farms and domestic production)	111
Vegetable oils	105
Whole-milk products in milk equivalent	120
Canned goods	124
Macaroni and similar products	105

During 1960 the Republic's industrial undertakings continued to put into effect measures for the development and inculcation of new techniques and made further efforts to perfect and put into production new and more advanced types of machines and equipment. Thus, for example, the Byelorussian motor vehicle plant began in 1960 the production of 40-ton "MAZ-530" dump-trucks and produced an experimental model of a "MAZ-525G" cab-truck for hauling a 54-ton semi-trailer. New types of transformers, wireless-sets and electrical appliances were put into production in the undertakings of the Board of the Electrotechnical and Instrument-manufacturing Industry.

A number of measures for the mechanization and automation of production methods and the inculcation of new production techniques have been carried out. In 1960, in the undertakings of the Board of Machine and Machine-tool Construction of the National Economic Council of the Byelorussian SSR more than forty mechanized assembly lines and conveyor belts were installed; about 900 units of metal-cutting and forging-press equipment were modernized; and more than 360 highly productive specialized and assembly tools, automatic and semi-automatic machines, and fourteen machines with programmed control were put into production. In light industry undertakings, more than 1,000 pieces of new technological equipment were put into use in 1960, while some 2,000 pieces of equipment were modernized.

There was an upsurge in the creative activity of inventors and efficiency experts, reflected in 1960 in the submission of tens of thousands of valuable proposals, of which more than 50,000 were applied in production, making it possible to affect savings of over 20 million roubles a year (here and below all figures are expressed in terms of the new price scale).

The plan for increasing the productivity of labour in industry was overfulfilled; in comparison with 1959, the productivity of labour in the Republic as a whole and in the industries operating under the authority of the Council of Ministers of the Byelorussian SSR increased by 7 per cent, at a time when the working day for manual and non-manual workers in all branches of industry was shortened.

The plan for the reduction of the cost of industrial production for 1960 was over-fulfilled. Over and above the amounts envisaged in the plan, savings resulting from the reduction of production cost for all industrial production amounted to approximately 20 million roubles.

Agriculture

The total area of cultivated land under agricultural crops in 1960 was 5,664,000 hectares, representing an increase of 49,000 hectares over 1959 and of 535,000 hectares over 1953. The area under fodder crops in 1960 was 1,603,000 hectares, an increase of 127,000 hectares over 1959 and of 1,053,000 hectares over 1953. The area planted with maize in 1960 (521 hectares) exceeded the 1959 figure by 229,000 hectares, and had thus almost doubled. On the basis of preliminary figures, the total grain harvest in the Republic in 1960 exceeded the 1959 figure by 3,540,000 cwt, or 18 per cent; the harvest of flax fibre by 281,000 cwt, or 50 per cent; of sugar beets by 618,000 cwt, or 20 per cent; of potatoes by 12 million cwt, or 13 per cent; of vegetables by 2,722,000 cwt, or 50 per cent; and of green maize ensilage (including ears at the milk stage) by 68,446,000 cwt, or almost 100 per cent.

The state plan for the purchase of grain, vegetables and fruit was fulfilled ahead of schedule. Over and above the planned amounts, 2,800 tons of grain, 18,000 tons of vegetables and 23,000 tons of fruit were sold to the State. Purchases of potatoes in

1960 exceeded those of 1959 by 311,000 tons; those of vegetables by 66,000 tons; those of flax fibre by 5,000 tons; and those of sugar beets, by 64,000 tons.

The production of meat and fats (at dressed weights) during 1960 in collective and state farms increased by 12 per cent as against 1959, while milk production rose by 15 per cent. In comparison with 1953, the production of meat in the collective and state farms increased 2.4 times, and that of milk 4.3 times.

In 1960 the stock of cattle in the collective and state farms increased by 16 per cent, that of cows by 12 per cent and that of pigs by 7 per cent over the 1959 figures. In comparison with 1953, the number of cattle increased 1.9 times, of cows 2.3 times and of pigs three times.

In 1960 the collective and state farm production of fodder exceeded 1959 production; stores silage amounted to 10,384 tons, an increase of more than 3,540,000 tons (including 9,310,000 tons of stored maize silage, an increase of more than 3,269,000 tons over 1959). In the past year total silage stored per head of cattle amounted to 13 tons, 12 tons thereof being maize silage.

In comparison with 1953, state purchases of cattle and poultry from all categories of farms in 1960 increased by 189,000 tons, milk by 743,000 tons and eggs by 76 million. In comparison with 1959, state purchases of cattle and poultry increased by 23,000 tons, milk by 127,000 tons, and eggs by 13 million.

In 1960 the collective and state farms and other governmental farms supplied 85 per cent of the total purchases of cattle and poultry, 95 per cent of the total purchases of milk, and 80 per cent of the total purchases of wool.

The collective and state farms continued to increase their material and technical assets in 1960. During the year they purchased 3,138 new tractors (physical units), 604 grain combines, 1,991 lorries and many other agricultural machines, implements and pieces of equipment.

Capital Construction

The total volume of capital investment by state and co-operative organizations in the Republic (not including collective farms) amounted in 1960 to 592 million roubles and exceeded that of 1959 by 10 per cent. The volume of capital investment by undertakings and organizations operative under the authority of the Council of Ministers of the Byelorussian SSR amounted to 499 million roubles and was 8 per cent higher than in 1959. In addition, considerable capital was invested in the collective farms.

Capital investment by the State in industry as a whole increased by 15 per cent as against 1959; in particular, investment in the oil industry rose by 32 per cent; in machine building, by 25 per cent; in the radio-engineering industry, by 100 per cent; in the chemical industry, by 43 per cent; in the construction and construction materials industry, by 8 per cent; in the timber, paper and wood-working industry, by 20 per cent; in light industry, by 11 per cent; and in the food-processing industry, by 6 per cent.

Improvement in the People's Material and Cultural Level of Living

The number of manual and non-manual workers employed in the national economy of the Byelorussian SSR averaged over 1960 exceeded 1,890,000 persons, an increase of 265,000 over the previous year.

During the past year the changeover to the shorter seven- and six-hour working day for manual and non-manual workers was completed. Simultaneously with this changeover, wages and salaries in industry, construction, transportation and communications were adjusted. The adjustment of wages and salaries in several other branches of the national economy was begun. The changeover to a shorter working-day for manual and non-manual workers was put into effect without any reduction in pay and, in branches where measures for the adjustment of earnings had already been put into effect, the wages and salaries of manual and non-manual workers were increased, especially for lower-paid workers. The gradual abolition of taxes on manual and non-manual workers was begun on 1 October 1960.

As in previous years, the population received at the State's expense allowances and payments out of manual and non-manual workers' social insurance; social security pensions; allowances for mothers of large families and unmarried mothers; students' grants; free medical care; vouchers for admission to sanatoria and rest homes free of charge or at reduced rates; free education and advanced training; and various other payments and privileges.

There was a further rise in individual deposits in savings banks; by the end of the year, deposits totalled 255 million roubles and had increased by 12 per cent over the previous year.

The total volume of state and co-operative retail trade in 1960 (not including the commission shops selling the food products of the Byelorussian Union of Co-operatives) amounted to 2,172.4 million roubles, representing an increase of 12 per cent over 1959 in comparable prices.

The retail turn-over of consumer co-operatives trading in rural areas rose by 12.5 per cent as against 1959. In addition, food items to the value of 26.9 million roubles taken on commission from collective farms and farmers were sold to the population by consumer co-operative organizations.

The targets of the seven-year plan for increasing retail trade are being successfully achieved. Sales to the population were to have risen by 16.4 per cent over the first two years of the seven-year plan but in fact rose by 22.9 per cent.

The sale of particular types of goods to the population at state and co-operative shops developed as follows:

	1960 sales expressed as a percentage of 1959 sales
Meat, sausages and other meat products	117
Fish (herring and other fish products)	110
Animal fats and cheese, milk and other milk products	112
Sugar	108
Confectionery	107
Cotton fabrics	100
Woollen fabrics	120
Silk fabrics	100.7
Clothing	114
Knitted goods	109
Hosiery	108
Leather footwear	106
Furniture	122
Home refrigerators	127
Washing-machines	131
Television sets	164
Wireless sets	104
Motor-cycles and motor-scooters	105
Sewing machines	110

In 1960, state retail prices for silk fabrics, furs and fur articles, wireless sets, cameras, electric sewing machines, haberdashery, medicines and on other consumer goods were lowered.

The retail trade network and the network of state and co-operative public eating places in the towns and villages of the Byelorussian SSR were expanded.

Further successes were achieved in the development of popular education, science and culture.

In accordance with the Act concerning the establishment of a closer correspondence between education and life and the further development of the system of popular education in the Byelorussian SSR, the work of reorganizing the general education schools and the higher and specialized secondary educational establishments continued in 1960. The number of pupils attending general education schools, including schools for young industrial and agricultural workers and schools for adults, was 1,382,000 during the past academic year, an increase of more than 74,000 over the previous year. The number of schools increased by 291. More than 45,000 persons completed their secondary studies and received a school-leaving certificate, in 1960.

The network of boarding-schools was expanded. At the beginning of the 1960/61 academic year, there were 68 boarding schools in which more than 14,000 children were being educated.

Approximately 122,000 persons studied at higher and specialized secondary educational establishments (including correspondence courses), about 54,000 of whom pursued their studies without separation from production. Of the students admitted to the day courses of higher educational establishments in the autumn of 1960, 62 per cent were persons who had completed a period of not less than two years of practical work after finishing their secondary studies.

Some 10,000 specialists graduated from the higher educational establishments and more than 16,000 from specialized secondary educational establishments of the Republic during the past year. More than 8,000 specialists from higher and specialized secondary schools were absorbed into industry, construction, transport and communications and about 6,000 into agriculture. Approximately 6,000 teachers were appointed to schools and other educational institutions during 1960 and over 3,000 medical workers entered the public health services.

The number of scientific workers increased by 10 per cent over 1959 and stood at some 7,000 persons, of whom 2,000 held the degree of doctor or candidate of science.

The cinema industry underwent further expansion, and the number of cinema installations was increased. Theatrical and musical organizations of the Republic provided entertainment for 5 million persons or 9 per cent more than in 1959. Some 14,230,000 copies of books were printed during the past year, while the circulation of newspapers, magazines and other periodicals increased.

Further progress was made in housing construction. The target set for 1960 by the Central Committee of the Communist Party and the Council of Ministers of the Byelorussian SSR in the "Act concerning the development of housing construction in the Byelorussian SSR" of 20 November 1957 for the construction and bringing into occupancy of new housing was overfulfilled. In 1960 dwellings with a total of 1,180,000 square metres of living space were brought into occupancy by state and co-operative organizations. Dwellings with a total of 1,050,000 square metres of living space were constructed by the population from their own resources and with the help of state loans in towns, urban settlements, tractor repair stations, state farms and lumber camps. In addition, 24,000 dwellings were constructed by collective farmers and the rural intelligentia during the past year.

The annual plan for capital investment in housing construction from funds allocated under the state plan was fulfilled to the extent of 100.6 per cent for the Republic as a whole and the plan for the bringing of dwelling space into occupancy to the extent of 102 per cent.

Medical services to the population continued to be further improved. The network of hospitals was expanded and the number of hospital beds and of places in permanent crèches was increased. The number of doctors rose by 8 per cent.

The successful fulfilment of the state plan for the development of the national economy of the Byelorussian SSR in 1960 is evidence of the further expansion of the national economy of the Republic, the development of science and culture, and the improvement of the well-being of the people.

CAMEROUN

CONSTITUTION OF 4 MARCH 1960[1]

PREAMBLE

The independent and sovereign Camerounian people, placing itself under the protection of God, proclaims that every human being, without distinction as to race, religion, sex or creed, possesses certain inalienable and sacred rights.

It affirms its adherence to the fundamental freedoms inscribed in the Universal Declaration of Human Rights and the United Nations Charter, including the following principles:

All men are equal in rights and in duties. The State shall endeavour to provide all citizens with the conditions essential to their full development.

Freedom and security shall be guaranteed to each person within the limits imposed by respect for the rights of others and the higher interest of the State.

Nobody may be compelled to do what is not required by law.

Everyone shall have the right to freedom of residence and movement, subject to the regulations concerning public order and public health.

The home shall be inviolable. No search may be made except by virtue of law.

The secrecy of all correspondence shall be inviolable. It may be infringed only by virtue of decisions issued by the judicial authorities.

No one may be prosecuted, arrested or detained except in cases determined by law and according to the legally prescribed forms.

Laws may not apply retrospectively.

No one may be convicted and punished except by virtue of a law promulgated and published before the commission of the offence.

The law shall guarantee all men the right to secure justice.

No one may be harassed because of his origin or his religious, philosophical or political beliefs or opinions, subject only to the preservation of public order.

The State proclaims its neutrality with respect to all creeds. Freedom to profess and to proclaim a religion shall be guaranteed.

The principle of secularity, under whose protection the Camerounian people place the republic, shall be understood as the separation of Church and State. That principle shall signify that the republic is neither clerical nor religious.

Freedom of expression, the press, assembly and association, trade-union rights and the right to strike shall be guaranteed in the conditions determined by law.

Freedom of information, administration and operation of associations, syndicates and companies, freedom of movement of persons and property, freedom of establishment and investment, as also non-discrimination in legal, financial, taxation and trade matters, shall be accorded to all in the conditions determined by law.

The State of Cameroun, aware of the importance of the free development of its economy and the need for the participation of capital from all sources in this development, desires to provide in its institutions for the existence of such codes, conventions and contracts as are most likely to ensure such co-operation. It intends henceforth, in agreement with the countries and international organizations concerned, to seek every means of creating optimum conditions for the investment of capital in projects profitable to both parties.

The nation shall protect and encourage the family, which is the natural basis of human society.

The State shall ensure the child's right to instruction. The organization of all levels of public education shall be one of the most imperative duties of the State.

Freedom of private education shall be guaranteed by the State within the framework of the laws and regulations laying down the conditions in which such education must be administered.

Ownership is the inviolable right of using, possessing and alienating the goods guaranteed to each person by law. No one may be deprived of it except for reasons of public interest and in return for just compensation determined in accordance with the law.

Property rights cannot be exercised in opposition to the public interest or in such a way as to endanger the security, freedom, existence or property of others.

Everyone must pay his share of the public expenditure in proportion to his capacity.

All men shall have the right and the duty to work.

The Camerounian people affirms its devotion to the attainment of close co-operation among all the

[1] Text published in the *Journal officiel de la République du Cameroun*, 45th year, No. 1359, of 4 March 1960, and furnished by the Government of the Republic of Cameroun.

African States with a view to the formation by independent States of a free and united Africa.

The Camerounian people also expresses its determination to maintain fraternal and peaceful relations with all peoples.

It proclaims its resolve to make every effort to fulfil the aspirations of the Camerounians residing in territories separated from the mother country, so that they may be able to return to the national community and live fraternally in a reunited Cameroun.

The State shall guarantee the rights and freedoms enumerated in the preamble to the Constitution to all citizens of either sex.

Title I
SOVEREIGNTY

Art. 1. Cameroun is a republic, one and indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law.

. . .

Art. 2. National sovereignty shall be vested in the Camerounian people, who shall exercise it either through their deputies to the National Assembly elected by universal, equal, direct and secret suffrage or by way of referendum. No section of the people or any individual may assume the exercise of national sovereignty.

The authorities entrusted with the guidance of the State shall derive their powers from the people through elections held on a basis of universal suffrage, direct or indirect.

The vote shall be equal and secret.

The conditions for the exercise thereof shall be determined by law.

Art. 3. The political parties and groups shall assist in the exercise of the franchise. They may be formed and engage in their activities freely within the framework determined by the law and by regulations.

They must respect democratic principles and national sovereignty.

Title II
THE LEGISLATIVE POWER

Art. 4. The legislative power shall be exercised by the National Assembly.

The National Assembly shall be composed of one hundred members elected for a term of five years by universal, direct and secret suffrage, under a system whereby each administrative unit is ensured representation in proportion to its population.

. . .

Art. 8. Any compulsory mandate shall be null and void.

. . .

Title III
PRESIDENT OF THE REPUBLIC

. . .

Art. 12. The president of the republic shall be elected by an electoral college composed of the members of the National Assembly; the members of the general councils of the provinces; the delegates of the municipal assemblies, elected by these assemblies from among their members according to conditions determined by an organic law.

Candidates for the office of president of the republic must be in full possession of their civil and political rights, be no less than thirty-five years of age on the day of the election and be nominated by at least one fifth of the members of the electoral college referred to in the first paragraph of this article.

The office of president of the republic shall be incompatible with any other elective public office.

. . .

Art. 20. When circumstances so require, the president of the republic may, by presidential decree issued in the Council of Ministers, proclaim a state of emergency, in which special powers shall be conferred on the Government according to conditions to be determined by an organic law governing the matter.

In the case of exceptional circumstances which may threaten the integrity of the nation, the president of the republic may, by presidential decree issued in the Council of Ministers after consultation with the president of the National Assembly, proclaim a state of exception, in which governmental responsibility shall be conferred upon him.

An organic law shall lay down the conditions governing the proclamation of the state of exception and shall determine the powers thus conferred on the president of the republic.

. . .

Title VI
TREATIES AND INTERNATIONAL AGREEMENTS

. . .

Art. 40. Treaties and agreements which have been duly ratified and approved shall, after their publication, have an authority superior to that of the law, provided that the treaty or agreement in question is applied by the other party.

Title VII
JUDICIAL AUTHORITY

Art. 41. Justice shall be administered in the territory of the State on behalf of the Camerounian people.

The president of the republic shall guarantee the independence of the judicial authority.

He shall preside over the Superior Council of the Judiciary; the composition, organization and functioning of the Council shall be the subject of an organic law.

The judges of the Bench may not be removed from office.

The statute of the judiciary shall be established by an organic law.

. . .

Art. 43. No one may be arbitrarily detained in custody. The judicial authority, as the guardian of personal freedom and private property, shall ensure respect for this principle as prescribed by law.

. . .

Title XI

AMENDMENT OF THE CONSTITUTION

. . .

Art. 50. No procedure for amendment shall be admissible which threatens the republican form of the State of Cameroun, the integrity of the territory or the democratic principles governing the republic.

Title XII

TRANSITIONAL PROVISIONS

Art. 51. Such statutory provisions arising from the laws, decrees and regulations applicable to Cameroun on the day of the entry into effect of this Constitution as are not contrary to the stipulations of the Constitution shall remain in force so long as they have not been amended by laws or regulations issued by the government within its field of competence.

. . .

ORDINANCE No. 59-86 OF 17 DECEMBER 1959

ESTABLISHING THE JUDICAL ORGANIZATION OF THE STATE[1]

Art. 1. From 1 January 1960, the judicial organization of Cameroun shall be governed by this ordinance, subject to the transitional and temporary provisisons laid down in title IX below:

Title I

GENERAL PROVISIONS

Art. 2. Justice shall be done in the name of the Camerounian people.

Art. 3. Hearings in all courts shall be public, unless such publicity is prejudicial to law and order [ordre public] or to public morals, or is forbidden by law. In such cases, the court concerned shall direct, by an order or preliminary judgement, that the proceedings take place *in camera.*

In all cases, the orders or judgements shall be delivered in public and accompanied by a statement of reasons, in default of which they may be annulled, unless the law explicitly provides otherwise.

Art. 4. Justice shall be free, subject only to the provisions of the tax laws concerning stamp-duty and registration fees. The fees of advocates, counsel and other lawyers and legal officers, as well as the costs of the preparation of legal proceedings and the execution of court decisions, shall be paid by the losing party. The costs shall be advanced by the party for whose benefit these expenditures are incurred.

Legal aid shall be granted according to the nature of the proceedings and the position and circumstances of the parties, either as of right or upon request after the preliminary examination.

. . .

[1] Text published in the *Journal officiel de l'Etat du Cameroun*, 44th year, No. 1343, of 29 December 1959, and furnished by the Government of the Republic of Cameroun.

ORDINANCE No. 60-52 OF 7 MAY 1960

PROMULGATING THE EMERGENGY POWERS ACT[1]

Art. 1. A state of emergency may be proclaimed throughout the whole or a part of the national territory in the event of occurrences constituting a public disaster by reason of their nature and gravity; in the event of repeated disturbances prejudicing public order; in the event of foreign aggression.

Art. 2. A state of emergency may only be proclaimed by the president of the republic in a presidential decree made in Council of Ministers.

Art. 3. A presidential decree proclaiming a state of emergency shall stipulate the period not exceeding four months during which it shall have effect.

Upon the expiry of that period, the state of emergency may not be extended without the authorization of the National Assembly.

[1] Text published in the *Journal officiel de la République du Cameroun*, 45th year, No. 1375, of 12 May 1960, and furnished by the Government of the Republic of Cameroun.

If the National Assembly is not sitting or has been dissolved, the presidential decree proclaiming the state of emergency may be extended *ipso jure*.

Art. 4. Upon the proclamation of a state of emergency in one or more *départements* and during the period of such emergency, the prefects concerned may, by orders which shall be immediately enforceable and on which they shall report without delay:

1. Subject the movement of persons and goods to restrictive measures and, if necessary, require administrative authorization for such movement.

2. Order the surrender of arms, ammunition and radio sets and provide for searches for and the removal of such arms, ammunition and radio sets.

3. Prohibit all meetings and publications likely to maintain disorder.

4. Remove from the emergency area any habitual criminals and individuals not habitually resident in that area.

5. Establish protection or security areas in which persons may only stay on conditions to be laid down by regulation.

6. Prohibit from staying in any or every part of the *département* any person seeking to hinder in any way the action of the civil authorities.

7. Require the military authorities to participate on a continuing basis in the maintenance of public order.

8. Authorize house searches by any officer of the civil or military police, by day or by night.

Art. 5. Upon the proclamation of a state of emergency and during the period of such emergency immediately enforceable orders may be issued by the Minister of the Interior in respect of the whole emergency area and by the competent ministers or secretaries of state in the provinces in respect of the areas within their jurisdiction:

1. To order the temporary closing of places of entertainment, establishments for the sale of liquor, and meeting places of all kinds.

2. To establish control over the press and publications of every kind, and over broadcasting, film shows and theatrical or artistic performances.

3. To dissolve any *de facto* group or association provoking armed demonstrations or having the character of a combat unit or private militia by reason of its form and military organization, or having the purpose of impairing the integrity of the national territory, national unity or the republican form of government.

4. To assign to residence in a particular area or locality any person residing in the emergency area who is considered a danger to public security.

5. To authorize the requisitioning of persons and property. Persons assigned to residence in a specified area shall be permitted to reside in a population centre or in the immediate neighborhood of a population centre.

The administrative authorities shall take all necessary steps to ensure the subsistence of persons assigned to residence in a specified area and the subsistence of their families.

Art. 6. Whenever an order is made assigning a person to residence in a specified area a file of the case shall be prepared and submitted within fourteen days to an advisory or review board which shall be established by the Minister of the Interior and shall consist of a judge, who shall be nominated by the Keeper of the Seals and shall act as chairman, the Minister of Justice, and two representatives of the Minister of the Interior.

The review board shall report its opinion or the order stating the grounds for its opinion, within seven days of its being seized of the matter. If in the opinion of the board the decision taken was not well founded, the Minister of the Interior shall take a new decision and may disregard the board's opinion.

The board may, at the request of the interested parties, be called on at any time to undertake a new examination of the files.

Art. 7. In those parts of the national territory in which a state of emergency has been declared, military jurisdiction is extended automatically:

1. To all cases in which a member of the armed forces or a person on the same footing as a member of the armed forces is accused.

2. To crimes and offences against the internal security of the State, and to offences under the laws on fire-arms.

3. To crimes against the public peace, persons or property committed by persons carrying fire-arms or using violence.

4. To all crimes and offences connected with the offences afore-mentioned.

The Prime Minister may on the joint proposal of the Keeper of the Seals, the Minister of Justice, and the Minister for the Armed Forces set up one or more temporary military tribunals with jurisdiction in a given area.

Art. 8. Legislative elections shall be suspended in the circumstances in which the state of emergency has been proclaimed, and the expiring terms of office of deputies to the National Assembly shall be automatically extended until the end of the state of emergency.

Art. 9. Citizens shall continue, in spite of the state of emergency, to enjoy all those rights guaranteed by the constitution of which the enjoyment is not suspended under the preceding articles.

Art. 10. Any offence against the provisions of this ordinance and against measures in application thereof shall be punishable by imprisonment for not less than two or more than five years and by a fine of not less than 300,000 or more than one million francs in local currency.

Persons found guilty of such offences may also be disqualified, wholly or partially, from exercising civic, civil and family rights for not less than five or more than ten years from the date of the completion of their sentence.

They may also be subjected to local banishment for the like period.

Art. 11. Notwithstanding the existence of these penal provisions, measures prescribed may be enforced *ex officio* by the administrative authority.

Art. 12. Measures taken in application of this ordinance shall cease to have effect upon the termination of the state of emergency.

After the termination of the state of emergency, the military tribunals shall nevertheless continue to take cognizance of crimes and offences already referred to them.

Art. 13. Act 59–30 of 22 May 1959 providing for the setting up of special criminal courts and Act 59–33 of 27 May 1959 concerning the maintenance of public order are hereby repealed.

Art. 14. This ordinance, which shall be published in the *J.O.R.C.*, shall be put into effect as an organic law of the republic.

ORDINANCE No. 59–66 OF 26 NOVEMBER 1959 EMBODYING THE CAMEROUNIAN NATIONALITY CODE[1]

Chapter I

General Provisions

Art. 1. The law shall determine which individuals shall be regarded as possessing Camerounian nationality at birth as their nationality of origin.

Art. 2. Camerounian nationality, after birth, shall be acquired or lost by virtue of the provisions of the law or of a decision of the public authorities made in the manner laid down in the law.

Art. 3. Provisions on the subject of nationality contained in duly ratified and published international treaties or agreements shall be enforceable in Cameroun, even if they are in contradiction with the provisions of Camerounian domestic legislation.

Art. 4. A person shall be deemed to have come of age within the meaning of this code on completing his twenty-first year.

Art. 5. Camerounian nationality granted to or acquired by a person shall also extend as of right to the minor unmarried children of that person.

Chapter II

Recognition of Camerounian Nationality as the Nationality of Origin

Para. 1. — *By Virtue of Filiation*

Art. 6. The following persons shall have Camerounian nationality:

1. A legitimate child born of Camerounian parents;

2. A natural child, provided that filiation has been established in respect of both of the parents and that they are both Camerounian.

Art. 7. The following persons shall have Camerounian nationality:

1. A legitimate child born of a Camerounian father and of a mother of foreign nationality;

2. A natural child, if the parent in respect of whom filiation was established first is Camerounian, and if the other parent is a foreign national;

Except that a minor may repudiate his Camerounian nationality during the six months preceding his coming of age, provided that he was not born in Cameroun, or that he is able to claim the nationality of his foreign parent under the national laws of that parent.

Art. 8. The following persons shall have Camerounian nationality:

1. A legitimate child born of a Camerounian mother and of a father who is stateless or of unknown nationality;

2. A natural child, provided that the second parent in respect of whom filiation has been established is Camerounian and the other parent is stateless or of unknown nationality.

Para. 2. — *By Virtue of Birth in Cameroun*

Art. 9. A child born in Cameroun of unknown parents shall be Camerounian.

However, such a child shall be deemed never to have been Camerounian if in the course of his minority it is established that one of his parents was a foreign national and if under the national law of that parent he is entitled to the nationality of the latter.

Art. 10. A new-born child found in Cameroun shall be presumed, failing evidence to the contrary, to have been born in Cameroun.

Art. 11. The following persons shall be Camerounian, except that they may repudiate Camerounian

[1] Text published in the *Journal officiel*, 44th year, No. 1339, of 12 December 1959.

nationality during the six months prior to coming of age:

1. A legitimate child born in Cameroun of foreign parents, provided that the father himself was born in Cameroun;

2. A natural child born in Cameroun of foreign parents, provided that the parent in respect of whom filiation has first been established was also born in Cameroun.

Art. 12. Cameroonian nationality shall moreover be acquired as of right, through the mere fact of having been born in Cameroonian territory, by any person unable to lay claim to any other nationality of origin.

Para. 3. — *Common Provisions*

Art. 13. A child who is Cameroonian by virtue of the provisions of this chapter shall be deemed to have been Cameroonian since birth, even if the existence of the conditions required by law for the recognition of Cameroonian nationality was only established subsequently.

In the latter case, however, the recognition of Cameroonian nationality as from birth shall not affect the validity of any deed entered into by the person concerned or of any acquired rights of third parties based on the apparent nationality of the child.

Art. 14. Filiation shall be effective for the purpose of the recognition of Cameroonian nationality only when established under the conditions determined by Cameroonian legislation or custom.

Art. 15. The filiation of a natural child shall have an effect on the nationality of the child only if it is established while the latter is under age.

Art. 16. The provisions of article 11 above shall not be applicable to children, born in Cameroun, of diplomatic agents or career consuls of foreign nationality.

Such children shall, however, have the option of voluntarily acquiring Cameroonian nationality in accordance with the provisions of article 21 below.

Chapter III

ACQUISITION OF CAMEROUNIAN NATIONALITY

Para. 1. — *By Marriage*

Art. 17. Subject to the provisions of the following articles, a foreign woman marrying a Cameroonian national shall acquire Cameroonian nationality upon the celebration of the marriage.

Art. 18. A woman whose national law permits her to retain her nationality may at the time of the celebration of the marriage and in the form specified in article 37 *et seq* of this code, declare that she declines Cameroonian nationality.

A woman may make such declaration without authorization even if she is a minor.

A foreign woman who has married a Cameroonian national prior to the publication of this ordinance shall be allowed six months from the date of such publication in which to make the declaration.

Art. 19. Within six months from its celebration in the case of a marriage contracted on or after the date on which this ordinance comes into force, or within six months from the publication of this ordinance in the case of a marriage contracted before such date, the Government may by decree object to the acquisition of Cameroonian nationality under conditions to be established by a statutory decree.

Para. 2. — *By a Declaration of Nationality by Reason of Birth and Residence in Cameroun, or of Adoption, or of the Reinstatement of the Parents*

Art. 20. A legitimate child born in Cameroun of a foreign father and a Cameroun mother shall remain a foreign national, except that he shall have the option of claiming Cameroonian nationality by making a declaration within six months prior to his coming of age, in the form specified in article 37 *et seq* of this code, provided that his habitual domicile or residence at that time was in Cameroun.

Art. 21. Any person born in Cameroun of foreign parents may claim Cameroonian nationality by making a declaration within the six months prior to his coming of age, in the form specified in article 37 *et seq* of this code, provided that on that date he shall have had his habitual domicile or residence in Cameroun for not less than five years.

Art. 22. A child adopted by persons of Cameroonian nationality may, during the six months prior to his coming of age, declare, in the form specified in article 37 *et seq* of this code, that he wishes to claim Cameroonian nationality, provided that at the time of making such declaration he is domiciled or resident in Cameroun.

Art. 23. The minor married children or the children of full age of a Cameroonian parent who has been reinstated as provided for in article 29 below may claim Cameroonian nationality by a declaration made in the form specified in article 37 *et seq* of this code, irrespective of their place of birth, age or residence.

Art. 24. Persons making declarations under articles 20, 21, 22 and 23 above shall acquire Cameroonian nationality as from the date of signature of their declaration, subject, however, to the right of the Cameroonian Government to object, by decree, to the acquisition of Cameroonian nationality, under conditions to be established by a statutory decree.

Para. 3. — *By Naturalization*

Art. 25. Cameroonian nationality shall be granted by decree on the application of a foreigner subject to a joint inquiry by the Minister for Justice, the Minister for the Interior and the Minister for Public Health.

Art. 26. No person shall obtain Cameroonian

nationality by naturalization: if he is under twenty-one years of age; unless he can prove that he has habitually resided in Cameroun during the five consecutive years preceding the submission of his application; unless his main interests are centered in Cameroun at the time when the naturalization decree is signed; if he is not a person of good repute, or if he has been condemned to a heavy sentence for an offence in ordinary law, which has not been annulled as a result of reinstatement or amnesty; unless he is known to be sound in mind and body.

Art. 27. Notwithstanding the provisions of the preceding article, no condition of residence shall be required of a foreigner: if he was born in Cameroun or is married to a Camerounian woman; if he has rendered exceptional services to Cameroun or if his naturalization is of exceptional interest in Cameroun.

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Para. 4. — *By Reinstatement*

Art. 29. Reinstatement of Camerounian nationality shall be granted by decree, following a report by the Minister for Justice stating the reasons therefor, without any condition as to age or residence, provided, however, that the person concerned can prove that he has been a Camerounian citizen and can provide evidence of his residence in Cameroun at the time of reinstatement.

Art. 30. No person who has been deprived of Camerounian nationality in application of article 35 of this ordinance may be reinstated, unless he has subsequently rendered exceptional services to Cameroun.

Para. 5, — *Common Provisions*

Art. 31. A person who has acquired Camerounian nationality shall, as from the date of acquiring that nationality, enjoy all the rights attaching thereto.

However, no naturalized foreigner may hold elective office for the first five years from the date of the naturalization decree.

Nevertheless, in the case of a naturalized foreigner who has rendered exceptional services to Cameroun or whose naturalization is of exceptional interest to Cameroun this restriction may be waived by a decree issued by the Council of Ministers following a joint report by the Minister for Justice and the Minister for the Interior stating the reasons for such recommendation.

Chapter IV

LOSS AND DEPRIVAL OF CAMEROUNIAN NATIONALITY

Para. 1. — *Loss of Nationality*

Art. 32. The following persons shall lose Camerounian nationality:

1. Any Camerounian of full age who voluntarily acquires a foreign nationality;

2. Any person who chooses to repudiate Camerounian nationality in accordance with the provisions of this ordinance;

3. Any person who remains in the civil service of an international organization or of a foreign State despite an injunction from the Camerounian Government calling on him to resign his post.

Art. 33. A Camerounian woman marrying a foreign national shall retain her Camerounian nationality unless, at the time of the celebration of the marriage and under the conditions established in article 37 *et seq.* of this code, she declares that she renounces the said nationality.

A Camerounian woman who has married a foreigner prior to the publication of this ordinance shall have one year from the date of such publication in which to exercise her option.

The declaration may be made without authorization even is the woman is a minor.

Such a declaration shall not, however, become valid until a woman acquires or is able to acquire the nationality of her husband under his national law.

Art. 34. In all the aforementioned cases, a Camerounian national who loses his nationality of origin shall be released from his allegiance to the State of Cameroun.

Para. 2. — *Deprival of Nationality*

Art. 35. A foreign national who has acquired Camerounian nationality may be deprived of that nationality by decree:

1. If he has been condemned on account of an act constituting "an offence against the internal or external security of the State";

2. If he has committed acts detrimental to the interests of the Camerounian State.

Art. 36. Such deprival shall be incurred only if the events referred to in the preceding article have occurred within ten years from the date of the acquisition of Camerounian nationality. It may be ordered only within ten years from the time when the acts in question were committed.

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Chapter VII

TRANSITIONAL AND FINAL PROVISIONS

Art. 45. The provisions of chapter II above concerning the recognition of Camerounian nationality as the nationality of origin shall be applicable even to persons born before the date on which this ordinance comes into force, provided that the said persons are not of full age on that date; such retroactivity shall not affect the validity of deeds entered into by the persons concerned or of the acquired rights of third parties.

Art. 46. Persons who are of full age on the date on which this ordinance comes into force, and who can furnish evidence of their Camerounian nationality at that time, shall be deemed to be Camerounian nationals.

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ORDINANCE No. 60-21 OF 4 MARCH 1960

CONCERNING THE ELECTION OF DEPUTIES TO THE NATIONAL ASSEMBLY[1]

Title I

ELECTION OF DEPUTIES TO THE NATIONAL ASSEMBLY

Art. 1. Members of the National Assembly shall be elected for terms of five years, by the universal and direct suffrage of all citizens.

They shall be eligible for re-election.

The entire membership of the Assembly shall be renewed every five years.

Art. 2. The ballot shall be secret.

Art. 3. Each department shall constitute a separate electoral district.

Departments in which the total population is 400,000 or more shall be divided by arrondissement into electoral sub-districts.

Departments containing large ethnic minorities shall also be divided into electoral sub-districts, in such a way that equitable representation of such minorities is ensured.

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Title II

CONDITIONS OF ELIGIBILITY

Section I. — *Eligibility*

Art. 6. Any Camerounian citizen, without distinction as to sex, race or civil status, who is in possession of his civic rights, has attained the age of twenty-three years on the date of the election and is able to read and write French, may stand for election and be elected to the National Assembly.

Section II. — *Ineligibility*

Art. 7. Citizens who are disqualified from voting, including those who are disqualified on the grounds laid down in title III, section II, of this ordinance, shall be barred from standing for election.

Citizens who have been sentenced to a penalty carrying with it, by law, ineligibility to stand for election, and citizens deprived by a court of their right to be elected pursuant to laws authorizing such deprivation, shall also be barred from standing for election.

Art. 8. Persons committed to a trustee shall be barred from standing for election. The election of persons not in possession of normal mental powers shall not be valid. The fact that a person lacks normal mental powers may be established only by a decision of the civil court, which shall be subject to appeal in the first instance and to application to the Court of Cassation in accordance with the ordinary procedure.

Art. 9. An alien who has acquired Camerounian nationality by naturalization shall be eligible for election only if he has fulfilled the conditions regarding a time period laid down by the Nationality Code.

Art. 10. The following persons shall be barred from standing for election in any electoral district while they are in office or within six months after they have left office by reason of resignation, dismissal, change of residence or otherwise: inspectors-general [inspecteurs généraux de l'administration], prefects, sub-prefects, heads of districts and their deputies; judges of the Supreme Court and of the State Tribunal, and registrars holding office in the registries of these courts; judges of courts of appeal, courts of first instance or labour courts; directors of departments of customs, direct taxation and registration; the *trésorier-payeur*; heads, officials and agents of the departments co-operating with respect to the security of the territory, including the public security forces and the police as well as members of the armed forces and the gendarmerie.

The following persons shall be barred from standing for election in any electoral district constituting all or part of the area in which they perform their functions, while they are in office or within six months after they have left office: labour inspectors; registrars holding office in the registry of a court of appeal, a court of first instance or a labour court.

The ineligibility of the persons holding the offices specified in this article shall apply in the same conditions to persons who are performing the relevant functions, or have performed them for at least six months, without holding or having held the corresponding office.

Title III

THE ELECTORATE

Section I. — *Qualifications for Voting*

Art. 11. All persons of Camerounian nationality are entitled to exercise the political rights attached by the Constitution or by law to Camerounian citizenship, without distinction as to sex, race or civil status, when they have attained the age of twenty-one years and provided that they are not subject to any legal incapacity.

An alien who has acquired Camerounian nationality by naturalization shall enjoy the rights of such nationality under the conditions laid down by this ordinance.

Art. 12. Citizens properly registered on the electoral rolls of an electoral district shall be permitted to vote in that district and shall accordingly be considered electors in that district, unless they have forfeited their right to vote in consequence of a

[1] Text published in *Recueil des textes relatifs à l'élection des Membres de l'Assemblée nationale. Scrutin du 10 avril 1960*, and furnished by the Government of the Republic of Cameroun.

court conviction or an undischarged bankruptcy after their registration on the rolls.

Art. 13. Camerounian citizens who are in possession of their political rights and who have their real domicile in an electoral district or have actually resided in that district for at least six months may be registered on the electoral rolls of the said district.

Citizens who have not fulfilled the age and residence requirements set forth above at the time when the rolls are revised, but will fulfil them before the rolls are finally closed, shall also be registered.

Art. 14. Citizens who establish that in the election year they have been registered, for the fifth consecutive time, on one of the direct taxation rolls in the electoral district may also be registered on the electoral rolls.

In that event, the application for registration must be accompanied by a certificate, issued by the administrative authority in the area in which the applicant is domiciled or has his usual place of residence, attesting that the applicant has not been registered on the electoral rolls or has been removed therefrom.

Art. 15. Camerounian citizens settled abroad shall, if they so request, retain the right to be registered on the electoral roll on which they were registered before their expatriation.

Section II. — *Disqualifications for Voting*

Art. 16. The following persons may not be registered on an electoral roll:

(1) Persons convicted of a serious offence [crime];

(2) Persons sentenced to imprisonment under a sentence not subject to suspension, or to imprisonment under a suspended sentence for a term of more than one month, with or without the addition of a fine, for: theft, false pretences or fraudulent conversion; a less serious offence [délit] subject to the penalties for theft, false pretences or fraudulent conversion; misappropriation committed by trustees of public funds; perjury; false certification as referred to in article 161 of the Penal Code; corruption and influence peddling as referred to in articles 177, 178 and 179 of the Penal Code; or sex offences as referred to in articles 330, 331, 334 and 334 *bis* of the Penal Code;

(3) Subject to the provisions of article 18, persons sentenced to imprisonment for a term of more than three months under a sentence not subject to suspension, or to imprisonment for a term of more than six months under a suspended sentence, for a less serious offence [délit] other than those enumerated in sub-paragraph 2;

(4) Persons in contempt of court;

(5) Undischarged bankrupts who have been declared bankrupt either by a Camerounian court or by a judgement issued abroad but enforceable in Cameroun;

(6) Persons under disability.

Art. 17. Subject to the provisions of article 18, a person who has been convicted of a less serious offence [délit] referred to in article 16, sub-paragraph 3, and has been sentenced to imprisonment for a term of not less than one month and not more than three months not subject to suspension or to imprisonment for a term of not less than three and not more than six months under a suspended sentence, or who has been convicted of any less serious offence [délit] whatever and been sentenced to a fine, not subject to suspension, of more than 150,000 francs, may not be registered on an electoral roll for a period of five years from the date on which the conviction became final.

Nevertheless, in pronouncing the sentences referred to in the preceding paragraph, the courts may exempt the convicted person from this temporary loss of the right to vote and to stand for election.

Subject to the provisions of article 16 and of the first paragraph of this article, those persons who have been judicially deprived of the right to vote and to stand for election in accordance with the laws authorizing such deprivation may not be registered on an electoral roll during the period prescribed by the relevant judgement.

Art. 18. No obstacle to registration on an electoral roll shall be constituted by: (1) a conviction for a less serious offence [délit] committed through negligence, except where the offender has fled; (2) a conviction for an offence — other than an offence under the Companies Act of 24 July 1867 — which is classified as a less serious offence [délit] but is punishable without proof of bad faith and is subject only to the penalty of a fine.

Title IV

ELECTORAL ROLLS

Section I. — *Establishment of the Electoral Rolls*

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Art. 22. No citizen may be registered on more than one electoral roll.

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Title V

PRE-ELECTORAL OPERATIONS

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Section II. — *Declaration of Candidature*

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Art. 66. No person may be a candidate on more than one list or in more than one electoral district.

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Section III. — *Electoral Propaganda*

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Art. 70. The electoral campaign shall open on the twentieth day before election day; it shall close at midnight preceding election day.

Candidates may have circulars, manifestos and posters drawn up at their expense.

These documents shall be on paper of the colour selected by the candidates and shall bear the symbol reserved for the printed ballot-papers.

Posters shall not be larger than 45 by 56 centimetres.

Art. 71. The text of circulars, manifestos and posters shall be submitted in duplicate to the prefect or the Minister of the Interior for approval. One copy shall be retained in the records; the other, bearing the mark of approval, shall be returned to the candidate. Reference to the approval shall be made on the printed document.

Approval shall be denied to any text which constitutes an appeal to violence or subversion or an incitement to hatred of the authorities or of a group of citizens.

The approval shall state the colour and the symbol assigned to the candidate or to the list.

No approval shall be granted later than the fifteenth day preceding the balloting.

Art. 72. Of each document printed at his instructions, every candidate or every person representing a list of candidates shall deposit: ten copies at the Ministry of the Interior; two copies at the prefecture of the area in which the electoral district is located.

Art. 73. Any document produced or distributed in contravention of the provisions of articles 70, 71 and 72 shall be seized by the administrative authorities, without prejudice to any criminal proceedings which may be set in motion against the author of such documents or the persons distributing them.

Art. 74. Sites shall be reserved by the administration for the affixing of the posters and propaganda material of each candidate or list of candidates: (1) alongside each of the polling offices in the electoral district; (2) near the offices of the arrondissements, districts and communes included in the electoral district.

At each such site an identical area shall be allocated to each candidate or list of candidates.

Art. 75. The affixing of posters relating to the election, including stamped posters, in public places outside such sites, by the candidate or by any other person or group, shall be prohibited. The same shall apply to posters affixed in a place open to the public or on private premises, if they are so placed that the public is able to read them.

Candidates shall be prohibited from affixing posters in places reserved for other candidates.

The administrative authorities shall take steps for the removal of any posters which have been improperly affixed.

Art. 76. No one may distribute or arrange for the distribution of bulletins, circulars and other documents on election day.

Documents distributed in contravention of the provisions of this article shall be seized by the administrative authorities, without prejudice to any criminal proceedings which may be set in motion against the perpetrators of the offence.

Art. 77. During the entire electoral period, electoral meetings for the selection or hearing of candidates may be convened without prior authorization, subject to the provisions of the Act of 27 May 1959 concerning the maintenance of public order [ordre public].

Nevertheless, each candidate or the person representing each list, and every elector who intends to arrange electoral meetings, must inform the administrative authorities of his schedule of meetings, to the end that the maintenance of law and order may be ensured.

Art. 78. The prefect may by order ban one or more of these meetings, if he considers that he is not in a position to ensure the maintenance of law and order.

Art. 79. Meetings may not be held on public thoroughfares. The prefects shall, according to local circumstances, issue orders establishing time-limits for meetings.

Art. 80. An administrative or court official may be delegated by the prefect, the sub-prefect or the head of district to attend the meeting.

He shall select his own place.

He may declare the meeting dissolved, if he is requested to do so by the presiding officers or if clashes or acts of violence occur.

Art. 81. The officers and organizers of the meeting shall be responsible for violations of the provisions of articles 77 to 80 above.

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Title VII

PENAL PROVISIONS

(Fines are stated in francs C.F.A.)

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Art. 121. Any person who, by means of false information, slanderous rumours or other fraudulent devices, has attempted to trick or has tricked voters into voting or not voting in a certain way, or has attempted to induce or has induced one or more voters to abstain from voting, shall be liable to imprisonment for a term of one month to one year and to a fine of 18,000 francs to 360,000 francs.

Art. 122. Persons who, by unlawful assembly, clamour or threatening demonstrations, have disturbed the proceedings of a body of electors or have impaired the exercise of the franchise or the freedom to vote, shall be liable to imprisonment for a term of three months to two years and to a fine of 18,000 francs to 360,000 francs.

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CANADA

NOTE[1]

I. FEDERAL LEGISLATION

Canadian Bill of Rights

In 1960 the Parliament of Canada enacted the Canadian Bill of Rights in the form of a federal statute. A similar Bill had been introduced in the House of Commons in September 1958, and held over until the next session of Parliament in order to give time to individuals and organizations particularly interested in the protection of human rights and fundamental freedoms to express their opinions and make representations. The proposal was widely discussed throughout Canada by various groups and particularly at human rights conferences organized by the Human Rights Anniversary Committee for Canada, composed of representatives of 24 national organizations. The Government had the benefit of these further discussions before introducing its second bill, which became the Canadian Bill of Rights.[2]

The Bill of Rights recognizes and declares that there have continued and shall continue to exist in Canada certain human rights and fundamental freedoms. These basic rights have existed in Canada in the main because of the British heritage of political customs, usages, conventions and traditions with additional guarantees afforded by the common law and the courts.

In order to ensure better protection of these basic rights and freedoms, the Bill provides that no law enacted by the Parliament of Canada is to be construed so as to infringe any of them. Every proposed regulation and every bill introduced in the House of Commons is first to be examined by the Minister of Justice in order to ascertain whether any of its provisions are inconsistent with the provisions of the Bill of Rights.

The sphere of civil rights and fundamental freedoms in Canada is within the constitutional powers of both the federal Parliament and the provincial Legislatures following the division of powers between the two levels of government as provided in the British North America Act of 1867.[3]

The Canadian Bill of Rights ensures additional protection to human rights only with reference to matters coming within the legislative authority of the federal Parliament. As reported in previous issues of the *Yearbook on Human Rights* the provinces have in the past used their respective constitutional powers in the sphere of civil rights to enact certain laws aiming at the protection of some of the basic rights and providing remedies for an individual whose rights are infringed. In Saskatchewan there is a provincial Bill of Rights; Ontario and Quebec have on their statute books laws guaranteeing the right to freedom of worship. Some other statutes dealing with basic rights have been enacted in a number of provinces. The Federal Government has expressed hopes that the new Canadian Bill of Rights of 1960 would be followed by similar enactments by the provincial legislatures and in this way the entire field (federal and provincial) of human rights and freedoms would acquire additional protection.

II. PROVINCIAL LEGISLATION

1. *Anti-discrimination Measures*

Manitoba passed a Fair Accommodation Practices Act[4] prohibiting any person from denying accommodation, services or facilities customarily available to the public to any person on grounds of race, religion, religious creed, colour, ancestry, or ethnic or national origin. The displaying of notices and signs and the use of other media of communication, including newspapers, radio and television, to express discrimination on any of these grounds are also prohibited.

2. *Minimum Wages*

Prince Edward Island passed an Act respecting a Minimum Wage for Men[5] which provides for the fixing of minimum rates for men by the Labour Relations Board established under the Trade Union Act, subject to review by the Minister of Labour. The Act covers all male workers except persons employed in a confidential capacity, agricultural workers, domestic servants and persons employed by the Crown.

3. *Workmen's Compensation*

Seven provinces[6] amended their workmen's compensation laws to provide increased benefits to in-

[1] Note furnished by the Government of Canada.

[2] The text of this statute appears on p. 48.

[3] See "The Canadian Constitution and Human Rights", in *Yearbook on Human Rights for 1946*, pp. 55–7.

[4] *Statutes of Manitoba*, 1960, c. 14.

[5] *Statutes of Prince Edward Island*, 1960, c. 27.

[6] *Statutes of Manitoba*, 1960, c. 85; *Statutes of New Brunswick*, 1960, c. 79; *Statutes of Nova Scotia*, 1960, c. 50; *Statutes of Ontario*, 1960, c. 132; *Statutes of Prince Edward Island*, 1960, c. 48; *Statutes of Quebec*, 1959–60, c. 6; and *Statutes of Saskatchewan*, 1960, c. 84.

jured workmen or their dependants, the most important changes dealing with the ceiling on annual earnings, payments for total disability and pensions to widows and children. Two provinces, Quebec and Saskatchewan, raised the maximum annual earnings on which compensation is based. In Prince Edward Island, the minimum payment for total disability was increased. Monthly pensions to widows were increased in New Brunswick, Quebec and Saskatchewan. The allowance to a child living with a parent was increased in Quebec, and the compensation in respect of each orphan child was raised in Quebec and Saskatchewan.

4. *Labour Relations*

Four provinces, Quebec, Alberta, Ontario and Newfoundland,[1] amended their labour relations legislation, introducing some new principles. The provision in the Quebec Act prohibiting an employer from discriminating against an employee for trade union activities was strengthened by a new provision enabling the Labour Relations Board to order an employer to reinstate an employee who had been discriminated against and to pay him for lost time. An Alberta amendment dealing with disputes in public utility and hospital services provided for the replacement of normal dispute settlement procedures by emergency measures under certain circumstances. New features of the amended Ontario Act included: some limitation upon union security agreements; provisions placing certain duties upon unions with regard to financial statements and trusteeships; provision for an alternative to the conciliation procedure in the form of private mediation; a procedure for dealing with disputes between unions regarding work assignments, and a provision for the enforcement of arbitration awards in issues arising out of an agreement.

Newfoundland passed a new Trade Union Act requiring registration of trade unions. The Act also stipulated that a union constitution must contain complete rules for the government, regulation, conduct and management of the union. To be accepted for registration, a union must appoint trustees in whom shall be vested all real and personal property of the union, and must forward to the Registrar a copy of its rules and of the latest audited financial statement of the union. The penalty for failing to register in the required period is a fine, but if the offence is repeated the union may be dissolved.

5. *Living Accommodation for the Aged*

Six jurisdictions adopted legislation to encourage the building of additional homes for the aged and the improvement of existing facilities. The Federal Government[2] reduced the interest rate for loans for low-rental housing projects for the elderly, and Newfoundland[3] provided financial aid for the construction and maintenance of homes for the aged. Ontario[4] and Saskatchewan[5] increased provincial maintenance grants to such homes. New Brunswick[6] provided for provincial contributions to municipal homes for the needy of all ages, and Quebec[7] increased its contributions to such homes.

6. *General Welfare*

An amendment to the Nova Scotia Social Assistance Act provided for allowances for disabled persons between the ages of 18 and 65 who do not qualify for assistance under other legislation.[8]

7. *Mothers' Allowances*

Four provinces[9] made changes in legislation affecting mothers with dependent children to provide additional benefits. Eligibility requirements were broadened in Manitoba, New Brunswick, Newfoundland and Nova Scotia. The maximum monthly allowance to a needy mother was increased in New Brunswick. The age of children who may benefit was raised in Manitoba. In Newfoundland, food and clothing allowances for children under 16 were increased and the amount of allowable income was raised.

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[1] *Statutes of Quebec*, 1959–60, c. 8; *Statutes of Alberta*, 1960, c. 54; *Statutes of Ontario*, 1960, c. 54; and *Statutes of Newfoundland*, 1960, c. 59.

[2] Regulations under the National Housing Act, SOR/60–456, approved by P.C. 1960–1319, gazetted 12 October 1960.

[3] *Statutes of Newfoundland*, 1960, c. 67.

[4] Regulations under the Homes for the Aged Act, Regulation 237 of the Consolidated Regulations of Ontario, 1960.

[5] Regulations under the Housing Act, approved by O.C. 720/60, gazetted 6 May 1960.

[6] *Statutes of New Brunswick*, 1960, c. 9.

[7] *Statutes of Quebec*, 1959–60, c. 73; Regulations under the Public Charities Act, approved by O.C. 474/60 of 30 March, 1960.

[8] *Statutes of Nova Scotia*, 1960, c. 59.

[9] Manitoba Regulation 7/60 under the Manitoba Social Allowances Act; *Statutes of New Brunswick*, 1960, c. 9; regulations under the Newfoundland Social Assistance Act, gazetted 28 September 1960; and *Statutes of Nova Scotia*, 1960, c. 59.

AN ACT FOR THE RECOGNITION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Assented to on 10 August 1960[1]

The Parliament of Canada, affirming that the Canadian nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

THEREFORE Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Part I

BILL OF RIGHTS

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms — namely,

(*a*) The right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;

(*b*) The right of the individual to equality before the law and the protection of the law;

(*c*) Freedom of religion;

(*d*) Freedom of speech;

(*e*) Freedom of assembly and association; and

(*f*) Freedom of the press.

2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

(*a*) Authorize or effect the arbitrary detention, imprisonment or exile of any person;

(*b*) Impose or authorize the imposition of cruel and unusual treatment or punishment;

(*c*) Deprive a person who has been arrested or detained

(i) Of the right to be informed promptly of the reason for his arrest or detention,

(ii) Of the right to retain and instruct counsel without delay, or

(iii) Of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;

(*d*) Authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self crimination or other constitutional safeguards;

(*e*) Deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;

(*f*) Deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or

(*g*) Deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

3. The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the *Regulations Act* and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this part, and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

4. The provisions of this part shall be known as the *Canadian Bill of Rights*.

Part II

5. (1) Nothing in part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

(2) The expression "law of Canada" in part I

[1] *Statutes of Canada*, 1960, c. 44.

means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada.

(3) The provisions of part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

6. Section 6 of the *War Measures Act* is repealed and the following substituted therefor:

"6 (1) Sections 3, 4 and 5 shall come into force only upon the issue of a proclamation of the Governor in Council declaring that war, invasion or insurrection, real or apprehended, exists.

"(2) A proclamation declaring that war, invasion or insurrection, real or apprehended, exists shall be laid before Parliament forthwith after its issue, or, if Parliament is then not sitting, within the first fifteen days next thereafter that Parliament is sitting.

"(3) Where a proclamation has been laid before Parliament pursuant to sub-section 2, a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within ten days of the day the proclamation was laid before Parliament, praying that the proclamation be revoked, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made.

"(4) If both Houses of Parliament resolve that the proclamation be revoked, it shall cease to have effect, and sections 3, 4, and 5 shall cease to be in force until those sections are again brought into force by a further proclamation but without prejudice to the previous operation of those sections or anything duly done or suffered thereunder or any offence committed or any penalty or forfeiture or punishment incurred.

"(5) Any act or thing done or authorized or any order or regulation made under the authority of this Act shall be deemed not to be an abrogation, abridgement or infringement of any right or freedom recognized by the *Canadian Bill of Rights*."

THE CANADA ELECTIONS ACT

Assented to on 1 August 1960[1]

INTERPRETATION

2. In this Act,

. . .

(5) "Election" means an election of a member or members to serve in the House of Commons of Canada;

. . .

Qualifications and Disqualifications of Electors

14. (1) Except as hereinafter provided, every person in Canada, man or woman, is entitled to have his or her name included in the list of electors prepared for the polling division in which he or she was ordinarily resident on the date of the issue of the writ ordering an election in the electoral district, and is qualified to vote in such polling division, if he or she

(*a*) Is of the full age of twenty-one years or will attain such age on or before polling day at such election;

(*b*) Is a Canadian citizen or other British subject;

(*c*) In the case of a British subject other than a Canadian citizen has been ordinarily resident in Canada for the twelve months immediately preceding polling day at such election; and

(*d*) At a by-election only, continues to be ordinarily resident in the electoral district until polling day at such by-election.

(2) The following persons are disqualified from voting at an election and incapable of being registered as electors and shall not vote nor be so registered, that is to say,

(*a*) The Chief Electoral Officer;

(*b*) The Assistant Chief Electoral Officer;

(*c*) The returning officer for each electoral district during his term of office, except when there is an equality of votes on the official addition of votes or on a recount, as in this Act provided;

(*d*) Every judge appointed by the Governor in Council;

(*e*) Every person undergoing punishment as an inmate in any penal institution for the commission of any offence;

(*f*) Every person who is restrained of his liberty of movement or deprived of the management of his property by reason of mental disease; and

(*g*) Every person who is disqualified from voting under any law relating to the disqualification of electors for corrupt or illegal practices.

(3) Notwithstanding anything in this Act, any person who, subsequent to the 9th day of September, 1950, served on active service as a member of the Canadian Forces and has been discharged from such

[1] *Statutes of Canada*, 1960, c. 39.

forces, and who, at an election, has not attained the full age of twenty-one years, is entitled to have his name included in the list of electors prepared for the polling division in which he ordinarily resides and is entitled to vote in such polling division, if such person is otherwise qualified as an elector.

(4) Notwithstanding anything in this Act, every person, man or woman, irrespective of age, who

(*a*) Was a member of His Majesty's Forces during World War I or World War II, or was a member of the Canadian Forces who served on active service subsequent to the 9th day of September, 1950;

(*b*) Was discharged from such forces; and

(*c*) Is receiving treatment or domiciliary care in any hospital or institution at the request or on behalf of the Department of Veterans Affairs, in which hospital or institution, on the date of the issue of the writs ordering a general election, less than twenty-five of such persons, as determined by the said department, are receiving such treatment or care;

is entitled to have his or her name included on the list of electors prepared for the polling division in which such hospital or institution is situated, and is entitled to vote at a general election in such polling division, if such person is otherwise qualified as an elector.

. . .

(7) Paragraph (*c*) of sub-section 1 does not apply to the wife of a Canadian Forces elector who resided with her husband during his service outside Canada.

15. (1) Subject to the exceptions stated in sub-section 2, every person employed by any person for pay or reward in reference to an election in the electoral district in which such person would otherwise be entitled to vote is disqualified from voting and incompetent to vote in such electoral district at such election.

(2) A person is not disqualified from voting at an election of a member to serve in the House of Commons by reason that he is employed for pay or reward in reference to an election in the electoral district in which such person would otherwise be entitled to vote, so long as the employment is legal.

(3) Persons who may be legally employed are

(*a*) Election clerks, revising officers, deputy returning officers, enumerators, revising agents, poll clerks, messengers, interpreters, constables, and persons otherwise necessarily and properly employed by an election officer for the conduct of the election;

(*b*) Official agents of candidates;

(*c*) Persons engaged in printing election material on behalf of a candidate;

(*d*) Persons employed, whether casually or for the period of the election or part thereof, in advertising of any kind or as clerks, stenographers or messengers on behalf of a candidate; and

(*e*) Any agent having a written authorization from a candidate pursuant to section 34.

. . .

Qualifications of Candidates

19. Except as in this Act otherwise provided, any person, man or woman, who is

(*a*) A Canadian citizen or other British subject;

(*b*) A qualified elector under this Act; and

(*c*) Of the full age of twenty-one years,

may be a candidate at an election.

Persons Ineligible as Candidates

20. (1) The respective persons hereunder mentioned are not for the time specified as to each such person eligible as candidates at an election — namely:

(*a*) Every person found by the report of the judge on the trial of an election petition to have committed at an election any corrupt practice, and who is reported to the Speaker of the House of Commons as having had an opportunity to be heard on his own behalf and has been expressly declared to be a person who should be disqualified as hereinafter provided, or has been convicted before any competent court of having committed at an election any offence that is a corrupt practice, or ordered to pay any sum forfeited because of the commission of any corrupt practice, or found guilty in any proceedings in which after notice of the charge he has had an opportunity of being heard, of any corrupt practice or of any offence which is a corrupt practice — during the period of seven years next after the date of his being so found, convicted, ordered or found guilty;

(*b*) Every person found by the report of the judge on the trial of an election petition to have committed at an election any illegal practice, and who is reported to the Speaker of the House of Commons as having had an opportunity to be heard on his own behalf and has been expressly declared to be a person who should be disqualified as hereinafter provided, or has been convicted before any competent court of having committed at an election any offence that is an illegal practice, or ordered to pay any sum forfeited because of the commission of any illegal practice, or found guilty in any proceeding in which after notice of the charge he has had an opportunity of being heard of any illegal practice or of any offence which is an illegal practice — during the period of five years next after the date of his being so found, convicted, ordered or found guilty;

(*c*) Every person directly or indirectly, alone or with any other person, by himself or by the interposition of any trustee or third party, holding or enjoying, undertaking or executing any contract or agreement express or implied, other than a contract

providing for an annuity under the Government Annuities Act, with or for the Government of Canada on behalf of the Crown, or with or for any of the officers of the Government of Canada, for which any public money of Canada is to be paid — during the time he is so holding, enjoying, undertaking or executing;

(*d*) Every person who is a member of the legislature of any province during the time he is such member;

(*e*) Every person holding the offie of sheriff, clerk of the peace or county Crown Attorney — during the time he is holding such office;

(*f*) Every person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada, to which any salary, fee, wages, allowance, emolument or profit of any kind is attached — during the time he is so holding any such office, commission or employment; and

(*g*) Every person who is a member of the Council of the North-west Territories or the Yukon Territory — during the time he is such member.

(2) The provisions of this section do not render ineligible

(*a*) A member of the Queen's Privy Council for Canada holding the recognized position of First Minister, any person holding the office of President of the Queen's Privy Council for Canada or of Solicitor-General, or any member of the Queen's Privy Council for Canada holding the office of a minister of the Crown;

(*b*) A member of Her Majesty's Forces while he is on active service as a consequence of war;

(*c*) A shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company which undertakes a contract for the building of any public work;

(*d*) A person on whom the completion of any contract or agreement, expressed or implied, devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months have elapsed after the same has so devolved on him;

(*e*) A contractor for a loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or respecting the purchase or payment of the public stock or debentures of Canada on terms common to all persons; or

(*f*) A member of the reserve forces of the Canadian Forces who is not on full-time service other than active service as a consequence of war.

(3) The election of any person who is by this Act declared to be ineligible as a candidate is void.

. . .

Secrecy

44. (1) Every candidate, officer, clerk, agent or other person in attendance at a polling station or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting; . . .

Time to Employees for Voting

47. (1) Every employee who is a qualified elector shall, while the polls are open on polling day at an election, have three consecutive hours for the purpose of casting his vote; and if the hours of his employment do not allow for such three consecutive hours, his employer shall allow him such additional time for voting as may be necessary to provide the said three consecutive hours; no employer shall make any deduction from the pay of any such employee nor impose upon or exact from him any penalty by reason of absence from his work during such consecutive hours; the additional time for voting above referred to shall be granted at the convenience of the employer.

(2) This section extends to railway companies and their employees, except such employees as are actually engaged in the running of trains and to whom such time cannot be allowed without interfering with the manning of the trains.

. . .

Peace and Good Order at Elections

. . .

49. . . .

(3) No person shall furnish or supply any loud-speaker, bunting, ensign, banner, standard or set of colours, or any other flag, to any person with intent that it shall be carried, worn or used on automobiles, trucks or other vehicles, as political propaganda, on the ordinary polling day; and no person shall, with any such intent, carry, wear or use, on automobiles, trucks or other vehicles, any such loud-speaker, bunting, ensign, banner, standard or set of colours, or any other flag, on the ordinary polling day.

(4) No person shall furnish or supply any flag, ribbon, label or like favour to or for any person with intent that it be worn or used by any person within any electoral district on the day of election or polling, or within two days before such day, or during the continuance of such election, by any person, as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed it be entertained by such candidate; and no person shall use or wear any flag, ribbon, label, or other favour, as such badge, within any electoral district on the day of any such election or polling, or within two days before such day.

. . .

Political Broadcasts

99. (1) No person shall be allowed to broadcast a speech or any entertainment or advertising program

over the radio, on the ordinary polling day and on the two days immediately preceding it, in favour or on behalf of any political party or any candidate at an election.

(2) Every person who, with intent to influence persons to give or refrain from giving their votes at an election, uses, aids, abets, counsels or procures the use of any broadcasting station outside of Canada, during an election, for the broadcasting of any matter having reference to any election, is guilty of an illegal practice and of an offence against this Act punishable on summary conviction as provided in this Act.

(3) Where a candidate, his official agent or any other person acting on behalf of the candidate with the candidate's actual knowledge and consent, broadcasts outside of Canada a speech or any entertainment or advertising program during an election, in favour or on behalf of any political party or any candidate at an election, the candidate is guilty of an illegal practice and of an offence against this Act punishable on summary conviction as provided in this Act.

(4) In this section "broadcast" has the same meaning as "broadcasting" in the Broadcasting Act.

. . .

Signed Pledges by Candidates Prohibited

105. It is an illegal practice and an offence against this Act for any candidate for election as a member to serve in the House of Commons to sign any written document presented to him by way of demand or claim made upon him, by any person, persons or associations of persons, between the date of the issue of the writ of election and the date of polling, if such document requires such candidate to follow any course of action that will prevent him from exercising freedom of action in Parliament if elected, or to resign as such member if called upon to do so by any person, persons or associations of persons.

. . .

CENTRAL AFRICAN REPUBLIC

ACT No. 60163 AMENDING CERTAIN PROVISIONS OF THE CONSTITUTION of 12 December 1960[1]

Art. 1. A paragraph reading as follows shall be inserted after the third paragraph of the preamble of the Constitution:[2]

"Finally, on 13 August 1960, the Central African Republic proclaimed its independence."

. . .

Art. 3. The terms "Legislative Assembly" and "President of the Government", appearing in the Constitutional Act adopted on 9 February 1959, shall be replaced by the words "National Assembly" and "President of the Republic" respectively.

Art. 4. Articles 1, 2, . . . 32, . . . 39 . . . of the Constitution are repealed and replaced by the following:

"*New article 1.* The Central African Republic — indivisible, secular, democratic and social — is a free, independent and sovereign State.

. . .

"The principle of the Republic is government of the people, by the people and for the people.

"*New Article 2.* Sovereignty is vested in the people, which shall exercise it through its representatives or by way of referendum.

"No section of the people and no individual person may arrogate to themselves the exercise thereof.

"The suffrage may be direct or indirect, under conditions determined by special legislation. It shall at all times be universal, equal and secret.

"All nationals of the Central African Republic of both sexes who are of full legal age and in full possession of their civil and political rights shall be entitled to vote under the conditions determined by law, as shall also, under the same conditions and subject to reciprocity, citizens of the Community.

"Political parties and groups shall compete in the elections. They shall constitute themselves, and exercise their activities, in freedom. They must respect the principles of the people's sovereignty and of democracy.

. . .

"*New article 32.* A Constitutional Council shall be established. . . .

"In addition to the above-mentioned powers and those conferred upon it by articles 13, 20 and 31, the Council shall pronounce on the constitutionality of ordinary and organic acts which are referred to it, before their promulgation, by the President of the Republic or the President of the National Assembly; if an act is so referred to the Council, the time-limit for its promulgation shall be suspended.

. . .

"*New article 39.* Treaties, agreements and conventions duly ratified and published shall, provided that in each case they are implemented by the other party thereto, have force greater than that of the laws.

. . ."

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[1] Text published in the *Journal officiel de la République Centrafricaine*, Second Year, No. 26, of 15 December 1960.

[2] See *Yearbook on Human Rights for 1959*, p. 44.

CEYLON

LEGISLATION AND JUDICIAL DECISIONS RELATING TO HUMAN RIGHTS DURING 1960[1]

I. LEGISLATION

1. *Supreme Court Appeals (Special Provisions) Act No. 4 of 1960* is an Act to make special provisions in regard to civil appeals presented to the Supreme Court. This Act provides that the Supreme Court may not reject or dismiss such appeals on the ground only of an error, omission or default on the part of the appellant in complying with the provisions of law relating to such appeals unless material prejudice has been caused thereby to the respondent to such appeal.

2. *Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960* is an Act to make provision for the appointment of the Director of Education as manager of every assisted school other than a school which the proprietor has elected to administer as an unaided school. The object of this legislation was to provide the framework for the establishment of a national system of education.

II. JUDICIAL DECISIONS

A. Right to a Fair Trial

1. *Aziz* v. *Thondaman*
(1959) 61 N.L.R. 217

The right of a citizen to invoke the aid of the courts is one that cannot be taken away by the rules of any association or body of persons. It is so fundamental that it cannot be taken away even by the legislature itself. It was held in this case that where the rules of a trade union or club provide for a right of appeal to a domestic tribunal, but the composition and powers of the appellate body are not defined, it is open to a member or office-bearer, who has been wrongly expelled, to invoke the aid, in the first instance, of a court of law.

2. *The Queen* v. *E. Handy*
(1959) 61 N.L.R. 265

Section 230 of the Criminal Procedure Code does not entitle the presiding judge to discharge the jury in a case in which the judge disagreed with the jury's view of the facts. Where the jury's verdict of acquittal is not duly entered on account of the judge's disapproval of it, the accused is entitled to raise the plea of *autrefois acquit* if he is tried again for the same offence.

3. *The Queen* v. *P. H. Carolis*
(1959) 61 N.L.R. 395

A regulation made under section 5 of the Public Security Ordinance and published in the *Gazette* on 2 October 1957, provided as follows: "During the continuance in force of this regulation the operation of the suspension of Capital Punishment Act No. 20 of 1958 shall be suspended." It was held that the regulation cannot be construed as being retroactive. It must be construed as applying only to offences of murder committed after it came into operation and the suspension of the Suspension of Capital Punishment Act operates as a suspension only as respects those who committed murder while the regulation was in force and are also tried and convicted during that time. In the case of offences of murder committed before the date of the regulation the punishment is as prescribed in the Suspension of Capital Punishment Act as the regulation did not have the effect of suspending the Act in respect of offences committed before it came into operation.

4. *Regina* v. *Anandagoda*
(1960) 62 N.L.R. 241

A statement made to a police officer by a person accused of an offence would be inadmissible in evidence only if it is either an admission of the commission of the offence by the accused or else suggests the inference that the accused committed the offence. In a prosecution for murder it was held that admissions made by the accused person to a police officer of facts which could establish, on the part of the accused, motive or opportunity, or knowledge of the death of the deceased, were admissible in evidence and did not constitute a confession within the meaning of sections 17 (2) and 25 of the Evidence Ordinance.

5. *The Queen* v. *Wijebamy*
(1958) 62 N.L.R. 425

When in a criminal case the prosecution relies on the report of a finger-print expert to the effect that the finger-prints said to have been found at the scene of the offence were those of the accused person, there must be direct evidence that the finger-prints of the accused were handed to the finger-print expert.

[1] Information furnished by the Government of Ceylon.

6. *Don Lazarus* v. *Waas*
(1959) 62 N.L.R. 437

Fresh evidence called by a judge *ex proprio motu* unless *ex improviso* is unauthorized by the provisions of section 429 of the Criminal Procedure Code.

B. Personal Rights

Leon Singho v. *The Attorney-General*
(1959) 62 N.L.R. 222

Where, in an application for bail under section 31 of the Courts Ordinance, it was shown by the Crown that the work of the circuit was so heavy that it was not possible for the accused to be brought to trial at either of the two sessions which were held after the accused ought properly have been tried, it was held that the Crown had failed to show good cause why the accused should not be admitted to bail.

C. Industrial Rights

Ratnasabapathy v. *Asilin Nona*
(1958) 61 N.L.R. 548

The phrase "employment of a casual nature" appearing in the definition of "workman" in section 2 of the Workmen's Compensation Ordinance would appear to infer something midway between the regular employment of a workman and a simple engagement for a single day. When the state of acts is midway between these two states, so that the question is really debateable, it is for the Commissioner to decide. When the Commissioner has made his decision on this question of fact, the test to be applied in determining whether the Appeal Court should interfere with the decision would appear to be whether there was evidence before the Commissioner upon which he could well have reached the decision he did. If there was evidence, and the Commissioner has not misdirected himself in reaching his decision, no appeal would lie.

D. Citizenship Rights

Veloo v. *Commissioner for Registration of Indian & Pakistani Residents (1960) 61 N.L.R. 574*

In an application made by a person for the registration of himself and his wife and children under the Indian and Pakistani Residents (Citizenship) Act, it was held that, for the purposes of ascertaining whether an applicant is possessed of an assured income within the meaning of section 6 (2) of the Act, one is entitled to aggregate not only his personal earnings but also that of the members of the family who live with him and are dependent on him: in other words, the applicant is entitled to consider his own earnings with the earnings of those whose application for citizenship may under section 4 (2) be included in his application, and who under the proviso to section 4 (1) cannot, independently of him, apply for citizenship.

CHAD

CONSTITUTIONAL LAW No. 18-60 OF 28 NOVEMBER 1960[1]

PREAMBLE

The people of Chad proclaim their adherence to the principles of democracy and of human rights, as set out in the Declaration of the Rights of Man and of the Citizen of 1789 and in the Universal Declaration of 1948, and as guaranteed by the present constitution.

The basic principles of the constitutional organization of the Republic of Chad are: defence of human rights and public freedoms in conformity with a single ideal of democratic justice; institution of a true democracy based on the system of the separation of the three powers: legislative, executive and judicial.

The people of Chad affirm their intention to co-operate in peace and friendship with all peoples who share their ideal of justice, liberty, equality, fraternity and human solidarity.

TITLE I
THE STATE AND SOVEREIGNTY

. . .

Art. 2. The Republic of Chad is single and indivisible, secular, democratic and social.

Its principle shall be government of the people by the people and for the people.

Art. 3. Sovereignty shall be vested in the people.

No section of the people and no individual may assume the exercise of sovereignty.

Art. 4. The people shall exercise sovereignty through their representatives and by way of referendum. The conditions in which recourse may be had to a referendum shall be determined by law.

. . .

Art. 5. The vote shall be universal, equal and secret.

The electoral system shall be determined by law.

Art. 6. The rights of citizens shall be guaranteed by the Constitution. They shall be indefeasible and inviolable. They are based on the principles of freedom, humanity and equality, which are the essence of the democratic system.

Consequently:

No person may be arrested or detained except in accordance with the provisions of law and an order from the legitimate authority.

The residence of every person inhabiting the territory of the Republic shall be inviolable. Such residence may be entered only in the manner and in the cases specified by law.

The oppression of one group of the people by another is proclaimed to be anti-constitutional and illegal.

The republic shall ensure equality of rights to all without distinction as to race, origin or religion. Every person may freely profess his religion and shall receive equal protection from the State for the exercise thereof.

Any particularist propaganda of a racial or ethnic character and any manifestation of racial discrimination shall be punished by law.

Citizens shall have the right of association, of petition and of free expression of their thoughts. The only restrictions on the exercise of these rights shall be those imposed by the rights or freedom of others and by public security.

The press shall be free, whatever its method of expression. The conditions for the exercise of the freedom of the press shall be determined by law.

Public education shall be secular. It shall be given in the French language. A special place shall be given to the Arab language. The primary, secondary and technical education provided in the establishments of the Republic shall be free of charge.

All citizens are proclaimed to be equal as regards eligibility for all public offices, preference being accorded to merit alone.

All distinctions of birth, class or caste shall be abolished.

Freedom to work shall be guaranteed within the framework of the social laws. The right to work, medical assistance and assistance to abandoned children and to the aged and infirm without means of support shall be guaranteed by the Constitution.

The equality of citizens with regard to taxation shall have its counterpart in their obligation to contribute to public expenses in proportion to their means and fortune.

Citizens shall be free to form political parties or groups in order to assist more effectively in the expression of universal suffrage.

Art. 7. The political parties and groups shall

[1] Text published in the *Journal officiel de la République du Tchad*, second year, No. 26 (special number), of 15 December 1960, and furnished by the Government of the Republic of Chad.

assist in the exercise of the suffrage. They may be formed and engage in their activities freely, subject to respect for the principles of national sovereignty and democracy and the laws of the republic.

. . .

TITLE III
THE NATIONAL ASSEMBLY

Art. 18. The Parliament shall be constituted by a single Assembly, known as the "National Assembly", the members of which shall be known as deputies.

. . .

Art. 20. The deputies to the National Assembly shall be elected by direct universal suffrage.

. . .

Art. 27. Each deputy shall represent the entire nation.

Any compulsory mandate shall be null and void.

. . .

TITLE IV
RELATIONS BETWEEN THE ASSEMBLY AND THE GOVERNMENT

. . .

Art. 36. The laws on which the Constitution confers the character of organic laws . . . may be promulgated only after the Supreme Court has stated that they are in conformity with the Constitution.

. . .

Art. 43. . . .

The Head of State, the President of the National Assembly and a number of deputies representing at least one fifth of the members of the National Assembly may . . . appeal to the Supreme Court. The Court shall have fifteen days to decide whether the laws thus referred to it are in conformity with the Constitution. The reference of a law to the Supreme Court shall suspend the time-limit for its promulgation.

. . .

TITLE VII
THE JUDICIAL AUTHORITY

. . .

Art. 53. In the exercise of their functions, judges of the bench shall be subject only to the authority of the law.

The Head of State shall guarantee their independence.

He shall be assisted by the Superior Council of the Judiciary.

. . .

Art. 55. Judges of the bench shall be appointed by the Head of State on the proposal of the Keeper of the Seals, the Minister for Justice, after obtaining the opinion of the Superior Council of the Judiciary. These judges may not be removed from office.

. . .

Art. 57. No one may be arbitrarily detained in custody.

An accused person shall be presumed innocent until he is proved guilty under a procedure providing the safeguards essential to his defence. The judicial authority, as the guardian of personal freedom, shall ensure respect for this principle as prescribed by law.

TITLE VIII
THE SUPREME COURT

. . .

Art. 60. There shall be no appeal against the decisions of the Supreme Court. They shall be binding on the public authorities, on all courts and on all the administrative and judicial authorities. A provision declared to be unconstitutional may not be promulgated.

Art. 61. The Supreme Court . . . shall decide whether organic laws and international laws and conventions are in conformity with the Constitution, in the conditions laid down in articles 36, 43 and 64. . . .

TITLE IX
INTERNATIONAL TREATIES AND AGREEMENTS

. . .

Art. 64. If the Supreme Court, having been applied to by the Head of State or by the President of the National Assembly, declares that an international instrument contains a clause which is contrary to the Constitution, authority to ratify it may not be granted without an amendment of the Constitution.

Art. 65. Treaties or agreements which have been duly ratified shall, from the time of their application, take precedence over laws, provided that in each case the agreement or treaty is applied by the other party.

TITLE X
AMENDMENT

. . .

Art. 68. . . .

The republican form of the Government shall not be subject to amendment.

. . .

TITLE XIII
TRANSITIONAL PROVISIONS

. . .

Art. 77. The legislation and regulations at present in force in Chad, in so far as they do not contravene this Constitution, shall remain applicable, subject to the enactment of new legislation.

Art. 78. The provisions necessary for the application of this Constitution shall be the subject of laws passed by the National Assembly.

. . .

CHILE

NOTE[1]

I. LEGISLATION

1. Act No. 13923 of 2 February 1960 (*Diario Oficial* No. 24594 of 15 March 1960) amends the provisions of the Civil Code, the Labour Code and the Code of Civil Procedure relating to wages and salaries, and defines exemption from attachment and limitations in respect of the rights of wage-earning and salaried employees.

Article 4 provides as follows:

"*Article 4.* Replace the first and second paragraphs of article 153 of the Labour Code by the following:

"Any remuneration paid to employees, such as wages, commissions, shares, bonuses, social security contributions and funds and statutory compensation for termination or for other reasons shall not be attachable. Family allowances shall be governed by Act No. 5750, article 8, second paragraph, concerning desertion and the payment of maintenance.

"However, in the case of maintenance allowances payable by law and under a court order, if an employee embezzles, steals from or robs his employer in the course of his duties, or owes remuneration to persons engaged in his service, as wage-earning or salaried employees, up to 50 per cent of the remuneration and benefits referred to in the previous paragraph shall be attachable, with the exception of social security contributions and funds, which shall always be unattachable.

"Remuneration exceeding a total of six times the minimum monthly wage fixed by the Santiago Department for Trade and Industry shall be attachable also."

2. Act No. 1457 of 17 October 1960 (*Diario Oficial* No. 24779 of 27 October 1960) provides that persons working as porters in fairs and markets shall be entitled to Social Security Service rights.

II. SUPREME DECREES

1. Decree No. 444 of the Ministry of Social Security, dated 27 May 1959 (*Diario Oficial* No. 24629, of 27 April 1960) provides that female contributors and the wives of male contributors to the Social Security Service Scheme who are pregnant shall be entitled to pre-natal allowances from the fifth month of pregnancy (seventeenth week) up to the birth of the child or the end of the pregnancy for a period not exceeding five months.

2. Decree No. 1848 of the Ministry of the Interior, dated 14 April 1960 (*Diario Oficial*, No. 24635 of 4 May 1960) authorizes the issue of international ordinary and air mail "World Refugee Year" commemorative stamps.

3. Decree No. 5142 of the Ministry of the Interior, dated 13 October 1960 (*Diario Oficial* No. 24781 of 29 October 1960) gives the revised text of the provisions governing the nationalization of aliens.

Decree No. 5142 includes the following provisions:

"*Article 2.* A nationalization certificate may be granted to an alien who has attained the age of twenty-one years, has resided continuously in the republic for more than five years and renounces his nationality of origin or any other nationality he may have acquired, by means of an instrument executed before a Notary Public.

"The Minister of the Interior shall determine, in the light of circumstances, whether or not temporary visits abroad have interrupted the continuous residence referred to in the paragraph last preceding.

"A naturalization certificate may also be granted to the children of a nationalized Chilean father or mother who have attained the age of eighteen and who meet the other requirements set out in the first paragraph. . . .

"*Article 3.* The following persons are not eligible for this privilege:

"1. A person who has been convicted of or is undergoing trial for a simple offence or crime, until such time as proceedings are finally discontinued;

"2. A person incapable of earning his living;

"3. A person suffering from a chronic or contagious disease or incurable organic defect;

"4. A person who practices or disseminates doctrines likely to produce a revolutionary change in the social or political system or which may affect national integrity;

"5. A person who is habitually engaged in an unlawful occupation irreconcilable with established customs and morality and in general any person who can be considered to be covered by the provisions of the Residence Act, No. 3446 of 12 December 1918.

. . .

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

"*Article 10.* Persons born in Chilean territory who are the children of aliens residing in the country in the service of their government, or the children of aliens in transit, shall, if they decide to ask for Chilean nationality in accordance with article 5, paragraph 1, of the Political Constitution, make a declaration in which they state that they opt for Chilean nationality. The declaration shall be made before the competent intendent or governor in Chile, or, if made abroad, before the diplomatic representative or consul of the republic within one year from the date on which the person concerned attains the age of twenty-one, after sufficient evidence has been produced showing that the person concerned is covered by one of the provisions of article 5, paragraph 1, of the Constitution."

4. Decree No. 64 of the Ministry of Justice of 5 January 1960 (*Diario Oficial*, No. 24553, of 27 January 1960) lays down regulations governing the expunction of crimes and offences from records and for the granting of personal history certificates.

CHINA

PROVISIONAL RULES CONCERNING PUBLIC ATTENDANCE AT COURT SESSIONS

As amended up to 28 August 1958[1]

Art. 1. Every court shall establish a public gallery to which the public shall be admitted to attend court sessions unless such sessions are closed in accordance with specific provisions of law.

Art. 2. The presiding judge may exercise his powers under the Courts Act to deny admission or refuse issuance of admission tickets to:

(*a*) Persons who are mentally ill or intoxicated;

(*b*) Persons carrying dangerous weapons or behaving in an unruly manner; or

(*c*) Persons believed likely to disturb the order of the court.

Art. 3. Without prejudice to the provisions of the Courts Act, visitors in the public gallery may not:

(*a*) Engage in talking, applauding, taking photographs or any other action liable to disrupt court proceedings;

(*b*) Make remarks in criticism or ridicule of any statements made in the court, or interrupt such statements by shouting;

(*c*) Loiter in the courtroom after the session has been declared in recess or adjourned;

(*d*) Smoke;

(*e*) Spit; or

(*f*) Conduct themselves in such a manner as to impair the dignity of the Court.

Art. 4. 1. The court may issue admission tickets according to the number of seats available in the public gallery.

2. No fees may be charged for the admission tickets referred to in the preceding paragraph.

Art. 5. Admission tickets must be presented upon entering the court. Additional tickets may be issued whenever seats in the gallery become vacant.

Art. 6. The court may set up a press section in the gallery to which no visitors other than members of the press shall be admitted.

Art. 7. The court may reserve seats in the gallery for the use of Chinese or foreign visitors with special invitations.

Art. 8. Any visitor who does not comply with these rules shall be admonished. If he persists in the infraction of these rules, the presiding judge shall take disciplinary action against him in accordance with the provisions of the Courts Act.

[1] Text furnished by the Government of China.

PUBLICATIONS ACT

of 28 June 1958[1]

Chapter I

GENERAL PROVISIONS

Art. 1. In this Act, "publication" shall mean any literary work, picture or photograph printed or produced by mechanical or chemical process and offered for sale or distribution. For the purposes of this Act, gramophone records shall be deemed to be publications.

Art. 2. Publications shall be classified in the following three categories:

1. Periodicals:

(*a*) Newspapers: if published daily, or at a stated interval not exceeding six days, under a permanent name;

(*b*) Magazines: if published at a stated interval ranging from seven days to three months, under a permanent name;

2. Books: any literary or artistic works printed on consecutive sheets fastened or bound together, other than magazines;

3. Other publications: all other publications not coming within either of the above two categories.

Art. 3. 1. In this Act, "publisher" shall mean the person who has acquired the publishing rights for a publication and is responsible for the management thereof.

[1] Text published in *Presidential Gazette* No. 927, and furnished by the Government of China.

2. If a newspaper, magazine or other publication is organized and managed by a company or partnership, the publishing rights shall belong to the legally established company or to such other party as may be determined in the partnership contract.

Art. 4. 1. In this Act, references to an author shall be interpreted as references to the author of any literary work, picture, photograph or gramophone record.

2. A person who records the narrative of another in a publication shall be deemed to be the author thereof, it being understood that a narrator who has acknowledged his narrative shall be equally responsible for the authorship thereof.

3. A person who edits or compiles any written matter shall be deemed to be the author thereof, it being understood that the original author who has acknowledged such written matter shall be equally responsible for the authorship thereof.

4. The translator of any written matter shall be deemed to be the author thereof.

5. The duly authorized representative of a school, company, society or organization under the name of which any written matter is published shall be deemed to be the author thereof.

6. A person who inserts an advertisement or announcement in a publication shall be deemed to be the author thereof. If such person is unknown or is incapable of bearing civil liability, the publisher shall be deemed to be the author thereof.

Art. 5. In this Act, "editor" shall mean the person in charge of the editing of a publication.

Art. 6. In this Act, "printer" shall mean the person responsible for the printing of a publication.

Art. 7. In this Act, "the competent authorities" shall mean the Ministry of the Interior at the national level and the provincial (or special municipal) government and the *hsien* (or municipal) government at the local level.

Art. 8. An alien may, in the manner prescribed in this Act, apply for permission to issue a publication in China, provided that he complies with all the laws and regulations of the Republic of China relating to publications. However, the privileges provided for in this Act shall not be granted to any alien whose country, in its laws relating to publications, discriminates against Chinese nationals.

Chapter II

NEWSPAPERS AND MAGAZINES

Art. 9. 1. It shall be the duty of the publisher of a newspaper or magazine to file, prior to the publication of its first issue, an application for registration with the competent special municipal government, or with the provincial government through the competent *hsien* (or municipal) government, as appropriate. Upon receipt of the application, the special municipal government or provincial government shall approve the registration of the publication if it is found to fulfil the requirements of this Act and shall, at the same time, forward the application to the Ministry of the Interior for the issue of a certificate of registration.

2. The competent authorities at various levels shall each take action within ten days in connexion with the application for registration in accordance with the provisions of the preceding paragraph. No fee shall be charged for the registration.

3. The application for registration shall contain information on the following:

(*a*) Name of the periodical;

(*b*) Purposes of publication;

(*c*) Frequency of issue;

(*d*) Organization of the publishing concern;

(*e*) Amount of capital;

(*f*) Name and address of the publishing concern and the printer;

(*g*) Name, sex, age, place of birth, experience and address of the publisher and the editor.

Art. 10. 1. The publisher shall report any change in the particulars mentioned in the preceding article within seven days after the effecting of the change, and shall request a change in registration in accordance with the same procedure as that prescribed in the case of application for registration.

2. If the name of a periodical, the publisher or the competent local authority having jurisdiction over the publishing concern is to be changed, the publisher shall return the original certificate of registration and shall apply for a new registration, in accordance with the provisions of the preceding article.

Art. 11. It shall not be lawful for a person in any of the following categories to be the publisher or editor of a periodical:

(*a*) Persons having no domicile in China;

(*b*) Persons placed under disabilities;

(*c*) Persons serving a sentence of imprisonment of more than two months;

(*d*) Persons deprived of their civil rights.

Art. 12. 1. The publisher shall report the suspension of the publication of a periodical and apply for cancellation of registration in accordance with the same procedure as that prescribed in the case of application for registration.

2. Registration for the publication of a periodica shall be automatically cancelled if the periodical is not published within three months after the date of registration, or if its publication is interrupted for more than three months in the case of a news-

paper or for more than six months in the case of a magazine.

3. The time-limits prescribed in the preceding paragraph may be extended at the request of the publisher on the ground of *force majeure* or on other justifiable grounds.

Art. 13. There shall be printed in every issue of a periodical the name of the publisher, the number of the certificate of registration, the date of publication, and the name and address of the publishing concern and of the printer.

Art. 14. The publisher of a periodical shall, at the time when each issue is published, deliver a copy thereof to the Ministry of the Interior, the Government Information Office of the Executive Yuan, the competent local authority and the National Central Library.

Art. 15. 1. In respect of any statement published in a periodical, the person or governmental body concerned may request a correction or the publication of a reply. Such correction or reply shall be published within three days after receipt of the request in the case of a daily newspaper, and in the first issue after receipt of the request in the case of any other newspaper or magazine, unless the contents of the reply clearly conflict with the law, or the person concerned fails to include his name and address in the request, or the request is made more than six months after publication of the original statement.

2. The correction or reply shall be published in a space no less prominent than that given to the original statement.

Chapter III
BOOKS AND OTHER PUBLICATIONS

Art. 16. 1. Any publishing concern intending to publish books or other publications shall apply for registration in accordance with the provisions of article 9, paragraphs 1 and 2, of this Act.

2. The application for registration shall contain information on the following:

(*a*) Name, organization and address of the publishing company or bookshop;

(*b*) Amount of capital;

(*c*) Name and address of the printer;

(*d*) Categories of the books or other publications to be published;

(*e*) Name, sex, age, place of birth, experience and address of the publisher and the editor.

Art. 17. The provisions of article 10 shall apply, *mutatis mutandis*, to change of registration in the case of a publishing company or bookshop which publishes books or other publications.

Art. 18. The provisions of article 11 shall apply, *mutatis mutandis*, to the publisher or editor of any book or other publication.

Art. 19. The provisions of articles 16, 17 and 18 shall not apply to cases in which the publisher of books or other publications is a governmental body, an educational institution, an organization, the author or his successor or agent.

Art. 20. There shall be printed in every book or other publication the name and address of the author and the publisher, the date of publication, the number of the edition, and the name and address of the publishing concern and of the printer.

Art. 21. The publication of textbooks, pictures and gramophone records designed for use in schools and in institutions of social education shall not be undertaken without the approval of the Ministry of Education.

Art. 22. 1. The publisher of any book or other publication shall, at the time when it is published, deliver a copy thereof to the Ministry of the Interior and the National Central Library; nevertheless, in the case of gramophone records, a record delivered to the Ministry of the Interior shall suffice.

2. The provisions of the preceding paragraph shall apply to any revised, enlarged or abridged edition of an original publication.

Chapter IV
PROMOTION AND PROTECTION OF PUBLICATIONS

Art. 23. 1. Special encouragement or subsidies shall be given to a publishing concern or a publication, as the case may be, for:

(*a*) The achievement mentioned in article 167, subparagraph 3, of the Constitution;

(*b*) Notable contributions to culture and education;

(*c*) Important contributions to the dissemination of information on national policies;

(*d*) Publication work in border regions, economically needy areas, or Chinese communities abroad, which contributes towards a substantial improvement of local social conditions; or

(*e*) The publication of important academic or technical works, or of textbooks for use in schools in border regions, in Chinese communities abroad, or in vocational schools.

2. The special encouragement or subsidies referred to in the preceding paragraph shall be given in accordance with measures forming the subject of separate enactment.

Art. 24. The publication of newspapers, magazines, textbooks and important academic or technical works which have received encouragement from the Government may be exempted from business tax.

Art. 25. Communication and transportation services operated by the Government may accord special treatment to publications entrusted to them for delivery and transmission.

Art. 26. 1. Governmental agencies shall facilitate the gathering of news and the collection of information by newspapers or magazines.

2. The provisions of article 25 shall also apply to the transmission of news or information referred to in the preceding paragraph.

Art. 27. The competent authorities may arrange for the supply of such quantities of newsprint and other printing materials as may be required for any publication.

Art. 28. The competent authorities shall take prompt and effective measures to protect a publishing concern or a publisher, author, editor or printer against any interference or obstruction in the course of their work.

Art. 29. A newspaper or magazine shall not be liable to any penalty for the publication of any item in violation of the provisions of articles 32 to 35 concerning prohibitions and restrictions if no punishment is imposed within three months after the publication of the item in question.

Art. 30. If a complaint is made against any administrative measure taken under the provisions of this Act in respect of a publication, the authorities competent to deal with the complaint shall decide the case within one month after the complaint has been received. If legal proceedings are instituted in connexion with the administrative measure complained of, the Administrative Tribunal shall decide the case within one month after the case is brought before it for adjudication.

Art. 31. Administrative authorities shall be held accountable under relevant laws and regulations for any improper application of the administrative measures provided for in this Act.

Chapter V

Restrictions on Contents of Publications

Art. 32. It shall not be lawful for a publication to contain any matter which:

(*a*) Constitutes an offence against the internal or external security of the State, or incites others to commit such an offence;

(*b*) Constitutes interference with the lawful discharge of public functions, interference with an election, or an offence against public order, or incites others to commit such interference or offence;

(*c*) Constitutes an offence against religion or public morals, or incites others to commit such an offence.

Art. 33. It shall not be lawful for a publication to comment on a judicial case which is under investigation or is before a court, on the judicial personnel dealing with the case, or on the parties concerned, or to publish court proceedings held *in camera*.

Art. 34. In time of war or national crisis, or during a period when the emergency measures provided for in the Constitution are being applied, the publication of any item which relates to confidential information on political, military or diplomatic affairs, or which is detrimental to local peace and order, shall be prohibited or restricted in accordance with such orders as may be issued by the National Government.

Art. 35. The provisions of articles 32, 33 and 34 shall apply to any item inserted in a publication as a correction, reply, advertisement, etc.

Chapter VI

Administrative Measures

Art. 36. The competent authorities may take any of the following measures against a publication which has infringed the provisions of this Act:

(*a*) Warning;

(*b*) Fine;

(*c*) Prohibition of the sale, distribution or importation of the publication, or seizure and confiscation of copies of the publication;

(*d*) Suspension of the publication for a specified period;

(*e*) Revocation of registration.

Art. 37. A warning shall be addressed to a publication for any minor contravention of the provisions of article 32, sub-paragraph (*c*), or article 33 of this Act.

Art. 38. A fine shall be imposed on a publication, if:

(*a*) The publisher fails to deliver, despite repeated requests that he should do so, copies of the publication in accordance with the provisions of article 14 or article 22, in which case the fine shall not exceed 100 yuan;

(*b*) The publisher fails to include in the publication the information required under article 13 or article 20, or gives false information, in which case the fine shall not exceed 300 yuan;

(*c*) The publisher fails to publish a correction as provided for in article 15, or it is found by the competent authorities, on the basis of a complaint made by the person or governmental body concerned, that the publisher has published a correction or reply which is at variance with that requested or submitted by the party concerned, in which case the fine shall not exceed 500 yuan.

Art. 39. 1. The sale and distribution of a publication shall be prohibited and, whenever necessary, copies of it may be seized, if:

(*a*) The publication is published without due registration in accordance with article 9 or article 16;

(*b*) The publication contravenes the provisions of article 21;

(*c*) The contents of the publication contravene the provisions of article 32, sub-paragraphs (*b*) and (*c*);

(*d*) The contents of the publication seriously contravene the provisions of article 33;

(*e*) The contents of the publication contravene the provisions of article 34.

2. Copies of a publication seized pursuant to the provisions of the preceding paragraph may be returned, on application by the publisher, after the offending item has been deleted or the prohibition has been rescinded.

Art. 40. 1. A publication shall be suspended for a specified period, if:

(*a*) It is found that the publisher has made false entries in the application for registration;

(*b*) It is found that the publisher has failed to request a change in registration in accordance with the provisions of article 10 or article 17;

(*c*) The contents of the publication contravene the provisions of article 32, sub-paragraph (*a*);

(*d*) The contents of the publication seriously contravene the provisions of article 32, sub-paragraphs (*b*) and (*c*);

(*e*) The contents of the publication seriously contravene the provisions of article 34;

(*f*) The publication fails to heed three successive warnings addressed to it in accordance with the provisions of article 37.

2. The suspension of a publication under paragraph 1 of this article may not be enforced without authorization from the Ministry of the Interior. The period of suspension shall in no case exceed one year.

3. Copies of any publication guilty of the contravention referred to in paragraph 1, sub-paragraph (*c*), of this article may be seized at the time when the suspension is ordered.

Art. 41. The registration of a publication shall be revoked by the Ministry of the Interior, if:

(*a*) It is determined, by judicial decision, that the contents of the publication constitute a serious offence against the internal or external security of the State or incite others to commit such an offence;

(*b*) The publication, after having been thrice subjected to the administrative measure of suspension, continues to have, as its main contents, articles which constitute an offence against public morals or incite others to commit such an offence.

Art. 42. Copies of a publication may be confiscated if they are published after the cancellation or revocation of its registration or during a period of suspension enforced in accordance with the provisions of this Act.

Art. 43. 1. The Ministry of the Interior may prohibit the importation of any foreign publications liable to the administrative measures specified in articles 37, 39, 40 and 41.

2. The provincial government or the special municipal government may seize copies of any publication imported in violation of the prohibition mentioned in paragraph 1 of this article.

Art. 44. Any act punishable under articles 37 to 43 of this Act may also be subject to the penalties specified in other laws, if it constitutes an offence under such laws.

Chapter VII
SUPPLEMENTARY PROVISIONS

Art. 45. The Ministry of the Interior shall issue administrative regulations under this Act.

Art. 46. This Act shall enter into force on the date of its promulgation.

CONGO (LEOPOLDVILLE)[1]

NOTE

I. LAWS AND REGULATIONS

1. *Right to Equitable Procedure in Civil Proceedings*

The decree of 7 March 1960 (*Moniteur congolais* No. 14 of 4 April 1960, page 961), revoking the order of the Administrator-General of the Congo of 14 May 1886 approved by the decree dated 12 November 1886 and the decrees amending and supplementing it, institutes a Code of Civil Procedure for the Belgian Congo.

Part I of the decree deals with procedure in courts and tribunals.

Chapter 2 relates to appearance of the parties and to failure to appear. It stipulates that "the parties shall appear in person or shall be represented by an advocate who shall bring with him the evidence for submission. When the subject of the dispute is not a question of personal status and its value does not exceed 50,000 francs, the parties may be represented by an agent having power of attorney, who must in each case be approved by the court. . . . The power of attorney for representation in court shall include the right to appear, conduct the case and make submissions on behalf of the party, and also to act as spokesman in his name" (article 14).

Article 15 provides that "the parties shall be heard: *audiatur et altera pars*. They may make their submissions in writing."

In chapter 3 (on judgements), article 23 provides that the judgements shall contain, in addition to the names of the judges and of the parties, "the grounds and operative part of the judgement and the date on which they were stated".

In chapter 5 (Investigations), article 29 provides that "if the facts [which a party is seeking to establish through the evidence of witnesses] are relevant and are disputed, such evidence may be ordered to be produced to the extent that it is not prohibited by law". According to article 31, "the submission of evidence to the contrary is an inherent right". Article 33 provides that "witnesses shall be heard separately, and in the presence of the parties, if the latter should appear. . . . In the course of the proceedings, the judge, either spontaneously or at the request of the parties, may order the confrontation or re-examination of witnesses. . . ."

The appearance of the parties in person and their examination are dealt with in chapter 8. Article 53 provides that "counsel assisting the parties may be present during their appearance and, after the examination, may ask the judge to put such questions as they consider useful".

Part II deals with remedies against judgements delivered in civil proceedings, including the right of appeal.

Chapter 5 deals with "prise à partie", a procedure under which a party may sue for damages "if fraud or extortion has been committed, either in the course of the investigation, by an officer administering justice, or at the time when the judgement was rendered" (article 96), or if the officers administering justice should "refuse to carry out the duties entrusted to them or fail to judge cases which are ready and have come up for adjudication" (article 97).

Part IV deals with legal expenses. Articles 146 and 158 contain special provisions in favour of poor persons.

Part V, concerning arbitration, provides in particular that arbitrators may be challenged by a judicial decision (article 172) and that arbitral awards may be appealed against and may in certain cases be annulled by the courts (articles 185–194).

2. *Regulations concerning Freedom of Expression*

Legislative ordinance No. 11/111 of 7 March 1960 (*Moniteur congolais* No. 11 of 14 March 1960, page 786) supplements the section of the Penal Code relating to acts injurious to the internal security of the State (articles 186 to 202). According to the new article 188, "any person who, whether by speeches in assemblies or in public places, or by means of written statements, printed matter, pictures, drawings or emblems of any kind which have been posted up, distributed, sold, placed on sale or displayed to the public, shall . . . have incited [the population] to civil war, shall be sentenced to penal servitude for a term of two months to three years and to a fine of 100 to 2,000 francs, or to either of these penalties". The new article 192 imposes a sentence of fifteen to twenty years' penal servitude for "the offence of attempting to foment civil war by arming the inhabitants or leading them to take up arms against each other", and inflicts lighter terms of penal servitude on those found guilty of plotting to commit such an offence.

[1] On 30 June 1960 the Belgian Congo became an independent State, the Republic of the Congo.

3. *Freedom of Association*

The decree of 8 June 1960 (*Moniteur congolais* No. 26 of 27 June 1960, page 1908), amending the decree of 21 June 1944 on freedom of association, inflicts a penalty of eight days' to one month's penal servitude and a fine of fifty to 500 francs, or either of those penalties, on:

"Any person found guilty of manhandling, assaulting or physically threatening another person, or of threatening him with the loss of his employment or with the prospect of injury to himself, his family or his property, with the object of compelling him either to join or to refrain from joining any association whatsoever;

"Any person who, for the purpose of inciting other persons to join an association, shall, either in statements made in assemblies or public places or in written statements or printed matter which have been published, distributed, sold, placed on sale or displayed to the public, have used words suggesting that membership of the said association confers some imaginary immunity, authority or advantage on its members."

4. *Social Security*

The emergency decree of 31 May 1960 (*Moniteur congolais* No. 26 of 27 June 1960, page 1873) reorganizes equalization in respect of *family allowances* for employees in the Belgian Congo and Ruanda-Urundi. The decree provides, in particular, that employers shall communicate to the Equalization Funds, within thirty days following the event conferring entitlement to family allowances and thereafter at three-monthly intervals, the names of the members of the families of their employees who are entitled to family allowances (articles 30–37). If the employer fails to comply with these requirements, he is obliged to pay to the fund a sum of not less than twenty-five and not more than 10,000 francs, calculated at the rate of 5 francs per employee in respect of whom this information is lacking (article 71).

The emergency decree of 14 March 1960 (*Moniteur congolais* No. 14 of 4 April 1960, page 1003) is aimed at improving the system of *disablement allowances* for employees in the Belgian Congo and Ruanda-Urundi instituted by the decree of 19 February 1957. The minimum duration of the services required for the insured persons may in future be reduced in certain cases (articles 1, 6, 12 and 13). The time-limit of one year within which applications for allowances may be submitted is increased to three years when the applicant is suffering from a lingering ailment and in the event of *force majeure* (article 4). The amount of the allowances is increased (article 8).

The decree of 18 May 1960 (*Moniteur congolais* No. 25 of 20 June 1960, page 1802), approving legislative ordinance No. 41/672 of 30 December 1959, empowers the provincial governors to set limits on *rents of dwellings*. Infringements of decisions made in this respect are subject to penalties.

The emergency decree of 14 March 1960 (*Moniteur congolais* No. 14 of 4 April 1960, page 1013) provides for various improvements in the system of *workers' pensions* in the Belgian Congo and Ruanda-Urundi instituted by the decree of 6 June 1956, and establishes an optional death benefits scheme providing for the payment of life annuities to widows and orphans (article 16). This insurance is financed by personal contributions and by contributions from the employer. The annuity is paid to the monogamous spouse of the employee on his death, provided that there has been no divorce or separation and that the couple had been married for at least twelve months. Orphans, in order to be eligible, must be less than sixteen years of age and must belong to the categories provided for in the legislation on family allowances. The decree requires that the deceased shall have contributed to the death benefits scheme for a certain minimum period.

II. INTERNATIONAL AGREEMENTS

The emergency decree of 18 May 1960 (*Moniteur congolais* No. 26 of 27 June 1960, page 1856) approves International Labour Convention No. 65 on penalties for non-observance of labour contracts by indigenous workers (Penal Sanctions (Indigenous Workers) Convention, 1939).

FUNDAMENTAL ACT CONCERNING THE STRUCTURE OF THE CONGO of 19 May 1960[1]

TITLE I
PRELIMINARY PROVISIONS

Art. 1. In this Act, the terms "State", "Parliament", "Chambers", "Chamber of Representatives", "Senate", "Government", "Constitution", "law" and "decree" shall mean, unless otherwise specified, the Congolese institutions and the constitutional, statutory and regulatory acts done by them.

. . .

Art. 5. None of the provisions of this Act shall be interpreted in a sense contrary to that of the principles set forth in the Fundamental Act concerning Public Liberties.

[1] Text published in the *Moniteur belge*, Nos. 127–8, of 27–28 May 1960, and in the *Moniteur congolais*, 1st year, No. 21 *bis*, of 27 May 1960.

TITLE II

THE FORMATION OF THE STATE

Art. 6. The Congo constitutes, within its present boundaries, an indivisible and democratic State.

. . .

Art. 8. The Congolese State comprises central, provincial and local institutions.

The central institutions are: (*a*) the Chief of State; (*b*) the Government, directed by a Prime Minister; (*c*) the Chamber of Representatives; (*d*) the Senate.

The Chamber of Representatives and the Senate constitute Parliament.

. . .

TITLE III

THE POWERS

. . .

Chapter III

THE LEGISLATIVE POWER

Section I. — *General*

. . .

Art. 57. An imperative electoral mandate shall be null and void.

. . .

Art. 62. It shall not be lawful to submit petitions in person to the Chambers.

Each Chamber has the right to refer to the Ministers the petitions addressed to it. It shall be the duty of the Ministers to give their explanations on the content of such petitions whenever the Chamber so requires.

. . .

Section II. — *The Chamber of Representatives*

Art. 84. The members of the Chamber of Representatives shall be elected by direct universal suffrage, in conformity with the provisions of the Electoral Act of 23 March 1960.

There shall be one representative for 100,000 inhabitants in a constituency without distinction of age, sex, or nationality; each section of population exceeding 50,000 shall give the right to an additional representative.

. . .

Each elector is entitled to only one vote.

Art. 85. The members of the Chamber of Representatives shall represent the nation, and not the constituency that elected them.

. . .

Chapter V

THE JUDICIAL POWER

. . .

Art. 186. The hearings of the courts shall be public, unless such publicity threatens public order or morality; if such a case arises the court shall issue its decision.

Art. 187. The executive power shall not prevent, stop or suspend the actions of the courts and tribunals.

The Chief of State may, however, for serious reasons of public security, and after consultation with the Chief of the State Legal Department [procureur général], suspend, in a region and for a period to be determined by him, the penal jurisdiction of the courts and tribunals and replace it by that of military tribunals. The right of appeal to a higher court shall not be abolished.

In case of urgency, the State Commissioner shall have the same authority. He shall not exercise it except after consultation with the Senior Office of the State Legal Department [procureur d'Etat] or the officer delegated by him.

Art. 188. Every judgement of the courts shall contain a statement of the grounds; it shall be delivered at a public hearing.

. . .

Art. 192. The rules governing the judiciary shall be laid down by law.

Judges [magistrats du siège] shall be irremovable in conformity with the rules of the judiciary.

They shall not be transferred except for the purpose of a new appointment and subject to their consent; they shall not be deprived of their post or suspended except by a judicial decision.

. . .

FUNDAMENTAL ACT CONCERNING PUBLIC LIBERTIES

of 17 June 1960[1]

Art. 1. The present Act reflects the unfailing devotion of the Congolese people to human rights and to the principles of democracy.

It is based upon their firm resolve to ensure respect for the human person without distinction of race, colour, sex, language, religion, nationality, political or other opinion, social origin, wealth, birth or any other status.

Its purpose is to define the rights enjoyed by in-

[1] Published in the *Moniteur belge*, 130th year, No. 151, of 24 June 1960, and in the *Moniteur congolais*, 1st year, No. 26 of 27 June 1960.

dividuals in the Congo; the authorities shall ensure that those rights are respected or shall promote their attainment.

Art. 2. All inhabitants of the Congo shall be free and equal in dignity and rights.

However, the enjoyment of political rights shall be restricted to Congolese, with such exceptions as may be established by law.

Art. 3. 1. Every person has the right to respect for and protection of his life and physical inviolability.

2. No person shall be subjected to torture or to inhuman or degrading treatment or punishment.

3. Death may not be caused intentionally except in the execution of a capital sentence passed by the competent court.

4. Death shall not be considered to have been caused in violation of this article when it is the result of a resort to force which has become absolutely necessary:

(*a*) In defence of oneself or another;

(*b*) In order to bring about the suppression of a riot or insurrection by lawful means.

Art. 4. Every person has the right to freedom.

1. No person shall be held in slavery or servitude.

2. No person shall be compelled to perform forced or compulsory labour, except in the following cases:

(*a*) Work normally required of a person detained in accordance with article 5;

(*b*) Military service;

(*c*) Service required in case of crises or disasters threatening life or the welfare of the community;

(*d*) Any work or service which is a part of the civic obligations imposed by law.

Art. 5. 1. No person may be deprived of his freedom, except according to law and in the following cases:

(*a*) When he is lawfully detained after sentence by a competent court;

(*b*) Where he has been lawfully arrested or detained for failing to comply with an order made by a court in accordance with a legislative provision or in the execution of any such order in a manner prescribed by law;

(*c*) Where he has been arrested or detained in order that he may be brought before the competent judicial authority, when there are reasonable grounds to suspect that he has committed an offence or that it is necessary to prevent him from committing an offence or from fleeing after its completion;

(*d*) Where a minor is lawfully detained in order that he may be brought before the competent authority or sent for supervised training;

(*e*) In cases of the lawful detention of a person who is liable to spread a contagious disease or of a lunatic, an alcoholic, a drug addict or a vagrant;

(*f*) Where an alien is arrested or lawfully detained in order to prevent him from entering the country illegally, or in the course of proceedings for his expulsion or extradition.

2. Any person who is arrested shall be informed as soon as possible, and in any case within twenty-four hours, of the reasons for his arrest and of any charges against him. He shall be informed of these reasons in a language which he understands.

3. Any person who is arrested or detained in the circumstances described in paragraph 1 (*c*) of the present article shall be brought as soon as possible before a judge or other officer authorized by law to perform judicial functions and shall have the right to be tried within a reasonable time or to be released pending the hearing. Release may be made subject to deposit of security guaranteeing the appearance of the defendant in court.

4. Any person who is deprived of his freedom in consequence of arrest or detention has the right of recourse to a court, which shall rule with all due dispatch on the legality of the detention and order his release if such detention is unlawful.

5. Any person who is arrested or detained in violation of the provisions of this article has the right to reparation.

Art. 6. 1. Every person is entitled in full equality to a fair hearing by an independent and impartial court, in the determination of his rights and obligations, of any criminal charge against him and of any penalty to be imposed on him. The judgement shall be given in open court and shall state the grounds on which it is based.

2. The trial shall be held in public unless the court decides that it shall be held *in camera* for reasons of public morality or public policy.

3. No person shall be removed, against his will, from the jurisdiction of the judge to whom the law assigns him. No court or administrative tribunal may be established except by law. No extraordinary commission or court may be established under any name whatever.

Art. 7. 1. No person may be prosecuted except in cases provided for by law or by edicts and in the form prescribed at the time when the offence was committed.

2. No person shall be held guilty of any penal offence on account of any act or omission which did not constitute an offence at the time when it was committed. Nor shall a heavier penalty be imposed than the one which was applicable at the time the offence was committed.

3. No penalty shall be established or enforced except in pursuance of law or of an edict.

4. Every person charged with an offence has the right to be presumed innocent until proved guilty.

5. Every accused person [inculpé] has the following rights, among others:

(*a*) To be informed in detail and in a language which he understands, as soon as possible and in any case within twenty-four hours, of the nature and cause of the charge against him;

(*b*) To be allowed the necessary time and facilities for the preparation of his defence;

(*c*) To defend himself or to have the assistance of defence counsel of his choice;

(*d*) To interrogate or to cause to be interrogated the witnesses for the prosecution and to secure the summons and interrogation of witnesses for the defence under the same conditions as the witnesses for the prosecution;

(*e*) To be assisted by an interpreter, without charge, if he cannot understand or speak the language of the court.

Art. 8. No previous leave is required to prosecute public officials for their administrative actions, subject to the provisions of the Fundamental Act on the administrative structure relating to Ministers.

Art. 9. Every person has the right to the inviolability of his domicile. No public authority may interfere with the exercise of this right except in cases provided for by law or by edicts in order to meet the requirements of a democratic society in matters pertaining to national security, public safety, the maintenance of order and the prevention of crime.

Art. 10. Every person has the right to privacy of correspondence, including cables and telephone calls.

No public authority may interfere with the exercise of this right except in cases provided for by law or by edicts in order to meet the requirements of a democratic society in matters pertaining to national security, public safety, the defence of order and the prevention of crime.

Art. 11. Men and women of full age have the right to marry and to found a family under the conditions laid down by law or by edicts, or established by customary usage which is not contrary to public order.

Marriage and the family constitute the natural and moral foundations of the human community and shall be protected by the State.

Art. 12. 1. Every person has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or in private, to manifest his religion by worship, propagation, teaching, practice and observance.

2. No pupil in a teaching establishment shall be forced to attend classes in religious education or to take part in a religious ceremony or act of worship pertaining to any religion except his own.

3. The above provisions shall not prevent the taking of measures provided for by law or by edicts to meet the requirements of a democratic society in matters pertaining to public security, the maintenance of order, health, public morality or the rights and freedoms of others.

Art. 13. 1. The right to education is recognized; the authorities shall take every possible measure to ensure that all Congolese children shall have access to education, by setting up the necessary establishments and subsidizing private establishments which provide suitable guarantees.

2. There shall be freedom of opinion in education.

3. The education provided by the authorities shall be regulated by law or by edicts.

Art. 14. 1. Respect for property acquired according to the law, edicts or custom, and respect for investments, shall be guaranteed.

2. No person may be deprived of his property except pursuant to a writ of execution issued by a court or tribunal which has established the legality of the process.

3. No measure involving deprivation of property may be taken except for a public purpose in the cases and manner established by law and after payment of fair compensation which shall be determined by the judge.

4. The general confiscation of property is forbidden.

Art. 15. Every person has the right to express his opinions freely and to disseminate them by words, writing, illustration or other means.

The exercise of this freedom may be made subject to certain formalities, conditions, restrictions or sanctions which, as provided for by law or by edicts, are necessary in a democratic society for national security, territorial integrity, public safety, the maintenance of order, the prevention of crime, the protection of health, morality or the reputation or rights of others, or in order to prevent the publication of confidential information or to ensure the authority and impartiality of the judiciary.

Art. 16. Every person has the right to freedom of peaceful assembly and association, including the right to form and to join trade unions for the protection of his interests.

The exercise of these rights may not be subject to any restrictions except those which, as provided for by law or by edicts, are necessary in a democratic society for national security, public safety, the maintenance of order, the prevention of crime or the protection of health, morality or the rights and

freedoms of others. The present article shall not prevent the lawful restriction of the exercise of these rights by members of the armed forces, the police or the civil service.

Art. 17. 1. The authorities shall seek to ensure to everyone:

(*a*) The right to work, to free choice of employment and to protection against unemployment;

(*b*) Decent conditions of work;

(*c*) Just and favourable remuneration ensuring for the worker and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection;

(*d*) Rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

2. No person shall receive unfavourable treatment in his work or employment because of his origin, opinions or beliefs.

3. The right to strike shall be exercised in conformity with the laws and edicts governing the same and shall in no case interfere with freedom to work or with the free exercise of the right of ownership.

Art. 18. In case of war or serious disturbance threatening the internal security of the State, the Government or the provincial authorities may take measures contrary to article 5, paragraph 2, or to articles 9, 15 or 16, when such measures are strictly necessary for the maintenance or restoration of public order, and may likewise order requisition without being bound by the provisions of article 14, paragraph 3.

Art. 19. The present Act may not be amended except subject to the conditions and according to the procedure laid down for the adoption of provisions of the Constitution of the Congo.

Art. 20. All provisions of the Fundamental Act of 18 October 1908 which are less comprehensive than the present Act or contrary thereto are hereby repealed.

Art. 21. The present Act shall come into force on the day of its publication in the *Moniteur congolais.*

ACT CONCERNING LEGISLATIVE AND PROVINCIAL ELECTIONS IN THE CONGO

23 March 1960[1]

Chapter I

ELECTION OF MEMBERS OF THE CHAMBER OF REPRESENTATIVES

Section I. — *The Electorate*

Art. 1. In order to vote in elections for the Chamber of Representatives, a person must be:

(1) Of Congolese status, or born of a Congolese mother, or a national of Ruanda-Urundi who has resided in the Congo for not less than ten years;

(2) Not less than twenty-one years of age.

These conditions must be fulfilled at the date on which the electoral rolls are closed.

The above notwithstanding, at the first elections and at any new elections held under article 56, paragraph 2, only male electors shall be admitted to the polls.

Art. 2. Members of the *Force publique*, the gendarmerie and the police shall not participate in the elections.

Art. 3. A person shall not participate in the elections if, on the day of the elections, he is: (1) detained in legal custody; (2) confined to an institution or hospital by reason of insanity.

. . .

[1] Text published in the *Moniteur congolais*, 1st year, No. 13, 28 March 1960.

Section II. — *Elegibility for Election*

Art. 10. A person shall be eligible as a member of the Chamber of Representatives, if he is

(1) Of Congolese status, or born of a Congolese mother;

(2) Not less than twenty-five years of age;

(3) A resident of the Congo for not less than five years.

These conditions must be fulfilled on the latest date laid down for the nomination of candidates.

Art. 11. The following shall not be eligible:

(1) A person who has been finally and unconditionally sentenced, for an offence against the person, property, public trust, the family order or the rights guaranteed to individuals, to a term of rigorous imprisonment amounting in all to: (*a*) more than six months and not more than two years during the preceding two years; (*b*) more than two years during the preceding five years.

For the purposes of this provision, the reduction of a penalty by an act of mercy shall be deemed to be a reduction of the sentence.

(2) A person confined to an institution or hospital by reason of insanity;

(3) A person who is bankrupt;

(4) A prisoner serving a term of rigorous imprisonment under a final sentence.

For the purposes of the provisions of this article, account shall be taken of the closing date for the submission of candidatures.

Art. 12. Members of the *Force publique*, the gendarmerie and the police shall not be eligible for election.

. . .

Section IV. — *Incompatibility of Offices*

Art. 57. The mandate of a member of the Chamber of Representatives shall be incompatible with the office of: a civil servant; a provincial councillor; a senator.

. . .

Chapter II

ELECTION OF MEMBERS OF THE SENATE

Art. 61. At their first meeting, the provincial assemblies shall proceed to elect the members of the Senate.

. . .

Art. 62. In order to be elected a member of the Senate, a person must fulfil the conditions laid down in article 10 and must not be covered by the provisions of articles 11 and 12 of this Act. The minimum age, however, shall be thirty years.

Members of the Chamber of Representatives and of the provincial assemblies shall not be eligible as senators.

The mandate of a member of the Senate shall be incompatible with the post of a civil servant.

. . .

Chapter IV

GENERAL PROVISIONS

. . .

Section II. — *Penalties*

Art. 74. If an elector fails without good and proper reason to participate in the ballot for elections to the Chamber of Representatives or the provincial assembly he shall be liable according to the circumstances to a reprimand or to a fine of not less than twenty nor more than 200 francs.

Art. 77. If a person, by means of speeches whether made at meetings or in public places, or by posters or writings whether printed or not and whether sold or distributed or by drawings or emblems, or in any other manner, incites the public to abstain from voting or generally to cast an invalid note, he shall be liable to the penalties as provided in the preceding article.

. . .

CUBA

DECLARATION OF HAVANA

of 2 September 1960[1]

Invoking the image and memory of José Martí, the people of Cuba, a free American territory, by the use of their inalienable powers which emanate from the effective exercise of sovereignty expressed in direct, universal and public suffrage, have constituted themselves into a National General Assembly.

On its own behalf and voicing the collective sentiment of the peoples of our America:

. . .

6. . . .

The National General Assembly of the People of Cuba expresses Cuba's conviction that democracy does not consist in the mere casting of a ballot in an election which is nearly always fictitious and controlled by the owners of large estates and professional politicians, but rather in the right of citizens to decide their own destinies, as is now being done by this Assembly of the People. Moreover, democracy will exist in Latin America only when its nations have real freedom of choice and when the common people are not reduced to abject impotence by hunger, social inequality, illiteracy and systems of law.

The National General Assembly of the People of Cuba therefore:

Condemns the large private estate, a source of misery for the farmer and a backward and inhuman system of agricultural production;

Condemns the starvation wage and the wicked exploitation of human labour by privileged groups for illegitimate ends;

Condemns illiteracy, the absence of teachers, schools, doctors and hospitals, and the lack of protection for the aged which prevail in the countries of America;

Condemns discrimination against the Negro and the Indian;

Condemns the inequality and the exploitation of women;

Condemns the military and political oligarchies which maintain our peoples in misery and obstruct their democratic development and the full exercise of their sovereignty;

Condemns the concession of our countries' natural resources to foreign monopolies as a policy of surrender and betrayal of the peoples' interests;

. . .

Condemns the repressive laws which prevent the workers, farmers, students and intellectuals, who form the great majority in each country, from organizing and fighting for their social and national birthright;

Condemns the imperialistic monopolies and enterprises which continually plunder our wealth, exploit our workers and farmers, bleed our economies white, keep them backward, and subordinate the policies of Latin America to their own designs and interests.

The National General Assembly of the People of Cuba, lastly, condemns:

The exploitation of man by man, and the exploitation of the under-developed countries by imperialist capitalists and financiers.

Consequently, the National General Assembly of the People of Cuba proclaims unto America: the right of the farmers to the land; the right of the worker to the fruits of his labour; the right of children to education; the right of the sick to medical and hospital care; the right of young people to work; the right of students to free, experimental and scientific education; the right of Negroes and Indians to "the full dignity of man"; the right of women to civil, social and political equality; the right of the aged to a secure old age; the right of intellectuals, artists and scientists to fight for a better world by means of their work; the right of States to nationalize imperialist monopolies, thus redeeming the national wealth and resources; the right of countries to trade freely with all the peoples of the world; the right of nations to full sovereignty; the right of peoples to convert their military fortresses into schools, and to arm their workers, their farmers, their students, their intellectuals, the Negroes, the Indians, the young people, the women, the aged and all the oppressed and the exploited, that they may themselves defend their rights and their destinies.

7. *The National General Assembly of the People of Cuba proclaims:*

The duty of workers, farmers, students, intellectuals, Negroes, Indians, young people, women and the aged to fight for their economic, political and social rights; the duty of oppressed and exploited nations to struggle for their liberation; the duty of all people

[1] Text published in *Gaceta Oficial*, Special Extraordinary Edition, year LVIII, No. 4 of 2 September 1960, and furnished by the Government of Cuba.

to express solidarity with all oppressed, colonized, exploited or attacked peoples, in whatever part of the world they may be and whatever the geographical distance that separates them. All the peoples of the world are brothers!

. . .

CONSTITUTIONAL AMENDMENT ACT of 5 July 1960[1]

Art. 1. Article 24 of the Fundamental Law is amended to read as follows:

"Article 24. Confiscation of goods is forbidden, but is authorized in the case of the tyrant who was deposed on 31 December 1958 and his collaborators, that of individuals or bodies corporate responsible for offences against the national economy or the public finances, or who are enriching themselves, or have enriched themselves, unlawfully under the protection of the public authorities, and that of persons who have been convicted of offences classified by statute as counter-revolutionary or who, to escape the jurisdiction of the revolutionary tribunals, leave the national territory by any means, or having left the national territory, engage in conspiratorial activities abroad against the Revolutionary Government. No other individual or body corporate may be deprived of his property except by a competent authority for reasons of public utility or social or national interest. The procedure respecting expropriations shall be regulated by law, which shall specify the ways and means of payment, as also the authority which shall be competent to state on what grounds of public utility, or of social or national interest, such expropriation is necessary."

. . .

Art. 4. This Act will go into force upon its publication in the *Gaceta Oficial* of the republic.

[1] Published in *Gaceta Oficial*, extraordinary edition, year LVIII, No. 11, of 5 July 1960. Extracts from the Fundamental Law here amended appear in the *Yearbook on Human Rights for 1959*, pp. 61–73.

CONSTITUTIONAL AMENDMENT ACT of 20 December 1960[1]

Art. 1. Article 22 of the Fundamental Law shall be amended to read as follows:

"Article 22. No other statute shall have retroactive effect unless expressly provided by statute for reasons of public policy, social utility or national necessity duly specified in such statute, by a vote of two-thirds of the total number of the members of the Council of Ministers."

Art. 2. Article 23 of the Fundamental Law shall be amended to read as follows:

"Article 23. Civil obligations arising out of contracts, or other acts of commission or such acts of omission, as may give rise to the said obligations shall not be set aside or altered either by the Executive Power or by the Legislature unless expressly provided otherwise by statute for reasons of public policy, social utility or national necessity duly specified in such statute, by a vote of two-thirds of the total number of the members of the Council of Ministers."

Article 3. Article 65 of the Fundamental Law shall be amended to read as follows:

"Article 65. Social security is hereby established as a right of the workers, that is indefeasible and cannot be renounced and shall be maintained by the equitable participation of the State, the employers and the workers themselves for the effective protection of the latter against sickness, disability, in old age, against unemployment and other labour risks in the manner prescribed by statute. Social security shall likewise include the right to a retirement pension and to surviviors' pensions in the event of death.

"Social security shall be administered and managed by the State in the manner laid down by statute.

"Insurance against industrial accidents and occupational diseases is likewise declared to be compulsory."

. . .

Art. 8. The initial paragraph and sub-paragraph (*e*) of article 160 of the Fundamental Law shall be amended to read as follows:

"Article 160. The Division of Constitutional and Social Guarantees shall be competent to hear or take cognizance of the following matters:

. . .

"(*e*) Questions of political law and questions concerning social and agrarian legislation expressly brought to its attention under the law, together with the defence and appeals procedure laid down in the law itself."

. . .

Article 12. This Act shall enter into force upon its publication in the *Gaceta Oficial*.

[1] Published in the *Gaceta Oficial*, extraordinary edition, year LVIII, No. 26, of 20 December 1960. Extracts from the Fundamental Law here amended appear in the *Yearbook on Human Rights for 1959*, pp. 62, 67, and 71–72. The amending law also altered all references to the Tribunal of Constitutional and Social Guarantees so as to read "Division of Constitutional and Social Guarantees".

CYPRUS[1]

CONSTITUTION OF THE REPUBLIC OF CYPRUS

Entered into force on 16 August 1960[2]

Part I

GENERAL PROVISIONS

Art. 1. The State of Cyprus is an independent and sovereign republic with a presidential régime, the President being Greek and the Vice-President being Turk, elected by the Greek and the Turkish communities of Cyprus respectively, as hereinafter in this constitution provided.

Art. 2. For the purposes of this constitution—

1. The Greek community comprises all citizens of the republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek Orthodox Church;

2. The Turkish community comprises all citizens of the republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems;

3. Citizens of the republic who do not come within the provisions of paragraph 1 or 2 of this Article shall, within three months of the date of the coming into operation of this constitution, opt to belong to either the Greek or the Turkish community as individuals, but, if they belong to a religious group, shall so opt as a religious group and upon such option they shall be deemed to be members of such community:

Provided that any citizen of the republic who belongs to such a religious group may choose not to abide by the option of such group and by a written and signed declaration submitted within one month of the date of such option to the appropriate officer of the republic and to the presidents of the Greek and the Turkish Communal Chambers opt to belong to the community other than that to which such group shall be deemed to belong:

Provided further that if an option of such religious group is not accepted on the ground that its members are below the requisite number any member of such group may within one month of the date of the refusal of acceptance of such option opt in the aforesaid manner as an individual to which community he would like to belong.

For the purposes of this paragraph a "religious group" means a group of persons ordinarily resident in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof the number of whom, on the date of the coming into operation of this constitution, exceeds one thousand out of which at least five hundred become on such date citizens of the republic;

4. A person who becomes a citizen of the republic at any time after three months of the date of the coming into operation of this constitution shall exercise the option provided in paragraph 3 of this article within three months of the date of his so becoming a citizen;

5. A Greek or a Turkish citizen of the republic who comes within the provisions of paragraph 1 or 2 of this article may cease to belong to the community of which he is a member and belong to the other community upon—

(*a*) A written and signed declaration by such citizen to the effect that he desires such change, submitted to the appropriate officer of the republic and to the presidents of the Greek and the Turkish Communal Chambers;

(*b*) The approval of the Communal Chamber of such other community;

6. Any individual or any religious group deemed to belong to either the Greek or the Turkish community under the provisions of paragraph 3 of this article may cease to belong to such community and be deemed to belong to the other community upon—

(*a*) A written and signed declaration by such individual or religious group to the effect that such change is desired, submitted to the appropriate officer of the republic and to the presidents of the Greek and the Turkish Communal Chambers;

(*b*) The approval of the Communal Chamber of such other community;

7. (*a*) A married woman shall belong to the community to which her husband belongs; (*b*) a male or female child under the age of twenty-one who is not married shall belong to the community to which his or her father belongs, or, if the father is unknown and he or she has not been adopted, to the community to which his or her mother belongs.

. . .

[1] Cyprus became an independent State on 16 August 1960.

[2] English text as published by H. M. Stationery Office of the United Kingdom of Great Britain and Northern Ireland, in *Cyprus*, Cmd. 1093.

Part II

FUNDAMENTAL RIGHTS AND LIBERTIES

Art. 6. Subject to the express provisions of this Constitution no law or decision of the House of Representatives or of any of the Communal Chambers, and no act or decision of any organ, authority or person in the republic exercising executive power or administrative functions, shall discriminate against any of the two communities or any person as a person or by virtue of being a member of a community.

Art. 7. 1. Every person has the right to life and corporal integrity.

2. No person shall be deprived of his life except in the execution of a sentence of a competent court following his conviction of an offence for which this penalty is provided by law. A law may provide for such penalty only in cases of premeditated murder, high treason, piracy *jure gentium* and capital offences under military law.

3. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary —

(*a*) In defence of person or property against the infliction of a proportionate and otherwise unavoidable and irreparable evil;

(*b*) In order to effect an arrest or to prevent the escape of a person lawfully detained;

(*c*) in action taken for the purpose of quelling a riot or insurrection, when and as provided by law.

Art. 8. No person shall be subjected to torture or to inhuman or degrading punishment or treatment.

Art. 9. Every person has the right to a decent existence and to social security. A law shall provide for the protection of the workers, assistance to the poor and for a system of social insurance.

Art. 10. 1. No person shall be held in slavery or servitude.

2. No person shall be required to perform forced or compulsory labour.

3. For the purposes of this article the term "forced or compulsory labour" shall not include —

(*a*) Any work required to be done in the ordinary course of detention imposed according to the provisions of article 11 or during conditional release from such detention:

(*b*) Any serivice of a military character if imposed or, in case of conscientious objectors, subject to their recognition by a law, service exacted instead of compulsory military service;

(*c*) Any service exacted in case of an emergency or calamity threatening the life or well-being of the inhabitants.

Art. 11. 1. Every person has the right to liberty and security of person.

2. No person shall be deprived of his liberty save in the following cases when and as provided by law:

(*a*) The detention of a person after conviction by a competent court;

(*b*) The arrest or detention of a person for non-compliance with the lawful order of a court;

(*c*) The arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(*d*) The detention of a minor by a lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(*e*) The detention of persons for the prevention of spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(*f*) The arrest or detention of a person to prevent him effecting an unauthorised entry into the territory of the Republic or of an alien against whom action is being taken with a view to deportation or extradition.

3. Save when and as provided by law in case of a flagrant offence punishable with death or imprisonment, no person shall be arrested save under the authority of a reasoned judicial warrant issued according to the formalities prescribed by the law.

4. Every person arrested shall be informed at the time of his arrest in a language which he understands of the reasons for his arrest and shall be allowed to have the services of a lawyer of his own choosing.

5. The person arrested shall, as soon as is practicable after his arrest, and in any event not later than twenty-four hours after the arrest, be brought before a judge, if not earlier released.

6. The judge before whom the person arrested is brought shall promptly proceed to inquire into the grounds of the arrest in a language understandable by the person arrested and shall, as soon as possible and in any event not later than three days from such appearance, either release the person arrested on such terms as he may deem fit or where the investigation into the commission of the offence for which he has been arrested has not been completed remand him in custody and may remand him in custody from time to time for a period not exceeding eight days at any one time:

Provided that the total period of such remand in custody shall not exceed three months of the date of the arrest on the expiration of which every person

or authority having the custody of the person arrested shall foothwith set him free.

Any decision of the judge under this paragraph shall be subject to appeal.

7. Every person who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

8. Every person who has been the victim of arrest or detention in contravention of the provisions if this article shall have an enforceable right to compensation.

Art. 12. 1. No person shall be held guilty of any offence on account of any act or omission which did not constitute an offence under the law at the time when it was committed; and no person shall have a heavier punishment imposed on him for an offence other than that expressly provided for it by law at the time when it was committed.

2. A person who has been acquitted or convicted of an offence shall not be tried again for the same offence. No person shall be punished twice for the same act or omission except where death ensues from such act or omission.

3. No law shall provide for a punishment which is disproportionate to the gravity of the offence.

4. Every person charged with an offence shall be presumed innocent until proved guilty according to law.

5. Every person charged with an offence has the following minimum rights:

(*a*) To be informed promptly and in a language which he understands and in detail of the nature and grounds of the charge preferred against him;

(*b*) To have adequate time and facilities for the preparation of his defence:

(*c*) To defend himself in person or through a lawyer of his own choosing or, if he has no sufficient means to pay for legal assistance, to be given free legal assistance when the interests of justice so require;

(*d*) To examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(*e*) To have the free assistance of an interpreter if he cannot understand or speak the language used in court.

6. A punishment of general confiscation of property is prohibited.

Art. 13. 1. Every person has the right to move freely throughout the territory of the Republic and to reside in any part thereof subject to any restrictions imposed by law and which are necessary only for the purposes of defence or public health or provided as punishment to be passed by a competent court.

2. Every person has the right to leave permanently or temporarily the territory of the Republic subject to reasonable restrictions imposed by law.

Art. 14. No citizen shall be banished or excluded from the Republic under any circumstances.

Art. 15. 1. Every person has the right to respect for his private and family life.

2. There shall be no interference with the exercise of this right except such as is in accordance with the law and is necessary only in the interests of the security of the republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this constitution to any person.

Art. 16. 1. Every person's dwelling house is inviolable.

2. There shall be no entry in any dwelling house or any search therein except when and as provided by law and on a judicial warrant duly reasoned or when the entry is made with the express consent of its occupant or for the purpose of rescuing the victims of any offence of violence or of any disaster.

Art. 17. 1. Every person has the right to respect for, and to the secrecy of, his correspondence and other communication if such other communication is made through means not prohibited by law.

2. There shall be no interference with the exercise of this right except in accordance with the law and only in cases of convicted and unconvicted prisoners and business correspondence and communication of bankrupts during the bankruptcy administration.

Art. 18. 1. Every person has the right to freedom of thought, conscience and religion.

2. All religions whose doctrines or rites are not secret are free.

3. All religions are equal before the law. Without prejudice to the competence of the Communal Chambers under this constitution, no legislative, executive or administrative act of the Republic shall discriminate against any religious institution or religion.

4. Every person is free and has the right to profess his faith and to manifest his religion or belief, in worship, teaching, practice or observance, either individually or collectively, in private or in public, and to change his religion or belief.

5. The use of physical or moral compulsion for the purpose of making a person change or preventing him from changing his religion is prohibited.

6. Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the

public health or the public morals or for the protection of the rights and liberties guaranteed by this constitution to any person.

7. Until a person attains the age of sixteen the decision as to the religion to be professed by him shall be taken by the person having the lawful guardianship of such person.

8. No person shall be compelled to pay any tax or duty the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.

Art. 19. 1. Every person has the right to freedom of speech and expression in any form.

2. This right includes freedom to hold opinions and receive and impart information and ideas without interference by any public authority and regardless of frontiers.

3. The exercise of the rights provided in paragraphs 1 and 2 of this article may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security of the republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

4. Seizure of newspapers or other printed matter is not allowed without the written permission of the Attorney-General of the republic, which must be confirmed by the decision of a competent court within a period not exceeding seventy-two hours, failing which the seizure shall be lifted.

5. Nothing in this article contained shall prevent the Republic from requiring the licensing of sound and vision broadcasting or cinema enterprises.

Art. 20. 1. Every person has the right to receive, and every person or institution has the right to give, instruction or education subject to such formalities, conditions or restrictions as are in accordance with the relevant communal law and are necessary only in the interests of the security of the republic or the constitutional order or the public safety or the public order or the public health or the public morals or the standard and quality of education or for the protection of the rights and liberties of others including the right of the parents to secure for their children such education as is in conformity with their religious convictions.

2. Free primary education shall be made available by the Greek and the Turkish Communal Chambers in the respective communal primary schools.

3. Primary education shall be compulsory for all citizens of such school age as may be determined by a relevant communal law.

4. Education, other than primary education, shall be made available by the Greek and the Turkish Communal Chambers, in deserving and appropriate cases, on such terms and conditions as may be determined by a relevant communal law.

Art. 21. 1. Every person has the right to freedom of peaceful assembly.

2. Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph 3 of this article, no person shall be compelled to join any association or to continue to be a member thereof.

3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are absolutely necessary only in the interests of the security of the republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this constitution to any person, whether or not such person participates in such assembly or is a member of such association.

4. Any association the object or activities of which are contrary to the constitutional order is prohibited.

5. A law may provide for the imposition of restrictions on the exercise of these rights by members of the armed forces, the police or gendarmerie.

6. Subject to the provisions of any law regulating the establishment or incorporation, membership (including rights and obligations of members), management and administration, and winding up and dissolution, the provisions of this article shall also apply to the formation of companies, societies and other associations functioning for profit.

Art. 22. 1. Any person reaching nubile age is free to marry and to found a family according to the law relating to marriage, applicable to such person under the provisions of this constitution.

2. The provisions of paragraph 1 of this article shall, in the following cases, be applied as follows:

(*a*) If the law relating to marriage applicable to the parties as provided under article 111 is not the same, the parties may elect to have their marriage governed by the law applicable to either of them under such article;

(*b*) If the provisions of article 111 are not applicable to any of the parties to the marriage and neither of such parties is a member of the Turkish Community, the marriage shall be governed by a law of the republic which the House of Representatives shall make and which shall not contain any restrictions other than those relating to age, health proximity of relationship and prohibition of polygamy;

(*c*) If the provisions of article 111 are applicable only to one of the parties to the marriage and the other party is not a member of the Turkish Community, the marriage shall be governed by the law

of the republic as in sub-paragraph (*b*) of this paragraph provided:

Provided that the parties may elect to have their marriage governed by the law applicable, under article 111, to one of such parties in so far as such law allows such marriage.

3. Nothing in this article contained shall, in any way, affect the rights, other than those on marriage, of the Greek-Orthodox Church or of any religious group to which the provisions of paragraph 3 of article 2 shall apply with regard to their respective members as provided in this constitution.

Art. 23. 1. Every person, alone or jointly with others, has the right to acquire, own, possess, enjoy or dispose of any movable or immovable property and has the right to respect for such right.

The right of the republic to underground water, minerals and antiquities is reserved.

2. No deprivation or restriction or limitation of any such right shall be made except as provided in this article.

3. Restrictions or limitations which are absolutely necessary in the interest of the public safety or the public health or the public morals or the town and country planning or the development and utilization of any property to the promotion of the public benefit or for the protection of the rights of others may be imposed by law on the exercise of such right.

Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of such property; such compensation to be determined in case of disagreement by a civil court.

4. Any movable or immovable property or any right over or interest in any such property may be compulsorily acquired by the republic or by a municipal corporation or by a Communal Chamber for the educational, religious, charitable or sporting institutions, bodies or establishments within its competence and only from the persons belonging to its respective community or by a public corporation or a public utility body on which such right has been conferred by law, and only —

(*a*) For a purpose which is to the public benefit and shall be specially provided by a general law for compulsory acquisition which shall be enacted within a year from the date of the coming into operation of this constitution; and

(*b*) When such purpose is established by a decision of the acquiring authority and made under the provisions of such law stating clearly the reasons for such acquisition; and

(*c*) Upon the payment in cash and in advance of a just and equitable compensation to be determined in case of disagreement by a civil court.

5. Any immovable property or any right over or interest in any such property compulsorily acquired shall only be used for the purpose for which it has been acquired. If within three years of the acquisition such purpose has not been attained, the acquiring authority shall, immediately after the expiration of the said period of three years, offer the property at the price it has been acquired to the person from whom it has been acquired. Such person shall be entitled within three months of the receipt of such offer to signify his acceptance or non-acceptance of the offer, and if he signifies acceptance, such property shall be returned to him immediately after his returning such price within a further period of three months from such acceptance.

6. In the event of agricultural reform, lands shall be distributed only to persons belonging to the same community as the owner from whom such land has been compulsorily acquired.

7. Nothing in paragraphs 3 and 4 of this article contained shall affect the provisions of any law made for the purpose of levying execution in respect of any tax or penalty, executing any judgement, enforcing any contractual obligation or for the prevention of danger to life or property.

8. Any movable or immovable property may be requisitioned by the Republic or by a Communal Chamber for the purposes of the educational, religious, charitable or sporting institutions, bodies or establishments within its competence and only where the owner and the person entitled to possession of such property belong to the respective community, and only —

(*a*) For a purpose which is to the public benefit and shall be specially provided by a general law for requisitioning which shall be enacted within a year from the date of the coming into operation of this constitution; and

(*b*) When such purpose is established by a decision of the requisitioning authority and made under the provisions of such law stating clearly the reasons for such requisitioning; and

(*c*) For a period not exceeding three years; and

(*d*) Upon the prompt payment in cash of a just and equitable compensation to be determined in case of disagreement by a civil court.

9. Notwithstanding anything contained in this article no deprivation, restriction or limitation of the right provided in paragraph 1 of this article in respect of any movable or immovable property belonging to any See, monastery, church or any other ecclesiastical corporation or any right over it or interest therein shall be made except with the written consent of the appropriate ecclesiastical authority being in control of such property and the provisions of paragraphs 3, 4, 7 and 8 of this article shall be subject to the provisions of this paragraph:

Provided that restrictions or limitations for the purposes of town and country planning under the provisions of paragraph 3 of this article are exempted from the provisions of this paragraph.

10. Notwithstanding anything contained in this article, no deprivation, restriction or limitation of any right provided in paragraph 1 of this article in respect of any vakf movable or immovable property, including the objects and subjects of the vakfs and the properties belonging to the Mosques or to any other Moslem religious institutions, or any right thereon or interest therein shall be made except with the approval of the Turkish Communal Chamber and subject to the laws and principles of vakfs and the provisions of paragraphs 3, 4, 7 and 8 of this article shall be subject to the provisions of this paragraph:

Provided that restrictions or limitations for the purposes of town and country planning under the provisions of paragraph 3 of this article are exempted from the provisions of this paragraph.

11. Any interested person shall have the right of recourse to the court in respect of or under any of the provisions of this article, and such recourse shall act as a stay of proceedings for the compulsory acquisition; and in case of any restriction or limitation imposed under paragraph 3 of this article, the court shall have power to order stay of any proceedings in respect thereof.

Any decision of the court under this paragraph shall be subject to appeal.

Art. 24. 1. Every person is bound to contribute according to his means towards the public burdens.

2. No such contribution by way of tax, duty or rate of any kind whatsoever shall be imposed save by or under the authority of a law.

3. No tax, duty or rate of any kind whatsoever shall be imposed with retrospective effect:

Provided that any import duty may be imposed as from the date of the introduction of the relevant Bill.

4. No tax, duty or rate of any kind whatsoever other than customs duties shall be of a destructive or prohibitive nature.

Art. 25. 1. Every person has the right to practice any profession or to carry on any occupation, trade or business.

2. The exercise of this right may be subject to such formalities, conditions or restrictions as are prescribed by law and relate exclusively to the qualifications usually required for the exercise of any profession or are necessary only in the interests of the security of the republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this constitution to any person or in the public interest:

Provided that no such formalities, conditions or restrictions purporting to be in the public interest shall be prescribed by a law if such formality, condition or restriction is contrary to the interests of either community.

3. As an exception to the aforesaid provisions of this article a law may provide, if it is in the public interest, that certain enterprises of the nature of an essential public service or relating to the exploitation of sources of energy or other natural resources shall be carried out exclusively by the Republic or a municipal corporation or by a public corporate body created for the purpose by such law and administered under the control of the republic, and having a capital which may be derived from public and private funds or from either such source only:

Provided that, where such enterprise has been carried out by any person, other than a municipal corporation or a public corporate body, the installations used for such enterprise shall, at the request of such person, be acquired, on payment of a just price, by the Republic or such municipal corporation or such public corporate body, as the case may be.

Art. 26. 1. Every person has the right to enter freely into any contract subject to such conditions, limitations or restrictions as are laid down by the general principles of the law of contract. A law shall provide for the prevention of exploitation by persons who are commanding economic power.

2. A law may provide for collective labour contracts of obligatory fulfilment by employers and workers with adequate protection of the rights of any person, whether or not represented at the conclusion of such contract.

Art. 27. 1. The right to strike is recognized and its exercise may be regulated by law for the purposes only of safeguarding the security of the republic or the constitutional order or the public order or the public safety or the maintenance of supplies and services essential to the life of the inhabitants or the protection of the rights and liberties guaranteed by this constitution to any person.

2. The members of the armed forces, of the police and of the gendarmerie shall not have the right to strike. A law may extend such prohibition to the members of the public service.

Art. 28. 1. All persons are equal before the law, the administration and justice, and are entitled to equal protection thereof and treatment thereby.

2. Every person shall enjoy all the rights and liberties provided for in this constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this constitution.

3. No citizen shall be entitled to use or enjoy any privilege of any title of nobility or of social distinction within the territorial limits of the Republic.

4. No title or nobility or other social distinction shall be conferred by or recognized in the Republic.

Art. 29. 1. Every person has the right individually or jointly with others to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously; an immediate notice of any such decision taken duly reasoned shall be given to the person making the request or complaint and in any event within a period not exceeding thirty days.

2. Where any interested person is aggrieved by any such decision or where no such decision is notified to such person within the period specified in paragraph 1 of this article, such person may have recourse to a competent court in the matter of such request or complaint.

Art. 30. 1. No person shall be denied access to the court assigned to him by or under this constitution. The establishment of judicial committees or exceptional courts under any name whatsoever is prohibited.

2. In the determination of his civil rights and obligations or of any criminal charge against him, every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgement shall be reasoned and pronounced in public session, but the press and the public may be excluded from all or any part of the trial upon a decision of the court where it is in the interest of the security of the Republic or the constitutional order or the public order or the public safety or the public morals or where the interests of juveniles or the protection of the private life of the parties so require or, in special circumstances where, in the opinion of the court, publicity would prejudice the interests of justice.

3. Every person has the right

(*a*) To be informed of the reasons why he is required to appear before the court;

(*b*) To present his case before the court and to have sufficient time necessary for its preparation;

(*c*) To adduce or cause to be adduced his evidence and to examine witnesses according to law;

(*d*) To have a lawyer of his own choice and to have free legal assistance where the interests of justice so require and as provided by law;

(*e*) To have free assistance of an interpreter if he cannot understand or speak the language used in court.

Art. 31. Every citizen has, subject to the provisions of this constitution and any electoral law of the Republic or of the relevant Communal Chamber made thereunder, the right to vote in any election held under this constitution or any such law.

Art. 32. Nothing in this part contained shall preclude the Republic from regulating by law any matter relating to aliens in accordance with International Law.

Art. 33. 1. Subject to the provisions of this constitution relating to a state of emergency, the fundamental rights and liberties guaranteed by this part shall not be subjected to any other limitations or restrictions than those in this part provided.

2. The provisions of this part relating to such limitations or restrictions shall be interpreted strictly and shall not be applied for any purpose other than those for which they have been prescribed.

Art. 34. Nothing in this part may be interpreted as implying for any community, group or person any right to engage in any activity or perform any act aimed at the undermining or destruction of the constitutional order established by this constitution or at the destruction of any of the rights and liberties set forth in this part or at their limitation to a greater extent than is provided for therein.

Art. 35. The legislative, executive and judicial authorities of the Republic shall be bound to secure, within the limits of their respective competence, the efficient application of the provisions of this part.

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Part III

THE PRESIDENT OF THE REPUBLIC, THE VICE-PRESIDENT OF THE REPUBLIC AND THE COUNCIL OF MINISTERS

. . .

Art. 39. 1. The election of the President and the Vice-President of the republic shall be direct, by universal suffrage and secret ballot, and shall, except in the case of a by-election, take place on the same day but separately:

Provided that in either case if there is only one candidate for election that candidate shall be declared as elected.

. . .

Art. 40. A person shall be qualified to be a candidate for election as President or Vice-President of the republic if at the time of election such person—

(*a*) Is a citizen of the republic;

(*b*) Has attained the age of thirty-five years;

(*c*) Has not been, on or after the date of the coming into operation of this constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for any electoral offence;

(*d*) Is not suffering from a mental disease incapacitating such person from acting as President or Vice-President of the republic.

. . .

Part IV

THE HOUSE OF REPRESENTATIVES

Art. 61. The legislative power of the republic shall be exercised by the House of Representatives in all matters except those expressly reserved to the Communal Chambers under this constitution.

Art. 62. 1. The number of representatives shall be fifty:

Provided that such number may be altered by a resolution of the House of Representatives carried by a majority comprising two-thirds of the representatives elected by the Greek community and two-thirds of the representatives elected by the Turkish community.

2. Out of the number of representatives provided in paragraph 1 of this article seventy per centum shall be elected by the Greek community and thirty per centum by the Turkish community separately from amongst their members respectively, and in the case of a contested election, by universal suffrage and by direct and secret ballot held on the same day.

The proportion of representatives stated in this paragraph shall be independent of any statistical data.

Art. 63. 1. Subject to paragraph 2 of this article every citizen of the republic who has attained the age of twenty-one years and has such residential qualifications as may be prescribed by the Electoral Law shall have the right to be registered as an elector n either the Greek or the Turkish electoral list:

Provided that the members of the Greek community shall only be registered in the Greek electoral list and the members of the Turkish community shall only be registered in the Turkish electoral list.

2. No person shall be qualified to be registered as an elector who is disqualified for such registration by virtue of the Electoral Law.

Art. 64. A person shall be qualified to be a candidate for election as a representative if at the time of the election that person—

(*a*) Is a citizen of the republic;

(*b*) Has attained the age of twenty-five years;

(*c*) Has not been, on or after the date of the coming into operation of this constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for any electoral offence;

(*d*) Is not suffering from a mental disease incapacitating such person from acting as a representative.

. . .

Part V

THE COMMUNAL CHAMBERS

Art. 86. The Greek and the Turkish communities respectively shall elect from amongst their own members a Communal Chamber which shall have the competence expressly reserved for it under the provisions of this constitution.

. . .

Art. 93. The elections for both the Communal Chambers shall be by universal suffrage and by direct ballot.

Art. 94. 1. Subject to paragraph 2 of this article, every citizen of the republic who has attained the age of twenty-one years and has such residential qualifications as may be prescribed by the respective communal electoral law shall have the right to be registered as an elector in the respective communal electoral list:

Provided that the members of the Greek community shall only be registered in the Greek communal electoral list and the members of the Turkish community shall only be registered in the Turkish communal electoral list.

2. No person shall be qualified to be registered as an elector who is disqualified for such registration by virtue of the respective communal electoral law.

Art. 95. A person shall be qualified to be a candidate for election as a member of a Communal Chamber if at the time of the election that person—

(*a*) Is a citizen of the republic and is registered in the respective communal electoral list;

(*b*) Has attained the age of twenty-five years;

(*c*) Has not been, on or after the date of the coming into operation of this constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for an electoral offence;

(*d*) Is not suffering from a mental disease incapacitating such person from acting as a member of a Communal Chamber.

. . .

Part VII

THE PUBLIC SERVICE

Chapter I. — *General*

. . .

Art. 123. 1. The public service shall be composed as to seventy per centum of Greeks and as to thirty per centum of Turks.

2. This quantitative distribution shall be applied, so far as this will be practically possible, in all grades of the hierarchy in the public service.

3. In regions or localities where one of the two communities is in a majority approaching one hundred per centum the public officers posted for, or entrusted with, duty in such regions or localities shall belong to that community.

. . .

Part IX

THE SUPREME CONSTITUTIONAL COURT

. . .

Art. 144. 1. A party to any judicial proceedings, including proceedings on appeal, may, at any stage thereof, raise the question of the unconstitutionality of any law or decision or any provision thereof material for the determination of any matter at issue in such proceedings and thereupon the court before which such question is raised shall reserve the question for the decision of the Supreme Constitutional Court and stay further proceedings until such question is determined by the Supreme Constitutional Court.

. . .

3. Any decision of the Supreme Constitutional Court under paragraph 2 of this article shall be binding on the court by which the question has been reserved and on the parties to the proceedings and shall, in case such decision is to the effect that the law or decision or any provision thereof is unconstitutional, operate as to make such law or decision inapplicable to such proceedings only.

Art. 145. The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on any election petition, made under the provisions of the Electoral Law, with regard to the elections of the President or the Vice-President of the republic or of members of the House of Representatives or of any Communal Chamber.

Art. 146. 1. The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, autnority or person, exercising any executive or administrative authority is contrary to any of the provisions of this constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person.

2. Such a recourse may be made by a person whose any existing legitimate interest, which he has either as a person or by virtue of being a member of a community, is adversely and directly affected by such decision or act or omission.

3. Such a recourse shall be made within seventy-five days of the date when the decision or act was published or, if not published and in the case of an omission, when it came to the knowledge of the person making the recourse.

4. Upon such a recourse the court may, by its decision—

(*a*) Confirm, either in whole or in part, such decision or act or omission; or

(*b*) Declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever; or

(*c*) Declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed.

5. Any decision given under paragraph 4 of this article shall be binding on all courts and all organs or authorities in the republic and shall be given effect to and acted upon by the organ or authority or person concerned.

6. Any person aggrieved by any decision or act declared to be void under paragraph 4 of this article or by any omission declared thereunder that it ought not to have been made shall be entitled, if his claim is not met to his satisfaction by the organ, authority or person concerned, to institute legal proceedings in a court for the recovery of damages or for being granted other remedy and to recover just and equitable damages to be assessed by the court or to be granted such other just and equitable remedy as such court is empowered to grant.

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Part X

THE HIGH COURT AND THE SUBORDINATE COURTS

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Art. 155. . . .

4. The High Court shall have exclusive jurisdiction to issue orders in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari.

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Part XIII

FINAL PROVISIONS

Art. 179. 1. This constitution shall be the supreme law of the republic.

2. No law or decision of the House of Representatives or of any of the Communal Chambers and no act or decision of any organ, authority or person in the republic exercising executive power or any administrative function shall in any way be repugnant to, or inconsistent with, any of the provisions of this constitution.

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Art. 183. 1. In case of war or other public danger threatening the life of the republic or any part thereof, the Council of Ministers shall have power, by a decision taken in this respect, to issue a proclamation of emergency:

Provided that the President and the Vice-President of the republic shall, separately or conjointly, have a right of veto against any such decision which they shall exercise within forty-eight hours of the date when the decision has been transmitted to their respective offices.

2. Any such proclamation shall specify the articles of the Constitution which shall be suspended for the duration of such emergency:

Provided that only the following articles of the Constitution may be suspended by any such proclamation, that is to say:

Article 7, only in so far as it relates to death inflicted by a permissible act of war; article 10, paragraphs 2 and 3; article 11; article 13; article 16; article 17; article 19; article 21; article 23, paragraph 8, sub-paragraph (*d*); article 25 and article 27.

3. The President and the Vice-President of the republic shall, unless, separately or conjointly, they have exercised their right of veto as provided in paragraph 1 of this article, promulgate forthwith such proclamation by publication in the official gazette of the republic.

4. A proclamation promulgated under the foregoing provisions of this article shall be laid forthwith before the House of Representatives. If the House of Representatives is not sitting it must be convened as soon as possible for this purpose.

5. The House of Representatives shall have the right to reject or confirm such proclamation of emergency. In the case of rejection the proclamation of emergency shall have no legal effect. In the case of confirmation, the President and the Vice-President of the republic shall promulgate forthwith such decision of the House of Representatives by publication in the official gazette of the republic.

6. The proclamation of emergency shall cease to operate at the expiration of two months from the date of confirmation by the House of Representatives unless the House, at the request of the Council of Ministers, decides to prolong the duration of the state of emergency, whereupon the President and the Vice-President of the republic, separately or conjointly, shall have a right of veto against such decision of prolongation to be exercised in accordance with article 50.

7. (1) While a proclamation is in operation, notwithstanding anything in this constitution, the Council of Ministers if satisfied that immediate action is required may, subject to the right of veto of the President and the Vice-President of the republic under article 57 to be exercised, separately or conjointly, make any ordinance strictly connected with the state of emergency having the force of law.

(2) If no right of veto is exercised under sub-paragraph 1 of this paragraph the President and the Vice-President of the republic shall forthwith promulgate by publication in the official gazette of the republic such ordinance.

(3) Such ordinance if not sooner revoked shall cease to be in force at the expiration of the emergency.

Art. 184. 1. Where any ordinance promulgated in pursuance of sub-paragraph 2 of paragraph 7 of article 183 provides for preventive detention—

(*a*) The authority on whose order any person is detained under that ordinance shall, as soon as may be, inform him of the grounds for his detention and, subject to paragraph 3 of this article, the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be;

(*b*) No citizen shall be detained under that ordinance for a period exceeding one month unless an advisory board constituted as mentioned in paragraph 2 of this article has considered any representations made by him under sub-paragraph (*a*) of this paragraph and has reported, before the expiration of that period, that there is in its opinion sufficient cause for the detention.

2. An advisory board constituted for the purposes of this article shall consist of a chairman, who shall be appointed jointly by the President and the Vice-President of the republic from among persons who are or have been judges of the High Court or are qualified to be judges of such court, and two other members, who shall be appointed jointly by the President and the Vice-President of the republic after consultation with the President of the High Court.

3. This article does not require any authority to disclose facts of which disclosure would in its opinion be against the national interest.

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TRANSITIONAL PROVISIONS

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Art. 198. 1. The following provisions shall have effect until a law of citizenship is made incorporating such provisions—

(*a*) Any matter relating to citizenship shall be governed by the provisions of annex D to the Treaty of Establishment;

(*b*) Any person born in Cyprus, on or after the date of the coming into operation of this constitution, shall become on the date of his birth a citizen of the republic if on that date his father has become a citizen of the republic or would but for his death have become such a citizen under the provisions of annex D to the Treaty of Establishment.

2. For the purposes of this article, "Treaty of Establishment" means the treaty concerning the establishment of the Republic of Cyprus between the republic, the Kingdom of Greece, the republic of Turkey and the United Kingdom of Great Britain and Northern Ireland.

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CZECHOSLOVAKIA

NOTE[1]

I. CONSTITUTION

On 11 July 1960, the National Assembly, elected on 12 June 1960, adopted the new constitution of the Czechoslovak Socialist Republic, published as Constitutional Act No. 100 in the *Collection of Acts* (*Sbírka Zákonů*) of 11 July 1960.

The adoption of the new constitution was called for by profound changes in the economics of the Czechoslovak society, its social structure, etc., which in their entirety mean that socialism was triumphant in the Czechoslovak Socialist Republic; that is to say, in particular, that the economic basis of society is the socialist economic system which excludes any form of exploitation of man by man and the political basis of the society is a firm union of workers, farmers and intelligentsia headed by the working class. The principle of socialism "From each according to his abilities, to each in accordance with his work" has been put into practice.

The new constitution further broadened the rights of citizens and further expanded socialist democracy. This development has in principle taken two courses — democratic freedoms and social rights of citizens have been further expanded and so have material and other guarantees of these citizens' rights and freedoms.[2]

II. OTHER LEGAL PROVISIONS

A. Based on the Constitution and for the purpose of its implementation, the following more important legal provisions were adopted in the course of 1960;

1. Prior to the adoption of the new constitution, the following new Acts concerning elections to all representative bodies were adopted: the Constitutional Act on the Amendment of the Constitutional Act on Elections to the National Assembly and Elections to the Slovak National Council and of the Constitutional Act on National Committees (*Collection of Acts*, No. 35, 1960), an Act which amended the Act on elections to the National Assembly (*Collection of Acts*, No. 37/1960), an amending Act of the Slovak National Council (*Collection of Acts*, No. 38/1960) and the Act on elections to the National Committees (*Collection of Acts*, No. 39/1960).

Compared with the original texts, the changes provide for a more detailed responsibility on the part of deputies on representative bodies towards their voters, who may recall a deputy at any time if he fails to live up to the trust of his voters or commits an act unworthy of the holder of the deputy's office. The recall is decided upon by the voters in his constituency.

2. The functions of a deputy on any representative body are honorary and, after being elected, the deputy remains at his original place of work. The rights of the deputies on the national committees are regulated by the government ordinance on the regulation of some relations of the deputies on the national committees and citizens elected as members of commissions of the national committees (*Collection of Acts*, No. 66/1960) as amended by government ordinance.

Under the legal regulation in force, deputies on the national committees are guaranteed the right to perform the functions of a deputy without detriment to their earnings. Organizations are required to allow an employee who is a deputy on a national committee to take the free time necessary for carrying out the duties connected with the function of a deputy. For such free time the deputy has the right to all benefits as if he had worked for the organization during that time. Deputies who are home workers or are not in a relationship of service are, upon request, granted commensurate compensation for the earnings lost on account of the carrying out of the functions of a deputy. Similar regulations are applied to citizens elected members of commissions of the national committees.

The rights of deputies in the National Assembly relating to the execution of their functions were regulated in a legal regulation of the Presidium of the National Assembly (*Collection of Acts*, No. 11/1960) on the compensation of deputies in the National Assembly.

3. The Act on National Committees (*Collection of Acts*, No. 65/1960) stipulates in section 11 that the national committees shall see to it that the laws are observed, and that the socialist gains of the working people, socialist ownership, the rights and justified interests of citizens and socialist organizations ensuring public order and the observance of rules of socialist coexistence are protected. In co-operation with voluntary social organizations they urge all citizens to abide by these regulations.

[1] Note furnished by the Government of the Czechoslovak Socialist Republic.

[2] Extracts from the Constitution of the Czechoslovak Socialist Republic appear on pp. 86–90.

Under provisions of special Acts the national committees elect and recall judges and people's judges. They evaluate the performance of the courts within their jurisdiction and help them in their work.

The government ordinance on the expansion of jurisdiction and responsibility of national committees and on the regulation and activities of their organs (*Collection of Acts*, No. 71/1960) then regulates in detail the tasks and jurisdiction of individual sections of national committees, especially in the field of education and culture, health and social security.

4. Proceedings in national committees are regulated by the government ordinance on administrative proceedings (*Collection of Acts*, No. 91/1960). In accordance with this ordinance, the national committees ensure the protection and realization of rights and justified interests of individuals and organizations in harmony with the interests and development of the socialist State and society of the working people. They teach the citizens to observe the laws and rules of the socialist order in society and to fulfil voluntarily and consciously their obligations towards society and the State and teach them to respect the rights of their fellow citizens.

The national committees pay full attention and act with responsibility in dealing with any matter. Citizens and organizations whose rights, justified interests or obligations are involved in the proceedings (parties to the proceedings) are always given opportunity by the national committees effectively to defend their rights and justified interests. They provide the necessary assistance and instruction for them and see to it that their interests are not impaired because of the lack of knowledge of regulations.

The national committees see to it that the parties to the proceedings actively share in the preparation and issuing of measures that concern them and are persuaded as to the correctness of these measures. They ensure that parties who cannot act independently in the proceedings or whose place of residence is not known are duly represented in the proceedings; if it is necessary for the defence of their rights, the national committees appoint a guardian for this purpose.

The national committees take advantage of their authority to develop their organizational and educational activities and to promote the working people's participation in the administration of the state. In their procedure the national committees work in close co-operation with the working people and their social organizations and rely on their experience, initiative and assistance. They explain to the parties to the proceedings the purpose of the measure taken and the relationship of the matter under consideration to the implementation of the tasks of economic and cultural construction.

B. 1. The Constitution's provisions on the right of all citizens to education is elaborated in Act No. 186/1960 of the *Collection*, on the system of education and schools (Education Act) of 15 December 1960. Education in Czechoslovakia is based on a scientific world outlook, is closely linked with the life of the people, and is based on the recent findings of science and progressive cultural traditions. Education in schools is free of charge. A considerable number of pupils and students are granted scholarships. School textbooks and supplies are distributed free of charge on an ever increasing scale. The Education Act envisages a further systematic improvement of material conditions for the education of youth.

The uniform system of schools and educational institutions comprises: nurseries and nursery schools (for children of pre-school age), the basic nine-year school (to provide basic education), attendance of which is generally obligatory, apprentice training centres, apprentice schools, general secondary schools (providing secondary and higher education) and universities (for university study). The language of instruction is Czech or Slovak; at schools established for children and young people of Hungarian, Ukrainian and Polish ethnic origin the respective mother language is used.

The study of the beginnings of the sciences, polytechnical education and practical training are combined in the instructive and educational work of schools of socially useful training, especially training in production, corresponding to the age of the pupils. These activities are covered by ordinance No. 8/1960 of the *Collection of the Central Council of the Trade Unions and the State Social Security Board* on sickness insurance and pension insurance of pupils and students during production activities in undertakings.

2. The organization and implementation of the sickness insurance of employees, which is regulated by measures of the Central Council of the Trade Unions of 22 December 1958 (see ordinance of the Prime Minister, No. 91/1958 *Collection*) were changed by the measure of the Central Council of the Trade Unions, published in the ordinance of the Prime Minister No. 191/1960 of the *Collection*, to harmonize with the territorial reorganization of the Czechoslovak Socialist Republic and to be in accord with the new regulation of the jurisdiction and responsibility of the organs of the Revolutionary Trade Union Movement. The basic administration of sickness insurance policies was transferred to the districts.

3. Sickness insurance and pension security of writers, composers, creative artists, architects, experimental scientists, performing artists and artistes were regulated in ordinance No. 50/1960 of the *Collection of the Central Council of the Trade Unions and the State Social Security Board.*

4. Matters of care for persons with changed working ability are regulated in the ordinance No. 20/1960 of the *Collection of the State Social Security Board.* Persons with changed working ability are those who for reasons of permanent health injury have a substantially limited choice of employment. Provisions

of section 3, paragraphs 2, 3 and 4 of the ordinance define the cases of permanent health injury and substantially limited choice of employment.

The ordinance also regulates in detail the duties of labour, health and social security departments of the district national committees (and/or labour and social security departments of a regional national committee) in safeguarding the right to work of persons with changed working ability. The duties involved are connected with the choice and the securing of positions for these persons, their joining in the working process, the preparation of persons with changed working ability for a profession, the material security of persons with changed working capacity and members of their families, and payment of necessary expenses connected with preparation for a profession.

5. Government ordinance No. 28/1960 of the *Collection*, on supplementary holidays of employees, defines the employees considered to perform work harmful for health or especially strenuous work, whose holiday is prolonged by one calendar week. In accordance with section 1, paragraph 2 of the government ordinance, decree of the Ministry of Health, No. 135/1960 of the *Collection*, published lists of some types of work and working places, for the purposes of supplementary holiday of employees.

6. Under the ordinance of the Central Council of the Trade Unions, No. 10/1960 of the *Collection*, the management of an undertaking grants a contribution to local organizations of the Revolutionary Trade Unions for expenses involved in their activities. The contribution is payable quarterly in advance. The amount varies according to the size of the undertaking and is computed from the total of gross wages and salaries paid to the employees of the undertaking in the preceding calendar quarterly.

CONSTITUTION OF THE CZECHOSLOVAK SOCIALIST REPUBLIC

Adopted on 11 July 1960[1]

Chapter One

THE SOCIAL ORDER

Art. 1. (1) The Czechoslovak Socialist Republic is a socialist State founded on the firm alliance of the workers, farmers and intelligentsia, with the working class at its head.

(2) The Czechoslovak Socialist Republic is a unitary State of two fraternal nations possessing equal rights, the Czechs and the Slovaks.

(3) The Czechoslovak Socialist Republic is part of the world socialist system; it works for friendly relations with all nations and to ensure lasting peace throughout the world.

Art. 2. (1) All power in the Czechoslovak Socialist Republic shall belong to the working people.

(2) The working people shall exercise state power through representative bodies which are elected by them, controlled by them, and accountable to them.

(3) Representative bodies of the working people in the Czechoslovak Socialist Republic shall be: the National Assembly, the Slovak National Council, and national committees. The authority of other state organs shall be derived from them.

(4) Representative bodies and all other state organs shall rely in their activity on the initiative and direct participation of the working people and their organizations.

Art. 3. (1) The right to elect all representative bodies shall be universal, equal, direct and by secret ballot. Every citizen shall have the right to vote on reaching the age of 18. Every citizen shall be eligible for election on reaching the age of 21.

(2) Members of representative bodies, deputies, shall maintain constant contact with their constituents, shall heed their suggestions, shall be accountable to them for their activity, and shall report to them on the activity of the body of which they are members.

(3) A member of any representative body may be recalled by his constituents at any time.

. . .

Art. 5. For the development of joint activities, for full and active participation in the life of society and the State, and to ensure the exercise of their rights, the working people form voluntary associations, particularly the Revolutionary Trade Union Movement, co-operative, youth, cultural, physical training and other organizations; some of the duties of the state organs shall gradually be transferred to these organizations of the people.

. . .

Art. 7. (1) The economic foundation of the Czechoslovak Socialist Republic shall be the socialist economic system, which excludes every form of exploitation of man by man.

(2) The socialist economic system, in which the means of production are socially owned and the entire national economy directed by plan, ensures, with the active co-operation of all citizens, a tremendous development of production and a continuous rise in the living standard of the working people.

[1] Published in *Sbírka Zákonů*, No. 40, of 11 July 1960, text 100. English text furnished by the Government of the Czechoslovak Socialist Republic.

(3) Labour in a socialist society is always labour for the benefit of the community, and at the same time for the benefit of the worker himself.

Art. 8. (1) Socialist ownership has two basic forms: state ownership, which is ownership by the people as a whole (national property), and co-operative ownership (property of people's co-operatives).

. . .

Art. 9. Within the limits of the socialist economic system small private enterprises, based on the labour of the owner himself and excluding exploitation of another's labour power, shall be permitted.

Art. 10. (1) The citizen's personal ownership of consumer goods, particularly articles of personal and domestic use, family houses, as well as savings derived from labour, shall be inviolable.

(2) Inheritance of such personal property shall be guaranteed.

Art. 11. (1) The State shall establish economic organizations, particularly national enterprises, which shall, as independent legal persons, be entrusted with the administration of part of the national property.

(2) Unified agricultural co-operatives shall be voluntary associations of working farmers for joint socialist agricultural production. The State shall support their development in every way and shall effectively assist co-operative farmers to advance large-scale socialist agricultural production, making use of modern science and technology. The State shall support the development of other people's co-operatives in accordance with the interests of society.

(3) All economic activity of state and other socialist economic organizations is carried out in mutual harmony and directed according to the principle of democratic centralism. At the same time, the participation and enterprise of the working people and their organizations, particularly the Revolutionary Trade Union Movement, shall be exercised in full measure and systematically at all levels of management.

Art. 12. (1) The entire national economy shall be directed by the state plan for the development of the national economy, which shall be drawn up and implemented with the widest active participation of the working people.

(2) The plan for the development of the national economy and culture, usually worked out for a period of five years, shall be promulgated as law and shall be binding for that period as the basis of all planning activity by state organs and economic organizations.

(3) A state budget shall be drawn up each year in conformity with the state plan for the development of the national economy, and promulgated as law.

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Art. 15. (1) The State shall carry out an economic, health, social and cultural policy enabling the physical and mental capabilities of all the people to develop continuously together with the growth of production, the rise in the living standard, and the gradual reduction of working hours.

(2) The State shall make provision for the conservation of nature and the preservation of the beauties of the country so as to create an increasingly rich source of benefit to the people and suitable surroundings for the working people with a view to their health and their right to recreation.

Art. 16. (1) The entire cultural policy of Czechoslovakia, the development of all forms of education, schooling and instruction shall be directed in the spirit of the scientific world outlook, Marxism-Leninism, and closely linked to the life and work of the people.

(2) The State, together with the people's organizations, shall give all possible support to creative activity in science and art, shall endeavour to achieve an increasingly high educational level of the working people and their active participation in scientific and artistic work, and shall see to it that the results of this work serve all the people.

(3) The State and the people's organizations shall systematically endeavour to free the minds of the people from surviving influences of a society based on exploitation.

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Art. 18. (1) The central direction of society and the State in accordance with the principle of democratic centralism shall be effectively combined with the broad authority and responsibility of lower organs, drawing on the initiative and active participation of the working people.

(2) In conformity with the scientific world outlook, the results of scientific research shall be fully applied in the direction of the society of the working people and in planning its further development.

Chapter Two

RIGHTS AND DUTIES OF CITIZENS

Art. 19. (1) In a society of the working people in which exploitation of man by man has been abolished, the advancement and interests of each member are in accord with the advancement and interests of the whole community. The rights, freedoms, and duties of citizens shall therefore serve both the free and complete expression of the personality of the individual and the strengthening and growth of socialist society; they shall be broadened and deepened with its development.

(2) In a society of the working people the individual can fully develop his capabilities and assert his true interests only by active participation in the development of society as a whole, and particularly by undertaking an appropriate share of social work. Therefore, work in the interests of the community shall be a primary duty and the right to work a primary right of every citizen.

Art. 20. (1) All citizens shall have equal rights and equal duties.

(2) The equality of all citizens without regard to nationality and race shall be guaranteed.

(3) Men and women shall have equal status in the family, at work and in public activity.

(4) The society of the working people shall ensure the equality of all citizens by creating equal possibilities and equal opportunities in all fields of public life.

Art. 21. (1) All citizens shall have the right to work and to remuneration for work done according to its quantity, quality and social importance.

(2) The right to work and to remuneration for work done is secured by the entire socialist economic system, which does not experience economic crises or unemployment and guarantees a continuous rise in the real value of remuneration.

(3) The State shall follow a policy which, as production and productivity increase, will permit the gradual reduction of working hours without reduction in wages.

Art. 22. (1) All working people shall have the right to leisure after work.

(2) This right shall be secured by the legal regulation of working hours and paid holidays, as well as by the attention paid by the State and people's organizations to ensuring the most fruitful use of the free time of the working people for recreation and for cultural life.

Art. 23. (1) All working people shall have the right to the protection of their health and to medical care, and to material security in old age and when incapable of work.

(2) The State and people's organizations shall secure these rights by the prevention of disease, the whole health system, the provision of medical and social facilities, by continuous expansion of free medical services and by the organization of safety measures at work, by health insurance and pension security.

Art. 24. (1) All citizens shall have the right to education.

(2) This right shall be secured by compulsory free basic school education for all children up to the age of 15 years, and by a system of free education which shall to an increasing extent provide complete secondary education, general or specialized, and university-level education. The organization of courses for employed persons, free specialized training in industrial enterprises and agricultural co-operatives and the cultural and educational activities undertaken by the State and the people's organizations shall serve further to advance the level of education.

(3) All education and schooling shall be based on the scientific world outlook and on close ties between school and the life and work of the people.

Art. 25. The State shall ensure citizens of Hungarian, Ukrainian and Polish nationality every opportunity and all means for education in their mother tongue and for their cultural development.

Art. 26. (1) Motherhood, marriage and the family shall be protected by the State.

(2) The State and society shall ensure that the family provides a sound foundation for the development of young people. Large families shall be granted special relief and assistance by the State.

(3) Society shall ensure to all children and youth every opportunity for full physical and mental development. This development shall be secured through the care provided by the family, the State and the people's organizations, and by the special adjustment of working conditions for young people.

Art. 27. The equal status of women in the family, at work and in public life shall be secured by special adjustment of working conditions and special health care during pregnancy and maternity, as well as by the development of facilities and services which will enable women fully to participate in the life of society.

Art. 28. (1) Freedom of expression in all fields of public life, in particular freedom of speech and of the press, consistent with the interests of the working people, shall be guaranteed to all citizens. These freedoms shall enable citizens to further the development of their personalities and their creative efforts, and to take an active part in the administration of the State and in the economic and cultural development of the country. For this purpose freedom of assembly and freedom to hold public parades and demonstrations shall be guaranteed.

(2) These freedoms shall be secured by making publishing houses and printing presses, public buildings, halls, assembly grounds, as well as broadcasting, television and other facilities available to the working people and their organizations.

Art. 29. Citizens and organizations shall have the right to submit their proposals, suggestions and complaints to representative bodies and to other state organs; it shall be the duty of state organs to take responsible and prompt action.

Art. 30. (1) Inviolability of the person shall be guaranteed. No one shall be prosecuted except in cases authorized by law and by due process of law. No one shall be taken into custody except in cases prescribed by law and on the basis of a decision of the court or the Procurator.

(2) Offenders can be punished only by due process of law.

Art. 31. Inviolability of the home, the privacy of the mails and all other forms of communication, as well as freedom of domicile, shall be guaranteed.

Art. 32. (1) Freedom of confession shall be guaranteed. Everyone shall have the right to profess any

religious faith or to be without religious conviction, and to practise his religious beliefs in so far as this does not contravene the law.

(2) Religious faith or conviction shall not constitute grounds for anyone to refuse to fulfil the civic duties laid upon him by law.

Art. 33. The Czechoslovak Socialist Republic shall grant the right of asylum to citizens of a foreign state persecuted for defending the interests of the working people, for participating in the national liberation movement, for scientific or artistic work, or for activity in defence of peace.

Art. 34. Citizens shall be in duty bound to uphold the Constitution and other laws, and in all their actions to pay heed to the interests of the socialist State and the society of the working people.

Art. 35. Citizens shall be in duty bound to protect and strengthen socialist ownership as the inviolable foundation of the socialist social order and the source of the welfare of the working people, the wealth and strength of the country.

Art. 36. Citizens shall be in duty bound to discharge the public functions entrusted to them by the working people conscientiously and honestly, and to consider their fulfilment in the interests of society as a matter of honour.

Art. 37. (1) The defence of the country and its socialist social order shall be the supreme duty and a matter of honour for every citizen.

(2) Citizens shall be in duty bound to serve in the armed forces as prescribed by law.

Art. 38. An essential part of the duty of every citizen shall be respect for the rights of his fellow citizens and the careful observance of the rules of socialist conduct.

Chapter Three

THE NATIONAL ASSEMBLY

Art. 39. (1) The National Assembly shall be the supreme organ of state power in the Czechoslovak Socialist Republic. It shall be the sole state-wide legislative body.

(2) The National Assembly shall consist of 300 deputies, who shall be elected by the people, shall be accountable to the people, and may be recalled by the people.

. . .

Deputies of the National Assembly

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Art. 57. (1) It shall be the duty of a deputy of the National Assembly to work in his constituency, maintain constant contact with his constituents, heed their suggestions and account to them regularly for his activity. A deputy shall co-operate with the national committees in his constituency and help them to fulfil their tasks.

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Chapter Four

THE PRESIDENT OF THE REPUBLIC

Art. 61. (1) At the head of the State shall be the President of the republic, elected by the National Assembly as the representative of state power.

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Art. 63. (1) Any citizen of the State who is eligible for election to the National Assembly may be elected President of the republic. . . .

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(3) The President of the republic may not at the same time be a deputy of the National Assembly, the Slovak National Council, or of a national committee or a member of the Government.

Chapter Seven

THE NATIONAL COMMITTEES

Art. 86. (1) The national committees — the broadest organization of the working people — are the organs of state power and administration in the regions, districts and localities.

(2) The national committees shall be composed of deputies who shall be elected by the people, shall be accountable to the people and may be recalled by the people.

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Art. 87. (1) The national committees shall rely in all their work on the constant and active participation of the working people of their area. In this way they shall gain the fullest co-operation of the working people in the administration of the State, draw on their experience and learn from it.

(2) The national committees shall work closely with other organizations of the working people, rely on their co-operation and help them fulfil their tasks.

Art. 88. (1) The national committees and their deputies shall be accountable to their constituents for their activities.

(2) It shall be the duty of a deputy of a national committee to work in his constituency, maintain constant contact with his constituents, take their advice, heed their suggestions, account to them for his activity and report to them on the work of the national committee.

. . .

Art. 89. The national committees shall, with the broadest participation of the citizens,

direct, organize and ensure in a planned manner the development of their area as regards economic affairs, culture, health and social services; their primary responsibilities shall include satisfaction of the material and cultural requirements of the working people to a continuously increasing degree; to this end they shall establish economic institutions and cultural, health and social institutions and direct their work;

ensure the protection of socialist ownership and all the achievements of the working people, the maintenance of socialist order in society, see that the rules of socialist conduct are upheld, and strengthen the defence potential of the republic;

ensure the implementation of laws and see to their observance, ensure the protection and realization of the rights and the assertion of the true interests of the working people and of socialist organizations.

Chapter Eight

THE COURTS AND THE OFFICE OF THE PROCURATOR

Art. 97. (1) The courts and the office of the Procurator shall protect the socialist State, its social order and the rights and true interests of its citizens and of the organizations of the working people.

(2) The courts and the Procurator's office shall in all their activity educate citizens to be loyal to their country and the cause of socialism, to abide by the laws and the rules of socialist conduct, and honourably to fulfil their duties towards the State and society.

The Courts

Art. 98. (1) The execution of justice in the Czechoslovak Socialist Republic shall be vested in elected and independent people's courts.

(2) The courts shall be the Supreme Court, regional courts, district courts, military courts and local people's courts.

Art. 99. (1) The Supreme Court shall be the highest court; it shall supervise the judicial activities of all other courts. Judges of the Supreme Court shall be elected by the National Assembly.

(2) Judges of the regional courts shall be elected by regional national committees.

(3) Judges of the district courts shall be elected by citizens by universal, direct, equal vote and by secret ballot.

(4) The Supreme Court, regional and district courts shall be elected for a term of four years.

(5) Military courts shall be elected under special regulations.

Art. 100. (1) The courts shall, as a rule, make decisions through benches.

(2) Benches of the Supreme Court, regional, district and military courts shall be composed both of judges who carry out their function as a profession and of judges who carry it out in addition to their regular employment. Both categories of judges are equal in making decisions.

Art. 101. (1) To ensure increased participation of the working people in the work of the judiciary, local people's courts shall be elected in the localities and at places of work.

(2) Local people's courts shall contribute to the consolidation of socialist legality, to the safeguarding of social order and the rules of socialist conduct.

(3) The extent of the jurisdiction of the local people's courts, the manner of their instalment, their electoral term and the principles of their organization and proceedings shall be prescribed by law.

Art. 102. (1) Judges shall be independent in the discharge of their office and shall be bound solely by the legal order of the socialist State. They shall be in duty bound to act in accordance with the laws and other legal regulations and to interpret them in the spirit of socialist legality.

(2) Judges shall be in duty bound to submit reports on the activities of the courts of which they are members to their electors or to the representative body that has elected them. Judges may be recalled by their electors or by the representative body that has elected them; the conditions for and manner of recall of judges shall be prescribed by law.

Art. 103. (1) The courts shall proceed so that the true facts of the case shall be determined and shall base their judgements on these findings.

(2) All court proceedings shall in principle be oral and public. The public may be excluded only in cases prescribed by law.

(3) The accused shall be guaranteed the right of defence.

(4) Judgements shall be pronounced in the name of the republic and shall always be pronounced in public.

Chapter Nine

GENERAL AND CONCLUDING PROVISIONS

. . .

Art. 111. (1) The Constitution may be amended by constitutional law only.

(2) Laws and other legal regulations may not contravene the Constitution. Interpretation and application of all legal regulations must be in conformity with the Constitution.

Art. 112. (1) The Constitution shall take effect from the day of enactment by the National Assembly.

(2) As from that day the previous constitution and all previous constitutional laws which amended and supplemented it shall cease to have effect.

DAHOMEY

ACT No. 60-36, OF 26 NOVEMBER 1960, ESTABLISHING THE CONSTITUTION OF THE REPUBLIC OF DAHOMEY[1]

PREAMBLE

The people of Dahomey solemnly proclaim their adherence to the principles of democracy and of human rights, as set out in the Declaration of the Rights of Man and of the Citizen of 1789 and the Universal Declaration of 1948, and as guaranteed by this constitution.

They affirm their intention to co-operate in peace and friendship with all peoples that share their ideals of justice, liberty, equality, fraternity and human solidarity.

Title I

THE STATE AND SOVEREIGNTY

. . .

Art. 2. The Republic of Dahomey shall be one, indivisible, secular, democratic and social.

Its principle shall be government of the people by the people and for the people.

Art. 3. National sovereignty shall be vested in the people.

No section of the people and no individual may assume the exercise of sovereignty.

Art. 4. The people shall exercise sovereignty through their elected representatives and by way of referendum. The conditions in which recourse may be had to a referendum shall be determined by law.

. . .

Art. 5. The vote shall be universal, equal and secret.

All Dahoman nationals of both sexes who are of full age and in full possession of their civil and political rights shall be entitled to vote under the conditions established by law.

Art. 6. The Republic shall ensure equality before the law for all, without distinction as to origin, race, sex or religion. It shall respect all creeds.

Any particularist propaganda of a racial or ethnic nature and any manifestation of racial discrimination shall be punished by law.

Art. 7. The political parties and groups shall assist in the exercise of franchise. They may be formed and engage in their activities freely, on condition that they respect the principles of national sovereignty and democracy and the laws of the republic.

Title II

THE PRESIDENT AND VICE-PRESIDENT OF THE REPUBLIC AND THE GOVERNMENT

. . .

Art. 10. The President and Vice-President of the republic shall be elected by direct universal suffrage for a term of five years. They shall be eligible for re-election.

. . .

Art. 25. The offices of President of the republic, Vice-President, and member of the Government shall be incompatible with the exercise of any parliamentary mandate and with any public employment or professional activity.

A deputy who is invited to assume ministerial office shall be discharged *ipso facto* from his parliamentary mandate.

. . .

Title III

THE NATIONAL ASSEMBLY

Art. 27. The Parliament shall be composed of a single assembly, known as the National Assembly, the members of which shall be known as deputies.

. . .

Art. 29. The deputies to the National Assembly shall be elected by direct universal suffrage on a complete national list.

. . .

Art. 35. Each deputy shall represent the whole nation.

Any compulsory mandate shall be null and void.

. . .

Title VII

THE JUDICIAL AUTHORITY

. . .

Art. 59. In the performance of their functions, judges shall be subject only to the authority of the law.

The President of the republic shall guarantee the independence of the judicial authority.

[1] Text published in the *Journal officiel de la République du Dahomey*, special number of 26 November 1960, and furnished by the Government of the Republic of Dahomey.

He shall be assisted by the Superior Council of the Judiciary.

. . .

Art. 63. No person may be arbitrarily detained in custody.

An accused person shall be presumed innocent until he is proved guilty under a procedure providing the safeguards essential to his defence. The judicial authority, as the guardian of personal freedom, shall ensure respect for this principle as prescribed by law.

. . .

Title XII

AMENDMENT

. . .

Art. 73. . . .

The republican form of government shall not be subject to amendment.

Title XIII

GENERAL AND TRANSITIONAL PROVISIONS

Art. 74. The provisions necessary for the application of this constitution shall be the subject of laws passed by the Assembly.

. . .

Art. 76. The legislation at present in force in Dahomey, in so far as it does not contravene this constitution, shall remain applicable, subject to the enactment of new legislation.

. . .

DENMARK

NOTE

1. The purpose of the Rehabilitation Act, No. 170 of 1960, of 29 April 1960 (*Lovtidende A*, 1960, No. XV, p. 557) was stated in its section 1 to be "to remedy or limit the consequences of disability or illness by the provision of aids and assistance in obtaining special medical treatment and to provide education, training, further training and other vocational facilities for disabled and other handicapped persons. It is also the purpose of this Act to further and co-ordinate the legislative and administrative provisions respecting measures for handicapped persons." Translations of the Act into English and French have been published by the International Labour Office in *Legislative Series* 1960 — Den.1.

2. The purpose of the Act respecting the vocational training of unskilled workers, No. 194 of 1960, of 18 May 1960 (*Lovtidende A*, 1960, No. XVI, p. 588) was stated in its section 1 to be "to establish a permanent framework and economic basis for the vocational training of unskilled workers that will be suited at any given time to technical evolution and the conditions in the employment market." Translations of the Act into English and French have been published by the International Labour Office in *Legislative Series* 1960 — Den.4.

3. Translations into English and French of the Act respecting the employment and training of young persons, No. 195 of 1960, of 18 May 1960 (*Lovtidende A*, 1960, No. XVI, p. 593) have been published by the International Labour Office in *Legislative Series* 1960 — Den.5.

4. The Act respecting invalidity and national pensions, No. 238 of 1960, of 10 June 1960 (*Lovtidende A*, 1960, No. XIX, p. 739) included provisions governing entitlement to such pensions, their amount, their payment and the levying of contributions to the pensions scheme. Translations of the Act into English and French have been published by the International Labour Office in *Legislative Series* 1960 — Den.2.

5. The Act respecting public sickness insurance, No. 239 of 1960, of 10 June 1960 (*Lovtidende A*, 1960, No. XIX, p. 758) included provisions governing the setting up of sickness funds (according to section 2(1) of the Act, "The expression 'sickness fund' means an association whose members have combined for the purpose of securing mutual assistance for one another in the event of sickness, subject to the payment of fixed contributions"), full and contributing membership of such funds, the benefits granted by them and their financing and administration. Translations of the Act into English and French have been published by the International Labour Office in *Legislative Series* 1960 — Den.3.

DOMINICAN REPUBLIC

CONSTITUTION PROCLAIMED ON 2 DECEMBER 1960[1]

Art. 4. The Dominican Republic shall not favour any international condemnation which, in the opinion of its government, results in prejudice to a sister people of America.

. . .

Art. 49. The Executive Power shall be exercised by the President of the Republic, who shall be elected every four years by direct vote.

[Apart from the above-quoted articles 4 and 49, and article 51, which no longer provides for the election of a vice-president by direct vote, those provisions of the Constitution proclaimed on 1 December 1955 which were reproduced in *Yearbook on Human Rights for 1955*, pp. 47–52, appear without change in that proclaimed on 2 December 1960.]

[1] Published in *Gaceta Oficial*, year LXXXI, No. 8527-bis, of 5 December 1960.

ACT No. 5353 ON PICKETS AND PUBLIC MEETINGS
Promulgated on 13 May 1960[1]

Art. 1. Pickets or public meetings organized peacefully and with due respect for public policy are lawful and, as such, are protected by the Constitution and laws of the Republic, which guarantee free expression of opinion and freedom of association and assembly for peaceful purposes.

Art. 2. Nevertheless, prior authorization from the national police must be obtained for the organizing of such pickets or public meetings within a radius of 150 metres of any building or establishment used or occupied by a foreign government, its representatives or its embassy, legation or consulate, or which serves as a residence for its diplomatic or consular officials, whenever flags, banners, placards or slogans will be or are planned to be displayed in such pickets or public meetings, for the purpose of stirring up hatred or public feeling against any foreign government, party, organization or official, or intimidating them, or bringing public discredit upon their acts, views or political, social or economic policies, or coercing or harassing diplomatic or consular officials or representatives, or interfering in the free exercise of their duties.

Art. 3. Violations of the provisions contained in the preceding articles shall be punishable by a fine of not less than $6 (R.D.) or more than $100 or with imprisonment of not less than six days or more than two months, or both penalties in more serious cases.

Art. 4. The same penalties shall be applicable to persons who interfere with pickets or public meetings or who in any way seek to hamper or impede demonstrations by those taking part in such pickets or public meetings.

[1] Text furnished by H.E. Mrs. Minerva Bernardino Cappa, then alternate representative of the Dominican Republic to the United Nations and government-appointed correspondent of the *Yearbook on Human Rights*.

ACT No. 5152 AMENDING VOLUME I, TITLE VIII, OF THE CIVIL CODE (ADOPTION)
Promulgated on 13 June 1959[1]

Art. 1. Volume I, title VIII, of the Civil Code is hereby amended as follows:

"*Title VIII*

"ADOPTION

"*Art. 343.* Adoption, whether regular or privileged, may take place only for good reasons which are in the interest of the adoptee.

"*Art. 344.* The adopter must be not less than forty years of age. However, an application to adopt may be made jointly by a husband and wife living together, one of whom is over thirty-five years of age, provided they have been married for more than ten years and no child has been born of their marriage. The adopters must not have legitimate children or descendants on the date of adoption. The existence of adoptive children shall not constitute an obstacle to a subsequent adoption.

"The adopter must be at least fifteen years older than the prospective adoptee; if the latter is the

[1] Text furnished by H.E. Mrs. Minerva Bernardino Cappa, then alternative representative of the Dominican Republic to the United Nations and government-appointed correspondent of the *Yearbook on Human Rights*.

child of his or her spouse, a difference in age between the two of ten years shall suffice, and the difference may be further reduced by an order of the judge of the appropriate court of first instance.

"The birth of one or more children or descendants shall not constitute an obstacle to the adoption by a husband and wife of a minor placed with them prior to the said birth.

"*Art. 345.* A Dominican citizen may adopt, or be adopted by, an alien. Adoption shall have no effect on nationality.

"*Art. 346.* No one may be adopted by more than one person, except in the case of adoption by a husband and wife. A married person may not adopt or be adopted without the consent of his or her spouse, except in cases where the latter is unable to express his or her wishes or where the spouses are separated.

"*Art. 347.* If the prospective adoptee is a minor, the consent of his or her parents shall be required. If either parent is deceased or is unable to express his wishes, the consent of the other shall suffice. If the parents are separated or divorced, the consent of the parent to whom custody has been granted shall suffice. If the other parent has not given his consent, he must be notified of the adoption deed, which shall not be declared confirmed until at least three months after the date of such notification. If within that time the parent notifies the clerk of the court that he opposes the adoption, the court must hear him before delivering judgement.

"*Art. 348.* In the cases provided for in the preceding article, consent shall be given in the adoption deed itself or by means of a separate authentic instrument, before a notary or before the local magistrate of the parent's place of domicile or residence or before diplomatic or consular agents abroad.

"*Art. 349.* If both parents of the minor are deceased or are unable to express their wishes, consent must be given by the legal representative of the minor. If the child's parents are unknown, consent shall be given by an *ad hoc* guardian appointed by the Minister for Health and Social Security.

"*Art. 350.* Adoption shall confer on the adoptee the surname of the adopter.

"Officials of the registry of births, marriages and death, when issuing a copy of the birth certificate of a minor who has been adopted or when referring thereto in any document drawn up by them, shall make no mention of this circumstance or of the true filiation and shall refer only to the surnames of the adoptive parents, except in cases of regular adoption in which it has been agreed that those surnames are to be added to those of the natural parents.

"*Art. 351.* In the case of regular adoption, the adoptee shall remain with his natural family and shall retain his full rights therein.

"However, the rights of *patria potestas* over the adoptee and the right to consent to his or her marriage shall be vested exclusively in the adopter. In the event of disagreement between the adoptive parents, consent to the marriage of the adoptee shall be deemed to have been given.

"In the case of adoption by both spouses, the adoptive father shall administer the property of the adoptee on the same conditions as a natural father administers that of his children. If the adoptive parents are divorced or separated, the court shall apply to the adopted children the rules relating to legitimate children.

"Where there is only one adopter or where one of the two adopters dies, the adopter or the survivor of the two adopters shall be the guardian of the adoptee; he shall exercise guardianship on the same conditions as the surviving father or mother of a legitimate child.

"The family council shall be established in the form provided for in article 409 of this code.

"If the adopter is the spouse of the father or mother of the adoptee, he or she shall have *patria potestas* jointly with the father or mother; however, the father or mother shall retain the exercise thereof. In such cases, the rules relating to the consent of parents to the marriage of a legitimate child shall apply to the marriage of the adoptee. If during the minority of the adoptee, the adopter is deprived of his civil rights, is declared missing or dies, *patria potestas* shall pass *ipso facto* to his descendants.

"*Art. 352.* Notwithstanding the provisions of the first paragraph of the preceding article, the court, when confirming the adoption deed, may decide, after due inquiry, on the application of the adopter and in the case of a person below the age of eighteen years, that the adoptee shall cease to belong to his natural family, subject to the marriage prohibitions prescribed by law. In such cases, no claim shall be admissible subsequent to adoption. The adopter or the survivor of the adopters may also appoint in his will a guardian of the adoptee.

"*Art. 353.* The bond of relationship resulting from adoption shall extend to the children of the adoptee.

"*Art. 354.* Marriage shall be prohibited between the adopter and the adoptee and his descendants; between the adoptee and the spouse of the adopter, and between the adopter and the spouse of the adoptee; between adoptive children of the same individual and between the adoptee and any children who may survive the adopter. However, in the cases referred to in this article, the judge of the appropriate court of first instance may authorize the marriage if the circumstances so warrant.

"*Art. 355.* The adoptee must provide for the adopter if the latter is in need, and the adopter must provide for the adoptee. Except in the cases referred to in article 352, the obligation to provide

shall continue to exist between the adoptee and his father or mother. However, the father or mother of the adoptee shall not be obliged to provide for him except where he cannot secure support and maintenance from the adopter.

"*Art. 356.* The adoptee and his descendants shall have no inheritance rights in respect of the property of the adopter's relatives but they shall have the same rights to inherit from the adopter as his children and descendants.

"*Art. 357.* If the adoptee dies without issue, anything given to him by the adopter or forming part of his estate which still exists in kind at the time of the adoptee's death shall revert to the adopter or his descendants, subject to the payment of debts and without prejudice to the rights of third parties.

"All other property of the adoptee shall belong to his own relatives; the latter shall never include, even where the items specified in this article are concerned, any of the heirs of the adopter, with the exception of those who are his descendants.

"If there are no descendants, the surviving spouse of the adopter, if he or she has participated in the adoption, shall have a right of usufruct of those items.

"If during the lifetime of the adopter, and after the death of the adoptee, the children or descendants left by the latter die without issue, the adopter shall inherit the things which he has given to the adoptee, as prescribed in this article; however, this right shall vest in the person of the adopter and shall not be transmissible to his heirs, including those in his line of descent.

. . .

"*Art. 368.* Privileged adoption shall be permitted only in respect of minors below the age of five years, provided that they have been abandoned by their parents or that the latter are unknown or have died.

"An application for privileged adoption may only be made jointly by a husband and wife living together who meet the age requirements specified in article 344 and who have no legitimate children or descendants. The existence of adoptive children shall not constitute an obstacle to privileged adoption.

. . .

"*Art. 370.* A minor who is the subject of privileged adoption shall cease to belong to his natural family, subject to the marriage prohibitions specified by law, and shall have the same rights and obligations as if he had been born of the marriage. However, if one or more of the ascendants of the adopting parents have not assented to the adoption by an authentic instrument, the adoptee and those ascendants shall not be mutually responsible for maintenance and shall not be deemed residual heirs of their respective estates."

Art. 2. A husband and wife who, before the promulgation of this Act, have adopted a minor, may apply for the privileged adoption of that minor, even if he has passed the age specified in article 368 of the Civil Code, as amended by this Act, and for that purpose they shall submit their application to the court of first instance of the appropriate judicial district, together with documents evidencing compliance with the provisions of articles 364 and 365 of the said code, as amended by this Act. The court shall deliver judgement as indicated in article 369 of the code, as amended by this Act.

Art. 3. For a period of two years commencing on the date of promulgation of this Act, applications may be made for privileged adoption on the conditions specified herein, even in the case of a minor above the age of five years.

ACT No. 4958, OF 19 JULY 1958, ADDING A PARAGRAPH TO ARTICLE 80 AND AMENDING ARTICLE 307 OF THE LABOUR CODE[1]

Art. 1. A paragraph shall be added to article 80 of the Labour Code, Act No. 2920 of 11 June 1951, and its article 307 shall be amended, so that they read as follows:

. . .

"*Art. 307.* No employer shall engage in practices which are not in accord with, or are contrary to, professional labour ethics.

"The following, *inter alia*, shall be considered practices not in accord with, or contrary to, professional labour ethics:

"1. Requiring employees or persons applying for employment to refrain from entering an association or to apply to be a member thereof;

"2. Taking reprisals against employees on account of their activity in industrial associations;

"3. Dismissing or suspending an employee for belonging to an association;

"4. Refusing without just cause to negotiate with a view to the conclusion of collective agreements on conditions of labour;

"5. Intervening in any way in the creation or administration of an association of employees, or supporting such an association by financial or other means;

"6. Refusing to deal with the legitimate representatives of the employees;

"7. Employing force, violence, intimidation or threats, or any form of coercion against employees or associations of employees, with the aim of impeding or hindering them in the exercise of the rights guaranteed to them by the laws."

[1] Published in *Gaceta Oficial*, No. 8265, of 23 July 1958.

ECUADOR

CONSTITUTION AS AMENDED BY DECREE OF 21 OCTOBER 1960[1] AND RECAST ON 16 NOVEMBER 1960[2]

Title II

NATIONALITY

Art. 9. A person may be an Ecuadorian national by birth or by naturalization.

Art. 10. A person shall be an Ecuadorian national by birth if he was born in the territory of the republic.

Art. 11. A person born in foreign territory shall also be regarded as an Ecuadorian national by birth:

(*a*) If he was born abroad of Ecuadorian parents or of an Ecuadorian father or mother, both or one of whom were in the service of Ecuador;

(*b*) If he was born of parents, or of a father or mother, who are Ecuadorian nationals by birth and were in exile or temporarily absent from the country;

(*c*) If he was born abroad of Ecuadorian father and mother domiciled abroad and, between the age of eighteen and twenty-one, has declared his desire to be an Ecuadorian national.

An Ecuadorian national to whom this article refers shall have equal rights with an Ecuadorian national born in the territory of the republic.

. . .

[1] Published in *Registro Oficial*, year I, No. 46, of 25 October 1960.

[2] Codified text furnished by the Government of Ecuador.

EL SALVADOR

DECREE No. 2996: CONSTITUTIONAL PROCEEDINGS LAW of 15 January 1960[1]

TITLE I

GENERAL PRINCIPLES AND JURISDICTION

Art. 1. The following shall be constitutional proceedings:

(1) Proceedings with respect to laws, decrees and regulations that are alleged to be unconstitutional;

(2) Proceedings for the protection of the rights of the citizen [amparo];

(3) Proceedings for the production of a person.

Art. 2. Any citizen may apply to the Supreme Court of Justice for a general and binding declaration that any law, decree or regulation is unconstitutional in its form or tenor.

The Chamber for the protection of the citizen [Sala de Amparo] shall be responsible for initiating the proceedings in the case and the court sitting with a full Bench shall deliver the definitive judgement.

Art. 3. Any person may apply to the Supreme Court of Justice for protection in respect of any violation of the rights guaranteed to him by the Constitution.

The Chamber for the protection of the citizen [Sala de Amparo] shall be competent to take cognisance of the case and issue a decision.

Art. 4. Where the violation of a right takes the form of an unlawful restriction of individual freedom, committed by any authority or individual, the aggrieved party shall be entitled to apply for a writ of *habeas corpus* to the Supreme Court of Justice or to a Chamber of Second Instance outside the capital.

Art. 5. When any of these constitutional proceedings have been instituted, they shall continue without need of further application by the parties, and the court shall *ex officio* render all decisions, including judgement.

The time-limits prescribed by this Act shall be peremptory; if a time-limit set for a hearing or a notification to the other party has expired and these steps have not been taken, the court shall deliver the requisite decision and shall *ex officio* make an order, where necessary, for the return of the documents.

TITLE II

PROCEEDINGS RELATING TO UNCONSTITUTIONALITY

Art. 6. An application for a declaration of unconstitutionality shall be submitted in writing to the Supreme Court of Justice, and shall include the following particulars:

(1) The name, occupation or profession, and the address, of the petitioner;

(2) The law, decree or regulation alleged to be unconstitutional, and the number and date of the *Diario Oficial* in which it was published; if it was not published in the *Diario Oficial*, a copy of another periodical in which it was published shall be attached to the application;

(3) The grounds on which the law, decree or regulation is alleged to be unconstitutional, quoting the relevant articles of the Constitution;

(4) A petition that the law, decree or regulation should be declared unconstitutional;

(5) The place and date of the application, and the signature of the petitioner or of the person making the application at his request.

Documents in evidence of the citizenship of the petitioner shall be submitted with the application.

Art. 7. Upon submission of an application complying with the aforementioned conditions the authority which issued the provisions alleged to be unconstitutional shall be requested to make a detailed report therein within a time-limit of ten days, attaching to its report, if it deems it necessary, certified copies of the official documents, records of discussions, and other supporting evidence on which it founds its actions.

Art. 8. The application or report shall be communicated within a reasonable time-limit, not exceeding ninety days, to the Chief Law Officer of the republic, who shall be bound to take action within the time-limit laid down.

Art. 9. So soon as the Chief Law Officer has taken action and such proceedings as are deemed necessary have taken place, judgement shall be pronounced.

Art. 10. There shall be no appeal against the final judgement, which shall be generally binding upon the organs of the State, its officials and authorities, and on all persons and bodies corporate.

[1] Published in the *Diario Oficial*, vol. 186, No. 15, of 22 January 1960.

If the judgement declares that the law, decree or regulation is not unconstitutional as alleged, no judge or official may refuse, by reason of the powers vested in him by articles 95 and 211 of the Political Constitution, to recognize the validity of such law, decree or regulation.

Art. 11. The final judgement shall be published in the *Diario Oficial* within fifteen days following the date on which it was pronounced and a copy of the said judgement shall be forwarded to the editor of the said publication for that purpose; if that official fails to comply, the court shall order publication of the judgement in one of the newspapers of the capital of the republic having the largest circulation, without prejudice to the liability incurred by the said editor.

TITLE III

PROCEEDINGS FOR THE PROTECTION OF THE RIGHTS OF A CITIZEN [AMPARO]

Chapter I

APPLICATIONS

Art. 12. Any person may apply to the Supreme Court of Justice for protection [amparo] in respect of any violation of the rights guaranteed to him by the Political Constitution.

Proceedings for protection are admissible against acts or omissions of any kind by any authority or official of the State or of its decentralized organs which violate such rights or interfere with the exercise thereof.

Proceedings for protection may be instituted only where the act of which complaint is made cannot be remedied by any other appropriate judicial proceedings.

If the protection is sought on the grounds of unlawful detention or undue restriction of the liberty of the person, the provisions of title IV of this Act shall apply.

Art. 13. Proceedings for protection are not admissible in judicial matters of a purely civil or commercial nature or in respect of a final judgement in criminal proceedings that has become *res judicata.*

Art. 14. An application for protection may be submitted in writing by the aggrieved person himself, or through his legal or duly authorized representative, and shall state:

(1) The name, age, occupation or profession, and the address of the applicant and, where applicable, of the person acting on his behalf. If the applicant is a body corporate, it shall specify, in addition to the personal particulars of the duly authorized representative, the name, nature and address of the entity;

(2) The respondent authority or official;

(3) The act of which complaint is made;

(4) The constitutionally protected right which is alleged to have been violated or the exercise of which is alleged to have been interfered with;

(5) An account of the acts or omissions constituting the violation;

(6) Particulars of the third party benefited by the act of which complaint is made, if there is any such party;

(7) The place and date of writing, and the signature of the applicant or of the person making the application at his request.

Art. 15. Applications shall be submitted to the office of the Clerk of the Supreme Court of Justice; however, they may also be submitted by persons not resident at the seat of the court to a judge of first instance, who shall identify the applicant and shall certify that he has done so in a note endorsed on the application, which shall also state the date and hour at which it was submitted. Such note shall be signed by the judge and the clerk and shall be sealed; the application shall be forwarded by registered mail to the office of the Clerk of the Court on the day on which it is received or, failing that, not later than the following day.

Art. 16. The following shall be deemed to be parties to proceedings for protection:

(1) The aggrieved party who institutes the proceedings;

(2) The authority against whom complaint is made.

The third party who benefited by the act of which complaint is made may also intervene as a party in the case; he shall enter the action at whatever stage it may have reached and shall on no grounds be entitled to demand a repetition of the earlier part of the proceedings.

Art. 17. The *Ministerio Público* shall intervene in the proceedings for the protection of constitutionality.

Art. 18. On receipt of an application, the Chamber shall take cognizance thereof, provided that it fulfils the conditions specified in article 14. Otherwise the Chamber shall notify the petitioner that he must comply with the said conditions within a time-limit of seventy-two hours from the time of such notification. Failure to forward the explanation or correction within due time shall be a ground for declaring the application inadmissible.

Chapter II

SUSPENSION OF THE ACT OF WHICH COMPLAINT IS MADE

Art. 19. When taking cognizance of an application, the Chamber shall at the same time decide whether the act of which complaint is made shall be suspended, even if the petitioner has not requested such suspension.

However, suspension may be ordered only in the case of acts which produce or may produce positive effects.

Art. 20. Immediate provisional suspension of the act of which complaint is made may be ordered if the performance of such act may produce irreparable damage or damage which could be repaired only with difficulty by the final judgement.

Art. 21. Whether or not immediate provisional suspension is ordered, a report requested shall be from the respondent authority or official, which shall furnish this report within twenty-four hours.

Art. 22. In its report, the authority shall confine itself to stating whether or not the facts alleged against it are true.

Failure to furnish a report within the legal time-limit shall be deemed to be a ground of presuming the existence of the act of which complaint is made for the purposes of suspension, and the official in default shall be liable to a fine of not less than 10 nor more than 100 colones, at the discretion of the Chamber.

Art. 23. On receipt of the report or if, on expiry of the prescribed time-limit, no answer has been submitted by the respondent, the law officer of the court shall be requested to attend the subsequent hearing.

Whether or not the law officer replies, the Chamber shall render its decision concerning suspension, ordering or refusing such suspension or, where applicable, confirming or revoking such provisional suspension as may have been ordered.

Art. 24. If suspension is ordered, the respondent authority or official shall be notified immediately and, if he fails to comply, action shall be taken as indicated in articles 36 and 37.

Suspension may be ordered by telegram with notice of receipt attached; the request for the report shall be accompanied by a photostatic copy of the application.

In case of suspension, the respondent authority may submit its report by telegram.

Art. 25. A decision refusing an order for suspension of the act shall not be final and may be revoked at any stage of the proceedings if the Chamber deems it proper to do so.

Chapter III
PROCEDURE

Art. 26. If an order for suspension is made, the respondent authority or official shall be requested to forward a further report which shall be submitted with full details within three days, plus the time allowed for distance, giving an account with full particulars of the facts, together with such justification as the authority or official deems appropriate, and quoting only such passages as are deemed to show the legality of the act.

Art. 27. On the expiry of the prescribed time-limit, whether or not a report has been received from the respondent authority or official, the case shall be communicated to the Law Officer of the Court, and then to the plaintiff and to any third party who may have intervened, subject to three days notice in each case, to enable them to make their submissions.

Art. 28. Where there is more than one third party, the papers in the case shall not be communicated to them, but they shall be convened to a joint hearing within three days and they shall be notified that they shall appoint a joint attorney at that hearing or else appoint one of their number to represent them. If they fail to do so, the court shall designate one of their number to represent them.

Art. 29. At the conclusion of the time-limits set for the communication of papers and hearings, as the case may be, the hearing for taking evidence shall begin and, if necessary, may continue for eight days.

If evidence has to be taken outside the capital in the form of judicial inspection or the testimony of witnesses or experts, the time-limit shall be extended according to the distance and the Chamber may forward the original documents in the case by registered mail to the Judge of First Instance competent for the district in order that he may take the evidence in due legal form or issue such instructions as he deems appropriate.

Coercive measures are prohibited, save as provided in article 83. The respondent authority or official may in no case be required to express an opinion.

Art. 30. When the taking of evidence has been concluded, the documents in the case shall be communicated to the Law Officer and to each of the parties for the preparation and submission of their respective statements in writing within three days. If there is more than one third party, the provisions of article 28 shall apply.

Chapter IV
DISMISSAL OF CASES

Art. 31. Proceedings for the protection of the citizen's rights shall be terminated and the case shall be dismissed in the following cases:

(1) If the plaintiff abandons the action, the consent of the respondent not being necessary;

(2) If the aggrieved party expressly indicated his assent to the act of which complaint was made;

(3) If the court finds that cognizance was taken of the application in contravention of articles 12, 13 and 14, provided that no error of law is involved;

(4) If no evidence is found of the existence of the act of which complaint was made, where such proof is necessary;

(5) If the effects produced by the act have ceased;

(6) If the aggrieved party has died, provided that the act of which complaint was made affected him alone.

Chapter V

JUDGEMENT AND EXECUTION

Art. 32. Upon the return of the documents in the case and completion of the hearings referred to in articles 27 and 30, judgement shall be pronounced.

Art. 33. The judgement shall include an account of the facts and of the questions of law at issue and shall state reasons and grounds in law that are deemed to be relevant and quote the laws and decisions which are considered applicable. The Chamber may omit an account of the evidence and of the submissions of the parties, but shall make a judicial appraisal of the evidence, where necessary.

Art. 34. When final judgement has been pronounced, the respondent authority or official shall be informed and shall, where necessary, be given a copy of the judgement of which the other parties shall be notified.

Art. 35. In the decision granting protection the respondent authority shall be ordered to restore the conditions which existed before the act of which complaint was made. If the said act was carried out, wholly or partly, in such a manner as to be irremediable, a civil action for damages shall lie against the party personally responsible and, secondarily, against the State.

If protection is granted because an official or authority in any way prevents by his acts, delays or omissions, the exercise of a right granted by the Constitution, the judgement shall specify the action to be taken by the responsible authority or official, who shall be required to take measures accordingly; if he fails to do so within the time-limit laid down he shall be guilty of the offence of disobedience and the court shall institute proceedings against the said authority or official.

The judgement shall also include an order for the payment of costs and damages by any official who, in his report, denied the existence of the act of which complaint was made, or who failed to submit the said report or falsified the facts therein. This part of the judgement shall be executed in accordance with the regular procedure.

If the judgement refuses the protection, or in the case specified in article 31 (4), the petitioner shall be ordered to pay costs and damages; a third party who fails in his claim shall also be ordered to pay costs and damages.

The respondent official shall comply with the judgement within twenty-four hours of receiving notice thereof, or within the time-limit fixed by the court.

Art. 36. If the respondent authority fails to comply with a judgement granting protection within the time-limit prescribed, the Chamber shall, in the name of the republic, call upon the authority immediately superior if there is one, to enforce compliance, or, if there is no superior authority, shall make such demand directly to the authority in default; these steps shall be without prejudice to the Chamber's right to inform the Supreme Court of Justice of the facts for appropriate action.

Art. 37. If, despite such demand, the judgement is not complied with in its entirety, the Supreme Court of Justice shall take coercive measures; it shall apply to the Executive Power for the necessary material means, and shall institute proceedings against the party in default, who shall immediately be suspended from his office and shall be subject to the provisions of article 215 of the Constitution.

TITLE IV

HABEAS CORPUS

Chapter I

NATURE AND PURPOSE OF THE REMEDY

Art. 38. Except where otherwise specially provided by law, every person has the right to dispose of his person, without subjection to another.

If a person in violation of this right is detained against his will within definite bounds, whether by threats, fear of injury, constraint or other physical measures, such person shall be deemed to be *imprisoned* and in the *custody* of the authority or individual exercising such detention.

A person has another in his custody if, although he does not confine him within definite territorial bounds by force or threats, he controls his movements and obliges him against his will to go to, or remain in, such place as the first-named person decides.

Art. 39. If there is no such detention within definite bounds, but authority to have general control over the actions of any person is claimed and exercised without his consent, such person is said to be *under the restraint* of the party exercising such power.

Art. 40. In all cases, without exception, of imprisonment, confinement, custody or restraint not authorized by law or exercised in a manner or to a degree not authorized by law, the aggrieved party has the right to be protected by a writ for the production of the person [el auto de exhibición de la persona].

Art. 41. An application for a writ for the produc-

tion of the person may be submitted directly to the court in writing or by letter or telegram, by the person whose liberty is improperly restricted, or by any other person. The petition must state, if possible, the type of confinement, imprisonment or restraint to which the aggrieved party is subjected, the place in which he is undergoing it and the person in whose custody he is, requesting the issue of a writ for the production of the person and swearing that the facts stated are true.

Art. 42. A writ for the production of the person must be issued *ex officio* whenever there is reason to believe that the liberty of any person is unlawfully restricted.

Art. 43. The court shall appoint to execute the writ for the production of the person an authority or a person whom it deems trustworthy at, or within six leagues of, the place where it is to be executed; the person so appointed must be able to read and write, have attained the age of twenty-one years and be in possession of his civil rights.

No person shall refuse to serve as an executing judge on any pretext or grounds whatsoever, save in case of physical impossibility, legally attested to the satisfaction of the court, or for any of the reasons enumerated in article 287 I.

Art. 44. A writ for the production of a person requires the executing judge to have the person of the party named therein shown to him by the judge, authority or individual in whose custody he is, and to be informed of the proceedings or the reason for which he is imprisoned, confined or under restraint. If the identity of the person whose liberty is restricted is unknown, the writ shall state that the person, whoever he may be, is to be produced. If the identity of the person under restraint is known, but that of the authority or individual, in whose custody he is, is not known, the writ shall state that such authority or individual, whoever he may be, is to produce the person on behalf of whom it is issued.

Art. 45. The executing judge, accompanied by a clerk appointed by him, shall give notice of the writ to the person or authority in whose custody the person named therein is, immediately on receipt thereof, if he is at the place where the writ is to be executed, or within twenty-four hours if he is elsewhere.

Art. 46. The individual or authority in whose custody or under whose restraint the person named in the writ is shall produce him immediately to the executing judge, submitting the documents in the case or, if no proceedings have been instituted, stating the reason for which he is held in detention or under restraint. The executing judge, in returning the writ, shall make a note of such reply; the note shall be signed by the person making the reply, if he is known, and by the executing judge and his clerk.

Chapter II

PROCEDURE

Art. 47. If the party having in his custody the person named in the writ is an individual acting without authority, the executing judge shall issue the following order: "N. [name of the person named in the writ], who is in the unlawful custody of N. [name of the individual], shall be released." The person concerned shall at once be unconditionally released without need of security and the writ shall be returned to the court or chamber, together with a report. The court shall acknowledge receipt thereof and shall try the person guilty of unlawful detention.

Art. 48. If the individual is acting by virtue of the powers conferred by article 68 I, in respect of an offender apprehended *in flagrante delicto*, irrespective of whether the time-limit of twenty-four hours prescribed in that article has expired, and if the offence in question is one for which proceedings may be instituted *ex officio*, the executing judge shall make the following order: "N. shall be placed at the disposal of the judge [naming the competent judge] and the writ shall be returned, together with a report."

If the party having the person named in the writ in his custody or under restraint is an authority other than the authority that is competent to try him in exercise of the powers conferred by article 67 I, the executing judge shall proceed as stated in the preceding paragraph.

In any of the cases mentioned in this article, if the offence in question is not one for which proceedings may be initiated *ex officio*, and if the aggrieved party has not taken steps to institute private proceedings in the manner prescribed by law, the executing judge shall make the following order: "N., who is in unlawful custody, shall be released, and the writ shall be returned, together with a report."

Art. 49. If the party having another in his custody is the father, the guardian or the person entitled to exercise the right of domestic correction, and if he has manifestly exceeded the bounds of such rights, the executing judge shall make the following order: "The power of domestic correction having been exceeded by N., who has in his custody N., the latter shall be released." Otherwise, the procedure prescribed in article 48 shall be followed.

Art. 50. If the party having another in his custody is a competent authority, and if the time-limit prescribed for the preliminary investigation has not yet expired, the executing judge shall make no order; such authority shall continue to have jurisdiction in the case until the time-limit has expired and, when it has expired, the executing judge shall proceed as prescribed in the following three articles.

Art. 51. If the authority is competent, and if proceedings have not been instituted before the

expiry of the period prescribed by law for the preliminary investigation, the executing judge shall make the following order: "Proceedings not having been instituted against N. within the time-limit prescribed by law, he shall be released."

Art. 52. If proceedings have been instituted but the warrant of arrest has not been issued within the time-limit prescribed by law, and if the evidence in the case provides no grounds for the issue of the warrant, the executing judge shall make the following order: "The warrant of arrest against N. not having been issued within the time-limit prescribed by law, and the case not showing sufficient grounds for the issue of such warrant, the prisoner shall be released."

If, in the case mentioned in the preceding paragraph, reasonable grounds exist for the issue of a detention warrant, the executing judge shall make the following order: "A detention warrant not having been issued against N., but there being reasonable grounds for the issue of such warrant, he shall remain in his present detention."

Art. 53. If a warrant of arrest has been issued, but without lawful grounds, the executing judge shall make the following order: "There being no lawful grounds for his detention, N., the person named in the writ, shall be released and the writ shall be returned, together with a report."

Art. 54. If the judge, or any other authority having jurisdiction, is acting in accordance with the law, the executing judge shall make the following order: "The case shall continue and the writ shall be returned, together with a report."

Art. 55. If the person in custody is serving a judicial sentence, the executing judge shall make the following order: "N. shall remain in the custody of N. for the period prescribed by law, and the writ shall be returned, together with a report."

Art. 56. If, in the case referred to in the preceding article, the prisoner has already completed his sentence, the executing judge shall make the following order: "N., a person under sentence, who is in the custody of N., having completed his sentence, shall be released."

Art. 57. If the person detained, imprisoned, or under sentence is subjected to confinement or restraint more severe than is prescribed by law, or is held in solitary confinement in contravention of the provisions of the law, the executing judge shall make the following order: "N., who is in the custody of N., shall not be subjected to [naming the confinement or restraint which is illegal]"; such confinement or restraint shall cease and the writ shall be returned, together with a report.

Art. 58. Where the person named in the writ for the protection of his person is merely under the restraint of another, the executing judge shall, if such restraint is lawful, make the following order: "The writ shall be returned, together with a report"; if such restraint is unlawful, he shall make the following order: "The restraint exercised by N. on the person of N. shall cease."

Art. 59. Wherever it appears from the sworn statement of a reliable witness, or from any other incomplete evidence taken by the competent court or by the appointed executing judge, that any person is detained in prison or is in unlawful custody, and there are reasonable grounds to believe that he will be taken out of the country or will sustain irreparable damage, or if he is hidden before he can receive assistance in the ordinary course of the law, or wherever a writ for the production of his person has been disobeyed, the competent court shall make an order authorizing the executing judge to whom the writ has been forwarded to take possession of the person imprisoned or under restraint, and to remove him to another place of detention at the order of the court which issued the writ for his production and thereafter to produce him before that court, which shall immediately make such order as is necessary for the protection of the person named in the writ, in accordance with the law.

Art. 60. If the person or authority no longer has in its custody or under restraint the person named in the writ but has previously so held him and has removed him to another place, or to the order of another person or authority, or if he has been taken out of the territory of the republic, the person or authority concerned shall give an account of the circumstances to the executing judge and shall inform him of the whereabouts of the detained person, if they are known. The person or authority in question shall be under the same obligation in the case referred to in article 59.

Art. 61. In case of disobedience, the executing judge shall make the following order: "N., having refused to comply with the writ for the production of the person, it shall be returned to the court by which it was issued, together with a report." The court shall request the assistance of the armed forces, and shall place them at the disposal of the executing judge for the purpose of taking possession of the person named in the writ, wherever he may be within the territory of the republic, and of the records of the proceedings, if such there be, apprehending the person or authority which refused to comply with the writ, making the appropriate order for the release of the person named in the writ or for his removal to another place of detention to the order of the competent authority, placing under arrest the disobedient person and rendering a full report to the competent court in order that the appropriate criminal proceedings may be instituted.

In the case of any of the officials referred to in articles 212 and 213 of the Constitution, the executing judge shall merely take possession of the person

named in the writ without apprehending such official and shall return the writ, together with a report, in order that the court may, in turn, refer it to the Supreme Court of Justice, which shall take such of the measures indicated in the following paragraph as are appropriate.

If the refusal to comply with the writ for the protection of the person was committed by any of the officials referred to in the preceding paragraph, and if such writ has been referred to the Supreme Court of Justice, the said court shall officially call upon the President of the republic or the appropriate hierarchical superior, if such there be, to ensure that the person named in the writ is immediately released or placed at the disposal of the authority competent to try him and, if its demand is not complied with, the Supreme Court shall, without delay, submit copies of the documents in the case to the Legislative Assembly in order that the latter may institute proceedings against the President of the republic and the official in default, or against the latter or his official superior, if such there be.

The same shall apply, *mutatis mutandis*, if the President of the republic or any other official refuses the assistance of the armed forces to enable the executing judge to perform his duty.

Art. 62. If, at the time of service of a writ for the protection of a person, the person named therein has died, the executing judge shall make the following order: "Information concerning the circumstances of the death of N., the person named in the writ, shall be obtained, and the writ shall be returned therewith." Statements shall be taken immediately from at least two reliable witnesses, stating the names of the party who had in his custody the person named in the writ and of the nearest relative or such person who is at that place, and the statements shall be forwarded together with a report.

In the case of natural death, the court shall acknowledge receipt and shall deposit the document in its archives, but if there is reason to believe that the person in question died by violence, the court shall order the institution of proceedings against the guilty parties in accordance with the law.

Art. 63. The enumeration of the cases in which the protection of a person is required, as mentioned in the preceding articles, is not exhaustive; and in any other case, even if quite different in which the individual liberty of a person is restricted, such person has the right to apply for a writ for the production of his person, to be protected by such writ and to be set free if the restriction in question is unlawful.

Art. 64. The executing judge shall confine himself to submitting a report to the court which issued the writ and shall make no order concerning the substance of the writ in cases where proceedings have been instituted against the person named in the writ:

(1) Where an ordinary appeal has been admitted and, if the appeal was lodged by the defendant, a decision as provided in the cases mentioned in articles 432 I (1), (2) and (3) and 433 I (1), (2), (3) respectively has not yet been issued;

(2) If judicial records show that another writ for the production of his person has already been issued on behalf of the defendant on the same grounds. The writ shall not be deemed to have been applied for on the same grounds, even where it was in respect of the same proceedings, if the writ related to different phases of the criminal proceedings.

Art. 65. If, in any of the cases referred to in the preceding articles, the executing judge finds serious defects in the proceedings, he shall, when making an order concerning the substance of the writ, add the following: "and the writ shall be returned, together with a report on the irregularities noted in the proceedings." The court, in the light of the report and of the records of the proceedings, which it shall demand if it deems necessary, shall order that the defects be corrected and shall refer the matter to the Supreme Court of Justice, which shall determine the disciplinary or criminal liability of the authority which committed the irregularities.

Chapter III
JUDGEMENT

Art. 66. The executing judge must complete his duties not later than the fifth day following the date on which the writ is served on the person or authority against whom it is directed, if he is unable to do so immediately because he has to obtain records of the preceedings.

Art. 67. The order made by the executing judge shall be endorsed on the writ and shall be certified by the clerk appointed by him.

Art. 68. While the executing judge is performing his duty, he shall have personal jurisdiction over the person named in the writ and the records of the proceedings; however, the executing judge shall not exercise greater powers than are necessary for the execution of the writ and shall not otherwise interfere in the proceedings. The foregoing shall not apply in the case referred to in the first part of article 50.

Art. 69. On completion of his duties, the executing judge shall return the records of the proceedings to the authority having jurisdiction over them, together with a copy of his decision.

Art. 70. Every writ for the production of a person shall be accompanied on its return by a brief report dealing strictly with the merits of the proceedings or of the facts.

Art. 71. When the writ for the production of a person has been returned by the executing judge, the court or chamber shall pronounce judgement

within five days following receipt thereof, save in cases where it deems it necessary to request the records of the proceedings, if such there be, which it shall do at the next hearing.

In this case, the court shall empower the appropriate authority to demand the records of the proceedings; in the case of an authority resident outside the place in which the court has its seat, it shall do so by telegram requiring acknowledgement of receipt. The authority applied to shall forward the records to the court or chamber, without delay, on the date on which it receives the order to do so.

The court or chamber shall pronounce judgement within five days following receipt of the records.

Art. 72. If the judgement orders the release of the person named in the writ, an order to comply with the judgement shall immediately be served on the trial judge, or on the authority which has restricted the liberty of the person concerned, without prejudice to any other order which may be made in accordance with the law and in the light of the circumstances of the case.

Whatever the decision rendered by the court or chamber, a certified copy shall be forwarded to the authority concerned for inclusion in the documents relating to the case or, if there were no proceedings, in the archives.

Art. 73. If the judge fails to comply with the decision of the court or chamber, the latter shall immediately refer the matter to the Supreme Court of Justice which, in either case, shall dismiss from office the inferior judge in default and shall order proceedings to be instituted against him.

If the official in default belongs to any other branch of the government, the court shall take the action specified in article 61.

Chapter IV

Responsibility of Officials in Respect of a Writ for the Production of a Person

Art. 74. No authority, court or jurisdiction whatsoever has special privileges in this matter. In every case, the writ for the production of a person shall rank as the prime guarantee of the individual, irrespective of his nationality or place of residence.

Art. 75. A writ for the production of a person does not remove or restrict the powers conferred on authorities by article 72 I.

Art. 76. When the court which issued the writ has completed its deliberations, it shall order proceedings to be instituted against the person or authority which has held the person named in the writ in detention or custody or under restraint, provided that it appears that such person or authority has committed an offence, and it shall forward a copy of such orders to the competent court, if it is not itself the competent court, or to the appropriate branch of the government or authority in cases where prior notice that there are grounds for instituting proceedings is required. The order to institute proceedings or to detain the party concerned in the first-mentioned case, or the finding that there are grounds for instituting proceedings in the second-mentioned case, shall suspend the official in question from the exercise of his office and duties, in accordance with the law.

Art. 77. Any authority or person against whom, or in whose favour, a writ for the production of the person has been issued, may appeal to the court or chamber concerned on the grounds of errors or irregularities committed by the executing judge in the performance of his duties, without prejudice to compliance with the orders of the executing judge. In such case, the court or chamber shall request a report from the executing judge, who must render it within three days plus the time-limit added according to the distance, and on the expiry of that time-limit, whether he replies or not, the court shall be open to take evidence for a period of eight days, plus the time-limit added according to distance, if necessary, and the court shall then render its decision.

If the executing judge is found guilty of any offence, proceedings shall be instituted against him in accordance with the law, or he shall be held to account for any civil liability he may have incurred, or, if the acts in violation of the law do not constitute an offence, he shall be subjected to disciplinary measures.

Title V
General Provisions

Art. 78. Unstamped paper shall be used in constitutional proceedings. No security or bond whatsoever shall be required of parties intervening in the proceedings for the institution or continuation of such proceedings or for the execution of the judgements relating thereto.

Art. 79. In cases where a time-limit is set according to distance, the court shall, in the same decision, fix the number of days so allowed in accordance with the law.

Art. 80. In proceedings for amparo and for the production of a person, the court shall *ex officio* rectify any errors or omissions pertaining to the law which may be committed by the parties.

Art. 81. The final judgement in the two types of proceedings referred to in the preceding article shall have the effect of *res judicata*, against any person or official, whether or not he has intervened in the proceedings, only in so far as the act of which complaint is made is or is not constitutional or is or is not a violation of constitutional provisions. Nevertheless, the terms of the judgement do not in themselves constitute a declaration, recognition or establishment of subjective private rights of individuals or

of the State; consequently, the judgement rendered may not be cited as a precedent in opposing any action which may later come before the courts of the republic.

Art. 82. Any official or authority must, within three days, order the production of certified copies which are demanded of him, provided that the demand states that the copy is to be used as evidence in constitutional proceedings; this shall apply even when the demand relates to copies of court records or archives relating to the person making the request or to his property which, under special laws, are classified as secret or restricted.

When the certified copy has been produced, the official or authority shall forward it directly and without delay to the court having jurisdiction in the constitutional proceedings.

Art. 83. If the official or authority does not order production of the certified copy within the time-limit laid down, or does not produce it within a reasonable period of which he has been informed, he shall be liable to a fine or not less than 25 nor more than 100 colones for each offence, and the party affected shall testify to that circumstance in the constitutional proceedings and shall request the application of the necessary coercive measures.

In such case, the court shall order coercive measures for the production of a copy of that part of the records or instrument the certified copy of which has been refused or has not been forwarded in due time, even if the period of grace has already expired, without prejudice to the imposition of the appropriate fine.

Art. 84. Any official who fails to reply within the time-limit laid down by law to a report, notification or hearing, shall be liable to a fine of not less than 25 nor more than 100 colones as the court may decide.

Art. 85. The court which has jurisdiction in the case shall impose the fines mentioned in this Act, and shall, at the subsequent hearing, hear the official in default on the basis only of the documents in the case. Such fines shall be recovered by the deduction from salary, and the court shall order the competent paymaster to make such deduction and to pay the amount into the general fund of the nation.

Art. 86. There shall be no appeal whatsoever against judgements, the officials by whom they are pronounced being fully liable therefor.

Art. 87. Proceedings pending shall continue in accordance with this Act, and judicial acts already performed remain valid. If such proceedings take place before a court or chamber other than that which is competent under the provisions of this Act, the proceedings shall be transferred to the appropriate court, and the parties to the proceedings shall be notified accordingly.

Art. 88. The Amparo Act, issued by legislative decree No. 7, of 25 September 1950, published in the *Diario Oficial* of 9 October 1950, and articles 536 to 565, both inclusive, of the Code of Criminal Procedure, and any other provision which conflicts with this Act, are hereby repealed.

Art. 89. This decree shall enter into force thirty days after publication hereof in the *Diario Oficial.*

DECREE No. 38: ACT GOVERNING PRE-ELECTORAL ARRANGEMENTS of 7 December 1960[1]

Chapter I

PRELIMINARY PROVISIONS

Art. 1. The Electoral Act promulgated in legislative decree No. 2972, of 27 November 1959, published in *Diario Oficial* No. 220, of 2 December 1960, and in legislative decree No. 3108, of 28 July 1960, published in *Diario Oficial* No. 142, of 29 July 1960, is hereby repealed, except for part X, chapter I, articles 149 to 157, which shall remain in force. This repeal shall apply retroactively only to the organization, registration and operations of political parties, which may not invoke rights acquired under acts promulgated prior hereto, since the whole matter is to be governed by the new Electoral Act to be promulgated in due course.

[1] Published in *Diario Oficial*, vol. 189, No. 228, of 8 December 1960. Extracts from decree No. 2972, of 27 November 1959, which was repealed by decree No. 38, of 7 December 1960, appear in *Yearbook on Human Rights for 1959*, pp. 88–90.

FEDERAL REPUBLIC OF GERMANY

THE PROTECTION OF HUMAN RIGHTS IN 1960[1]

A SURVEY OF LEGISLATION, JUDICIAL DECISIONS AND INTERNATIONAL AGREEMENTS

CONTENTS

INTRODUCTION

This report, like those of previous years, is arranged broadly according to the order of human rights followed in the United Nations Declaration of 10 December 1948. Owing to lack of space, the agreements, statutes and court decisions mentioned can offer only a cross-section — even if a representative one — of German legislation and judicial pronouncement in 1960 in so far as they affect the protection of human rights. Particular attention has again been given in this report to cases brought before the courts, since the importance attaching to human rights in the most varied situations of life is most clearly demonstrated through specific examples.

1. PROTECTION OF HUMAN DIGNITY

(Universal Declaration of Human Rights, preamble and article 1)

The rule of respect for the dignity of man set forth at the beginning of both the Basic Law and the Universal Declaration is a primary principle of the German system of law. As a basic constitutional requirement and the frame of reference for all specific provisions relating to fundamental rights, it provides the guiding principle for all state action.

Guided by this rule of respect for human dignity, the legislator, during the year under review, extended the scope of article 130 of the Criminal Code, under which only open incitement to class warfare had previously been punishable. Under the new provisions, contained in the Sixth Criminal Law Reform Act of 30 June 1960 (*BGBl.* 1960 I, p. 478), which came into force on 4 August 1960, it is now an offence punishable with not less than three months' imprisonment to violate the human dignity of others by stirring up hatred against sections of the population, by urging the use of force or arbitrary measures against them, or by insulting them, maliciously holding them up to contempt or slandering them.

The principle of the inviolability of human dignity, with the consequential right, embodied in article 2 of the Basic Law, to the free development of personality, was once again discussed by the courts in

[1] Report prepared by Dr. Alfred Maier, Consultant at the Max-Planck Institute for Foreign Public Law and International Law, Heidelberg, and forwarded by the Permanent Observer of the Federal Republic of Germany to the United Nations.

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)
DÖV	*Die Öffentliche Verwaltung* (Public Administration)
DVBl	*Deutsches Verwaltungsblatt* (German Journal of Administration)
GBl	*Gesetzblatt (der Länder)* Official Gazette (of *Länder*))
GVBl	*Gesetz- und Verordnungsblatt (der Länder)* (Journal of legislative provisions, regulations, etc. (*of Länder*))
MDR	*Monatsschrift für Deutsches Recht*
NJW	*Neue Juristische Wochenschrift*

connexion with the question whether tape recordings are admissible as evidence in judicial proceedings. The First Criminal Division of the Federal Court of Justice ruled (14 June 1960, *BGHSt* 14, p. 358) that the secret tape-recording of a conversation, and the utilization of a conversation thus recorded, constituted a violation of the speaker's rights as an individual and that such a tape-recording could therefore not be used without his consent as evidence in court proceedings. However, as the court added in setting both the grounds for its ruling, the rights of the individual in respect of his spoken word are subject to limitation when they conflict with the rights of others, with the constitutional order or with the moral law. Anyone who unlawfully overstepped those limits forfeited his exclusive rights over his own words and could not prevent the aggrieved person from defending his rights or the State from redressing the violated legal and moral order. But except when a secret tape-recording could be regarded as a reasonable means of protection, the making or use of such a recording was at variance with the speaker's rights as an individual.

Another case concerned with the principle of respect for human dignity was decided by the Administrative Court at Düsseldorf (17 March 1960, *DÖV* 1960, p. 509). A man called up for military service resisted medical examination as an attack on his human dignity. The court ruled that it was in no way inconsistent with the moral conception of human dignity prevailing in the Federal Republic for a man's physical and mental health to be checked, as part of his general public duty of military service and to the extent, at least, laid down in article 17 (6) and (8) of the Military Service Act, by doctors unknown to him personally who used the recognized and customary methods of examination. It conceded, however, that in individual cases the examination might be carried out in such a way as to violate human dignity, giving the person concerned the right to refuse to be examined in this way.

On the question of compulsory military service and its relationship to human dignity, the Federal Constitutional Court ruled (20 December 1960, *DÖV* 1961, p. 223) that the institution of universal military service did not offend against either human dignity or the principles of our constitutional system of values. Universal military service was today a feature of nearly all free and democratic States, including the permanently neutral ones. In most of those States it had long been regarded as a natural duty of the (male) citizen. It was thus fully consonant with the legal, spiritual and political principles governing the Basic Law. The latter, the court continued, was firmly based on a system of values in accordance with which the protection of freedom and human dignity was recognized as the supreme purpose of all law. It saw man not as an autarchic individual but as a person living in, and owing many obligations to, society. It could not therefore be unlawful to enlist the services of citizens for the protection and defence of these supreme community values, of which they themselves were the vehicles.

In accordance with the principle of respect for human dignity, the Land High Court at Saarbrücken ruled (6 July 1960, *NJW* 1960, p. 2086) that a defendant had the right of legal redress even if he had been acquitted, if it emerged from the court's decision that the acquittal had been pronounced on grounds of proven mental derangement. With that decision, the rule of the inviolability of human dignity has overturned one of the fundamental principles of German criminal procedure: the principle that an acquitted person has no right of legal redress, even if the grounds for the court's decision show that he was acquitted not because he was proved not guilty but because of lack of proof of his guilt.

2. PRINCIPLE OF EQUAL TREATMENT

(Universal Declaration, articles 2 and 7)

During the period covered by this report, the courts again had occasion to devote considerable attention to the principle of equal treatment set forth in article 3 of the Basic Law. The Federal Finance Court, for instance, was called on to decide (29 January 1960, *NJW* 1960, p. 791) whether the provision of the Income Tax Act prohibiting the "splitting" procedure — under which the toal income of husband and wife is assessed and calculated jointly — in the case of spouses living permanently apart, was a breach of the principle of equality. The Federal Finance Court denied this, on the ground that the permanent cohabitation and permanent separation of spouses were dissimilar situations to which the legislator might attach different legal consequences. In the same case, the Federal Finance Court also had to consider whether the granting of fixed allowances for certain expenses, a procedure designed to simplify tax law, violated the rule of equality. This problem arose because German tax law, which prohibits the "splitting" procedure in the case of spouses living permanently apart, grants the party responsible for maintenance only one allowance, which is of the same amount for all classes of income and which therefore provides greater or lesser tax relief according to the size of the income. Here again, the court saw no breach of the principle of equality. The introduction of fixed allowances, the Federal Finance Court ruled, had proved to be a genuine advance towards uniformity and simplicity of taxation, even if, in border-line cases, individual groups of taxpayers were more adversely affected than others. Such effects were a natural concomitant of the methods of broad standardization which the tax legislator in the modern mass state must of necessity employ to a considerable extent. Consequently, they were not an objectively unjustified and arbitrary violation of the principle of the equality of all citizens.

On the other hand, the Federal Court of Justice regarded as an infringement of the principle of equal treatment the conduct of a building co-operative which required of its members different payments for the granting of dwellings of equal size (11 July 1960, *NJW* 1960, p. 2142). The co-operative, which received loans and subsidies from a number of authorities for the building and maintenance of dwellings for their employees, made an agreement with its members that the charge they were to pay for the use of the dwellings would be reduced by the amount of the subsidy received from the authority in question. When some authorities discontinued their subsidies, the co-operative raised the charges payable by their employees. In the proceedings instituted to challenge the legality of the increase, the courts of both first and second instance held that the co-operative's action was justified, but the Federal Court of Justice quashed the decision and ordered a new hearing. By virtue of the principle of equality, it ruled the less favourably situated members of a co-operative had the right to be treated on the same terms as the more advantageously situated members, and, consequently, the benefit which had been accorded only to certain members was to be shared between them and the less favourably situated members.

The Bavarian Constitutional Court also had occasion to deal with the problem of equal treatment. In a decision dated 14 June 1960 (*DÖV* 1960, p. 628), the court ruled that a clause in the Bavarian Civil Service Act under which the widower of a woman civil servant in no circumstances received a survivor's pension was incompatible with the rule of equal treatment laid down in article 3 of the Basic Law and in article 9, paragraph 2 of the Bavarian Constitution. It was true that unlike the wives of male civil servants the husbands of women civil servants usually followed an occupation of their own which brought them an independent income and provided at least some considerable measure of security for their old age, so that in most cases the surviving husband did not need survivor's benefits under the Civil Service Act. This difference, however, did not justify the legislator's categorical exclusion from surviviors' benefits of the surviving husbands of women civil servants and the absolute denial of such payments to widowers, even in cases where they were necessary for the maintenance of a reasonable standard of life. Uniform equality of treatment as between widows and widowers of civil servants could not, of course, be demanded, in view of the differences in their situations in life. Only a general exclusion of widowers, regardless of their needs, was at variance with the rule of equal treatment.

The same court held (30 September 1960, *NJW* 1960, p. 2235) that the rule in the statutes of the Bavarian Physicians' Provident Fund of 15 December 1956 under which illegitimate children of male members are not entitled to orphans' benefits did not offend against the principle of equality. (On the status of illegitimate children, see also section 10.)

The Federal Constitution Court too had once again to consider the question of equal treatment, in connexion with a provision of social legislation. The question at issue was whether the clause in the Salaried Employees' Insurance Act prohibiting any attachment of the pensions of salaried employees except in satisfaction of privileged claims did not give the recipients of such pensions an advantage incompatible with the rule of equality over retired civil servants and beneficiaries under private insurance policies, whose pensions are subject to attachment on a wider variety of grounds. The court ruled (27 July 1960, *DÖV* 1960, p. 754) that the general rule of equality was not infringed by the mere fact that persons in similar economic circumstances received different treatment in law. Considerations of equality were not the only ones to be taken into account: there was also the question of the appropriateness of legal provisions to different contexts. Although social insurance pensions were now much higher than in the past and approximated to those of retired civil servants, they nevertheless belonged to a different context. It would be rash to assume from an apparent equality of economic circumstances that there was need for judicial intervention to establish a legal equality. Unless a legal provision had beyond doubt lost all meaning within its own context, a court could not eliminate it by virtue of the principle of equality, invoking other provisions which belonged to different spheres of law and related to different contexts and different social and historical backgrounds.

It was repeatedly stressed by the courts that the rule of equality could be interpreted only as meaning that identical situations must receive identical legal treatment, whereas different situations must receive different legal treatment in each case, according to their nature. Thus, in a case in which a physician employed in the public service was prohibited, unlike other physicians, from carrying on a subsidiary private medical practice on official premises, the Higher Administrative Court at Münster ruled (27 July 1960, *DÖV* 1961, p. 193) that there had been no infringement of the principle of equal treatment, since the latter did not require rigid equality of treatment but permitted differentiations where they were justified on lawful grounds. On the same grounds the Federal Labour Court ruled on 18 June 1960 (*NJW* 1960, p. 1973) that the non-payment of a Christmas bonus to employees who were under notice did not violate the rule of equality.

The Federal Constitutional Court made some comments of fundamental importance on the rule of equality as it affects the right to vote in a ruling dated 12 July 1960, details of which will be found in section 14.

3. PROTECTION AGAINST ARBITRARY DEPRIVATION OF LIBERTY

(Universal Declaration, articles 3, 4 and 9)

The freedom of the individual is protected in the Federal Republic under both article 2, paragraph 2, and article 104 of the Basic Law. Restriction of freedom is constitutionally admissible only when, and to the extent that, it is covered by a law and a judge has decided on its admissibility or extension. Where deprivation of liberty is not based upon a judge's order, a judicial decision must be obtained not later than the end of the day following the day of arrest. This protection of freedom is not confined only to criminal cases and arrests made to prevent breaches of the peace and maintain law and order, but applies also to cases of deprivation of liberty carried out for the welfare of the person concerned. The Federal Constitutional Court ruled in this connexion (10 February 1960, *MDR* 1960, p. 469) that even where a guardian placed a legally incapacitated person of full age in a closed institution in exercise of his right to decide his ward's place of residence, a judge's order was required. The issue was not affected, the court held, by the fact that the placement of a ward of full age in an institution was not an act of the public welfare authorities but took the form of a private-law transaction — the assignment of a place of residence by the guardian. Where deprivation of liberty was brought about by exercise of authority conferred by the State, this granting of power did not render inoperative the constitutional guarantee of legal protection against deprivation of liberty. The State, the Federal Constitutional Court continued, could not escape the binding force of the Basic Law by appointing a private individual to perform a public office and leaving the exercise of state authority to his discretion. This ruling will necessitate amendments in the relevant legislation of some of the federal Länder, which have not hitherto made a judge's order a condition for committal.

This view of the Federal Constitutional Court that, under the provisions of the second sentence of article 104, paragraph 2, of the Basic Law, a legally incapacitated person of full age cannot be committed to an institution without a judge's order had been expressed shortly before by the Land High Court at Stuttgart (1 August 1960, *NJW* 1961, p. 273). Unlike the Federal Constitutional Court, however, the Land High Court held that the judge's order required in addition to the guardian's decision must be based not on the provisions of the Civil Code but on the appropriate provisions of Land legislation relating to committal. In line with the Federal Constitutional Court's decision, the Land High Court of Bavaria also ruled (26 August 1960, *NJW* 1960, p. 2239) that the committal of a ward to a closed institution by the guardian required the assent of the guardianship judge.

In a further case which deserves attention in this connexion, the Land High Court of Bavaria (21 September 1960, *NJW* 1961, p. 270) held that the rule requiring proceedings to be held orally and in public did not apply to the proceedings for committal to a medical or welfare institution provided for in the Bavarian Care and Protection Act. In taking this view, the court argued that article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms applied only to the judgements of courts having jurisdiction over civil rights cases. The Convention did not, however, prescribe that sovereign acts of state organs must be subject to judicial review or that where domestic law provided — as did German law — for the judicial review of acts of State, the relevant proceedings must also be subject to the principle of publicity.

During the period under review, the courts again had to consider the effects of the fundamental right of freedom of the individual on the duration of custody pending investigation. The Land High Court at Bremen held (17 February 1960, *NJW* 1960, p. 1265, and 13 July 1960, *NJW* 1960, p. 2260) that the prisoner was entitled to judgement or release within a reasonable time. Whether any particular period was reasonable depended, of course, on the difficulty of the investigation and the conduct of the prisoner himself. For instance, a person detained for purposes of investigation could not object to the prolongation of his period of custody if the investigation was delayed through his own conduct. The Land High Court at Bremen considered that the duration of custody pending investigation was excessive if the prisoner was detained, through no fault of his own, for a period longer than the maximum term of detention to which he would be sentenced, due regard being paid to all the circumstances, if convicted. The Land High Court based this ruling on the first sentence of article 5(3) of the European Convention on Human Rights, which is binding on all authorities.

A similar ruling was given by the Land High Court at Saarbrücken (9 November 1960, *NJW* 1961, p. 377). The court held that the sense of the second sentence of article 5(3) of the Convention on Human Rights, which became federal law under the Act of 7 August 1952 (*BGBl.* 1952 II, p. 685), was that infringements of the fundamental right of freedom of the individual were admissible only in so far as they were absolutely necessary in the interest of higher and superior considerations of justice — in this instance, in the interest of the prosecution of crime by the State. The organs of criminal justice must so order their procedures that, while the purpose of criminal prosecution was attained, the fundamental right of freedom was infringed to the least possible extent.

4. JUDICIAL AND ADMINISTRATIVE GUARANTEES OF DUE PROCESS

(Universal Declaration, articles 8 and 10)

The Basic Law, through the general clause laid down in article 19(4), provides a comprehensive and absolute guarantee that everyone shall enjoy the protection of the law against violations of individual rights committed by public authorities. This provision is the reflection in procedural law of the relationship between the citizen and the State embodied in the constitution of the Federal Republic. Its meaning and purpose are above all the enforcement and preservation of individual rights as against the State.

The Administrative Courts Code enacted on 26 January 1960 (*BGBl.* 1960 I, p. 17), which has been operative throughout the territory of the Federal Republic since 1 April 1960, is especially noteworthy in this context. The Code annulled the Administrative Courts Acts which had been in force in the individual Länder, and established a uniform law of administrative procedure for the entire Federal Republic.

In Baden-Württemberg, an Act of 7 March 1960 (*BWGBl.* No. 7, p. 73, 18 March 1960) set up a system of municipal courts. The establishment of such courts is authorized under article 14(2) of the Judicature Act. The municipal courts have jurisdiction over civil cases involving property or similar claims of a value not exceeding DM 100, where both parties are domiciled in the municipality. The judges of these courts who, unlike judges of the ordinary courts, are not appointed for life, are to a large extent freed in their conduct of the proceedings from the strict provisions of the Code of Civil Procedure, so that the procedure in the municipal courts approximates to that employed in arbitration proceedings. Municipal court judges are required to have passed the examination for the senior or executive judicial or administrative service or to have otherwise acquired, in particular in the public service, the knowledge and capacity required for their office. Decisions of the municipal courts are in all cases subject to appeal within one month under the regular procedure — i.e., to the ordinary courts of first instance. Costs of municipal court proceedings are considerably lower than in those of ordinary proceedings. The municipal courts also have authority to carry out the conciliatory effort required under article 380 of the Code of Criminal Procedure before a private charge can be brought for trespass, defamation, minor bodily injury inflicted wilfully or through negligence, etc.

During the year under review the courts were again particularly concerned with questions involving the right of due process. The right of due process, which is a cornerstone of all judicial procedure, has been given constitutional force in the Federal Republic (article 103(1) of the Basic Law). It is a corollary of the principle of the rule of law, and is ultimately founded on the principle of human dignity enunciated in article 1 of the Basic Law. It belongs, as the Federal Constitutional Court ruled (8 November 1960, *DVBl.* 1961, p. 85), to any individual or body corporate, whether national or foreign, directly involved in the proceedings of a court of the Federal Republic.

Although the right of due process has its primary importance in criminal proceedings, the courts constantly have to deal with cases involving the observance of this principle in civil and administrative proceedings. Thus the Federal Constitutional Court had occasion to rule (14 June 1960, *MDR* 1960, p. 734) on the question whether the right of due process had been infringed by a court which had received from one of the parties, within the proper time-limit, a written statement containing an offer of evidence, but which had rendered its decision without utilizing the statement or expressing an opinion on the offer of evidence. The court held that there had been an infringement of fundamental right, and annulled the decision. The Bavarian Constitutional Court also took the view (26 February 1960, *NJW* 1960, p. 1051) that due process had been denied where a court in a civil suit had failed to direct one of the parties to express his opinion on specific facts or evidence, and the facts or evidence had later been used to the detriment of that party in the court's decision. The court's duty to provide clarification did not, however, extend to discussing the relevant questions of law with the parties. Above all, the court was not required to give any indication of its legal opinion.

On the other hand, the same court held (4 May 1960, *NJW* 1960, p. 2139) that the right of due process did not entitle a party to be informed of the contents of an official document in order, say, to be better able to prosecute a civil claim, or to determine the identity of a person who had committed an offence — for example, defamation.

Lastly, the Federal Social Court held (23 March 1960, *NJW* 1960, p. 980) that due process had been denied where a prisoner involved in the proceedings of a social court had been refused the opportunity to express his views in writing and to take part in or be represented at the oral proceedings.

As the specific prohibition of retroactive legislation contained in article 103(2) of the Basic Law extends only to criminal law, there is no general agreement as to whether retroactive legislation is permissible under the German legal system in other fields of law. Since the matter also involves a question of due process, it will be dealt with under the present heading. The Federal Administrative Court had occasion to rule on this question (9 May 1960, *NJW* 1960, p. 1588). The fact that the terms of the constitutional rule were limited to criminal law did not, the court held, mean that retroactive legislation was permissible in other spheres. On the contrary,

retroactive legislation was fundamentally incompatible with the constitutional principle of the rule of law. This principle was not to be regarded as a merely formal structural element, and its essential corollary was that in the interest of those subject to the law and of their life together in society, the citizen must be able to measure, and to some extent to foresee and calculate, the effects of state action affecting him. The effect of the principle of the rule of law should be to give the citizen subject to legislation security in the law, including security with regard to the chronological application of legislative provisions. He should be able to feel confident that rules promulgated by the legislator applied in principle — and certainly where his actions entailed specific legal consequences — only to the future. It should be added that in setting forth the grounds for its ruling the Federal Administration Court qualified this principle to some extent: the *ex post facto* statutory regulation of past acts and facts was not, it held, barred in all possible circumstances; exceptions might be justified by the principle of the rule of law itself, or by the need for the equitable regulation of past facts or for the preservation of the constitutional order.

5. DUE PROCESS IN CRIMINAL PROCEEDINGS

(Universal Declaration, articles 10 and 11)

The Federal Administrative Court (12 July 1960, *NJW* 1960, p. 1733) reviewed a provision of the Württemberg Summary Penalties Act, dated 1879, under which a fine not exceeding DM 1,000 may be imposed on any person who, by means of improper statements made orally or in writing, detracts from the respect due to public authority. The Federal Administrative Court, which may review the terms of Land legislation only from the point of view of its conformity with superior federal legislation, held that the Land provision in question violated the principle, laid down in article 92 of the Basic Law, that judicial authority was vested in the judges. A penalty under this Act served neither to ensure the proper functioning of the administrative process nor to promote the enforcement of law and order, and it must therefore be regarded as a sanction imposed for the making of improper statements. However, the power to impose penalties for offensive statements had been entrusted by the legislator to the criminal courts. Since an order imposing such a penalty therefore encroached on the judicial authority, which was vested in the judges, the Federal Administrative Court quashed an order which had been made under the Act.

The year under review again saw a number of cases concerned with the guarantee of due process. For instance, the Federal Administrative Court ruled (15 March 1960, *BVerfGE* 11, p. 29) that due process had been denied in a case in which, the court having decided that there was no evidence to justify committing the defendant for trial, the public prosecutor had appealed against that decision and the appeal court had returned the case to the original court for trial without having notified the defendant of the appeal so as to enable him to make a counter-statement. The same court ruled similarly (28 January 1960, *MDR* 1960, p. 280) in a case in which a convicted person had lodged an appeal with the clerk of the court which had tried the case. Some doubt having arisen whether the appeal had been properly lodged, the appeal court took an official statement from this clerk and then rejected the appeal as irregular without first notifying the convicted person of the statement.

In criminal proceedings, the courts are often obliged to investigate the mental state of the accused, since it is only when this has been established that they can determine his responsibility. For this purpose, article 81 of the Code of Criminal Procedure provides for the committal of an accused person to a public medical institution for a period not exceeding six weeks. In a noteworthy decision, the Land Court at Berlin ruled (17 May 1960, *NJW* 1960, p. 2256) that this procedure, entailing as it did a serious restriction of liberty, could be permitted only when the court was unable to form an opinion by any other means of the criminal responsibility of the accused. The court also ruled that the action of committal must bear a reasonable relationship to any penalty which might eventually be imposed. The Federal Government's introduction of a bill to amend the law relating to detention pending investigation owes its origin to similar considerations. The bill prohibits the detention of an accused person for purposes of investigation when it is obvious that the resultant disadvantages to him will be out of proportion to the importance of the case and to the likely penalty or protective and reformatory measure.

On the question of the treatment of prisoners, which of course comes only in a limited sense under the heading of due process in criminal proceedings, the Land High Court at Düsseldorf ruled (21 August 1959, *NJW* 1960, p. 1071) that the right of a prisoner, laid down in article 16(2) of the Criminal Code, to be assigned work appropriate to his abilities and circumstances could not be restricted on the ground that conditions in the prison made it impossible to grant this right. The appropriateness of the work, the court held, could not be judged on the basis of prison conditions, but only in the light of the prisoner's abilities and circumstances. This did not mean that a prisoner must be assigned work in his own trade; but in order to ensure that the educational purpose of the penalty was achieved, his mental and physical capacity and other circumstances must be taken into account so that such work as he was able to do was performed with interest.

6. PROTECTION AGAINST INTERFERENCE WITH PRIVACY

(Universal Declaration, articles 6 and 12)

Most of the judicial decisions recorded during the year in cases affecting the protection of privacy were concerned primarily with questions relating to the protection of human dignity and the right to the free exercise of a profession or occupation, and reference may thus be made to the rulings reported in the corresponding sections.

7. THE RIGHT TO FREEDOM OF MOVEMENT; FREEDOM TO LEAVE THE COUNTRY

(Universal Declaration, article 13)

Article 11 of the Basic Law guarantees to all German nationals the right to take up residence and domicile anywhere in the Federal Republic. There is a close relationship between this fundamental right and the right to leave the country, which, however, is not a consequence of the right to freedom of movement, but derives from the right to general freedom of action. By an Act dated 30 August 1960 (*BGBl.* 1960 I, p. 721), the federal legislator amended the hitherto considerably more restrictive terms of article 22 of the Reich and State Nationality Act of 27 July 1913 to provide that permission to leave German territory may be refused only to civil servants, judges, members of the Bundeswehr and other persons in public service and employment who have not yet completed their service or employment. According to the Federal Minister for Defence, there is nothing to prevent persons liable for military service from leaving the country. Under article 22(2) of the Act as amended, permission to leave German territory may not be refused on any other grounds than those mentioned here.

8. THE RIGHT OF ASYLUM; DEPORTATION; EXTRADITION

(Universal Declaration, article 14)

An Extradition Treaty was concluded on 22 September 1958 between the Federal Republic of Germany and the Republic of Austria and was ratified in the Federal Republic by Act of 21 April 1960 (*BGBl.* 1960 II, p. 1341). The treaty entered into force on 8 October 1960 (*BGBl.* 1960 II, p. 2319). Extradition is not granted for political offences, except in the case of an attempt on the life of the Head of State. Extradition is also denied if there is reason to believe that the person to be extradited will be prosecuted, sentenced, punished or in any other way restricted in his personal freedom by reason of his race, religion, nationality or political opinions. Extradition is also denied in the case of acts which are regarded by the requested State as being of a purely military nature. The treaty further provides that the person extradited shall not be prosecuted, sentenced or detained with a view to the execution of a sentence or a protective and reformative measure, or in any way restricted in his personal freedom, for an offence committed before his surrender other than that for which he was extradited. However, this restriction does not apply where the extraditing State consents to criminal proceedings or to the execution of judicial sentences or protective and reformative measures. Re-extradition to a third State, also, is permitted only with the consent of the requested State.

An Agreement for the Extradition of Fugitive Criminals was also concluded, on 23 June 1960, with the Government of the United Kingdom of Great Britain and Northern Ireland; this entered into force on 1 September 1960 (*BGBl.* 1960 II, p. 2191). In substance, the agreement reinstates the British-German Agreement of 14 May 1872. It excludes nationals of the contracting States, of course, as required in the case of German nationals by the Basic Law. Thus, a German national cannot be extradited to the United Kingdom for the offences specified in the agreement, nor can a British subject be extradited to the Federal Republic.

Lastly, the Federal Republic of Germany and the Government of the Kingdom of Sweden concluded an Agreement concerning Mutual Legal Aid in Criminal Matters in Connexion with Requests for Extradition for the Purpose of Proceedings in Cases of Theft and Forgery. The agreement entered into force on 7 June 1960 (*BGBl.* 1960 II, p. 2299).

The Federal Court of Justice also had occasion to rule (19 August 1960, *NJW* 1960, p. 2201) on an extradition case. The court held that an extradited person could not be proceeded against for an offence other than that for which extradition had been granted without the consent of the extraditing government. This principle, the Federal Court of Justice pointed out, was a general rule of international law which, under article 25 of the Basic Law, was also an element of federal law. However, in the treaties in force both between the Federal Republic of Germany and various foreign States and between other States among themselves, the principle had been given effect in many different forms. Under international law, the consent of the extraditing government to proceedings in respect of other offences need not be expressly given in individual cases, where it had been declared in general form in a treaty between the two interested States. If, therefore, there was an extradition treaty in force between the Federal Republic and the extraditing State, the question whether and to what extent the person extradited might be proceeded against depended not only on the terms of the latter State's consent to extradition, but also, and in particular, on the provisions of the treaty.

9. THE RIGHT TO A NATIONALITY
(Universal Declaration, article 15)

By Act of 28 November 1960 (*BGBl.* 1960 I, p. 853), a provision designed to confer the right to naturalization on stateless persons who are liable for, and have performed, military service in the Federal Republic was added to article 2 of the Military Service Act of 21 July 1956 (*BGBl.* 1956 I, p. 651). Stateless persons who fulfil this condition and who have their permanent residence in the Federal Republic thereby qualify for the acquisition of German nationality.

The Federal Administrative Court had occasion to rule (12 June 1960, *DÖV* 1960, p. 756) on the problem of the refusal of nationality. In the case in question, a man of German ethnic stock who had been conscripted into the German Army and taken prisoner entered the "Anders Army", and later the Polish Resettlement Corps, against his will. The court took the view that in dealing with acts committed and statements made by prisoners it was always necessary to consider the circumstances. In many cases, it could not be automatically assumed that the act of joining the Anders Army was motivated by anything more than the prisoner's wish to alleviate his lot. The circumstances of the individual case were always the decisive factor. Consequently, the court made a final order for the grant of a certificate of nationality, which had been refused by the administrative authorities but granted by all the courts of law.

The Federal Administrative Court also had to rule on a case in which an Austrian wished to acquire German nationality under the second Settlement of Nationality Questions Act (*BGBl.* 1956 I, p. 431). Under this Act, persons who acquired German nationality by virtue of the "Anschluss" with Austria and who have been permanently resident in Germany since 26 April 1945 may opt to re-acquire German nationality, with retroactive effect from the date on which it was lost. However, no such right exists where there are reasonable grounds to believe that the person concerned endangers the internal or external security of the Federal Republic or any of its Länder. The applicant having been convicted on several occasions for fraud, theft and indecent offences, the court held (1 March 1960, *DÖV* 1960, p. 382) that the internal security of the Federal Republic could be endangered not only by attacks on the free democratic order, but also by other serious breaches of law and order.

10. PROTECTION OF THE FAMILY
(Universal Declaration, article 16)

Article 6 of the Basic Law placed marriage and the family under the special protection of the State. Basing itself on this principle, the Land High Court at Celle ruled (25 November 1960, *DVBl.* 1961, p. 175) that the right to marry could not be denied to a person serving a term of imprisonment. The Basic Law, the court held, gave every citizen a subjective right vis-à-vis the State to marry and to found a family. While deprivation of liberty rendered cohabitation impossible for its duration, the fact that the marriage could not be consummated did not automatically constitute an impediment to marriage itself. Only where it was apparent from the outset — as, for instance, in the case of a person sentenced to life imprisonment — that the obligation of cohabitation implicit in marriage could never be fulfilled must the right of the penal authorities to refuse consent to marriage be recognized, as a general rule, since the intention of the Basic Law was to grant the right to marry only in cases where the cohabitation which was the purpose of marriage could be established, unless there were special circumstances justifying an exception.

The Federal Constitutional Court gave an exhaustive ruling (21 July 1960, *NJW* 1960, p. 1711) on the constitutionality of article 1709 of the Civil Code, under which the father of an illegitimate child is liable for its maintenance before the mother and the maternal relatives. The question arose in a case in which the father of an illegitimate child pleaded that this provision as to maintenance was less favourable than that applying to the father of a legitimate child, who, under article 1606 (2) of the Civil Code, shared liability for the maintenance of the child equally with the mother. The court held that the provisions relating to liability must be viewed in the context of the law of maintenance as a whole. In the marriage community, the spouses had the duty of seeing to the maintenance of "the family". As a general rule, the wife discharged her duty to contribute through her work to the maintenance of the family by managing the household, while the husband contributed financially, through gainful activity. Both types of contribution were of equal value and were interrelated. In the case of an illegitimate child, on the other hand, liability for maintenance under existing civil law was apportioned in advance. Responsibility for the care of the child's person rested with the mother alone. The father was free of any liability in that respect; and, in particular, he was not obliged to provide financially for the mother's maintenance. It had been generally held by the courts that his liability for maintenance was limited to the duty, enforceable under the law of obligations, to pay a standard allowance fixed according to the mother's station in life. The difference between the father's liability under article 1709 and that under article 1606 of the Civil Code followed from the inherent differences in the provisions relating to the duty of maintenance. The father of an illegitimate child was not, therefore, less favourably treated, in contravention of the rule of equality, than the father of a legitimate child.

The Bavarian Constitutional Court had occasion to rule (15 July 1960, *NJW* 1960, p. 1711) on the question of the legal status of illegitimate children. The court ruled that article 126(2) of the Bavarian Constitution did not establish full equality before the law as between illegitimate and legitimate children and did not require the legislator, or indeed the courts and administrative authorities, to extend to illegitimate children the application of all the rules governing the legal status of legitimate children. Complete equality of legal status would also be incompatible with article 124(1) of the Bavarian Constitution, which, like article 6(1) of the Basic Law, laid it down as a matter of fundamental philosophy that marriage and the family, as the germ-cell of all human society with an importance greater than that of any other human relationship, enjoyed the special protection of the State. The family, the "natural order" of which must be preserved, could be founded only on marital cohabitation.

Very keen debate is at present taking place in the Bundestag on the question of making divorce more difficult. It is still too early to say whether the proposal to do so will be adopted. Much interest was aroused in this connexion by the Federal Court of Justice's ruling of 28 October 1960 (*NJW* 1961, p. 661). Under German law, if after a cessation of the conjugal community of more than three years' duration a marriage is irreparably disrupted, either spouse may petition for divorce. If, however, the petitioner was responsible for the disruption of the marriage, the other spouse may oppose the petition, provided that he or she retains a genuine inner attachment to the marriage. In the case dealt with in the ruling referred to, one of the spouses opposed the petition on the basis of the Catholic doctrine of the indissolubility of marriage. He himself desired a dissolution of the marriage bond, but in a form which he considered compatible with his religious obligations. The Federal Court of Justice took the view that in this case it was not the respondent's attachment to the marriage but his desire to comply with a religious precept which was foremost in his mind, and that such an attitude could not be regarded as an attachment to the marriage as such and as a defence of the personal dignity rooted in marriage. The court added that the state marriage laws had a duty to protect marriage, which was recognized as indissoluble in principle, but not to protect a concept of a religious nature which did not fundamentally include and promote attachment to the marriage itself.

11. PROTECTION OF PROPERTY

(Universal Declaration, article 17)

The promulgation on 29 June 1960 of the Federal Building Act of 23 June 1960 (*BGBl.* 1960 I, p. 341) brought to a successful conclusion a legislative task whose origins date back to the time of the Weimar Republic. With this Act, a unified legal code covering town planning throughout the territory of the Federal Republic was established for the first time in German legal history. The Act not only remedies the fragmentation of the law in this field, but — no less important from the point of view of political law — attempts to resolve doubtful questions of constitutional law which had surrounded many existing building regulations since the entry into force of the Basic Law. If building regulations are to smooth the way for a rational system of town planning, they must inevitably impinge on property rights in varying ways. In past years, uncertainty whether a particular measure would constitute an admissible and non-compensable restraint on property rights or a compensable act of expropriation has been a serious obstacle to town planning. Accordingly, the task of the Federal Building Act, which had to take into account the property rights guaranteed in article 14 of the Basic Law, was to weigh the conflicting interests at stake in every type of measure affecting property and on that basis to draw the boundary-line between the restriction of property rights and expropriation and give it statutory effect. The Act contains clauses defining expropriation and prescribing both the nature and amount of compensation. Since town planning would be impossible if land could be retained by property-owners who were not prepared to build, so that it would not be available for use under a town-planning scheme, the Act provides that where lots cannot be acquired by purchase they may be expropriated for town-planning purposes. The guiding principle underlying the expropriation provisions of this Act is that existing property relationships may be changed by State intervention only where the change is dictated by the primacy of the general welfare over the interests of individuals.

The courts, too, again had to deal with a number of cases concerned with the constitutionally guaranteed rights of property. The Bavarian Constitutional Court ruled (21 April 1960, *MDR* 1960, p. 570), that persons required to surrender land for town-planning purposes who received from the expropriating authority, in exchange for the lots surrendered, other lots of lower value than those expropriated must be paid the difference in value in cash.

The Federal Court of Justice held (9 May 1960, *NJW* 1960, p. 1618) that no issue of expropriation was raised where permission to build a dwelling-house was denied to the owner of a site for reasons of town planning, if the land in question, in keeping with its nature and location, had been used only for agricultural purposes, and no plans had been made for building on it, up to the date of promulgation of the building control legislation under which permission had been denied. That did not mean that a ban on use other than the existing use could in no circumstances be expropriatory in nature. The real question was whether at the time of the legisla-

tion the land could have been objectively regarded by an intelligent owner as usable for the purpose for which its future use was prohibited to him — even if it was not at that time being used for that purpose. If the answer was in the affirmative, then the owner was entitled to compensation; if not, the restriction suffered by the owner was generally speaking one inherent in the right of property, and did not entitle him to compensation. Thus, the fact that a planning measure did not prevent the owner from continuing the existing use of his property did not automatically imply that it was not expropriatory.

In a case involving the liability of an official authority — under German law, cases of this kind are dealt with not by the administrative courts, but by the civil courts — the Federal Court of Justice ruled (25 April 1960, *NJW* 1960, p. 1149) that an unjustified official ban on a sale arranged by an itinerant trader constituted an expropriatory restraint of trade, providing ground for a claim to compensation.

On the other hand, the Federal Court of Justice held (7 July 1960, *NJW* 1960, p. 1995) that road works which had merely temporary adverse effects on the business of enterprises abutting on the street were not in the nature of an expropriatory encroachment; adjacent businesses must tolerate the inconvenience caused by road works. There could be no question of compensation on the ground of expropriatory encroachment unless the works carried out in the roadway and the consequent obstruction of the street interfered with business to an extent which could have been avoided if the works had been properly executed.

Similarly, the Federal Court of Justice held (28 April 1960, *NJW* 1960, p. 1461) that there had been no expropriatory encroachment where, in connexion with a forced sale held to enforce a tax claim, execution had been levied on the property of a third party, that is to say, on property not belonging to the tax debtor himself, which property, a pledged article, had been sold at auction during the court proceedings. In such a case, it was true that the aggrieved party could claim the proceeds of the sale, in accordance with the rules relating to the receipt of unjustified benefits, and could possibly also claim damages from the head of the executing authority for breach of official duty. However, the wrongful execution did not constitute expropriation because it did not benefit the State in its capacity as the executing body; the sacrifice made by the third party had not been imposed on him in the interest of the community at large, which was an essential element of the concept of expropriation. The fact that the case concerned a tax debt did not affect the issue. A decision in a tax case was an administrative act and not a court order, but it closely resembled the latter in its effect and form, and the execution of a tax decision must therefore be treated in this case in the same manner as the execution of a civil court judgement.

12. FREEDOM OF BELIEF, FREEDOM OF OPINION AND FREEDOM OF RELIGIOUS PRACTICE

(Universal Declaration, articles 18 and 19)

Freedom of religion and philosophy of life is guaranteed under article 4(1) and (2) of the Basic Law. It applies not only to the "great religions" but to outlooks, including both positively irreligious and anti-religious beliefs, such as atheism, and beliefs which simply ignore religion, such as humanitarian idealism, scepticism or pantheism. Freedom of belief and religion also embraces the right to change one's religion and belief, including the right to quit one's church. A corollary of this freedom, the Federal Constitutional Court held (8 November 1960, *NJW* 1961, p. 211), was the right not to disclose what one believed or did not believe. The fundamental right to freedom of belief guaranteed the individual a sphere of legal protection within which he could fashion his life according to his convictions, whether religious, irreligious, anti-religious or independent of religion. Freedom of belief, the court continued, was more than mere tolerance, in the sense of the mere sufferance of religious creed or irreligious conviction. An interpretation more in keeping with the rule of policy laid down in the Basic Law was that freedom of belief covered even the right to win adherents to one's own belief and to convert those of other beliefs — though not to do so by improper methods or by morally reprehensible means.

On the question of freedom of conscience and compulsory military service, the Federal Constitutional Court ruled (20 December 1960, *DÖV* 1960, p. 223) that the Basic Law, which contemplated the liberty and dignity of the human personality as the supreme legal value, guaranteed even the right to take a conscientious decision against combatant military service. Where there was conflict between the community and the individual, the Constitution gave precedence, to a remarkable degree, to the protection of the individual's freedom of conscience. This was proper, the court continued, in a State which aspired to be a community of free men and which saw in the individual's right of free self-determination a formative community value.

The court then went on to consider more closely the substance of the right to refuse military service. Article 4(3) of the Basic Law, it held, protected only the individual's right to refuse combatant military service as a matter of general principle; it did not cover the "circumstantial" refusal of military service, where a person refused to take part in a specific war or a specific kind of war, or to use specific weapons.

Lastly, the Act of 13 January 1960 concerning Civilian Service performed in Lieu of Military Service (*BGBl.* 1960 I, p. 10) should be mentioned in this connexion. Civilian service means service in hospitals

and welfare institutions. A person performing such service has the same civil rights as any other citizen, but his rights are restricted in accordance with the requirements of his service and his statutory obligations. While in service, he may not engage in activities on behalf of, or against, any political movement. However, he retains his right to express an opinion in conversation with others. On the question of the effect of civil service employment on freedom of opinion, the Bavarian Constitutional Court ruled (7 November 1960, *DÖV* 1960, p. 950) that in entering the public service, a civil servant voluntarily placed himself in a special position of subordination which imposed on him obligations restricting his exercise of rights, including fundamental rights. He renounced the exercise of those rights in so far as they were incompatible with the performance of the duties inherent in his position as a public servant. That applied in particular to the right to freedom of action, which, in any event, was granted only "within the limits of the law" (article 201 of the Bavarian Constitution). Obedience, one of the traditional principles of the professional civil service, was therefore among his chief duties. A civil servant must carry out official instructions even if they affected his personal interests. The Bavarian Civil Service Act, of course, prohibited the execution of instructions which were manifestly at variance with the criminal law.

13. PROHIBITION OF POLITICAL PARTIES AND ASSOCIATIONS

(Universal Declaration, articles 20 and 30)

Under the sixth Criminal Law Amendment Act, of 30 June 1960 (*BGBl.* 1960 I, p. 478), a section 96 *a* was inserted in the Criminal Code providing that any person who makes public use, at a meeting or in writings, sound-recordings, illustrations or representations distributed by him, of emblems of a party declared unconstitutional by the Constitutional Court under article 21 (2) of the Basic Law, or of emblems of an association prohibited without right of appeal under article 9 (2) of the Basic Law, or of a former national socialist organization, is liable to a sentence of imprisonment not exceeding three years. Emblems are deemed to include, in particular, banners, badges, articles of uniform, slogans and salutes.

In connexion with the prohibition of the German Communist Party (KPD), the Federal Court of Justice had occasion to rule (25 July 1960, *NJW* 1960, p. 1772) on a case in which the defendants had produced or distributed periodicals and pamphlets on behalf of this party. The court found the defendants guilty on the ground that the support and furtherance of a prohibited party must be regarded as a breach of the dissolution order and thereby constituted an offence within the meaning of articles 42 and 47 of the Federal Constitutional Court Act.

In another case relating to communist front organizations, the Federal Court of Justice ruled (15 December 1960, *NJW* 1961, p. 375) that subjective guilt required only that the offender should have been aware that the party had been prohibited and that the organization for which he was working was pursuing in federal territory the same ends, under the same direction, as the prohibited party.

Any group formed by the German Socialist Unity Party (SED) or the KPD which agitated for the political aims of the SED/KPD was a substitute organization for the prohibited KPD. In so far as the SED itself operated directly within the Federal Republic for its political purposes, it was likewise acting as a substitute organization for the KPD. The decisive factor, therefore, was whether an organization, even if directed from outside, pursued in the federal territory the same aims as the prohibited KPD, in particular the aim of extending to the Federal Republic the communist form of society.

14. THE SUFFRAGE AND THE RIGHT OF SELF-DETERMINATION

(Universal Declaration, article 21)

The Federal Constitutional Court gave a fundamental ruling (12 July 1960, *BVerfGE* 11, p. 266) on the question of the right to vote in local elections. The occasion for this decision was the Saar Local Elections Act of 9 February 1960 (Official Gazette [*Amtsblatt*], p. 101), which includes a provision that candidates may be nominated only by political parties within the meaning of article 21 of the Basic Law. Article 21 of the Basic Law, the Federal Constitutional Court acknowledged, had recognized political parties as constitutionally necessary instruments for the formation of the political will of the people and had raised them to the status of a constitutional institution. In a thorough-going party State, it would be entirely in the nature of things for the will of the people to be expressed at all levels, including that of the municipalities and districts, through the medium of the parties. In this case, the equal participation of active citizens in the selection of candidates could conceivably have to be effected through a system in which the sole operative principles were the equal voting rights of all party members and the equality of opportunity of the parties. However, this ultimate development of the party State was constitutionally barred by the Basic Law, at the federal level through its proclamation of the representative status of deputies in article 38, and at the local level through the institutional guarantee of local autonomy contained in article 28. As at present understood, the Federal Constitutional Court held, local autonomy meant essentially the mobilization of citizens to manage their own affairs, concentrating the vital popular forces present in the local community for the independent and responsible discharge of specifically

local public business so as to promote the welfare of the residents and preserve historical and local individuality. Article 28 of the Basic Law envisaged that the local community should take its destinies into its own hands and shape them as a responsible unit. The conclusion was thus inescapable that the right of local self-determination was protected by a constitutional guarantee which the Land legislator must respect in giving effect to the principle of electoral equality in a statute relating to local elections, as in other fields. It therefore followed from the guarantee of municipal autonomy that the selection of candidates for elected local bodies must remain at least to some extent a matter of local option, and consequently, that it could not be reserved exclusively to the political parties, whose outlook, by their very nature and structure, was essentially national. Thus, local groups of voters serving purely municipal interests must be given the right to nominate candidates, and their candidates must be given the opportunity to participate on equal terms in local elections.

The Federal Constitutional Court held (15 November 1960, *NJW* 1961, p. 19) that it was a consequence of the rule of equal treatment in electoral matters that local groups of voters must be exempted from the requirement of obtaining a minimum number of signatures to support their nominations in municipal elections, if such a minimum was not required in municipal elections of the political parties. It was recognized, nevertheless, that the right to nominate candidates might be restricted by rules requiring a minimum number of signatures; such rules served the legitimate purpose of admitting only nominations which could be presumed to be backed by a politically significant group, and the production of the number of signatures required by law provided ground for such a presumption. Lastly, the Federal Constitutional Court ruled (2 November 1960, *NJW* 1960, p. 2283) that the institutional guarantee of autonomy was not satisfied unless citizens could submit reserve lists for candidates with no party affiliations as for others.

The Bavarian Constitutional Court, too, gave a ruling (8 February 1960, *DÖV* 1960, p. 386) on the question of the constitutionality of special nominations by groups of voters. The Bavarian Municipal Elections Act provides that voters' groups which are not political parties may submit nominations, provided that these are signed by four times as many qualified voters as the number of honorary members of the municipal council to be elected. The court found that this regulation did not violate the constitutional requirement of equal and universal suffrage, as prescribed in article 14(1) of the Basic Law and in article 12(1) of the Bavarian Constitution. If it became apparent that the requirement of a minimum number of signatures was not in itself adequate, the legislator was entitled to enact more stringent measures.

15. 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 citizen's right to the free choice of his place of work or training cannot be legally restricted, but the exercise of a trade or profession may be regulated and restricted by statute. However, this is done only in the case of occupations whose exercise affects a specific public interest or might be to the public danger.

During the year under review, the Federal Constitutional Court had occasion to deal with an extremely important case, which aroused great interest, in connexion with the exercise of a profession. The proceedings related to the question of the general admission of doctors to panel practice. By this is meant the right of a doctor in private practice who treats persons who are compulsory members of a statutory medical insurance fund — i.e., for the most part wage-earners in the lower income groups — to be paid his medical fees by the fund. Under the existing regulations, doctors had been admitted to panel practice only when a need for new admissions arose. Unadmitted doctors — who, it is true, were in the minority — could treat panel patients but had no claim against the fund for the payment of fees, with the result that, since most panel patients were neither able nor willing to pay private fees, these doctors were dependent on the treatment of patients who were not members of any fund. The Federal Constitutional Court took the view (23 March 1960, *BVerfGE* 11, p. 30) that the provisions restricting the admission of doctors to panel practice were provisions regulating the exercise of a profession, within the meaning of article 12(1) of the Basic Law. Their special feature was that they excluded fully qualified doctors who had set up medical practice from the treatment of a very large class of patients. This regulation, the court held, amounted in effect to control of admission in the guise of a "need clause". Such control, however, was justified only where it was necessitated by specific and important public interests which could not otherwise by protected. The Federal Constitutional Court concluded that in this case the restriction of admission resulted in a serious encroachment on the right of the unadmitted doctors to the free exercise of their profession, and it accordingly annulled the provisions restricting admission to panel practice.

The Federal Constitutional Court also had occasion, during the year under review, to consider how far the exercise of an occupation could be restricted by application of the criterion of need. The court ruled (8 June 1960, *BVerfGE* 11, p. 168) that the provisions of the Passenger Transport Act imposing restrictions on the private-hire automobile and taxi-cab trade were incompatible with article 12(1) of the Basic Law. In no circumstances, it held, could

a measure controlling admission to an occupation be enacted in order to protect existing operators against competition — which was the effect in practice of the provisions in question. Admittedly, there was an important public interest at stake in the existence and efficiency of the taxi-cab trade, and taxis, being a means of public transport, could legitimately be subjected to official supervision and regulation. However, the licensing of a new taxi-cab concern could be adjudged "contrary to the interests of public transport" only if it raised an acute threat, which could not otherwise be averted, to an important public interest. The requirements of economic and traffic planning and control must be regarded as secondary in this connexion, although they might in themselves be taken into consideration within the general context of the interests of public transport. In the case of this type of casual transport, the discretion of the authorities was limited by the freedom of the individual operator, which might be abridged only if this was unavoidably necessary for the protection of an overridingly important public interest.

The Federal Constitutional Court held (25 February 1960, *NJW* 1960, p. 619) that the free exercise of a profession was not restricted by compelling its members to participate in an old-age pension insurance scheme. The principle of compulsory collective disability and survivors' pension insurance was today regarded as compatible with the idea of professional activity. Statutes which catered in an appropriate manner to an objectively existing and subjectively experienced need for security could not be regarded as a mere expression of socio-political perfectionism, and consequently as an "unnecessary" restriction of freedom by the state authorities. On the contrary, such statutes were based on the concept of social justice embodied in the Basic Law.

In another case concerning the exercise of trades and professions, the Federal Constitutional Court ruled (29 January 1960, *NJW* 1960, p. 1122) that admission to a teachers' training college could not be refused on the ground that the applicant did not belong to the religious denomination which inspired the outlook of the college. To make attendance at a teachers' training institution conditional on membership of a specific denomination violated the principle of equality set forth in article 3 (2) of the Basic Law, which also laid down that no one should be placed at a disadvantage by reason of his faith or religious opinions.

Just as the State was bound under the established system of compulsory education to provide education regardless of the child's religious background, so the Basic Law compelled it to ensure that any training institution operating under its teacher-training monopoly should be open equally to students holding creeds differing from its own denominational outlook.

An Act of 20 August 1960 (*BGBl.* 1960, p. 697) established new regulations governing the pharmaceutical profession. Any person possessing the requisite personal qualifications may now open a pharmacy without restriction.

By an Act of 6 February 1960 (*BGBl.* 1960 II, p. 437) the Bundestag approved the protocol, signed at Paris on 10 December 1956, concerning the accession of the Federal Republic to the conventions on frontier workers and student employees concluded by the Governments of Belgium, France, Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland.

16. THE PROTECTION OF RIGHTS IN LABOUR LEGISLATION

(Universal Declaration, articles 23, 24 and 25)

On 1 October 1960 the new Juvenile Workers Protection Act of 9 August 1960 (*BGBl.* 1960, p. 665) came into force.[1] The legislator thus concluded a very lengthy process dating back to shortly after the war. The Act prohibits the employment of children i.e., persons who are still liable for compulsory full-time school attendance or who, while having completed their compulsory schooling, have not yet reached the age of fourteen years. Juveniles who have completed their compulsory education but are under eighteen years of age may be employed only for a working day of eight hours. The working week must not exceed forty hours for juveniles under the age of sixteen, or forty-four hours for those over sixteen. The Act also lays down that all time spent in attendance at a vocational training school must be counted as working time. In addition, it prohibits night work and Sunday work and guarantees minimum leave of twenty-four working days. The employment of any juvenile on a job which is beyond his physical strength or in which he is exposed to moral dangers is prohibited. Juveniles may not perform piece-work or assembly-line jobs requiring a fixed working pace. The Act prohibits the corporal punishment of juvenile workers.

In 1960, the Federal Republic ratified ILO Convention No. 97 of 1 July 1949 concerning migration for employment. The instrument of ratification was deposited with the Secretary-General of the International Labour Office on 22 June 1960 (*BGBl.* 1960 II, p. 2204). By Act of 8 August 1960 (*BGBl.* 1960 II, p. 2109), the Bundestag approved the agreement of 1 August 1959 between the Federal Republic and the Kingdom of Denmark concerning unemployment insurance.

17. STATE CARE FOR PERSONS IN NEED OF ASSISTANCE

(Universal Declaration, articles 22 and 23)

On 1 July 1960, the Bundestag passed the Self-employed Craftsmen's Pension Insurance Act, which

[1] See International Labour Office: *Legislative Series* 1960 — Ger.F.R.2.

was published on 8 September 1960 (*BGBl.* 1960 I, p. 737) but does not come into force until 1 January 1962. Under the Act, self-employed craftsmen's insurance will be separated as from that date, from salaried employees' insurance and incorporated into the wage-earners' pension insurance scheme. At the same time, the Act establishes new regulations for the compulsory insurance of self-employed craftsmen. As from 1 January 1962, pension insurance will be compulsory for self-employed craftsmen registered as such, provided that they have paid contributions in respect of an employment or occupation subject to compulsory pension insurance for less than 216 calendar months.

By an Act of 19 December 1960 (*BGBl.* 1960 I, p. 1013), pensions under statutory pension insurance schemes were again adjusted to meet changes in the cost of living.

By the Pensions (Payments Abroad) (Amendment) Act of 25 February 1960 (*BGBl.* 1960 I, p. 93),[1] the Pensions (Payments Abroad) Act of 1953 was amended and the system for the protection of accident and old-age pension rights was considerably expanded. Under an order of 4 August 1960 (*BGBl.* I, p. 683), benefits are now also payable in the State of Israel.

The entry into force of the Act of 27 June 1960 to Amend and Supplement the Law relating to War Victims (*BGBl.* I, p. 453) brought to an end a struggle of more than two years' duration for a material improvement in the benefits of 3.4 million war-disabled persons and war survivors. The Act provides for an increase in benefits, particularly in basic pensions. Compensation for occupational injuries was reintroduced.

18. THE RIGHT TO EDUCATION

(Universal Declaration, article 26)

The Administrative Court at Darmstadt had occasion to rule (26 April 1960, *NJW* 1960, p. 1878) on the validity of the "Sextanererlass" [Secondary Schools Admission Order]. The case concerned an order of the Hesse Minister for Education and Culture, dated 1 November 1956, making admission to a secondary school conditional on the applicant's passing a six-day course of trial classes at the secondary school. The father of a pupil who had been found unsuitable for admission by the principal of the secondary school, in his capacity as chairman of the "selection board", challenged the decision on the ground that the order on which it was based was unconstitutional. Under article 56(6) of the Hesse Constitution, parents and guardians have a subjective right at public law to participate, not only in determining the educational policy followed at individual schools, but also in the formulation of general policy by the central education authorities, which lay down methods and objectives for each and every type of school. The Administrative Court therefore declared the order invalid, but held that despite its technical invalidity the selection procedure based on it was a proper means of determining objectively whether an applicant was suitable for admission to a secondary school. The court accordingly dismissed the father's complaint, ruling that the school authorities, while not bound by the order, in view of its invalidity at law, could not open the school without restriction to every applicant. Pupils who were not suited to a given type of school might be a serious inconvenience to class-work, thus jeopardizing the public interest in the education of children as efficient members of their future trades and professions.

For the decision of the Federal Constitutional Court in a case relating to the admission of students to teachers' training institutions, see section 15 above.

19. INTERNATIONAL AGREEMENTS FOR THE PROTECTION OF HUMAN RIGHTS

(Universal Declaration, article 28)

The Federal Republic ratified ILO Convention No. 105 concerning the abolition of forced labour. The Convention came into force for Germany on 22 June 1960 (*BGBl.* 1960 II, p. 2297).

By an Act of 8 April 1960 (*BGBl.* 1960 II, p. 1333), the Bundestag approved the agreement of 24 August 1959 between the Federal Republic of Germany and the Kingdom of Denmark concerning payments on behalf of Danish nationals victimized by national socialist persecution. Under this agreement, the Federal Republic will pay the Kingdom of Denmark the sum of DM 16 million on behalf of Danish nationals who were victimized by national socialist persecution because of their race, beliefs or opinions and whose freedom or health was in consequence impaired, and also on behalf of the survivors of persons who died as a result of such persecution. The agreement came into force on 3 June 1960 (*BGBl.* 1960 II, p. 1864).

An agreement in similar terms was concluded with Norway, which will receive an amount of DM 60 million. It was ratified on the same date as the agreement with Denmark and came into force on 23 April 1960 (*BGBl.* 1960 II, p. 1508).

[1] See International Labour Office: *Legislative Series* 1960 — Ger.F.R.1.

FEDERATION OF MALAYA

CONSTITUTION (AMENDMENT) ACT, 1960

ACT NO. 10 OF 1960, ASSENTED TO ON 26 MAY 1960[1]

2. Part III of the Constitution is hereby amended —

(*a*) By substituting for the words "registration authority" wherever they occur in clauses 1 and 2 of article 15, article 16, article 17, clause 1 of article 23 and clause 1 of article 30 of the Constitution the words "Federal Government";

(*b*) By substituting for the words "that authority" wherever they occur in clause 2 of article 15, article 16 and article 17 of the Constitution the words "the Federal Government";

(*c*) By deleting the comma and words ", but except as aforesaid the registration authority shall register any declaration duly made thereunder" appearing in clause 2 of article 23 of the Constitution.

. . .

7. Article 48 of the Constitution is hereby amended —

(*a*) By inserting immediately after the words "House of Parliament" appearing in paragraph (*d*) of clause 1 thereof the words "or to the Legislative Assembly of a State";

(*b*) By substituting for the words "two years" appearing in paragraph (*e*) of clause 1 thereof the words "one year or to a fine of not less than two thousand dollars";

(*c*) By inserting immediately after the word "custody" appearing in clause 3 thereof the words "or the date on which the fine mentioned in the said paragraph (*e*) was imposed on such person".

. . .

14. Article 119 of the Constitution is hereby amended —

(*a*) By repealing clause 1 thereof and substituting therefor the following new clause:

"(1) Every citizen who (*a*) has attained the age of twenty-one years on the qualifying date; and (*b*) is resident in a constituency on such qualifying date or, if not so resident, is an absent voter, is entitled to vote in that constituency in any election to the House of Representatives or the Legislative Assembly unless he is disqualified under clause 3 or under any law relating to offences committed in connection with elections; but no person shall in the same election vote in more than one constituency";

(*b*) By substituting a coma for the full-stop at the end of clause 4 thereof and inserting immediately thereafter the words "and 'absent voter' means in relation to any constituency any citizen who is registered as an absent voter in respect of that constituency under the provisions of any law relating to election."

. . .

28. Article 149 of the Constitution is hereby amended —

(*a*) By repealing clause 1 thereof and substituting therefor the following new clause:

"(1) If an Act of Parliament recites that action has been taken or threatened by any substantial body of persons, whether inside or outside the Federation (*a*) to cause, or to cause a substantial number of citizens to fear, organized violence against persons or property; or (*b*) to excite disaffection against the Yang di-Pertuan Agong or any government in the Federation; or (*c*) to promote feelings of ill-will and hostility between different races or other classes of the population likely to cause violence; or (*d*) to procure the alteration, otherwise than by lawful means, of anything by law established; or (*e*) which is prejudicial to the security of the Federation or any part thereof, any provision of that law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of article 5, 9, or 10, or would apart from this article be outside the legislative power of Parliament; and article 79 shall not apply to a Bill for such an Act or any amendment to such a Bill."

(*b*) By substituting for clause 2 thereof the following new clause:

"(2) A law containing such a recital as is mentioned in clause 1 shall, if not sooner repealed, cease to have effect if resolutions are passed by both Houses of Parliament annulling such law, but without prejudice to anything previously done by virtue thereof or to the power of Parliament to make a new law under this article."

29. Article 150 of the Constitution is hereby amended by substituting for clause 3 thereof the following new clause:

[1] Published in *Acts passed during the year 1960*, printed by the Government Printer, Kuala Lumpur. The extracts from the amending Act of 1960 which appear in this *Yearbook* are those which amend the provisions of the Constitution selected for publication in the *Yearbook on Human Rights for 1957*, pp. 67–76.

"(3) A proclamation of emergency and any ordinance promulgated under clause 2 shall be laid before both Houses of Parliament and, if not sooner revoked, shall cease to have effect if resolutions are passed by both Houses annulling such proclamation or ordinance, but without prejudice to anything previously done by virtue thereof or to the power of the Yang di-Pertuan Agong to issue a new proclamation under clause 1 or promulgate any ordinance under clause 2."

30. Article 151 of the Constitution is hereby amended by repealing paragraph (*b*) of clause 1 thereof and substituting therefor the following new paragraph:

"(*b*) No citizen shall be detained under that law or ordinance for a period exceeding three months unless an advisory board constituted as mentioned in clause 2 has considered any representations made by him under paragraph (*a*) and made recommendations thereon to the Yang di-Pertuan Agong."

. . .

INTERNAL SECURITY ACT, 1960

ACT NO. 18 OF 1960, ASSENTED TO ON 27 JULY 1960[1]

Whereas action has been taken by a substantial body of persons to cause a substantial number of citizens to fear organized violence against persons and property:

And whereas action has been taken and threatened by a substantial body of persons which is prejudicial to the security of Malaya:

And whereas Parliament considers it necessary to stop or prevent that action:

Now therefore *pursuant* to article 149 of the Constitution *be it enacted* by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

PRELIMINARY

. . .

2. In this Act, unless the context otherwise requires —

. . .

"Document" includes any substance on which is recorded any matter, whether by letters, figures, marks, pictorial or other representation, or by more than one of these means;

"Entertainment" means any game, sport, diversion, concert or amusement of any kind to which the public has or is intended to have access and in which members of the public may or may not take part, whether on payment or otherwise;

"Exhibition" includes every display of goods, books, pictures, films or articles to which the public has or is intended to have access, whether on payment or otherwise;

. . .

"Periodical publication" includes every publication issued periodically or in parts or numbers at intervals, whether regular or irregular;

. . .

"Publication" includes all written, pictorial or printed matter, and everything of a nature similar to written or printed matter, whether or not containing any visible representation, or by its form, shape or in any other manner capable of suggesting words or ideas, and every copy, translation and reproduction or substantial translation or reproduction in part or in whole thereof;

"Public place" includes any highway, public street, public road, public park or garden, any sea beach, water-way, public bridge, lane, footway, square, court, alley or passage, whether a thoroughfare or not, any unalienated land, any rubber estate, any plantation, any land alienated for agricultural or mining purposes, any theatre or place of public entertainment of any kind or other place of general resort admission to which is obtained by payment or to which the public have access, and any open space to which for the time being the public have or are permitted to have access, whether on payment or otherwise;

. . .

PART I

GENERAL PROVISIONS RELATING TO INTERNAL SECURITY

Chapter I. — *Prohibition of Organizations and Associations of a Political or Quasi-military Character and Uniforms, etc.*

3. The Minister may from time to time by order prohibit the wearing in public places or at meetings or gatherings to which the public or any section of the public have access, of (*a*) any uniform or dress which signifies association with any political organization or with the promotion of any political object; . . .

(7) Nothing in this section shall be construed as prohibiting the employment of a reasonable number of persons as stewards at any public meeting held

[1] Published in *Acts passed during the year 1960*, printed by the Government Printer, Kuala Lumpur.

upon private premises with the permission of the owner of those premises, or the making of arrangements for that purpose or the instruction of the persons to be so employed in their lawful duties as such stewards, or their being furnished with badges or other distinguishing signs.

. . .

7. (1) The Minister may, if he considers it in the national interest so to do, by order prohibit the manufacture, sale, use, wearing, display or possession of any flag, banner, badge, emblem, device, uniform or distinctive dress or any part thereof.

. . .

Chapter II. — *Powers of Preventive Detention*

8. (1) If the Yang di-Pertuan Agong is satisfied with respect to any person that, with a view to preventing that person from acting in any manner prejudicial to the security of Malaya or any part thereof, it is necessary so to do, the Minister shall make an order (*a*) directing that such person be detained for any period not exceeding two years; or (*b*) for all or any of the following purposes, that is to say —

(i) For imposing upon that person such restrictions as may be specified in the order in respect of his activities and the places of his residence and employment;

(ii) For prohibiting him from being out of doors between such hours as may be specified in the order, except under the authority of a written permit granted by such authority or person as may be so specified;

(iii) For requiring him to notify his movements in such manner at such times and to such authority or person as may be specified in the order;

(iv) For prohibiting him from addressing public meetings or from holding office in, or taking part in the activities of or acting as adviser to any organization or association, or from taking part in any political activities;

(v) For prohibiting him from travelling beyond the limits of the Federation or any part thereof specified in the order except in accordance with permission given to him by such authority or person as may be specified in such order:

and any order made under paragraph (*b*) of this sub-section shall be for such period, not exceeding two years, as may be specified therein, and may by such order be required to be supported by a bond.

. . .

9. Whenever any person is detained under any order made under paragraph (*a*) of sub-section (1) of section 8 he shall, in accordance with article 151 of the Constitution, as soon as may be (*a*) be informed of the grounds of his detention; (*b*) subject to clause 3 of the said article (which provides that no authority may be required to disclose facts whose disclosure would in its opinion be against the national interest) be informed of the allegations of fact on which the order is based; and (*c*) be given the opportunity of making representations against the order as soon as may be.

10. At any time after an order has been made in respect of any person under paragraph (*a*) of sub-section (1) of section 8 the Minister may direct that the operation of such order be suspended subject to the execution of a bond and to such conditions (*a*) imposing upon that person such restrictions as may be specified in the direction in respect of his activities and the places of his residence and employment; (*b*) prohibiting him from being out of doors between such hours as may be so specified, except under the authority of a written permit granted by such authority or person as may be so specified; (*c*) requiring him to notify his movements in such manner at such times and to such authority or person as may be so specified; (*d*) prohibiting him from travelling beyond the limits of the Federation or any part thereof specified in the direction except in accordance with permission given to him by such authority or person as may be so specified; (*e*) prohibiting him from addressing public meetings or from holding office in, or taking part in the activities of or acting as adviser to any organization or association, or from taking part in any political activities; (*f*) permitting him to return to the country to which he belongs or to any other place to which he wishes to proceed provided that the government of such place consents to receive him, as the Minister sees fit; and the Minister may revoke any such direction if he is satisfied that the person against whom the order was made has failed to observe any condition so imposed or that it is necessary in the public interest that such direction should be revoked.

11. (1) A copy of every order made by the Minister under paragraph (*a*) of sub-section (1) of section 8 shall as soon as may be after the making thereof be served on the person to whom it relates, and every such person shall be entitled to make representations against the order to an Advisory Board.

(2) For the purpose of enabling a person to make representations under sub-section (1) he shall, within fourteen days of the service on him of the order (*a*) be informed of his right to make representations to an advisory board under sub-section (1); and (*b*) be furnished by the Minister with a statement in writing —

(i) Of the grounds on which the order is made;

(ii) Of the allegations of fact on which the order is based; and

(iii) Of such other particulars, if any, as he may in the opinion of the Minister reasonably require

in order to make his representations against the order to the advisory board.

. . .

12. (1) Whenever any person has made any representations under sub-section (1) of section 11 to an advisory board, the advisory board shall, within three months of the date on which such person was detained, consider such representations and make recommendations thereon to the Yang di-Pertuan Agong.

(2) Upon considering the recommendations of the advisory board under this section the Yang di-Pertuan Agong may give the Minister such directions, if any, as he shall think fit regarding the order made by the Minister; and every decision of the Yang di-Pertuan Agong thereon shall, subject to the provisions of section 13, be final, and shall not be called into question in any court.

13. (1) Every order or direction made by the Minister under section 8 or 10 shall, so long as it shall remain in force, be reviewed not less often than once in every six months by an advisory board.

(2) The advisory board shall on completing every review under sub-section (1) forthwith submit to the Minister a written report of every such review, and may make therein such recommendations as it shall think fit.

. . .

Chapter III. — *Special Powers relating to Subversive Publications, etc.*

22. (1) Where it appears to the Minister charged with responsibility for printing presses and publications that any document or publication (*a*) contains any incitement to violence; or (*b*) counsels disobedience to the law or to any lawful order; or (*c*) is calculated or likely to lead to a breach of the peace, or to promote feeling of hostility between different races or classes of the population; or (*d*) is prejudicial to the national interest, public order, or security of the Federation,

he may by order published in the *Gazette* prohibit either absolutely or subject to such conditions as may be prescribed therein the printing, publication, sale, issue circulation or possession of such document or publication.

(2) An order under sub-section (1) may, if the order so provides, be extended so as (*a*) in the case of a periodical publication, to prohibit the publication, sale, issue, circulation, possession or importation of any past or future issue thereof; (*b*) in the case of a publication which has or appears or purports to have issued from a specified publishing house, agency or other source, to prohibit the publication, sale, issue, circulation or importation of any other publication which may at any time whether before or after the date of the order have or appear or purport to have issued from such specified publishing house, agency or other source.

23. The proprietor or agent in the Federation of the proprietor of any publication which is the subject of an order under section 22 may, within one month of the date of publication of such order in the *Gazette*, make an objection against such order to the Yang di-Pertuan Agong, whose decision thereon shall be final and shall not be called into question in any court.

24. Any person who prints, publishes, sells, issues, circulates or reproduces a document or publication which is the subject of an order under section 22, or any extract therefrom, shall be guilty of an offence against this part and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding two thousand dollars or to both such imprisonment and fine:

Provided that no person shall be convicted of an offence under this section if he proves to the satisfaction of the court that the document or publication in respect of which he is charged was printed, published, sold, issued, circulated or reproduced, as the case may be, without his authority, consent and knowledge, and without any want of due care or caution on his part, and that he did not know and had no reason to suspect the nature of the document or publication.

25. (1) Any person who without lawful excuse has in his possession any document or publication the possession of which is prohibited by an order under section 22, or any extract therefrom, shall be guilty of an offence against this part and shall be liable in respect of a first offence under this section to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand dollars, or to both such imprisonment and fine and, in respect of a subsequent offence, to imprisonment for a term not exceeding two years.

(2) In any proceedings against any person for an offence against this section such person shall be presumed, until the contrary is proved, to have known the contents and the nature of the contents of any document or publication immediately after such document or publication came into his possession.

26. Any person who imports or attempts to import or abets the importation of any document or publication or without lawful excuse has in his possession any document or publication imported in contravention of an order under section 22 shall be guilty of an offence against this part and shall be liable in respect of a first offence under this section to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand dollars, or to both such imprisonment and fine and, in respect of a subsequent offence, to imprisonment for a term not exceeding three years.

27. Any person who posts or distributes any placard, circular or other document containing any incitement to violence, or counselling disobedience to the law or to any lawful order, or likely to lead

to any breach of the peace, shall be guilty of an offence against this part.

28. Any person who, by word of mouth or in writing or in any newspaper, periodical, book, circular or other printed publication or by any other means spreads false reports or makes false statements likely to cause public alarm, shall be guilty of an offence against this part.

29. (1) Any person who without lawful excuse carries or has in his possession or under his control any subversive document shall be guilty of an offence against this part and shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand dollars, or to both such imprisonment and fine.

(2) Any person or any office bearer of any association or any responsible member or agent of any organization who receives any subversive document shall deliver the same without delay to a police officer; and any person, office bearer, member or agent who fails to do so, or who, unless authorized so to do by a police officer not below the rank of Superintendent of Police, communicates to any other person, or publishes or causes to be published the contents of any such document, shall be guilty of an offence against this part and shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand dollars, or to both such imprisonment and fine.

(3) In this section "subversive document" means any document having in part or in whole a tendency (*a*) to excite organized violence against persons or property in the Federation; or (*b*) to support, propagate or advocate any act prejudicial to the security of the Federation or the maintenance or restoration of public order therein or inciting to violence therein or counselling disobedience to the law thereof or to any lawful order therein; or (*c*) to invite, request or demand support for or on account of any collection, subscription, contribution or donation, whether in money or in kind, for the direct or indirect benefit or use of persons who intend to act or are about to act, or have acted, in a manner prejudicial to the security of the Federation or to the maintenance of public order therein, or who incite to violence therein or counsel disobedience to the law thereof or any lawful order therein.

(4) Every document purporting to be a subversive document shall be presumed to be a subversive document until the contrary is proved; and where in any prosecution under this section it is proved that a person was carrying or had in his possession or under his control a subversive document he shall be deemed to have known the contents and the nature of the contents of such document:

Provided that no person shall be convicted of an offence under this section if he proves to the satisfaction of the court (*a*) that he was not aware of the contens and the nature of the contents of the subversive document which he was carrying or had in his possession or under his control; and (*b*) that he was carrying or had the subversive document in his possession or under his control in such circumstances that at no time did he have reasonable cause to believe or suspect that such document was a subversive document.

30. (1) Any police officer not below the rank of Inspector may, without warrant and with or without assistance (*a*) enter and search any premises; (*b*) stop and search any vehicle, vessel, train, aircraft or individual, whether in a public place or not if he suspects that any document, publication, material or article being evidence of the commission of an offence against this chapter is likely to be found in such vehicle, vessel, train, [or] aircraft or on such individual, and may seize any document, publication, material or article so found.

(2) Any document, publication, material or article seized under the provisions of sub-section (1) shall be destroyed or otherwise disposed of in such manner as the Commissioner of Police may order.

(3) The Commissioner of Police shall, on making an order under sub-section (2), if he has reason to believe that the owner, or person who was in possession immediately before such document, publication, material or article was seized, is in the Federation, cause a notice to be served on that person informing him of the terms of the order.

(4) Any person aggrieved by an order made under sub-section (2) may appeal against such order to the Minister:

Provided that no appeal against such order shall be allowed unless notice of appeal in writing, together with the reasons for the appeal, is given to the Commissioner of Police and to the Minister within fourteen days of service of notice of the order under sub-section (3).

(5) Where an order has been made under sub-section (2) it shall only be carried into effect if such order has not been appealed against or if any appeal against the order has been dismissed or abandoned.

(6) No woman shall be searched under this section except by a woman.

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Chapter IV. — *Control of Entertainments and Exhibitions*

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33. (1) The Minister may, if he is satisfied that it is necessary to do so in order to ensure that any entertainment or exhibition shall not be an entertainment or exhibition to which the provisions of section 35 would apply, by order in writing require the promotor and every person concerned in the promotion of the entertainment or exhibition and the proprietor of any premises upon which any such

entertainment or exhibition is held or is intended to be held to observe such conditions relating to the holding of such entertainment or exhibition as he may specify.

. . .

35. (1) The Minister may by order prohibit the holding of or may direct the closing of any entertainment or exhibition (*a*) if he is satisfied that such entertainment or exhibition is or is likely to be in any way detrimental to the national interest; or (*b*) if there has been in respect of such entertainment or exhibition any refusal of or failure to furnish any information required to be furnished under section 32, or if any information so furnished shall be false or incomplete; or (*c*) if there has been in respect of such entertainment or exhibition any breach of or failure to comply with any condition imposed under section 33.

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Chapter VI. — *Miscellaneous*

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45. Any police officer may without warrant arrest any person suspected of the commission of an offence against this part or of being a person ordered in pursuance of this part to be detained.

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PART II

SPECIAL PROVISIONS RELATING TO SECURITY AREAS

Chapter I. — *Proclamation of Security Areas*

47. (1) If in the opinion of the Yang di-Pertuan Agong public security in any area in the Federation is seriously disturbed or threatened by reason of any action taken or threatened by any substantial body of persons, whether inside or outside the Federation, to cause or to cause a substantial number of citizens to fear organized violence against persons or property, he may, if he considers it to be necessary for the purpose of suppressing such organized violence, proclaim such area as a security area for the purposes of this part.

[Part II of the Act (being sections 47–71 thereof) includes provisions for the exercise of special powers in relation to security areas.]

PART III

MISCELLANEOUS PROVISIONS

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73. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe (*a*) that there are grounds which would justify his detention under section 8; and (*b*) that he has acted or is about to act or is likely to act in any manner prejudicial to the security of Malaya or any part thereof.

(2) Any police officer may without warrant arrest and detain pending enquiries any person who, upon being questioned by such officer, fails to satisfy such officer as to his identity or as to the purposes for which he is in the place where he is found, and who such officer suspects has acted or is about to act in any manner prejudicial to the security of Malaya or any part thereof.

(3) No person shall be detained under the provisions of this section for a period exceeding twenty-four hours except with the authority of a police officer of or above the rank of Assistant Superintendent of Police or, subject as hereinafter provided, for a period of forty-eight hours in all.

(4) If an officer of or above the rank of Superintendent of Police is satisfied that the necessary enquiries cannot be completed within the period of forty-eight hours prescribed by sub-section (3) he may authorize the further detention of any person detained under the provisions of this section for an additional period not exceeding twenty-eight days.

(5) Any officer giving any authorization under sub-section (4) shall forthwith report the circumstances thereof to the Commissioner of Police; and where such authorization authorizes detention for any period exceeding fourteen days the Commissioner of Police shall forthwith report the circumstances thereof to the Minister.

(6) The powers conferred upon a police officer by subsections (1) and (2) may be exercised by any member of the security forces, by any person performing the duties of guard or watchman in a protected place, and by any other person generally authorized in that behalf by a Chief Police Officer.

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FINLAND

NOTE[1]

I. LEGISLATION

1. Decree No. 90, of 4 February 1960, on passports (*Suomen Asetuskokoelma*, hereinafter referred to as *AsK* [Official Gazette of Finland] No. 90/60) regulates the right of Finnish citizens to leave Finland and to return thereto.

For the purpose of travelling abroad a Finnish citizen is required to acquire a passport. In travelling to the other Nordic countries, that is to say, to Denmark, Iceland, Norway or Sweden, however, a passport is not required. A Finnish citizen always has the right to return to Finland. There are no requirements as to the type of travel document necessary as long as the Finnish nationality of the person concerned can be established.

All Finnish citizens, without distinction based on any of the grounds mentioned in article 2 of the Universal Declaration of Human Rights, have an enforceable right to receive a passport subject to certain exceptions mentioned in the decree.

A passport is to be denied to a person:

(1) Who may be expected to carry on abroad activities prejudicial to the security of Finland or injurious to the interests of the country;

(2) Who by taking advantage of his passport may on reasonable grounds be expected to carry out other criminal activities abroad;

(3) Who, being suspected of a crime or not having served a sentence or paid to the State a fine levied by a court, is wanted by the police;

(4) Who is under an injunction not to leave the country or in respect of whom an application for such an injunction has been filed;

(5) Who is under age and has not received the permission of his guardian;

(6) Who has reached the age of seventeen but not thirty and is liable to conscription for military service, unless he presents a certificate given by the military authorities to the effect that the conscription does not prevent the issuing of a passport.

Unless it is considered reasonable to decide otherwise, a passport may further be denied to a person:

(1) In respect of whom a reliable report of a crime has been made to the police or public prosecutor;

(2) Who is prosecuted for a crime;

(3) Who has been condemned for a crime but has not yet served his sentence;

(4) Who has been conditionally released from a prison.

When there is good reason, a passport may further be denied to a person under the age of eighteen or a person who is a vagrant or an alcoholic, or who is mentally ill or has been put under guardianship.

In all these cases in which the grant of a passport depends on the discretion of the proper authority, consideration is to be given to the question whether a passport is necessary for the applicant to enable him to practise his profession and to the question whether there is reason to believe that the applicant intends to travel abroad for the purpose of avoiding a penalty or the execution of a sentence.

If not otherwise provided, a Finnish citizen is permitted to leave Finland and to enter it only through places which have been determined for that purpose by the Ministry of the Interior.

2. Act No. 199, of 30 April 1960, on workers' annual holidays, as amended by Act No. 305, of 20 June 1960. (*AsK* No. 199/60 and No. 305/60), contains detailed provisions on granting annual holidays to workers with full pay.[2]

Since the beginning of 1920 workers in shops and offices have enjoyed holidays, graded according to the length of time they have been employed, from one week to one month. The Labour Agreement Act, of 1 June 1922, secured holiday rights for all other workers as well, but on a considerably smaller scale. Legal provisions relating to holidays were subsequently codified in the Annual Holidays Act of 21 April 1939, which improved the holiday rights of workers. A new Workers' Annual Holiday Act was enacted on 27 April 1946 repealing the Act of 1939.

Now it has been possible further to improve workers' social conditions and to lengthen their holidays. Therefore, the Act of 1946 has been replaced by

[1] Note prepared by Mr. Voitto Saario, Judge of the Court of Appeal, Helsinki, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Translation into English and French of Act No. 199 as amended by Act No. 305 have been published by the International Labour Office as *Legislative Series* 1960 — Fin.2.

the Act of 1960 mentioned above. This Act covers all persons whose relationship with their respective employers is that of a worker or an apprentice. It does not apply to business or other enterprises where only members of the employer's family are working or to such family members working on a farm or persons who receive their income solely in the form of dividends. There also remain outside of the Act seamen, whose holiday rights are laid down in special legislation.

According to the new Act, annual holidays are to be granted each calendar year at the rate of one day and a half for every month during which the worker has been working for the employer for not less than sixteen days, during a twelve-month period ending on 31 March. If the employment has lasted at least ten years, the length of the holiday is to be two days for each such month.

In general, annual holidays are to be granted in one single period. With certain exceptions concerning farming or other seasonal work, in which the granting of summer holidays would adversely affect the operation of the enterprise in question, the holidays are to be granted between 2 May and 30 September, unless the worker consents to some other time.

For each working day falling within his holiday a worker is to be accorded full pay and the holiday pay is to be given to him in advance of the holiday.

On termination of employment a worker who has been working for at least sixteen days is entitled to a holiday compensation in the shape of full pay for as many days as he would have been entitled to have a holiday. In stevedoring work in which employment is usually of such brief duration that under the general provisions a worker would not qualify for holiday compensation, the employer is to pay to the worker on termination of employment a holiday compensation of six per cent of his earnings, excluding overtime earnings.

A worker who is working at home and is in an employment relationship only with one employer is entitled to a holiday compensation of six per cent of his earnings.

Any agreement which would diminish the benefits granted to a worker in this Act is null and void. Any employer who breaks the provisions of this Act is to be fined.

3. Act No. 294, of 20 June 1960, on annual holidays in government offices and establishments (*AsK* No. 294/60) contains corresponding provisions concerning persons in the government service.

A government official who is a holder of a permanent office is entitled to an annual holiday of six working days if he has been in the government service for six months without interruption before the beginning of his holiday. If his service has lasted one year, the length of his holiday is to be twenty-six working days and, in the case a person has been in the government service for a total of fifteen years, the length of the holiday is to be thirty-six working days.

A person holding a temporary or casual government job is entitled to annual holidays corresponding to one and a half days for each full month he has been in the government service during a calendar year. If he has been working in the position without interruption for one year before the beginning of his holiday, the length of the holiday is to be eighteen working days. If his service has continued without interruption for five years or he has otherwise been in the government service for a total of ten years, the length of the holiday is to be twenty-six working days.

4. Act No. 270, of 3 June 1960, on extradition between Finland and the other Nordic countries (*AsK* No. 270/60) is based on legislative collaboration between the Nordic countries and, taking into account the close relationship between them in all fields, regulates extradition as between those countries. The Extradition Act of 11 February 1922 remains in force in other cases.

According to the new Act, a person sojourning in Finland who is suspected, accused or convicted of a crime in Denmark, Iceland, Norway or Sweden may, on request, be extradited from Finland to the respective State, and the extradition to Finland of a person sojourning in Denmark, Iceland, Norway or Sweden who is suspected, accused or convicted of a crime in Finland may be requested.

A Finnish citizen is not to be extradited for a political crime, or for a crime committed in Finland or on board a Finnish ship sailing on the high seas or on board a Finnish aircraft. Nor may a Finnish citizen be extradited unless he has permanently resided, at the time of the crime, at least for two years in the country to which extradition is requested or unless his act is, or must be deemed to be, a crime for which, if it were committed in corresponding circumstances in Finland, the penalty under Finnish law could be more severe than four years of hard labour.

A person who is not a Finnish citizen may be extradited for a political crime only if it or a corresponding act is punishable according to Finnish law. For an offence for which there cannot be inflicted a more severe penalty than a fine according to the law of the country to which extradition is requested, extradition is not to be granted.

Extradition for the execution of a sentence is permitted only when the request refers to a prison or hard labour sentence or a corresponding loss of liberty inflicted for a crime in the country to which extradition is requested. When extradition is requested for two or more crimes or sentences and extradition is granted for one of the crimes or sentences, it may be extended to include also an offence for which

there cannot be inflicted a more severe penalty than a fine according to the law of the country to which extradition is requested or for which a penalty of a fine has been inflicted in that country.

If a person has already been convicted in Finland of the crime for which extradition is requested, extradition may not be granted. A person sentenced in Finland to imprisonment or hard labour may not be extradited before he has fully undergone his penalty. Neither may a person be extradited if he is accused in Finland of a crime for which a penalty of imprisonment or hard labour for two years or more may be inflicted. Such a person may, however, be extradited, for trial only, provided that he is to be immediately returned thereafter.

As a condition for extradition it is further provided that the person extradited shall not be accused of or punished for crimes committed before extradition other than that for which he is extradited unless the Ministry of the Interior gives special permission or the person extradited consents or has not left the country within a month after having been finally acquitted or released from prison as fully having undergone his penalty or has returned to that country after once having left it. One more condition for extradition is that the person concerned may not be further extradited to a third State unless the Ministry of the Interior has given special permission. In each case other conditions deemed necessary may also be imposed.

After the presentation of a request for extradition, the proper police authority shall immediately perform an investigation into the matter. When it has been completed, the records of the investigation are to be sent to the Ministry of the Interior, in which the right to decide whether extradition shall be granted or not is vested. The decision of the Ministry cannot be appealed against.

If the person whose extradition is requested objects, extradition may not be granted unless the request is based on a sentence of a court of the State on behalf of which extradition is requested or on a decision of such a court disclosing that the court has found plausible reasons for suspecting him of the crime referred to in the request. When the request refers to several crimes and extradition is granted concerning one of them on the ground of the information presented of the plausibility of the person's guilt, extradition may also be granted concerning the other crimes although such information of them has not been presented.

If the request for extradition is not immediately rejected, and the person involved so demands, the Ministry of the Interior must, before making its decision, secure the opinion of the Supreme Court on the matter. If the Supreme Court considers that extradition would be unlawful, it may not be granted.

A person whose extradition is requested is entitled to have counsel at the police investigation. If he is unable to acquire counsel for himself, the proper police authority must, at his request, see to it that a qualified person assists him. The counsel may be paid from state funds.

In order to further the investigation and extradition, a police authority possessing the power of issuing a warrant of arrest may take the person concerned into custody until the Ministry of the Interior has made its decision, at the most for two weeks, and may perform a seizure or search even though the act for which extradition is requested would be a crime according to Finnish law only if committed in Finland.

If the Ministry of the Interior has asked for the opinion of the Supreme Court or if other circumstances so require, the Supreme Police Chief may prolong the period of custody to thirty days at the most.

The decision upon extradition must be carried into effect as soon as possible and not later than two weeks after it has been made. The Ministry of the Interior may order that the person concerned shall be kept in custody until the extradition takes place.

If a person is wanted by the police in one of the other Nordic countries for a crime for which extradition is possible, he may be taken into custody although the request for his extradition has not yet been received. A notice of this measure shall be immediately sent to the proper police authority or public prosecutor in the country where the person is wanted. If a request of extradition has not been received within two weeks of the notice, the person must be released.

The procedure is similar in cases where the extradition to Finland of a person sojourning in one of the other Nordic countries is requested. The request may be presented by a police authority or a public prosecutor possessing the power to issue a warrant of arrest. The case concerning the plausibility of the person's guilt must be brought before the proper court, which is to proceed to the trial without delay and pronounce its judgement on the basis of the evidence presented to it during the hearing. The decision of the court may not be appealed against. The court may, however, try the case again if new evidence becomes available. The decision of the court must be attached to the request for extradition.

5. Act No. 320, of 20 June 1960, on employment (*AsK* No. 320/60) deals with the right of everyone to work and to protection against unemployment.

As a general principle, it is laid down in this Act that the State shall secure full employment by measures of economic policy, promoting the creation of new opportunities for work. In order to bring about a balance in the labour market between demand and supply of labour, the State and the communes are expected to arrange to execute their works involving investment at times when unemployment

occurs. The State may also grant loans and subsidies for such works and arrange temporary vocational training courses.

When a person is able and willing to work, has reached seventeen years of age and is, for no fault of his or her own, unemployed, and cannot be given work through the state employment service, an endeavour must be made to offer the person an opportunity of working in the public works of the commune where he or she residing or in those of the State.

The administration of measures concerning employment policy is vested in the Ministry of Communications and Public Works. More detailed provisions on this matter are given in decree No. 321, of 20 June 1960, on employment (*AsK* No. 321/60).

6. Act No. 355, of 26 July 1960, on tuberculosis (*AsK* No. 355/60) deals with the right of everyone to medical care.

In order to strengthen the ability to resist tuberculosis, vaccinations are to be arranged as provided separately. Everyone is under an obligation, at the invitation of the Communal Board of Health, to appear at a medical inspection arranged in his place of residence to establish whether he has any symptoms of tuberculosis. Apart from this, everyone is entitled to such a medical inspection free at the Communal Tuberculosis Office.

A person suffering from tuberculosis or who on reasonable grounds can be suspected to be suffering must submit to a medical inspection and observe the safety measures ordered by a physician or a health authority. If such a person is considered to be dangerous to his neighbourhood and he fails to comply with orders and directions given to him in order to protect other people, he must submit to institutional care intended to prevent the spread of infection. Such a person may be placed in a sanatorium or other health resort even though it would otherwise not be necessary for the treatment of his disease.

A child who at home is in an evident danger of tubercular infection may, immediately after his birth, be placed in a special health resort for children and kept there without the consent of his guardian to the end of his first year if there is no other possibility of suitable isolation.

The treatment at a communal sanatorium or other health resort of a person suffering or suspected to be suffering from tuberculosis is free.

The fight against tuberculosis is directed and supervised by the Central Medical Board. In order to organize the fight, the country is divided into districts, where the communes are to take the necessary measures. Communes or groups of communes must maintain in each district a central sanatorium and a tuberculosis office. In addition, the communes may maintain other health resorts for the treatment of tuberculosis.

7. Government order No. 401, of 30 September 1960, on the Commission on Lappish Affairs (*AsK* No. 401/60) provides that, for the co-ordinated treatment of matters concerning the Lappish population in Finland, a commission shall be established operating under the supervision of the Ministry of Justice.

The commission is to consist of the governor of the Lapp county, as chairman, and six members appointed by the Council of State. One of the members shall represent the Ministry of Justice, one the Ministry of Education, one the Ministry of Agriculture and three the various organizations of the Lapps.

The Commission is to prepare and make suggestions to the Council of State concerning measures to be taken in order to promote the culture of Lapps and to improve their conditions of life. Furthermore, the Commission must follow the development of the economic conditions of the Lapps and the satisfaction of their cultural needs and make proposals concerning these questions to the proper ministries. Finally, the Commission is to give opinions to the Council of State, to the ministries and to the county government of the Lapp county on matters concerning the Lappish population.

8. Act No. 538, of 30 December 1960, on special children's allowances (*AsK* No. 538/60) takes into consideration children who are in special need of economic support. The ordinary children's allowance has been provided for by the Children's Allowances Act, of 22 July 1948, which remains in force.

According to the new Act, for a child under sixteen years of age and residing in Finland, to the securing of whose subsistence, care and education a special economic support is necessary, there shall be paid a special children's allowance. When such a child, after reaching the age of sixteen years, continues his attendance at school or his studies without getting at least an equal support from the State or other funds, the special children's allowance may be paid until the child reaches the age of twenty years.

The special children's allowance is paid in the following cases:

(1) For a child whose parents are dead;

(2) For a child of whose parents one is dead and the other is living as a widow or a widower or a divorcee;

(3) For a child born out of wedlock if the person who has been obliged to pay alimony is dead and has left no means for the fulfilment of his obligation or if it has not been possible to obtain alimony by agreement or by court decision;

(4) For a child whose parents are living on old-age relief.

The special children's allowance may also be paid when a child, because of a physical or mental defect

or disease or injury, is so helpless that he needs permanent surveillance and care.

In cases 1 to 4 enumerated above, a further condition for the payment of the special children's allowance is that the child or his parents are not levied communal taxes over a certain limit and the economic conditions of the family are otherwise not considered so good as to remove the justification for the payment of the allowance.

The special children's allowance is granted, on application, by the local Social Board, which also ensures that the allowance is used in a proper way. The general administration of the children's allowance system is vested in the Ministry for Social Affairs.

II. INTERNATIONAL AGREEMENTS

Act No. 76, of 4 February 1960, brings into force the Convention on the Prevention and Punishment of the Crime of Genocide, of 9 December 1948. When acceding to this convention, the Finnish Government made a reservation according to which the convention may not necessitate an amendment to article 47, paragraph 2, of the Constitution Act of Finland concerning the impeachment of the President of the republic.

FRANCE

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1960[1]

Nineteen hundred and sixty was not remarkable for any important legislation embodying substantial innovations.

The development of relations between France and its former colonies necessitated the enactment of legislation governing the retention of French nationality by persons born in those countries.

Despite the somewhat unfavourable political climate, efforts were continued unceasingly to reform the criminal law and prison regulations with a view to making them more humane.

In conclusion, particular attention will be drawn to the constitutional texts and contractual agreements which have profoundly altered the shape of the Community established between France, the Malagasy Republic and a number of the African republics.

I. CIVIL AND INDIVIDUAL RIGHTS

1. *Amnesty*

By a decree of 1 June 1960,[2] the application of the amnesty ordinance of 31 January 1959 and the Act of 31 July 1959, noted in the *Yearbook on Human Rights for 1959*, was extended to Algeria.

2. *Nationality*

By an Act of 28 July 1960,[3] the Nationality Code was amended in respect of persons domiciled in former overseas territories of the French Republic which have become independent by the addition of a title VII headed "On the recognition of French nationality". These persons and their descendants may have their French nationality recognized "by a simple declaration made before the judge who is competent for the place in which they establish their domicile within the territory of the French Republic." In addition to possessing French nationality before the treaties establishing the independence of these States, declarants must establish their domicile within French territory.

With regard to the refusal of an application for naturalization, the Conseil d'Etat has drawn attention to the provisions of article 106 of the Nationality Code which guarantees respect for the right of defence in the following terms: "If the government refuses the acquisition of French nationality, its decision shall be embodied in a decree, provided that the approval of the Conseil d'Etat has first been obtained. The declarant, after receiving due notice of the refusal, shall have the right to produce documents and written statements." In a decision of 2 December 1960,[4] the Conseil d'Etat specified that the applicant should be notified of all the facts laid to his charge or alleged against him in order to enable him to present his case in reply to the grounds on which refusal is based.

3. *Equality of Access to Public Employment*

The *Conseil d'Etat* has reaffirmed that no candidate for the public service may be rejected on explicit or implicit grounds connected with his political opinions.[5] Similarly, no public servant may be dismissed on grounds relating to his trade union activities or political opinions.[6]

It will be noted that in these decisions the Conseil d'Etat accepted as sufficient proof of the plaintiff's allegations the fact that the Minister refused to state any grounds based on discipline or on the interests of the service in justification of the dismissal. This considerable relaxation of the rules regarding the burden of proof is a valuable contribution to the safeguard of individual freedoms.

Equality between men and women as regards access to public employment and promotion in the civil service was also reaffirmed.[7] In the absence of any grounds inherent in the nature or the conditions of exercise of posts in the public service "no distinction must be made between the sexes as regards the evaluation of the individual aptitudes of the persons applying for a promotion". Also where there are no such grounds, the staff regulations for municipal

[1] Note prepared by M. E. Dufour, Maitre des requêtes of the Conseil d'Etat, Paris, appointed by the French Government as correspondent to the *Yearbook on Human Rights*.

[2] Decree 60–532, *Journal officiel*, June 1960, p. 5071.

[3] Act 60–752, *Journal officiel*, July 1960, p. 7040.

[4] Rubin decision, 2 December 1960, *Recueil des décisions du Conseil d'Etat*, 1960, p. 261, Sirey.

[5] Two Serra decisions, and Prime Minister *v.* Vicat-Blanc, 21 December 1960, *Recueil des décisions du Conseil d'Etat*, 1960, table p. 1022, Sirey.

[6] Rioux decision, 2 October 1960, *Recueil des décisions du Conseil d'Etat*, 1960, p. 558, Sirey.

[7] Dame Legrand decision, 22 April 1960, *Recueil des décisions du Conseil d'Etat*, 1960, p. 261, Sirey.

employees cannot legally contain a clause prohibiting married women from remaining in a municipal post.[1]

4. *Adoption*

An Act of 21 December 1960[2] gave greater flexibility to the conditions laid down for adoptions under art. 334 of the Civil Code. The minimum age of the adopting parent has been reduced from 40 to 35 years. When two spouses wish to adopt jointly, it is sufficient that one of them should be 30 years of age (instead of 35) and that they have been married to each other for 8 years (instead of 15).

5. *Prostitution*

After the ratification by France of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, adopted on 2 December 1949 by the United Nations General Assembly, an Act of 30 July 1960[3] authorized the Government to take all the necessary measures to put the convention into effect as well as to discourage homosexuality.

Although earlier French legislation was, generally speaking, in conformity with the principles of the convention, yet it was necessary to harmonize certain provisions with its terms. Two texts came into force on 25 November 1960. The first,[4] designed to discourage procuring, strengthened the measures and penalties against procurers and those who protect or facilitate their activities. Apart from increased penalties of imprisonment, fines and local banishment, judges can also order the closing of establishments and the withdrawal of passports and driving licences. The new text supplements article 334 of the Penal Code, establishing two new categories which will permit the prosecution of: 1. "persons who habitually consort with one or more persons engaged in prostitution and are unable to account legitimately for their scale of living"; and 2. "persons who through threats, pressure, guile or any other means, impede the work of prevention, inspection, assistance or rehabilitation by qualified bodies on behalf of persons engaged in prostitution or in danger of prostitution". This second category is designed to protect prostitutes wishing to escape from their way of life.

The second text,[5] in order to comply with the Convention, abolishes the sanitary and social records of prostitution which, contrary to article 6 of the convention, maintained in an attenuated form the principle of the registration of prostitutes. The Public Health Code (book III, title II, chapter I) has therefore been amended, but still provides for the compulsory treatment of venereal diseases, their compulsory declaration by the physician (as a rule anonymously, but also giving the name if the patient refuses treatment or constitutes a serious risk of contagion), and the compulsory hospitalization of patients where necessary. On the other hand, measures to facilitiate the social rehabilitation of prostitutes have been strengthened, in particular the provisions for placement in public or private rehabilitation institutions.

6. *The Penal Code and Code of Penal Procedure*

In these matters 1960 was noteworthy for the *simplification of the scale of criminal penalties*, brought about by an ordinance of 4 June 1960.[6]

Firstly, in political matters, for all attacks on the security of the State which are classed as crimes, *criminal detention*, only the duration of which may vary, has been substituted for the former penalties of deportation to a fortified enclosure, ordinary deportation and detention. Secondly, in the scale of penalties under ordinary law, the penalty of *criminal imprisonment* for life or for a specified term has replaced the penalties of forced labour for life or for a specified term, and imprisonment.

This reform may be regarded as the logical outcome of the abolition of the overseas forced labour penal colonies; however, it is also designed to facilitate the organization of prisons and the individual adaptation of prison sentences, the only differences remaining being those relating to the length of the term imposed.

The new wording of articles 7, 8, 18, 19 and 463 of the Penal Code is itself designed to help the judge to adapt his sentence to the prisoner's individual circumstances. Sentences of imprisonment and criminal detention for a specified term run, according to the cases specified by the law, from 10 to 20 years and from 5 to 10 years. Further, under the new article 463, a judge who accepts mitigating circumstances on the prisoner's behalf is given a great deal of latitude in choosing from the scale of penalties, as the actual wording of the article shows:

"Article 463. The penalties which may be imposed by law on a convicted person with respect to whom mitigating circumstances have been declared to exist, may be reduced, according to the scale of penalties laid down in articles 7, 8, 18 and 19, to 3 years' imprisonment if the crime is punishable by death, to 2 years' imprisonment if the crime is punishable by a life sentence, and to 1 year's imprisonment in other cases."

Other provisions, contained *inter alia* in the decrees of 24 August 1960,[7] amend the *rules regarding the execution of penalties*, generally in the direction of greater flexibility.

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[1] City of Strasbourg decision, 11 March 1960, *Recueil des décisions du Conseil d'Etat*, 1960, p. 194, Sirey.

[2] Act 60–1370, *Journal officiel*, December 1960, p. 11561.

[3] Act 60–773, *Journal officiel*, August 1960, p. 7130.

[4] Ordinance 60–1245, *Journal officiel*, November 1960, p. 10603.

[5] Ordinance 60–1246, *Journal officiel*, November 1960, p. 10606.

[6] Ordinance 60–529, *Journal officiel*, June 1960, p. 5107.

[7] Decrees 60–896, 897 and 898, *Journal officiel*, August 1960, pp. 7889 *et. seq.*

Thus, the *placement of prisoners in outside work* is authorized "where not more than 5 years of the sentence remains to run" (instead of 3 years), which permits the use of outside work before the prisoner is admitted to semi-liberty or conditionally released [art. D 128 of the Penal Code].

Admission to *semi-liberty* is now possible not only for the purpose of acquiring vocational training (manual) but also for educational courses necessary for rehabilitation [art. D 136 of the Penal Code].

The relaxations which mark the so-called "political" penal system have been re-grouped in articles D 492 to 496 of the Penal Code as amended by one of the decrees of 24 August 1960. The privileges provided in these texts apply automatically to persons sentenced to criminal detention (political). They may also be granted wholly or partly on the decision of the Minister of Justice to a prisoner under the ordinary law regardless of his prison status. These privileges include dispensation from prison work, permission for the prisoner or detainee to have previously approved books and newspapers delivered to him at his own expense from outside, and wherever possible, the separation of detainees from prisoners in other categories and their placement in a cell or a room of their own.

The *Yearbook on Human Rights for 1958* (p. 73) drew attention to the introduction into the Code of Penal Procedure of the so-called probation system, or "sursis avec mise à l'épreuve", in other words the suspension of the principal penalty of imprisonment in the case of first offenders, subject to certain measures of supervision and assistance. It is of interest to note that judges have made considerable use of the course thus opened to them, which may be regarded as a means of treating delinquency "in the open". The number of sentences of probation has risen from 881 to 2,156 a year. Only 115 probation orders were withdrawn in 1960. The sentences were often given after consultation between the "juge de l'application des peines" [judge responsible for the enforcement of penalties] and his colleagues, thus confirming the increasingly important place occupied by this judge in the French judiciary system. A special effort was also made in 1960 to place a specialized magistrate in each of a number of courts. By the end of 1960, 70 of the 112 posts had been filled. All of them will be occupied in the course of 1961.

Parallel with this, attention should be drawn to the satisfactory operation of the system of conditional release and the activities of committees for post-prison welfare. An increase of 22 per cent over 1959 in the number of cases dealt with shows how far this liberal institution developed in 1960.

7. *Committee for the Protection of Individual Rights and Freedoms*

Set up in 1958 (see *Yearbook on Human Rights for 1958*, p. 72, and *1959*, p. 115), the committee for the protection of individual rights and freedoms has effectively expanded its activities. Many missions and a great many reports have demonstrated its capabilities. Several hundred individual cases have been brought before it and examined. On a more general level, it has helped in the reorganization of the military tribunals in Algeria, with a view to ensuring the presence in all cases of the jurisdictional guarantees necessary for the trial of persons accused of participating in the revolt.

II. SOCIAL RIGHTS

1. The association of workers with the productivity of enterprises was the subject of a decree of 21 May 1960[1] enacted in application of the ordinance of 7 January 1959 (see *Yearbook on Human Rights for 1959*, p. 114). According to this text, the share in productivity which is to be the object of association contracts "1. Should be that resulting from the distribution among the entire personnel of an enterprise of a global sum determined according to the increase in the enterprise's productivity.

"In cases in which it is impossible to calculate the sum referred to above for a particular enterprise, the global sum may be determined according to the partial productivity figures for sectors of activity.

"When an enterprise possesses several separate establishments or workshops, it may introduce a collective bonus per establishment or workshop.

"2. Productivity may be measured by the volume of output as related to one, to several, or to all the factors making up the cost of production. The two terms of this relationship may be expressed either in physical units or in constant prices.

"In cases where the contract provides for participation on the basis of one or several of the factors of the cost of production, the factor or factors must constitute a sufficiently large proportion of the cost of production.

"3. The increase in productivity is estimated on the basis of a reference period which must be defined in the contract.

"4. The contract must define in explicit terms the relationship between the increase in productivity and the global sum to be divided among the personnel of the enterprise."

Attention is drawn to the enactment, in application of the Act of 31 July 1959 on *social training schemes* (see *Yearbook on Human Rights for 1959*, p. 117), of a decree on 29 February 1960[2] adapting the measures provided to the special circumstances of agricultural workers and their families.

[1] Decree 60-475, *Journal officiel*, May 1960, p. 4708.

[2] Decree 60-188, *Journal officiel*, March 1960, p. 2068.

2. *Housing*

Measures for the protection of the individual and the family have been augmented by the addition of measures to help solve the housing shortage in large cities, which bears most hardly upon the less privileged sections of the community. Extending earlier efforts, the Act of 17 December 1960[1] sets up "housing exchanges", public establishments intended to centralize offers of and requests for housing and to facilitate transactions.

III. THE COMMUNITY

1. *Constitutional Provisions and Contractual Agreements*

Title XII of the Constitution of 4 October 1958, which concerns the functioning of the institutions of the "Community", has been the object of amendments designed to make the relationship between the States of the Community more flexible.[2] Thus, the stipulations governing it can be revised by agreements concluded between all the States of the Community. Also, independent States or States which become independent may adhere to the Community or remain part of it, according to conditions laid down by agreement between the States of the Community.

In application of these new provisions there have been various bilateral or multilateral agreements marking the transformation of the Community into a free association of independent States.

These agreements relate in the main to the transfer of powers in matters of foreign policy, defence, currency, economic and financial policy etc. to the Malagasy Republic,[3] to the Republic of Senegal and the Sudanese Republic, forming part of the Federation of Mali,[4] to the Central African Republic,[5] to the Republic of the Congo,[6] to the Republic of Chad,[7] to the Republic of Gabon,[8] to the Republics of the Ivory Coast, Dahomey, Upper Volta and Niger,[9] and to the Islamic Republic of Mauritania.[10]

At the same time as these transfers of powers Parliament had occasion to approve various agreements on co-operation defining the relationships within the Community of various African States which are now independent and the Malagasy Republic.[11]

An Act of 18 July 1960[12] approves in particular the agreements signed jointly by the French Republic, the Federation of Mali and the Malagasy Republic, entitled: "1. Convention on conciliation and arbitration; 2. Multilateral agreement on the fundamental rights of nationals of the States of the Community."[13]

IV. INTERNATIONAL CONVENTIONS

The following were published during 1960:

The Franco-Italian Cultural Convention of 4 November 1949 and annex No. 1 to that convention, signed on 14 February 1956.[14]

The European Agreement on Regulations governing the Movement of Persons between Member States of the Council of Europe, signed on 13 December 1957.[15]

The Franco-Belgian Convention on the Pensions of Civilian War Victims, signed on 21 September 1958.[16]

The Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, adopted by the United Nations General Assembly on 2 December 1949.[17]

The Convention on the Status of Stateless Persons, opened for signature in New York on 28 September 1954.[18]

The Convention on the Recovery Abroad of Maintenance, signed on 20 June 1956.[19]

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[1] Act 60–1354, *Journal officiel*, December 1960, p. 11371.

[2] Constitutional Act 60–525, *Journal officiel*, June 1960, p. 5103.

[3] Decree 60–627, *Journal officiel*, July 1960, p. 5968.

[4] Decree 60–628, *Journal officiel*, July 1960, p. 5969.

[5] Decree 60–756, *Journal officiel*, July 1960, p. 7041.

[6] *Ibid.*

[7] *Ibid.*

[8] Decree 60–757, *Journal officiel*, July 1960, p. 7047.

[9] Decree 60–758, *Journal officiel*, July 1960, p. 7049.

[10] Act 60–1199, *Journal officiel*, November 1960, p. 10252.

[11] Acts 60–681 and 682, *Journal officiel*, July 1960, p. 6575; Acts 60–733, 734 and 735, *Journal officiel*, July 1960, p. 6992; Acts 60–1225 and 1226, *Journal officiel*, November 1960, p. 10427.

[12] Act 60–683, *Journal officiel*, July 1960, p. 6575.

[13] See pp. 435–36.

[14] Decree 60–1116, *Journal officiel*, October 1960, p. 9557.

[15] Decree 60–469, *Journal officiel*, May 1960, p. 4617.

[16] Decree 60–1222, *Journal officiel*, November 1960, p. 10396.

[17] Decree 60–0251, *Journal officiel*, November 1960, p. 10619.

[18] Decree 60–1066, *Journal officiel*, October 1960, p. 9063.

[19] Decree 60–1082, *Journal officiel*, October 1960, p. 9311.

GABON

CONSTITUTION OF THE GABON REPUBLIC of 14 November 1960[1]

PREAMBLE

The people of Gabon, aware of their responsibility before God, inspired by the will to safeguard their national independence and unity and to organize community life in accordance with the principles of social justice, solemnly reaffirm the rights and freedoms of man defined in 1789 and enshrined in the Universal Declaration of Human Rights of 1948.

In pursuance of those principles and of the principle of the self-determination of peoples, the people of Gabon hereby adopt the present constitution.

INTRODUCTORY TITLE

Art. 1. The people of Gabon also proclaim their devotion to the following principles:

1. Everyone shall have the right freely to develop his personality within the framework of respect for the rights of others and for public order.

2. Freedom of conscience and the free practice of religion shall be guaranteed to all, subject only to the requirements of public order.

3. The secrecy of correspondence and of postal, telegraphic and telephonic communications shall be inviolable. No limitation on such inviolability may be ordered except in application of the law.

4. Everyone shall have the duty to work and the right to obtain employment. No one may be made to suffer in his work on account of his sex, origin, faith or opinions.

5. Within the limits of its possibilities the State shall guarantee to all, and in particular to children, mothers and old workers, health protection, material security, rest and leisure.

6. Everybody shall be entitled to own property, both individually and collectively.

Nobody may be arbitrarily deprived of his property except on legally established grounds of public necessity and against prior payment of fair compensation.

7. *Inviolability of the home:* The home shall be inviolable. No search may be ordered except by a judge or by the other authorities appointed by the law. Searches may be conducted only in the form prescribed by the law. Measures that would jeopardize or restrict the inviolability of the home may be taken only in order to guard against collective perils or to protect persons in danger of death. Such measures may also be taken, in accordance with the law, to safeguard public order in the face of imminent threats, especially to combat the risk of epidemics or to protect young people in danger.

8. The right to form associations or societies, social institutions or religious communities shall be guaranteed to all, under the conditions established by law.

Religious communities shall regulate and administer their affairs independently, provided they respect the principles of national sovereignty and public order.

Associations and societies having aims or activities which are contrary to the penal laws and to good understanding between the ethnic groups shall be prohibited.

Any act of racial, ethnic or religious discrimination, and any regionalist propaganda of a nature to jeopardize the internal security of the State or the territorial integrity of the Republic, shall be punished by law.

9. Marriage and the family form the natural basis of society. They shall be placed under the special protection of the State.

10. The care and education of children are, for the parents, a natural right and a duty which they shall exercise under the supervision and with the assistance of the State and the community.

Parents shall have the right, within the framework of compulsory education, to decide on the education of their children.

Children born out of wedlock shall have the same rights as legitimate children in respect both to assistance and to their physical, intellectual and moral development.

11. The protection of young people against exploitation and against moral, intellectual and physical neglect shall be an obligation for the State and the community.

12. The State shall guarantee equal access for children and adults to education, vocational training and culture.

[1] Promulgated by Constitutional Act No. 68/60 of 14 November 1960 and published in the *Journal officiel de la République gabonaise*, second year, No. 29, of 25 November 1960.

It shall be the duty of the State to provide free public education at all levels, on a basis of religious neutrality.

The right to found private schools shall be guaranteed to any person, religious community or legally constituted association agreeing to submit to the pedagogical control of the State and to the laws in force.

The conditions for the participation of the State and the community in the financial costs of private educational establishments recognized by the State as being of public utility shall be determined by law.

In public educational establishments, religious instruction may be given to the pupils at the request of their parents under the conditions set out in the relevant regulations.

13. The nation proclaims the solidarity and equality of all in the matter of expenses resulting from national calamities.

Everyone shall contribute to the public expenses in proportion to his resources.

Title I

THE REPUBLIC AND SOVEREIGNTY

Art. 2. Gabon is an indivisible, democratic and social republic. It proclaims the separation of religions and State.

The Gabon Republic shall ensure equality before the law for all citizens without distinction as to origin, race or religion. It shall respect all creeds.

. . .

Art. 3. Sovereignty shall be vested in the people, who shall exercise it through elections and by way of referendum in the cases provided for in the Constitution and by organs vested with legislative, executive and judicial powers.

No section of the people and no individual may assume the exercise of sovereignty.

Suffrage shall be universal, equal and secret. It may be direct or indirect in the conditions prescribed by the Constitution or the law.

All nationals of Gabon, of either sex, who have attained the age of twenty-one and are in full possession of their civil and political rights shall be entitled to vote, under the conditions determined by law.

In certain specific instances defined by the law, that age may be reduced to eighteen years.

Art. 4. The political parties and groups shall assist in the exercise of the franchise. They may be formed and engage in their activities freely within the framework determined by the laws and regulations. They shall respect democratic principles, the sovereignty of the nation and public order.

. . .

Title II

THE PRESIDENT OF THE REPUBLIC

. . .

Art. 7. The President of the Republic shall be elected by an electoral college consisting of the members of the National Assembly and the elected members of the territorial communities provided for in title XI hereinafter.

. . .

Art. 8. . . .

The office of President of the Republic shall be incompatible with any other public or private office.

Only nationals of Gabon of at least forty years of age and in full possession of their civil and political rights shall be eligible for election as President of the Republic.

. . .

Title III

THE NATIONAL ASSEMBLY

Art. 21. The parliament of the Gabon Republic shall comprise a single chamber which shall be called the National Assembly and which shall exercise legislative authority.

Art. 22. The National Assembly shall be composed of deputies elected by direct suffrage for a term of five years.

Art. 23. . . .

No one may be prevented from being legally vested with a parliamentary mandate.

. . .

Art. 25. A compulsory mandate shall be null and void.

. . .

Title IV

THE GOVERNMENT

Art. 32. The Government shall consist of the Prime Minister, the ministers and the secretaries of state. The number of ministers and secretaries of state, as also their remuneration, shall be determined by law.

Members of the government must be at least twenty-five years of age and in full possession of their civil and political rights.

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Title VI

INTERNATIONAL TREATIES AND AGREEMENTS

. . .

Art. 60. If the Supreme Court decides that an internationally binding instrument submitted to it by the President of the Republic or the President of the National Assembly includes a provision that is contrary to the Constitution, authorization to ratify or approve such instrument may not be given without an amendment of the Constitution.

Art. 61. Treaties and agreements which have been duly ratified or approved shall from the moment of their publication take precedence over the law, provided that such treaty or agreement is applied by the other party.

Title VII

THE JUDICIARY

. . .

Art. 63. The judiciary shall be independent. In the exercise of their office judges shall be subject only to the authority of the law.

Judges of the bench shall remain in office for life under the conditions determined by the law.

. . .

Art. 65. No one may be detained arbitrarily. Every accused person shall be presumed innocent until his guilt has been established by a procedure affording him the necessary guarantees for his defence.

The judiciary, which is the guardian of the freedom of the individual, shall ensure respect for these principles in the conditions laid down in the law.

Title VIII

THE SUPREME COURT

. . .

Art. 67. The Supreme Court shall rule upon the following matters:

1. The conformity to the Constitution of laws and regulations passed by the National Assembly, when it is requested to do so by the President of the Republic or the President of the National Assembly.

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Art. 68. . . .

A provision declared unconstitutional may not be promulgated or put into effect.

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Art. 70. . . .

Membership of the Supreme Court shall be incompatible with membership of the Parliament or Government. Other cases of incompatibility shall be determined by the law.

. . .

Title XIV

AMENDMENT

. . .

Art. 80. . . .

The republican and democratic form of the State may not be subject to amendment.

. . .

Title XV

TRANSITIONAL PROVISIONS

. . .

Art. 83. The laws and administrative regulations at present in force shall, if not contrary to the provisions of this constitution, remain in effect until amended or rescinded.

Art. 84. This constitution, which repeals the constitution of 19 February 1959, shall be enacted as a law of the State and shall be published in the *Journal officiel.*

ACT No. 84/59 OF 5 JANUARY 1960 CONCERNING THE FREEDOM OF THE PRESS AND FREEDOM OF OPINION[1]

Chapter I

PRINTING AND BOOKSELLING

Art. 1. The printing and publication of writings, drawings, etc., shall be free.

For the purposes of this article, the reproduction of writings, drawing, etc., by duplicating machines, regardless of the method of reproduction employed, shall be deemed to be printing.

Art. 2. With the exception of jobbing work, such as visiting cards, announcements and invitation cards concerning private relationships, every published writing shall bear the name and address of the printer, or of one of the printers if there are several, failing which the printer shall be liable to a fine of not less than 5,000 or more than 50,000 francs.

The distribution of written material not bearing such information is prohibited and any violation of the prohibition shall be punishable by the aforementioned penalty.

A penalty of not less than 1 or more than 6 months' imprisonment may be imposed if the printer or the distributor has been convicted of a similar offence during the preceding twelve months.

Chapter II

THE PERIODICAL PRESS

Section 1. *Right of Publication, Director of Publication, Declaration and Deposit*

Art. 3. Any newspaper or periodical may be published without previous authorization and without the deposit of security after due declaration has been made in accordance with article 5.

Art. 4. Every newspaper or periodical shall have a director of publication.

[1] Text published in the *Journal officiel de la République Gabonaise*, second year, No. 3, of 1 February 1960.

If the director of publication has parliamentary immunity, in accordance with article 8 of the Constitution, he must appoint a co-director of publication selected from among persons not having such immunity and, if the newspaper or periodical is published by a company or an association, from among the board of directors or the management, according to the type of company or association publishing the newspaper or periodical.

The co-director of publication must be appointed within one month from the date on which the director of publication is vested with the immunity referred to in the preceding paragraph.

The director of publication and, where applicable, the co-director of publication must be of full age and in possession of his civil rights, and must not have been deprived of his civic rights by a judicial sentence.

All the legal obligations imposed by this Act on the director of publication and the penalties laid down in cases of violation shall be applicable to the co-director of publication.

Art. 5. Before the publication of a newspaper or periodical, the director of publication shall lodge with the Public Prosecutor's Office and the Ministry of the Interior a declaration, written on stamped paper and signed by his own hand, giving the following particulars:

1. The title of the newspaper or periodical and its mode of publication;

2. The name and address of the director of publication and, in the case provided for in article 4, second paragraph, of the co-director of publication;

3. The name of the printer, or in the case of means of reproduction deemed to be printing, of the person in possession of the reproduction machine.

Any change in the above particulars must be declared within five days.

A receipt shall be given for the declaration.

Art. 6. Violation of the provisions of articles 4 and 5 shall render the owner and the director of publication, or in the case provided for in article 4, second paragraph, the co-director of publication, liable to a fine of not less than 10,000 or more than 100,000 francs.

In default of the owner or director or co-director of publication, the penalty shall be applicable to the printer or the person in possession of the reproduction machine.

A newspaper or periodical may not continue publication until the prescribed formalities have been complied with, failing which unlawfully published copies shall be liable to seizure by decision of the Minister of the Interior, and the persons designated above shall be jointly liable to a fine of 100 francs for each number seized.

Art. 7. On pain of imprisonment for not less than 3 months or more than 1 year and a fine of not less than 10,000 or more than 100,000 francs, the director of publication shall, twelve hours before publication, deposit two copies signed by him of each number or instalment of the newspaper or periodical:

1. In the case of Libreville, at the Ministry of the Interior;

2. In the case of other towns, at the Public Prosecutor's Office or the section of the court of the first instance or, failing these, at the Town Hall or Central Administrative Office of the circonscription.

Art. 8. The name of the director of publication and the number of copies printed shall be printed at the foot of all copies, failing which the printer shall be liable to a fine of 1,000 francs for each number published in violation of this provision.

Section 2. *Corrections*

Art. 9. The director of publication shall be bound to insert free of charge at the head of the next succeeding number of the newspaper or periodical or, in the case of a daily publication, at the latest within three days of their receipt, any corrections communicated to him by a public official with regard to acts, carried out in exercise of his office, which have been incorrectly reported by the said publication.

Such corrections may not, however, be more than double the length of the article to which they refer.

Art. 10. The director of publication shall also be bound to insert free of charge and in the same conditions as those laid down in article 9, first paragraph, the reply of any person named or designated in the newspaper or periodical.

A reply shall be inserted in the same place and in the same type as the article which gave rise to it and without any alteration.

Excluding the address, salutations, covering note and signature, the reply shall be limited to the length of the article which gave rise to it. It may, however, be fifty lines long, even if the article was shorter, and may 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 fresh journalistic comment.

Art. 11. If the regular edition in which the reply was to be published is replaced by a special edition, the corrections or the reply shall be published in the special edition and also in the succeeding number of the newspaper or periodical.

Art. 12. Violations of the provisions of articles 9, 10 and 11 shall be punishable by a fine of 10,000 francs, without prejudice to other penalties or payment of damages to which they may give rise.

Actions for refusal to insert a reply shall be decided by the court within ten days of the issue of the summons but, in the case of insertion only, the decision shall take effect immediately, notwithstanding objection or appeal. If an appeal is entered, judgement shall be given within ten days after it is lodged with the clerk of the court.

During an electoral period, the time-limit for insertion in daily publications prescribed in article 10 shall be reduced to twenty-four hours. The reply must be handed in not less than six hours before the printing of the publication.

As soon as the electoral period begins, the director of publication shall be required to notify the Public Prosecutor's Office of the hour at which his newspaper is to be published during this period. The time-limit for a summons on the charge of refusal to insert a reply shall be reduced to twenty-four hours and the summons may even, by special order of the president of the tribunal, be served without notice. Judgement ordering insertion shall take effect immediately, 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.

Chapter III

BILLPOSTING, HAWKING AND SALE ON PUBLIC THOROUGHFARES

Section 1. *Billposting*

Art. 13. The mayor or, in centres where such an office does not exist, the chief of the circonscription, shall designate by order the places to be used exclusively for posting official notices.

It shall be unlawful to post private notices in such places.

Official notices, and these alone, shall be printed on white paper.

Similarly, electoral notices may be posted only at places designated by the mayor or the chief of the circonscription.

Violations of the provisions of this article and repetition of the offence within a period of twelve months shall be punishable by the penalties prescribed in article 2.

Art. 14. Persons removing, mutilating or covering official notices or electoral notices in places reserved for that purpose or otherwise damaging them in such a way as to deface them or render them illegible shall be liable to imprisonment for not less than 15 days or more than 3 months and to a fine of not less than 1,000 or more than 10,000 francs.

If this act is committed by an official or public servant, the penalty shall be imprisonment for not less than 1 month or more than 6 months and a fine of not less than 2,000 or more than 20,000 francs.

Section 2. *Hawking and Sale on Public Thoroughfares*

Art. 15. Persons intending to engage in the occupation of hawking or distributing on public thoroughfares, or in any other public or private place, books, writings, pamphlets, newspapers, drawings, pictures, prints and photographs shall be required to submit a declaration to that effect to the Ministry of the Interior, the central administrative office of the circonscription or the town hall, depending on whether the hawking or distributing is to be undertaken in the territory of the republic as a whole, in the circonscription or in the commune.

The declaration shall state the surname, given names, profession, domicile, age and birthplace of the signatory, and the limits within which the hawking or distributing is to take place.

A receipt for the declaration shall be issued to the person making it.

Art. 16. Any person engaging without prior declaration in the occupation of hawking or distributing, making a false declaration, or failing to produce the receipt on demand shall be liable to a fine of not less than 1,000 or more than 10,000 francs and may in addition be sentenced to a term of imprisonment of not less than 15 days or more than 3 months.

. . .

Chapter IV

SUBVERSIVE PROPAGANDA

Section 1. *Subversive Propaganda in Public Places and in Public Meetings*

Art. 18. All opinions may be freely expressed provided that they are not likely to lead to a breach of the peace or to disturb law and order.

Art. 19. Any person who asperses the institutions of the republic or the persons representing them shall be liable to prosecution for breach of the peace and shall be punishable by imprisonment for not less than 6 months or more than 1 year and a fine of not less than 1,000 or more than 10,000 francs or either of these two penalties.

Art. 20. Any person who, in any circumstances, in public meetings or public places, by written or oral propaganda,

(*a*) Provokes disunity among citizens,

(*b*) Spreads confusion in the minds of citizens for the purpose of impairing the credit of the State,

(*c*) By means of the written or the spoken word impairs the prestige of the institutions of the Republic, shall be liable to prosecution for breach of the peace and shall be punishable by imprisonment for not less than 6 months or more than 5 years and a fine of not less than 1,000 or more than 50,000 francs.

Art. 21. For the purposes of this Act:

A meeting to which any citizen has free access, even if it is held in a private and closed place, or

a meeting which is held on a public thoroughfare or in a public place, even if it concerns only one category of citizens, shall be deemed to be a public meeting.

Any place habitually and unconditionally open for the use of the general public in conformity with local customs, whether the place be closed or not, as well as any private property not enclosed and bordering on a public thoroughfare, shall be deemed to be a public place.

Any propaganda reaching the public by means of electro-magnetic or radio-electric transmission or reproduction, whatever the place of emission, shall be deemed to be propaganda in a public place.

Means of written or oral dissemination shall comprise: the direct emission of words, whether amplified or not by suitable apparatus; the reproduction of recorded words, whatever the recording technique used; the luminous projection of images or photographs, whether animated or not, accompanied by a spoken text or oral commentary.

Means of written or oral dissemination shall also comprise: the hawking, distribution, exhibition or sale of writings, whatever their designation, photographs, pictures or drawings, whether accompanied by a caption or sufficiently evocative in themselves; the luminous projection of isolated texts, images or photographs, whether animated or not, accompanied by a silent text or sufficiently evocative in themselves.

Section 2. *Prohibition of Subversive Writings*

Art. 22. The possession and dissemination in the territory of the Gabon Republic of newspapers, periodicals or other writings, whether in French, the vernacular or a foreign language, whether printed within or outside the Territory of the Gabon Republic, may be prohibited by a decision of the Minister of the Interior, the grounds for such decision being stated when the facts, allegations or proposals set forth in such newspapers or writings are considered likely to disturb the peace or law and order within the terms of article 20 of this law.

Any persons knowingly disseminating or reproducing prohibited newspapers or writings shall be liable to imprisonment for not less than 3 months or more than 1 year and a fine of not less than 500 or more than 100,000 francs.

The re-publication under a different title of a prohibited newspaper or writing shall be punishable by the like penalties.

Art. 23. Any person who, knowing that acts within the terms of articles 19, 20 and 22 have been committed, does not bring them to the attention of the public authorities, shall be liable to prosecution as an accessory and shall be liable to a fine of not less than 1,000 or more than 10,000 francs.

Art. 24. Any person who, having received subversive writings, photographs, pictures or drawings, does not place them in the hands of the public authorities, shall also be liable to prosecution as an accessory and to the like penalty.

Art. 25. If it is found necessary to apply to offenders or accessories one of the more serious penalties prescribed in article 8 of Act No. 54/59 of 12 November 1959 concerning the strengthening of the maintenance of law and order, the public prosecution instituted in conformity with articles 19, 20, 22, 23 and 24 of this Act may, at the request of the Minister of the Interior, be suspended at any stage in the proceedings, provided that any period during which proceedings are suspended shall not be taken into account in reckoning the period of prescription.

Chapter V

CRIMES AND OFFENCES COMMITTED THROUGH THE PRESS OR ANY OTHER MEDIUM OF PUBLICATION

Section 1. *Incitement to Crimes and Offences*

Art. 26. Any person who by written or spoken propaganda, regardless of the means of dissemination used, or by cries or threats, in public meetings or public places incites a person or persons to commit an act constituting a crime or an offence, whether the crime or offence is against persons, public or private or movable or immovable property, or the internal or external security of the State, shall, if such incitement is followed by an overt or attempted act, be liable to penalty as accessory thereto.

If the incitement is not followed by an overt or attempted act, the penalty shall be imprisonment for not less than 6 months or more than 5 years and a fine of not less than 5,000 or more than 500,000 francs.

Art. 27. Any incitement by the same means and under the same conditions as those described above addressed to serving members of internal security, military, naval or air forces with the object of seducing them from their duty and from the obedience which they owe their superior officers in all commands relating to the execution of laws, regulations, requisitions and orders issued by the public authorities, or to the execution of military regulations, shall be punishable by imprisonment for not less than 1 or more than 10 years and a fine of not less than 5,000 or more than 500,000 francs.

Art. 28. Any person who, using the means referred to in article 21 and in the like circumstances, defends the crimes and offences defined in that article, war crimes and crimes or offences of collaboration with the enemy, shall be liable to imprisonment for not less than 6 months or more than 5 years and a fine of not less than 5,000 francs or more than 500,000 francs.

Art. 29. Seditious shouts or songs in public places

or meetings shall be punishable by imprisonment for not less than 3 months or more than 1 year and a fine of not less than 5,000 or more than 50,000 francs.

Section 2. *Offences against the State*

Art. 30. Insults uttered publicly by one of the means referred to in article 21 or by cries or threats uttered in public places or meetings,

Against the president of the community or the person exercising all or some of his prerogatives;

Against the Prime Minister and the President of the Legislative Assembly of the Gabon Republic, or

Against the Heads of State of the Community and the Presidents of the Legislative Assemblies of those States,

shall be punishable by imprisonment for not less than 1 or more than 3 years and a fine of not less than 10,000 or more than 2 million francs, with loss of civic rights for a period of not less than 5 or more than 10 years.

Art. 31. The malicious dissemination or reproduction by any means of false reports or documents which are fabricated, forged or falsely attributed to third persons shall, if a disturbance of public order, in particular a disturbance within the terms of article 20 results, or might have resulted, be punishable by imprisonment for not less than 6 months or more than 3 years and a fine of not less than 10,000 or more than 250,000 francs.

Such acts shall be punishable by imprisonment for not less than 1 or more than 5 years and a fine of not less than 20,000 francs or more than 500,000 francs whenever such malicious dissemination or reproduction is calculated to impair the discipline or morale of the armed forces or to impede the war effort of the Community.

Section 3. *Offences against Persons and Official Bodies*

Art. 32. 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 a defamation. Publication of such allegations or imputations, directly or by reproduction, shall be punishable, even if they are made in oblique form or refer to a person or a body not explicitly named, but are identifiable by the terms of the offending speeches, shouts, threats, writings or printed matter, posters, notices or other means of discrimination.

Art. 33. Public defamation, by any of the means referred to in article 21, of the institutions of the republic, as defined in article 5 of the Constitution of Gabon, the public authorities, the internal security forces, the army, navy or air force, all these bodies being considered collectively, shall be punishable by imprisonment for not less than 6 months or more than 2 years and a fine of not less than 10,000 or more than 1 million francs.

Art. 34. Defamation, on the conditions set out above, of one or more members of the institutions of the republic and of the community, of any representative, member, official or agent, albeit temporary, of the other bodies enumerated in article 33, and of any citizen invested with public authority, all these persons being considered individually and in respect of their functions, and of any juryman 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 35 hereunder.

Art. 35. Defamation of private persons in the conditions enumerated in article 33 shall be punishable by imprisonment for not less than 3 months or more than 1 year and a fine of not less than 3,000 or more than 300,000 francs.

Defamation in the same conditions of a group of persons who belong by origin to a given race or religion shall be punishable by imprisonment for not less than 6 months or more than 2 years and a fine of not less than 10,000 or more than 1 million francs, when the purpose of such defamation is to incite hatred among citizens or inhabitants.

Art. 36. An offensive expression, term of contempt or invective not including the imputation of any act shall be deemed to be an insult.

Insults uttered in the conditions enumerated in article 33 against the bodies or persons specified in articles 33 and 34 of this Act shall be punishable by imprisonment for not less than 3 months or more than 1 year and a fine of not less than 3,000 or more than 300,000 francs.

Insults uttered in the same manner against private persons shall be punishable, when not preceded by provocation, by imprisonment for not less than 1 or more than 6 months and a fine of not less than 15,000 or more than 500,000 francs.

If the insult is uttered, with the intention of inciting hatred among citizens or inhabitants, against a group of persons who belong by origin to a given race or religion, the maximum term of imprisonment shall be 1 year and the maximum fine 500,000 francs.

Art. 37. Articles 34, 35 and 36 shall not be applicable to defamation or insults against the memory of deceased persons unless the authors of such defamation or insults intended to reflect on the honour or good name of the living heirs, spouses or residuary legatees.

Whether or not the authors of defamation or insults intended them to reflect on the honour or good name of the living heirs, spouses or residuary

legatees, these persons shall be entitled in either case to invoke the right of rejoinder provided for under article 10.

Art. 38. Justification of defamatory statements may always be proved save:

(*a*) When the allegation concerns the private life of the individual;

(*b*) When the allegation refers to facts occurring more than ten years previously;

(*c*) When the allegation refers to an act constituting an offence which is covered by amnesty or limitation, or which led to a conviction cancelled by rehabilitation or review;

(*d*) In the cases specified in articles 30, 40 and 41 of this Act.

If justification of the defamatory matter is proved, the accused shall be acquitted.

Art. 39. 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 Foreign Diplomatic Agents*

Art. 40. Insults uttered publicly by one of the means referred to in article 33 and in the same conditions, against the heads of a foreign State shall be punishable by imprisonment for not less than 1 or more than 3 years and a fine of not less than 8,000 or more than 800,000 francs.

Art. 41. Insults uttered in the manner set out above against diplomatic agents accredited to the Government of the Republic shall be punishable by imprisonment for not less than 6 months or more than 2 years and a fine of not less than 10,000 or more than 1 million francs.

Section 5. *Prohibited Publications: Immunities of the Defence*

Art. 42. It shall be unlawful to publish indictments and any other documents relating to criminal or correctional procedure before they have been read in public audience. Offences shall be punishable by a fine of not less than 1,000 or more than 10,000 francs.

The same penalty shall be applicable on conviction for the publication by any method of photographs, pictures, drawings or portraits purporting to reproduce, wholly or in part, the circumstances of crimes of homicide without premeditation, homicide with premeditation, parricide, infanticide and poisoning, crimes and offences involving bodily harm, violence and assault and battery, and sex crimes or offences.

No offence shall, however, be deemed to have been committed if publication was undertaken at the request or with the written authorization of the investigating magistrate.

Art. 43. It shall be unlawful to publish reports of actions for defamation in the cases provided for in article 38, paragraphs (*a*), (*b*), (*c*), and (*d*) of this Act or of affiliation, divorce, separation or abortion 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 juries, courts or tribunals.

Any infringement of these provisions shall be punishable by a fine of not less than 15,000 francs or more than 100,000 francs.

Art. 44. It shall be unlawful to open or to advertise publicly subscriptions to meet the expenses of fines, costs and damages imposed by judicial conviction in criminal or correctional cases. Offences shall be punishable by imprisonment for not less than 8 days or more than 10 months and a fine of not less than 5,000 or more than 500,000 francs.

Art. 45. Speeches made in the Legislative Assembly, reports or any other documents printed by order of the Legislative Assembly and reports of the public meetings of the Legislative Assembly published in good faith in newspapers shall not be actionable.

Accurate reports of judicial proceedings or of statements made or writings produced in court, published in good faith, shall not be actionable for defamation, insult or slander.

Judges trying a case and deciding on its substance may, however, order insulting, slanderous or defamatory speeches to be struck from the records and sentence the offender to pay damages. Judges may also, in the same circumstances, admonish advocates and ministerial officers, and may even suspend them from their functions. The duration of such suspension may not exceed two months, or six months in the event of a second offence within a year.

Legal action may, however, be taken in respect of defamatory matter unrelated to the case, either by the Public Prosecutor or, if the court should so rule, by the parties, in private suit for damages. Action for damages may in all cases be taken by third parties.

Chapter VI
PROSECUTION AND REPRESSION

Section 1. *Persons responsible for Crimes and Offences committed through the Press*

Art. 46. The following, in the order named, shall be liable as principles to the penalties enacted for the repression of crimes and offences committed through the press:

1. The directors of publication or publishers, whatever their profession or description, and, in the cases provided for in article 4, second paragraph, co-directors of publication;

2. Failing these, the authors;

3. Failing the authors, the printers or persons in possession of the reproduction machines;

4. Failing the printers or persons in possession of the reproduction machines, the sellers, distributors and billposters.

In the cases provided for in article 4, second paragraph, secondary responsibility shall devolve upon the persons indicated in paragraphs 2, 3 and 4 of this article as though there were no director of publication when, contrary to the provisions of this law, a co-director of publication has not been appointed.

Art. 47. Where proceedings are taken against the directors or co-directors of publication or publishers, the authors shall be prosecuted as accessories.

Proceedings may also be taken on the same grounds and in all cases against all persons to whom article 60 of the Penal Code may apply. This article shall not be deemed to apply to printers in respect of offending printed matter save in cases where the international or external security of the State is threatened or in defaut of the co-director of publication in the case provided for in article 4, second paragraph.

Proceedings may, however, be taken against the printers as accessories if the courts have found that the director or co-director of publication is not criminally liable. In this case, the proceedings shall be instituted within three months of the offence or, at the latest, within three months of the judicial finding that the director or co-director of publication is not liable.

Art. 48. 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 the provisions of the Civil Code. In the cases provided for in article 4, second paragraph, fines and damages may be recovered from the assets of the undertakings.

. . .

Section 2. *Procedure in the Case of Offences or Contraventions*

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Art. 55. If the accused is domiciled in Gabon, he may not be detained in custody pending trial except in cases arising under articles 26, 27, 30, 31, 40 and 41.

. . .

Section 4. *Additional Penalties*

Art. 61. In the cases provided for in articles 17, 19, 20, 22, 24, 26 to 28 inclusive, 30, 31 and 40 to 43 inclusive, when proceedings are instituted by the Public Prosecutor, an order may be issued by decision of the Minister of the Interior for the temporary seizure:

Of newspapers or periodicals, any other writings or printed matter, whatever their description, pictures and drawings as well as printing machines, whether portable or not, and whatever the means of reproduction utilized; or

Of photographs, photographic or projection plates or films, electro-magnetic or other recordings, projectors, electro-magnetic or other reproduction equipment, and radio-receiving or transmitting sets.

If he considers that the matter is urgent the chief of a circonscription or mayor may, as a precautionary measure and without waiting for the institution of proceedings, proceed with such seizure, provided that he reports it to the Minister of the Interior who shall, within five days, either confirm the seizure or order it to be rescinded.

Art. 62. If the person against whom proceedings are taken is convicted, the court shall confirm the seizure, if the latter was effected in conformity with the preceding article, or may order seizure.

If the court confirms or orders the seizure, it shall order the destruction of all copies of newspapers, writings, printed matter, pictures, drawings, photographs, plates, films, electro-magnetic or other recordings, which may have been offered for sale, distributed or exposed to public view.

The court may order the suppression of only certain parts of the copies seized.

If the case against the accused is dismissed, the court shall order the recission of the administrative seizure.

Art. 63. In the cases provided for in articles 6, 17, 19, 20, 22, 24, 26, 28, 30, 31, and 40 to 43 inclusive, the suspension of the newspaper or periodical may, in the event of conviction, be ordered by the same judicial decision for a period not exceeding three months.

This suspension shall not affect the contracts of employment binding on the management, which shall continue to be bound by all the contractual or legal obligations flowing from such contracts.

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GHANA

NOTE

The Government of Ghana has communicated comments upon the Constitution of the Republic of Ghana of 1 July 1960, certain of which appear as footnotes to the provisions reproduced below. The comments of the Government continue as follows:

"In addition, several provisions in the Constitution give power to the people of Ghana to repeal or alter certain parts or articles of the Constitution.

"There are also various enactments which seek to protect the rights of the people; e.g., The State Property and Contracts Act, 1960, deals with the method of acquisition of land for the public services and makes provision for compensation to be paid where a person's property is compulsorily acquired.

"The Labour Registration Act, 1960, sets up centres to induce employers to employ persons who have registered at such centres."

CONSTITUTION OF THE REPUBLIC OF GHANA

Entered into force on 1 July 1960[1]

Part I

POWERS OF THE PEOPLE

Art. 1. The powers of the State derive from the people, by whom certain of those powers are now conferred on the institutions established by this constitution and who shall have the right to exercise the remainder of those powers, and to choose their representatives in the Parliament now established, in accordance with the following principle:

That, without distinction of sex, race, religion or political belief, every person who, being by law a citizen of Ghana, has attained the age of twenty-one years and is not disqualified by law on grounds of absence, infirmity of mind or criminality, shall be entitled to one vote, to be cast in freedom and secrecy.

. . .

Part III

THE PRESIDENT AND HIS MINISTERS

. . .

Election of President and Assumption of Office

Art. 11. . . .

(2) Provision shall be made by law for regulating the election of a President, and shall be so made in accordance with the following principles:

(*a*) Any citizen of Ghana shall be qualified for election as President if he has attained the age of thirty-five years;

. . .

Art. 13. (1) Immediately after his assumption of office the President shall make the following solemn declaration before the people:[2]

"On accepting the call of the people to the high office of President of Ghana I . . . solemnly declare my adherence to the following fundamental principles:

"That the powers of government spring from the will of the people and should be exercised in accordance therewith.

"That freedom and justice should be honoured and maintained.

. . .

"That no person should suffer discrimination on grounds of sex, race, tribe, religion or political belief.

. . .

"That every citizen of Ghana should receive his fair share of the produce yielded by the development of the country.

"That subject to such restrictions as may be necessary for preserving public order, morality or health, no person should be deprived of freedom of

[1] Text furnished by the Government of Ghana.

[2] The Government of Ghana has drawn attention to a case argued before the Supreme Court of Ghana and involving article 13, upon which judgement had not yet been delivered at the time of writing. The Government has written: "The case involves an application for a writ of *habeas corpus* to issue against a minister of the republic and the prison authorities for the release of certain persons detained under the Preventive Detention Act passed before the enactment of the Constitution of 1960. The question at issue was whether by virtue of the provisions of the article the Act was not now unconstitutional and therefore impliedly repealed."

religion or speech, of the right to move and assemble without hindrance or of the right of access to courts of law.

"That no person should be deprived of his property save where the public interest so requires and the law so provides."

. . .

Part VI

LAW AND JUSTICE

. . .

Provisions as to Superior Courts

Art. 42. . . .

(2) The Supreme Court shall have original jurisdiction in all matters where a question arises whether an enactment was made in excess of the powers conferred on Parliament by or under the Constitution, and if any such question arises in the High Court or an inferior court, the hearing shall be adjourned and the question referred to the Supreme Court for decision.[1]

. . .

[1] Of this provision, the Government of Ghana has written:

"This enables a citizen to challenge any Act of the Legislature or the Executive as being unconstitutional. The first attempt to make use of this provision was the case referred to earlier in which the court has been asked to declare the Preventive Detention Act unconstitutional because it infringes article 13 of the Constitution.

"Article 13 is a provision which is likely to be used quite frequently in the future."

GREECE

NOTE[1]

I. LEGISLATION

1. Act No. 4046/60, "regulating matters relating to printers and workers of the printing craft" (*Government Gazette* No. 47/60), regulates the indemnity to be paid to the workers of the printing craft when notice of termination of a service agreement is given, and makes provisions securing the equal treatment, as far as insurance is concerned, of workers of the printing craft and other printers, occupied on work of the same kind.

2. Act No. 4051/60, "on assistance to unprotected children" (*Government Gazette* No. 68/60), aims at providing help to unprotected children on a sounder basis than hitherto, by introducing the institution of their being given help within families. More specifically, the Act fixes the categories of unprotected children entitled to help and the prerequisites for such a help and provides for the creation of a Committee for the Protection of Children in every Social Welfare Centre.

3. Act No. 4081/60, "ratifying the European Agreement on the exchange of therapeutical substances of human origin" (*Government Gazette* No. 107/60), ratifies the above-mentioned agreement, signed in Paris on 15 December 1958, according to which the parties thereto undertake, provided that their reserves are sufficient for their own needs, to hold therapeutical substances of human origin (human blood and its derivatives) at the disposition of the other parties, without any charges other than those made necessary by the related payments.

4. The Ministry of the Interior (General Direction of Police) and the Ministry of Social Welfare have taken steps to curb venereal diseases, which had a marked increase after the closing down (in accordance with Act No. 3310 of 1955) of the houses of prostitution. On the proposal of these two ministries, Parliament passed legislative decree No. 4095 of 27 August 1960 (*Government Gazette* No. 130/60). For the purpose of safeguarding the rights of the citizens in the fields of health and morals, this legislative decree provides for certain restrictions in the profession of prostitution so as to render it harmless for society from the point of view of health and morals. Furthermore, this legislative decree protects prostitutes from traffickers and landlords leasing premises to them at very high prices. It is finally provided that the operation of houses of prostitution and the collective profession of prostitution are criminal offences.

5. Legislative decree No. 4104 "amending and supplementing the legislation on social insurance and certain other administrative and organizational provisions" (*Government Gazette* No. 147/60), amends and supplements the existing legislation on social insurance. More specifically, a fairer way for calculating pensions is enacted, a higher maximum of pension than the one previously in force is fixed, care is taken for insured married women and widows, measures for the prevention of employment accidents and employment sickness are approved, for the benefit of the insured, and care is taken to help young men to find jobs.

6. Legislative decree No. 4121/60, "ratifying the agreement between Greece and Belgium on the migration of Greek workers to Belgium, to work in coal mines", ratifies the aforesaid agreement, signed on 12 July 1957. This agreement — concluded by Greece as one of the countries in which the migration of workers to countries of full employment is one way of reducing unemployment and underemployment — provides, among other things, for the manner of selection of candidates for migration, for the obligation of the payment of travelling expenses to Belgium and back and for the securing of housing, subsistence and medical and hospital care.

II. JUDICAL DECISIONS

1. Decision of the Areopagus No. 21/1960, Section C (Civil), May 1960,

FASCICULE 5, PAGE 262

Replacement of employee. What constitutes abuse of the right to replace. There has been abuse if the employer was motivated by revenge because of judicial proceedings brought against him by the employee

The undermentioned facts submitted in evidence by the plaintiff in substantiation of his claim and in refutation of the appeal by the defendant have been determined by. . . . The plaintiff in the original proceedings, having the qualifications prescribed in Emergency Act No. 1836/1951, was, pursuant to the provisions of that Act, placed in the defendant's employment by decision No. 72/2/55 of the Central Council for the Protection of Demobilized Servicemen and was employed by the defendant as a janitor continuously from October 1955. Upon the defendant's

[1] Information furnished by the Government of Greece.

refusal to pay to the plaintiff the wages to which he was entitled for the services rendered by him as janitor, the plaintiff brought an action on 31 August 1957. Under Act No. 3974/1912, as subsequently amended, the trial judge of the Athens Court of First Instance, by decision No. 6760/57, found for the plaintiff and awarded him additionally 3,180 drachmae in interest as from the date of the institution of the proceedings. The defendant appealed against the aforesaid decision but the appeal was dismissed by the Athens Court of First Instance, sitting as a court of appeal, in its decision No. 2233/58. One month after the publication of the latter decision, the defendant, with a view to avenging the aforesaid successful and lawful judicial action brought against him by the plaintiff, addressed to the Central Council for the Protection of Demobilized Servicemen an application dated 15 August 1958, requesting the revocation of the aforesaid appointment of the plaintiff and the latter's replacement by another person. Lastly, as from 16 April 1958, the defendant ceased to accept the services properly rendered by the plaintiff. In so doing, the defendant invoked the right granted to him under article 11 of Emergency Act No. 1836/51, as amended by article 10 of legislative decree No. 2657/1953, the exercise of which right is not, as was stated, subject to any time limitations. Recourse, however, to the aforesaid right in the circumstances described above manifestly oversteps the bounds set by good faith, morality and the social and economic purpose of the right; such unreasonable recourse is prohibited under the provisions of article 281 of the Civil Code. Consequently, the act is null and void under articles 174 and 178 of the Civil Code and, as such, is deemed, in accordance with article 180 of the Civil Code, not to have been performed. Since the defendant, by reason of the fact that recourse to the aforesaid right was null and void, was not justified in rejecting the plaintiff's services, the trial judge of the Court of First Instance was correct in finding, although for different reasons, that the defendant owed arrears of wages, and in rejecting the defendant's plea and, subsequently, in accepting the claim in part and in adjudging to the plaintiff under article 656 of the Civil Code the wages due to him for the period prior to the hearing of his action. The appeal against that finding now before the court is devoid of merit and must be dismissed.

2. Decision of the Areopagus No. 127/60, section D, year XI, August-September 1960, fascicule 8–9, page 471

Defamation (article 362 of the Penal Code). Meaning of fact liable to injure the honour or reputation of third party. Meaning of special malice in defamation. When the act ceases to be unlawful (article 367 (1) of the Penal Code)

Any action or actual and specific relationship, past or present, which is capable of proof and the publication of which, either on the basis of a person's own conviction or opinion or by way of reporting the view of a third party, may discredit another person's honesty or probity or threaten the reputation which the latter person enjoys or is entitled to enjoy, constitutes a fact liable, within the meaning of article 362 of the Penal Code, to injure such person's honour or reputation; and any person asserting or reporting such a fact commits the offence of defamation, without it being necessary to show the likelihood of any other damage caused by the defamation. The act of undermining a person's interests through artifice or by indirect means in general should also be regarded as liable to damage the said person's reputation in society and as socially unseemly. By reason of the foregoing, the report which, in the opinion of the trial court in its decision now under appeal, was spread by the applicant, and which was to the effect that the civil claimant in the original action, who is the respondent to this application for cassation, had gone to the Political Office of the Deputy Prime Minister at Patras to seek the dishonourable transfer of the son of Mr. G. S., an airman, which report had given rise to unfavourable comments about the claimant by third parties hearing it, clearly constitutes a fact defamatory of the claimant's reputation. Consequently the Court of Appeal, which reached the same conclusion, gave a correct interpretation of the aforementioned provision of the Penal Code. The first and second grounds in the application for cassation and the first and second supplementary grounds for cassation are therefore without merit and must be rejected.

It follows from the aforesaid article 362, read in conjunction with article 27 (1) of the Penal Code, that, in the circumstances described above, the element of malice in defamation consists, on the one hand, in the person's awareness of the possibility that the fact asserted or reported by him may injure another person's honour or reputation, and, on the other hand, in the former's intention to assert or report the said fact; the question whether or not the fact itself is true, or whether the person making the assertion or spreading the report believes it to be true, is immaterial. The Court of Appeal has clearly though indirectly recognized the appellant's subjective responsibility for, in its decision now challenged, it accepted as established beyond reasonable doubt the fact that the appellant had freely committed an act punishable *per se* (article 14 (1) of the Penal Code), and did not find any grounds for relief from liability.

Although there may be some justifiable concern, the existence of which removes, under article 367 (1) of the Penal Code, the unlawful character of an insult or simple defamation, and although it may even relate to the interests of a third party, the decision under review does not find the presence of such concern to have been established. By reason

of the foregoing, the third additional ground for cassation, in which it is claimed that the court of appeal wrongly failed to take into account that the aforesaid announcement to the said Mr. G. S. concerning the applicant's endeavours to secure the dishonourable transfer of Mr. G. S.'s son, an airman, had been made "by reason of the justifiable concern of Mr. G. S. as a father", relies on an untrue assumption and must therefore be rejected.

3. COUNCIL OF JUDGES OF THE ATHENS COURT OF APPEALS, OCTOBER 1960, VOLUME 10, PAGE 585, NO. 459/1960

Defamation. The taking of the photograph of a person without his consent and the subsequent publication of the said photograph to third parties constitutes defamation. Injury to a person's character

The legal rights whereof injury is forbidden by law include the right of reputation, which consists in the reciprocal recognition of the moral worth and qualities of each member of society by each of its other members. No definition thereof can be laid down by statute owing to the diversity and fluidity of the underlying factors; it follows, however, from the rules of morality and right thinking that, where the commission of an act punishable by law cannot be imputed, no person is entitled to censure, disparage or ridicule the actions or opinions of another person, or to call in question the latter's qualities and good intentions which comprise his character; any attack against him is a manifestation of refusal to recognize and respect his moral qualities, honest intentions and good opinions. While the foregoing places no restrictions on privately held opinions as to the worth and moral qualities of any person, the law forbids the expression of disrespect for a person's moral intentions and beliefs unless the blameworthy nature thereof is demonstrated by evidence of specific punishable acts which destroy the said person's good name. Articles 57–59 of the Civil Code protect the personality of an individual, by which is meant the most fundamental and important assets of his private life, of which his honour is one, from injury, article 59 expressly recognizing the injured party's right to reparation and redress for the moral damage caused by the injury to his standing. The right to personality includes the right to the image which a man creates, by his external appearance, in the eyes of the public as long as he desires; it follows from the foregoing that the image belongs to the person depicted and not to the public, and that no one is entitled either to reproduce — e.g., by photographic means — another person's image or to exhibit it in public and show it at will, without the consent of the party concerned. The concept of injury to standing by the reproduction of the image of a person against his will is not affected in any way by the nature of the image, this factor being wholly immaterial; the existence of injury is therefore not limited to cases in which the image is intrinsically disparaging by representing the depicted person in a manner manifestly affecting his honour or reputation (e.g., in an immoral or indecent pose), as was incorrectly held in the submission of the ministère public of the Court of First Instance (K. Sourlas in *Commentary on the Civil Code*, introduction, articles 57–60, Nos. 83 ff; Vallindas, *Civil Code*, under articles 57 and 59; decision of the Court of Appeal of Genoa of 13 January 1953 in *Nuovo Digesto Italiano*, (5) 87 and commentaries 1; Pasias, commentary on judgement 100024/1950 of the Athens Court of First Instance, in *New Law* (*Neon Dikeon*) vol. 7, p. 214; Kostis-Bouropoulos, *Commentary on the Criminal Laws*, vol. 2, pp. 558 ff.)

The information in the documents of the case provides, in the opinion of the Council, adequate evidence of defamation of the appellant by the respondent, Mr. . . ., a lawyer, by means of the publication by the latter of a photograph of the appellant which the respondent caused to be taken by Mr. . . ., a photographer, who happened to be present, without the consent of the appellant who was unaware of being photographed. The photographer has said in evidence that he took the photograph in the offices of the Law Association . . . and the fact that the photograph was shown to the appellant's colleagues has been sufficiently demonstrated by evidence obtained in the course of the preliminary investigations. The aforesaid act by the respondent comprised an element of malice, evidenced by the deliberate nature of the act and by his knowledge of the insulting character thereof in the circumstances, more detailed description of which is given in the judgement under appeal and the submission of the ministère public. The fact that the respondent, by virtue of his special professional and social experience, was clearly aware of the meaning and significance of his unlawful act is of particular importance. It is not necessary to show special intent to injure, nor does the affront cease to be a punishable offence if it has been committed frivolously. In the opinion of the Council the respondent's act in its specific circumstances bears the characteristics of simple (not maliciously false) defamation, and the respondent must answer this charge. . . .

LEGISLATIVE DECREE No. 4090

Amending certain provisions of the Criminal Code, the Code of Criminal Procedure and certain criminal and correctional provisions[1]

I. AMENDMENT OF THE CRIMINAL CODE

Art. 1. Article 87 of the Criminal Code shall be replaced by the following:

"Art. 87. *Calculation of the Period of Detention pending Trial*

"1. The period during which a person was remanded in custody on the order of the investigating authorities of any jurisdiction whatever, together with the period of detention between arrest and remand in custody, shall be deducted from the term of deprivation of liberty after sentence has been pronounced.

"2. If a defendant who has been tried concurrently for several offences is sentenced for one of them, the period spent by him on remand in custody in respect of any one of the said offences, together with the period of detention under paragraph 1 above, shall be deducted from the sentence even if the defendant has been acquitted of the offence in respect of which he was remanded in custody.

"3. The time spent by the defendant in a mental institution shall also be deducted (article 200 of the Code of Criminal Procedure).

"4. The time served by a prisoner between conviction and the day on which the judgement becomes final shall be deducted from the penalty by the authorities responsible for the execution of judicial decisions."

[1] Published in *Ephimeris tis Kyverniseos*, No. 125, of 12 August 1960, and communicated by the Government of Greece.

GUATEMALA

NOTE[1]

1. Decree No. 1335, of 2 Febraury 1960 (*El Guatemalteco*, vol. CLVIII, No. 66, of 29 March 1960), approved the Additional Protocol to the Extradition Convention signed by Guatemala and Belgium.

2. Decree No. 1336, of 2 February 1960 (*El Guatemalteco*, vol. CLVIII, No. 67, of 30 March 1960), approved International Labour Convention No. 45 concerning the employment of women on underground work in mines of all kinds (1935).

3. Decree No. 1352, of 28 April 1960 (*El Guatemalteco*, vol. CLVIII, No. 96, of 9 May 1960), amended the Electoral Act. Extracts from decree No. 1352 appear below.

4. The Department of Workers' Welfare was created by an order of 25 April 1960 and the Department of Labour Statistics by an order of 14 March 1960.

[1] Information furnished by Mr. Gilberto Chacón Pazos, Ministry of Foreign Affairs, Guatemala City, government-appointed correspondent of the *Yearbook on Human Rights*.

DECREE No. 1352 of 28 APRIL 1960[1]

[Congress decrees:]

The following amendments to congressional decree No. 1069 containing the Electoral Law:[2]

. . .

Art. 4. The following provisions shall be added to article 13:

"Political parties may form federations or confederations, but such unions shall be recognized only if the bodies concerned register them with the Electoral Tribunal.

"Political parties may also merge, in fulfilment of the relevant requirements established by their articles of association or constitutions. When the merger is notified to the Electoral Tribunal, the notice shall also indicate which political party or parties are to be deleted from the registers and all changes in the name, emblem, motto, articles of association and organization which have been agreed upon or decided.

"The Electoral Tribunal shall make the relevant entries."

Art. 5. Article 14 of the above-mentioned decree shall read as follows:

"Article 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.

"Any group of citizens may establish a political party provided that it:

"1. Constitutes the party by means of public instrument which 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 decree; (*c*) the name and emblem adopted by the party; (*d*) the basic principles of its political programme.

"2. Has 10,000 or more members. At least 10 per cent of the minimum of 10,000 must be able to read and write.

"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 to posts filled by public election, which shall conform to democratic standards;

"(*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; and

[1] Published in *El Guatemalteco*, vol. CLVIII, No. 96, of 9 May 1960.

[2] See *Yearbook on Human Rights for 1956*, pp. 109-111.

"4. Registers with the Electoral Tribunal its legal representatives and the person appointed to authorize the registration of candidates for public election."

Art. 6. Article 15, paragraph 2, shall read as follows:

"2. A notarized certificate containing the nominal roll of members, giving the serial numbers, registration numbers and place of issue of the electoral registration (citizenship) certificates and specifying whether or not the member can read and write."

Art. 7. The following paragraph shall be added to article 16:

"The Electoral Tribunal, when examining the nominal rolls submitted to it, shall take care to exclude the name of any citizen who has been previously registered in another political party, unless it finds that he has left that party."

. . .

Art. 9. The following sub-paragraph shall be added to article 18, paragraph 1: "and (*c*) if, upon the expiry of ninety days after the date on which the suspension was notified, the number of members required by law has not been assembled."

Article 18, paragraph 2, shall read as follows:

"2. Such operations shall be suspended if the membership of the party falls below 10,000 or if the percentage of literate members is less than 10 per cent of the minimum of 10,000 members."

. . .

Art. 18. The following sub-paragraph shall be added to article 44: "and (*e*) all electoral propaganda conducted by affixing or painting posters or effigies on walls, bridges or monuments, whether state or private property, shall be strictly prohibited. Persons who infringe this provision shall be referred to the competent courts for punishment in conformity with article 452 of the Penal Code."

. . .

TRANSITORY PROVISIONS

Art. 26. Within the six months following the date on which this decree enters into force, the political parties shall submit to the Electoral Tribunal a complete nominal roll of their members, in alphabetical order, of surnames, clearly identifying them with the numbers of the corresponding electoral registration (citizenship) certificates and the date of entry. If this requirement has not been fulfilled upon the expiry of this period, the Electoral Tribunal shall proceed *ex officio* to cancel the registration of the political party or parties in default.

Art. 29. This decree shall enter into force on the day following its publication in the *Diario Oficial*.

GUINEA

LABOUR CODE OF 30 JUNE 1960

Promulgated by Act No. 1 A.N./60

This code deals principally with the following matters: trade unions; individual contracts of employment; apprenticeship; collective labour agreements; wages; hours of work; employment of women and young persons; health and safety; and settlement of labour disputes. Section 3 forbids forced or compulsory labour. Section 5 provides as follows: "Persons carrying on the same trade, similar crafts or allied trades associated in the preparation of specific products, or the same profession, or belonging to the same occupational sector, shall be free to form a trade union. Every worker or employer shall be free to join a trade union selected by him within his own trade or profession."

The text of the code and a translation into English have been published by the International Labour Office as *Legislative Series* 1960 — Gui.1.

HAITI

NOTE[1]

I. Orders and Decrees

1. The order of 19 April 1960 recognizing the Pedodontic Foundation as an institution of public interest in view of its important humanitarian and social objectives sought through education in the field of dental hygiene (*Moniteur* No. 39, of 28 April 1960).

2. The decree of 17 August 1960 of the National Assembly, suspending the constitutional safeguards laid down in articles 90, second and third paragraphs, 94, 139, 143 and 146 of the operative Constitution of December 1957 and granting full powers to the Head of the Executive for a period of six months (*Moniteur* No. 72, of 18 August 1960).

3. The decree of 28 August 1960 amending the Acts of 17 July 1954 and 15 July 1956 concerning trade marks and brands (*Moniteur* No. 81, of 9 September 1960).

4. The decree of 26 September 1960 amending article 17 of the Act of 25 November 1959 concerning the securing of a Haitian non-immigrant or residence visa (*Moniteur* No. 89, of 26 September 1960).

5. The decree of 30 September 1960 reserving to the State the distribution and sale, on the domestic market, of wheaten flour as essentially a matter of public interest (*Moniteur* No. 97, of 20 October 1960).

6. Two decrees of 27 October 1960, one establishing a rational organization of the co-operative movement and granting corporate status to the National Council of Co-operation, and the other enacting for the co-operative movement special legislation designed to meet national needs as adequately as possible (*Moniteur* No. 103, of 3 November 1960).

7. The order of 24 November 1960 for the expulsion of Monseigneur Poirier, a French national (*Moniteur* No. 112, of 24 November 1960).

8. The decree of 8 December 1960 making it the duty of every father and mother and every person responsible for the education and training of a minor to send such minor to school (*Moniteur* No. 120, of 12 December 1960).

II. International Agreements

Haiti ratified no international agreement relating to human rights in 1960.

III. Judicial Decisions

No information was published with respect to judicial decisions of 1960 concerning human rights.

[1] Note furnished by Dr. Clovis Kernisan, Dean of the Faculty of Law of the University of Port-au-Prince, government-appointed correspondent of the *Yearbook on Human Rights*.

HONDURAS

DECREE No. 6 OF 26 JULY 1958: ACT RESPECTING THE EXPRESSION OF OPINION[1]

Chapter I
STATEMENT OF PRINCIPLES

Art. 1. It shall not be lawful to molest or persecute any person by reason of his opinions. Private actions which do not disturb the public peace or harm third parties shall in all cases remain outside the scope of the law.

Art. 2. Freedom of expression and freedom of information shall be inviolable; this right shall include freedom to hold opinions without interference and to seek, receive, transmit and impart information through any media.

No law restricting these freedoms shall be adopted. The Act respecting the expression of opinion shall define the liability of any person who abuses this freedom to the detriment of the character, reputation or interests of any other person or of any body of persons.

Art. 3. It shall not be lawful to sequestrate, seize or confiscate any printing establishment, wireless broadcasting station or other medium of expression of opinion, or the machinery or equipment thereof; and it shall not be lawful to stop or interrupt the activities of any such establishment, station or medium by reason of an offence or contravention connected with the expression of opinion. The premises used by any kind of publishing establishment shall not be expropriated except in pursuance of a decision of the court made on grounds of public necessity and public policy and in accordance with the procedure prescribed by law.

Even in such cases, the expropriation shall not be effected until the publishing establishment has been provided with adequate premises in which its equipment and works can be installed so as to continue in operation.

Art. 4. During the state of siege, no Honduran national or practising journalist employed on the press, in radio or television shall be deported or persecuted in any way for his opinions.

Chapter II
FREEDOM OF EXPRESSION

Art. 5. Every inhabitant of the republic may, without prior censorship, freely express his opinions, impart and receive information and discuss his opinions or those of others by means of the spoken or written word or by any other graphic, oral or visual means.

Art. 6. The circulation of publications which advocate or disseminate demoralizing doctrines which sap the foundations of the State or of the family or provoke, advise or incite to the commission of offences against the person or property shall not be permitted.

Art. 7. Journalists and writers shall be free to give whatever version they consider appropriate of statements made by any authority, government official or civil servant, representative of a corporation or body corporate or private person.

When a civil servant or government official makes a public statement on matters related to the domestic or foreign policy of the Government or the safety of the State, he shall immediately confirm his statement in writing and of this text alone authors and writers shall be entitled to make a literal transcription between inverted commas or in such other manner as may be used customarily by journalists when literally quoting an original statement.

Art. 8. If any person in the exercise of any of the media of information mentioned above lacks respect for the private life of another and his morality he shall be deemed to have committed an offence and shall be liable to punishment under this Act; he shall be deemed to have been guilty of a lack of respect for the private life of another if he refers in a defamatory manner to the exclusively family life of that person or to his social behaviour and damages his reputation, his interests or his family relationship.

Criticism in seemly terms of the acts of a public employee or official done in the performance of his duties shall not be punishable, provided that such criticism has the public good as its purpose and is founded on facts or acts which constitute or may constitute an offence or infraction expressly punishable by law.

Art. 9. Freedom of expression shall include the right to introduce into the country free of tax and supertax any kind of book, magazine, newspaper, booklet, non-musical recording, short film for television or other publication provided that they are not prohibited by law.

Art. 10. The national press, radio and television news services shall be entitled to use the ordinary

[1] Published in *La Gaceta*, No. 16565, of 26 August 1958.

and air mail services free of charge for the distribution of publications and exchange of correspondence, and the telegraph for messages not exceeding fifty words a day. Properly accredited correspondents and agents of the press, radio and television news services shall enjoy similar privileges.

Art. 11. Imports of machinery, spare parts, accessories, including inks and paper for newspapers in sheets or rolls, and other materials used for the expression and dissemination of opinion shall be exempt from all customs dues, taxes and supertaxes provided that they are not intended for resale.

Chapter III

PRINTING PRESSES AND RADIO TRANSMITTERS

Art. 12. For the purposes of this Act, any machinery or equipment used to record or express written opinions shall be recognized as printing presses. Any equipment used in transmitting the spoken word or actions at the time that they occur shall be recognized as radio or television transmitters.

Art. 13. Before beginning operations, every owner or lessee of a printing establishment or a radio or television transmitting station shall communicate the following information to the Executive Authority, through the office of the competent civil governor:

1. The name of the printing works or radio or television transmitting station, together with, in the case of the latter, the frequency and the station identification signal;

2. The address of the printing works or of the transmitting station, and its studios and offices, together with a description of their equipment and organization; and

3. The name and identification of the owner or lessee of the establishment and the names of the managers.

Art. 14. The owners or lessees of existing printing works or radio transmitters shall provide the same information within the thirty days following the entry into force of this Act.

Art. 15. In the case of the change of ownership of a printing establishment or a radio or television transmitting station, the new owners shall be responsible for complying with the conditions laid down in article 13.

Art. 16. This Act shall apply to a printing establishment or transmitting station even if it has not been registered. The competent civil governor shall register the establishment or station in question *ex officio* and shall impose a fine of not less than 500 nor more than 1,000 lempiras on the offender.

Art. 17. The managers of printing establishments and transmitting stations, and typographers, editors, directors, journalist, columnists, reporters, photographers, caricaturists, cartoonists, speakers, radio operators and correspondents actively employed by the press and radio and television bodies shall be exempt from compulsory military service and from training exercises in peace time.

. . .

Art. 19. The owners or lessees of printing establishments shall be required to send free copies of any publication they print in their printing works to the following: three copies to the National Library, three to the National Archives, two to the Ministry of the Interior, two to the office of the competent civil governor, two to the State Prosecutor's Office, and two to the office of the mayor of the district in which they are situated or to the Council of the Central District, as the case may be.

Art. 20. The archives of radio transmitting stations containing the text of broadcasts and the recordings which they keep for reference shall be open to inspection by properly accredited persons, who shall be responsible before the courts for any abuses contained in documents and materials examined by them. Such documents and materials may not be removed from the archives of the radio transmitting stations except by order of a competent authority.

If any person fails to comply with the above requirements, he shall be liable to a fine of not less than 100 nor more than 1,000 lempiras.

Chapter IV

PUBLICATIONS

Art. 21. No permit or licence shall be required from any authority in order to found and operate newscasts or newspapers.

Art. 22. The expression of opinion through the media of print, lithography, painting, sculpture, caricature, recording, broadcasting, television, the cinema, loudspeakers or any other procedure for the reproduction of words, signs or ideas shall be deemed to be a publication.

Art. 23. Printed matter shall be considered to have been published when five or more copies have left the printing works. Any matter which five or more persons testify to having heard over the radio or seen on the television screen shall be considered to have been broadcast.

Art. 24. All publications must indicate clearly:

1. The name and address of the printing house, works or broadcasting station from which it emanates;
2. The date and number of the publication; and
3. The family name and first name of the editor, author, directors, editors, managers, administrators and speakers, and those of the authors in the case of reproductions or translations.

Art. 25. Every commentary must be written or read over the signature or name of its author, whose identity will be vouched for personally by the editor or director of the publication. The person who publishes an unsigned commentary shall be held directly liable therefor.

Art. 26. The signature on the original of any publication must be authentic. The use of facsimiles, anagrams and pseudonyms is prohibited except on works which are essentially scientific or literary in character. If a person contravenes this regulation he shall be liable to a fine of not less than 100 nor more than 500 lempiras, which shall be imposed on the director of the publication as an administrative measure by the civil governor concerned.

Art. 27. The signature of the author is not required on publications of a commercial, artistic or technical character provided that they do not refer to individuals and are not prejudicial to morality or public decency. Nevertheless, they shall bear an indication of the printer and the date.

Art. 28. The originals of publications shall be kept for a period of six months from the date of circulation or transmission.

Art. 29. No original may be communicated against the wish of the author or agent, except upon the order of a court.

Art. 30. It shall not be lawful for an alien to direct a newspaper or radio and television publication.

Art. 31. Every quotation from the national press shall indicate the name of the original publication and quotations from the foreign press shall in addition indicate the country of origin.

Chapter V
The Ethics of Journalism

Art. 32. Every natural person or body corporate shall have the right to defend himself in a seemly manner to any charges against and criticisms of him that may be made in the press, with a view to disproving any act imputed to him.

Art. 33. In accordance with the right of defence, the publication in which the charge or criticism appeared shall be bound to insert, free of charge, the reply of any person who may consider himself to have been harmed by news, articles or comments of any kind.

Art 34. The text of the reply shall be published in full and conform to the original signed by the complainant.

Art. 35. If a newspaper or newscast refuses in the absence of proper grounds to publish the reply or defence of the complainant or if it delays the publication thereof for a period exceeding three days, the undertaking concerned shall be liable to a fine of not less than 100 nor more than 500 lempiras, which shall be imposed as an administrative measure by the competent civil governor, without prejudice to the publication in the following issue of the statement in defence or reply.

Art. 36. Communication of the reply or statement in defence shall be duly certified for the purposes of the penalty referred to in the preceding article.

Art. 37. The text of the statement in defence or reply shall be published in the same place as the article which gave rise thereto. The headlines shall be in the same type as that of the text which gave rise to the defence.

The above provisions shall apply, *mutatis mutandis*, to broadcasts.

Art. 38. The following shall be punishable offences:

(1) Subjecting newspapers and transmitting stations to interests which are contrary to the maintenance of national sovereignty, territorial integrity and the democratic institutions of the republic;

(2) Defamation and abuse in all forms;

(3) The insertion of commercial advertisements with the knowledge that they are intended to mislead the public;

(4) Capricious and unsubstantiated attacks on Honduran or foreign commercial or industrial enterprises for the sole purpose of avenging an injury or discrediting a person or an institution;

(5) Blackmail of any kind through information media; and

(6) The publication of obscene photographs, drawings, stories and jokes and all types of pornographic caricatures.

Chapter VI
Responsibilities

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Art. 41. If a public official or civil servant restricts the expression of ideas he shall be liable to a fine of not less than 500 nor more than 1,000 lempiras, which shall be imposed as an administrative measure by the competent civil governor; and if the civil governor himself is the offender, the fine shall be imposed by the Secretary of State for the Interior and Justice.

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Chapter VII
Entry into Force of the Act

Art. 45. This Act shall enter into force on the day of its publication in the official journal, *La Gaceta*, and the Press Act of 4 April 1936 shall be repealed as from that date.

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DECREE No. 301: ELECTORAL ACT of 16 May 1960[1]

TITLE I

Sole Chapter
GENERAL PROVISIONS

Article 1. All proceedings in connexion with elections that take place in the republic shall be governed by the provisions of this Act.

Art. 2. All Honduran nationals, male and female, over eighteen years of age, are citizens of the republic.

Art. 3. A citizen shall have the following rights: to vote in elections and to be elected; to join with others in forming political parties in accordance with this law; to join or to leave political parties already constituted; to stand for public office, according to his abilities, and the other rights recognized by the law in accordance with the functional exercise of democracy.

Persons serving in the army, the police and the civil guard or any other armed body may be elected except in the cases forbidden by law.

Art. 4. Effective exercise of the right of suffrage is the basis of the republican, democratic and representative system offering freedom of choice and, therefore, responsibility for the supervision and conduct of the electoral proceedings rests equally with the State, the lawfully registered political parties and the citizens of Honduras, in the form and under the conditions laid down in this Act.

Art. 5. If any person prevents or restricts participation by a citizen of the republic in the political life of the nation he shall be liable to penalty.

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TITLE II

Chapter I
SUFFRAGE

Art. 8. Suffrage is a civic duty of fundamental importance. Its exercise by citizens is a right that cannot be renounced and an obligation that cannot be evaded.

Art. 9. All Honduran citizens who are inscribed in the National Voting Register and who are not included in the disqualified categories established by law are voters.

Art. 10. The right of suffrage may not be delegated. It shall be exercised by means of direct, equal and secret ballot.

Art. 11. The right of suffrage shall not be exercised by:

1. Persons serving in the army, the police, the civil guard or any other armed body;
2. Persons committed to prison, convicted of a criminal offence, or committed for trial;
3. Persons deprived of their political rights by final sentence of a court of law;
4. Persons disqualified from the exercise of their civil rights, and persons declared to be fraudulent debtors or vagrants; and
5. Persons who have been suspended from the exercise of their political rights for a refusal to take up an elected office without good cause. In such cases, the suspension shall be for the term of the office in question.

TITLE III

Chapter I
POLITICAL PARTIES

Art. 12. Political parties are associations formed in accordance with the law by Honduran citizens in full enjoyment of their civil rights, for electoral purposes and purposes of political guidance and for the promotion through joint action of the national well-being.

Art. 13. Legally organized and registered political parties are regarded as institutions of public law and are required to regulate their organization, operation and activity in accordance with the principles of the Constitution and those laid down in this law.

Art. 14. The organization and operation of political parties which proclaim or practise political doctrines contrary to the democratic spirit of the Honduran people, or which through their ideological programmes or international associations threaten the sovereignty of the State, are hereby prohibited. Such cases shall be determined by the National Congress on the report of the National Elections Council.

Organizations promoting Central American unity or Pan-Americanism doctrines or continental solidarity shall not be subject to this prohibition.

Art. 15. For the purposes of this law, only parties already registered shall be recognized as political parties.

Art. 16. The formation, registration and operation of political parties using any name, symbol, badge or motto identical with or similar to those of any party already duly registered, or with a prior right to registration, are hereby prohibited.

Art. 17. To form a political party the following conditions shall be complied with:

[1] Published in *La Gaceta*, Nos. 17097–8, of 6–7 June 1960.

1. The party must have a membership of at least fifteen thousand voters;

2. It must undertake to govern its activities by the precepts laid down in the Constitution of the republic;

3. Its articles of association must contain a provision prohibiting it from accepting any agreement or covenant binding it to act in subordination to any international organization or to depend upon foreign political parties;

4. It must adopt a distinctive name of its own which must not contain any references of a racial or religious character;

5. It must issue a declaration of its principles and in accordance with those principles formulate a political programme stating the means which it proposes to adopt for the solution of national problems.

Art. 18. The statutes of a party shall set forth its name, and insignia or emblem, which may be a motto, a set of initials or a pictorial symbol, provided that none of them are similar to the national emblems or symbols representing the nation; the party's doctrine or a statement of its principles; its programme of political action; the duties, powers and responsibilities of the party's various organs and officials; an account of the manner in which the party's funds are constituted and administered and the various other regulations needed for the operation of the party as a democratic association.

Political parties are forbidden to use national flags, banners, cockades or mottoes, and in general any combination of blue and white stripes, regardless of their arrangement, imitating the Honduran flag.

Art. 19. Political parties shall operate through their managing bodies, of which they shall possess at least the following:

1. A national assembly or convention;
2. A central governing body, which shall represent the party in the country at large;
3. A departmental governing body, having jurisdiction in each department; and
4. A local governing body, in each of the municipalities of the republic.

Art. 20. In order to be able to exercise the rights set forth in this law, a political party shall be registered by the National Elections Council. The Council shall issue a certificate of registration or notify the party of the reasons for the refusal of such a certificate within sixty days of the date upon which the application for registration is made.

Art. 21. In order to obtain the certificate of registration referred to in the previous article, a political party shall also certify that it has complied with the conditions set out in articles 17, 18 and 19 of this Act.

Art. 22. Upon receipt of its certificate of registration, which shall be published in the official journal, *La Gaceta*, a political party shall possess legal personality and shall enjoy all the rights inherent therein.

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Chapter II

REGISTRATION OF POLITICAL PARTIES

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Art. 37. Every six years from the date of its inscription the registration of a party's membership list shall be deemed to be null and void. It shall therefore be renewed so that, on resubmission to the National Elections Council, the number of members, as provided in article 30, may be noted in the margin of the original registration.

Registered parties which have no note of the renewal of their membership lists after six years shall be struck from the register automatically.

Chapter III

INSCRIPTION OF CANDIDATES

Art. 38. The central governing body of a legally constituted political party shall be responsible for arranging for the inscription in the register of the National Elections Council of candidates for the Presidency of the republic and for the office of Deputy in the National Congress and the National Constituent Assembly, as the case may be.

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Chapter IV

ELECTIONEERING

Art. 41. Duly constituted political organizations and citizens in general may engage in any type of electoral propaganda, in speech or in writing, using the press, radio or television or any type of poster, advertisement, pamphlet, and in general any lawful means for the purpose of encouraging voters to register or to exercise their vote in general or to vote in favour of a particular candidate.

Electoral propaganda shall therefore be free. It is bound by no limitations other than those required to preserve morality and public order and equality of rights among the registered political parties.

Art. 42. Notwithstanding the provisions of the foregoing article, it shall not be lawful to engage in anonymous propaganda, propaganda designed to encourage voters to stay away from the polls, and propaganda directed against human dignity or respect for the law.

Art. 43. Citizens and political parties making use of radio and television broadcasting facilities shall first provide the owner or agent of the under-

taking with a copy of the speech or statement to be broadcast, duly signed by the representative of the party or individual concerned.

Art. 44. All electoral propaganda shall remain within the bounds of decency and good citizenship and any person who uses insulting or slanderous language or promotes public disorder shall be liable for such acts in accordance with the ordinary law.

Art. 45. Rallies or meetings in the open air and political demonstrations organized by the registered parties for electioneering purposes shall not be held by different parties in the same town on the same day. The local election councils shall be responsible for issuing the appropriate permits in their respective jurisdictions, which they will do in strict rotation and in the order in which application is made, and they shall determine the order in which the various parties may engage in such activities in a specific locality. Application for a permit shall be made in writing. The authority concerned shall note on the application the date and time at which it was made, and the decision concerning the application shall be communicated at once to the applicant and to the agents of the other parties in the locality and a record obtained of such notification.

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Art. 46. The local election councils shall not allow the electioneering offices or premises of one political party to be installed within less than one hundred metres of the offices or premises of another.

Art. 47. None of the propaganda activities referred to in article 41 shall be prohibited unless, in the case of rallies and processions, permission has been given beforehand to another party for some similar public function in the same place and at the same time which might give rise to public disturbance.

For political rallies or processions, application shall be made to the local election council for the appropriate authorization; these shall be recorded in a book kept specially for the purpose, in which entries shall follow one after the other in the order in which the requests were made, according to the date and time of the application. Official notice of the authorization shall be sent to the party concerned.

Art. 48. At the request of the persons concerned, the authorities shall remove to a distance of two hundred metres any person or group disturbing or seeking to disturb a political meeting or procession. The electioneering offices or premises of political parties shall remain closed for twenty-four hours on the day on which another party is holding a political rally or procession in a particular locality, except during the week prior to the holding of an election.

Art. 49. Public officials or employees are forbidden to engage during working hours in political propaganda activities or discussions. Members of the military services of any rank, members of the police force and persons in similar positions of authority shall not take part in the activities of political parties or attend their offices or premises, or be present at political meetings, or use the authority or influence deriving from their official positions for the benefit of any political party, or wear the colours or emblems of any political party, or display political posters in their quarters or engage in partisan demonstrations of any kind.

Art. 50. The national elections council, in enforcing the regulations referred to in article 41, shall abide strictly by the following principles:

1. All electoral propaganda shall be prohibited on the election day;

2. Rallies or processions for electioneering purposes shall only be permitted after the date on which the election was announced up to the day before the date set for the election; and

3. No authority shall prevent the open-air meetings referred to in the previous paragraph unless they infringe the provisions of article 45 of this law.

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TITLE VI

Chapter I

THE HOLDING OF ELECTIONS

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Art. 110. No armed force shall be placed, and no electioneering shall be carried on, or paper slips distributed to voters within one hundred metres of a polling station.

Art. 111. Military parades, doctrinal exercises and the calling-up of voters to military service are prohibited from the day on which the election is announced to one day after the election has been held.

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TITLE VII

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Chapter II

PENALTIES

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Art. 130. If an official or public employee is guilty of an act of commission or omission with the intention of bringing pressure to bear on voters or on the election councils he shall be deemed guilty of the offence of electoral coercion and shall be liable to long-term imprisonment in the lowest degree.

Art. 131. If a private person exercises electoral coercion on a voter he shall be liable to medium-term imprisonment in the medium degree.

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FINAL PROVISIONS

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Art. 154. The three political parties now in existence shall be regarded as having been legally constituted and will not therefore be required to comply with the formalities relating to the constitution and registration of such bodies.

FINAL ARTICLE

Art. 158. This Act shall enter into force on the day of its publication in the official journal, *La Gaceta*, and upon that date all laws formerly enacted on this matter and any other statutory provisions which may conflict with it will cease to have effect.

HUNGARY

NOTE[1]

1. Legislative Decree No. 10 of 1960 on the Granting of Partial Amnesty and the Suppression of Public Security Detention

The consolidation and further strengthening of the state and social order of the Hungarian People's Republic made it possible for the Presidential Council of the Hungarian People's Republic to issue, on the 15th anniversary of Hungary's liberation from fascism, a legislative decree on the granting of partial amnesty and the suppression of public security detention.

Legislative decree No. 10 of 1960 in its preamble stresses that the institution of public security detention introduced temporarily after the counter-revolution is no longer needed, and in art. 5 prescribes abolishment of this institution.

By virtue of the legislative decree, amnesty was granted to those who before its coming into force had been validly sentenced to imprisonment not exceeding six years for seditious acts committed before 1 May 1957. Amnesty was also accorded to those who, before 31 December 1952, had been sentenced to a fixed term of imprisonment or to life imprisonment for war crimes or crimes against the people, provided they had already served 10 years of their prison terms. Amnesty was extended to such mothers sentenced to imprisonment not exceeding one year who had a child under 10 years of age, as well as to those who had been validly sentenced to refermatory work. The application of the legislative decree was extended to persons sentenced by a military tribunal.

2. Order in Council No. 55/1960 (XII.22) on the Setting to Work of Persons released from Prison

One of the underlying principles of socialist penal law is that the primary purpose of criminal punishment is to reform and re-educate those who committed crimes. The purpose of punishment cannot be to continue to exclude the guilty person from society after he served his sentence and to make him branded for the rest of his life. It is important for persons released from prison to be able to adapt themselves to social life and to become useful members of society. With this end in view, persons released from prison should be assisted in finding jobs as soon as possible and in overcoming difficulties which may arise from their being previously convicted but which do not follow from the sentence. It is to this end that the Hungarian government issued order in council No. 55/1960 (XII.22) on the setting to work of persons released from prison.

The operative part of the order reads as follows:

"*Art. 1.* (1) At the request of a person who is about to be released from prison, the prison governor, at least four weeks in advance of the convict's release shall, in order to secure him a job, inform the executive committee of the district (city, borough) council having jurisdiction in the convicts' place of residence (hereinafter: the executive committee) of the qualifications and personal circumstances of the convict.

"(2) Relying upon the information supplied by the prison governor, the Executive Committee shall direct the person released from prison for employment to a state enterprise or co-operative requiring labour.

"*Art. 2.* (1) The directors of state enterprises and the chairmen of co-operatives shall promote the setting to work of persons released from prison; if otherwise there is no serious and weighty obstacle to their being employed, the persons released from prison must not be refused such jobs because of their having been previously convicted.

"(2) The provision contained in paragraph 1 does not affect the validity of such rules as stipulate special conditions for the occupation of certain posts.

"*Art. 3.* Persons released from prison shall be assisted in overcoming difficulties which may arise from their being previously convicted but which do not follow from the sentence.

"*Art. 4.* The task defined in art. 1, paragraph 2, and in art. 3 shall be discharged by an official appointed by the executive committee, in co-operation with the organs of trade administration.

"*Art. 5.* The present order shall enter into force on the day of its promulgation; its implementation is incumbent on the Minister of the Interior and of Labour in co-operation with the Minister of Justice."

3. Order in Council No. 6/1960 (II.14) on Old-age and Disability Benefits for Members of Co-operative Farms

Simultaneously with the socialist reorganization of agriculture the Hungarian government is making

[1] Note furnished by the Government of the Hungarian People's Republic.

far-reaching provisions to raise steadily the social well-being of the members of co-operative farms. One proof of this is order in council No. 6/1960 (II.14).

By virtue of this order, any male member of a co-operative farm is eligible for an old-age benefit after completion of his 70th year and so also is any female member after completion of her sixty-fifth year, provided that such persons are not entitled to any pensions defined in other rules and if they cannot take part systematically in the common work of the co-operative farm.

Disability benefits are to be paid to totally disabled members of the co-operative farms.

In the event of the death of a co-operative member his surviving spouse is eligible for a widow's benefit. If she is also a member of a co-operative farm she is entitled, instead of to a widow's benefit, to an old-age or disability benefit whose amount is higher than that of a widow's benefit.

Social benefits provided for in other rules are granted to the members of co-operative farms regardless of whether or not they receive old-age or disability benefits.

4. Act No. III of 1960 on Mining

The new Hungarian mining law most adequately endorses the principles of safety in the mines, economy of production, and respect for labour. In order to make these principles prevail, the law provides for increased safety in the exploitation of mines and for the application of such methods as serve to protect the life and health of man, who is the most valuable asset.

Extracts from the Act follow:

"PART TWO

"*Chapter III*

"Safety in the Mines

"*General Safety Regulations*

"*Art. 31.* (1) In the interest of greater safety in the mines, safety regulations shall be issued.

"(2) The mining company is bound to see that the safety regulations are given effect. Every mining worker is bound to observe the safety regulations and to ensure that they are observed by those working under his direction.

"(3) Within their province of authority the organs of state administration are bound to improve safety in the mines and to secure the conditions required therefor.

"*Art. 32.* Efforts shall be made, also by applying modern technology in mining, to protect the lives and health of the workers, the resources of mineral raw materials and the mining assets, as well as other social interests affected by the exploitation of mines.

"*Art. 33.* (1) The workers of a mining company shall be taught the prevention of accidents in a systematic way. Only those who have passed an examination on the fundamental knowledge of the prevention of accidents may be engaged in mine work.

"(2) Technical workers occupying leading and supervisory posts with a mining company or its superintending authorities are bound to pass an examination, at intervals prescribed by the mining authority, on their knowledge of the safety regulations.

"*Art. 34.* In the mining works specified by the mining authority a life-saving service shall be organized, or central or independent life-saving stations shall be set up.

"*Prevention of Dangers in Mining*

"*Art. 35.* The mining company is bound to protect its workers against the dangers of mining and, therefore, in the course of prospecting and the location and exploitation of the mine, it shall take appropriate measures to prevent mining dangers.

"*Art. 36.* The mining works shall be classified from the points of view of water inrush, firedamp or coal-dust explosion and fire hazard. Mining in them shall be allowed only in compliance with the safety regulations answering the given classification.

"*Art. 37.* The measures intended to prevent water inrush, gas danger, firedamp or coal-dust explosion, fire or radiation hazard and rock outburst shall be included in the technical operative plan of the mining works.

"PART THREE

"Moral and Material Regard for the Miners

"*Art. 53.* Appreciation both in moral and in material respect is due to the miners for their hard work and for the importance of mining in the economic life of the country.

"*Art. 54.* (1) The first Sunday of September every year shall be observed as 'Miners' Day' by the country.

"(2) Decorations or badges of honour shall be awarded to those miners who have proved worthy thereof through their good and disciplined conduct. The decorations and badges of honour, as well as the conditions of their bestowal, are fixed by a separate provision of law.

"(3) Miners are entitled to wear gala uniforms expressing the militant traditions of the past and respect for the miners' work.

"(4) Care shall be taken to cultivate the progressive traditions of Hungarian mining and miners' life and to bring to light and preserve souvenirs relating to the history of technology and Hungarian mining.

"*Art. 55.* The provisions concerning material regard for the miners, particularly as concerns the wage system, working hours, holidays, special rewards, social security benefits, and facilities for home-building are governed by separate rules.

"*Art. 56.* The special benefits, other than social security benefits, due to casualties and victims of fatal accidents shall be fixed by the competent cabinet minister in co-operation with the trade union."

5. Decree No. 22/1960 (VIII.30) of the Minister of Agriculture on the Prevention of Accidents during Employment in the Co-operative Farms

Decree No. 22/1960 (VIII.30) of the Minister of Agriculture makes it obligatory to apply also to the co-operative farms the system of the prevention of accidents applied on a large scale in industry and governed by various provisions of law, while taking into account the peculiarities of the work done on co-operative farms.

According to art. 1, in connexion with the tasks of labour protection and accident prevention in the co-operative farms, the general precautionary measures as well as the special measures concerning accident prevention and health protection in the co-operative farms are to be applied with due consideration for the peculiarities of the co-operative farms and to material resources. The precautionary measures concerning industrial occupations are also to be applied to the trades pursued in the co-operatives.

The decree fixes the tasks of the co-operative farms in the field of the prevention of accidents and includes detailed provisions concerning the organization of accident prevention. It prescribes that every person assuming a leading function in the co-operative farm is responsible, within the scope of his activity, for observance of the rules of accident prevention.

Those members of the co-operative farms who are employed in places of work exposed to the risk of accident are to be trained in accident prevention.

The decree further provides for the systematic supervision and control of the situation as regards accident prevention in the co-operative farms and for the establishment of the responsibility of those violating the rules of accident prevention.

6. Decree No. 2/1960 (XI.5) of the Minister of Light Industry on Reduction of the Hours of Work of Workers employed in Certain Places of Employment harmful to Health in the State Local Industry and Private Small-scale Industries

The protection of the health of the workers in the Hungarian People's Republic is of primary concern. Already a number of provisions of law — including the Labour Code — have defined places of work where the workers are to be employed, for a reduced number of hours instead of for the usual 48 hours a week, without, of course, reduction of wages.

Decree No. 2/1960 (XI.5) further widened the categories entitled to a reduction of their hours of work. This decree covers the workers employed in the state local industry and private small-scale industries. The annex to the decree specifies those 60 occupations harmful to health where the workers shall be employed, according to the nature of the work, for a reduced number of 42, 40 or 36 hours a week.

The decree also provides a reduction of one hour of work daily for those workers, as well as for those employees not engaged in physical work, who work in the same workroom as those engaged in the occupations enumerated in the decree.

The decree provides that workers entitled to a reduction of working hours must not be made to work overtime. An essential provision of the decree makes it compulsory to ensure that the former wages of those affected by the reduction of hours of work are not cut down.

7. Decree No. 3/1960 (I.28) of the Minister of Health on reducing Hospital Fees in the Case of Certain Diseases

Hungary's economic and social development has made it possible for the State to bear, even where the patient is not entitled to free hospital treatment, the total charges for hospital care in the case of infectious diseases necessitating isolation as well as the overwhelming part of such expenses in the case of certain prolonged diseases imposing a financial burden upon the patient and his family and exposing his environment to hazard. Thus the struggle against diseases and the curing of those afflicted with diseases will become more hopeful.

Decree No. 6/1958 (XI.12) issued by the Minister of Health in 1958 specified the diseases in the case of which the patient was entitled to free hospital treatment as well as those in the case of which the patient should pay only Ft. 15 (about $0.60) for hospital care daily.

Decree No. 3/1960 (I.28) provides free hospitalization or the benefit of reduced hospital fees in the case of an additional number of diseases.

8. Order in Council No. 42/1960 (IX.1) on the Intensification of the Fight against Tuberculosis

Prior to 1945, tuberculosis was a widespread disease in Hungary. Since the liberation of the country considerable results have been achieved in the prevention and healing of this disease. Owing to the development of industry and agriculture, the rising standards of living, the large-scale housing

projects and the widening network of medical care in the socialist order of society, it has become possible to intensify the fight against tuberculosis. Considering the nature of this disease, this task is one with many facets which cannot be solved by the sanitary authorities alone. Other state bodies and social organizations also take an active part in the fight against tuberculosis in Hungary. In the years to come the Hungarian People's Republic will invest large sums with a view to stamping out this disease. Every citizen has also to contribute his share to the earliest possible success of this fight.

It is with a view to achieving these aims that the Government of the Hungarian People's Republic issued order in council No. 42/1960 (IX.1) on the intensification of the fight against tuberculosis.

Extracts from the order follow:

"*Art. 1.* The fight against tuberculosis (herinafter: T.B.) is a common cause for our entire people. It is a duty and in the best interest for every citizen to contribute, with a readiness to help and with awaredness, to the success of the anti-T.B. fight.

"*Art. 2.* (1) The task of combating further and then stamping out T.B. makes it necessary, in addition to maintaining sanitary services, to improve further the living (provisioning and housing) conditions of the population (taking into special consideration those affected by T.B.) and public health conditions in general, as well as to eliminate the possibilities of T.B. infections of animal origin. With a view to creating these prerequisites, the central and local organs of state administration, their institutions and enterprises, the co-operatives and the social organizations are bound to take an active part in the fight against T.B. and to render assistance to the state organs of the public health service and their institutions. The necessary ways and means shall be fixed by the cabinet minister exercising supervision (head of an organ having national authority) in co-operation with the Minister of Health.

"(2) The local tasks — concerning both sanitary and other matters — in the capital city, in the counties and in the towns with county status shall be set, and their implementation checked upon, yearly by the executive committee of the local council.

"*Art. 3.* (1) The sanitary activities aimed at the prevention of T.B. (the discovering, curing and treatment of T.B.-affected persons) are the task of all state organs and institutions of the public health service. It is incumbent on the institutions of the anti-T.B. fight to organize and direct these activities.

"(2) The organs and institutions of the public health services working under the supervision of the Ministers of the Interior, National Defence, Communications and Postal Services shall also take part in the fulfillment of the sanitary tasks of the anti-T.B. fight.

"(3) The organs and institutions of the public health service are assisted in their work by the Trades Union Council and the trade unions.

"*Art. 4.* In order to promote the anti-T.B. fight, social committees shall be set up in the capital city, in every county and county district with the participation of representatives of state bodies, social organizations, enterprises and co-operatives. The organization and the tasks of these committees shall be regulated by the Minister of Health.

"*Art. 5.* (1) Vaccination (see art. 10), the screening and medical examination, medical care and the hospital (clinical, sanatorium, ambulatory) treatment of T.B. patients for this disease by the competent organs of the state public health service are free of charge.

"(2) To persons invited to appear for a check-up in a T.B. department who otherwise are not entitled to repayment of travelling expenses, such expenses may be wholly or partly reimbursed from state funds. The relevant rules shall be laid down by the Minister of Health in concert with the Minister of Finance.

"*Art. 6.* The social insurance benefits due to T.B. patients and to their dependants entitled to such benefits are regulated by special provisions of law.

"*Art. 7.* In order to promote the recovery of T.B. patients, they may, during their treatment, be given financial help, depending on their material and family situation, from state funds. The conditions and extent of such financial help shall be fixed by the Minister of Health in concert with the Minister of Finance, the Minister of Labour and the Trades Union Council.

"*Art. 8.* Workers partially disabled because of T.B. shall be given employment, or be trained for other work, appropriate to their health condition, pursuant to the general provisions concerning the employment of partially disabled persons.

"*Art. 9.* The better protection of the health of those working with the organs of the anti-T.B. fight is governed by the Labour Code and special provisions issued on the basis of it.

"*Art. 10.* With a view to preventing T.B. infections, obligatory vaccination may be instituted by decree. The categories to be vaccinated shall be fixed by the Minister of Health.

"*Art. 11.* In order to discover T.B.-affected persons and to avoid the risk of infection, the population of the country shall be periodically subjected to screening examinations, and the workers who, owing to their occupation, are likely to cause widespread infection shall be subjected to pre-employment and periodic medical examinations.

"*Art. 12.* (1) Persons who at the screening or other examinations have been found to be worthy of further checkups, T.B.-affected persons and those

exposed to T.B. infection, as well as former T.B. patients of T.B. departments, are bound, upon invitation from the competent sanitary authority, to undergo medical examination.

"(2) If a T.B. patient, despite repeated warnings of the competent sanitary authority, does not observe the sanitary provisions aimed at the prevention of infection, he may be assigned to the isolation ward of a hospital or sanatorium.

"(3) Whosoever, despite repeated warnings, does not report for medical examination, or does not comply with the decision concerning his assignment to a hospital, may be compelled to appear for examination or accommodation in a hospital. In effecting such compulsory attendance, the provisions of arts. 20 and 86 of Act No. IV of 1957 shall apply without the consent of the public prosecutor.

"*Art. 13.* (1) A child under one year of age, especially a new-born child, of a mother infected by or suspected of T.B. may, until it has developed protection against T.B., be accommodated in a state crèche if there is no reassuring way of placing it in a home or elsewhere. The expenses of the child's accommodation are borne by the State.

"(2) If a child has been taken care of by the State because of the hazard of infection by a T.B. patient in its environment, no fee shall be charged for the child's accommodation.

"*Art. 14.* (1) In places of work where a T.B. case may cause widespread infection, it is not allowed to employ any person who has not taken part in pre-employment or periodic examinations or who according to the medical examination has been found to be infected by or suspected of T.B.

"(2) The places of work referred to in paragraph 1 shall be defined by the Minister of Health in co-operation with the competent cabinet ministers.

"*Art. 15.* Anybody who, owing to his place of work, comes to know about another person's being affected by T.B. is bound to observe secrecy in this respect. It is not considered a breach of the obligation of secrecy when someone reports the case to the organ competent for the implementation of the present order or of any ministerial decree to be issued on the strength of it, or to the person directly exposed to the hazard of infection by the sick person.

"*Art. 16.* (1) Whosoever, in contravention of the provisions of the present order,

"(*a*) Does not subject himself to vaccination or to the obligatory screening and medical examinations, or does not comply with the decision concerning his assignment to hospital;

"(*b*) Employs, in places of work requiring a pre-employment medical examination in accordance with the present order, any person infected by or suspected of T.B. or any person who has not been subjected to medical examination;

"(*c*) Continues his occupation despite his being infected by or suspected of T.B.;

commits a misdemeanour and can be subjected to a fine not exceeding Ft. 3,000.

"(2) The bringing of an action for the misdemeanour falls within the jurisdiction of the management division of the executive committee of the city council."

9. Order in Council No. 2/1960 (I.6) on Culture Centres

This order was promulgated on 6 January 1960. By virtue of the order any house, home, circle or club of culture (with the collective designation: culture centre) is an institution serving the culture of the working people. Its purpose and tasks are to further the ideological, professional and artistic education of the population, to raise its general standards of culture and to provide the incentive, and the possibility, to mould the forms of social life and high-level entertainment. The culture centres achieve the purposes and tasks set with the active participation of the working people. Subject to permission of the competent authorities, culture centres may be set up and maintained by any enterprise, factory, office, institute, institution, co-operative, or trade union. Professional control over the culture centres at the highest level is exercised by the Minister of Culture.

10. Order in Council No. 19/1960 (IV.13) on Facilities Due to Workers Attending Correspondence and Evening Courses of the Institutions of Higher Education

The Hungarian People's Republic makes a point of ensuring the best possible conditions of study to those who, besides their work, are attending extension courses at universities, colleges, academies, etc. Order in Council No. 19/1960 (IV.13) provides paid study leave, reduction of working hours and reimbursement of travelling expenses for workers attending correspondence and evening courses of the institutions of higher education.

Extracts from the order follow:

"*Art. 1.* Workers attending the correspondence and evening courses of the institutions of higher education are entitled to the following facilities:

"*At Correspondence Courses*

"(*a*) A study leave of 30 workdays per academic year at the universities, colleges and academies and 24 workdays per academic year at teachers' and kindergarten teachers' colleges, to prepare for the examinations;

"(*b*) The hours of work lost for attendance at compulsory studies and examinations (not more than 30 days a year at the faculties of the technical, agricultural and natural sciences, and foreign lan-

guages; not more than 18 days a year at other faculties; not more than 12 days a year at teachers' and kindergarten teachers' colleges) shall be considered justified absence and paid with the average wages;

"(*c*) A special study leave of 36 workdays a year at the faculties of the technical, agricultural and natural sciences, 24 workdays a year at other faculties, or 12 workdays a year at teachers' and kindergarten teachers' colleges, to write a thesis or diploma dissertation as well as to prepare for the final examination or to defend the diploma dissertation;

"(*d*) Reimbursement, ten times a year, of the travelling expenses incurred because of attendance at examinations and compulsory studies defined in the curriculum and organized at the institutions of higher education or at the centres of consultation — wholly to students with a monthly income not exceeding Ft. 1,600 and 50 per cent to those with a monthly income between Ft. 1,600 and 2,200, unless they are entitled to travel at half fare, provided the travelling distance is more than 50 kilometres.

"*At Evening Courses*

"(*a*) A study leave of 24 workdays per academic year, to prepare for the examinations;

"(*b*) A paid absence of two hours on four workdays a week for students of the faculties of the technical, agricultural and natural sciences, two hours on three workdays a week for students of other faculties, during the academic session, if they are employed in places of work operating eight hours a day, to ensure their attendance at the compulsory evening studies; if there are good reasons for it, this leave can be taken also combined in one day;

"(*c*) The same special study leave as is due to students of the correspondence courses, to draft their theses or diploma dissertations as well as to prepare for the final examinations or to defend their diploma dissertations."

ICELAND

ACT No. 45 OF 1960, OF 9 JUNE 1960, CONCERNING HOLIDAYS FOR HOUSEWIVES[1]

Art. 1. One or more holiday committees shall be established in the jurisdictional area of each District Federation of Women's Associations, and shall be responsible for supervising the payment of holiday allowances to housewives, the organization of rest centres and travel for them and other tasks in that connexion. Where there are mothers' welfare committees working in the holiday area, the holiday committees shall enlist their co-operation.

Art. 2. Each holiday committee shall be composed of three members to be elected at the annual meeting of the competent District Federation, and three alternate members, all women. They shall be elected for three-year terms. The holiday committees shall apportion the work among themselves. The members shall serve without pay.

Art. 3. The resources for the holiday fund shall consist of the following:

1. Annual payments by the Treasury of a sum corresponding to not less than 10 kronur for each housewife in Iceland;
2. Contributions from the urban and rural communes;
3. Contributions from the Women's Associations and Federations of Women's Associations;
4. Donations, pledges and other resources which the holiday committees and Women's Associations deem appropriate.

The Ministry of Social Affairs shall apportion the contributions referred to in sub-paragraph 1 among the holiday areas, having due regard to the further contributions provided in sub-paragraphs 2, 3 and 4.

Art. 4. Any woman who manages a home without receiving payment for her work shall be entitled to a holiday allowance. In special circumstances, holiday funds equivalent to half the amount received by the mother may also be granted in respect of children up to the age of ten years. As a rule, the holiday shall last for not less than ten to fourteen days.

Art. 5. In apportioning holiday allowances, which may cover the entire cost of a full holiday, the holiday committees shall pay due regard to the circumstances of the family, the number of children and their ages, the family's housing and state of health and such other circumstances as, in the opinion of the committees, merit special consideration.

Holiday fund money may be carried over from one year to another if it is deemed advisable.

. . .

Art. 7. Until special holiday homes have been built, the holiday committees shall co-operate with the Ministry of Social Affairs, the Ministry of Education and other appropriate institutions with a view to using schools and other public buildings for holiday accommodation in so far as they are available.

Art. 8. The holiday committees shall be required to send the Ministry of Social Affairs an annual report on their activities together with a statement of accounts.

Art. 8. This Act shall enter into force immediately.

[1] Published in *Stjórnartíðindi* 1960, part A, p. 173.

INDIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1959[1]

I. AMENDMENT OF THE CONSTITUTION

Article 334 of the Constitution, as originally enacted, laid down that the provisions of the Constitution relating to the reservation of seats for the scheduled castes and the scheduled tribes and the representation of the Anglo-Indian community by nomination in the House of the People and the Legislative Assemblies of the States would cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. These provisions were accordingly due to expire on 26 January 1960. The Constitution (Eighth Amendment) Act, 1959,[2] passed by the Parliament of India has amended article 334 so as to continue the reservation of seats for the scheduled castes and the scheduled tribes and the representation of the Anglo-Indian community by nomination for a further period of ten years.[3]

II. OTHER LEGISLATION

SOCIAL AND ECONOMIC RIGHTS

(1) The Cinematograph (Amendment) Act, 1959[4]
(Act No. 3 of 1959)

The Cinematograph Act, 1952[5] (Act No. 37 of 1952) empowered the Central Government to constitute a Board of Film Censors for the purpose of examining and certifying films as suitable for public exhibition and left the manner in which the Board should exercise its powers to be regulated by rules to be made under the Act.

The Cinematograph (Amendment) Act, 1959 passed by Parliament has amended the Act of 1952 so as to include therein express provisions regarding the composition of the Board of Films Censors, the constitution of advisory panels and the procedure regarding examination of films and their certification. The Amending Act of 1959 has also incorporated in the parent Act the principles for guidance in certifying films based on the provisions of article 19 (2) of the Constituion.

Section 5-B inserted in the parent Act by the amending Act of 1959 provides that a film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of court, or is likely to incite the commission of any offence, and it authorizes the Central Government to issue such directions as the Central Government may think fit setting out the principles which shall guide the authority competent to grant certificates under the Act in sanctioning films for public exhibition.

(2) The Workmen's Compensation (Amendment) Act, 1959[6]
(Act No. 8 of 1959)

The Workmen's Compensation Act, 1923 (Act No. 8 of 1923), which provided for the payment by certain classes of employers to their workmen of compensation for injury by accident, and came into force on 1 July 1924, was subsequently amended from time to time. By the amending Act of 1929 the scope of the parent Act was enlarged and modifications were made in the provisions relating to the distribution of compensation. In 1933, the parent Act was extensively revised on the lines recommended by the Royal Commission on Labour in India in 1931 and the main amendments made therein were the enlargement in the categories of workmen covered by it, increase in the scales of compensation and reduction in the period of disablement for which compensation was payable. By the amending Act of 1946, the wage limit of workers covered by the parent Act was increased from Rs. 300 to Rs. 400.

The Workmen's Compensation (Amendment) Act, 1959, passed by Parliament has further amended the Act of 1923. Some of the important amendments are mentioned below:

The Workmen's Compensation Act, 1923 prescribed different rates of compensation for adults and minors for death and permanent disablement on the ground that a minor would have, as a general rule, no dependants. The Amending Act of 1959 has removed the distinction between an adult and a minor for

[1] Note prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, p. 1, of 6 January 1959.

[3] The words "ten years" in article 334 have been substituted by "twenty years".

[4] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 23–28, of 13 March 1959.

[5] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 190–194, of 21 March 1952.

[6] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 49–61, of 31 March 1959.

the purposes of workmen's compensation as there is not much justification for this distinction and it is considered that there should be uniform rates of compensation for workmen in similar wage-groups.

Following the principle laid down in the Convention on Workmen's Compensation (Accidents) 1925 of the International Labour Organisation, the amending Act of 1959 has reduced the waiting period of seven days prescribed in the Act of 1923 for payment of compensation for disablement to three days. To reduce the hardship of a workman in case he suffers an injury which incapacitates him for twenty-eight days or more, the amending Act of 1959 has made a provision for payment of compensation from the date of disablement including the waiting period also.

There was no provision for penalty for failure to pay compensation when due. The amending Act of 1959 has provided for payment of interest if the compensation is not paid within one month from the due date and for a penalty if there is no justification for the delay.

A new schedule modelled on the schedule to the National Insurance (Industrial Disputes) Benefit Regulations, 1948, of the United Kingdom which is more modern has been substituted by the amending Act of 1959 for schedule I to the Act of 1923 giving the list of injuries deemed to result in permanent partial disablement. The amending Act of 1959 has also enlarged the scope of schedule II to the Act of 1923 by including therein new categories of workmen to be covered by the parent Act. Schedule III to the Act of 1923 containing a list of occupational diseases has been also amended by the amending Act of 1959 to bring it in line with the provisions of International Labour Convention No. 42 concerning Workmen's Compensation (Occupational Diseases) and also to include in it some of the prevailing occupational diseases which were not originally included therein.

(3) *The Mines (Amendment) Act, 1959*[1]
(Act No. 62 of 1959)

The Mines Act, 1952[2] (Act No. 35 of 1952) was enacted with a view to amending and consolidating the law relating to the regulation of labour and safety in mines.

The Mines (Amendment) Act, 1959 passed by Parliament has introduced a number of amendments in the Mines Act, 1952, and the more important of those amendments have been described below.

Section 21 of the Act of 1952 provided that an ambulance room was to be maintained in every mine wherein more than five hundred persons were employed. As work in mines, particularly work below ground, is more hazardous, the said section has been amended by the amending Act of 1959 to provide that a first-aid room is to be maintained in every mine wherein more than one hundred and fifty persons are employed.

There was no provision in the Act of 1952 for taking action against an owner, etc. of a mine for failure to comply with a notice of the inspectorate for remedying any matter, thing or practice connected with a mine which was dangerous to human life, limb or safety. Section 22 of the Act of 1952 has been amended by the amending Act of 1959 to remove this lacuna.

The amending Act of 1959 has also removed the distinction made in the Act of 1952 in the matter of payment of overtime wages between workers employed below ground and those employed in other parts of the mine by amending section 33 of the parent Act.

The amending Act of 1959 has also revised the chapter on leave with wages in the parent Act to make the provisions thereof more liberal.

The amending Act has also introduced provisions in the Act of 1952 for the enhancement of penalties for contravention of the different provisions of the parent Act to make punishment more deterrent.

(4) *The Kerala Education Act, 1958*[3]
(Kerala Act No. 6 of 1959)

This Act, which has been enacted by the Kerala Legislature, after having been assented to by the President of India, provides for the better organization and development of educational institutions in the state of Kerala. It confers wide powers of control on the state government in respect of both aided and recognized institutions in the state. An "aided school" has been defined in the Act to mean a private school which is recognized by and is receiving aid from the government, but not including educational institutions entitled to receive grants under article 337 of the Constitution of India, except in so far as they are receiving aid in excess of the grants to which they are so entitled. A "recognized school" has been defined to mean a private school recognized by the government under this Act. The Act also provides for free and compulsory education for children.

Sub-section 5 of section 3 of the Act provides that, after the commencement of the Act, the establishment of a new school or the opening of a higher class in any private school shall be subject to the provisions of the Act and the rules made thereunder and any school or higher class established or opened otherwise than in accordance with such provisions shall not be entitled to be recognized by the government.

[1] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 499–524, of 28 December 1959.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 155–184, of 17 March, 1952.

[3] Published in the *Kerala State Gazette Extraordinary* of 24 February 1959.

Sections 5 to 13 of the Act mainly contain provisions imposing state control over the management of aided schools by way of proper safeguards against maladministration.

Sub-section 1 of section 14 of the Act confers power on the state government to take over the management of an aided school other than a minority school for a period not exceeding five years if it appears to the state government that the manager of the school has neglected to perform any of the duties imposed by or under the Act or the rules made thereunder and it is necessary so to do in the public interest, after of course giving reasonable opportunity for showing cause against the proposed action. Sub-section 2 of that section provides that in cases of emergency the government may, if it is satisfied that such a course is necessary in the interests of the pupils of the school, take over the management of any such school as aforesaid after the publication of a notification to that effect in the *Gazette* without giving any notice.

Section 15 of the Act empowers the state government to acquire any category of aided schools other than minority schools in any specified area or areas. This power can be exercised only if the state government is satisfied that for standardizing general education in the state or for improving the level of literacy in any area or for more effectively managing the aided educational institutions in any area or for bringing education of any category under its direct control, it is considered necessary so to do in the public interest. No notification for the taking over of any school is to be issued unless the proposal for the taking over is supported by a resolution of the Legislative Assembly of the state. Provision has been also made in this section for the payment of compensation to the persons entitled thereto.

The expression "minority schools" has been defined in the Act to mean schools of their choice established and administered, or administered, by such minorities as have the right to do so under clause 1 of article 30 of the Constitution.

Section 20 of the Act lays down that no fee shall be payable by any pupil for any tuition in the primary classes in any government or aided school.

Section 23 of the Act requires the state government to provide for free and compulsory education of children between the ages of six and fourteen throughout the state within a period of ten years from the commencement of the Act. This provision is obviously intended to discharge the obligation laid on the state by article 45 in part IV of the Constitution laying down the directive principles of state policy.

Section 26 of the Act has made it obligatory on the guardians in any area of compulsion to send their wards to government or private schools subject to certain special exemptions provided for in section 27 of the Act. Provision has been also made in section 29 of the Act for the imposition of a penalty on any person who utilizes the time or services of a child in connexion with any employment, whether for remuneration or not, in such a manner as to interfere with the attendance of the child at a government or private school.

Section 30 of the Act casts a duty on the state government to see that noon-day meals, clothing, books and writing materials are provided for poor pupils free of cost.

The Kerala Education Bill as it was originally passed by the Kerala Legislative Assembly did not exempt the Anglo-Indian institutions which were entitled to receive grants under article 337[1] of the Constitution or any schools established or administered by such minorities as have the right to do so under clause 1 of article 30 of the Constitution from the stringent provisions of state control contained in the Bill. Clause 20 of the Bill as it was originally passed also prohibited the charging of tuition fees in the primary classes in any government or private school including recognized schools established or administered by any minorities and not receiving aid out of state funds.

It will appear from article 337 of the Constitution that the right of the Anglo-Indian community to receive grants under that article is subject to one condition as laid down in the second proviso thereto, namely, that no educational institution shall be entitled to receive any grant under that article unless at least 40 per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

Clause 1 of article 30 set out in part III of the Constitution which guarantees the fundamental rights provides that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice, and clause 2 of that article provides that the

[1] Article 337 of the Constitution provides:

"337. During the first three financial years after the commencement of this constitution, the same grants, if any, shall be made by the Union and by each state for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty-first day of March, 1948.

"During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years:

"Provided that at the end of ten years from the commencement of this constitution such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

"Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community."

state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language. Clause 2 of article 29 which is also included in the same part provides that no citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them. Thus a minority school receiving aid out of state funds is subject to the condition imposed by clause 2 of article 29 of the Constitution.

After the Kerala Education Bill was passed by the Kerala Legislative Assembly, it was reserved for the consideration of the President of India by the Governor of Kerala under article 200 of the Constitution. Thereupon doubts arose in the mind of the President as to the constitutional validity of some of the provisions of the Bill which sought to confer on the state government the right to assume wide powers of control in respect of both aided and recognized institutions including the Anglo-Indian institutions receiving aid under article 337 of the Constitution and other minority schools receiving aid out of state funds as it was apprehended that they would infringe some of the fundamental rights guaranteed to the minority communities by the Constitution. A reference[1] was accordingly made by the President under article 143 (1) of the Constitution to the Supreme Court of India for obtaining its advisory opinion upon certain questions relating to the constitutional validity of those provisions.

As a result of the opinion expressed by the Supreme Court, the Bill was returned by the President under the proviso to article 201 of the Constitution for reconsideration by the Kerala Legislative Assembly in the light of that opinion. The Kerala Legislative Assembly thereupon further modified the Bill —

(i) By excluding from the definition of "aided schools" educational institutions entitled to receive grants under article 337 of the Constitution of India excepting in so far as they were receiving aid in excess of the grants to which they were so entitled;

(ii) By exempting the minority schools from the provisions of clauses 14 and 15 of the Bill and inserting a definition of "minority schools" in clause 2 thereof; and

(iii) By limiting the application of clause 20 of the Bill to government and aided schools.

The Bill as so modified by the Kerala Legislative Assembly was then presented again to the President for his consideration and was assented to by him on 19 February 1959.

[1] For the reference made to the Supreme Court and the advisory opinion given by it, see pp. 176–180.

III. JUDICIAL DECISIONS

(1) FREEDOM OF SPEECH AND EXPRESSION AND RIGHT TO CARRY ON TRADE OR BUSINESS — LAW IMPOSING RESTRICTIONS — VALIDITY — CONSTITUTION OF INDIA, ARTICLES 19 (1) (*a*), 19 (1) (*g*) AND 14

Express Newspapers (Private) Ltd. and another v. The Union of India and others (and connected petitions and appeals)

Supreme Court of India[2]
19 March 1958

The facts: In September 1952 the Government of India appointed a Press Commission to inquire into, among other things, the conditions of employment of working journalists. The Press Commission, which submitted its report on 14 July 1954, made certain recommendations in the report in regard to minimum period of notice, gratuity, provident fund, settlement of industrial disputes, leave with pay, hours of work, minimum wages etc., for the improvement and regulation of the service conditions of working journalists by means of legislation. Accordingly, an Act to regulate certain conditions of service of working journalists and other persons employed in newspaper establishments was passed by Parliament in December 1955 giving effect to these recommendations of the Press Commission. This enactment, which was entitled "The Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (Act No. 45 of 1955)", left the fixation of rates of wages in respect of working journalists to a board to be constituted for the purpose by the Government of India. Thereafter, by a notification dated 2 May 1956, the Government of India constituted a Wage Board under section 8 of the Act for fixing rates of wages in respect of working journalists in accordance with the provisions of the Act. The Wage Board, after considerable discussion at several meetings, gave their decision, which was published by Government in the *Gazette of India Extraordinary*, of 11 May 1957.

Thereupon the petitioners on behalf of certain newspaper establishments presented petitions to the Supreme Court under article 32 of the Constitution challenging the validity of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, and the decision of the Wage Board. Some of the petitioners also preferred appeals against the decision of the Wage Board. The validity of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, was challenged on the ground that the said Act infringed the fundamental rights of the petitioners guaranteed by

[2] Report (1959) S.C.R.12.

articles 19 (1) (*a*),[1] 19 (1) (*g*)[2] and 14[3] of the Constitution. The petitioners contended that the provisions of sections 2 (*f*), 3, 4, 5, 8, 9, 10, 11, 12, 14, 15 and 17 of the impugned Act[4] placed unreasonable restraints on the petitioners' freedom to carry on business and that the impugned Act thus violated the right guaranteed by article 19 (1) (*g*) of the Constitution. The petitioners further contended that

[1] Article 19 (1) (*a*) of the Constitution provides:

"19 (1) All citizens shall have the right —

"(*a*) To freedom of speech and expression;"

. . .

[2] Article 19 (1) (*g*) of the Constitution provides:

"19 (1) All citizens shall have the right —

. . .

"(*g*) To practise any profession, or to carry on any occupation, trade or business."

[3] Article 14 of the Constitution provides:

"14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

[4] Sections 2 (*f*), 3, 4, 5, 8, 9, 10, 11, 12, 14, 15 and 17 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, read as follows:

"2. In this Act, unless the context otherwise requires,

. . .

(*f*) 'Working journalist' means a person whose principal avocation is that of a journalist and who is employed as such in, or in relation to, any newspaper establishment, and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-taster, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who —

(i) Is employed mainly in a managerial or administrative capacity, or

(ii) Being employed in a supervisory capacity performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

. . .

"3. (1) The provisions of the Industrial Disputes Act, 1947 (XIV of 1947), as in force for the time being, shall, subject to the modification specified in sub-section 2, apply to, or in relation to, working journalists as they apply to, or in relation to, workmen within the meaning of that Act.

"(2) Section 25F of the aforesaid Act, in its application to working journalists, shall be construed as if in clause (*a*) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a working journalist had been substituted, namely:

(*a*) Six months, in the case of an editor, and

(*b*) Three months, in the case of any other working journalist.

"4. Where at any time between the 14th day of July, 1954, and the 12th day of March, 1955, any working journalist had been retrenched, he shall be entitled to receive from the employer —

(*a*) Wages for one month at the rate to which he was entitled immediately before his retrenchment, unless he had been given one month's notice in writing before such rentrenchment; and

(*b*) Compensation which shall be equivalent to fifteen days' average pay for every completed year of service under that employer or any part thereof in excess of six months.

"5. (1) Where —

(*a*) Any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and —

(i) His services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, or

(ii) He retires from service, on reaching the age of superannuation, or

(iii) He voluntarily resigns from service from that newspaper establishment, or

(*b*) Any working journalist dies while he is in service in any newspaper establishment,

the working journalist or, as the case may be, his heirs shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.

"(2) Notwithstanding anything contained in sub-section 1, where a working journalist is employed in any newspaper establishment wherein not more than six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall be equivalent to —

(*a*) Three days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed five years;

(*b*) Five days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds five years but does not exceed ten years; and

(*c*) Seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

. . .

"8. (1) The Central Government may, by notification in the *Official Gazette*, constitute a Wage Board for fixing rates of wages in respect of working journalists in accordance with the provisions of this Act.

"(2) The Board shall consist of an equal number of persons nominated by the Central Government to represent employers in relation to newspaper establishments and working journalists, and an independent person shall be appointed by the Central Government as the chairman thereof.

"9. (1) In fixing rates of wages in respect of working journalists, the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employments, the circumstances relating to the newspaper industry in different regions of the country, and to any other circumstances which to the Board may seem relevant.

"(2) The Board may fix rates of wages for time work and for piece work.

"(3) The decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Central Government.

"10. (1) The decision of the Board shall, within a period of one month from the date of its receipt by the Central Government, be published in such manner as the Central Government thinks fit.

"(2) The decision of the Board published under sub-

the impugned Act singled out the press for levying upon it a direct burden which was so prohibitive that it would tend to curtail the revenue and restrict circulation which was the means of imparting information and giving free expression to speech, impose a penalty on the right of the petitioners to choose the instruments for its exercise or to seek alternative media of expression, prevent newspapers from being started and compel the press to seek government aid, and the said Act therefore infringed the freedom contemplated under article 19 (1) (*a*) of the Constitution and was not saved by article 19 (2)[1] thereof.

The petitioners also contended that the Act gave the working journalists a more favoured treatment as compared to other employees in several ways and that the employers of the newspaper establishments were also subjected to discriminatory treatment by the Act and that the impugned Act thus violated article 14 of the Constitution.

The decision of the Wage Board was challenged both in the petitions and in the appeals as void and inoperative on various grounds and one of the main grounds taken was that the decision fixing the rates and scales of wages was arrived at without any consideration whatsoever as to the capacity of the newspaper industry to pay these and thereby imposed a very heavy financial burden on the industry and spelled its total ruin.

Held: That the petitions should be allowed and the appeals which covered the same ground as the petitions should be disposed of accordingly. With the exception of section 5 (1) (*a*) (iii), the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 did not infringe any of the articles of the Constitution. Section 5 (1) (*a*) (iii) was *ultra vires* inasmuch as it infringed article 19 (1) (*g*) of the Constitution as it imposed an unreasonable restriction on the right of the newspaper establishments to carry on business, by providing for the payment of gratuity to a working journalist who had voluntarily resigned from service of the employer after a period of service of only three years. But since this section was severable from the remaining sections of the Act, the invalidity of section 5 (1) (*a*) (iii) did not affect the validity of the Act as a whole.

The decision of the Wage Board must be set aside as it was illegal and void inasmuch as the Wage Board did not take into consideration the capacity of the newspaper industry to pay the rates and scales of wages recommended by the Board although on a proper construction of section 9 (1) of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, it was not only open but was incumbent on the Board to do so before arriving at the fixation of such rates and scales of wages.

Concerning the constitutionality, under article 19 (1) (*g*) of the Constitution, of section 5 (1) (*a*) (iii), the court said:

"When we come, however to, the provision in regard to the payment of gratuity to working journalists who voluntarily resigned from service from newspaper establishments, we find that this was a provision which was not at all reasonable. A gratuity is a scheme of retirement benefit and the conditions for its being awarded have been thus laid down in the Labour Court decisions in this country.

"In the case of Ahmedabad Municipal Corporation[2] it was observed at page 158:

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section 1 shall come into operation with effect from such date as may be specified in the decision, and where no date is so specified, it shall come into operation on the date of its publication.

"11. Subject to any rules of procedure which may be prescribed, the Board may, for the purpose of fixing rates of wages, exercise the same powers and follow the same procedure as an Industrial Tribunal constituted under the Industrial Disputes Act, 1947, exercises or follows for the purpose of adjudicating an industrial dispute referred to it.

"12. The decision of the Board shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages fixed by the Board.

. . .

"14. The provisions of the Industrial Employment (Standing Orders) Act, 1946, as in force for the time being, shall apply to every newspaper establishment wherein twenty or more newspaper employees are employed or were employed on any day of the preceding twelve months as if such newspaper establishment were an industrial establishment to which the aforesaid Act has been applied by a notification under sub-section 3 of section 1 thereof, and as if a newspaper employee were a workman within the meaning of that Act.

"15. The Employees' Provident Funds Act, 1952, as in force for the time being, shall apply to every newspaper establishment in which twenty or more persons are employed on any day, as if such newspaper establishment were a factory to which the aforesaid Act had been applied by a notification of the Central Government under sub-section 3 of section 1 thereof, and as if a newspaper employee were an employee within the meaning of that Act.

. . .

"17. Where any money is due to a newspaper employee from an employer under any of the provisions of this Act, whether by way of compensation, gratuity or wages, the newspaper employee may, without prejudice to any other mode of recovery, make an application to the state government for the recovery of the money due to him, and if the state government or such authority as the state government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the collector and the collector shall proceed to recover that amount in the same manner as an arrear of land revenue."

[1] Article 19 (2) of the Constitution provides:

"(2) Nothing in sub-clause (*a*) of clause 1 shall affect the operation of any existing law, or prevent the state from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the state, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence."

[2] (1955) L.A.C. 155, 158.

" 'The fundamental principle in allowing gratuity is that it is a retirement benefit for long services, a provision for old age and the trend of the recent authorities as borne out from various awards as well as the decisions of this tribunal is in favour of double benefit. . . . We are, therefore, of the considered opinion that Provident Fund provides a certain measure of relief only and a portion of that consists of the employees' wages, that he or his family would ultimately receive, and that this provision in the present day conditions is wholly insufficient relief and two retirement benefits when the finances of the concern permit ought to be allowed.' [See also *Nandy Drooghmines Ltd.* (1956), L.A.C. 265 at p. 267.]

"These were cases, however, of gratuity to be allowed to employees on their retirement. The Labour Court decisions have, however, awarded gratuity benefits on the resignation of an employee also. In the case of *Cipla Ltd.*,[1] the court took into consideration the capacity of the concern and other factors therein referred to and directed gratuity on full scale . . . which included . . . (2) on voluntary retirement or resignation of an employee after 15 years' continuous service.

"Similar considerations were imported in the case of the *Indian Oxygen & Acetylene Co., Ltd.*,[2] where it was observed:

" 'It is now well settled by a series of decisions of the appellate tribunals that where an employer company has the financial capacity the workmen would be entitled to the benefit of gratuity in addition to the benefits of the Provident Fund. In considering the financial capacity of the concern what has to be seen is the general financial stability of the concern. The factors to be considered before granting a scheme of gratuity are the broad aspects of the financial condition of the concern, its profit earning capacity, the profit earned in the past, its reserves and the possibility of replenishing the reserves, the claim of capital put having regard to the risk involved, in short the financial stability of the concern.'

"There also the court awarded gratuity under ground No. 2—viz., on retirement or resignation of an employee after 15 years of continuous service and 15 months' salary or wage.

"It will be noticed from the above that even in those cases where gratuity was awarded on the employee's resignation from service, it was granted only after the completion of 15 years' continuous service and not merely on a minimum of 3 years' service as in the present case. Gratuity being a reward for good, efficient and faithful service rendered for a considerable period (*vide* Indian Railway Establishment Code, vol. I, at page 614 — chapter XV, para. 1503), there would be no justification for awarding the same when an employee voluntarily resigns and brings about a termination of his service, except in exceptional circumstances.

"One such exception is the operation of what is termed 'The conscience clause'. In Fernand Terrou and Lucion Solal's *Legislation for Press, Film and Radio in the World To-day* (a series of studies published by UNESCO in 1951), the following passage occurs in relation to 'Journalists' Working Conditions and their Moral Rights', at page 404:

" 'Among the benefits which the status of professional journalist may confer (whether it stems from the law or from an agreement) is one of particular importance, since it goes to the very core of the profession. It concerns freedom of information. It is intended to safeguard the journalist's independence, his freedom of thought and his moral rights. It constitutes what has been called in France the "conscience clause". The essence of this clause is that when a journalist's integrity is seriously threatened, he may break the contract binding him to the newspaper concern, and at the same time receive all the indemnities which are normally payable only if it is the employer who breaks the contract. In France, accordingly, under the law of 1935, the indemnity for dismissal which, as we have seen, may be quite substantial, is payable even when the contract is broken by a professional journalist, in cases where his action is inspired by "a marked change in the character or policy of the newspaper or periodical, if such change creates for the person employed a situation prejudicial to his honour, his reputation, or in a general way his moral interests."

" 'This moral right of a journalist is comparable to the moral right of an author or artist, which the law of 1935 was the first to recognize has since been acknowledged in a number of countries. It was stated in the collective contract of 31 January 1938 in Poland in this form: "The following are good and sufficient reasons for a journalist to cancel his contract without warning; (*a*) the exertion of pressure by an employer upon a journalist to induce him to perform an immoral action; (*b*) a fundamental change in the political outlook of the journal, proclaimed by public declaration or otherwise made manifest, if the journalist's employment would thereafter be contrary to his political opinions or the dictates of his conscience."'

"A similar clause is to be found in Switzerland, in the collective agreement signed on 1 April 1948 between the Geneva Press Association and the Geneva Union of Newspaper Publishers:

" 'If a marked change takes place in the character or fundamental policy of the newspaper, if the concern no longer has the same moral, political or religious character that it had at the moment when an editorial

[1] [1955] 2 L.L.J. 355 at p. 358.

[2] [1956] 1 L.L.J. 435.

employee was engaged and if this change is such as to prejudice his honour, his reputation or, in a general way, his moral interests, he may demand his instant release. In these circumstances he shall be entitled to an indemnity. . . . This indemnity is payable in the same manner as was the salary.

"The other exception is where the employee has been in continuous service of the employer for a period of more than 15 years.

"Where, however, an employee voluntarily resigns from service of the employer after a period of only three years, there will be no justification whatever for awarding him a gratuity and any such provision of the type which has been made in s. 5 (1) (*a*) (iii) of the Act would certainly be unreasonable. We hold therefore that this provision imposes an unreasonable restriction on the petitioners' right to carry on business and is liable to be struck down as unconstitutional."

(2) CULTURAL AND EDUCATIONAL RIGHTS OF MINORITIES — LEGISLATION IMPOSING RESTRICTIONS — VALIDITY — PRESIDENT'S REFERENCE TO SUPREME COURT FOR ADVISORY OPINION — CONSTITUTION OF INDIA, ARTICLES 14, 29 AND 30

In Re The Kerala Education Bill, 1957. Reference under article 143 (1) of the Constitution of India

Supreme Court of India[1]
22 May 1958

The facts: The Legislative Assembly of the state of Kerala passed a Bill entitled "The Kerala Education Bill, 1957" to provide for the better organization and development of educational institutions in the state of Kerala. The Bill was reserved by the Governor of Kerala, under article 200 of the Constitution, for the consideration of the President of India. Thereafter some doubts arose in the mind of the President as to the constitutional validity of certain privisions of the Bill and consequently the President referred *inter alia* the following questions under clause 1 of article 143 of the Constitution to the Supreme Court of India for consideration and report thereon — namely:

"(1) Does sub-clause 5 of clause 3 of the Kerala Education Bill, read with clause 36 thereof, or any of the provisions of the said sub-clause, offend article 14 of the Constitution[2] in any particulars or to any extent?

"(2) Do sub-clause 5 of clause 3, sub-clause 3 of clause 8 and clauses 9 to 13 of the Kerala Education Bill, or any provisions thereof, offend clause 1 of article 30 of the Constitution[3] in any particulars or to any extent?

"(3) Does clause 15 of the Kerala Education Bill, or any provisions thereof, offend article 14 of the Constitution in any particulars or to any extent?"

The doubts which led to the formulation of the above questions are thus recited in the order of reference:

"*And whereas* sub-clause 3 of clause 3 of the said Bill enables the Government of Kerala, *inter alia*, to recognize any school established and maintained by any person or body of persons for the purpose of providing the facilities set out in sub-clause 2 of the said clause, to wit, facilities for general education, special education and for the training of teachers;

"*And whereas* sub-clause 5 of clause 3 of the said Bill provides, *inter alia*, that any new school established or any higher class opened in any private school, after the Bill has become an Act and the Act has come into force, otherwise than in accordance with the provisions of the Act and the rules made under section 36 thereof, shall not be entitled to be recognized by the Government of Kerala;

"*And whereas* a doubt has arisen whether the provisions of the said sub-clause 5 of clause 3 of the said Bill confer upon the Government an unguided power in regard to the recognition of new schools and the opening of higher classes in any private school which is capable of being exercised in an arbitrary and discriminatory manner;

"*And whereas* a doubt has further arisen whether such power of recognition of new schools and of higher classes in private schools is not capable of being exercised in a manner affecting the right of the minorities guaranteed by clause 1 of article 30 of the Constitution to establish and administer educational institutions of their choice;

"*And whereas* sub-clause 3 of clause 8 of the said Bill requires all fees and other dues, other than special fees, collected from the students in an aided school to be made over to the Government of Kerala in such manner as may be prescribed, notwithstanding anything contained in any agreement, scheme or arrangement;

"*And whereas* a doubt has arisen whether such requirement would not affect the right of the minorities guaranteed by clause 1 of article 30 of the Constitution to administer educational institutions established by them;

[1] Report (1959) S.C.R. 995.

[2] Article 14 of the Constitution provides:

"14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

[3] Article 30 of the Constitution provides:

"30. (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

"(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language."

"*And whereas* clauses 9 to 13 confer upon the Government certain powers in regard to the administration of aided schools;

"*And whereas* a doubt has arisen whether the exercise of such powers in regard to educational institutions established by the minorities would not affect the right to administer them guaranteed by clause 1 of article 30 of the Constitution;

"*And whereas* clause 15 of the said Bill empowers the Government of Kerala to take over, by notification in the *Gazette*, any category of aided schools in any specified area or areas, if they are satisfied that for standardizing general education in the state of Kerala or for improving the level of literacy in any area or for more effectively managing the aided educational institutions in any area or for bringing education of any category under their direct control it is necessary to do so in the public interest, on payment of compensation on the basis of market value of the schools so taken over after deducting therefrom the amounts of aids or grants given by that government for requisition, construction or improvement of the property of the schools;

"*And whereas* a doubt has arisen whether such power is not capable of being exercised in any arbitrary and discriminatory manner;"

The following summary given by the court brings out clearly the purpose and scope of the provisions of the Bill.

"The long title of the said Bill describes it as 'A Bill to provide for the better organization and development of educational institutions in the State'. Its preamble recites thus: 'Whereas it is deemed necessary to provide for the better organization and development of educational institutions in the state providing a varied and comprehensive educational service throughout the state.'

. . .

"Clause 2 contains definitions of certain terms used in the said Bill, of which the following subclauses may be noted:

"'(I) "Aided school" means a private school which is recognized by and is receiving aid from the Government;

. . .

"'(3) "Existing school" means any aided, recognized or government school established before the commencement of this Act and continuing as such at such commencement.

. . .

"'(6) "Private school" means an aided or recognized school;

"'(7) "Recognized" means a private school recognized by the Government under this Act'.

"Clause 3 deals with 'Establishment and recognition of schools.' Sub-clause 1 empowers the Government to 'regulate the primary and other stages of education and courses of instructions in government and private schools'. Sub-clause 2 requires the Government to 'take, from time to time, such steps as they may consider necessary or expedient, for the purpose of providing facilities for general education, special education and for the training of teachers.' Sub-clause 3 provides that 'the Government may, for the purpose of providing such facilities: (*a*) establish and maintain schools; or (*b*) permit any person or body of persons to establish and maintain aided schools; or (*c*) to recognize any school established and maintained by any person or body of persons.' All existing schools, which by the definition mean any aided, recognized or government schools established before and continuing at the commencement of the Bill are, by sub-cl. 4 to be deemed to have been established in accordance with this Bill. The proviso to sub-clause 4 gives an option to the educational agency of an aided school existing at the commencement of that clause, at any time within one month of such commencement after giving notice to the Government of its intention so to do, to opt to run the school as a recognized school subject to certain conditions therein mentioned. Sub-cl. 5 of clause 3, which forms, in part, the subject matter of two of the questions referred to, runs as follows:

"'3 (5) After the commencement of this Act, the establishment of a new school or the opening of a higher class in any private school shall be subject to the provisions of this Act and the rules made thereunder and any school or higher class established or opened otherwise than in accordance with such provisions shall not be entitled to be recognized by the Government.'

"Clause 4 of the Bill provides for the constitution of a State Education Advisory Board consisting of officials and non-officials as therein mentioned, their term of office and their duties. The purpose of the setting up of such a board is that it should advise the Government on matters pertaining to educational policy and administration of the Department of Education. Clause 5 requires the manager of every aided school on the first day of April of each year to furnish to the authorized officer of the Government a list of properties, moveable and immoveable, of the school. A default in furnishing such list entails, under sub-cl. 2 of that clause, the withholding of the maintenance grant. Clause 6 imposes restrictions on the alienation of any property of an aided school, except with the previous permission in writing of the authorized officer of the Government. An appeal is provided against the order of the authorized officer refusing or granting such permission under sub-cl. 1. Sub-clause 3 renders any transaction in contravention of sub-cl. 1 or sub-cl. 2 null and void and on such contravention the Government, under sub-cl. 4, is authorized to withhold any grant to the school. Clause 7 deals with managers of

aided schools. Sub-clause 1 authorizes any Education agency to appoint any person to be a manager of an aided school, subject to the approval of the authorized officer, all the existing managers of aided schools being deemed to have been appointed under the said Bill. The manager is made responsible for the conduct of the school in accordance with the provisions of this Bill and the rules thereunder. Sub-clause 4 makes it the duty of the manager to maintain such record and accounts of the school and in such manner as may be prescribed by the rules. The manager is, by sub-cl. 5, required to afford all necessary and reasonable assistance and facilities for the inspection of the school and its records and accounts by the authorized officer. Sub-clause 6 forbids the manager to close down any school without giving to the authorized officer one year's notice expiring with the 31st May of any year of his intention so to do. Sub-clause 7 provides that, in the event of the school being closed or discontinued or its recognition being withdrawn, the manager shall make over to the authorized officer all the records and accounts of the school. Sub-clause 8 provides for penalty for the contravention of the provisions of sub-clauses 6 and 7. Clause 8 provides for the recovery of amounts due from the manager of an aided school as an arrear of land revenue. Sub-clause 3 of clause 8, which is also referred to in one of the questions, runs as follows:

"'8 (3) All fees and other dues, other than special fees, collected from the students in an aided school after the commencement of this section shall, notwithstanding anything contained in any agreement, scheme or arrangement, be made over to the Government in such manner as may be prescribed.'

"Clause 9 makes it obligatory on the Government to pay the salary of all teachers in aided schools direct or through the headmaster of the school and also to pay the salary of the non-teaching staff of the aided schools. It gives power to the Government to prescribe the number of persons to be appointed in the non-teaching establishment of aided schools, their salaries, qualifications and other conditions of service. The Government is authorized, under sub-cl. 3, to pay to the manager a maintenance grant at such rates as may be prescribed and under sub-cl. 4 to make grants-in-aid for the purchase, improvement and repairs of any land, building or equipment of an aided school. Clause 10 requires the Government to prescribe the qualifications to be possessed by persons for appointment as teachers in government schools and in private schools which, by the definition, means aided or recognized schools. The State Public Service Commission is empowered to select candidates for appointment as teachers in government and aided schools according to the procedure laid down in cl. 11. Shortly put, the procedure is that before 31 May of each year the Public Service Commission shall select for each district separately candidates with due regard to the probable number of vacancies of teachers that may arise in the course of the year, that the list of candidates so selected shall be published in the *Gazette* and that the manager shall appoint teachers of aided schools only from the candidates so selected for the district in which the school is located subject to the proviso that the manager may, for sufficient reason, with the permission of the Commission, appoint teachers selected for any other district. Appointments of teachers in government schools are also to be made from the list of candidates so published. In selecting candidates the Commission is to have regard to the provisions made by the Government under cl. 4 of art. 16 of the Constitution, that is to say, give representation in the educational service to persons belonging to the scheduled castes or tribes — a provision which has been severely criticized by learned counsel appearing for the Anglo-Indian and Muslim communities. Clause 12 prescribes the conditions of service of the teachers of aided schools obviously intended to afford some security of tenure to the teachers of aided schools. It provides that the scales of pay applicable to the teachers of government schools shall apply to all the teachers of aided schools whether appointed before or after the commencement of this clause. Rules applicable to the teachers of the government schools are also to apply to certain teachers of aided schools as mentioned in sub-cl. 2. Sub-clause 4 provides that no teacher of an aided school shall be dismissed, removed, reduced in rank or suspended by the manager without the previous sanction of the authorized officer. Other conditions of service of the teacher of aided schools are to be as prescribed by rules. Clause 14 is of considerable importance in that it provides, by sub-clause 1, that the Government, whenever it appears to it that the manager of any aided school has neglected to perform any of the duties imposed by or under the Bill or the rules made thereunder, and that in the public interest it is necessary so to do, may, after giving a reasonable opportunity to the manager of the educational agency for showing cause against the proposed action, take over the management for a period not exceeding five years. In cases of emergency the Government may, under sub-cl. 2, take over the management after the publication of notification to that effect in the *Gazette* without giving any notice to the educational agency or the manager. Where any school is thus taken over without any notice the educational agency or the manager may, within three months of the publication of the notification, apply to the Government for the restoration of the school showing the cause therefor. The Government is authorized to make orders which may be necessary or expedient in connexion with the taking over of the mangement of an aided school. Under sub-cl. 5 the Government is to pay such rent as may be fixed by the collector in respect of the properties taken possession of. On taking over any school, the Government is authorized to run it affording

any special educational facilities which the school was doing immediately before such taking over. Right of appeal to the district court is provided against the order of the collector fixing the rent. Sub-cl. 8 makes it lawful for the Government to acquire the school taken over under this clause if the Government is satisfied that it is necessary so to do in the public interest, in which case compensation shall be payable in accordance with the principles laid down in cl. 15 for payment of compensation. Clause 15 gives power to the Government to acquire any category of schools. This power can be exercised only if the Government is satisfied that for standardizing general education in the State or for improving the level of literacy in any area or for more effectively managing the aided educational institutions in any area or for bringing education of any category under their direct control and if in the public interest it is necessary so to do. No notification for taking over any school is to be issued unless the proposal for the taking over is supported by a resolution of the Legislative Assembly. Provision is made for the assessment and apportionment of compensation and an appeal is provided to the district court from the order passed by the collector determining the amount of compensation and its apportionment amongst the persons entitled thereto. Thus the Bill contemplates and provides for two methods of acquisition of aided schools; namely, under sub-cl. 8 of cl. 14 the Government may acquire a school after having taken possession of it under the preceding sub-clauses or the Government may, under cl. 15, acquire any category of aided schools in any specified area for any of the several specific purposes mentioned in that clause. Clause 16 gives power to the Government to exempt immoveable properties from being taken over or acquired. Clause 17 provides for the establishment of local education authorities, their constitution and term of office, and clause 18 specifies the functions of the local education authorities. Clauses 19 and 20 are important and read as follows:

"'19. Recognized schools: The provisions of sub-sections 2, 4, 5, 6, 7, 8 and 9 of section 7 shall apply to recognized schools to the same extent and in the same manner as they apply to aided schools.'

"'20. No fee to be charged from pupils of primary classes: No fee shall be payable by any pupil for any tuition in the primary classes in any government or private school.'

"Part II of the Bill deals with the topic of compulsory education. That part applies to the areas specified in cl. 21. Clause 23 provides for free and compulsory education of children throughout the State within a period of ten years and is intended obviously to discharge the obligation laid on the State by art. 45 of the directive principles of state policy. Clauses 24 and 25 deal with the constitution of local education committees and the functions thereof. Clause 26, which has figured largely in the discussion before us, runs as follows:

"'26. Obligation on guardian to send children to school: In any area of compulsion, the guardian of every child shall, if such guardian ordinarily resides in such area, cause such child to attend a government or private school and once a child has been so caused to attend school under this Act the child shall be compelled to complete the full course of primary education or the child be compelled to attend school till it reaches the age of fourteen.'

"We may skip over a few clauses, not material for our purpose, until we come to cl. 33 which is referred to in one of the questions we have to consider. That clause provides —

"'33. Courts not to grant injunction — Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, no court shall grant any temporary injunction or make any interim order restraining any proceedings which are being or about to be taken under this Act.'

"Clause 36 confers power on the Government to make rules for the purpose of carrying into effect the provisions of the Bill and in particular for the purpose of the establishment and maintenance of schools, the giving of grants and aid to private schools, the grant of recognition to private schools, the levy and collection of fees in aided schools, regulating the rates of fees in recognized schools, the manner in which the accounts registers and records shall be maintained, submission of returns, reports and accounts by managers, the standards of education and course of study and other matters specified in sub-cl. 2 of that clause. Clause 37 is as follows:

"'37. Rules to be laid before the Legislative Assembly: All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.'

"Under cl. 38 none of the provisions of the Bill applies to a school which is not a government or a private school — i.e., aided or recognized school."

Held: That the questions should be reported on as follows:

Question No. 1: No.

Question No. 2: (i) Yes, so far as Anglo-Indian educational institutions entitled to grant under article 337[1] are concerned.

(ii) As regards other minorities not entitled to grant as of right under any express provision of the Constitution, but are in receipt of aid or desire

[1] For the text of article 337 of the Constitution, see p. 171, footnote 1.

such aid and also as regards Anglo-Indian educational institutions in so far as they are receiving aid in excess of what are due to them under article 337, clauses 8 (3), and 9 to 13 do not offend article 30 (1) but clause 3 (5) in so far as it makes such educational institutions subject to clauses 14 and 15 does offend article 30 (1).

(iii) Clause 7 (except sub-clauses 1 and 3, which apply only to aided schools) and clause 10 in so far as they apply to recognized schools to be established after the said Bill comes into force do not offend article 30 (1) but clause 3 (5) in so far as it makes the new schools established after the commencement of the Bill subject to clause 20 does offend article 30 (1).

Question No. 3: No.

The meaning, scope and effect of article 14, which is the equal protection clause in the Constitution, had been explained in the decisions of the Supreme Court in a series of cases beginning with *Chiranjit Lal Chowdhury* v. *The Union of India*[1] and ending with the recent case of *Mohd. Hanif Quareshi* v. *The State of Bihar*.[2] Judged in the light of the principles laid down by those decisions, the clauses of the Bill which fell within the ambit of questions Nos. 1 and 3 did not violate article 14 of the Constitution. The impugned Bill, no doubt, left some discretion to the Government in the exercise of the powers conferred on the Government by it. But discretionary power was not necessarily discriminatory. The impugned Bill laid down its policy and purpose in its long title and the preamble and the provisions of the Bill were to be interpreted in the light of this policy. This policy had been further reinforced by more definite statements in the different clauses of the Bill. The discretion which had been so left to the Government was to be exercised in implementing that policy. Apart from laying down the policy, the State Legislature provided for an effective control by itself by clause 37 and the proviso to clause 15 (1) of the Bill. The impugned Bill could not, therefore, be said to confer unguided or uncontrolled powers on the Government.

So far as the grant under article 337 of the Constitution was concerned, the Anglo-Indian educational institutions established prior to 1948 were entitled to receive the same without any fresh strings being attached to such grant. Consequently such provisions of the Bill mentioned in question No. 2 as imposed fresh or additional conditions precedent to such grant over and above those to which it was subject under articles 337 and 29 (2)[3] of the Constitution violated not only article 337 of the Constitution but also article 30 (1) thereof which gave the minorities the right to establish and administer educational institutions of their choice.

The right to administer educational institutions conferred on the minorities by article 30 (1) of the Constitution was not, however, inconsistent with the right of the state to insist on proper safeguards against maladministration by imposing reasonable regulations as conditions precedent to the grant of aid. This did not mean that the State Legislature could, in the exercise of its legislative power, take away or abridge the fundamental rights by employing indirect methods, for the legislative power was subject to the fundamental rights and what the legislature had no power to do directly it could not do indirectly. Clauses 8 (3) and 9 to 13 of the Bill were merely regulatory and as such did not offend article 30 (1) of the Constitution, but it was not possible to support the provisions of clauses 14 and 15 of the Bill as mere regulations for these provisions might be totally destructive of the rights under article 30 (1). Accordingly clause 3 (5) of the Bill by bringing into operation and imposing clauses 14 and 15 thereof as conditions precedent to the grant of aid violated article 30 (1) of the Constitution.

Clause 3 (5) of the Bill, in so far as it made the new schools established after the commencement of the Bill subject to the provisions of clause 20 of the Bill which prohibited the charging of tuition fees in the primary classes not only in government and aided schools, but also in recognized schools not receiving aid from Government, deprived the minority institutions of a fruitful source of income without compensation as was provided in clause 9 of the Bill for aided schools and thus imposed a condition precedent to state recognition which was in fact violative of article 30 (1) of the Constitution.

IV. INTERNATIONAL AGREEMENT

The Convention on the Prevention and Punishment of the Crime of Genocide,[4] which was signed at Lake Success on 29 November 1949 by the Plenipotentiary and Representative of the Government of India, duly authorized for that purpose, was confirmed and ratified by the Government of India on 27 July 1959, subject to the following declaration:

"With reference to article IX of the Convention, the Government of India declare that, for the submission of any dispute in terms of this article to the jurisdiction of the International Court of Justice, the consent of all the parties to the dispute is required in each case."

[1] [1950] S.C.R.869.

[2] [1959] S.C.R.629.

[3] Article 29 (2) of the Constitution provides:

"29 (1) . . .

"(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them."

[4] See *Yearbook on Human Rights for 1948*, p. 484.

INDONESIA

NOTE ON PENAL LAWS[1]

Article 1 of the Criminal Code provides that no act is punishable except in virtue of a pre-existing legal provision dealing with that act.

In the Criminal Code of Indonesia are articles which protect the right to life, prohibit slave-trade, give security to the person and deal with respect for home and correspondence. These are the following: article 338, which makes manslaughter punishable with imprisonment for up to 15 years; article 340, which makes murder punishable with the death penalty or imprisonment for life or imprisonment for up to 20 years; article 324, which makes slave-trade punishable with imprisonment for up to 12 years; article 333, which makes the deprival of a person's liberty punishable with imprisonment for up to 8 years; article 167, which makes the disturbance of domestic peace punishable with imprisonment for up to 9 months or with a fine which may extend to Rp. 300; article 234, which makes the opening of a letter which is delivered to the post punishable with imprisonment for up to 1 year and 4 months; and article 430, according to which an official who, without authority, confiscates a letter which is entrusted to the post is punishable with imprisonment for up to 2 years and 8 months.

There are no inhuman or degrading punishments in Indonesia. The main punishments consist of the death-penalty, imprisonment and fines.

Access to the courts is made easy for persons who cannot write. In article 120 of the Procedure Code it is stated that, in civil cases, when a person cannot write, he may describe his case to the president of the court, who will put it in writing.

According to article 237 of the Procedure Code a person who, in a civil case, is unable to pay the court fee may ask the court for permission to sue in court, free of charge, or to defend himself in court without paying the court fee.

In criminal cases, according to article 250, paragraph 5, of the Procedure Code, a person who is indicted of a crime punishable with the death penalty may ask the president of the court for the assistance of a counsel without payment.

The counsel assigned by the president of the court must give assistance free of charge.

In criminal cases, according to article 77 of the Procedure Code, searching of a house by the officer of justice is only permitted after permission has been given by the president of the court.

To take a person into custody in criminal cases, according to article 62, paragraph 2, of the Procedure Code, is only permissible when the act committed by that person is punishable with imprisonment for up to 5 years or a heavier penalty or the act concerns infringements of articles stated in article 62, paragraph 2. The person may be set free after paying bail, which is granted and fixed by the president of the court.

All aforementioned articles apply to every inhabitant of Indonesia, free from discrimination on any ground, such as sex, race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status.

[1] Information furnished by the Government of Indonesia.

ACT No. 62 OF 1958 ON CITIZENSHIP OF THE REPUBLIC OF INDONESIA[1]

Sec. 1. The following shall be Republic of Indonesia citizens:

(*a*) A person who by virtue of laws, agreements and/or regulations operative since the proclamation of Indonesia's independence on 27 August 1945 has become a Republic of Indonesia citizen;

(*b*) A person who at birth has legal family relations with his/her father who is a citizen of the Republic of Indonesia, on the understanding that his/her Republic of Indonesia citizenship shall commence at the moment when the aforementioned legal family relationship comes into force, and that such relationship shall be entered into before the person concerned has attained eighteen years of age or has married under the age of eighteen;

(*c*) A child born within 300 days after the decease of its father, if the father was a citizen of the Republic of Indonesia at the time of decease;

(*d*) A person whose mother was a citizen of the Republic of Indonesia at the time of his/her birth,

[1] Published in *State Gazette*, No. 113 of 1958. The Act was approved on 29 July 1958 and promulgated on 1 August 1958. English translation based upon that furnished by the Government of Indonesia.

if at that time the person concerned had no legal family relationship with his/her father;

(*e*) A person whose mother was a citizen of the Republic of Indonesia at the time of his/her birth, if his/her father has no citizenship or so long as the citizenship of the father is unknown;

(*f*) A person born within the territory of the Republic of Indonesia in so far as the two parents are unknown;

(*g*) A foundling abandoned within the territory of the Republic of Indonesia in so far as the two parents are unknown;

(*h*) A person born within the territory of the Republic of Indonesia if the two parents are devoid of any citizenship or if the citizenship of the two parents is unknown;

(*i*) A person born within the territory of the Republic of Indonesia, who at the time of his/her birth did not acquire the citizenship of his/her father or mother, and so long as he/she has not acquired the citizenship of his/her father or mother;

(*j*) A person who has acquired Republic of Indonesia citizenship under the provisions of the present Act.

Sec. 2. (1) An alien child under five years of age, who is adopted by a citizen of the Republic of Indonesia, shall acquire Republic of Indonesia citizenship if such adoption is validated by the district court of justice in the town where the adopting person resides.

(2) The validation referred to in the foregoing paragraph shall be applied for by the adopting person within one year after the adoption or within one year after the present Act has come into operation.

Sec. 3. (1) When a child born out of wedlock from a mother who is a citizen of the Republic of Indonesia, or a child born in wedlock but by a judicial divorce decree given into the custody of the mother who is a citizen of the Republic of Indonesia, follows the citizenship of its father who is an alien, such a child shall be permitted to apply to the Minister of Justice for Republic of Indonesia citizenship, if, upon the acquirement of Republic of Indonesia citizenship, it has no other citizenship or attaches a statement abjuring the other citizenship in the manner legally provided for by its country of origin and/or in the manner provided for by an agreement for the settlement of dual citizenship between the Republic of Indonesia and the country concerned.

(2) The application referred to above shall be made to the Minister of Justice, through the intermediary of the district court or the representative office of the Republic of Indonesia in the town where the applicant resides, within one year after the applicant has attained eighteen years of age.

(3) With the approval of the Council of Ministers, the Minister of Justice shall allow or refuse such an application.

. . .

Sec. 4. (1) An alien born and residing within the territory of the Republic of Indonesia, whose father — or mother, in case there is no legal family relationship with the father — was also born in the territory of the Republic of Indonesia and is a resident of the Republic of Indonesia, may apply to the Minister of Justice for the acquiring of Republic of Indonesia citizenship, if, upon the acquirement of the Republic of Indonesia citizenship, he has no other citizenship or if, at the time of application, he also submits a written statement abjuring any other citizenship he may possess under the legal provisions operative in his country of origin, or under the provisions of an agreement for the settlement of dual citizenship entered into between the Republic of Indonesia and the country concerned.

(2) The application referred to above shall have been submitted to the Minister of Justice, through the intermediary of the district court in the town where the applicant resides, within one year after the applicant has attained eighteen years of age.

(3) With the approval of the Council of Ministers, the Minister of Justice shall allow or refuse such application.

. . .

Sec. 5. (1) Republic of Indonesia citizenship through naturalization shall have been acquired by the operation of the Minister of Justice's decree granting such naturalization.

(2) To qualify to make an application for naturalization,

(*a*) The applicant must have attained twenty-one years of age;

(*b*) The applicant must have been born within the territory of the Republic of Indonesia or, at the time of application, must have been residing uninterruptedly in that area for at least the last five years, or, when interrupted, for 10 years in all;

(*c*) The applicant must have the consent of his wife/wives, if he is a married man;

(*d*) The applicant must be sufficiently proficient in the Indonesian language, have a fair knowledge of Indonesian history, and never have been sentenced for a criminal offence to the prejudice of the Republic of Indonesia;

(*e*) The applicant must be mentally and physically sound;

(*f*) The applicant must pay into the Exchequer a sum varying between Rp. 500 and Rp. 10,000, the definite amount of which shall be determined by the revenue office in his town of residence, on the basis of his actual monthly income, with the

proviso that the aforementioned amount shall not be higher than his actual monthly income;

(*g*) The applicant must have a permanent source of income;

(*h*) The applicant must have no citizenship, or have lost his citizenship upon acquiring Republic of Indonesia citizenship, or attach a statement abjuring his other citizenship under the legal provisions of his country of origin or under the provisions of an agreement for the settlement of dual citizenship concluded between the Republic of Indonesia and the country concerned.

So long as a women is married, she shall not be permitted to apply for naturalization.

. . .

(4) With the approval of the Council of Ministers, the Minister of Justice shall allow or refuse applications for naturalization.

. . .

Sec. 6. With the approval of the House of Representatives, the Government may also grant naturalization on the ground of serving the interests of the State or on the ground of meritoriousness towards the State.

In such a case, only the provisions of paras. 1, 5, 6 and 7 of section 5 shall apply.

Sec. 7. (1) An alien woman, married to a citizen of the Republic of Indonesia, shall acquire Republic of Indonesia citizenship if and when she makes a statement to that effect within one year after the conclusion of the marriage, unless she is still in possession of another citizenship at the time when she would acquire the Republic of Indonesia citizenship. In the latter case she shall not be permitted to make the statement.

(2) Subject to the exception referred to in para. 1, an alien woman married to a Republic of Indonesia citizen shall also acquire Republic of Indonesia citizenship one year after the conclusion of the marriage unless within that year her husband makes a statement abjuring his Republic of Indonesia citizenship.

Such a statement may only be made, and shall only result in the loss of the Republic of Indonesia citizenship, if such loss does not render the husband stateless.

. . .

Sec. 8. (1) A Republic of Indonesia citizen of the female sex, who is married to an alien, shall lose her Republic of Indonesia citizenship if and when she makes a statement to that effect within one year after the conclusion of her marriage, unless the loss of Republic of Indonesia citizenship would render her stateless.

. . .

Sec. 9. (1) The Republic of Indonesia citizenship acquired by a husband shall automatically apply to his wife, unless the wife is still in possession of another citizenship upon the acquirement of the aforementioned Republic of Indonesia citizenship.

(2) The loss of Republic of Indonesia citizenship by a husband shall automatically apply to his wife, unless such loss should render the wife stateless.

Sec. 10. (1) A married woman shall not be permitted to make the application referred to in sections 3 and 4.

(2) The loss of the Republic of Indonesia citizenship by a wife shall automatically apply to her husband, unless such loss shall render the husband stateless.

Sec. 11. (1) A person who, in consequence of marriage, has lost his/her Republic of Indonesia citizenship, shall recover that citizenship if and when the person concerned makes a statement to that effect after the dissolution of the marriage. Such a statement shall be made to the district court or the Republic of Indonesia representative office in the town where the person concerned resides, within one year after the dissolution of the marriage.

(2) The provisions of para. 1 shall not apply if the person concerned would still be in possession of another citizenship after the recovery of Republic of Indonesia citizenship.

Sec. 12. (1) A woman who, in consequence of her marriage, has acquired Republic of Indonesia citizenship shall lose that citizenship if and when she makes a statement to that effect after the dissolution of the marriage. Such statement shall be made to the district court or the Republic of Indonesia representative office in the town where the person concerned resides, within one year after the dissolution of the marriage.

(2) The provision of para. 1 shall not apply if the loss of the Republic of Indonesia citizenship shall render the person concerned stateless.

Sec. 13. (1) An unmarried person under 18 years of age, who had legal family relations with his/her father before the father acquired Republic of Indonesia citizenship, shall also acquire the Republic of Indonesia citizenship after he resides and stays in Indonesia. The statement concerning residence and stay in Indonesia shall not apply to a child if its father's acquirement of Republic of Indonesia citizenship would render it stateless.

(2) The Republic of Indonesia citizenship acquired by a mother shall also apply to her unmarried children under 18 years of age, who have no legal family relations with their father, upon their residence and stay in Indonesia.

If the Republic of Indonesia citizenship is acquired through naturalization by a mother who has become widowed by the decease of her husband, the unmarried children under 18 years of age who had legal family relations with the afore-mentioned husband shall also acquire Republic of Indonesia citizen-

ship upon their residence and stay in Indonesia. The statement concerning residence and stay in Indonesia shall not apply to children if their mother's acquirement of Republic of Indonesia citizenship would render them stateless.

Sec. 14. (1) Upon attaining twenty-one years of age the children referred to in sections 2 and 13 shall lose their Republic of Indonesia citizenship if and when they make a statement to that effect. Such a statement shall be made to the district court or the Republic of Indonesia representative office in the town where the person resides, within one year after the attainment of twenty-one years of age.

(2) The provision of para. 1 shall not apply if the loss of Republic of Indonesia citizenship shall render the person stateless.

Sec. 15. (1) The loss of Republic of Indonesia citizenship by a father shall also apply to the unmarried children under 18 years of age who have legal family relations with him, unless such loss would render the children stateless.

(2) The loss of Republic of Indonesia citizenship by a mother shall also apply to her children who have no legal family relations with the father, unless such loss would render the children stateless.

(3) If a mother has lost her Republic of Indonesia citizenship because of naturalization abroad, and if she has become widowed through the decease of the husband, the provision of para. 2 shall also apply to the children who have legal family relations with the husband, upon their residence and stay abroad.

Sec. 16. (1) A child that has lost its Republic of Indonesia citizenship because of the loss of such citizenship by its father or mother shall recover the Republic of Indonesia citizenship upon attaining eighteen years of age, if and when it makes a statement to that effect. Such a statement shall be made to the district court or the Republic of Indonesia representative office in the town where the person resides, within one year of having attained eighteen years of age.

(2) The provision of para. 1 shall not apply if the child would still be in possession of another citizenship upon acquiring Republic of Indonesia citizenship.

Sec. 17. The Republic of Indonesia citizenship shall be lost:

(*a*) Upon the acquirement of another citizenship by a person's own will, on the understanding that if the person concerned is in the territory of the Republic of Indonesia upon acquiring the other citizenship, his Republic of Indonesia citizenship shall not be considered lost until the Minister of Justice, with the approval of the Council of Ministers, declares the loss of such Republic of Indonesia citizenship, either on the Minister's own initiative or at the request of the person concerned;

(*b*) If the person concerned, when afforded the opportunity, neither abjures nor rejects another citizenship;

(*c*) If an unmarried person under 18 years of age is acknowledged as a child by an alien, unless the loss of the Republic of Indonesia citizenship would render the person concerned stateless;

(*d*) If a child is legally adopted by an alien, before it has attained five years of age, and the loss of the Republic of Indonesia citizenship would not render it stateless;

(*e*) If a person at his request is declared to have lost his citizenship by the Minister of Justice, with the approval of the Council of Ministers, when the person concerned has attained 21 years of age, resides abroad and would not be rendered stateless by the loss of his Republic of Indonesia citizenship.

(*f*) If a person enters the service of a foreign armed force without prior consent of the Minister of Justice;

(*g*) If a person, without prior consent of the Minister of Justice, enters the service of a foreign country or an international organization of which the Republic of Indonesia is not a member, if, under the enactments and provisions of the Republic of Indonesia, such an office in the service of a country may only be held by a citizen of that country, or if the holding of such an office in the service of the international organization requires an oath of affirmation of office;

(*h*) If a person swears or promises allegiance to a foreign country or part thereof;

(*i*) If a person, without being required to do so, takes part in an election in any way related to the political affairs of a foreign country;

(*j*) If a person is in possession of a valid foreign passport, or document having the character of a passport, written out in his name;

(*k*) If a person, for other reasons than the public service, resides abroad for five consecutive years, without stating his wish to retain his Republic of Indonesia citizenship before the expiry of the above-mentioned five-year period, and afterwards before the expiry of every two years. Such a wish shall be made known to the Republic of Indonesia representative office in his town of residence. For a Republic of Indonesia citizen under eighteen years of age, the above-mentioned five-year and two-year periods shall not apply until he has attained eighteen years of age, unless he is or has been married.

Sec. 18. A person who has lost his Republic of Indonesia citizenship under section 17, item *k*, shall recover his Republic of Indonesia citizenship if he resides in Indonesia by virtue of an entry permit and makes a statement to that effect. Such a statement

shall be made to the district court of his town of residence, within the first year of his residence in Indonesia.

. . .

Sec. 20. A person not in possession of Republic of Indonesia citizenship is an alien.

TRANSITORY PROVISIONS

Sec. I. A woman who under section 3 of the Military Authority Ordinance No. Prt/PM/09/1957 and section 3 of the Central War Authority Ordinance No. Prt/Peperpu/014/1958 has been treated as a Republic of Indonesia citizen shall become a Republic of Indonesia citizen unless she is in possession of another citizenship.

Sec. II. A person who upon the commencement of the present Act is in the position referred to in section 7 or section 8 may make the statement referred to in those sections within one year after the commencement of the present Act, with the proviso that the husband of a woman who has become a Republic of Indonesia citizen under the provision of section I of the Transitory Provisions shall not be permitted to make again the statement referred to in section 7, para. 2.

Sec. III. A woman who under the laws operative before the commencement of the present Act would automatically be a Republic of Indonesia citizen if she were not married shall acquire Republic of Indonesia citizenship if and when she makes a statement to that effect to the district court or the Republic of Indonesia representative office in her town of residence, within one year after the disolution of her marriage or within one year after the commencement of the present Act.

Sec. IV. A person who has not acquired Republic of Indonesia citizenship together with his/her father or mother by the making of a statement under the laws operative before commencement of the present Act, because such person was no longer a minor at the time when his/her father or mother made the afore-mentioned statement, while such person was not allowed to make a statement to the effect of choosing the Republic of Indonesia citizenship, shall be a Republic of Indonesia citizen if he/she is not in possession of another citizenship under this provision or previously. The Republic of Indonesia citizenship acquired by such person shall be retroactive to the time when his/her father or mother acquired the Republic of Indonesia citizenship.

Sec. V. Notwithstanding the provisions of section 4, paras. 1 and 2, the opportunity is afforded to children whose parents rejected for them the Republic of Indonesia citizenship in the period 27 December 1949 to 27 December 1951, to apply for Republic of Indonesia citizenship to the Minister of Justice through the intermediary of the district court in the town where he resides, within one year after the present Act becomes operative, if he is under 28 years of age; for others, section 4, paras. 3 and 4, shall apply.

Sec. VI, An alien who, before the commencement of the present Act, served in the armed forces of the Republic of Indonesia and meets the conditions to be laid down by the Minister of Defence, shall acquire Republic of Indonesia citizenship if he makes a statement to that effect to the Minister of Defence or to the official appointed for that purpose by the Minister of Defence. The Republic of Indonesia citizenship acquired by such person shall be retroactive to the time when he entered the service of the Republic of Indonesia armed forces.

Sec. VII. A person who before the commencement of the present Act serves in a foreign armed force as referred to in section 17, item (*f*), or who is in the service of a foreign country or an international organization as referred to in section 17, item (*g*), may apply for the consent of the Minister of Justice within one year after the commencement of the present Act.

FINAL PROVISIONS

Sec. I. A Republic of Indonesia citizen who is in the territory of the Republic of Indonesia is considered to possess no other citizenship.

Sec. II. The term citizenship includes all kinds of protection by a State.

Sec. III. For the purposes of the present Act, an unmarried person under eighteen years of age shall be considered to reside with his/her father or mother under the specifications referred to in section 1, items (*a*), (*b*), (*c*) and (*d*).

. . .

Sec. VIII. The present Act shall come into effect on the day of promulgation, with the proviso that the provisions of section 1, items (*b*) to (*j*), section 2 and section 17, items (*a*), (*c*) and (*b*), shall be retroactive to 27 December 1949.

. . .

IRAN

ACT ON THE CONSEIL D'ETAT[1]

Chapter I

DUTIES OF THE CONSEIL

Art. 1. Under the provisions of this Act the Conseil d'Etat is established in the capital of the country.

Art. 2. The duties of the Conseil d'Etat shall consist of the following:

(*a*) To deal with all matters resulting from the peoples' complaints against decisions or activities of government or municipal institutions or their affiliated agencies and to deal with claims based upon the decisions of the cabinet, by-laws, administrative orders or circulars and other government or municipal regulations in cases when, as a result of the illegality of the said decisions or actions or the lack of jurisdiction of the body involved or suppression or misuse of powers or misapplication of laws and regulations or refraining from fulfilling duties, a violation of individual rights results.

In all cases mentioned in this paragraph, where the claims are found justifiable and correct, the Conseil shall revoke the previous decision or order the appropriate legal action to be taken.

(*b*) To deal with claims against the decisions of the Cour des comptes in accordance with the provisions of the law pertaining to that court.

(*c*) To deal with claims for damages against the government or municipal institutions or their affiliated agencies only if they have not fulfilled their legal duties. The degree and extent of such claims shall, however, be determined by the public courts.

(*d*) To deal with claims of the employees of government or municipal institutions or affiliated agencies regarding the violation of any of the employment regulations. (All files previously referred to the Supreme Court on which no decision has been reached before the establishment of the Conseil d'Etat shall therefore be forwarded to the Conseil d'Etat).

. . .

Art. 6. Wherever the forwarding of claims to the Conseil d'Etat is envisaged in this Act, the Conseil d'Etat shall consider the claim only if the plaintiff has exhausted the highest legal authority and his claim has been definitely rejected. If the plaintiff has not received an answer from the appropriate authorities within one month from the date of submission of his claim, this may be considered as the rejection of his claim and he shall have the right to refer his case to the Conseil d'Etat.

Art. 7. Complaints may not be filed against the decisions of courts and other judicial authorities and of military courts.

. . .

[1] Text furnished by Professor A. Matine-Daftary, Member of the Senate of Iran, President of the Iranian Association for the United Nations, government-appointed correspondent of the *Yearbook on Human Rights*.

ACT RESPECTING SOCIAL INSURANCE FOR WORKERS of 11 May 1960

SUMMARY

This Act contained provisions for the setting up of a Worker's Social Insurance Organization responsible for administering an insurance scheme for workers, covering the following contingencies: accidents, sickness, maternity, invalidity, old age and death. Marriage grants and family allowances were also provided for. Family members were to be entitled to the medical benefits defined in the act. The scheme was to be financed by contributions from employers and the insured workers, among other sources.

Translations of the Act into English and French have been published by the International Labour Office as *Legislative Series* 1960 — Iran 1.

IRAQ

SOCIAL LEGISLATION IN IRAQ[1]

The Ministry of Social Affairs is carrying on its efforts in the field of the promulgation of labour legislation and its proper enforcement, adopting in its work the most up-to-date principles contained in the legislation of advanced countries, particularly that relating to the conventions and recommendations adopted at sessions of the International Labour Conference. A draft labour law has been drawn up to replace the law now in force. Legislative procedures relating to this bill are now under way. Furthermore, the following International Labour Conventions were ratified and implemented in 1960:

1. Convention No. 14 relating to weekly rest in industry, ratified by law No. 45 of 1960.
2. Convention No. 52 relating to leave with pay, ratified by law No. 46 of 1960.
3. Convention 78 relating to medical examination of juveniles engaged in non-industrial undertakings, ratified by law No. 79 of 1960.
4. Convention No. 81 relating to labour inspection in commerical establishments, ratified by law No. 63 of 1961.
5. Convention No. 95 relating to the protection of wages, ratified by law No. 47 of 1960.
6. Convention No. 106 relating to the weekly rest in commerical establishments and offices, ratified by law No. 68 of 1960.
7. Convention No. 59 relating to the age of admission of juveniles into industry, ratified by law No. 71 of 1960.
8. Convention No. 17 relating to workmen's compensation for accidents, ratified by law No. 72 of 1960.

The Ministry of Social Affairs has also prepared two bills for the ratification of Convention No. 26 relating to the setting up of bodies for fixing minimum wages and Convention No. 30 relating to the regulation of working hours in business establishments and offices. The enactment of these two laws is expected to be completed very shortly.

A draft regulation was also prepared for compulsory life insurance and medical insurance against injuries and occupational diseases sustained during work. This is designed as a guarantee additional to that provided in the Labour Law for ensuring compensation to deserving workers. Another bill was drawn up requiring employers to build housing facilities for their employees, with the government contributing 60 per cent of the cost, to be repaid on a long-term basis.

The persons covered by these labour laws enjoy all the basic rights granted to the working class and defined in the Labour Law, No. 1 of 1958, and its amendments and the regulations issued thereunder. In these laws due consideration has been given to the working conditions of women, minors and adolescents by making special provisions regulating their work and ensuring their enjoyment of such rights as befit their special circumstances. The employment of these categories of labour has been forbidden in arduous or unwholesome occupations or in occupations involving long working hours. There are also special provisions for pregnant women workers.

These privileges were further consolidated through the promulgation of a special regulation for these categories, which came into force early in 1961.

Workers and employees are entitled to organize themselves into trade unions. There are now forty trade unions which have completed their annual elections for the year 1961. The trade unions act in accordance with statutes drawn up by themselves and their efforts are directed towards the achievement of noble purposes based on the promotion of the spirit of co-operation and collective work with a view to consolidating industrial relations with employers and raising their standard professionally, economically and socially.

The Ministry of Social Affairs is doing its utmost to ensure the proper enforcement of the above-described legislation through the issue of notices and interpretations aimed at the protection of those covered by the legislation and the creation of conditions ensuring a decent human life for the working class.

Article 2 of the Social Security Law, No. 27 of 1956, was amended by Act No. 101 of 1960 to allow the issuing of regulations extending to workers and employees the benefits of employment with social security. Thus, the regulation on employment with social security, No. 40 of 1960, was promulgated and was later amended by regulation No. 46 of 1960. Under these two regulations the service of

[1] Note furnished by the Government of Iraq.

workers and employees engaged in private undertakings located within the five provinces of Baghdad, Basra, Kirkuk, Mosul and Hilla and having a minimum labour force of 30 is covered by social security. The Minister of Social Affairs may with the approval of the Council of Ministers consider the service of similar employees and labourers in other provinces as being so covered. Employees and workers in government official and semi-official departments are covered by the social security provisions regardless of their number or location provided that they are not covered by the Pension Law. The labourers and employees of the oil companies and those working with foreign missions in Iraq also come under the social security provisions regardless of their number or the location of their work.

EXPROPRIATION LAW: ACT No. 57 OF 1960

of 28 April 1960[1]

Art. 1. In this law, unless the context otherwise requires:

"*Expropriation*" shall mean the compulsory acquisition of immovable property for public utility in exchange for just compensation to be assessed in accordance with this law.

"*Immovable property*" shall mean anything which is stationary and cannot be moved or transferred without being damaged. It shall include land, buildings, plantations, bridges, dams and immovable property of any kind and the right therein.

"*Expropriator*" shall mean the authority which has the right to make an expropriation of the immovable property.

"*Owner*" shall mean any person having a right in the immovable property including mutawallis, persons who represent minors or interdicted persons, and persons having a right in the property by virtue of mortgage, lease or other legal contract.

Art. 2. (*a*) The following shall be considered as matters of public utility:

(1) The opening or extension of streets, markets, cemeteries, open spaces, gardens and recreation grounds intended for the convenience of the public.

(2) The construction of docks for the repairing of ships, wharves, depots, stores or other works connected with ports and harbours and the open spaces used for the purpose.

(3) The construction and extension of roads, bridges, railways, aerodromes, telephones, telegraphs, wireless telegraphs, broadcasting, television and other means of public communications.

(4) The opening and construction of canals, water ways, reservoirs, water storage and dams and other works for the benefit of agriculture, irrigation, river navigation and river conservancy and the construction of dams and all works for the protection against floods.

(5) The construction of hospitals and health institutes, asylums, prisons, orphanages, schools and charitable institutions managed by or under the supervision of the Government.

(6) The buildings belonging to the Government, the municipalities and official and semi-official departments.

(7) The construction of drains and sewage systems and the reclamation of swamps, depressions and salty places.

(8) The construction of barracks and other buildings of a military nature and the provision of the parade grounds, rifle ranges, aerodromes and other land required for military purposes.

(9) Works connected with the exploitation of the natural resources of the country, water supply, lighting and public health services undertaken by the Government or the municipalities or any person having with the Government an agreement by concessionary contract.

(10) Matters for which the Iraq Government is under due obligation by a treaty or agreement with a foreign power ratified by law to expropriate immovable property in fulfilment of its terms.

(11) The opening of new quarters.

(12) Works intended for the improvement of the amenities of the city or the raising of the standards of hygiene there.

(13) The construction of buildings for departments, stores, factories, experimental farms in connexion with the work of the competent departments as provided in their special laws.

(14) The construction of markets and quarters required by reasons of hygiene and the conditions of modern development for the purpose of the sale or storing of foodstuffs.

(15) The government housing projects and the houses provided as dwellings for officials and employees in official and semi-official departments.

. . .

Art. 4. The ministers, official and semi-official departments and government services may expropriate

[1] Text published in English in *The Weekly Gazette of the Republic of Iraq*, No. 7, of 15 February 1961, furnished by the Government of Iraq. The law came into force on 8 May 1960, the date of its publication in the *Official Gazette*.

for public utility, immovable properties of all kinds.

. . .

Art. 9. . . .

(*d*) The committee's assessment of the value of the immovable properties, buildings or rights therein shall be based on their actual value at the time of the issue of the decision of expropriation, without regard to their future value when the project is executed.

. . .

(*e*) The amount of compensation for a worshipping place, a religious institute or a cemetery shall be the amount of the cost of building a similar one; compensation may also be made by building, in a suitable place, another one.

. . .

Art. 23. The price of expropriation due to the owners of immovable properties, part of which has been expropriated and the other part suffered depreciation in value as a result thereof shall be increased by the amount of the difference between the former price of the unexpropriated part and its new price; the expropriator shall, if it is in his interest, expropriate also the depreciated part.

Similarly, compensation shall be paid to the owners of immovable properties of which no part has been expropriated but which has suffered depreciation as a result of the acts of public utility.

[Other articles of the law include provisions concerning the procedure of expropriation and the procedure for dealing with objections against decisions to expropriate and decisions of the committee of assessment.]

ACT No. 1 OF 1960, ON SOCIETIES

Made and put into force on 6 January 1960[1]

DEFINITIONS

Art. 1. The expression "society" shall mean a company of a permanent nature comprising several natural or juridical persons for a purpose other than profit, including clubs, organizations and other bodies.

FORMATION

Art. 2. An established society shall have written rules signed by not less than ten founder members and shall include the following statements:

(1) The society's name, the purpose of formation thereof, and the head office thereof, which should be in Iraq.

(2) The name, title, nationality, age, occupation, and place of residence of each member and the method to be followed in acceptance and granting of the membership thereof.

(3) The sources the society can obtain money from.

(4) The bodies representing the society, the duties thereof, and the methods concerning the appointment and the dismissal of the members thereof.

Art. 3. A member of a society shall fulfil the following conditions:

(1) Be fully qualified;

(2) Not be deprived of civil rights;

(3) Not be condemned of a crime of honour;

(4) Have approved of the society's rules, in writing.

Art. 4. The society's aims shall not:

(1) Violate the country's independence or the national unity thereof;

(2) Contradict the republican regime;

(3) Contradict the requirements of the democratic government regime;

(4) Aim to propagate subversion or to bring about estrangement among Iraqi citizens, religions or sects;

(5) Have an unknown or secret intention concealed by apparent purposes; or

(6) Contradict public order or morals.

. . .

METHODS AND ACTIVITIES

Art. 7. In pursuing its aims, a society shall follow peaceful democratic methods, in pursuance of the rules of the institution and the laws in force.

. . .

Art. 12. (1) A member is free to remain with or to abandon a society, and any provision in the society's rules contrary to this shall be void.

. . .

THE ADMINISTRATIVE CONTROL OF SOCIETIES

Art. 22. (1) The Minister of Interior may draw the attention of the society to, or warn it of, such infringements of the law as it may be guilty of, and he has accordingly the right to the general supervision and control of the societies and shall exercise this right in pursuance of the methods stated by the law.

(2) The societies may appeal against the Minister of Interior's decisions to the General Board of the

[1] Published in *Waqayi' al-Iraqiya* No. 283. English text based upon that published in *The Weekly Gazette of the Republic of Iraq*, of 23 August 1961, furnished by the Government of Iraq.

Court of Cassation, within thirty days from the date of being notified thereof.

Art. 23. The Minister of Interior may, by a reasonable decision, order that a society shall refrain from exercising its activities and close the places where the members thereof assemble, for a period not exceeding thirty days if it contradicts this law, and the said decision may be appealed against to the General Board of the Court of Cassation, which shall settle the matter within fifteen days.

Art. 24. The society shall furnish the Minister of Interior during June of every year with an account concerning the last fiscal year including the following:

(1) The society's financial position; and

(2) Number, names, nationalities, occupations, and ages of the new members thereof; and

(3) Number and names of the member deprived of the membership; and

(4) The total number of the society's members on the last day of the fiscal year.

Dissolution of Societies

. . .

Art. 26. The local court of first instance may decide upon the dissolution of the society on the application of the Minister of Interior or whomsoever he may authorize, in the following cases:

(1) Where the society fails to commence its activities as stated by the rules thereof, within a year after being founded, or where it ceases its activities during the said period, for no justifiable reasons; or

(2) Where its activities are inconsistent with the aims stated in article 4 of this law or the methods stated in article 7 thereof; or

(3) Where the society fails to carry out its obligations or allocates its funds or the profits thereof for purposes other than those it was founded for, . . .

. . .

Parties

Art. 30. A party shall mean a society in support of a political aim. The provisions applied to societies shall apply to parties, in addition to the special provisions set out in this chapter.

Art. 31. (1) The members of a party shall bear Iraqi nationality.

(2) Any member of the armed forces and anybody acting under their command, judges, officials of the foreign service, any pupils of primary or secondary schools, and chiefs of the administrative units (in the liwas, quadhas, and nahiyats) shall be forbidden to affiliate to any party, and the parties shall be forbidden to accept any of the aforesaid persons as members thereof.

(3) Paragraph 2 shall not apply to a person exercising another occupation while he is admitted to night school for the purpose of study.

Art. 32. (1) Any official and anyone charged with a public service shall be forbidden to perform any party activities or issue any directions inconsistent with the neutrality he is required to show in carrying out his official duties and shall be forbidden to perform any party activity during his official duty or at his government office.

(2) The student shall be forbidden to perform party activity of any kind at his school or college.

. . .

Art. 36. (1) A party once being established may issue a political paper expressing the policies thereof, and this right shall be exercised in pursuance of the provisions of the law.

. . .

Miscellaneous Regulating Articles

. . .

Art. 41. This law shall not apply to societies established in pursuance of special laws.

Disobedience and Penalties

Art. 42. Every founder member of the society's administrative board shall be punished with a fine not exceeding ID. 100, besides the responsibility the society incurs, if it is established that the society:

(1) Did not keep any, or did not observe any of the provisions of, the registers specified by this law;

(2) Did not inform the appropriate authority of the matters to be reported according to the law; or

(3) Has admitted a member not fulfilling the membership provisions stated by this law.

Art. 43. Anyone who breaks the provisions of articles 31 or 32 of this law, or, being a member of a society established contrary to the provisions of this law, exercises an activity for a society the application for the establishment of which has been refused, or attends the assembly thereof, or assists in the continuance of the activities thereof shall be punished with a fine not exceeding ID. 50 or with imprisonment for a period not exceeding six months.

Art. 44. Penalties inflicted in accordance with this law shall not prevent the punishment of violations, in pursuance of other laws.

Art. 45. The Societies Law No. 63 of 1955 is hereby cancelled.

. . .

IRELAND

NOTE[1]

1. Health (Fluoridation of Water Supplies) Act, 1960

This Act was introduced with the object of reducing the incidence of dental decay by providing for the addition of fluorine to piped public water supplies. The Act provides that, before fluoridation is carried out in any area, a survey must be made of the incidence of dental caries in a representative sample of pupils attending full-time day schools in the area and an analysis or series of analyses must be carried out into the quantity of fluorine, and such other constituents as the Minister for Health may determine, in the piped public water supply in that area. A report on the survey and analysis must be presented to each House of the Oireachtas. The Act requires the Minister for Health to arrange for periodic health surveys in the areas in which fluoridation of the water supply is in operation. Local health authorities may also be required to submit periodic estimates of the extent of dental caries in their areas. It is specifically laid down in the Act that there is no obligation on any person to submit himself, or any person for whom he is responsible, to examination either in connexion with the afore-mentioned surveys or the preparation of an estimate of dental caries.

2. Social Welfare (Amendment) Act, 1960

This Act introduced a new contributory old-age pensions scheme and made provision for increases in the rates of existing social insurance benefits. The Act also provided for increases in the rates of contributions payable by employers and insured persons towards meeting the costs of these improvements.

The new contributory old-age pension is payable at the age of 70 to insured persons who satisfy contribution conditions. There is no means test and it is not necessary for a person to retire from work in order to qualify for a pension. Payment of the pension, which is augmented in the case of a married man, and increased rates of disability and unemployment benefits, maternity allowances and widows' and orphans' contributory pensions commenced in January 1961.[2]

[1] Note furnished by the Government of Ireland.

[2] The English version of this Act and a French translation thereof have been published by the International Labour Office as *Legislative Series*, 1960 — Ire.1 (A).

3. Social Welfare (Miscellaneous Provisions) Act, 1960

This Act made provision for increases in the rates of non-contributory old-age, widows' and orphans' pensions and unemployment assistance. The increases were payable as from the beginning of August 1960.

4. Apprenticeship Act, 1959

Under this Act, which entered into force on 11 April 1960, a national Apprenticeship Authority has been established composed of representatives of employers, workers, and educational interests with an independent chairman.

This authority has power to regulate the recruitment and training of apprentices in all trades including such matters as registration, minimum age of entry, educational qualifications, period of apprenticeship, course of training, examinations and issue of certificates on satisfactory completion of apprenticeship. Rules made by the Apprenticeship Authority and by apprenticeship committees established by it will have the force of law.

5. The Criminal Justice Act, 1960

The Criminal Justice Act, 1960, made certain amendments to criminal law and administration. It empowers the Minister for Justice to make rules for the temporary release of persons serving sentences of penal servitude, imprisonment or detention. Persons who are criminal lunatics and are not considered dangerous to themselves or to others may be released temporarily with the consent of that minister. All releases may be made subject to conditions.

6. The International Development Association Act, 1960

This Act was passed to approve the terms of the Agreement for the International Development Association. The purposes for which that association were established are to promote economic development, increase productivity and thus raise standards of living in the less-developed areas of the world included within the Association's membership, in particular by providing finance to meet their important developmental requirements on terms which are more flexible and bear less heavily on the balance of payments than those of conventional loans, thereby

furthering the developmental objectives of the International Bank for Reconstruction and Development and supplementing its activities.

7. The Restrictive Trade Practices (Confirmation of Order) Act, 1960

This Act gave the force of law to the Restrictive Trade Practices (Carpets) Order, 1960. That order was made under the Restrictive Trade Practices Act, 1953, and requires manufacturers of carpets and floor rugs to lodge with the Fair Trade Commission their terms and conditions for the acceptance by them of orders for their goods and to inform the Commission of any changes made from time to time in their terms or conditions. Manufacturers must apply their terms and conditions equitably to all persons in the trade and must not withhold supplies from any person willing to fulfil them. Differentiation by means of any rebate, refund, discount or credit by a manufacturer between one person in the trade and another is prohibited.

8. Education

Steps were taken in recent years to improve the teacher/pupil ratio in national (primary) schools. The average enrolment of pupils required to warrant the appointment of the second to sixth assistant teacher, inclusive, in schools where teachers are paid personal salaries, was reduced by ten units in each case. An arrangement was introduced in July 1961 to apply the benefits of these improvements to schools where grants are paid on the capitation system, without extra cost to the conductors of these schools.

Scholarships at postprimary and university level are granted by local authorities (county and municipal). In recent years the local authorities have been spending in all about £150,000 per annum on scholarships. Under the Local Authorites (Education Scholarships) (Amendment) Bill 1961, it is proposed to begin by supplementing substantially that provision and to proceed to the point where, in return for an addition of £90,000 by the local authorities to their present £150,000 the State, which at the moment contributes nothing to the scheme, would in four years' time be contributing about £300,000.

The Department of Education has sanctioned a scheme whereby credit may be allowed for incremental purposes on the salary scales to teachers in national, vocational and secondary schools in respect of teaching service given in such under-developed countries on the continent of Africa as may be agreed to by the Minister for Education. Credit will not be given for more than three years in any case.

ISRAEL

HUMAN RIGHTS IN ISRAEL IN 1960[1]

I. LEGISLATION

1. Under the Land (Settlement of Title) Ordinance[1a] enacted in 1928, the registration of unregistered land (including all such lands as were by the High Commissioner for Palestine, and, after the establishment of the State of Israel, by the Minister of Justice, declared to be settlement areas), was the function of land settlement officers. These officers were civil servants, answerable to a director of land settlement, who on his part was, in the State of Israel, an officer in the Ministry of Justice.

The Land (Settlement of Title) (Amendment) Act, 5720–1960[2] rested all jurisdiction as to the registration of such lands, where the title to the land or any right therein is contested, in the district courts; and confined the powers of the land settlement officers to the registration of such lands where the title thereto or any right therein was uncontested. The reason given for this enactment in the official Bill is that disputes over such lands should be amenable to the regular courts, like any other dispute, and not be adjudicated upon by executive organs.

2. The Prison Service (Invalids and Fatal Accidents) Act, 5720–1960,[3] extends the operation and benefits of the laws governing the payment of compensation and pensions to soldiers injured in the course of military service, or their families, to prison wardens, injured in the course of their service.

3. The provisions of the Juvenile Offenders Ordinance, 1937 (Palestine), dealing with destitute but non-criminal juveniles,[4] were replaced and very considerably enlarged by the Youth (Treatment and Supervision) Act, 5720–1960.[5] The Act vests in a Juvenile Magistrate[6] jurisdiction to exercise all or any of the following powers in respect of a "minor in need of treatment", viz.: to give the minor, or the person in charge of him, any instruction he may think necessary; to appoint a "next friend" to the minor and determine his functions and powers; to place the minor under the supervision of a social welfare officer; or to take the minor out of the custody of the person in charge of him, if the magistrate is satisfied that there is no other way of assuring the necessary treatment and supervision, and deliver him into the custody of a social welfare authority which shall place him in a suitable home or institution.[7] A "minor in need of treatment" is defined in the Act as a person below the age of 18 years, who has no parents, guardians or any other person in charge of him; or of whom the person in charge is incapable, or wilfully neglects, to look after him; or who has committed an act which is a criminal offence, but has not been prosecuted for the same; or who has been found loitering or begging or contravening the provisions of the Youth Labour Act, 5713–1953 (prohibiting the labour of children below the age of fourteen years and restricting the labour of juveniles between the ages of fourteen and eighteen); or who is found living at a place which habitually serves criminal purposes or is otherwise exposed to adverse influences; or whose bodily or mental well-being is for any other reason endangered.[8] The question whether or not a minor is in need of treatment within that definition is for a social welfare officer to determine: he alone has the right to initiate proceedings under the Act.[9] Subject to any order the magistrate may make to the contrary, the Act does not derogate from any right or from any duty the person in charge of the minor may have towards him.[10] A next friend may be appointed only with his consent;[11] and in appointing a next friend and choosing a home or an institution where the minor is to be placed, regard shall, *inter alia*, be had to the religious faith of the minor.[12] No order shall be made by the magistrate, unless a social welfare officer has first submitted to him a report in writing, and unless the minor and the person in charge of him have been given opportunity to be heard before him and to make their proposals;[13] but the magistrate may dispense with the summoning of the minor himself, where he considers that the minor is not capable of understanding the matter or that his being summoned might affect him ad-

[1] Note furnished by Justice Haim Cohn, Supreme Court of Israel, government-appointed correspondent of the *Yearbook on Human Rights*.

[1a] Cap. 80 of the *Laws of Palestine*.

[2] *Sefer Ha-Hukim* 302 of 25 February 1960, p. 13.

[3] *Sefer Ha-Hukim* 308 of 14 April 1960, p. 37.

[4] Sections 16 and 17.

[5] *Sefer Ha-Hukim* 311 of 14 July 1960, p. 52.

[6] Section 21.

[7] Section 3.

[8] Sections 1 and 2.

[9] Section 3.

[10] Section 7.

[11] Section 5.

[12] Section 6.

[13] Section 8.

versely.[1] Where a social welfare officer considers that a minor who is in need of treatment requires urgent medical or other attention, he may take all such steps as are in his opinion necessary to avoid any danger or provide any such urgent treatment, whether or not the person in charge of the minor has consented thereto; but he may not cause the minor to be kept out of the custody of the person in charge of him for a period exceeding seven days except with the leave of the magistrate.[2] The orders of the magistrate under the Act may be changed and varied whenever circumstances so require,[3] and their validity expires in any case after three years, unless it is expressly extended.[4] Among the auxiliary powers of the magistrate are to require the minor and the person in charge of him to enter into bonds for the due performance of their obligations under any order made against them,[5] as well as to make against the minor and the person in charge of him any order of costs — which may be put into execution even after the original orders under the Act have expired.[6] All orders of the magistrate under the Act are subject to appeal to a district court,[7] and expire automatically upon the minor reaching the age of eighteen years.[8] A social welfare officer is vested with power to make all necessary investigations for carrying the Act into effect,[9] but he may not disclose any information obtained by him in the course of such investigation for any purpose other than carrying the Act into effect.[10] The publication, without leave of the magistrate, of the name or particulars of any minor brought before the magistrate or attended to by a social welfare officer, is a criminal offence.[11] A peculiar provision, for this kind of legislation, reserves to the Minister of Social Welfare something akin to a right of pardon: he may exempt the minor and any other person from any obligation imposed upon them by order of the magistrate, provided that the person in charge of the minor has agreed thereto.

4. The minimum marriage age for girls is seventeen years,[12] but the district court had jurisdiction to exempt a girl from this provision where she was already pregnant by the man she wished to marry.[13] By the Marriage Age (Amendment) Act, 5720–1960,[14] the jurisdiction of the district court was extended to any case where the girl had completed her 16th year and there were, in the opinion of the court, special circumstances justifying such exemption. (Cases had been reported in which girls had become pregnant in order to be able to obtain their marriage licence.)

5. The Adoption of Children Act, 5720–1960,[15] introduces for the first time a secular law of adoption. It is true that adoption orders had been made by the civil courts in Palestine and Israel for a long time, but there had been no substantive law on which to base them, and their validity and effect were doubtful; these adoption orders — as well as those made by the courts of the various religious communities — have now been validated as if they were made under the new Act.[16]

The competent courts in adoption matters are the district courts;[17] but with the consent in writing of both the natural and the adoptive parents, as well as the consent in writing of the adopted child or — where he is below the age of thirteen years or incapable to understand the matters — of a social welfare officer and the Attorney-General, a religious court may exercise jurisdiction.[18]

No adoption order shall be made unless the court is satisfied that such an order is in the best interests of the adopted child.[19] A child to be adopted must be below the age of eighteen years, and at least eighteen years younger than this adoptive parent (except where he is the natural child of the adoptive parent's spouse).[20] The rule is that adoptive parents must be husband and wife; but a person may adopt the natural or adopted child of his spouse, and an unmarried person above the age of 35 years may adopt a child who is his relative.[21] Adoptive parents and the adopted child must be of the same religious faith.[22]

An adoption order may not normally be made except with the consent of the natural parents; but the parents need not be informed who the prospective adoptive parents are; and the consent of the natural parents may be dispenses with, if the court is satisfied that they have abandoned their child or are permanently neglecting to fulfil their duties towards him, or that they are (or either of them is) incapable of expressing their minds, or that they cannot be traced; nor is the lack of their consent an impediment to the adoption order being made, where they refuse

[1] Section 9.
[2] Section 11.
[3] Section 14.
[4] Section 13.
[5] Section 4.
[6] Section 10.
[7] Section 16.
[8] Section 17.
[9] Section 22.
[10] Section 23.
[11] Section 24.
[12] Marriage Age Act, 5710–1950.
[13] Section 5, *ibid.*
[14] *Sefer Ha-Hukim* 313 of 31 July 1960, p. 60.
[15] *Sefer Ha-Hukim* 317 of 19 August 1960, p. 96.
[16] Section 28.
[17] Section 23.
[18] Section 24.
[19] Section 1.
[20] Sections 2 and 4.
[21] Section 3.
[22] Section 5.

to give their consent from improper motives or for illegal purposes.[1] A renunciation of their child signed by the parents in a form to be approved by special regulations may serve as evidence of their consent for the purposes of the Act;[2] but any consent obtained by improper means or before the birth of the child may be rejected by the court, and the court may always allow a parent to retract a consent previously given, so long as an adoption order was not made thereon.[3] Where the child to be adopted has no parents, his legal guardians have the right to be heard before an adoption order is made.[4] Nor may an adoption order be made except with the consent of the child to be adopted, provided he is capable of understanding.[5]

Further conditions precedent to the making of an adoption order are that a social welfare officer has submitted to the court a report in writing,[6] and that the child to be adopted has lived in the house of the adoptive parents for a period of not less than six months, at the beginning of which period the adoptive parents have to serve the social welfare officer with a notice of their intention to apply for an adoption order.[7] Instead of making a final adoption order, the court may make a privisional order extending this period of trial for another period not exceeding two years.[8] A guardian *ad litem* may be appointed to the minor, if the court considers it desirable that he be represented in any proceedings under the Act.[9]

The legal effect of an adoption is that it creates, as between the adoptive parent and the adopted child, the same rights and duties as those subsisting between natural parents and children, and vests in the adoptive parent the same power as that vested in a natural parent toward his child; it also terminates all rights and duties as between the adopted child and his natural parents and other relatives and all their powers towards him; it being, however, provided that the court may, in a particular case, expressly restrict the legal effect of the adoption order; and that no adoption shall affect the laws with regard to marriage impediments.[10]

An adoption order may be revoked on the strength of circumstances which were not existing or not known when the order was made, provided that such a revocation is in the best interests of the adopted child.[11] The revocation order terminates the rights, duties and powers of the adoptive parents and restores those of the natural parents, unless the court otherwise directs.[12]

There shall be kept a register of adoptions which shall not be open for inspection except to the representative of the Attorney-General, to a competent registrar of marriages in the course of his duties, and to the adopted person after the completion of his eighteenth year.[13]

Proceedings under the Act are held *in camera*, but the court may allow any person to be present,[14] provided that nothing may be published in respect of the proceedings without the leave of the court.[15]

It is a criminal offence to offer or give any consideration in money or money's worth, or to ask for or obtain any such consideration, for an adoption or for adoption brokerage.[16]

Where, in any statute or instrument, reference is made to the child of a person, it shall be interpreted as including a reference to his adopted child; where reference is made to the parent of a person, it shall be interpreted as including a reference to his adoptive parent — unless the context otherwise requires.[17]

6. In an Amendment to the Advocates Ordinance, 1938 (Palestine),[18] it was made possible for a person, not an Israel citizen, who is detained or accused in Israel on charges carrying the death penalty,[19] to retain as his counsel a person not admitted to practise as an advocate in Israel, provided such person is a member of the bar of a foreign country, and his appointment was confirmed by the Minister of Justice after consultation with the Law Council.[20]

7. Another chapter was added in 1960 to the future written Constitution of Israel: the Basic Law on Israel Lands,[21] which provides that public lands (i.e., lands belonging to the State, the Development Authority, and the Jewish National Fund) may not be disposed of except in accordance with a law to be especially enacted for the purpose. The object of this provision is to perpetuate and safeguard the public ownership in all state domain.

[1] Sections 8 and 11.
[2] Section 9.
[3] Section 10.
[4] Section 12.
[5] Section 7.
[6] Section 19.
[7] Section 6.
[8] Section 15.
[9] Section 20.
[10] Section 13.
[11] Section 16.
[12] Section 17.
[13] Sections 26 and 27.
[14] Section 18.
[15] Section 30.
[16] Section 29.
[17] Section 32.
[18] Advocates (Amendment) Act, 5721–1960; *Sefer Ha-Hukim* 318 of 30 Nov. 1960, p. 2.
[19] I.e., offences under the Nazis and Nazi Collaborators Punishment Act, 5710–1950, the death penalty for murder having been abolished by the Abolition of Death Penalty on Murder Act, 5714–1954.
[20] The disciplinary organ of the Bar, established by the Law Council Ordinance, 1938 (Palestine).
[21] *Sefer Ha-Hukim* 312 of 29 July 1960, p. 56.

II. JUDICIAL DECISIONS

1. Prisons — Remission of sentences — Civil or military jurisdiction

SISSO *v.* DIRECTOR OF MAASSIYAHU PRISON

Supreme Court of Israel
sitting as High Court of Justice[1]

8 January 1960

The petitioner was, during his service with the armed forces, sentenced by a competent military court to a term of imprisonment. For such period as he was liable to military service, he was detained in a military prison; when that period ended, he was transferred to a civil prison.

Under the Military Jurisdiction Act, 5715–1955,[2] a military parole board is set up to review sentences of the military courts, with power to remit part of them.

Under the Penal Law Revision (Punishments) Act, 5714–1954, a parole board is set up composed of a judge or chairman, a medical practitioner appointed by the Minister of Health, and the Commissioner of Prisons or his representative. This board has the power to remit up to one-third of a sentence for good behaviour. It declined jurisdiction in the case of a petitioner because he was sentenced by a military court, ruling that the military parole board should therefore consider whether or not any part of his sentence should be remitted.

On a petition for an order to show cause why the petitioner should not be brought before the civil parole board, it was

Held that, where a person sentenced by a military court serves his sentence or any part thereof in a civil prison, he is in every respect and for all purposes to be treated as every other civil prisoner; and, with his transfer from a military to a civil prison, the military parole board has no longer jurisdiction over him, while the civil parole board is seized with jurisdiction. [Order *nisi* made obsolute by a majority decision.]

2. Contempt of court — Refusal to testify — Sanctions

ATTORNEY-GENERAL *v.* NABULSI

Supreme Court of Israel
sitting as Court of Criminal Appeals

19 January 1960

In a murder trial, prosecution witnesses who had made statements to the police incriminating the accused refused to give evidence. Under the Contempt of Court Ordinance,[3] a witness who refuses to be examined without showing any just ground for such refusal may be committed to the prison by the court summarily for a period not exceeding one month, unless, in the meantime and before the close of the proceedings, he consents to be examined. The witnesses were accordingly committed to prison, but after the expiration of one month they were released, although they still did not consent to be examined.

On appeal by the Attorney-General against the acquittal of the accused, it was

Held that a witness in contempt of court could not be compelled to testify by imprisonment exceeding the period of one month.

Per Landau, J.: ". . . The Attorney-General argued that the court had the power to impose the sanction of one month's imprisonment not only once, but time and again, until the witness consents to be examined. This appears to be an extreme position, such as was taken by an American judge who is reported to have said to an unyielding litigant: "As the question seems to be whether you will yield to the law, or the law will yield to you, it is our duty to see to it that you yield to the law."[4] Such a view is clearly based on the fundamental conception of every citizen's duty to testify in court as to any relevant matter known to him — a duty not only towards the party calling him as witness, but towards the general public which is vitally concerned with the administration of justice. Whoever obstructs the due process of court by refusing to testify without lawful causes violates one of the foundations of public order, and no such violation can be allowed to go unpunished. The question, however, is whether the statute before us must be interpreted in such uncompromising a manner, or whether the legislator has not preferred some other solution . . . when approaching this task of interpretation, we have to bear in mind the quasi-criminal nature of this provision which requires it to be strictly interpreted, so that no man should be sent to prison unless there is clear authority for his imprisonment in the language of the law. . . . I find in the language of this section clear indications that the legislator did not contemplate recurrent periods of imprisonment. The jurisdiction is summary, that is, extraordinary, for the purpose and by way of immediate reaction on the behaviour of the witness in face of the court. A jurisdiction like this should not be extended beyond the purpose for which it was created. Then there is the provision that within the month, and before the close of proceedings, the witness may go back on his refusal to testify.

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[1] Reported in 14 *Piskei Din* 35.

[2] See *Yearbook of Human Rights for 1955*, p. 141.

[3] Cap. 23 of the *Laws of Palestine*, Section 5.

[4] Quoted from Fox, "The Nature of Contempt of Court", 37 *Law Quarterly Review* at p. 194.

I conclude from that an assumption by the legislator that normally the proceedings will come to a close within the month; and I do not find any basis for the proposition that the court may keep the proceedings in suspense for any longer period, for the purpose of having the witness again and again brought before it and of asking him whether he has perhaps changed his mind. . . . The result of our accepting the Attorney-General's argument might well be intolerable, for it would mean that the court could adjourn proceedings *sine die* and for unlimited periods, in the hope that the witness may one day consent to testify; meanwhile the witness would be detained in prison, and the accused would have to await the continuation of the proceedings under arrest, too, unless he was released on bail; there would not even be a statute of limitation to put an end to this state of affairs. . . . As a matter of fact, the longer the person in contempt of court persists in his refusal — and at some time or other the court must release him, although he did not fulfil his duty to testify — the greater is the contempt, and the lesser the prospect to avoid it. Much better, then, that the period of imprisonment should be limited *a priori*, thereby stressing the penal character of the sanction, if its compulsory purpose has been frustated. Nor should it be forgotten that there may well be conscientious motives, considerations of loyalty, and the like, which are strong enough to make a person keep silence however long the period of imprisonment may be with which he is threatened. The legislator has recognized some such motives as lawful, for instance in the case of near relatives who are not compellable to testify against each other. I am, therefore, of the opinion that not only is this limitation to a maximum of one month's imprisonment the only proper interpretation of our statute, but that it is also the most equitable solution of this difficult problem. . . ."

3. Freedom of speech — Censorship of films — Relevant considerations

COHEN *v.* MINISTER OF INTERIOR

Supreme Court of Israel
sitting as High Court of Justice[1]
13 January 1960

The Censorship Board constituted under the Cinematograph Films Ordinance[2] revoked an authorization previously given by it to exhibit a certain film. Under the ordinance, it has power to "interdict authorized films", and on such interdiction the previous authorization ceases to be valid. On a petition to show cause why the authorization to display the film should not be restored, it was

Held that the interdiction was competent, and the court would not interfere to restore the authorization.

Per Silberg, J.: ". . . The law does not specify the reasons for which the Board may cancel an authorization once given; but there is no doubt that the Board cannot be entirely unfettered in its discretion so to do . . . without going into details, it seems to us that the considerations guiding the Board must be that only such films should be barred from exhibition as corrupt the morals or violate the good taste or are likely to induce to delinquency. A film is nowadays an instrument of education and should not be misused to educate in a direction which the general public considers iniquitous. . . . The interdiction of a film for the reason that it is indecent and uncivilized is within the power of the Board, and we are satisfied that this was the only reason which prompted the Board to make the interdiction in the present case. . . ."

4. Criminal procedure — Substitution of charges — Right of accused to defend himself

MEVORAM *v.* ATTORNEY-GENERAL

Supreme Court of Israel
sitting as Court of Criminal Appeal[3]
21 March 1960

The appellant was convicted of the offence of housebreaking. He had originally been charged with another, more severe offence, and the court had exercised its power[4] to convict him, on the facts proved, of the lesser offence. The appellant did not testify in his own behalf; nor did he adduce any other evidence on his defence. His appeal against conviction was allowed and the case remitted for retrial.

Per Berinson, J.: ". . . The court substituted a new charge for that on which the appellant was tried, but it did so only in its judgement, without having given the appellant an opportunity to decide upon a line of defence as to that substituted charge. It may well be that the appellant chose to stand silent so long as he was tried on the original charge, but that he would have chosen to testify or bring other evidence to defend himself on a different charge. . . ."

Per Olshan, P.: ". . . It is conceivable that where an accused person has testified in his own behalf, the court would be justified in convicting him of a lesser offence even without giving him another opportunity to be heard; but where the accused, as in the present case, has chosen to keep silent, I agree that opportunity must first be given to him to be heard in his defence before another charge can be substituted for that on which he had been tried. . . ."

[1] Reported in the *Piskei Din* 283.

[2] Cap. 16 of the *Laws of Palestine*.

[3] Reported in 14 *Piskei Din* 547.

[4] Under section 52 of the Criminal Procedure (Trial upon Information) Ordinance, cap. 36 of the *Laws of Palestine*.

5. Bigamy — Sentencing policy

BARBI *v.* ATTORNEY-GENERAL

Supreme Court of Israel
sitting as Court of Criminal Appeals[1]
4 May 1960

The appellant was convicted of bigamy and sentenced to one year's imprisonment. His appeal against the sentence was dismissed.

Per Olshan, P.: ". . . It is quite true that when the first cases of bigamy were brought before the courts, the courts took into consideration the special circumstances of the accused and, in particular, the laws and customs of the countries from which they had been emanating. But in the course of time it is for the courts to impose severer sentences in order to impress the prohibition of bigamy also on people who were accustomed to different standards. Still, the courts have certainly to pay attention to the special circumstances of each particular case: we have had cases in which the offence was committed with the consent, and even under pressure, on the part of the first wife; whereas there are other cases in which the accused wantonly makes two women miserable by his deed. . . ."

6. Freedom of trade — Licences — Irrelevant considerations

KRIBUSHI *v.* MUNICIPAL COUNCIL OF RAMAT GAN

Supreme Court of Israel
sitting as High Court of Justice[2]
17 May 1960

The petitioner's application for a licence to carry on the trade of a butcher had been refused by the respondents. On a petition to show cause why the licence should not be issued, it appeared that the reason for the refusal had been that the petitioner intended to trade in non-kosher meat and might thereby arouse ill-feelings on the part of orthodox inhabitants of the neighbourhood. In making the order *nisi* absolute, it was

Held that the considerations of the respondents were irrelevant to the issue before them and did not constitute a valid ground for refusing the licence.

7. Double jeopardy — Right of the accused

ATTORNEY-GENERAL *v.* GIUIYAH

Supreme Court of Israel
sitting as Court of Criminal Appeals[3]
3 May 1960

The respondent was charged before a magistrate with the offence of having assaulted one Said. While these proceedings were pending, Said died of the wounds inflicted on him by the respondent. Leave was thereupon requested from the magistrate to withdraw the charge of assault, in order that a charge of manslaughter may be brought against the respondent. The magistrate gave judgement acquitting the respondent of the assault. When the charge of manslaughter was brought against the respondent, he entered a plea of *autrefois acquit*, which the court accepted. On appeal by the Attorney-General, the decision was

Held confirmed.

Per Sussman, J.: ". . . Under section 21 of the Criminal Code Ordinance, 1936, a person cannot be twice criminally responsible . . . for the same act or omission, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be convicted of the offence of which he is guilty by reason of causing such death, notwithstanding that he has already been convicted of some other offence constituted by the act or omission. That is to say, where a man was *convicted* of the assault which turned out afterwards to have caused the victim's death, he may be tried on the charge of having caused such death notwithstanding his previous conviction. But in the case before us the respondent was *acquitted* of the assault, and the exception to the rule does not applyto acquittals. . . .

"Under our rules of procedure,[4] where leave is given to withdraw a criminal charge, the magistrate shall discharge the accused, if the charge is withdrawn before the accused had pleaded thereto, but the magistrate must acquit him, if the charge is withdrawn after he has so pleaded. In the case before us, the respondent had already pleaded 'not guilty' to the charge when leave to withdraw it was requested, and the magistrate had therefore been right in acquitting him. The idea underlying this rule is that when an accused person has once entered his plea to the charge, he has a vested right that the proceedings be brought to an end, so that it be finally determined whether he is guilty or not. No prosecutor is entitled, after that stage has been reached, to withdraw a charge in order afterwards to renew or replace it. The difference between the 'discharge' and the 'acquittal' of an accused person, which is stressed in the rule, is exactly this: that an acquittal bars further proceedings in respect of the same act or omission, whereas the discharge does not; and there is no justification whatever to limit the effect of an acquittal as contemplated by the rule. It is true that in those proceedings no decision had been arrived at on the question whether the respondent had or had not done the act; but the course taken by the prosecution had the effect of the proceedings being terminated in a way which amounted to all

[1] Reported in 14 *Piskei Din* 925.
[2] Reported in 14 *Piskei Din* 1015.
[3] Reported in 14 *Piskei Din* 1093.
[4] Rule 265 of the Magistrates' Courts' Procedure Rules, 1940 (Palestine).

intents and purposes to an acquittal on the merits of the case. . . . The proper course to be taken in a case like this appears to be for the Attorney-General to enter a *nolle prosequi* in respect of the charge of assault; this would leave the way open for a prosecution in respect of another charge. But as the respondent was acquitted of the act of assaulting the victim, the prosecution can now no longer maintain that by that very act he caused the victim's death. . . ."

8. Husband and wife — Maintenance of children — Jurisdiction

DENESH *v.* DENESH

Supreme Court of Israel
sitting as Court of Civil Appeals[1]
12 June 1960

The plaintiffs were the infant children of the defendant. The defendant and his wife, the plaintiffs' mother, had been divorced from each other by judgement of a competent rabbinical court;[2] that judgement contained a provision by which the defendant was adjudicated to pay his wife a monthly allowance in respect of the children's maintenance. On a claim by the plaintiffs for maintenance, the defendant argued that the rabbinical court was seized with jurisdiction, and that the matter was *res judicata*, or, at any rate, an application for an increase in the amount of maintenance should have been made to the rabbinical court. On appeal by the plaintiffs against the rejection of their claim by the district court, the decision was

Held reversed.

Per Cohn, J.: ". . . . Parents cannot, by any arrangement between themselves, deprive their infant children of any rights: they may benefit them without their concurrence, but they cannot oblige them.

"The competence of the rabbinical courts to award, in a judgement of divorce, 'maintenance for the spouses' children', may also 'only be exercised in favour of the children, but never to their detriment: the children's maintenance which is incidental to a divorce is, like the divorce itself, a matter as between the parents only; and the children benefit from any such award of maintenance, but are not debarred by it. . . . They have the option of suing for their maintenance without paying regard to any agreement between their parents or any judgement given in proceedings between them; or to content themselves with what they get by virtue of such agreement or judgement. The simple reason for this is that they themselves were not a party either to the agreement or to the proceedings in which the judgement was given; and it is a matter of common experience that when parents are litigating their own divorce, not only are the interests of the children apt to be overlooked for preoccupation with the parents' own interests, but they are apt to be made the object of negotiations and concessions and the price for some consent or other — as the present case illustrates. . . .

"The respondent is quite right in arguing that under these circumstances, a parent who has not succeeded in the rabbinical court in obtaining maintenance for the children in his custody may now appear as their natural guardian and institute an action on their behalf in a civil court which will then have to retry the same issues on which the rabbinical court has already given its verdict. This is one of the unavoidable results of the concurrent jurisdiction of different courts; and while in some cases this result is obviously undesirable, there are other cases in which it is eminently beneficial. When a mother has sinned against her infant children at a time when all her efforts were concentrated on obtaining a divorce from her husband, she can still make good when remembering her duties as their natural guardian; and there may be some sort of demonstration of the change in her attitude in the fact that she institutes the new proceedings not in the court competent to adjudicate between her and her husband, but in the court competent to adjudicate between children and their parents. . . .

"It should be noted that a judgement given in a suit by the children against their father cannot in any way affect any agreement subsisting between the father and the mother. As between the parents, it may well be that there is a right of recourse by the father against the mother for any surplus amount of maintenance paid by him; that depends upon what the provisions of the agreement between them actually are. As the father cannot be heard to plead, as against his children, the obligations of their mother towards him, so the mother cannot be heard to plead, as against her erstwhile husband, his obligations towards his children — both are *res inter alios acta*. . . ."

9. Illegal interference with private rights — Purported validation — Criminal responsibility

PROSHANSKY *v.* TIK

Supreme Court of Israel
sitting as Court of Criminal Appeals[3]
3 August 1960

Under the Municipal Corporation Ordinance, 1934 (Palestine), a municipal council is empowered to order the removal of an obstruction on a public street within the area of its jurisdiction.

The appellant, who was the city engineer in the employment of a municipal council, ordered an ob-

[1] Reported in 14 *Piskei-Din* 1107.

[2] Under the Rabbinical Courts Jurisdiction (Marriage and Divorce) Act, 5713-1953.

[3] Reported in 14 *Piskei Din* 1666.

struction, built by the respondent in a public street, to be removed by workmen of whom he was in charge. A few days after the obstruction had been removed, the municipal council passed a formal resolution authorizing the removal *ex post facto*. The appellant was convicted of the offence of unlawfully causing damage to the respondent's property; on appeal, his conviction was

Held confirmed.

Per Berinson, J.: ". . . There can be no validation or legalization of a criminal act except by legislation only. The court has to look at the act as on the day it was committed, and if on the day it was committed it constituted a criminal offence, nothing that happened afterwards can change its criminal character. . . . The appellant argued that the senior officers of a municipal council may carry out any powers vested in the council. I can find no basis for this proposition in the law. Simple democratic logic requires the contrary: the municipal council is the organ elected by all inhabitants of the municipal area, and it is this council, representing the electorate and responsible before it, that holds the powers which the law vests in a municipality. The mayor, as chairman of the council, is its chief executive officer, and he is assisted by the other officers of the municipality; but while the law expressly authorizes the mayor to delegate any of his functions to some other municipal officer, there is no such authorization enabling the municipal council to delegate its powers to anybody else. . . . It follows that without prior resolution of the council, the appellant was not (nor was anybody else) empowered to interfere with the respondent's property, whatever may have been the obstruction caused by it. . . ."

10. Accessibility of ordinary courts — Co-operative societies — Executive jurisdiction

KINSLEY *v.* REGISTRAR OF CO-OPERATIVE SOCIETIES

Supreme Court of Israel
sitting as High Court of Justice[1]
15 November 1960

The petitioner was a creditor in the winding-up of a co-operative society. His claim was dismissed by the liquidator, whereupon he exercised his right of appeal to the respondent. Under the law,[2] there is no further remedy open to him. A petition against the respondent to show cause why his decision should not be annulled was

Held refused.

Per Cohn, J.: ". . . This court is not competent, not as a court of appeals and not as High Court of Justice, to entertain an appeal against the decision of the registrar which was given on appeal against an order of the liquidator of a co-operative society. Anyway this court cannot order the registrar to decide any particular appeal in this or any other manner, and it will not, therefore, investigate into the question whether on some point or other the registrar was right or went wrong. It appears to us that this state of the law requires urgent legislative attention. It seems to us incompatible with the spirit of this age and of this community that eminently judicial functions should remain entrusted to an executive organ such as the registrar of co-operative societies. It is a well-known fact that nowadays very large businesses are carried on as co-operative societies, and in so far as the necessity and justification of the accessibility of courts is concerned, there is no longer any difference between the winding-up of a company and the winding-up of a co-operative society. To keep the doors of the courts shut in the face of creditors of co-operative societies which are in the process of winding-up; to keep the doors of the courts closed even before members of co-operative societies who wish their respective rights and liabilities as against each other and as against the liquidator to be determined — amounts *prima facie* to a denial of fundamental rights which is not compatible with the rule of law. . . ."

11. Criminal responsibility — Mental disease — Hospitalization orders

ATTORNEY-GENERAL *v.* ANONYMOUS

Supreme Court of Israel
sitting as Court of Criminal Appeals[3]
30 December 1960

The respondent pleaded guilty to a criminal charge, and was convicted. After conviction, and before sentence was passed, it became apparent that the respondent suffered from a mental disease. The court thereupon made a hospitalization order, in exercise of the power vested in it by the Mental Patients Treatment Act, 5715–1955.[4] The Attorney-General appealed against the hospitalization order, arguing that once an accused person was convicted, the court had no alternative but to pass sentence upon him, and hospitalization orders could be made only before or in lieu of conviction.

The Supreme Court, dismissing the appeal,

Held that the proper procedure to be followed in cases where the court became aware of the accused's mental affliction only after conviction was to quash the conviction and substitute a hospitalisation order therefor, provided always the court was satisfied that owing to his mental disease the accused had not been criminally responsible.

[1] Reported in 14 *Piskei Din* 2297.

[2] Co-operative Societies Ordinance, cap. 24 of the *Laws of Palestine*.

[3] Reported in 14 *Piskei Din* 2511.

[4] See *Yearbook on Human Rights for 1955*, p. 137.

ITALY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1960[1]

I. LEGISLATION

A major part of the Italian legislation enacted during 1960 in the field of human rights consists of the regulations issued by the Government in application of Act No. 741, of 14 July 1959, concerning *minimum wages and conditions for workers*[2] (art. 23 (3) of the Universal Declaration of Human Rights; art. 36 of the Italian Constitution).

With a view to granting the Government full powers to apply Act No. 741, a bill was laid before Parliament on 20 September 1960 for the purpose of extending the period for the exercise of legislative powers and the period of application stipulated in that Act. The bill became Act No. 1027 of 1 October 1960 (*Gazetta Ufficiale* No. 242, of 3 October 1960), which provides for the extension of both periods. Under article 1 of the new Act, the effective time-limit for depositing existing wage agreements and collective contracts, and hence for their conversion into law, has been extended by ten months (starting from 3 October 1960). Under article 2, the period for the delegation of legislative powers to the Government, provided in article 6 of Act No. 741, is extended for a further fifteen months (starting from 3 October 1960). The extension provided in article 2 of Act No. 1027 was necessary because the contractual situation in which Act No. 741 had to be applied proved to be so wide in scope and so complex, in view of the number of categories and the diversity of negotiating levels, that the one-year period given to the Ministry of Labour under Act No. 741 for the completion of the necessary operation for enacting the legislation had been found insufficient. The extension provided in article 1, on the other hand, was designed to allow of the exceptional application of the law on minimum wages and conditions to a number of important contracts concluded in the months immediately following the entry into force of Act No. 741 which could not be drawn up within the time-limit set for their conversion into law (e.g., the contracts for metal workers, miners, textile workers, employees of newspaper publishing and printing concerns and the like).

The following are some details concerning the regulations issued in application of Act No. 741, as extended by Act No. 1027.

The number of *national* collective contracts deposited by 31 December 1960 was 797 and it is expected to reach the thousand mark by 3 August 1961, which is the closing date stipulated in the Act of extension. Draft decrees have been prepared for nearly all the national contracts deposited. Eighty-seven presidential decrees were published in the *Official Gazette* during 1960 and up to 7 February 1961. Each of these decrees contains several collective agreements, which are grouped together in the individual clauses according to subject matter and region; it may thus be estimated that regulations guaranteeing minimum wages and conditions for workers have been issued in respect of some 600 *national* collective contracts.

The *regional* and *provincial* collective contracts desposited by 31 December 1960 amounted to 2,865; these too have been covered by appropriate draft decrees, which are at present at various stages in the legislative process.

Insurance benefits (art. 25 (1) of the Declaration; art. 38, para. 2 of the Constitution) for the various categories of self-employed workers — already provided in recent years for smallholders and handicraft workers[3] — have been extended this year to small tradesmen, itinerant salesman and to the auxiliary commercial services.

In the vast network of commercial activity, the most varying economic conditions are to be encountered in Italy. There is a high proportion of small business operators whose income is often lower than that of employed workers. Act. No. 1397, of 27 November 1960, concerning *compulsory sickness insurance for persons engaging in commercial activities* (*G.U.* No. 293, of 30 November 1960) is intended to meet the needs of these smaller tradesmen and safeguard them against the major risks that could so impair their financial situation as to have serious repercussions on their businesses. Basically, this Act provides for a system very similar to the sickness insurance scheme for handicraft workers. At the suggestion of the trade union associations, the Act was also extended to include other self-employed workers for whom it would not have been possible

[1] Note prepared by Dr. Maria Vismara, Director of Studies and Publications of the Italian Association for the United Nations, chief editor of *La Comunità internazionale*, a publication of the association, and government-appointed correspondent of the *Yearbook on Human Rights*.

[2] See *Yearbook on Human Rights for 1959*, p. 179.

[3] For smallholders, see *Yearbook on Human Rights for 1957*; for handicraft workers, see *idem* for 1956 and 1959.

to establish provident funds, on account of their relatively small number.

According to article 1, "insurance against the illnesses specified in this Act is compulsory for operators of small commercial undertakings and for persons providing auxiliary commercial services, provided that they fulfil the following requirements:

"(*a*) That they are the owners or the operators of a business managed primarily with the assistance of members of the family, including blood relations and relations by marriage down to the third degree, and that the annual taxable income deriving from the business activity does not exceed three million lire;

"(*b*) That they hold full responsibility for the business and assume liability for all the obligations and risks entailed in its operation and management;

"(*c*) That they take part, personally and physically, in the running of the business, on a continuing basis;

"(*d*) That, in the case of small businesses only, they hold the special licence required for the exercise of their activity" under the applicable regulations. The activity may be engaged in at a fixed address or in itinerant fashion. The term "persons providing auxiliary commerical services" comprises commercial agents and representatives and their family dependants; brokers and their dependants; and commission agents. The Act also applies to news agents, travel and mountain guides, interpreters, couriers and mountain porters who are properly authorized under the law. If (art. 2) the small business enterprise is in the form of a partnership, the term "owners" means all the partners who, individually, fulfil the requirements stipulated in article 1. The provisions of the Act do not, however, apply to bodies corporate.

The benefits provided in the Act for insured persons comprise hospital care, specialized medical attention — both diagnostic and therapeutic — and obstetrical care. On the decision of the competent Mutual Fund, persons entitled to the benefits provided in the Act may also receive general medical care at home or at a surgery, pharmaceutical supplies and any other form of supplementary assistance.

As regards the *protection of human rights in criminal procedure*, mention should be made of Act No. 504, of 23 May 1960 (*G.U.* No. 139, of 7 June 1960) embodying amendments to articles 571 *et seq.* of the Code of Criminal Procedure, regarding the "redress of judicial errors". The need for a reform of this kind arose out of the Italian Constitution itself, which specifies in the final paragraph of article 24 that "The law shall lay down the conditions and procedure governing the redress of judicial errors," thus making the matter one of prime public concern. The notion of "judicial error" is no different from that governing the earlier provisions, but greater and prompter redress is afforded to the innocent victims of a judicial error under the new regulations. Moreover, the spirit underlying these new regulations is more in keeping with the dignity of the individual. The Italian legislator still considers the term "judicial error" to refer exclusively to cases of a conviction pronounced by the court which is subsequently acknowledged to have been unjust. A judicial error is not considered to have been committed when the criminal proceedings result in recognition of the defendant's innocence; accordingly, persons who have undergone a period of detention pending trial as a result of criminal charges of which they are acquitted have no redress.

Article 1 of the present Act contains new texts to replace articles 571, 572, 573 and 574 of the Code of Criminal Procedure. The new text of article 571, amending the earlier one, grants the right of redress to all persons indiscriminately who have been acquitted as the result of a review by the Court of Cassation or by a judge to whom the case has been referred by the Court of Cassation. The broad scope of the provision eliminates the need to give separate consideration (as provided in the earlier text) to cases in which the defendant has paid damages without having effective means of recovering them, because such cases are automatically covered by it. The new text, like the old, excludes the possibility of redress where the acquitted person has, deliberately or through grave negligence, caused or helped to cause the judicial error. On the other hand, redress is no longer denied if the acquitted person has incurred another conviction for a criminal offence (as provided in the repealed article): it was felt that such denial could not be justified on either logical or humanitarian grounds.

Two further innovations, which are particularly important from the point of view of principle, are to be found in article 571: the abolition of the requirement that to obtain redress the acquitted person must be in a state of need, and the resulting disappearance of the idea of charity given by the State. "Redress" is now considered to be a form of indemnity which the State, for equitable and moral reasons, acknowledges to be due to the victims of judicial errors. On the basis of this criterion, the new regulation provides for equitable redress fully commensurate with the period of imprisonment or confinement and any detriment suffered by the claimant or his family as a result of the conviction. Redress (art. 571, second paragraph) is provided in the form of a sum of money (to be determined in each case by the judge) or, if the circumstances of the claimant so require, in form of a life annuity; the claimant may be admitted, at his request, to a medical or educational establishment, at the expense of the State.

The other provisions in the Act are the outcome and extension of those laid down in article 571. The new article 572 deals with the right of redress in the event of the acquitted person's death. Since

redress is no longer represented as a form of assistance, the earlier provision, which accorded the right to persons entitled to maintenance, now seemed out of place. The new text of the article therefore establishes that, in the event of the death of the acquitted person — and provided that he has not waived his right — reparation is due to the surviving spouse who has not been found the guilty party in a legal separation, to relatives in the ascending and descending lines, and to blood relations and relations by marriage within the first degree. For such persons a sum of money not greater than the amount that would have been granted to the acquitted person is to be allocated and equitably distributed in proportion to the detrimental effects suffered by each one as a result of the error.

Article 573 prescribes the procedure for filing claims according to the new criteria. Article 574 deals with the processing of claims and decisions concerning them: competence still lies with the judge who presides in the review of the case. If the claim is filed by one of the persons enumerated in article 572, for the sake of convenience and economy of procedure, it is provided that all the other claimants should be invited to take part in the proceedings.

Article 2 provides for the appendage to article 574 of the Code of Criminal Procedure of an article 574 *bis*, to deal with any conflicts between the right to pecuniary redress and the right to damages and to prevent overlapping between the two. According to the new article pecuniary redress may be claimed whenever the claimant, through no fault of his own, has been unable to claim damages. In the event of partial payment of damages, the claimant may receive as redress a sum not exceeding the amount not recovered in the form of damages.

Then there is an Act coming within the scope of the "limitations" provided in article 29 (2) of the Universal Declaration for the purpose of, *inter alia*, "meeting the just requirements of morality". This is Act No. 1591 of 12 December 1960 (*G.U.* No. 2, of 3 January 1961) containing "provisions concerning the posting and public display of placards, pictures and other objects likely to offend against propriety or decency". The Act is specifically intended to protect the susceptibilities and morals of young persons.

In introducing the Bill to Parliament, the rapporteur recalled the decision handed down by the Constitutional Court on 5 June 1956[1] and article 21, final paragraph, of the Constitution whereby "all printed publications, spectacles and all other performances contrary to public morality are prohibited. The law shall make adequate provision for the prevention and punishment of any contravention of this provision". The new regulations were prompted by the fact that educators, sociologists and politicians have decided that not least among the complex causes of the recrudescence of juvenile delinquency and aggressiveness in so many adolescents is the effect produced on children and adolescents by the portrayal of sights and scenes likely to excite precocious and abnormal instincts and to encourage all kinds of law-breaking. Consequently, under the new Act, the criterion in determining the harmful potentialities of a poster or object on display is not the possible public reaction but the specific reaction of children and adolescents.

Article 1 reads as follows: "Any person producing, circulating, posting or displaying in a public place or place open to the public any drawings, pictures, photographs or depicted objects, intended for publicity of any kind, which offend against propriety or public decency, having regard to the special susceptibilities of persons under the age of eighteen and the need to safeguard their moral welfare, shall be liable to incur the penalties provided in articles 528 and 725 of the Penal Code.[2]

"The penalty provided in article 725 of the Penal Code shall also apply in the case of drawings, pictures, photographs or objects depicting scenes of violence likely to offend moral sensibilities or family decorum."

Under article 2, the criminal police may, in cases of emergency, confiscate the material specified in article 1 but must report the matter to the Chief State Counsel within twenty-four hours. If the latter fails to approve the confiscation within the following twenty-four hours, it shall be deemed to be rescinded and without effect.

Lastly, as part of a scheme for the gradual *elimination of the discrimination on grounds of sex* which is still to be encountered in Italy, mention should be made of Act No. 1196, of 23 October 1960 (*G.U.* No. 266, of 29 October 1960), containing *regulations for the staff of court registries and offices and for typists*. Under this Act, women are given access to executive and administrative positions, as well as to typists' posts, in court registries and offices. Such staff "is part of the judicial administration".

Article 87, relating to "special maternity leave", provides that "the benefits provided by law for the welfare of working mothers shall apply to women employees during pregnancy and the post-natal period."

There has been further development in the same field in that, as a result of decision No. 33 of the Constitutional Court, issued on 13 May 1960 (see

[1] See *Yearbook on Human Rights for 1956*, p. 141.

[2] Article 528 of the Penal Code, concerning "obscene publications and spectacles", provides for a term of imprisonment varying from three months to three years and a fine of not less than 8,000 lire. Article 725, concerning the sale of written matter, drawings or other objects contrary to public decency, provides for a fine of 800 to 80,000 lire.

below), the Ministry of Foreign Affairs has granted women access to the diplomatic and consular service through ordinary competitive examinations.

II. TREATIES AND CONVENTIONS RELATING TO HUMAN RIGHTS WHICH WENT INTO FORCE IN ITALY IN 1960

Convention between Italy and Yugoslavia concerning social insurance, with General Protocol, signed at Rome on 14 December 1957. Ratified and put into force in Italy by Act No. 885 of 11 June 1960 (*G.U.* No. 210 of 29 August 1960).

Convention on the law applicable to maintenance obligations in respect of minor children, signed at The Hague on 24 October 1956, and the Convention of the recognition and execution of court decisions regarding maintenance obligations in respect of minor children, signed at The Hague on 15 April 1958. Ratified and put into force in Italy by Act No. 918 of 4 August 1960 (*G.U.* No. 214 of 2 September 1960).

III. JUDICIAL DECISIONS

1. *The annulment of a legislative provision with discriminatory effects against women* (Declaration, art. 2 (1); Constitution, art. 3, paragraph 1, and art. 51, paragraph 1), under decision No. 33 of the Constitutional Court, issued on 13 May 1960, is a further step in the progressive adaptation of Italian legislation to the provisions of the Constitution.

In its judicial capacity, the Council of State, under an order of 12 June 1959, referred to the Constitutional Court the documents in an appeal lodged by Dr. R. O. against the Ministry of the Interior (for debarring her from a competitive examination). In the course of the proceedings before the Council of State, the appellant had challenged the constitutionality of article 7 of Act No. 1176, of 17 July 1919,[1] alleging that it conflicted with article 3, first paragraph, and article 51, first paragraph, of the Constitution. The Council had considered the challenge "not manifestly unfounded" and had confined the issue of constitutionality to the portion of article 7 which denies women access to public employment entailing "the exercise of political rights and powers . . . as specified in the appropriate regulations".

The following is an extract from the court's decision which, as it were, establishes the guiding principle: "There can be no doubt that a provision which, generally speaking, debars women from a broad category of public employment must be ruled unconstitutional in that it conflicts irremediably with article 51, which provides that citizens of either sex may hold public offices or elective positions on a footing of equality. This principle has already been interpreted by the court to mean that difference in sex, *per se*, can never constitute grounds for statutory discrimination and thus cannot justify any difference in treatment of the two sexes before the law. Any provision to that effect would violate a basic principle of the Constitution — that embodied in article 3, which article 51 not only elaborates on but also confirms."

The court accordingly decreed "the unconstitutionality of the provisions contained in article 7 of Act No. 1176, of 17 July 1919, which denies women access to all public offices which entail the exercise of political rights and powers, having regard to article 51, first paragraph, of the Constitution".

In the proceedings before the Council of State, the appellant had also challenged the constitutionality of article 4 of royal decree No. 39, of 4 January 1920, containing the regulations issued in accordance with article 7 of the Act of 17 July 1919.[2]

During the court proceedings, the question of the constitutionality of the above-mentioned article 4 was taken up — clearly from a different standpoint from that of the appellant — by the State Advocate's office. The court, however, stated that it was unable to give a ruling on the validity of regulations issued under legislation that had been enacted before the entry into force of the Constitution and subsequently declared unconstitutional. The court stated that the matter was one for the Administrative Judge to decide.[3]

2. Regarding the *right to personal privacy and freedom from interference in one's private life*, there have been two particularly important decisions (*Foro italiano*, 1961, part I, 43 *et seq.*), which, as the author (A. D. C.) of the relevant "Note" points out, "show how [Italian] jurisprudence is, generally speaking, moving towards recognition of the various rights of the personality".

Decision No. 3199, handed down by the Court of Cassation on 7 December 1960, upholds the operative part of a decision delivered on 5 December 1958 by the Milan Court of Appeal in favour of the plaintiff, Mr. B., who had sued an advertising film company and sought the removal from the sound track of an endorsement falsely attributed to him and never uttered by him. The film company

[1] Art. 7 reads as follows: "Women shall have equal access with men to all the professions and to all branches of public employment, with the sole exception, unless otherwise provided by law, of those entailing official judicial powers or the exercise of political rights and powers or powers pertaining to the military defence of the State as specified in the appropriate regulations."

[2] The regulations enumerate the types of public employment from which women are debarred: article 4 specifies the various categories of state employment which are closed to women.

[3] In this instance, the Council of State itself will have to give a ruling. It is fairly certain to rule as unconstitutional the part of article 4 which corresponds to the inoperative portion of article 7 of the Act.

had appealed against the decision of the Court of Appeal.

In essence, the Supreme Court based its decision on two main premises: (1) the plaintiff's right to ensure the deletion from the advertisement of the unfounded reference to an opinion never expressed by him was founded both in the right of everyone to freedom of opinion (embodied in article 21 of the Constitution) and in the resulting right — recognized in the Press Act and applicable to all other information media — to ensure the rectification of any personal statement distorted by the particular publication or information medium. (2) Moreover, the fact that there is no provision under the Italian legal system to safeguard the so-called right of privacy (as it is termed in Anglo-Saxon law), "does not mean that it is always lawful to publicize another person's doings or sayings . . . two limitations must, in every case, be considered to exist for the protection of the personality".

The first of these "limitations" is the requirement of truthfulness, in that the person concerned is always entitled "to prohibit the publication of untruthful information regarding his person and to refute the attribution to him of any views he has never held, any statements he has never made or any thoughts he has never uttered . . ." whatever their content. This has no bearing on whether such views, statements or thoughts can be considered to be in any way prejudicial to the honour, prestige, reputation or decorum of the person concerned. In fact, in this particular case, the utterance wrongly attributed to the plaintiff could not be considered in any way prejudicial to his honour or his reputation.

[The second of these "limitations" for the protection of the personality consists in prohibiting the dissemination of information damaging to the reputation.]

The second ruling is even more courageous. In a decision of 26 August 1960, the Milan Court of Appeal, upholding its own past practice, "recognizes the existence of a right to privacy which should be protected by law". The case in question involved a publication entitled *My Sister-in-law, Claretta Petacci*, in which a member of the family recounts the private life of the protagonist. The part of the decision in which the court upholds the concept of "the right of privacy" and illustrates its content, deserves to be reproduced in full:

"There is a violation [in the publication in question] of this very right of privacy which, among a variety of other typical features, constitutes one of the fundamental rights of the personality: besides the right to a name, the right to one's own image, and the moral right of the author, etc., there is the right to privacy, which legally entitles a person to prevent any outside intrusion into his personal and family circle. This right requires to be fully respected *per se* and can be subject only to those limitations which need to be imposed for the sake of law and order or in the higher interests of society. For, over and above the individual rights for which specific statutory provision is made, this too is an essential aspect of the personality, which must be protected against usurpation and abuse by others; otherwise there would be no point in upholding the right to one's own (physical) image, only to allow intrusion into one's private life, simply because it is not expressly forbidden. Such intrusion, when all is said and done, is tantamount to abuse of the aggregate image of the personality and character as expressed in concrete and outward form. In reality, the right to a personal image, a name and, more specifically, the right to privacy of correspondence and to documentary and professional secrecy, are merely particular aspects of the broader right to privacy: of the right, that is, to ensure that matters pertaining to one's personal life are not made public and divulged by any means whatsoever."

The decision goes on to state that the law cannot be said to "embody no specific and positive recognition of a right conceived and described in those terms". In support of that view, reference is made to Act No. 848 of 4 August 1955, pertaining to the ratification and the full entry into effect in Italy of the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted by the Council of Europe and signed at Rome on 4 November 1950, and to the additional Protocol of 20 March 1952, which has also been put into effect in Italy. Article 8 of the Convention states that everyone has the right to respect for his private and family life, his home and his correspondence.

3. In the matter of *safeguarding the individual from arbitrary interference with his home* (Declaration, art. 12; Constitution, art. 14) a decision was handed down by the court of Benevento on 10 December 1960 (*Giurisprudenza italiana*, 1961, part II, 144) in which the defendants were convicted of abuse of authority and violation of the privacy of the home under article 615 of the Penal Code.[1]

The circumstances leading up to the judgement were as follows: Mr. A. had instituted proceedings against Mr. L. for slander. The competent judicial authority had refused permission to search the defendant's house. Nevertheless, a labour inspector and a carabiniere attached to the Labour Inspectorate — alleging that they had to conduct a search in connexion with a complaint made earlier by E. Z., a former domestic employee of Mr. L., regarding failure to comply with insurance requirements — entered Mr. L.'s house for the sole purpose of inspecting the typewriter and procuring a typewritten sample from it. The court, on the basis of the evidence before it, stated in its decision that "there was

[1] Article 615 makes provision for a term of imprisonment ranging from one to five years for any official who abuses his authority in order to enter or trespass on the private premises of other people.

good reason to conclude" that the former complaint of E. Z. had been "merely a pretext to cover up the investigations relating to Mr. A's lawsuit".

Having established that point, the court went on to assess the juridical merits of the case.[1] We shall deal briefly with the part of the decision which concerns the "offence of violation of domestic privacy". In the first place, the Bench dismissed the defence's plea that the provisions of article 615 of the Penal Code were to be taken in conjunction with those of article 614[2] and that in order to constitute "a violation of domestic privacy by a public official" the act must therefore have been committed against the wishes of the party entitled to deny entry. The court ruled out the plea that article 615 made it necessary for the act to have been committed against the wishes of the party concerned, for two reasons: (1) because article 615 contains a special element — namely, abuse of authority committed by a public official: "That element, which represents the means of committing the offence, replaces the element of opposition to the wishes of the party entitled to deny entry"; (2) because of the juridically objective character of the offence; this implies "not only safeguarding the individual's right to domestic privacy, which is, of course, given prominence in our Constitution (art. 14), but also safeguarding the public administration which, in the modern State based on law, is especially anxious to see the law observed . . . by public officials as well as others and is thus directly compromised by any abuses committed by the latter towards the public"; this can also be inferred from the fact "that this particular offence is indictable in any case."

Having made it clear that the existence of an abuse must be determined on the basis not of the pretext used (the complaint by the former domestic employee), but of the real motive for the defendant's action (A.'s lawsuit against L.), the Bench stated that "the notion of abuse is essentially normative in that it must be deduced from the norms of public law which delimit the powers of the public official; and the notion of the authority inherent in the functions of the public official is also essentially normative." In this case, there could be no doubt that the defendants had committed "a serious abuse in entering Mr. L.'s house in order to conduct a search, however superficial. In fact, not only was neither of them an officer of the criminal police . . . but there were no grounds whatsoever for an officer of the criminal police to consider himself entitled to conduct a search on his own initiative, without prior authorization by the judicial authorities." According to the decision, there had been abuse on three counts: acting in excess of power; breach of the regulation restricting initiative by an officer of the criminal police to the exceptional cases of *flagrante delicto* or attempted escape; and the fact that the judicial authorities had refused permission to conduct a search. Nor, in the court's view, could the abuse be ruled out on the grounds that the two accused persons had not been pursuing their own private ends. They acted out of excess of zeal, but it is common knowledge — so runs the decision — "that excess of zeal is not sufficient to eliminate the *dolus*, which in this particular offence resided in the public official's awareness that he was entering or trespassing on a person's private premises and, in so doing, overstepping the powers inherent in his official position."

4. Lastly, regarding *freedom to engage in political activities without discrimination as to opinion*, we would mention a decision of the Naples Court of Appeal of 19 October 1959, which was published in January 1961 by *Giurisprudenza italiana* (part I, section II, 44). It established the principle that the judicial authorities have no right to censure the purely political aspects of party activities.

In weighing the merits of the principal ground of appeal, the court first of all drew a distinction between various party activities: activities which might entail financial dealings (payment of membership dues, the right to a share of the common funds in event of dissolution, commitments entered into by the association, etc.) and activities of a purely political nature. In the first instance, the dealings in question are governed by the ordinary civil law, and the protection of subjective, personal or property rights is a matter of ordinary jurisdiction.

In the second instance, the situation is quite different. The court points out that, according to legal doctrine, party activities may be channelled in three main directions: "Internal organization of the membership for purposes of propaganda and influencing public opinion; choosing party policy leaders or candidates for elections or public office; and influencing state policy.

"In carrying out those activities, it is easy to see that there can be no outside control over the party, at either the administrative or the judicial level, without detracting from the tasks and functions of the party itself in the life of the State.

"There is in fact no provision for such control over the activities of the party, nor is there any such subjective right or legitimate interest on the part of the member. The activities of the party in this sphere are, for practical purposes, immune from censure. Although article 49 of our Constitution gives all citizens the right to associate freely in parties

[1] We are omitting the part of the decision dealing with the possible existence of a compound offence under articles 615 and 323 of the Penal Code respectively, and with other matters, since it is not relevant to the purpose of this note.

[2] Article 614 deals with "violation of domestic privacy" by any person entering the private dwelling of another "against the express or implied wishes of the party who is entitled to deny entry, or entering by clandestine means or by subterfuge".

in order to help by democratic means in determining national policy, the Constituent Assembly rejected a proposal to require democratic practice within the parties, owing to the difficulty of exercising control without impairing the party's independence of state authority — an independence which was essential for the functioning of the party.

"Thus, whether a party is run on undemocratic lines, or whether a democratically run party resorts to undemocratic methods and breaches of specific statutory rules, no recourse can be had to the judicial authority under our legislation.

"It rests with the internal machinery of each party to ensure respect for the party rules, and the State's only task is to safeguard the freedom of party members in the broadest sense of the word."

IVORY COAST

ACT No. 60-356, OF 3 NOVEMBER 1960, ESTABLISHING THE CONSTITUTION OF THE REPUBLIC OF THE IVORY COAST[1]

PREAMBLE

The people of the Ivory Coast proclaim their adherence to the principles of democracy and human rights, as set out in the Declaration of the Rights of Man and of the Citizen of 1789 and in the Universal Declaration of 1948, and as guaranteed by this constitution.

They affirm their intention to co-operate in peace and friendship with all peoples that share their ideal of justice, liberty, equality, fraternity and human solidarity.

Title I

THE STATE AND SOVEREIGNTY

. . .

Art. 2. The Republic of the Ivory Coast shall be one, indivisible, secular, democratic and social.

Its principle shall be government of the people, by the people and for the people.

Art. 3. Sovereignty shall be vested in the people.

No section of the people and no individual may assume the exercise of sovereignty.

Art. 4. The people shall exercise sovereignty through their representatives and by way of referendum. The conditions in which recourse may be had to a referendum shall be determined by law.

. . .

Art. 5. The vote shall be universal, equal and secret.

All citizens of the Ivory Coast of both sexes who are of full age and in full possession of their civil and political rights shall be entitled to vote under the conditions established by law.

Art. 6. The republic shall ensure equality for all before the law, without distinction as to origin, race, sex or religion. It shall respect all creeds.

Any particularist propaganda of a racial or ethnic nature and any manifestation of racial discrimination shall be punished by law.

Art. 7. The political parties and groups shall assist in the exercise of the franchise. They may be formed and engage in their activities freely, on condition that they respect the principles of national sovereignty and democracy, and the laws of the republic.

Title II

THE PRESIDENT OF THE REPUBLIC, AND THE GOVERNMENT

. . .

Art. 9. The President of the republic shall be elected by direct universal suffrage for a term of five years. He shall be eligible for re-election.

. . .

Art. 25. The offices of President of the republic and member of the Government shall be incompatible with the exercise of any parliamentary mandate and with any public employment or professional activity.

. . .

Title III

THE NATIONAL ASSEMBLY

Art. 27. The Parliament shall be composed of a single Assembly, known as the National Assembly, the members of which shall be known as deputies.

. . .

Art. 29. The deputies of the National Assembly shall be elected by direct universal suffrage on a complete national list.

. . .

Art. 35. Each deputy shall represent the nation as a whole. Any compulsory mandate shall be null and void.

. . .

Title V

INTERNATIONAL TREATIES AND AGREEMENTS

. . .

Art. 55. If the Supreme Court, having been applied to by the President of the republic or the speaker of the National Assembly, has declared that an international instrument contains a clause which is contrary to the Constitution, authority to ratify it may not be granted without an amendment of the Constitution.

Art. 56. Treaties and agreements which have been duly ratified shall, from the moment of their publication, take precedence over laws, provided that, in each case, the agreement or treaty is applied by the other party.

. . .

[1] Text published in the *Journal officiel de la République de Côte d'Ivoire*, second year, No. 58, of 4 November 1960.

Title VII

THE JUDICIAL AUTHORITY

. . .

Art. 59. In the exercise of their functions, judges shall be subject only to the authority of the law.

The President of the republic shall guarantee the independence of judges.

He shall be assisted by the Superior Council of the Judiciary.

. . .

Art. 62. No one may be arbitrarily arrested.

Any accused person shall be presumed innocent until he is proved guilty by a procedure providing the safeguards essential to his defence. The judicial authority, as the guardian of personal freedom, shall ensure respect for this principle, as prescribed by law.

. . .

Title XII

AMENDMENT

. . .

Art. 73. . . .

The republican form of the government shall not be subject to amendment.

Title XIII

GENERAL AND TRANSITIONAL PROVISIONS

Art. 74. The provisions necessary for the application of this constitution shall be the subject of laws passed by the National Assembly.

. . .

Art. 76. The legislation at present in force in the Ivory Coast shall remain applicable, in so far as it does not contravene this constitution, subject to the enactment of new provisions.

JAPAN

NOTE[1]

I. LEGISLATION

1. *Act for the Welfare of the Mentally Retarded (Act No. 37, of 31 March 1960)*

By this Act a system has been established to promote the welfare of mentally retarded persons by setting up counselling centres and appointing welfare workers for the mentally retarded in "To", "Do", "Fu" and prefectures and by accommodating mentally retarded persons in assistance institutions, for the purpose of helping them to support themselves and of given them necessary protection.

2. *Act for promoting the Employment of the Physically Handicapped (Act No. 123, of 25 July 1960)*

For the purpose of promoting the employment of physically handicapped persons this Act has made the necessary provisions concerning the operation of their adaptation training, the rate of their employment, the employment of physically handicapped workers by the State, local public entities and employers in general, etc., and has established the Deliberative Council for the Employment of the Physically Handicapped Persons to consider important matters relating to these persons.

3. *Act amending the Act for the Medical Treatment of Victims of Atomic Bombs, Etc. (Act No. 135, of 1 August 1960)*

Besides the benefit hitherto provided of medical treatment (medical treatment at the expense of the State for injuries and diseases caused by the atomic bomb explosion), the Act provides that the State shall pay the expense for medical treatment for general injuries and diseases of a certain category of people who, amongst the victims of the atomic explosion, were exposed to radioactivity, especially in large quantities.

The amendment also provides for a medical treatment allowance within the amount of 2,000 yen a month to be given to those who are receiving the benefits for medical treatment under the system hitherto operated.

4. *Act amending the Act concerning Encouragement of Attendance at Schools for the Blind, Schools for the Deaf and Schools for the Handicapped (Act No. 24, of 31 March 1960)*

Hitherto, the expenses for the purchase of schoolbooks of students attending the primary and middle-school courses of schools for the blind, schools for the deaf and schools for the handicapped, the cost of their school lunches, transportation fare for them and their escorts to go to school and to return home, expenses attendant upon their living in the dormitories of schools and the expenses for the purchase of schoolbooks of those who attend the high-school courses of such schools, the expenses for their school lunches and transportation fares for their attending school or going home have been disbursed by "To", "Do", "Fu" and prefectures in whole or part and half the amount disbursed has been borne by the State. By such means the education provided by these schools has been spread and encouraged. However, under the amendment, besides these benefits, the whole or a part of the expenses for school excursions of the children in the primary- or middle-school courses and the expenses of the students in high-school courses attendant upon their living in school dormitories are to be supplied.

II. JUDICIAL PRECEDENTS

The judgement of the Supreme Court given on 20 July 1960 held that a by-law of a local public authority requiring advance notification of, or the securing of permission for the holding of, an assembly, mass parade and mass demonstration, for the purpose of their control, does not contradict the freedom of expression provided for in article 21, paragraph 1, of the Constitution and, therefore, is not unconstitutional.

The court's reasoning was as follows:

As the freedom is inherent in the people to hold an assembly, mass parade or mass demonstration so long as it is not carried out for such wrongful purposes or by such means as to go against the welfare of the public, it should be interpreted as a violation of the Constitution and not permissible if, besides providing for mere notification for these movements in a bylaw, the local public authority

[1] Information 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*.

should provide in its bylaw that advance permission should be required generally for these movements and thereby suppress them before they take place. Nevertheless, even if, for the purpose of the maintenance of public order and to prevent the public welfare from being violated to a high degree, the bylaw should provide that these movements should be subject to permission in advance according to rational and definite standards as to the specific place or method of such movements, or should receive notification to the competent authorities in advance of such movements and should stipulate that certain movements which do not come up to the said standards may be prohibited, such provisions should not be construed as unduly restricting the freedom of the people guaranteed by the Constitution.

III. OTHER EVENTS

1. *Outline of the Conditions and Activities under the System of Civil Liberties Commissioners*

As of the last day of December 1960, 8,209 Civil Liberties Commissioners were stationed in Japan, in almost every city, town and village throughout the country, and they are making efforts to carry out their task of protecting the civil liberties of the residents in their respective localities. In these 8,209 Civil Commissioners, 679 woman commissioners were included. On 28 October 1960 the 8th General Meeting of the All-Japan Federation of Consultative Assemblies of Civil Liberties Commissioners was held at Takamatsu City.

2. *Legal Aid*

The cases of legal aid in 1960 are as follows:

Applications for aid (including cases pending from the previous year)	1,007
Aid decided to be given	323
Aid refused	511
Pending	173

3. *Trends of Civil Liberties Cases*

In 1960, as in 1958 and 1959, cases of violation of civil liberties by public officials gradually decreased and cases of traffic in human persons and of social ostracism rapidly decreased. On the other hand, it is to be noted that cases of violation of civil liberties occurring in the field of group activities such as of labour disputes, etc., improper infringement on privacy attendant upon the rapid development of mass communications, cases of public nuisance, and cases of improper physical restraint on mentally handicapped persons tend to increase.

JORDAN

LAW AMENDING THE LAW ON JORDANIAN NATIONALITY, No. 50 OF 1958 of 21 December 1958[1]

Art. 1. This law shall be called "Law amending the Law on Jordanian Nationality of 1958". Together with the Law on Jordanian Nationality, No. 6 of 1954,[2] referred to below as the Original Law, it should be regarded as constituting one law. This law shall take effect on the date of its publication in the *Official Gazette*.

Art. 2. Article 18 of the orginal law shall be amended by adding the following sub-paragraph (*c*) to the end of the second paragraph of that article:[3]

"(*c*) Any person who commits or attempts to commit an act which is deemed to constitute a threat to the peace and security of the State."

. . .

[1] Text furnished by the Government of Jordan.

[2] See *Yearbook on Human Rights for 1954*, p. 179. An English translation of the complete text of this Act is to be found in *Laws concerning Nationality* (published in the United Nations *Legislative Series*, ST/LEG/SER.B/4), 1954.

[3] Article 18 (2) of the Act of 1954 defines the Jordanians whom the Council of Ministers may, with the approval of His Majesty, declare to have lost Jordanian nationality.

LABOUR CODE, 1960

SUMMARY

The Labour Code, 1960, was promulgated by Act No. 21 of 1960, of 14 May 1960, and was to enter into force one month after its publication in the *Official Gazette*, which took place on 21 May 1960. The code included provisions concerning labour inspection; recruitment and employment; apprenticeship; individual contracts of employment; collective agreements; minimum remuneration; protection of remuneration; health, safety and welfare; hours of work, public holidays and annual leave; employment of women and children; workmen's compensation; trade unions; and settlement of industrial disputes. According to its section 1 (2), the code was to apply to all persons employed for remuneration or as apprentices in a regulated establishment, except (*a*) government and municipal officials; (*b*) members of the family employed in family undertakings; (*c*) persons employed in agriculture or in the herding of animals; and (*d*) domestic servants and the like. The expression "regulated establishment" was to mean an establishment in which at least five workers are employed, or in which an average of at least five workers were employed during the preceding 12 months.

Section 79 of the code prohibited employers from making the employment of a worker subject to his not joining or his withdrawing from a trade union, and from causing the dismissal of or otherwise causing prejudice to a worker by reason of his membership of a trade union or his participation in activities of a union outside working hours.

Among the provisions repealed by the code were the Trade Unions Act 1953, as amended, and the Workmen's Compensation Act of 1955, as amended.

Translations of the Code into English and French have been published by the International Labour Office as *Legislative Series* 1960 — Jor.1.

LAOS

LEGISLATIVE ORDER No. 14 CONCERNING THE ELECTION OF DEPUTIES OF THE NATIONAL ASSEMBLY

of 5 February 1960[1]

Art. 1. The procedure for electing the deputies of the Fourth Legislature in the general elections provided for by legislative order No. 13 of 1 February 1960 shall be as follows.

. . .

Art. 4. Voting by correspondence or by proxy shall not be permitted.

. . .

Title I

THE ELECTORATE

Art. 8. All Lao nationals of both sexes who are in enjoyment of their civil and political rights are duly registered on the electoral rolls and have attained the age of twenty-one years on 1 January of the year in question shall have the right to vote.

Art. 9. The following shall not be entitled to vote:

Buddhist monks and nuns and priests of all denominations;

Deaf-mutes and blind persons;

Persons under sentence for a serious criminal offence, regardless of the nature of the crime or the length of the sentence;

Persons under sentence of six months' imprisonment or upwards whether or not they have been granted a stay of execution as first offenders;

Undischarged bankrupts.

. . .

Title II

THE CANDIDATES

Art. 13. Lao nationals of both sexes shall be deemed to be eligible provided that they:

1. Have the right to vote;

2. Are not less than thirty years of age on 1 January. A decision of the court, a birth certificate, or other identity certificate in place thereof shall be accepted as evidence of age, provided that the said documents are dated not less than one year before the closing dates for submitting applications for registration;

3. Hold at least the Certificat d'études primaires complémentaires [certificate of additional primary studies] or a diploma for teaching Pali, ninth grade;

Or have served for at least fifteen years as a public official or in a similar capacity;

Or are engaged in trade and during the last five years have paid regularly a licence of the tenth (10th) class or above;

4. Have resided in the national territory uninterruptedly for at least five years before 1 January 1960.

Art. 14. The following persons shall be ineligible:

1. Public officials or persons acting in a similar capacity, and members of the army corps, police, gendarmerie and Royal Guard on active duty;
2. Persons suffering from incurable contagious diseases, and opium addicts;
3. Persons mentioned in article 9 above;
4. Persons convicted pursuant to articles 3 and 4 of the royal ordinance safeguarding the freedom and secrecy of voting;
5. Public officials who have been dismissed from office.

Art. 15. Public officials or persons acting in a similar capacity, and members of the army corps, police, gendarmerie and Royal Guard wishing to stand for election as deputies shall be required to show proof that they have been suspended from duty without pay for a period of one year, beginning one month before the polling date.

Should they fail to be elected, the aforesaid persons shall in no circumstances be returned to duty before the end of such period.

. . .

Title III

ELECTORAL PROPAGANDA

Art. 22. The electoral propaganda campaign shall begin thirty days before the polling date; it shall cease twenty-four hours before that date.

In the event of a second ballot being held, the campaign shall begin on the day after the results are announced, and shall cease twenty-four hours before the polling date.

Art. 23. Campaigning may be engaged in freely within the limitations of the law.

[1] Text published in the *Journal Officiel*, 8th year, No. 1, January-February 1960.

All voters shall be free to campaign on behalf of the candidate or party of their choice, and for that purpose to organize meetings of all kinds, to use loud-speakers and to distribute circulars and tracts, etc. . . .

Art. 24. Criticism of the king and members of the royal family, as well as of the democratic and parliamentary régime, is prohibeted.

Slanderous, libellous and defamatory statements with respect to candidates shall be punishable in accordance with the provisions of the Penal Code.

Art. 25. The following shall likewise be prohibited:

Campaigning while in uniform, whether as candidates or voters, by persons holding public office or acting in a similar capacity;

Using government equipment of any kind;

Affixing posters, statements of policy and photographs on public edifices and buildings, or on the posters, statements or photographs of other candidates, and disfiguring or tearing such material.

Title IV

POLLING OFFICES

. . .

Art. 28. Voting shall be free and secret.

. . .

LEBANON

CHAMBER OF DEPUTIES ELECTION ACT of 26 April 1960[1]

Chapter 1

NUMBER OF DEPUTIES AND ELECTORAL WARDS, NOTICE OF ELECTIONS AND ELIGIBILITY OF CANDIDATES

. . .

Art. 5. Suffrage shall be universal and direct, by secret ballot.

Art. 6. A person shall not be elected to the Chamber of Deputies unless he is a Lebenese national, is registered in the roll of electors, is over the age of twenty-five years, is in possession of his civil and political rights, and is educated. A naturalized Lebanese shall not be eligible until ten years have elapsed since the date of his naturalization.

. . .

Chapter 2

QUALIFICATIONS OF ELECTORS

Art. 9. All male and female Lebanese who have reached the age of twenty-one years shall have the right to vote if they are in possession of their civil and political rights and are not disqualified for any of the reasons specified in this Act.

Art. 10. The following persons may not exercise their electoral rights:

(1) Persons sentenced to loss of civil rights;

(2) Persons sentenced to permanent disqualification for public rank and office. Persons who have been disqualified for office for a term shall not be placed on the rolls until such term has expired;

(3) Persons sentenced for a crime or an offence of a dishonourable nature.

The following offences shall be deemed to be of a dishonourable nature: theft, fraud, drawing a cheque without funds, breach of trust, embezzlement, bribery, perjury, rape, threatening, forgery, uttering forged documents, offences against public morals as stipulated in book 7 of the Penal Code, and offences connected with the cultivation of and trade in narcotic drugs;

(4) Persons placed under a disability by judicial order, as long as the order remains in force;

(5) Persons who have been declared bankrupt;

(6) Persons sentenced to the penalties prescribed in articles 329–334 of the Penal Code.

The persons specified above shall not exercise their electoral rights until they have been rehabilitated.

. . .

Chapter 4

ELIGIBILITY OF CANDIDATES, DISQUALIFICATION AND PLURALITY OF OFFICES

Art. 28. Members of the armed forces and persons of equivalent status, whatever their rank and whether they are in the army or in the internal or public security forces shall not vote while attached to their units or posts or while exercising their functions. Nevertheless, any such persons who at the time of the elections are retired on half pay or are on official leave of not less than thirty days may vote in the ward in which they have been registered.

Members of the armed forces and persons of equivalent status, whatever their rank and whether they are in the army or in the internal or public security forces, shall not be elected to the Chamber of Deputies even if they are retired on half pay or have been placed on reserve. Nevertheless, they may be elected if they have retired on pension or have resigned six months before the date of the elections.

Art. 29. Membership of the Chamber of Deputies shall be incompatible with the chairmanship of or membership in the executive board of a public agency, the holding of a public office or any office in an independent public agency, concessionary company or municipality or any religious office remunerated by the State Treasury. An official who has been elected deputy shall *ipso facto* be deemed relieved of his office unless he has given notice of his rejection of the membership of the Chamber of Deputies within one month following the notice of his election.

Membership of the Chamber of Deputies shall be incompatible with appointment to an official mission by the Government, or by one of its departments or independent public agencies or by a municipality.

After publication of this Act no concession or monopoly may be granted to a deputy.

Art. 30. The following persons may not be elected in any ward while occupying their offices and during the six months following the date of their relinquishment of or final separation from office:

(1) Officials of the first and second categories;

(2) Judges of all categories;

[1] Published in *Official Gazette*, No. 18, of 27 April 1960.

(3) Appointed heads of municipalities, in the chief-towns of the provinces;

(4) Chairmen, directors and members of executive boards of public agencies;

(5) Appointed Caimacams[1] and chairmen of municipal councils, in the chief-towns of their districts.

. . .

Chapter 7

ELECTORAL PROPAGANDA

Art. 61. Election posters shall be exempt from stamp duty.

Art. 62. The administrative authority in each town or central locality shall designate special places reserved for the display of electoral notices during the election period. Street posting shall be prohibited.

It shall be unlawful to display notices elsewhere than in the designated places. Save where otherwise stated, no notice of any kind may be posted unless three copies thereof signed by the candidate or candidates are sent not less than twelve hours before posting to the office of the Mouhafez[2] or Caimacam who exercises jurisdiction over the electoral ward in which the notice is to be posted.

Art. 63. It shall be unlawful for any government or municipal official or for any mayor to circulate ballot forms, manuscripts or bulletins in or against the interests of any candidate or group of candidates.

Art. 64. It shall be unlawful to circulate any bulletins or manuscripts in or against the interests of any candidate or candidates on election day. If an offence of this nature is committed, the forms, bulletins and manuscripts shall be confiscated and the offender sentenced to the maximum fine specified in article 66.

. . .

[1] Administrators of districts.

[2] Governor of a province.

LIBYA

PUBLICATIONS ACT, No. 11 OF 1959

of 14 June 1959[1]

Art. 1. Journalism and printing are free. Everyone has the right to freedom of expression and freedom to impart opinions and information through various media, within the limits of constitutional right as governed by this Act.

Art. 2. Publications comprise all writings, drawings and photographs and any other printed, drawn or photographed matter which is suitable for circulation.

Periodical publications are publications which are issued uninterruptedly at known intervals such as daily newspapers, journals and magazines. Quasi-periodical publications are publications issued uninterruptedly which are offered to newspapers and magazines as sources of news and are not offered directly to readers.

A printing-press is any machine or set of machines or device for printing words or pictures intended to be offered to the public. A bookshop is an institution which promotes trade in publications in its various forms.

Qualifications for Proprietors of Publications, and Editors

Art. 3. Every proprietor of a periodical or quasi-periodical publication, or, if the proprietor is a body corporate, its representative, shall satisfy the following requirements:

(1) He must be a Libyan or the national of a country with which Libya applies the principle of reciprocity;

(2) He must be habitually resident in the United Kingdom of Libya;

(3) He must be fully qualified and not deprived of his civil rights;

(4) He must not have been convicted of a crime or of a misdemeanor of a dishonourable nature, unless he has been rehabilitated;

(5) He must not hold a position in any foreign State and must not be a public official in Libya.

Art. 4. Every periodical or quasi-periodical publication shall bear the name of its responsible editor or editors. The proprietor of a publication may be the responsible editor if he satisfies the requirements prescribed in this Act.

Art. 5. The responsible editor must be a Libyan or the national of a country with which Libya applies the principle of reciprocity; he must be over twenty-five years of age and satisfy the requirements prescribed in article 3 as well as the following requirements:

(1) He must be resident at the place of issue of the publication;

(2) He must not combine journalism with the performance of any public function;

(3) He must satisfy the competent committee as to his proficiency in the language in which the publication is issued and his familiarity with the Libyan Constitution, the Publications Act and the history of Libya since the Italian invasion.

The said committee shall be composed of the legal counsel of the province, a judge of the civil court of first instance situated in the capital of the province to be chosen by the General Assembly, the director of the Publications Department of the Libyan Government and the director of the Publications Department of the province. The committee may seek the assistance of any person it considers necessary if the applicant for a licence is an alien.

Art. 6. Any person wishing to publish a periodical or quasi-periodical newspaper shall submit an application to the Publications Department of the province accompanied by a statement containing the following particulars:

(1) The name, surname, place of residence, nationality and profession of the applicant;

(2) The name, surname, place of residence, nationality and age of the responsible editor and a declaration of his willingness to be a responsible editor;

(3) The name of the magazine or newspaper and the language in which it is published;

(4) The place of printing and the address of the office which manages its affairs;

(5) A statement of its political and non-political tendencies;

(6) The dates of publication, the number of pages and whether or not it is illustrated;

(7) If the applicant is a limited company, it must be established in Libya and the application must be accompanied by the company's registration certificate and articles of incorporation and give the names,

[1] Published in *Official Gazette*, year IX, No. 14, of 25 July 1959.

places of residence and nationality of its representatives and the members of its board of directors;

(8) If the applicant is an association or a political institution, it must be established in Libya and the application must indicate the names, places of residence and nationality of the members of its administrative body and of its president. The application must be accompanied by all the necessary documents attesting the fulfilment of the requirements prescribed in article 3 of this Act.

Art. 7. The Director of Publications in the province concerned shall, within a period not exceeding sixty days from the date of submission of an application as provided for in the preceding article and duly satisfying all the requirements prescribed in this Act, decide after consultation with the Federal Director of Publications whether to grant or refuse the application for a licence to publish the magazine or newspaper. If this period has expired and no decision has been taken in the matter, the applicant shall have the right to publish the magazine or newspaper in respect of which he made his application. The applicant shall have the right to appeal a decision of the Director of Publications to refuse the application to the Executive Council of the province concerned within thirty days of the receipt of notice of the said decision, together with a statement of the reasons therefor.

Art. 8. The proprietor of a periodical or quasi-periodical publication and its responsible editor shall notify the Director of Publications in the province concerned of any modification or change in the particulars stated in the licence within seven days of its occurrence. If the change relates to the responsible editor, both the proprietor and the new responsible editor of the publication shall sign the notice.

If the change relates to the date of issue of the publication, it may not be made until the Director of Publications has approved it.

Any publication which continues to be issued without compliance with the provisions of the preceding paragraph may be suspended by an order of the Director of Publications until such time as the procedures prescribed therein have been complied with.

Any violation of the suspension order shall be punished by a fine of not less than twenty nor more than fifty pounds in respect of every issue published after the order is made.

Art. 9. Every proprietor of a periodical or quasi-periodical publication shall, in advance of publication, deposit a cash or bank guarantee in the amount of two hundred pounds in respect of a daily newspaper, one hundred pounds in respect of a non-daily political newspaper and fifty pounds in respect of a non-political newspaper as security for payment of fines, costs and indemnities.

The security shall cover the said items in the order enumerated in this article and any deduction made from the amount of the security shall be restored within fifteen days from the date of the judgement, failing which the newspaper shall be suspended. If the amount of the security is insufficient to meet the sums adjudicated, the newspaper shall be suspended until payment is made in full.

Art. 10. Any newspaper published in violation of article 7 of this Act and before deposit of the security specified in article 9 shall be immediately closed down by an order of the Publications Department, all copies thereof shall be seized and its proprietor shall be punished by a fine of not less than fifty nor more than one hundred pounds and shall be refused a press licence for a period not exceeding twelve months.

Art. 11. The amount of the security shall be reimbursed to the proprietor of the newspaper if it is finally closed down.

Revocation of Licences

Art. 12. A licence shall be revoked in the following cases:

(1) If three months have elapsed since the date of issue of the licence and the licensed newspaper is not being published;

(2) If the publication of a daily newspaper is interrupted for a whole month without a legitimate excuse and, in the case of a non-daily newspaper, if publication has stopped for eight consecutive issues;

(3) If it appears that the proprietor or the responsible editor of a newspaper fails to fulfil or no longer fulfils any or all of the requirements prescribed in articles 3, 4 and 5 of this Act;

(4) If the proprietor of a newspaper or magazine is a company or an association and it ceases to have legal personality. Revocation shall be confirmed by an order of the Publications Department, which shall be published in the *Official Gazette.*

Art. 13. If the proprietor of a magazine or newspaper dies, his heirs may agree to appoint a person to represent them in matters of publication who qualifies as a proprietor under this Act. If they fail to do so within one year from the date of the testator's death, the licence to publish shall be deemed to be revoked.

Art. 14. The proprietor of a publication may, with the prior approval of the Director of Publications in the province concerned, cede ownership thereof to another; in that case he may recover the amount of security deposited.

The new proprietor shall assume all the rights and duties of the former proprietor as prescribed in this Act.

Official Communications

Art. 15. All official communications received by a newspaper within a reasonable period of time before it is printed shall be published in full in its first issue at the normal rate, except that material relating to the prohibition, authorization, denial or correction of an item shall be published free of charge.

Correction and Denial of News and Articles

Art. 16. Without prejudice to the provisions of the Penal Code, the competent authorities may, if a newspaper publishes false or incorrect articles or news on matters of public interest, require the publication to publish any correction or denial sent to it free of charge in the following issue and in the same place and in the same type as the material to which the correction or denial relates; refusal to do so shall render the proprietor of the newspaper liable to imprisonment for a term not exceeding one month or to a fine not exceeding fifty pounds or to both these penalties. Publication of corrections or denials, as the case may be, is required of every foreign newspaper distributed in Libya and failure to comply shall bar the newspaper from entry into Libya by an order of the Council of Ministers.

Right of Reply

Art. 17. Any person mentioned or referred to in a news item or article published in a publication shall have the right to reply in the manner prescribed in the preceding article.

If a person having the right of reply dies, the said right shall pass to his heirs, one or all of whom may exercise it once only; the heirs shall also have the right to reply to any article or news item concerning the testator published after his death.

Art. 18. A newspaper shall have the right to refuse publication of replies, corrections or denials in the following cases:

(1) If the article or news item has already been adequately corrected in the same newspaper;

(2) If the reply, correction or denial is illegibly signed or if the reply or correction is written in a language other than that in which the article or news item objected to was published;

(3) If the reply violates the law or contains expressions offensive to morality or abusive to the newspaper or to persons or any other expression in the publication of which the liability of the publisher is involved;

(4) If the reply is received after the expiry of one month from the date of publication of the article or news item objected to;

(5) If the reply, correction or denial has been published in more than one newspaper before it is received by the newspaper to which reply is intended.

Art. 19. If the publication refuses to publish the reply on any of the grounds enumerated in the preceding article or on any other ground, the person having the right of reply may apply to the president of the competent court of first instance for an order requiring publication of the reply; notice of the application shall be immediately given to the other party, who may express his views in writing within twenty-four hours from the time of receipt of the notice. The judge shall decide on the application within three days and his decision shall be final. If the president of the court makes an order requiring publication, the reply and the order shall be published in the first issue following the decision of the president of the court. The publication shall defray the fees and costs.

Art. 20. If the publication fails to publish the order of the president of the court and the reply, the responsible editor shall be punished by imprisonment for a term not exceeding six months or by a fine not exceeding two hundred pounds or by both these penalties.

Particulars required of a Newspaper

Art. 21. Every publication shall bear printed on its front or back page the names of its proprietor and responsible editor, the place and date of publication, the subscription fee, the price and the name of the printing press.

Art. 22. The name of another newspaper or a name which may lead to confusion with another newspaper may not be used unless publication of said newspaper has ceased for a period of five years or its licence was never utilized in the six months following the date on which it was granted. Any person contravening this article shall be punished by a fine not exceeding fifty pounds.

Art. 23. If and when the responsible editor permanently ceases his supervision of the newspaper, its publication may not be continued until a new responsible editor is appointed who satisfies the requirements prescribed by law; the proprietor of the newspaper shall notify the Publications Department of the fact within seven days. Any person contravening this article shall be liable to a fine not exceeding thirty pounds and the newspaper may be suspended.

Art. 24. The management board of the newspaper shall deposit one copy of each issue immediately after publication with the Director of Publications in the province where the newspaper is published and one copy with the deputy public prosecutor of the district where it is published.

Proprietors of News Agencies, and Press Correspondents

Art. 25. Proprietors of local or foreign news agencies and foreign press correspondents working

in Libya must, before engaging in their activities, obtain a licence from the Director of Publications of the province concerned, after the Director of the Publications Department of the Federal Government has been consulted. Any contravention of the provisions of this article shall be punished with imprisonment for a term not exceeding six months or with a fine not exceeding two hundred pounds or with both these penalties.

Prohibition of Publications

Art. 26. Every foreign publication shall be submitted to the Publications Department of the province concerned before its distribution. The distribution of any issue of a publication published in Libya or abroad may be prohibited by an order of the Director of Publications of the province or his deputy if it appears that the publication is likely to cause a disturbance of the peace or to offend national sentiment or public morality. The Federal Director of Publications shall be immediately notified so that the prohibition may be extended throughout the Kingdom of Libya. The Director of the Federal Publications Department may, with the approval of the Minister for Foreign Affairs, prohibit the entry of any publication published outside Libya for such time as is deemed appropriate if he considers that its distribution in the kingdom is likely to endanger the public peace.

Material which may not be published

Art. 27. A publication may not publish:

(1) Any statement or declaration attributed to the King or the Crown Prince without the authorization of the Government or the Royal Cabinet;

(2) Records of closed meetings of the Parliament;

(3) Deliberations and decisions of the Council of Ministers, except with the authorization of the Government;

(4) Movements of the armed forces, or anything relating to their organization, composition or mobilization, except with the authorization of the Government;

(5) Reports of court proceedings held in private and texts of their records;

(6) Report of the proceedings in any case, if the court has ruled that they are not to be publicized;

(7) Anything disparaging universally recognized religions and beliefs;

(8) Anything outraging public decency or defaming a person's reputation;

(9) Pictures of persons hanged, without the authorization of the Government;

(10) Customs tariffs or decisions of the supply committees relating to price-control, imports or foreign exchange until publication is authorized;

(11) News calculated to depreciate or to destroy confidence at home or abroad in the national currency or government bonds.

Any person who contravenes the provisions of this article shall be punished by imprisonment for a term of one to six months or by a fine not exceeding one hundred pounds or by both these penalties.

Art. 28. Any person who is in contact with a foreign State and receives from it or its agents moneys for propaganda purposes on its behalf and in favour of its projects by means of publications and any person who directly or indirectly receives moneys from foreign companies or institutions engaged or intending to engage in any activities in Libya which are harmful to the national interest shall be punished by imprisonment for a term of not less than one year or more than two years and by a fine of not less than two hundred or more than five hundred pounds.

Art. 29. The author of an article and the responsible editor shall be liable as principals for offences committed by means of periodical publications and the proprietor of the publication shall not be criminally liable unless his actual participation in the offence is proved, but he shall be held liable jointly with the responsible editor for civil claims and any costs that may be awarded.

Criminal liability for offences committed by means of non-periodical or quasi-periodical publications shall rest with the author as principal and on the publisher as accessory. If the author or the publisher is not known, liability shall rest with the printer; and proprietors of printing-presses, bookshops and publishing houses shall be jointly liable for civil claims and any costs that may be awarded against their employees.

Art. 30. Any person who censures, slanders or defames another by name or by an identifying reference shall be punished in accordance with the Penal Code, and the proprietor and responsible officers of the newspaper shall be liable to punishment as principals.

Submission of evidence substantiating the implication or censure shall not institute a defence except in the following cases when the said implication or censure is directed at:

(1) Parliament, the Legislative and Executive Councils or the Council of Ministers, collectively, or at any member thereof;

(2) Judicial councils and courts;

(3) The army, the police and the armed forces;

(4) Public departments;

(5) Organized bodies, parties and associations of any kind;

(6) Public officials;

(7) Officials entrusted temporarily or permanently with a public office;

(8) Candidates for election in the course of their candidature;

(9) Witnesses in respect of their testimony;

(10) Directors of and participants in the various projects which invite public subscriptions or savings;

(11) Any private person who has succeeded in obtaining illicit gain from official quarters or has caused another to be deprived of his rights or has exploited a given circumstance in official quarters for a private interest to the detriment of the public interest.

Art. 31. Actions for censure and slander shall be instituted solely on the complaint of the injured party.

Art. 32. The provisions of the Penal Code shall apply to any offence committed through the press which is not specifically provided for in this Act.

Art. 33. Cases involving press offences shall be governed by the Code of Criminal Procedure and shall be disposed of as a matter of urgency.

Art. 34. Any newspaper which publishes an incitement against the safety, existence or sovereignty of the State shall be suspended by an order of the Executive Council with the prior approval of the Council of Ministers and copies of the issues containing the offending news items or articles shall be confiscated.

The Publications Department shall immediately submit the question to the Public Prosecutor who shall, on confirming the confiscation, refer the matter to the court of first instance within whose judicial district the newspaper is published. The court may order the continued suspension of the newspaper pending a decision in the case, provided that the period of suspension may not exceed two weeks; in the event of a conviction, the revocation of the newspaper licence may be ordered in addition to the prescribed penalty.

Art. 35. Where a person is convicted under the provisions of this Act, the court may, in addition to imposing the prescribed penalty, order the suspension of the newspaper for a period not exceeding six months. In all cases where a person is convicted and the court orders the suspension of the newspaper or the revocation of the licence, he may not work on another newspaper or be given another licence for the duration of the penalty.

Publication of Judgements

Art. 36. The court delivering the judgement may order it to be published in full or in summary form, free of charge, in the first issue following notification thereof and in the same place and in the same type as the offending article. If the convicted person contravenes the provisions of this article, he shall be punished by imprisonment for a term not exceeding six months or by a fine not exceeding two hundred pounds or by both these penalties.

Sale of Publications

Art. 37. Any person wishing to sell newspapers, books, magazines, pictures, drawings or other publications in a public place must obtain a licence from the Director of Publications of the province concerned. The licence shall be issued on an application being made by him, stating his name, surname, occupation, age and place of residence.

Art. 38. Any person who contravenes the provisions of the preceding article shall be punished by a fine not exceeding three pounds and, in the case of a repetition of the offence, by imprisonment for a term not exceeding ten days.

Art. 39. Any person who sells or distributes prohibited publications shall be punished by imprisonment for a term not exceeding one month or by a fine not exceeding fifty pounds.

Printing

Art. 40. No one may manage or own a printing-press without first obtaining a licence from the Director of Publications of the province concerned. Any person who contravenes the provisions of this article shall be punished by a fine not exceeding fifty pounds and by the closing down of the printing-press until a licence is obtained. If he continues to operate the press without a licence, he shall be punished by imprisonment for a term of not less than ten days nor more than six months and by the temporary or permanent closing down of the printing-press.

Art. 41. Every printing-press shall have a manager responsible for all offences committed.

Art. 42. Applications for a licence to operate a printing-press shall state the following particulars:

(1) The name, surname, place of residence and nationality of the proprietor of the printing press;

(2) The name, place of residence and nationality of the responsible manager;

(3) The name and location of the printing press and the type of machines employed therein.

Art. 43. The owner of a printing-press may be its responsible manager. If so, the fact must be mentioned in the application for a licence.

Art. 44. If the ownership of a printing-press is changed, the new proprietor shall submit a statement on the matter to the Director of Publications in the province concerned.

The former proprietor and manager of the printing-press shall remain liable for offences committed until a new application is made for a licence, unless the Director of Publications is notified in writing that they have ceded the printing-press to a third party.

Art. 45. The proprietor or responsible manager of a printing-press shall submit to the Director of Publications specimens of all types used in the printing-press and further specimens thereof whenever they are changed.

Art. 46. The proprietor or responsible manager of a printing-press shall keep a register showing in consecutive order the titles of writings and publications prepared for publishing, the names of the authors and the number of copies printed.

This register shall be shown to the administrative and judicial authorities on request.

Art. 47. The proprietor or responsible manager shall forward two copies of every publication, other than periodicals or quasi-periodicals, immediately after publication to the Director of Publications of the province concerned and a further eight copies to the government library in the province for distribution as follows:

(1) One copy to the libary of the Royal Cabinet;

(2) One copy to the Ministry of Education;

(3) One copy to the Registration Office of the League of Arab States;

(4) One copy to the government library in each of the three provinces;

(5) One copy to the library of the Libyan University in Tripoli;

(6) One copy to the library of the Libyan University in Benghazi.

The provisions of the preceding paragraph shall apply to all publications issued in typography, offset or gravure, drawings, photographs and engraved musical compositions.

Art. 48. Any person who reproduces a prohibited publication or prints any prohibited periodical or quasi-periodical publication shall be punished by imprisonment for a term of not less than one month or more than three months and by a fine of not less than ten or more than one hundred pounds.

Art. 49. Every publication shall bear the name of the author, the name of the printing-press, the name and address of the publisher and the date of printing. Any person who contravenes this provision shall be punished by a fine not exceeding fifty pounds or by imprisonment for a term not exceeding one week or by both these penalties.

Art. 50. Any person who prints a book or a report shall submit three copies thereof to the Director of Publications of the province concerned.

The Director of Publications shall forward one of the said copies to the Ministry of Education and another to the Department of Education in the province concerned.

Art. 51. Every proprietor of a bookshop and every publisher shall, within one month from the date on which he begins operations, forward to the Director of Publications in the province concerned a statement giving his name, address and nationality and the location of the bookshop or publishing house.

The Director of Publications may confiscate any book which he considers harmful to the public interest.

A complaint against a confiscation order may be made to the Executive Council of the province concerned.

General Provisions

Art. 52. Publications departments in the provinces shall notify the Federal Publications Department of all applications and notices received and of all action taken thereon pursuant to the provisions of this Act.

Art. 53. The provisions of this Act shall not apply to publications issued by the public authorities in the State.

Transitional Provisions

Art. 54. Persons engaged in the activities mentioned in this Act shall be given a period of two months from the date of the entry into force of this Act in which to comply with its provisions. On the expiry of this period, any person who has failed to do so shall be liable to all the measures and penalties prescribed herein.

Art. 55. The licences of newspaper which are closed down or suspended on the date of the entry into force of this Act shall be considered revoked.

Art. 56. All laws, decrees and regulations which are inconsistent with the provisions of this Act are hereby revoked.

Art. 57. The President of the Council of Ministers shall give effect to this Act, which shall enter into force on the date of its publication in the *Official Gazette*.

NATIONALITY ACT, No. 17 OF 1954[1]

PART 1

Art. 1. Any person who at the promulgation of the Constitution (on the 7th of October 1951) was normally resident in Lybia and not a national or subject of any foreign state, shall be a Libyan subject as from that date if:

(*a*) He was born in Lybia; or

(*b*) He was born outside Libya and either of his parents was born in Libya, or

[1] Published in *Official Gazette of the United Kingdom of Libya*, vol. 4, No. 3, of 25 April 1954. The Act entered into force on publication.

(*c*) He was born outside Libya, and had on that date normally resided in Libya for at least ten successive years.

Art. 2. (1) Any person born before 7 October 1951, who was not normally resident in Libya on that date, may:

(*a*) If he was born in Libya; or

(*b*) If he was born outside Libya and either of his parents or any of his grand parents was born in Libya,

opt for Libyan nationality in accordance with the provisions of this law.

(2) Any person born before 7 October 1951, who was normally resident in Libya on that date but is not a Libyan subject by virtue of article 1 of this law, may:

(*a*) If he is an Arab and stateless; or

(*b*) If he is a citizen of an Arab country and had been normally resident in Libya on the said date for not less than five successive years; or

(*c*) In any other case, if he had been ordinarily resident in Libya on 7 October 1951 for not less than ten successive years,

and is still residing therein, opt for Libyan nationality in accordance with the provisions of this law provided that persons in category (*c*) shall apply for Libyan nationality not later than 1 January 1955.

Art. 3. A person wishing to opt for Libyan nationality under the preceding article shall apply to the Minister of Foreign Affairs, and he may include in his application the names of his wife and of his minor children.

If the Minister is satisfied:

(1) That the applicant is of sane mind and full age:

(2) That he is of good character and has not been convicted of any offence involving moral turpitude, unless he has been rehabilitated,

(3) That he intends to reside in Libya; and

(4) That he, and those included in the application, will on becoming subjects divest themselves of any foreign nationality they may possess,

he shall, with the approval of the Council of Ministers, issue to the applicant a certificate of Libyan nationality in respect of himself and those included in his application.

On the issue of a certificate of Libyan nationality under this article, the persons whose names are included therein shall be Libyan subjects from the date of the certificate.

Art. 4. Any person shall be a Libyan subject if:

(*a*) He was born in Libya on or after 7 October 1951, and does not by reason of his birth acquire any foreign nationality; or

(*b*) He was born outside Libya on or after 7 October 1951, and his father was a Libyan subject by virtue of his birth in Libya or naturalization or the operation of article 1 or article 2 of this law; or

(*c*) He was born outside Libya under the preceding paragraph, and in that case, his birth must be registered within one year at a Libyan embassy, legation, or consulate, or at the Ministry of Foreign Affairs, or any other place approved for the purpose by the Minister of Foreign Affairs.

(2) Any person who under para. (*b*) or (*c*) acquires a foreign nationality by virtue of his birth may divest himself of his foreign nationality and opt for Libyan nationality giving notice thereof to the Minister of Foreign Affairs within one year of attaining full age.

PART 2
NATURALIZATION

Art. 5. Libyan nationality may, by decree, be granted to any foreigner provided that he fulfils the following conditions:

(1) That he has attained full age and is neither incompetent nor deficient nor a married woman;

(2) That he has been normally resident in Libya, or in the service of the Government of the United Kingdom of Libya, or partly the one and partly the other for a period of ten successive years immediately preceding his application, or if he is an Arab, five years. The applicant may be exempted from the condition of residence if he had previously served in the armed forces of Libya, or where such exemption is conducive to the public good; in such case nationality shall be granted by special law;

(3) That he is of good character and has not been found guilty of any offence involving moral turpitude unless he has been rehabilitated;

(4) That he intends to reside in Libya, and has lawful means of support; and

(5) That he knows the Arabic language sufficiently.

The application shall be submitted to the Minister of Foreign Affairs, who within three months of receipt thereof, shall refer it to the Council of Ministers after being satisfied that it conforms to all the conditions required, and the Council of Ministers at its own discretion may recommend the issue to the applicant of a decree of naturalization. Such decree shall be effective when the applicant has taken an oath of allegiance to the country and the king, and has lost any foreign nationality he may possess.

Art. 6. (1) There may be included in an application for naturalization and a decree of naturalization issued under the previous article, the name of the applicant's wife and any child under the age of eighteen, and the wife and the child so included shall thereupon become Libyan subjects; but any

such child may within one year after attaining full age renounce Libyan nationality by giving notice to the Minister of Foreign Affairs.

PART 3
MARRIED WOMEN

Art. 7. A woman who is a foreigner and who is married to a Libyan subject shall have the right to become a Libyan subject by giving notice to the Minister of Foreign Affairs, provided she loses her foreign nationality. The Minister may, on stated grounds, withhold the grant of such nationality, or may withdraw it where matrimony does not last for two years at least.

On termination of matrimony, such a woman shall not lose her Libyan nationality unless she marries a foreigner or makes her normal residence outside Libya or has recovered her foreign nationality.

If a foreign woman marries a Libyan subject, the children born before that marriage shall not by reason only of the marriage acquire Libyan nationality.

Art. 8. A Libyan woman who marries a foreigner shall retain her Libyan nationality unless she desires to acquire the nationality of her husband and she is permitted to do so by the national law of her husband.

In the event of the termination of marriage, such a woman may resume her Libyan nationality by giving notice to the Minister of Foreign Affairs within one year of such termination, and provided that she renounces her foreign nationality.

PART 4
LOSS OF NATIONALITY

Art. 9. Any Libyan subject who voluntarily acquires the nationality of any foreign state shall thereupon cease to be a Libyan subject, provided he gives notice thereof to the Minister of Foreign Affairs.

If the father of any children under the age of eighteen loses his Libyan nationality, such children shall likewise lose their Libyan nationality.

Provided that any such children may, if they lose their foreign nationality, by notice given to the Minister of Foreign Affairs within one year of attaining full age, resume their Libyan nationality.

Art. 10. (1) A Libyan subject who has acquired Libyan nationality under any of articles 2, 4, 6, or 7 of this law may within five years from the date of his acquiring Libyan nationality be divested of his nationality by royal decree, if:

(*a*) He is found to have obtained Libyan nationality as a result of a false statement or concealment of material facts; or

(*b*) He has been convicted of an offence showing disloyalty to the country and the king;

(*c*) He has been convicted of any offence involving moral turpitude; or

(*d*) He has, in the course of the five years following the date of his acquiring Libyan nationality, resided outside Libya for two successive years for a reason not acceptable to the Council of Ministers. The nationality of the wife and children of a person divested of nationality under this article shall not be affected unless the royal decree so provides.

The Libyan nationality may be nullified by royal decree showing grounds for same, if the person concerned joins the military service of a foreign country without the permission of his government.

. . .

LIECHTENSTEIN

NOTE[1]

No laws, orders or final judicial decisions affected the protection or violation of human rights in Liechtenstein during 1960.

[1] Information furnished by Mr. Josef Büchel, Deputy Head of Government, Principality of Liechtenstein, government-appointed correspondent of the *Yearbook on Human Rights*.

LUXEMBOURG

NOTE[1]

I. LEGISLATION

The following legislative measures connected with human rights were promulgated and published during 1960:

1. An Act dated 30 July 1960[2] set up a National Solidarity Fund, the purpose of which is to guarantee persons who are aged or incapacitated for work and who are deserving of national solidarity sufficient means to preserve them from poverty (*Mémorial du Grand-Duché* of 6 August 1960, No. 49, pp. 1199 *et seq.*).

2. A public administration regulation concerning the application of the above Act of 30 July 1960 to set up a National Solidarity Fund was adopted on 20 August 1960. (This regulation is published in the *Mémorial du Grand-Duché* of 20 August 1960, No. 52, pp. 1281 *et seq.*).

II. INTERNATIONAL AGREEMENTS

During 1960 certain international instruments relating to human rights were approved or ratified by the Grand Duchy of Luxembourg, as follows:

1. By an Act of 13 January 1960, the legislature approved the Convention relating to the Status of Stateless Persons, done at New York on 28 September 1954 (*Mémorial du Grand-Duché* of 6 February 1960, No. 7, pp. 107 *et seq.*).

The purpose of this international agreement is to regulate and improve the status of stateless persons, as referred to therein, by assuring such persons, *inter alia*, the widest possible exercise of human rights and fundamental freedoms.

2. An Act of 21 January 1960 approved the Labour Treaty between Luxembourg, Belgium and the Netherlands, signed at The Hague on 7 June 1956, as also the Interim Labour Agreement between Luxembourg, Belgium and the Netherlands, signed at Brussels on 20 March 1957 (*Mémorial du Grand-Duché* of 17 March 1960, No. 18, pp. 435 *et seq.*).

The main purpose of these agreements is to ensure that a contracting party shall grant to the nationals of the other contracting parties conditions of work equal to those enjoyed by its own nationals, and to promote the free movement of workers and full employment in the territory of the three Benelux countries.

The treaty was ratified and the instrument of ratification by the Grand Duchy of Luxembourg deposited with the Government of the Kingdom of Belgium on 12 September 1960.

3. The Declaration of the Rights of the Child, adopted by the United Nations General Assembly at its fourteenth session on 20 November 1959, was published in the *Mémorial du Grand-Duché* of 27 May 1960, No. 31, pp. 796–797.

4. An Act of 17 July 1960 approved the European Convention concerning the Social Security of Workers engaged in International Transport, done at Geneva on 9 July 1956 (*Mémorial du Grand-Duché* of 5 August 1960, No. 48, pp. 1176 *et seq.*).

The purpose of this multilateral agreement is to provide for an effective protection of workers engaged in international transport by land, air and inland navigation when, in cases of sickness, maternity, employment injury or occupational disease, or death, they need social security benefits in the territory of a contracting party other than the country to the laws and regulations of which the said workers are subject.

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[1] Note furnished by Mr. Ferdinand Wirtgen, Registrar-General and Director of State Lands, Luxembourg, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] See *Legislative Series* 1960 — Lux.2, published by the International Labour Office.

MADAGASCAR

ACT No. 60-006 AMENDING THE CONSTITUTION of 28 June 1960[1]

Art. 2. Article 14 of the Constitution[2] shall be repealed and replaced by the following provisions:

"*Art. 14.* [new] . . .

"If the Higher Institutional Council, being seized of the matter by the President of the republic or by the speaker of either assembly, declares that an international binding instrument includes a clause which is contrary to the Constitution, authorization to ratify or approve it cannot be granted without a revision of the Constitution.

"Treaties and agreements which have been duly ratified and approved shall from the moment of their publication take precedence over national laws, provided that in each case the agreement or treaty is applied by the other party."

. . .

[1] Text published in the *Journal officiel de la République malgache*, 76th year, new series, No. 106, of 2 July 1960, and furnished by the Government of the Malagasy Republic.

[1] See *Yearbook on Human Rights for 1959*, p. 193.

ORDINANCE No. 60-001 OF 4 FEBRUARY 1960 LAYING DOWN REGULATIONS GOVERNING THE MALAGASY JUDICIARY[1]

First Chapter

GENERAL PROVISIONS

Art. 1. The judges of the Court of Appeal and of the courts of first instance, as well as the judicial officers in the central administration of the Ministry of Justice, shall constitute the judiciary and shall be governed by these regulations.

Art. 2. The judges shall be independent.

Except in the cases provided for by law, and subject to the exercise of ordinary disciplinary authority, members of the judiciary may not be harassed in any way on account of acts which they perform in the course of their duties.

Judges may not be called upon to account for the decisions which they render or to which they are parties.

Members of the Bench shall be placed under the authority and supervision of the First President of the Court of Appeal, who is authorized to make such observations and recommendations to them as he deems useful in the interests of sound and prompt administration of justice and of correct application of the law.

Such observations and recommendations shall not impair the judge's freedom of decision.

The president of the court shall have the same authority with respect to the members of the judiciary subject to his jurisdiction.

The members of the Public Prosecutor's office [parquet] shall be under the direction and control of their superior officers and under the authority of the Minister of Justice.

At hearings, they may freely address the court.

. . .

[1] Text published in the *Journal officiel de la République malgache* of 20 February 1960, and furnished by the Government of the Malagasy Republic.

ORDINANCE No. 60-064 OF 22 JULY 1960 ESTABLISHING THE MALAGASY NATIONALITY CODE[1]

PRELIMINARY TITLE

GENERAL PROVISIONS

Art. 1. This ordinance, establishing the Malagasy Nationality Code, shall be applicable as from 26 June 1960.

Art. 2. The law shall determine which individuals, at birth, possess Malagasy nationality as their nationality of origin.

Malagasy 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. 3. The new legislative provisions relating to

[1] Text published in the *Journal officiel de la République malgache* 76th year, new series, No. 111, of 30 July 1960.

the attribution of Malagasy nationality as the nationality of origin shall apply even with respect to individuals who were born before the date on which the said provisions became operative but who have not attained their majority by that date.

However, the application of the said provisions shall not affect the validity of instruments executed by the person concerned or the rights acquired by third parties on the basis of earlier legislative provisions.

Art. 4. The conditions governing the acquisition and loss of Malagasy nationality after birth shall be those laid down in the legislative provisions in force at the time of the occurrence of the event or the execution of the instrument which is capable of leading to such acquisition or loss.

Art. 5. For the purposes of this code, a person who has attained his majority shall mean a person who has completed his twenty-first year.

Art. 6. The validity of the instruments executed by the person concerned and the rights acquired by third parties on the basis of his apparent nationality cannot be contested on the ground that another nationality has been acquired or revealed.

Art. 7. The provisions relating to nationality contained in duly ratified and published international treaties and agreements shall apply, even if they conflict with Malagasy domestic law.

Art. 8. When, under the terms of an international convention, a change of nationality is contingent on an act of option, the form of that act shall be determined by the law of the contracting State in which the act is to be performed.

TITLE I

ATTRIBUTION OF MALAGASY NATIONALITY AS NATIONALITY OF ORIGIN

Art. 9. The following persons are Malagasy nationals:

1. A legitimate child of a Malagasy father;
2. A legitimate child of a mother who is a Malagasy national and of a father who has no nationality or whose nationality is unknown.

Art. 10. The following persons are Malagasy nationals:

1. The child born out-of-wedlock of a mother who is a Malagasy national;
2. The child born out-of-wedlock of an unknown mother or of a mother whose nationality is unknown and a father who is a Malagasy national.

Art. 11. A child born in Madagascar of parents who are unknown but of whom at least one may be presumed to be Malagasy is a Malagasy national.

The following points, *inter alia*, may be taken into consideration: the name of the child, his physical characteristics, the personality of the persons who are bringing him up and the circumstances in which he came to them, the education he is receiving, and the environment in which he is living.

Nevertheless, a child shall be deemed never to have been a Malagasy national if, during his minority, filiation is proved to exist with respect to an alien.

A new-born child found in Madagascar shall be presumed, until the contrary is proved, to have been born in Madagascar.

Art. 12. A child who is a Malagasy national by virtue of the provisions of this title shall be deemed to have been a Malagasy national at birth, even if proof of the conditions prescribed by statute for the attribution of Malagasy nationality is not produced until after his birth.

Nevertheless, in the last-mentioned case, the attribution of Malagasy 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. 13. Filiation shall only be taken into consideration in the matter of the attribution of Malagasy nationality if it is proved in the manner prescribed by Malagasy civil law.

Art. 14. Where filiation of a child born out-of-wedlock is proved, with respect to both the father and the mother, by the same instrument or judgement, it shall be deemed to have been first proved to exist with respect to the mother.

Art. 15. The nationality of a child born out-of-wedlock shall not be affected by filiation unless the latter is proved during his minority or as a result of a suit to establish paternity brought within one year after the attaining of his majority.

TITLE II

AQUISITION OF MALAGASY NATIONALITY

Chapter I

Acquisition of Nationality by Filiation, Birth or Adoption

Art. 16. The legitimate child of a mother who is a Malagasy national and of an alien father may claim Malagasy nationality at any time before he attains his majority.

A child born out-of-wedlock shall have the same right when the second parent in respect of whom filiation is established is a Malagasy national, if the other parent is of alien nationality.

Art. 17. A child adopted by a person of Malagasy nationality may claim Malagasy nationality at any time before he attains his majority, provided that, at the time when he makes the declaration, he has been resident in Madagascar for five years.

Art. 18. During the year following the declaration or the judicial decision which, in the case specified in article 59, recognizes the validity of such a declaration, the Government may by decree refuse the acquisition of Malagasy nationality on the grounds that the person in question is not of good character, has failed partly or entirely to assimilate, or is found to be suffering from a serious physical or mental disability.

Art. 19. In the cases referred to in articles 16 and 17 above, the person concerned shall acquire Malagasy nationality on the date of the declaration.

Art. 20. A child who was born out-of-wedlock but who is legitimated during his minority shall acquire Malagasy nationality if his father is a Malagasy national.

Art. 21. A child who has been legitimated by adoption shall acquire Malagasy nationality if his adoptive father is a Malagasy national.

Chapter II

Acquisition of Nationality by Marriage

Art. 22. A foreign woman marrying a Malagasy national shall acquire Malagasy nationality only at her express request or if, in accordance with the provisions of her national law, she automatically loses her nationality.

A stateless woman marrying a Malagasy national shall acquire Malagasy nationality.

. . .

Art. 24. Within one year from the date on which the marriage was solemnized, the Government may by decree object to the acquisition of Malagasy nationality.

Where a marriage is solemnized in another country, the said time-limit shall run from the date on which the particulars of the marriage certificate are entered in the civil status records of the appropriate Malagasy diplomatic or consular agent or, in the case provided for in article 47, paragraph 3, of the Civil Code, from the date on which the marriage certificate is deposited with the Ministry of Foreign Affairs.

Art. 25. Where the marriage of a foreign woman with a Malagasy national is annulled by a decision of a Malagasy court or by a decision enforceable in Madagascar, such annulment shall have no effect on the nationality acquired by the woman under articles 22 to 24 if the marriage was contracted by her in good faith.

A woman who has contracted marriage in bad faith shall be deemed not to have acquired Malagasy nationality.

Nevertheless, where instruments executed prior to the judicial decision establishing the nullity of the marriage depended, for their validity, on the acquisition of Malagasy nationality by the woman, such validity may not be challenged on the ground that she failed to acquire that nationality.

Art. 26. The annulment of a marriage shall not effect the nationality of the children of the marriage if the marriage was contracted in good faith by at least one of the spouses.

Chapter III

Naturalization

Art. 27. Naturalization may be granted to an alien provided that:

(1) He has completed his eighteenth year;

(2) He is of sound mind;

(3) He does not constitute a danger for the community because of the state of his physical health, unless the complaint from which he is suffering has been contracted in the service or in the interest of Madagascar;

(4) He is of good conduct and moral character, and provided that he has been restored to his full rights if he has been sentenced to a term of more than one year's imprisonment for an offence under the ordinary law punishable, under Malagasy law, by a criminal penalty [peine criminelle] or by a term of correctional imprisonment [emprisonnement correctionnel] or if he has been sentenced for theft, fraud, breach of trust, receiving goods obtained by any of these offences, usury, indecent exposure, procuring, vagrancy or begging.

Nevertheless, the sentences may be excluded from consideration if they have been imposed in another country;

(5) He has been habitually resident in Madagascar during the five years preceding the submission of the application and is still habitually resident there at the time when the naturalization decree is signed;

(6) He gives satisfactory proof of his absorption into Malagasy society, particularly through a knowledge, adequate to his circumstances, of the Malagasy language.

. . .

Art. 29. The following persons may, however, be naturalized without any condition as to length of residence:

1. An alien who has rendered important services to Madagascar, through the exercise of scientific, artistic or literacy talents, the introduction of useful industries or inventions, or the establishment of industrial or agricultural undertakings; and, in general, any person whose naturalization is of exceptional value to the Malagasy Republic.

In this case, the decree shall be issued by the Council of Ministers.

2. The wife of a foreigner acquiring Malagasy nationality.

Chapter IV
Recovery of Nationality

Art. 30. Recovery of Malagasy nationality shall be granted by decree, after an investigation has been made.

Art. 31. Malagasy nationality may be recovered at any age and without any condition as to length of residence.

Nevertheless, a person may not recover Malagasy nationality unless he is resident in Madagascar at the time of recovery.

Art. 32. A person applying for recovery of nationality shall submit proof that he formerly possessed Malagasy nationality.

Art. 33. A person who has been deprived of Malagasy nationality may not recover it unless, where the ground for such deprivation was a judicial conviction, he has been restored to his full rights.

Art. 34. Nevertheless, the person referred to in the preceding article may recover Malagasy nationality if, since being deprived of it, he has rendered outstanding services to the Malagasy Republic or if his recovery of Malagsy nationality is of exceptional value to Madagascar.

In this case, the decree shall be issued by the Council of Ministers.

Chapter V
Common Provisions for all Cases in which Malagasy Nationality is acquired

Art. 35. A person against whom an expulsion order or restricted residence order has been issued shall be excluded from the benefit of this title unless the original terms of the order have been expressly rescinded.

Residence in Madagascar while the above-mentioned administrative order is in effect shall not be taken into consideration in calculating the qualifying period of residence referred to in article 27, paragraph 5.

Art. 36. A minor who has attained the age of eighteen years may claim Malagasy nationality or apply for naturalization without any authorization.

A minor who is over the age of sixteen but under the age of eighteen years may not claim Malagasy nationality unless authorized to do so by the person who, under Malagasy law, acts on his behalf in civil matters.

If the minor is under the age of sixteen years, the claim shall be made by his legal representative.

Chapter VI
Effects of the Acquisition of Malagasy Nationality

Art. 37. A person who acquires Malagasy nationality shall as from the date of such acquisition enjoy all the rights attaching to Malagasy nationality, subject to the disabilities mentioned in special legislative provisions and to the disabilities imposed on naturalized aliens by article 38 below.

Art. 38. A naturalized alien shall be subject to the following disabilities:

1. For a period of ten years following the naturalization decree, he may not be appointed to an elective function or office for the discharge of which Malagasy nationality is necessary.

2. For a period of five years following the naturalization decree, he may not vote in elections where registration on the electoral roll is conditional on the possession of Malagasy nationality.

3. For a period of five years following the naturalization decree, he may not be appointed to a public office remuneration for which is paid by the State, be called to the Bar, or hold ministerial office.

Art. 39. A naturalized person who has rendered important services to Madagascar, or whose naturalization is of exceptional value to Madagascar, may be relieved of some or all of the disabilities specified in the preceding article.

In this case, the decision shall be taken by decree of the Council of Ministers.

Art. 40. The following persons shall be Malagasy nationals as of right, on the same grounds as in the case of their parents, provided that their filiation is established in conformity with Malagasy civil law:

A legitimate or legitimated minor whose father, or whose mother if she is a widow, acquired Malagasy nationality;

A minor born out-of-wedlock, where the parent with respect to whom filiation was proved to exist in the first place, or the surviving parent, acquires Malagasy nationality.

Art. 41. The preceding article shall not apply:

(1) To a minor who is married;

(2) To a person who is serving or has served in the armed forces of his country of origin;

(3) To a person against whom a decree refusing the acquisition of Malagasy nationality has been issued.

Title III
LOSS AND DEPRIVATION OF MALAGASY NATIONALITY

Chapter I
Loss of Malagasy Nationality

Art. 42. A Malagasy national of full age who voluntarily acquires a foreign nationality shall lose his Malagasy nationality.

Art. 43. Nevertheless, until the expiry of a period of fifteen years from the date of registration either on the active list or, where exemption from military service has been granted, on the national service register, Malagasy nationality shall not be lost except with the authorization of the Malagasy Government.

Such authorization shall be granted by decree.

The following persons shall not be required to apply for authorization to lose Malagasy nationality:

(1) Persons exempted from military service;

(2) Persons declared permanently unfit for service;

(3) Any male person, even if he has evaded his military service obligations, who has reached the age at which he is completely relieved of all such obligations, in conformity with the Army Recruitment Act.

Art. 44. In time of war, the time-limit stipulated in the foregoing article may be altered by decree.

Art. 45. A Malagasy national, even if a minor, who, having a foreign nationality, is authorized by the Malagasy Government, on his application, to renounce Malagasy nationality shall lose his Malagasy nationality.

Such authorization shall be granted by decree.

When necessary, the minor must be authorized or represented as provided for in article 36.

Art. 46. A Malagasy national who loses his Malagasy nationality shall be released from his allegiance to Madagascar:

(1) In the case provided for in articles 42 and 43, on the date on which the foreign nationality is acquired;

(2) In the case provided for in article 45, on the date of the decree authorizing him to renounce Malagasy nationality.

Art. 47. A Malagasy woman who marries an alien shall retain her Malagasy nationality unless she expressly states that she wishes to acquire the nationality of her husband, in conformity with the national law of his country.

She shall lose Malagasy nationality if, after the marriage, the spouses establish their first domicile outside Madagascar, and if the wife automatically acquires the nationality of her husband under his national law.

The declaration shall be made in the form and within the period prescribed in article 23.

In this case, the woman shall be released from her allegiance to Madagascar as from the date of the solemnization of the marriage.

Art. 48. A Malagasy national who in fact conducts himself as a national of a foreign State may, if he possesses the nationality of that State, be declared by decree to have lost his Malagasy nationality.

In that case, he shall be released from his allegiance to Madagascar as from the date of the said decree.

The measures taken against him may be extended to his wife and minor children if they themselves possess a foreign nationality. Nevertheless, the measures may not be extended to his minor children unless they are also extended to his wife.

Art. 49. A Malagasy national who holds an appointment in a public service of a foreign State or in a foreign army, and who retains the appointment even though directed to resign it by the Malagasy Government, shall lose his Malagasy nationality.

Six months after being notified of such a direction, the person concerned shall be declared by decree to have lost his Malagasy nationality, if during that period he has failed to resign his appointment, unless it is proved that he was totally unable to do so. In the last-mentioned case, the six months' time-limit shall run only from the date on which the impediment was removed.

He shall be released from his allegiance to Madagascar as from the date of the decree.

Chapter II

Deprivation of Malagasy Nationality

Art. 50. A person who has acquired Malagasy nationality may, by decree, be deprived thereof if:

(1) He is convicted of an act held to constitute a crime or offence against the internal or external security of the State;

(2) He is convicted of an act held to constitute a crime or offence which is punishable under articles 109 to 131 of the Penal Code, or for violation or contempt of the Constitution or of the institutions of the republic as specified in and punishable under Act No. 59-29, of 27 February 1959, on the freedom of the press, as amended by ordinance No. 60-035, of 25 May 1960;

(3) He is convicted of evading his obligations under the Army Recruitment Act or the National Service Act;

(4) He engages, to the advantage of a foreign State, in acts incompatible with Malagasy nationality and detrimental to the interests of Madagascar;

(5) He is convicted, in Madagascar or abroad, of an act held to constitute a crime under Malagasy law for which he is sentenced to a term of not less than five years' imprisonment.

Art. 51. A person shall not suffer deprivation of nationality unless the acts with which he is charged and which are specified in article 50 occurred within the ten years following the date on which he acquired Malagasy nationality.

Deprivation of nationality may not be ordered except within the two years following his conviction.

Art. 52. Deprivation of nationality may be extended to the wife and 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 VI

Art. 90. All persons whose father and mother were of Malagasy origin shall have Malagasy nationality, whatever their age, domicile or residence on 26 June 1960.

Nevertheless, persons whose civil status was on that date governed by modern law may, until 31 December 1960, refuse Malagasy nationality if they have retained French nationality according to French law.

Art. 91. Persons only one of whose parents was of Malagasy origin shall have Malagasy nationality, whatever their age, domicile or residence on 26 June 1960. However, within a period of one year from that date, they may refuse Malagasy nationality under the conditions laid down in the preceding article, whether they are legitimate or were born out-of-wedlock and whether or not they have been recognized or legitimated by a parent who is a French national.

Art. 92. The following persons may opt for Malagasy nationality within the six months following the date of 26 June 1960:

(1) A national of a State of the French Community whose spouse is a Malagasy national;

(2) Former aliens who have obtained French naturalization and were domiciled in Madagascar on 26 June 1960;

(3) French nationals, not indigenous to Madagascar, who have transferred their domicile to Madagascar and have resided or exercised a professional activity there for five years prior to the date of 26 June 1960.

Art. 93. The declarations whereby Malagasy nationality is refused or opted for shall be made in conformity with the procedure laid down in articles 36 and 57 to 61[1] of the present code.

[1] Articles 57 to 61 relate to procedure.

ORDINANCE No. 60-025 OF 4 MAY 1960
LAYING DOWN PENALTIES FOR FAMILY DESERTION[1]

Art. 1. The following shall be liable to imprisonment for three months to one year and to a fine of 5,000 to 200,000 francs, or to one of these penalties only:

1. A legitimate, natural or adoptive father or mother who without serious reason abandons the family residence for more than two months and evades all or part of the material or moral obligations arising from the laws and customs governing his or her civil status.

The two-month period can be broken only by a return to the home which implies the will to resume family life on a permanent basis and to comply with the above-mentioned obligations;

2. A husband who without serious reason, knowing his wife to be pregnant, wilfully deserts her for more than two months;

3. Fathers and mothers who, by ill-treatment, injurious examples of habitual drunkenness or notorious misconduct, or failure to provide care or necessary guidance, seriously endanger the health, safety or morals of one or more of their children.

. . .

Art. 3. Any person who, in defiance of a decision rendered against him, or in disregard of a court decision ordering him to pay maintenance to his spouse, his ascendants or his descendants or confirming the agreement of the parties in regard to liability for payment of maintenance and the amount and terms of such payment, wilfully fails for more than two months to pay the full amount of maintenance, shall be liable to the penalties set out in article 1.

In the absence of proof to the contrary, a default in payment shall be presumed to be wilful. Insolvency resulting from habitual misconduct, wilful unemployment, idleness or drunkeness shall in no circumstance be deemed a valid excuse.

The commission of a further offence shall always entail the penalty of imprisonment.

. . .

Art. 7. Any person convicted of one of the offences mentioned in this ordinance may also be sentenced to forfeiture of the rights set out in article 42 of the Penal Code for not less than five or more than ten years.

Art. 8. Parents whose civil status is determined by modern law and who are convicted of one of the offences mentioned in this ordinance may be deprived of all or part of their parental authority with respect to one or more of their children.

. . .

[1] Text published in the *Journal officiel de la République malgache* of 7 May 1960, and furnished by the Government of the Malagasy Republic.

ORDINANCE No. 60-142 OF 3 OCTOBER 1960 CONCERNING THE PROTECTION OF THE CHILD[1]

PRELIMINARY TITLE
RIGHTS OF THE CHILD

Art. 1. The child shall have a privileged position within the family. He shall have the right to moral and material security.

Art. 2. Responsibility for the education of the child lies in the first place with his family; his family must ensure the harmonious development of his personality.

Art. 3. When the security, morals, health or education of a minor under eighteen years of age are threatened, it shall be the duty of the State to intervene, for the purpose either of aiding and assisting the family in its role as natural educator of the child or of taking appropriate measures of educational assistance and supervision.

Art. 4. When they deem it necessary or when the circumstances and personality of the child appear so to require, the competent courts of law may impose a criminal sentence on a minor over sixteen years of age who has been found guilty of a petty offence, a correctional offence or a serious offence.

. . .

[1] Text published in the *Journal officiel de la République malgache* of 22 October 1960, and furnished by the Government of the Malagasy Republic.

LABOUR CODE

SUMMARY

Ordinance No. 60-119, to establish a labour code, of 1 October 1960 (*Journal officiel de la République malgache*, No. 125 of 8 October 1960) included provisions dealing with the following subjects: trade unions, contracts of employment, apprenticeship, collective agreements, wages, hours of work, night work, employment of women and children, weekly rest and public holidays, leave and transportation, hygiene and safety, medical services and labour disputes.

The text of the Act and a translation into English have been published by the International Labour Office as *Legislative Series* 1960 — Mad.1.

ORDINANCE No. 60-044 OF 15 JUNE 1960 TO DEFINE THE RIGHTS AND DUTIES OF FAMILIES AND PUBLIC AUTHORITIES WITH REGARD TO EDUCATION[1]

TITLE I
GENERAL PROVISIONS

Art. 1. The Malagasy Republic affirms that every person has a right to education for the triple purpose of physical, intellectual and moral development.

Art. 2. Education shall be directed to the full development of the human personality and to the strengthening of fundamental freedoms.

It shall promote understanding, tolerance and peace among all racial or religious groups and among all nations.

TITLE II
FREE AND COMPULSORY EDUCATION

Art. 3. Parents shall have the right of priority in selecting the type of education they wish their children to receive.

Art. 4. The State shall establish a system of public education open to all children without distinction of race or religion.

Art. 5. Public education shall be free of charge in the primary elementary schools. Above the elementary school, the public authorities may grant scholarships to duly qualified pupils from families which cannot afford to pay for their children's schooling.

Art. 6. The public authorities may make grants to private educational institutions within their budgetary limitations.

Art. 7. When the public authorities are in a position to place at the disposal of families means for free education of their children, school attendance may be declared compulsory within a specific area round a public elementary school.

. . .

[1] Text published in the *Journal officiel de la République malgache* of 18 June 1960, and furnished by the Government of the Malagasy Republic.

MALI

CONSTITUTION OF 23 JANUARY 1959
AS AMENDED BY ACT No. 60-1 A.N.-R.M. OF 22 SEPTEMBER 1960[1]

PREAMBLE

The Malian people solemnly proclaim the Republic of Mali, founded on an ideal of liberty and justice.

The Republic of Mali shall organize the conditions necessary for the harmonious development of the individual and the family in a modern society and with due respect for the African personality.

The Republic of Mali solemnly reaffirms the rights and freedoms of man and of the citizen, enshrined in the Universal Declaration of Human Rights of 10 December 1948.

It recognizes the right of all men to work and rest, the right to strike, and the freedom to join co-operative or trade union organizations of their choice in order to defend their occupational interests. Work is a duty for every citizen, but no person may be forced to do specific work except for the performance of an exceptional public service in the general interest on a basis of complete equality and under the conditions determined by law.

The Malian people, conscious of the historical, moral and material imperatives which unite the States of Africa and desirous of achieving the political, economic and social unity essential to the affirmation of the African personality, affirm their determination to continue their efforts to achieve African unity.

TITLE I
SOVEREIGNTY

Art. 1. The Republic of Mali is indivisible, democratic, secular, and social.

It shall ensure equality before the law for all persons, without distinction as to origin, race, sex or religion.

. . .

Its principle shall be government of the people, by the people and for the people.

Art. 2. Sovereignty shall be vested in the people as a whole. No section of the people nor any individual may assume the exercise of sovereignty.

The people shall exercise their sovereignty through their representatives and, in certain cases, by referendum. The vote shall be universal, equal and secret. It may be direct or indirect, under the conditions established by law.

All Malian citizens of both sexes who are of full age and in full possession of their civil and political rights shall be entitled to vote under the conditions established by law.

Art. 3. The political parties and groups shall in the ordinary course assist in the exercise of the franchise.

They may be formed and engage in their activities freely, subject to respect for democratic principles and for the interests and the laws and regulations of the State.

Art. 4. Any act of racial or ethnic discrimination and any regionalist propaganda which might threaten the security of the State or the territorial integrity of the republic shall be punished by law.

. . .

TITLE III
THE PARLIAMENT

Art. 16. The Parliament shall be composed of a single Assembly known as the National Assembly. The deputies to the National Assembly shall be elected by direct universal suffrage for a term of five years.

. . .

Art. 18. A compulsory mandate shall be null and void.

. . .

TITLE V
INTERNATIONAL TREATIES AND AGREEMENTS

. . .

Art. 39. If the Cour d'Etat has declared that an international commitment contains a clause contrary to the Constitution of the republic, authorization to ratify or approve the commitment cannot be given without a revision of the Constitution.

. . .

TITLE VII
THE JUDICIAL POWER

Art. 42. The Republic of Mali shall ensure and guarantee the independence of the judiciary, which is the guardian of personal freedoms entrusted with

[1] Text published in the *Journal officiel de la République du Mali*, second year, No. 65, of 29 September 1960.

the application, in its particular sphere of action, of the laws of the republic.

. . .

TITLE XI
AMENDMENT

Art. 49. . . .

The republican form of the State shall not be subject to amendment.

TITLE XII
MISCELLANEOUS PROVISIONS

Art. 50. The regulations for the application of this constitution shall be the subject of laws passed by the National Assembly.

Art. 51. The legislation in force shall remain valid in so far as it is not contrary to this constitution and in so far as it has not been expressly repealed.

. . .

MAURITANIA

ACT No. 60-136 CONCERNING THE ORGANIZATION OF THE POLITICAL PARTIES

of 25 July 1960[1]

Art. 1. The political parties, being organized and permanent groups of citizens having a common programme and pursuing certain political aims, help to make manifest the will of the nation, in particular by participating in the election of the representatives of the people at all levels of public life.

Art. 2. They may be formed freely, provided that their aims, organization and activities are in conformity with the democratic principles defined in the Constitution and in the preamble thereto. Any party whose aims or actions jeopardize the independence, integrity and unity of the State and the republican form of government, or which relies on recourse to force and despotism, shall be illegal.

Art. 3. The parties shall enjoy the rights and safeguards provided for in the Constitution as long as they shall not have been declared illegal in pursuance of the principles and rules set forth in the preceding article and according to the procedure laid down in article 8 below.

Art. 4. They shall be organized along democratic lines.

The statutes describing their objectives and general policy shall be deposited with the Ministry of the Interior.

Art. 5. The electoral mandate shall be independent of party membership. An elected representative against whom disciplinary measures are taken or who is expelled from a party shall retain his mandate. Any undertaking to forgo such mandate, made at any time whatsoever, shall be null and void.

Art. 6. On the request of the Minister of the Interior, the parties shall provide information regarding the source of their funds, which may be obtained only from individuals of Mauritanian nationality.

Such funds shall be derived exclusively from membership dues, gifts and legacies, sale of publications, collections during demonstrations, subscriptions, sale of services, profits from their undertakings, and such portion of the parliamentary indemnities as the elected representatives may see fit to make over to them.

Art. 7. The parties may operate only undertakings germane to their purposes and to the moulding of political consciousness and will, such as publications, libraries, information and education centres and social works.

Art. 8. A party which has been declared illegal shall be dissolved. Such dissolution shall also extend to all organizations having a statutory connexion with the party. It shall not involve the taking of penal sanctions against party leaders and members, or the loss of their parliamentary mandate. It shall entail the confiscation of any property of illicit origin.

Art. 9. The illegal reconstitution of dissolved parties and organizations shall alone be punishable. Violations shall entail the penalties provided for in the law on associations and shall be the subject of proceedings in the correctional courts.

[1] Text published in the *Journal Officiel*, 2nd year, No. 43, of 19 October 1960, and furnished by the Government of the Islamic Republic of Mauritania.

ORDINANCE No. 59-004 CONCERNING THE ELECTION OF DEPUTIES TO THE NATIONAL ASSEMBLY

dated 1 April 1959[1]

TITLE I
ELECTORAL SYSTEM

Art. 1. The National Assembly shall consist of forty (40) members elected by universal, direct and secret suffrage.

. . .

TITLE II
THE ELECTORATE

Art. 6. All citizens of the republic of either sex who are of full age and in possession of their civil and political rights shall have the right to vote. The age for attaining civil majority shall be twenty-one years.

Citizens of other States of the Community who

[1] Text published in the *Journal Officiel*, first year, special number, of 6 May 1959.

fulfil the same conditions shall also be qualified to vote. Nevertheless, they shall not be registered in the electoral rolls unless on the date on which the lists are closed they have been resident in Mauritania for at least six months. Persons having their domicile in Mauritania shall not be subject to the condition of six months residence. All officials of the public services of the State and of the Community serving in Mauritania shall be deemed to be domiciled in Mauritania.

. . .

TITLE III
ELIGIBILITY

Art. 8. Election to the National Assembly shall be open to citizens of the republic of either sex who have attained the age of twenty-five years, who have not been placed under guardianship, who are registered in an electoral list or can show proof that they should have been so registered on the day of the election, and who are able to speak, read and write French fluently.

This latter condition shall not apply in the case of former members of the territorial assemblies, or of members of the Constituent Assembly.

Art. 9. Election shall also be open to citizens of the other States of the Community who fulfil the same conditions, provided that they have been resident in Mauritania for at least two years on the date set for voting. Citizens domiciled in Mauritania or who were registered in the direct taxation roll on 1 January of the year in which the election is held, or who can show proof that they should have been so registered, shall not be subject to the condition of two years' residence.

Art. 10. The following persons shall not be eligible:

Persons who have been declared bankrupt or who have been granted a winding up order until they recieve their discharge;

Persons who have been convicted for corrupt electioneering practices;

Persons who have been naturalized for less than ten years;

Persons who have been deprived of their right to stand for election by a court decision made in pursuance of the laws authorizing this measure.

Art. 11. A deputy who in the course of his term of office is deprived of his capacity and as a result has lost his right to vote shall be declared by the Assembly to be relieved of his mandate.

TITLE IV
INELIGIBILITY

Art. 12. The following persons shall not be entitled to stand as candidates for election in any electoral district while they are exercising their functions and for six months following termination of their functions:

The representative of the President of the Community and the members of his cabinet;

Heads of administrative districts, including heads of posts and their deputies;

Judges of any court, whatever its nature;

Heads of state public services;

Officials and accountants of all kinds responsible for the assessment, collection and recovery of direct or indirect taxes and for the payment of public expenditures of all kinds. The chiefs of the traditional communities shall not be included under this head;

Army, navy and air force personnel;

Personnel of the gendarmerie, of the garde, and of the police.

TITLE V
INCOMPATIBILITY

Art. 13. The office of deputy shall be incompatible with the exercise of the functions listed in article 12 or with the holding of an elected office in another State of the Community.

The office of deputy shall in general be incompatible with the exercise of any public function remunerated from state funds, or of any remunerated public duty, appointment to which is reserved for officials of the State. The functions of the chiefs of the traditional communities shall not come under the head of public functions.

An official, or a chief of a traditional community, who has been elected as a deputy may not receive both the parliamentary indemnity and the salary payable in respect of his functions.

Art. 14. The office of deputy shall be incompatible with the functions of head of a public or private works undertaking, remunerated or subsidized from state funds.

Art. 15. If an official or agent of the public services coming under one or other of the heads specified in article 13 hereinabove has been elected a deputy he shall be relieved of his functions and replaced, and shall be dealt with as provided by the statutes applicable to him.

Art. 17. The following persons shall not be subject to the foregoing provisions:

Members of the Government,

Deputies who have been entrusted with temporary missions by the Government.

MEXICO

DECREE TO AMEND AND SUPPLEMENT ARTICLE 123 OF THE GENERAL CONSTITUTION OF THE REPUBLIC

of 21 October 1960[1]

The Congress of the United States of Mexico, in virtue of the power conferred on it by article 135 of the General Constitution of the Republic and with the approval of a majority of the legislatures of the states, declares that article 123 of the said constitution shall be amended and supplemented as follows:

"*Art. 123.* The Congress of the Union, without contravening the following general principles, shall make labour laws covering the following fields:

"A. With respect to workers, employees, domestic workers, craftsmen and in general to all contracts of employment: [There follow the thirty-one general principles already contained in article 123. See *Yearbook on Human Rights for 1946*, pp. 199–200.]

"B. As between the various organs of state of the Union, the government of the Federal District and those of the federal territories and their officials, employees and workers:

"I. Daily hours of work shall not exceed eight (or seven in the case of night work). All work in excess of these hours shall be treated as overtime and shall be paid at double rates. Overtime shall in no case be worked in excess of three hours a day nor for more than three consecutive days.

"II. Every official, employee or worker shall be given at least one rest day with full pay for every six working days.

"III. Every official, employee or worker shall be given not less than 20 days' annual leave.

"IV. Salaries and wages shall be fixed in each annual budget and shall in no case be reduced in the course of the financial year.

"In no case shall the salary or wage be less than the minimum wage fixed for workers as a whole.

"V. Equal pay shall be given for equal work regardless of sex.

"VI. Wages and salaries shall not be subject to deductions, check-offs, seizure or attachment except in the cases prescribed by law.

"VII. Staff shall be appointed by methods enabling the knowledge and aptitude of the candidate to be considered. The State shall set up schools of public administration.

"VIII. Every official, employee or worker shall have the right to promotion in order that promotions be based on the knowledge, aptitude and seniority of the person concerned.

"IX. Officials, employees and workers shall be suspended or dismissed only for sufficiently grave reasons and subject to the periods of notice fixed by law.

"In the case of unjustified dismissal, the official, employee or worker concerned shall be entitled to claim, through normal legal channels, reinstatement in his post or payment of suitable compensation. In the case of post suppression, the official, employee or worker concerned shall be entitled to transfer to a similar post or to the compensation prescribed by law.

"X. Officials, employees and workers shall be entitled to associate together for defence of their common interests. They may likewise make use of the right to strike (so long as the conditions imposed by law in the case of certain public services are observed) whenever the rights guaranteed by this article are widely and systematically violated.

"XI. Social security shall be organized for the said officials, employees and workers, subject to the following basic minimum standards:

"(*a*) The scheme shall include insurance against industrial accidents and occupational diseases, insurance against sickness other than occupational disease, maternity insurance, retirement, invalidity, old age and death (survivors);

"(*b*) In the case of accident or sickness, the person concerned shall retain his right to employment for the period prescribed by law;

"(*c*) Women employees shall be entitled to one month's maternity leave preceding the presumed date of confinement and two months' maternity leave after that date. As long as she nurses her child she is entitled to two special pauses per working day, each of a half an hour's duration, to feed her child. She shall likewise be entitled to medical and obstetrical treatment, the supply of medicaments, assistance in feeding her child and the use of a crèche or day nursery;

[1] Published in *Diario Oficial*, vol. CCXLIII, No. 30, of 5 December 1960. Translation as published in *Legislative Series* — Mex.1, of the International Labour Office.

"(*d*) The dependants of an official, employee or worker shall be entitled to medical assistance and the supply of medicaments within certain limits and in certain cases prescribed by law;

"(*e*) Holiday and rest centres and cut-rate stores shall be set up for the benefit of federal and state employees and their families;

"(*f*) Low-cost housing (for sale or lease) shall be supplied to such employees, in accordance with programmes adopted for this purpose.

"XII. All disputes, whether individual, collective or between industrial associations, shall be submitted to a federal conciliation and arbitration board whose composition shall be prescribed in regulations made for the administration of this decree.

"Any disputes between the judicial authority of the federation and the staff employed by it shall be heard by the Supreme Court of Justice of the nation, in plenary session.

"XIII. Military and naval personnel, members of the public forces of law and order and personnel of the foreign service shall be subject to special legislation.

"XIV. Subsequent enactments shall define which types of employment are to be considered positions of trust. Persons in such positions shall be covered by the measures adopted for the protection of salaries and wages and by the social security laws."

TRANSITIONAL PROVISIONS

1. The amendments set out above shall come into force on the day following the date of their publication in the official gazette of the federation.

2. Until regulations are issued in pursuance of the above provisions, the rules concerning the conditions of employment of officials, employees and workers in the service of the organs of state of the Union shall remain in force in so far as they are not incompatible with the provisions of this decree.

MONACO

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS IN 1960[1]

I. LEGISLATION

1. *Legislative ordinance No. 684 of 19 February 1960*, granting an additional annual holiday with pay to wage-earning mothers (*Journal de Monaco*, 29 February 1960, p. 205)

Article 1 provides:

"Act No. 619 of 26 July 1956, to provide for annual holidays with pay is hereby supplemented by an article 4 *bis* as follows:

" '*Art. 4 bis.* Wage-earning or apprenticed mothers shall receive one additional working day of holiday for each dependent child; however, such additional holiday shall not exceed five days.

" 'The foregoing provision shall not apply where the period of legal holiday is less than six days.

" 'A dependent child is a child who lives in the household and who is under sixteen years of age on 30 April of the current year.' "

The Act of 26 July 1956 to provide for annual holidays with pay (see *Yearbook on Human Rights for 1956*, p. 159) made no special provision for mothers with dependent children.

2. *Legislative ordinance No. 685, of 19 February 1960*, establishing periods of rest to be granted by employers to pregnant women and nursing mothers (*Journal de Monaco*, 29 February 1960, p. 206)

Articles 1 to 4 are as follows:

"*Art. 1.* No employers shall knowingly engage a mother in any work whatsoever during a period of six weeks following her confinement.

"The same prohibition applies in respect of the two weeks preceding the presumed date of child-birth, unless it is medically established that the work to which the woman is assigned is not harmful to her condition.

"*Art. 2.* Suspension of work by the woman for a period beginning six weeks before the presumed date of confinement and ending eight weeks after the confinement may not, under penalty of damages to the woman, serve as a ground for severance of the employment contract by the employer.

"The woman concerned must notify the employer of the reason for her absence.

"Where the woman's absence, due to an illness which is medically certified to be the result of the pregnancy or birth and which makes it impossible for her to resume work, extends beyond the period of eight weeks following child-birth, but does not exceed this period by more than three weeks, the employer may not, under penalty of damages to the woman, dismiss her for such extended absence.

"Any agreement to the contrary is null and void.

"The woman shall be entitled to legal aid in the court of first instance.

"*Art. 3.* In the case of nursing mothers, for one year following the date of child-birth the employer must grant to the wage-earning mother, for the purpose of nursing, a thirty-minute pause for each four-hour period of work. The time of the pause shall be fixed by common agreement between the employer and the mother; in the absence of agreement, it shall occur in the middle of each period.

"*Art. 4.* A woman medically certified to be pregnant may abandon work without giving notice and without being obliged, on that account, to pay a severance penalty."

3. *Legislative ordinance No. 696, of 28 November 1960*, broadening the guarantees of workers' representatives in industrial undertakings (*Journal de Monaco*, 28 November 1960, p. 1005)

The earlier legislation (Act No. 459, of 19 July 1947) provided that no workers' representative or alternate could be dismissed without the consent of a mixed commission presided over by the Labour Inspector.

The safeguards also applied to candidates for election as workers' representatives during two weeks before the date of the election, but left unprotected the unsuccessful candidates, as well as former representatives who had terminated their service.

It is this gap which the legislative ordinance of 28 November 1960 sought to fill. The single article provides:

"Article 16 of Act No. 459 of 19 July 1947, as modified in the provisions of Act No. 639 of 11 January 1958, is hereby amended as follows:

" '*Art. 16.* No workers' representative or alternate may be dismissed without the consent of a commission consisting of:

(*a*) The Labour Inspector, who shall be chairman;

[1] Note furnished by Dr. Louis Aureglia, National Councillor, Monte Carlo, government-appointed correspondent of the *Yearbook on Human Rights*.

(*b*) Two representatives of the employers' association relating to the employer's occupation;

(*c*) Two representatives of the trade union relating to the occupation of the workers' representative, provided that they fulfil the eligibility requirements laid down in article 7.

" 'Nevertheless, in case of serious misconduct the head of the undertaking shall be empowered immediately to suspend the person concerned pending the decision of the commission.

" 'Decisions by the commission shall be without prejudice to any recourse by the parties to the competent authorities.

" 'Candidates for the office of workers' representative shall be covered by the provisions of this article for a period of two weeks preceding the election and three months following it.

" 'The foregoing provisions shall also be applicable to former workers' representatives for a period of six months from the day on which they terminated their service.

" 'The commission referred to in this article shall hear cases and render decisions in accordance with the rules laid down in a sovereign ordinance.' "

II. INTERNATIONAL AGREEMENTS

1. *Convention on insurance against industrial accidents and occupational diseases, signed at Rome on 6 December 1957* by plenipotentiaries of the Government of the Italian Republic and of the Government of Monaco, and carried into effect in Monaco by sovereign ordinance No. 2196 of 19 February 1960 (*Journal de Monaco*, 7 March 1960, p. 227)

The convention provides that employed persons who are nationals of Monaco or Italy shall be subject to the legislation in force at the place of their employment as regards the declaration of, compensation for and insurance against industrial accidents and occupational diseases, and to any legislation or regulations which amend or supplement that legislation. They shall enjoy the benefits of such legislation as if they were nationals of the country concerned.

They shall not be subject to any legislative provisions which limit the rights of aliens or disqualify them by reason of their place of residence.

2. *Agreement between Italy and Monaco, signed at Rome on 6 December 1957*, extending to Italian workers gainfully employed in the Principality of Monaco and normally resident in Italy [temporary workers], in a frontier zone to be determined subsequently, coverage under the social security scheme provided by the legislation of Monaco (in the matters of industrial accident and disease insurance, family allowances, etc.). The agreement was carried into effect in Monaco by sovereign ordinance No. 2197, of 19 February 1960 (*Journal de Monaco*, 1960, p. 230)

The agreement applies unilaterally to Italian workers gainfully employed in the Principality of Monaco but normally resident in Italy [frontier workers]. Under the designation "temporary workers", they enjoy benefits which are due and payable by the social insurance agencies of Monaco in accordance with the legislation of Monaco. For that purpose, residence in Italy is not deemed to be residence abroad. Benefits in kind are payable to the temporary workers by the competent Italian agencies in accordance with Italian legislation.

The agreement is concluded for one year and renewed by tacit agreement unless notice of termination is given at least three months before the expiration of the period.

MOROCCO

DAHIR No. 1–59–437, OF 28 MAY 1960 (2 HIJJA 1379), AMENDING DAHIR No. 1–58–378, OF 15 NOVEMBER 1958 (3 JUMADA I 1378), ESTABLISHING THE MOROCCAN PRESS CODE[1]

Sole article. Section 3 of chapter V of the above-mentioned dahir No. 1–58–378 of 15 November 1958 (3 Jumada I 1378)[2] is amended as follows:

"Section 3

"*Seizure, Suspension and Prohibition*

"*Art.* 77. The Minister of Internal Affairs may order the administrative seizure of any issue of a newspaper or periodical the publication of which might tend to disturb the peace.

"When the publication of a newspaper or periodical has violated the political or religious institutional principles of the kingdom, and without prejudice to the other penalties specified by the laws in force, the Minister of Internal Affairs may order the suspension of such newspaper or periodical; publication of the newspaper or periodical in question may, moreover, be prohibited by a decision of the head of the Government.

"Infringement of the provisions of this article shall be punishable by imprisonment for six months to five years and by a fine of 1,200 to 12,000 dirhams."

[1] Published in *Bulletin officiel*, No. 2497, of 2 September 1960.

[2] See *Yearbook on Human Rights for 1958*, p. 151.

NETHERLANDS

NOTE[1]

I. LEGISLATION

1. *Right to Just and Favourable Conditions of Work*

By royal decree of 20 September 1960 (*Statutebook* No. 434, 1960), the Factories and Workshops Safety Decree was amended. As a result of the amendment the regulations concerning changing-sheds, canteens, day and night accommodation, etc. have been modernized and brought into line with practical requirements.

2. *Right to Rest and Leisure*

By the Act of 21 January 1961 (*Statutebook* No. 37, 1960), the Labour Act of 1919 and the Stevedores Act have been amended. Among other things, the amendment contains new regulations concerning Sunday labour and the weekly rest in offices. In this way the provisions of Convention No. 106 on Weekly Rest (commerce and offices) of the International Labour Organisation are complied with.

By the Act of 28 July 1960 (*Statutebook* No. 372, 1960), the Driving Times Act of 1936 was amended so as to adapt it to the provisions of the General Agreement on Economic Regulations for International Road Transport [Cahier des charges].

By royal decree of 12 November 1960 (*Statutebook* No. 469) a new drving times decree was laid down.

II. JUDICIAL DECISIONS

Right to Freedom of Opinion and Expression

On 22 March 1960 the Supreme Court of the Netherlands gave a judgement on the sale of paper-bound books by a person who was not in the possession of a selling-licence as required under the Licensing Order for the Book-selling Trade, 1958. The Supreme Court held this order to be at variance with article 7 of the Netherlands Constitution, which reads: "No person shall require previous permission to publish thoughts or feelings through the printing press, without prejudice to any person's responsibility under the law." The Supreme Court considered, *inter alia*, that the book-selling trade is eminently suited to promote the free expression of thoughts and feelings as guaranteed by article 7 of the Constitution, and that the Government may therefore not subject the book-selling trade to any regulatings affecting the freedom of information.

On 29 November 1960, the Supreme Court gave a judgement in a similar case. This was the case of a book-seller who had opened a lending library in his shop without being in the possession of the licence required under the Lending Library Licencing Decree, 1958. The Supreme Court considered that the decree was at variance with article 7 of the Constitution because lending libraries, by enabling the public to have access to books and to read them, promote the circulation of books in a way suited to serve the freedom, guaranteed in article 7 of the Constitution, to publish thoughts and feelings through the printing press. Lending libraries may therefore not be subjected by the Government to any regulations affecting the freedom of information.

III. ADMINISTRATIVE ORDER

Right to Security in the Event of Unemployment

In 1960 the regulations concerning the payment of benefits under the Social Security Regulations for Unemployed Persons to persons who have received benefits under the Unemployment Act for the full period have been structurally changed. The regulations were at first based on the needs of the person in question; a new system has now, however, been introduced. Under this system, the person concerned receives a percentage of the wages he might have earned if he performed the work in which he is ordinarily engaged. In actual practice this amounts to higher benefits.

IV. INTERNATIONAL AGREEMENTS

1. *The European Convention on Human Rights*

On 5 July 1960, the Netherlands Government deposited with the Secretary-General of the Council of Europe a declaration recognizing, in accordance with article 25 of the Convention, the competence of the European Commission on Human Rights to receive, for the period 28 June 1960 – 31 July 1964, petitions from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by the Netherlands (part of the kingdom in Europe). On the same date, the Netherlands Government declared that it would extend for another period of five years (31 August 1959 – 31 August 1964) the declaration referred to in article 46 of the Convention recognizing the jurisdiction of the European Court of Human Rights.

[1] Note furnished by the Government of the Netherlands.

This declaration applies to the entire kingdom. [For the text of both declarations see *Netherlands Treaty Series* 1960, No. 8.]

2. *Right to Freedom of Movement*

(*a*) The exchange of notes, dated 17 February 1960, between the Governments of the Netherlands and the Philippines concerning the abolition of non-immigrant passport visa fees. [*Netherlands Treaty Series* 1960, No. 75.]

(*b*) The exchange of notes, dated 1 April 1960, between the Governments of the Netherlands and the United Kingdom of Great Britain and Northern Ireland concerning the abolition of visas and the recognition of travel documents. [*Netherlands Treaty Series* 1960, No. 116.]

(*c*) The agreement of 11 April 1960 between the Kingdom of Belgium, the Grand Duchy of Luxemburg and the Kingdom of the Netherlands on the transfer of passport control to the outer frontiers of the Benelux territory. This agreement came into force on 1 July 1960. [*Netherlands Treaty Series*, 1960 Nos. 40 and 102.]

(*d*) The European Agreement of 20 April 1959 on the abolition of visas for refugees was ratified by the Netherlands on 3 August 1960 and came into force on 3 September 1960 as between Belgium, France and the Netherlands. [*Netherlands Treaty Series* 1960, No. 111.]

(*e*) The exchange of notes, dated 21 November 1960, between the Governments of the Netherlands and Paraguay concerning the abolition of compulsory visa requirements [*Netherlands Treaty Series* 1961, No. 28.]

3. *Right to Social Security*

(*a*) The exchange of notes, dated 17 August 1960, between the Governments of the Netherlands and France concerning social security for Polish subjects employed in the Netherlands and in France. [*Netherlands Treaty Series* 1960, No. 123.]

(*b*) The agreement of 14 October 1960 to supplement the agreement of 28 March 1958 between the Kingdom of the Netherlands and the Swiss Confederation concerning social security. [*Netherlands Treaty Series* 1960, No. 168.]

4. *Right to Free Choice of Employment*

The Labour Treaty of 7 June 1956 between the Kingdom of the Netherlands, the Kingdom of Belgium and the Grand Duchy of Luxemburg providing for, *inter alia*, the free choice of employment within the territory of the Benelux, for all Benelux subjects, was ratified on 14 July 1960 and came into force on 1 November 1960. [*Netherlands Treaty Series* 1961, No. 5.]

V. LEGISLATION OF THE NETHERLANDS ANTILLES

Right to Security for the Elderly

Under the Country Statue concerning Old-age Insurance of 14 May 1960 (*Publication Sheet* No. 83, 1960), persons having reached the age of 65 are entitled to an old-age pension.

NEW ZEALAND

NOTE[1]

I. LEGISLATION

1. *Child Welfare Amendment Act, 1960*

Under this amendment, a child may appeal to the Supreme Court against an order or a sentence of the Children's Court, and against the finding on which the order or sentence was based. A right of appeal is also given to the parents of a child who is committed to the care of the Superintendent of Child Welfare or placed under the supervision of a child welfare officer.

It is also provided that the sections of the principal Act relating to the prohibition of the public and press reports in the Children's Court are to apply equally to appeals of the kind indicated above.

2. *Cinematograph Films Amendment Act, 1960*

This Act provides for the appointment of a Cinematograph Films Licensing Authority, which is to be given certain powers under the principal Act, and a Cinematograph Licensing Appeals Authority which is to hear appeals from any decisions of the Authority.

3. *Criminal Justice Amendment Act, 1960*

This Act contains miscellaneous amendments to the Criminal Justice Act, 1954. A provision of importance is that which enables persons between the ages of 16 and 21 years, who are convicted of offences punishable by imprisonment, to be sentenced to detention in a detention centre for a period of three months. No person is to be sentenced to a detention centre unless the court is satisfied by the certificate of a medical practitioner that he is physically fit for such a sentence. A period of detention in a detention centre is to be followed by a year's probation.

This Act also makes it clear that discharge of an offender without conviction or sentence under section 42 of the principal act is equivalent to an acquittal.

4. *Dangerous Drugs Amendment Act, 1960*

This Act abolished the minimum penalty for offences under the Act. Previously, conviction for an offence required a fine of not less than one-quarter the maximum fine imposed for the particular offence.

5. *Government Service Equal Pay Act, 1960*

This Act provides for the elimination, in three steps, of differentiation based on sex in the salaries of state employees. The intention is that all differentiation should disappear as soon as practicable after 1 April 1963.

6. *Health Amendment Act, 1960*

Under this amendment, persons who attempt to commit suicide may be committed to a mental institution or other suitable place for such a period as the court thinks fit, but not exceeding three months.

7. *Inland Revenue Department Act, 1960, Land and Income Tax Amendment Act, 1960, and Stamp Duties Amendment Act, 1960*

These Acts make provision for a board to review decisions of the Commissioner of Inland Revenue in respect of tax and duties. The right to have a decision reviewed is considerably wider than the previous right to have an objection heard in the Supreme Court or magistrate's court. There is a right of appeal against the decision of the board on any point of law.

8. *Judicature Amendment Act, 1960*

The circumstances in which the Supreme Court can commit persons for contempt have been clarified. Previously the court derived its power to commit for contempt from the common law, and the punishment was entirely at the court's discretion. Certain types of contempt have now been defined and a maximum penalty provided for.

9. *Juries Amendment Act, 1960*

This requires that a juror is not to be fined for his non-appearance unless he is given a reasonable opportunity of explaining it.

10. *Poisons Act, 1960*

This Act consolidates and makes certain amendments in the law relating to poisons. It prohibits the publication of the names of poisons used for criminal purposes and regulates the advertising of them.

11. *Political Disabilities Removal Act, 1960*

By this Act, provision is made for the funds of societies to be applied for political objects if the

[1] Note furnished by the Government of New Zealand.

members by resolution so decide. Where a person objects to a levy which is to be applied for political objects, he may give notice of his objection and shall be exempt from paying his levy. By so objecting a member is not to be excluded from the benefits of the society, or to be put under any disability. Any attempt to compel a person to pay such a levy, or to exclude any member who objects to the levy from any benefits of the society, is a breach of the Act and carries a penalty.

12. *Public Safety Conservation Amendment Act, 1960*

The principal act authorizes the Governor-General, on the issuance of a proclamation of emergency, to take wide powers and to enact legislation by means of regulations. This amendment requires Parliament to meet within seven days of any such proclamation.

13. *Social Security Amendment Act, 1960*

This Act increases the rate of benefits payable to the aged, widows, invalids, miners, miners' widows, the sick, unemployed and superannuitants. It also abolishes certain property disqualifications and increases permissible limits of income.

14. *War Pensions Amendment Act, 1960*

This Act increases war and related pensions.

II. REGULATIONS

1. *Agricultural Workers (Market Gardeners) Extension Order, 1960, Agricultural Workers (Tobacco Growers) Extension Order, 1960*

These orders regulate the hours of work, the rates of overtime, the holidays and wages of market gardeners and tobacco growers.

2. *Agricultural Workers Wages Order, 1960*

This order increases the wages payable to dairy workers.

3. *Air Force Pay and Allowances Notice and Amendment, 1960*

These notices provide a new scale of salaries and allowances for officers, airmen and cadets of the Royal New Zealand Air Force.

4. *Child-care Centre Regulations, 1960*

These regulations provide for the registration of child-care centres, and for the maintenance of certain standards in such centres.

5. *Government Railways (Staff) Regulations Amendment, 1960*

These regulations fix a new scale of salaries for administration officers in the Railways Department.

III. JUDICIAL DECISIONS

1. *R.* v. *West* [1960] N.Z.L.R. 555

An accused is entitled to be represented at his trial by counsel. The present case makes it clear that in exceptional circumstances where the wholly unavoidable absence of counsel at the time the trial is called leaves the accused without representation, it is unsatisfactory to proceed with the trial, and an adjournment should be granted by the court.

2. *Cross* v. *Pengelly* [1960] N.Z.L.R. 62

This establishes that in an action for damages for negligence, interrogatories calling on the defendant to affirm or deny a statement alleged to have been sworn by the defendant before a coroner are not allowable if they are such that if the defendant is compelled to answer he may incriminate himself and expose himself to prosecution under the criminal law.

IV. INTERNATIONAL INSTRUMENTS

Convention relating to the Status of Refugees (Geneva, 28 July 1951)

The New Zealand Governmen'ts instrument of accession to this convention was deposited on 28 September 1960, subject to a reservation "that the Government of New Zealand can only undertake to give effect to the provisions contained in paragraph 2 of article 24 of the convention so far as the law of New Zealand allows." The instrument also contained a declaration that for the purpose of the New Zealand Government's obligations under the convention, the words "events occurring before 1 January 1951" in section A of article 1 shall be understood to mean "events occurring in Europe or elsewhere before 1 January 1951."

NICARAGUA

LEGISLATIVE DECREE No. 438 AMENDING THE CONSTITUTION of 14 August 1959[1]

Sole paragraph. (*a*) Sub-paragraph (*b*) of article 1 of the decree dated 20 April 1955, amending the Constitution of the republic of 1 November 1950,[2] shall be deleted.

(*b*) Article 186 of the Constitution shall read as follows: "Any person who has held the office of President of the republic in the preceding term may not be elected President for the subsequent term. The following persons may likewise not be elected President of the republic:

"(1) Any person who has held the office of President of the republic temporarily at any time during the last six months of the term;

"(2) Relatives of the President of the republic to the fourth degree of consanguinity or affinity;

"(3) Any member of the military who has been on active service during the six months prior to the election;

"(4) Ministers of State who do not lay down their office six months before the election;

"(5) Any person who has served as a judge in a high court of justice at any time during the six months preceding the date of the election;

"(6) The chief and leaders of a coup d'état, revolution or armed movement of any kind, with their relatives to the fourth degree of consanguinity or affinity, for the term during which constitutional government is interrupted and the next following term;

"(7) Any person who has been a Minister of State or has held high military authority in a *de facto* government which has subverted constitutional government, with his relatives to the fourth degree of consanguinity or affinity, for the terms specified in the preceding sub-paragraph."

[1] Published in *La Gaceta*, LXIIIth year, No. 196, of 29 August 1959.

[2] See *Yearbook on Human Rights for 1955*, p. 192.

NIGER

CONSTITUTION OF 8 NOVEMBER 1960[1]

PREAMBLE

The people of Niger proclaim their devotion to the principles of democracy and human rights as laid down in the Declaration of the Rights of Man and the Citizen of 1789 and the Universal Declaration of 1948, and as guaranteed by this constitution.

They affirm their determination to co-operate in peace and friendship with all peoples who share their ideals of justice, liberty, equality, fraternity and the solidarity of mankind.

TITLE I
THE STATE AND SOVEREIGNTY

. . .

Art. 2. The Republic of Niger is a secular, democratic and social republic, one and indivisible.

The principle of the republic is government of the people, by the people and for the people.

Art. 3. Sovereignty is vested in the people.

It shall not be lawful for any group of the people or any individual person to assume the exercise thereof.

Art. 4. The people shall exercise their sovereignty through their representatives or by way of referendum. . . .

Art. 5. Suffrage shall be universal, equal and secret.

All citizens of Niger of both sexes who are of full legal age and in full possession of their civil and political rights shall have the right to vote, subject to the conditions laid down by the law.

Art. 6. The republic shall ensure equality before the law for all without distinction as to origin, race, sex or religion.

It shall respect all beliefs.

Any propaganda advocating racial or ethnic separatism or any manifestion of racial discrimination shall be a punishable offence.

Art. 7. Political parties and groups shall assist in the exercise of the franchise. They shall be free to organize and to engage in their activities provided that they respect the principles of national sovereignty and of democracy, and the laws of the republic.

[1] Text published in the *Journal officiel de la République du Niger*, special issue of 8 November 1960, and furnished by the Government of the Republic of Niger.

TITLE II
THE PRESIDENT OF THE REPUBLIC, AND THE GOVERNMENT

. . .

Art. 9. The President of the republic shall be elected by direct universal suffrage for a term of five years. He may be re-elected.

. . .

Art. 25. The offices of President of the republic and member of the government shall be incompatible with the exercise of any parliamentary function, any public office or any private occupation.

. . .

TITLE III
NATIONAL ASSEMBLY

Art. 27. The Parliament shall consist of a single chamber called "The National Assembly", whose members shall be known as "deputies".

. . .

Art. 29. The deputies of the National Assembly shall be elected by direct universal suffrage on a complete national list.

. . .

Art. 35. Each deputy shall represent the nation as a whole. Any peremptory mandate shall be null and void.

. . .

TITLE V
INTERNATIONAL TREATIES AND AGREEMENTS

. . .

Art. 56. Every duly ratified treaty or agreement shall, as from the date of its publication, prevail over domestic legislation, provided that it is applied by the other party.

. . .

TITLE VII
THE JUDICIAL AUTHORITY

. . .

Art. 59. In the exercise of their duties, the members of the Judiciary shall be governed only by the law.

The President of the republic shall be the guarantor of the independence of the Judiciary.

He shall be assisted by the Superior Council of the Judiciary.

. . .

Art. 62. No person shall be subjected to arbitrary detention.

Every person charged with an offence shall be presumed innocent until proved guilty in proceedings at which he has been provided with the guarantees essential to his defence. The judicial authority as the guardian of personal freedom shall ensure that this principle is observed in the manner prescribed by law.

. . .

TITLE XII

REVISION

. . .

Art. 73. . . .

The republican form of the government shall not be subject to revision.

TITLE XIII

GENERAL AND TRANSITIONAL PROVISIONS

Art. 74. The National Assembly shall adopt the legislation required to give effect to this constitution.

. . .

Art. 76. In so far as they do not conflict with this constitution, laws now in force in Niger shall continue to apply unless amended by new legislation.

NIGERIA[1]

THE CONSTITUTION OF THE FEDERATION OF NIGERIA

Entered into force on 1 October 1960[2]

Chapter I

THE FEDERATION AND ITS TERRITORIES

1. This constitution shall have the force of law throughout Nigeria and, subject to the provisions of section 4 of this constitution,[3] if any other law (including the constitution of a region) is inconsistent with this constitution, this constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

. . .

Chapter II

CITIZENSHIP

7. (1) Every person who, having been born in the former colony or protectorate of Nigeria, was on the thirtieth day of September 1960 a citizen of the United Kingdom and colonies or a British protected person shall become a citizen of Nigeria on the first day of October 1960:

Provided that a person shall not become a citizen of Nigeria by virtue of this subsection if neither of his parents nor any of his grandparents was born in the former colony or protectorate of Nigeria.

(2) Every person who, having been born outside the former colony and protectorate of Nigeria, was on the thirtieth day of September 1960 a citizen of the United Kingdom and colonies or a British protected person shall, if his father was born in the former colony or protectorate and was a citizen of the United Kingdom and colonies or a British protected person on the thirtieth day of September 1960 (or, if he died before that date, was such a citizen or person at the date of his death or would have become such a citizen or person but for his death) become a citizen of Nigeria on the first day of October 1960.

8. (1) Any person who, but for the proviso to subsection (1) of section 7 of this constitution, would be a citizen of Nigeria by virtue of that subsection shall be entitled, upon making application before the first day of October 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this subsection himself but an application may be made on his behalf by his parent or guardian.

(2) Any woman who, on the thirtieth day of September 1960, was a citizen of the United Kingdom and colonies or a British protected person and who is or has been married to a person —

(*a*) Who becomes a citizen of Nigeria by virtue of section 7 of this constitution; or

(*b*) Who, having died before the first day of October 1960, would, but for his death, have become a citizen of Nigeria by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(3) Any woman who, is or has been married to a person who becomes a citizen of Nigeria by registration under subsection (1) of this section and is at the date of such registration a citizen of the United Kingdom and colonies or a British protected person shall be entitled, upon making application within such time and in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(4) Any woman who on the thirtieth day of September 1960, was a citizen of the United Kingdom and colonies or a British protected person and who has been married to a person who, having died before the first day of October 1960 would, but for his death, be entitled to be registered as a citizen of Nigeria under subsection (1) of this section, shall be entitled, upon making application before the first day of October 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(5) The provisions of subsections (2), (3) and (4) of this section shall be without prejudice to the provisions of section 7 of this constitution.

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[1] The Federation of Nigeria became an independent State on 1 October 1960.

[2] The Constitution appears in the second schedule to the Nigeria (Constitution) Order in Council, 1960, Statutory Instruments 1960, No. 1652, published by H.M. Stationery Office, London. Among the previous orders in council revoked by the order of 1960 were the Nigeria (Constitution) Order in Council, 1954 (see *Yearbook on Human Rights for 1954*, pp. 359–62), the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957 (see *Yearbook on Human Rights for 1957*, p. 285), the four amending orders of 1958 mentioned on pp. 294–5 of the *Yearbook on Human Rights for 1958* and the Nigeria (Constitution) (Amendment No. 3) Order in Council, 1959 (see *Yearbook on Human Rights for 1959*, pp. 355–9).

[3] Section 4 deals with the power of the Parliament of the Federation to alter the Constitution.

9. Any person who on the thirtieth day of September 1960 was a citizen of the United Kingdom and colonies —

(*a*) Having become such a citizen under the British Nationality Act, 1948, by virtue of his having been naturalized in the former colony or protectorate of Nigeria as a British subject before that Act came into force; or

(*b*) Having become such a citizen by virtue of his having been naturalized or registered in the former colony or protectorate of Nigeria under that Act,

shall be entitled, upon making application before the first day of October 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this subsection himself but an application may be made on his behalf by his parent or guardian.

10. Every person born in Nigeria after the thirtieth day of September 1960 shall become a citizen of Nigeria at the date of his birth:

Provided that a person shall not become a citizen of Nigeria by virtue of this section if at the time of his birth —

(*a*) Neither of his parents was a citizen of Nigeria and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to the Federation; or

(*b*) His father was an enemy alien and the birth occurred in a place then under occupation by the enemy.

11. A person born outside Nigeria after the thirtieth day of September 1960 shall become a citizen of Nigeria at the date of his birth if at that date his father is a citizen of Nigeria otherwise than by virtue of this section or subsection (2) of section 7 of this constitution.

12. Any person who, upon his attainment of the age of twenty-one years, was a citizen of Nigeria and also a citizen of some country other than Nigeria shall cease to be a citizen of Nigeria upon his attainment of the age of twenty-two years (or, in the case of a person of unsound mind, at such later date as may be prescribed by Parliament) unless he has renounced his citizenship of that other country, taken the oath of allegiance and, in the case of a person who is a citizen of Nigeria by virtue of subsection (2) of section 7 of this constitution, has made such declaration of his intentions concerning residence or employment as may be prescribed by Parliament:

Provided that where a person cannot renounce his citizenship of the other country under the law of that country he may instead make such declaration concerning that citizenship as may be prescribed by Parliament.

. . .

15. Parliament may make provision —

(*a*) For the acquisition of citizenship of Nigeria by persons who do not become citizens of Nigeria by virtue of the provisions of this chapter;

(*b*) For depriving of his citizenship of Nigeria any person who is a citizen of Nigeria otherwise than by virtue of subsection (1) of section 7 or section 10 of this constitution; or

(*c*) For the renunciation by any person of his citizenship of Nigeria.

16. (1) In this chapter —

"Alien" means a person who is not a citizen of Nigeria, a Commonwealth citizen other than a citizen of Nigeria, a British protected person or a citizen of the Republic of Ireland;

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act, 1948.

(2) For the purposes of this chapter, a person born in a ship or aircraft registered in Nigeria or belonging to the Government of the Federation shall be deemed to have been born in Nigeria.

(3) Any reference in this chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of his father's death; and where that death occurred before the first day of October 1960, and the birth occurred after the thirtieth day of September 1960, the national status that the father would have had if he had died on the first day of October 1960 shall be deemed to be his national status at the time of his death.

Chapter III

FUNDAMENTAL RIGHTS

17. (1) No person shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable —

(*a*) For the defence of any person from violence or for the defence of property;

(*b*) In order to effect an arrest or to prevent the escape of a person detained;

(*c*) For the purpose of suppressing a riot, insurrection or mutiny; or

(*d*) In order to prevent the commission by that person of a criminal offence.

(3) The use of force in any part of Nigeria in circumstances in which and to the extent to which it would have been authorized in that part on the first day of November 1959, by the Code of Criminal Law established by the Criminal Code Ordinance, as amended, shall be regarded as reasonably justifiable for the purposes of this section.

18. (1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing in this section shall invalidate any law by reason only that it authorizes the infliction in any part of Nigeria of any punishment that was lawful and customary in that part on the first day of November 1959.

19. (1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section "forced labour" does not include —

(*a*) Any labour required in consequence of the sentence or order of a court;

(*b*) Any labour required of members of the armed forces of the Crown in pursuance of their duties as such or, in the case of persons who have conscientious objections to service in the armed forces, any labour required instead of such service;

(*c*) Any labour required in the event of an emergency or calamity threatening the life or well-being of the community; or

(*d*) Any labour that forms part of normal communal or other civil obligations.

20. (1) No person shall be deprived of his personal liberty save in the following cases and in accordance with a procedure permitted by law —

(*a*) In consequence of his unfitness to plead to a criminal charge, in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty or in the execution of the order of a court of record punishing him for contempt of itself;

(*b*) By reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;

(*c*) For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence;

(*d*) In the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare;

(*e*) In the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or

(*f*) For the purpose of preventing the unlawful entry of any person into Nigeria or for the purpose of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto.

(2) Any person who is arrested or detained shall be promptly informed, in language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained in accordance with paragraph (*c*) of subsection (1) of this section shall be brought before a court without undue delay and if he is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

(4) Any person who is unlawfully arrested or detained shall be entitled to compensation.

(5) Nothing in this section shall invalidate any law by reason only that it authorizes the detention for a period not exceeding three months of a member of the armed forces of the Crown or a member of a police force in execution of a sentence imposed by an officer of the armed forces of the Crown or a police force, as the case may be, in respect of an offence punishable by such detention of which he has been found guilty.

21. (1) In the determination of his civil rights and obligations a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality:

Provided that nothing in this subsection shall invalidate any law by reason only that it confers on any person or authority power to determine questions arising in the administration of a law that affect or may affect the civil rights and obligations of any person.

(2) Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing within a reasonable time by a court.

(3) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public:

Provided that —

(*a*) A court or such a tribunal may exclude from its proceedings persons other than the parties thereto in the interests of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of twenty-one years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice; and

(*b*) If in any proceedings before a court or such a tribunal a minister of the Government of the Federation or a minister of the government of a region certifies that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard *in camera* and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

(4) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty:

Provided that nothing in this section shall invalidate any law by reason only that the law imposes upon any such person the burden of proving particular facts.

(5) Every person who is charged with a criminal offence shall be entitled —

(*a*) To be informed promptly, in language that he understands and in detail, of the nature of the offence;

(*b*) To be given adequate time and facilities for the preparation of his defence;

(*c*) To defend himself in person or by legal representatives of his own choice;

(*d*) To examine in person or by his legal representatives the witnesses called by the prosecution before any court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to the witnesses called by the prosecution; and

(*e*) To have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence:

Provided that nothing in this subsection shall invalidate any law by reason only that the law prohibits legal representation in a court established by or under the Native Courts Law, 1956, the Sharia Court of Appeal Law, 1960, or the Court of Resolution Law, 1960, of Northern Nigeria, the Customary Courts Law, 1957, of Western Nigeria, or the Customary Courts Law, 1956, of Eastern Nigeria, as amended, or any law replacing any of those laws.

(6) When any person is tried for any criminal offence, the court shall keep a record of the proceedings and the accused person or any person authorized by him in that behalf shall be entitled to obtain copies of the record within a reasonable time upon payment of such fee as may be prescribed by law.

(7) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

(8) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior court; and no person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.

(9) No person who is tried for a criminal offence shall be compelled to give evidence at the trail.

(10) No person shall be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law:

Provided that nothing in this subsection shall prevent a court of record from punishing any person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

22. (1) Every person shall be entitled to respect for his private and family life, his home and his correspondence.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

(*a*) In the interest of defence, public safety, public order, public morality, public health or the economic well-being of the community; or

(b) For the purpose of protecting the rights and freedom of other persons.

23. (1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom, either alone or in community with others, and in public or in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observances if such instruction, ceremony or observances relate to a religion other than his own.

(3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

(5) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

(*a*) In the interest of defence, public safety, public order, public morality or public health; or

(*b*) For the purpose of protecting the rights and freedom of other persons, including their rights and freedom to observe and practise their religions without the unsolicited intervention of members of other religions.

24. (1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

(*a*) In the interest of defence, public safety, public order, public morality or public health;

(*b*) For the purpose of protecting the rights, reputations and freedom of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating telephony, wireless broadcasting, television, or the exhibition of cinematograph films; or

(*c*) Imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

25. (1) Every person shall be entitled to assemble freely and associate with other persons and in particular he may form or belong to trade unions and other associations for the protection of his interests.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

(*a*) In the interest of defence, public safety, public order, public morality or public health;

(*b*) For the purpose of protecting the rights and freedoms of other persons; or

(*c*) Imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

26. (1) Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof; and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

(*a*) Restricting the movement or residence of any person within Nigeria in the interest of defence, public safety, public order, public morality or public health;

(*b*) For the removal of persons from Nigeria to be tried outside Nigeria for criminal offences or to undergo imprisonment outside Nigeria in execution of the sentences of courts in respect of criminal offences of which they have been found guilty;

(*c*) Imposing restrictions upon the movement or residence within Nigeria of members of the public service of the Federation or the public service of a region, members of the armed forces of the Crown or members of a police force.

(3) Nothing in this section shall invalidate any law by reason only that the law imposes restrictions with respect to the acquisition or use by any person of land or other property in Nigeria or any part thereof.

27. (1) A citizen of Nigeria of a particular community, tribe, place of origin, religion or political opinion shall not, by reason only that he is such a person —

(*a*) Be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the Government of the Federation or the government of a region to disabilities or restrictions to which citizens of Nigeria of other communities, tribes, places of origin, religions or political opinions are not made subject; or

(*b*) Be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action any privilege or advantage that is not conferred on citizens of Nigeria of other communities, tribes, places of origin, religions or political opinions.

(2) Nothing in this section shall invalidate any law by reason only that the law —

(*a*) Prescribes qualifications for service in an office under the Crown or as a member of the armed forces of the Crown or a member of a police force or for the service of a body corporate established directly by any law in force in Nigeria;

(*b*) Imposes restrictions with respect to the appointment of any person to an office under the Crown or as a member of the armed forces of the Crown or a member of a police force or to an office in the service of a body corporate established directly by any law in force in Nigeria;

(*c*) Imposes restrictions with respect to the acquisition or use by any person of land or other property; or

(*d*) Imposes any disability or restriction or accords any privilege or advantage that, having regard to its nature and to special circumstances pertaining to the persons to whom it applies, is reasonably justifiable in a democratic society.

28. (1) An Act of Parliament shall not be invalid by reason only that it provides for the taking, during periods of emergency, of measures that derogate

from the provisions of section 17, 20, 21 or 27 of this constitution but no such measures shall be taken in pursuance of any such Act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:

Provided that nothing in this section shall authorize any derogation from the provisions of section 17 of this constitution except in respect of deaths resulting from acts of war or any derogation from the provisions of subsection (7) of section 21 of this constitution.

(2) In this section "period of emergency" means a period of emergency for the purposes of section 65 of this constitution.

29. (1) Where —

(*a*) Any person is detained in pursuance of an Act of Parliament derogating from the provisions of section 20 of this constitution; or

(*b*) The movement or residence of any person within Nigeria who is a citizen of Nigeria is lawfully restricted (otherwise than by order of a court) in the interest of defence, public safety, public order, public morality or public health,

that person shall be entitled to require that his case should be referred within one month of the beginning of the period of detention or restriction and thereafter during that period at intervals of not more than six months to a tribunal established by law and that tribunal may make recommendations concerning the necessity or expediency of continuing the detention or restriction to the authority that has ordered it:

Provided that such authority, unless it is otherwise provided by law, shall not be obliged to act in accordance with any such recommendation.

(2) A tribunal established for the purposes of this section shall be constituted in such manner as to ensure its independence and impartiality and its chairman shall be appointed by the Chief Justice of the Federation from among the persons qualified to practise in Nigeria as advocates or solicitors.

30. (1) No property, movable or immovable, shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except by or under the provisions of a law that —

(*a*) Requires the payment of adequate compensation therefor; and

(*b*) Gives to any person claiming such compensation a right of access, for the determination of his interest in the property and the amount of compensation, to the high court having jurisdiction in that part of Nigeria.

(2) Nothing in this section shall affect the operation of any law in force on the thirty-first day of March 1958, or any law made after that date that amends or replaces any such law and does not —

(*a*) Add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired;

(*b*) Add to the purposes for which or circumstances in which such property may be taken possession of or acquired;

(*c*) Make the conditions governing entitlement to any compensation or the amount thereof less favourable to any person owning or interested in the property; or

(*d*) Deprive any person of any such right as is mentioned in paragraph (*b*) of subsection (1) of this section.

(3) Nothing in this section shall be construed as affecting any general law —

(*a*) For the imposition or enforcement of any tax, rate or due;

(*b*) For the imposition of penalties or forfeitures for breach of the law, whether under civil process or after conviction of an offence;

(*c*) Relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts;

(*d*) Relating to the vesting and administration of the property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind, of deceased persons and of companies, other bodies corporate and unincorporate societies in the course of being wound up;

(*e*) Relating to the execution of judgements or orders of courts;

(*f*) Providing for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;

(*g*) Relating to enemy property;

(*h*) Relating to trusts and trustees;

(*i*) Relating to the limitation of actions;

(*j*) Relating to property vested in bodies corporate directly established by any law in force in Nigeria;

(*k*) Relating to the temporary taking of possession of property for the purposes of any examination, investigation or enquiry; or

(*l*) Providing for the carrying out of work on land for the purpose of soil-conservation.

(4) The provisions of this section shall apply in relation to the compulsory taking of possession of property, movable or immovable, and the compulsory acquisition of rights over and interests in such property by or on behalf of the Crown.

31. (1) Any person who alleges that any of the provisions of this chapter has been contravened

in any territory in relation to him may apply to the high court of that territory for redress.

(2) Subject to the provisions of section 108 of this constitution,[1] the high court of a territory shall have original jurisdiction to hear and determine any application made to it in pursuance of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement, within that territory of any rights to which the person who makes the application may be entitled under this chapter.

(3) Parliament may make provision with respect to the practice and procedure of the high courts of the territories for the purposes of this section and may confer upon those courts such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling those courts more effectively to exercise the jurisdiction conferred upon them by this section.

32. In this chapter, unless it is otherwise expressly provided or required by the context —

"Court" means any court of law in Nigeria (other than a court-martial) and includes Her Majesty in Council; provided that, in relation to a member of the armed forces of the Crown, it also includes a courtmartial;

"Law" includes an unwritten rule of law;

"Member of the armed forces of the Crown" includes any person who is subject to naval, military or air-force law;

"Member of a police force" includes a person who is subject to any law relating to the discipline of a police force.

. . .

Chapter V

PARLIAMENT

Part 1. — *Composition of Parliament*

35. There shall be a Parliament of the Federation, which shall consist of Her Majesty, a Senate and a House of Representatives.

. . .

39. Subject to the provisions of section 40 of this constitution —

(*a*) A person shall be qualified for selection as a senator representing a territory if he is a citizen of Nigeria and has attained the age of forty years;

(*b*) A person shall be qualified for selection as a senator by the Governor-General (whether or not he is a citizen of Nigeria) if he has attained the age of twenty-one years; and

(*c*) A person shall be qualified for election as a member of the House of Representatives if he is a citizen of Nigeria and has attained the age of twenty-one years and, in the case of a person who stands for election in Northern Nigeria, is a male person.

40. (1) No person shall be qualified for selection as a senator or election to the House of Representatives —

(*a*) Save for the purposes of selection as a senator by the Governor-General, if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;

(*b*) If under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;

(*c*) If he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(*d*) If he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;

(*e*) Save as otherwise provided by Parliament, if he is a member of the public service of the Federation or the public service of a region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or

(*f*) If he is an *ex-officio* member of the Senate or a legislative house of a region.

. . .

[Other provisions of section 40 permit Parliament to create certain other disqualifications, and define "office of emolument under the Crown" for purposes of paragraph (*e*) of subsection (1)].

. . .

Part 4. — *Legislative Powers*

. . .

65. . . .

(3) In this section "period of emergency" means any period during which —

(*a*) The Federation is at war;

(*b*) There is in force a resolution passed by each House of Parliament declaring that a state of public emergency exists; or

(*c*) There is in force a resolution of each House of Parliament supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Nigeria are threatened by subversion.

. . .

[1] Section 108 deals with the procedure to be applied when questions arise in judicial proceedings involving interpretation of the Constitution.

Chapter XI

MISCELLANEOUS

. . .

154. (1) In this constitution, unless it is otherwise expressly provided or required by the context —

. . .

"The public service of the Federation" means the service of the Crown in a civil capacity in respect of the government of the Federation;

. . .

(2) In this constitution, unless it is otherwise expressly provided or required by the context —

(*a*) References to persons holding offices in the public service of the Federation or the public service of a region include references to persons acting in those offices; and

(*b*) References to offices in the public service of the Federation include references to the offices of the judges of the Federal Supreme Court and the High Court of Lagos and references to the offices of members of all other courts of law established by Parliament (other than courts-martial), being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Federation, and references to the offices of members of the Nigeria police force.

(3) For the purposes of this constitution, the office of the President or the Deputy President of the Senate, a senator, the speaker or the deputy speaker of the House of Representatives, a member of the House of Representatives, a minister of the Government of the Federation, a parliamentary secretary to such a minister or a member of the Council of Ministers, the Nigeria Police Council, any commission established by this constitution or the Advisory Council shall not be regarded as an office in the public service of the Federation.

. . .

NORWAY

NOTE[1]

A. LEGISLATION

1. *Acts of 22 January 1960 (Nos. 1 and 2) relating to Disablement Allowances and Rehabilitation Help*[2]

By these Acts, there are established general insurance systems for disabled persons additional to the benefits which are granted under the Act of 2 May 1956 (No. 2) relating to health insurance. By an Act of the same date, there have, further, been effected amendments to the Health Insurance Act.

The Health Insurance Act gives a general right to sick pay during illness for a limited time, formerly up to one year, but two years in case of certain serious diseases. By the amendment of 22 January 1960 a general limit of two years was fixed. Beyond this time-limited aid, Norway had previously no general allowance system for disabled persons. However, a number of special statutes covered exceptional cases, and, besides, a number of municipalities had established disablement insurance systems.

In framing the new insurance systems it has been regarded as a main purpose to help disabled persons to return to occupational life by the development and restoration of their working powers. The *Act relating to disablement allowances* aims especially at such help. A disabled person can under this statute receive accommodation and treatment in an approved rehabilitation institute, or other form of rehabilitation. In addition to this help he is entitled to a monetary allowance (rehabilitation pay) which is at present 8 kroner per workday. Besides this an addition is granted for dependants. Rehabilitation pay may also be claimed by a disabled person in other cases, but as a rule only for the time during which he is getting treatment with a view to improving his working powers.

Persons with permanent infirmities come within the *Act relating to disablement insurance*. A disabled person in the sense of this Act is one who, after having undergone suitable treatment, shows serious and lasting, objectively registrable, symptoms of disease, injury or defect. A disablement pension is granted to a person who, on account of disablement, cannot be deemed to be able to render more than one-third of a normal working performance in a field of work which is suitable for him. The rate of pension is at present 2,328 kroner per annum. In addition there is an allowance for dependants. If the disablement involves extra expenses of any size, or if the disabled person must have special supervision and care or help in the home, the person in question is entitled to a special benefit. Further, a loan or grant may be given to the disabled person to enable him to start work for a purpose which has decisive significance for his working ability.

This system of benefits is financed by means of a compulsory premium and contributions from employers, municipalities and the State. The benefits are given irrespective of the economic position of the disabled person. The individual municipality may grant an addition to the benefits. Such additional benefits are given by a number of municipalities.

2. Amendments have also been adopted respecting a number of other pension and insurance statutes, but these amendments have less interest in principle.

3. *Act of 19 February 1960 relating to Wage-Committee Handling of Labour Disputes for Ships' Mates in Foreign Trade*

This Act requires that disputes between the Association of Shipping Employers and the Norwegian Mates' Union in connexion with wage-scale revisions are to be settled by the States Wages Committee in accordance with the provisions in Act of 19 December 1952 relating to labour disputes.

4. *Act of 2 June 1960 (No. 3) amending Act of 27 June 1947 relating to Measures for promoting Employment*

By the Employment Act of 1947 public organs were set up which had as their special function to keep themselves posted on the employment situation, and to take charge of the problems which might emerge in that connexion. Further, a country-wide employment service was established. The public employment service was also, as far as the conditions were favourable, to give vocational guidance. The employment service was for the most part to be administered by the municipalities, but with financial aid from the State.

By the Amending Act of 1960 it was provided that the State was to organize public employment services

[1] Note furnished by the Government of Norway.

[2] Translations into English and French of Acts Nos. 1 and 2 of 22 January 1960 have been published by the International Labour Office as *Legislative Series* 1960 — Nor.1 and Nor.2.

and vocational guidance covering the whole country. This transfer of functions to the State aims at extending the employment and vocational guidance services, and rendering them more efficient, since the development of social and industrial life which has occurred in Norway in recent years has placed greater demands on this activity.

5. *Act of 11 November (No. 2) relating to Interruption of Pregnancy in Certain Cases*

By this Act, detailed provisions are laid down concerning the right to undertake the interruption of pregnancy. Formerly a good deal of obscurity has prevailed in Norwegian jurisprudence as to where to draw the line of distinction between legal and illegal abortion.

Under this Act consent may be given to perform an operation for abortion on medical, eugenic or ethical indications. The detailed conditions are stated in article 1 of the Act: "A woman with child may be allowed to take away the foetus:

"1. When it is necessary in order to avert serious danger to the life or health of the woman. In the appraisement of such danger regard shall be paid to the question whether the woman has a special disposition to organic or psychological illness and likewise to her conditions of life and other circumstances which may make her ill or have the effect that she sustains a lasting physical or psychological injury to her health.

"2. When there is serious danger that:

(*a*) Hereditary defect in any of the parents;

(*b*) Illness in the woman whilst she is pregnant with the child; or

(*c*) Injury to the foetus in the mother's womb

may have the effect that the child contracts a serious illness or a grave physical or psychological defect.

"3. When there is ground for the belief that the woman is with child because she has been grossly violated under circumstances such as are mentioned in the Penal Code articles 191–199, or is with child under circumstances as are mentioned in article 207, and likewise if the woman is mentally ill or mentally deficient in an extreme degree."

The Penal Code deals, in articles 191–199, with various cases of gross sexual violations of women, and article 207 deals with incest.

The decision whether an operation may be performed is to be taken by two physicians. One of these must be the medical superintendent of the hospital where the operation is to be performed; the other is nominated by the county medical officer. If these physicians find themselves unable to give their permission to the performance of the operation, the county medical officer can on application from the woman's own physician request that she be placed in another hospital, so that she may have the matter looked into again by other physicians.

The provisions concerning punishment for illegal interruption of pregnancy in the general civilian penal code of 22 May 1902, article 245, were amended at the same time, to the effect, *inter alia*, that the punishment for a woman who herself interrupts her pregnancy or contributes thereto may be waived if she has acted in a state of great mental agiation or when mitigating circumstances are present.

B. JUDICIAL PRACTICE

Supreme Court Judgement of 25 June 1960

A boy of nearly 18 years, who was to be engaged as a deck boy during the summer vacation in order to sail in a vessel to the U.S.A. and back, was vaccinated against smallpox under a general regulation issued by the Directorate of Health pursuant to Provisional Act of 26 January 1940 relating to vaccination. This caused an inflammation of the membrane of the brain and spinal cord, and the boy became 35–40 per cent invalid. The State was on a strictly objective basis ordered to pay compensation. The Supreme Court stressed the fact that there existed here an extraordinary and peculiar element of danger, and the State which had enjoined the vaccination in the interest of the community must bear the economic risk of a danger like this.

C. INTERNATIONAL AGREEMENTS

Of international agreements concluded outside the United Nations, the specialized agencies and the Council of Europe, there is ground for mentioning the *Agreement of 7 August 1959 between Norway and the Federal Republic of Germany concerning benefits on behalf of Norwegian subjects who have been adversely affected by national socialistic measures.* By this agreement, Norway received 60 million DM for distribution to the persons covered by the agreement. The funds have been apportioned in conformity with Act of 25 March 1960 (No. 2).

PAKISTAN

NOTE[1]

1. Presidential Election

As a prelude to the drafting of the new constitution, an order called the Presidential (Election and Constitution) Order 1960 was promulgated, which in its preamble declared that a constitution should be made by the President after ascertaining the consent of the people. Under this order, the Election Commission was empowered to arrange a vote by secret ballot through which the President sought a vote of confidence from the 80,000 newly elected representatives of the Basic Democracies on 14 February 1960. About 96 per cent of these representatives expressed confidence in Field Marshal Mohammad Ayub Khan, and elected him as President of Pakistan for a term of four years. Immediately after his election, the President announced the institution of a Constitution Commission.

2. Press and Publications Ordinance, 1960

Based on the recommendations of the Press Commission, the Press and Publications Ordinance, 1960, was promulgated on 26 April 1960. The ordinance deals with the regulation of printing presses, newspapers and periodicals, books and other publications.[2]

3. Labour Rights

(i) *Working Journalists (Conditions of Service) Ordinance, 1960*

In accordance with the recommendations of the Press Commission, the Government of Pakistan have promulgated the Working Journalists (Conditions of Service) Ordinance, 1960, which came into operation on 27 April 1960. This ordinance is designed to provide for the proper regulation of journalistic services in the country. Some of the main features of the ordinance relate to the following:

(i) Governance of working journalists by the Industrial Disputes Ordinance;

(ii) Provision of 2 months' notice for termination of service;

(iii) Constitution of a provident fund by the management for the benefit of journalists;

(iv) Fixing of 42 hours as a maximum working week, subject to the rules to be framed under the ordinance; and

(v) Generous leave facilities.

The ordinance also provides for the setting up of a wage board comprising an independent chairman and an equal number of representatives of working journalists and employees and for fixing the rates of wages.

(ii) *Ordinance for the Regulation of Working Conditions*

The promulgation of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1960, which repeals and, with certain amendments, re-enacts the Industrial Employment (Standing Orders) Act, 1946, seeks, for the first time, to ensure minimum standards of working conditions for employees in commercial establishments. The ordinance also extends its scope to industrial establishments employing 50 or more workmen, whereas the repealed Act, which it replaces, applied only to establishments employing 100 or more workers.

The ordinance applies to every industrial or commercial establishment which employs, or employed on any day of the preceding 12 months, 50 or more workmen. The Central Government and the provincial governments, within their respective jurisdictions may, by notification in the official *Gazette*, extend the operation of the ordinance to other classes of industrial or commercial establishments.

The ordinance, in its schedule, lays down the standing orders according to which the conditions of employment of workmen and other incidental matters in every industrial or commercial establishment to which the ordinance applies shall be regulated. The ordinance also makes the enforcement of the minimum working conditions specified in the schedule more easily and promptly enforceable. Under the repealed Act, the working conditions were specified in model standing orders which formed a schedule to the rules framed under the Act. Each industrial establishment to which the repealed Act applied had to frame its own standing orders, and get the approval of the certifying officer appointed by the Government. This procedure involved delays, particularly when there was a difference of opinion as to whether the standing order drawn up by an establishment was strictly in accordance with the model standing orders.

The present ordinance obviates the need for individual establishments to frame standing orders. The

[1] Information furnished by the Government of Pakistan.

[2] Extracts from the ordinance appear below.

working conditions specified in the standing orders contained in the schedule to the ordinance are automatically applicable to all industrial and commercial establishments employing 50 or more workers. Where working conditions, more favourable to the workmen than those specified in the standing order, exist in accordance with any law, custom, usage or agreement in force, such conditions shall not be affected by the promulgation of the ordinance. It also provides that modification of the standing orders may be effected by means of a collective agreement provided, however, that no such agreement shall have the effect of taking away or diminishing any right or benefit available to the workmen under the provisions of the standing orders. Any employer who modifies the standing orders otherwise than as provided in the clause regarding collective agreements shall be punishable with a fine which may extend to Rs. 5,000 and, in the case of a continuing offence, to a further fine up to Rs. 200 for every day, after the first, during which the offence continues.

(iii) *The Coal Mines (Fixation of Rates of Wages) Ordinance, 1960*

This ordinance was promulgated on 30 September 1960 to provide for the fixing of rates of wages in respect of labour employed in coal mines and for matters connected therewith. Under section 3 of the ordinance, the Central Government may, from time to time, by notification in the official *Gazette*, fix minimum rates of wages payable to persons employed in coal mines and in fixing or revising the rates so fixed, the Central Government may, if it considers necessary, consult the advisory committee constituted under the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947).

(iv) *Trade Unions (Amendment) Ordinance, 1960*

The Government of Pakistan have promulgated this ordinance for making it obligatory on employers to recognize registered trade unions which enjoy the confidence of the largest number of members in an industrial undertaking. The ordinance has also reduced from 50 per cent to 25 per cent the proportion of officers of a trade union who may be elected from among persons who are not actually employed or engaged in the industry with which the trade union is concerned.

The ordinance requires the employer to recognize the trade union which fulfils, among others, the following conditions:

(1) It should be a registered union;

(2) All its ordinary members should be workmen employed in the industry, and

(3) It should enjoy the confidence of a larger number of workmen in the industrial concern than is enjoyed by any other trade union in that establishment provided that this number is not less than 10 per cent of the total number of workmen.

A trade union which has not received recognition from an employer within 3 months from the date of application may apply to an industrial court for recognition by the employer. If the industrial court is satisfied that the trade union fulfils the conditions for recognition, it shall direct its recognition by the employer. If the employer or employers fail to comply with the order of the court, he or they will be punishable with a fine which may extend to Rs. 2,000.

The recognised trade union will have the right to negotiate with the employer the terms of employment and the conditions of work of the employees.

It will also have the right to display notices in any premises where its members are employed.

Recognition may be withdrawn from a trade union due to any one of the following reasons:

(1) If it has indulged in an unfair practice within a period of three months before the date of the publication;

(2) If it has failed to submit any return required under the ordinance; and

(3) If it fails to fulfil any of the conditions laid down for recognition.

The ordinance has restricted the maximum number of outsiders in the cadre of trade union officials to 25 per cent. This provision seeks to promote trade union leadership from amongst the rank and file of the workers.

The ordinance has defined malpractices on the part of the employers as well as the trade unions and has made them punishable.

The following will be considered as unfair practices on the part of the trade unions:

(*a*) Irregular or illegal strikes;

(*b*) Active support or instigation of an irregular or illegal strike;

(*c*) Failure to take necessary action against such of the members of the trade union as go on an illegal strike;

(*d*) Submission of any return required by this ordinance containing a false statement;

(*e*) Coercion of a workman to join the trade union against his free will.

For the purposes of this ordinance it shall be an unfair practice on the part of an employer:

(*a*) To interfere with, restrain, or coerce his workmen in the exercise of their rights to organize, form, join, or assist a trade union of their choice and to

engage in concerted activities for the purpose of mutual aid or protection;

(*b*) To interfere with the formation or administration of any trade union or to contribute to financial or other support to it;

(*c*) To discharge, or otherwise discriminate against, any officer of a recognized trade union because of his being such officer;

(*d*) To discharge, or otherwise discriminate against, any workman because he has made allegations or given evidence in any inquiry or proceeding relating to any matter such as terms of employment and conditions of work.

THE PRESS AND PUBLICATIONS ORDINANCE

ORDINANCE NO. XV OF 1960[1]

Part IV

CONTROL OF PRINTING-PRESSES AND NEWSPAPERS

. . .

23. *Power to close down press and forfeit security.* (1) Whenever it appears to the Government that any printing-press in respect of which any security has been ordered to be deposited under section 22 is used for the purpose of printing or publishing any book or paper containing any words, signs or visible representations which —

(*a*) Incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

(*b*) Directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence, or

(*c*) Report crimes of violence or sex in a manner likely to excite unhealthy curiosity or an urge to imitation, or

(*d*) Tend directly or indirectly to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*e*) Tend directly or indirectly to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse, or to defer payment of any land-revenue, tax, rate, cess or other due or amount payable to government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*f*) Are indecent, obscene, scurrilous, defamatory or intended for blackmail, or

(*g*) Amount to false rumours, or to information calculated to cause public alarm, frustration or despondency, without reasonable ground to believe the information to be correct, or

(*h*) Tend directly or indirectly to condemn the creation of Pakistan or to advocate the curtailment or abolition of the sovereignty of Pakistan in respect of all or any of the territories lying within its borders, whether by amalgamation with neighbouring States or otherwise, or

(*i*) Tend directly or indirectly to bring into hatred or contempt the government established by law in Pakistan or the administration of justice in Pakistan or any class or section of the citizens of Pakistan or to excite disaffection towards the said government, or

(*j*) Are likely to create or excite feelings of enmity, ill-will or hatred between the populations of the two provinces, or the populations of any regions or parts of Pakistan, or between different communities, sects, classes or sections of the citizens of Pakistan, or

(*k*) Are intended to bring into hatred or contempt, or to excite disaffection towards the ruler of any acceding state integrated in the province of West Pakistan, or

(*l*) Are likely to prejudice the maintenance of friendly relations between the Government of Pakistan and the government of any foreign State, or

(*m*) Tend directly or indirectly to seduce any officer, soldier, sailor or airman in the armed forces of Pakistan or any police officer from his allegiance or his duty, or

(*n*) Tend directly or indirectly to prejudice the recruiting of persons to serve in any of the armed forces of Pakistan or in any police force, or to prejudice the training, discipline or administration of any such force, or

(*o*) Tend directly or indirectly to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office,

the Government may, by order in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above —

(i) Direct that the printing-press shall not be

[1] Text furnished by the Government of Pakistan.

used for the printing or publishing of any book or paper for such period as may be specified in the order, and

(ii) Declare that any security deposited under section 22 or a portion thereof shall be forfeited to the Government and may also declare all copies of such book or paper wherever found in Pakistan to be forfeited to the Government.

(2) No order under sub-section 1 shall be made unless a reference in the prescribed manner has been made to the sessions judge within whose jurisdiction the printing-press is situated and the sessions judge, after hearing such persons and taking such evidence, if any, as he thinks necessary, has expressed the opinion that the words, signs or visible representations are of the nature described in that sub-section.

Explanation 1. No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (*a*);

Explanation 2. Comments expressing disapprobation of any measures of the Government with a view to obtaining their alteration by lawful means, or of any action of the Government, administrative or otherwise, without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*i*);

Explanation 3. Statements and comments made without malicious intention, for the purpose of helping or advocating the progress of any province or any region or part of Pakistan, or the furtherance of its legitimate interests, or for securing removal of any factors tending to create or excite enmity, ill-will or hatred shall not be deemed to be of the nature described in clause (*j*);

Explanation 4. Statements of fact made without malicious intention and without attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*k*).

(3) Where after the expiry of the period specified in an order under sub-section 4 of section 22 or sub-section 1 of this section, the printing-press is again used for the purpose of printing or publishing any book or paper containing any words, signs or visible representations of the nature described in sub-section 1, the Government may by order in writing annul the declaration made under section 4.[1]

. . .

[1] Under section 4 of the ordinance, the keeper of a printing-press is required to make, before the district magistrate, a declaration giving a full description of the press and the address of the premises where it is situated.

PANAMA

LEGISLATIVE DECREE No. 2, OF 24 OCTOBER 1956, AMENDING THE CONSTITUTION[1]

Art. 1. The Constitution of the republic[2] shall be amended as specified in the articles hereunder:

Art. 2. Article 102 shall read as follows:

"*Art. 102.* Suffrage is a right and duty of all citizens. The law shall regulate it on the following bases:

"1. Suffrage is universal and free. The vote is equal, direct, and secret.

"2. Any popular election, or election which public corporations are required to hold when more than two citizens are to be elected, shall be based on a system securing proportional representation of the parties.

"3. Every citizen is under an obligation to obtain a personal identity card which will identify him when voting and for other acts indicated by law.

"4. The authorities are obliged to guarantee impartially the freedom and honesty of the ballot.

"5. The following are prohibited:

(*a*) All official support, direct or indirect, to candidates for positions filled by popular election, even though the means employed for such ends may be hidden;

(*b*) Propaganda and party activities in public offices;

(*c*) The exaction of quotas or contributions from public employees for political purposes, even on the pretext that they are voluntary;

(*d*) Any act which may prevent or complicate a citizen's obtaining, retaining or personally presenting his identity card."

Art. 3. Article 104 shall read as follows:

"*Art. 104.* Any violation of the provisions contained in article 102 constitutes an offence. A violation includes any act or omission by a public official who, relying on the authority by which he acts or on functions that he performs, directly or indirectly, personally or through an intermediary:

(*a*) Exerts coercion, relying on his official position, in order to induce a private individual or public employee to give his support or his vote to, or to withhold either of these from, a specific party or candidate;

(*b*) Authorizes, permits or carries into effect the withholding or deduction of any part of the salary of public employees in order to use the same for political purposes;

(*c*) Employs or offers to employ any person in a public position with the promise or for the purpose of supporting or defeating a specific party or candidate;

(*d*) Prevents or complicates any person's obtaining, retaining or personally presenting his identity card.

"The law shall establish the corresponding principal penalties, which shall be accompanied, according to the gravity of the offence, by disqualification from occupying public positions, permanently or for a period of from one to eight years.

"The provisions of article 148 are excepted."

. . .

Art. 14. Article 167 shall read as follows:

"*Art. 167.* Alongside its other constitutional and legal powers, the Supreme Court of Justice shall be the authority responsible for the following:

"1. Guardianship of the integrity of the Constitution, to which end it shall rule, after hearing the Procurador General de la Nación or the Procurador Auxiliar, on the acceptability of bills that have been objected to by the Executive as unconstitutional by reason of substance or of form and on the constitutionality of laws, decrees, agreements, resolutions and other acts which have been challenged in the court by any citizen on the same grounds."

[1] Published in *Gaceta Oficial* No. 13091, of 30 October 1956.

[2] See *Yearbook on Human Rights for 1948*, pp. 370–1. Of the provisions there quoted, article 105 was also amended by legislative decree No. 2, of 24 October 1956.

ACT No. 21, OF 30 JANUARY 1959, TO AMEND AND SUPPLEMENT THE ACT APPROVING THE ELECTORAL CODE, TO SET FORTH TRANSITIONAL MEASURES RELATING TO THE REGISTRATION OF NEW POLITICAL PARTIES, AND TO ADOPT MEASURES CONCERNING IDENTITY CARDS[1]

Art. 1. Article 28 of Act No. 25 of 30 January 1958, "approving the Electoral Code",[2] shall read as follows:

"*Art. 28.* If the Electoral Court finds irregularities in the form of the application, it shall grant a period of up to fifteen days for their amendment. If it considers that the beliefs, programme and articles of association of the party are not in conformity with the precepts of the Constitution and the law, it shall dismiss the application.

"Once the objections have been overcome and the deficiencies, if any, remedied, and if it is found that all legal requirements have been complied with, the court shall hand down a judgement, containing a statement of its reasons, in which it shall state that the registration period for the party is open and shall instruct the registrars throughout the country to give to the party the protection of and the facilities afforded by the law for that purpose. In the same way, the Electoral Court shall recognize the members of the organizing committee or group as responsible representatives. The judgement shall serve as the basis for provisional registration of the party by the court."

Art. 2. Articles 29, 30 and 31 of Act No. 25, of 30 January 1958, "approving the Electoral Code", are hereby repealed.

Art. 3. Article 40 of Act No. 25, of 30 January 1958, "approving the Electoral Code", shall read as follows:

"*Art. 40.* Within thirty days following the closure of registration and when the quota established by this law has been obtained, the organizing committee or group shall establish the party apparatus and convene a congress or convention at the national or municipal level, depending on the party's sphere of action. Such congress or convention shall decide upon the final name, emblem, principles, purposes, articles of association, programme and other details of the party organization and shall duly elect its principal officers."

Art. 4. Within a period not exceeding eight days after the closure of the congress or convention referred to in article 40 of Act No. 25, of 30 January 1958, "approving the Electoral Code", the officers of a party shall assemble all the registrations obtained in the republic, the province or the district, as the case may be, and transmit them to the Electoral Court together with a letter stating the number of members obtained and requesting that the party be declared legally constituted and that its definitive registration be ordered. The letter shall be accompanied by a copy of the final act of the convention signed by all the officers of the party, and by copies of the party's statement of beliefs, programme and articles of association, authenticated by the secretary of the party's directorate or executive committee.

[Articles 5–10 contain transitory provisions.]

[1] Published in *Gaceta Oficial* No. 13782, of 13 March 1959.

[2] See *Yearbook on Human Rights for 1959*, p. 225.

ACT No. 31, OF 9 MAY 1959, AMENDING ARTICLE 32 OF THE ELECTORAL CODE[1]

Art. 1. Article 32 of the Electoral Code, approved by Act. No. 25 of 1958,[2] shall read as follows:

"*Art. 32.* Registration shall take place in all districts of the national territory in the case of a national party and in one district in the case of a municipal party.

"In the case of a national party, the registered membership of the party must amount to not less than five thousand (5,000).

"In the case of a municipal party, the registered membership must meet the following requirements:

(*a*) One thousand (1,000) members in districts with a population of not less than one hundred thousand (100,000);

(*b*) Five hundred (500) members in districts with a population of not less than fifty thousand (50,000);

(*c*) Two hundred and fifty (250) members in districts with a population of not less than twenty-five thousand (25,000); and

(*d*) One hundred (100) members in districts with a population of less than twenty-five thousand (25,000).

In all the cases referred to in sub-paragraphs (*a*), (*b*), (*c*) and (*d*) of this article the figures used shall be those of the official population census immediately preceding the election."

[1] Published in *Gaceta Oficial* No. 13836, of 19 May 1959.

[2] See *Yearbook on Human Rights for 1959*, p. 225.

PARAGUAY

ACT No. 600, OF 15 JULY 1960, APPROVING AND AMENDING DECREE-LAW No. 204, OF 28 JULY 1959: ELECTORAL STATUTE[1]

Chapter I

THE RIGHT OF SUFFRAGE

Art. 1. Suffrage is a political right as well as a civic duty and its exercise shall be governed by the provisions of this decree-law.

Art. 2. All citizens over eighteen years of age, enjoying the rights of citizenship and satisfying the requirements laid down in this decree-law, shall be entitled to vote.

Art. 3. Such persons shall be entitled by their status as voters:

(*a*) To elect others to public elective offices; and

(*b*) To be elected to and to discharge the various duties appertaining to such offices in accordance with the National Constitution and with this decree-law.

. . .

Chapter III

POLITICAL PARTIES

Art. 16. Upon the promulgation of this decree-law, legally constituted and recognized political parties shall possess all political rights and duties and all the rights and obligations laid down in the Civil Code in respect of legal persons.

Art. 17. The title of political party shall be given to any group of citizens constituted for purposes of collective interest and inspired by a national ideal compatible with the practices of democracy as regards the organization of the State.

Such groups shall also be required to adopt statutes governing the structures and operation of the group and its leadership at a democratic assembly of their members, as well as rules for assemblies and conventions, and regulations for the adoption of political and ideological programmes and for the election of candidates to elective offices.

Art. 18. The Communist Party and any other type of totalitarian organization shall not be entitled to registration or recognition, or to present lists of candidates to the Central Electoral Board.

Any association overtly or covertly aiming to destroy the political, social and ethical foundations of the Paraguayan nation shall also be deprived of these rights.

Art. 19. Political parties already in existence at the time of the promulgation of this decree-law must apply for registration to the Central Electoral Board, accompanying the application with a copy of their act of constitution, their programme or policy as adopted in public assembly, a list of their officers and a roll of their members with their respective civil registration particulars.

Art. 20. Political parties organized after the promulgation of this decree-law shall apply for recognition and registration in the form laid down in the preceding article. For a new party to be allowed to participate in an election as a political party and for its candidates to enjoy the rights and prerogatives laid down in this decree-law, that party must have received legal recognition not less than two years before the date set for the election.

Art. 21. To receive legal recognition, a new political party must submit a membership roll of not less than 10,000 voters.

Art. 22. A decision by the Central Electoral Board refusing recognition to a political party may be appealed against within ten days to the Supreme Court of Justice, through a legal representative.

Art. 23. If only one political party puts forward a list of candidates in an election, all the offices in question shall be assigned to it.

. . .

Chapter V

STATUS, RIGHTS AND DUTIES OF ELECTORS

Art. 30. Citizens entered in the national civic register and, in the case of municipal elections, aliens listed on the electoral roll, shall be entitled to vote.

Art. 31. An elector may not be detained during the hours of an election by any authority, unless apprehended *in flagrante delicto* or unless an order has been issued to that effect by a competent magistrate; nor may he be hindered while going from his home to the place of the election.

Art. 32. Any elector who is dependent on another person shall be entitled to protection in exercising his right to vote for the list of his choice, having resort if necessary to the appropriate legal authorities.

Art. 33. The right of suffrage is a right of the individual, and no person, authority, corporation, party or political group may force an elector to go

[1] Text furnished by the Government of Paraguay.

to the polls as part of a group of any kind or denomination.

Art. 34. The guarantees established for electors in this decree-law shall extend also to the election officials.

Art. 35. Electors shall offer evidence of their status by showing their civil identity or registration card.

Art. 36. With a view to safeguarding the individual and collective freedom, security and immunity of electors, the presiding judge of the criminal court and in sections where there is no such official, the magistrate of the criminal court, or failing him, the magistrate, shall be required to keep his office open from one half-hour before the election until after it is finished, in order to hear and settle, orally and immediately, the claims of any electors whose right to vote has been threatened or impaired or who have been prevented from discharging a public electoral office.

Art. 37. For the purposes of the preceding article, the elector may make his complaint to the magistrate either in person or through an agent, orally or in writing, and the magistrate's decision shall be put into effect immediately, through police action if necessary.

Art. 38. All Paraguayan citizens registered in the National Civic Register shall have the obligation to vote in all elections held in their electoral section.

Art. 39. The following shall be exempt from this obligation:

1. Electors over sixty years of age;
2. Magistrates and their assistants who, under the provisions of this decree-law, must attend their offices and keep them open during the hours of the election;
3. All persons who, because of the nature of their work, are unable to interrupt it without seriously affecting public services;
4. Persons residing more than twenty kilometres away from the polling station at which they are required to cast their vote;
5. Persons who have taken up residence in a different electoral section since the completion of the verification and rectification or the complete renewal of the register;
6. Persons absent from the country; and
7. Persons prevented from attending the polling station by illness or other lawful impediment, duly confirmed before the electoral board of the section in question.

Art. 40. None of the functions attributed by this decree-law to the persons required to carry out its provisions may be repudiated.

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Chapter VIII

VOTING PROCEDURE

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Art. 76. The secrecy of the ballot is inviolable and no one may publish the contents of the sealed ballot or open the ballot box for any reason whatever before the close of the polls, subject to the penalties laid down in articles 163, paragraph 4, and 164. No elector may show his ballot paper to the polling officers. Any demonstration by an elector deliberately violating the secrecy of the ballot shall be punished by arrest on the order of the polling officers immediately after the elector has cast his vote.

The elector may utilize his ballot paper only after he has entered the closed polling booth, or, if he prefers, he may use one of the ballots on display in the booth itself.

No one may deliver or offer ballot papers to electors in the polling station or within 100 metres of it.

. . .

Chapter XI

PROHIBITIONS

Art. 98. It shall be absolutely prohibited:

(*a*) For public officials to force their subordinates to vote for specified candidates;

(*b*) For the leaders and officers of the nation's armed forces and the police on active duty, the senior employees of these services and members of the security forces, to engage in propaganda or to direct or indirect influence on behalf of any of the political parties in the contest, or to hold meetings and enlist support for specific candidates;

(*c*) For the owners and tenants of houses situated near the premises in which polling stations are operated to allow persons to assemble therein for any purpose or weapons to be deposited. If such houses or dwellings are taken over by force, the owners or tenants must immediately report the fact to the police;

(*d*) For a concentration or any display of armed force to take place during the election, all troops being required to remain in barracks at this time. Only the chief polling officers may have at their disposal such police forces as are necessary to maintain order;

(*e*) For popular spectacles, theatrical performances, sports meetings and all other types of public meeting not connected with voting procedure to take place during the election;

(*f*) For alcoholic beverages of any description to be sold on the day of the election and for bars or liquor stores to be kept open;

(*g*) For electors to carry weapons of any kind or to display party banners and slogans, throughout

the day of the election and on the day preceding and the day following it.

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Chapter XIII

THE ORGANIZATION AND OPERATION OF ELECTORAL BOARDS

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The Compilation of the Permanent Civil Register

. . .

Art. 130. All the grounds for disqualification from registration which are applicable to a citizen already entered in the register are also grounds for the suspension of the right of suffrage; the right is forfeited definitively and merely eliminated, upon decease, transfer of domicile to another electoral section, permanent absence from Paraguay, loss of citizenship, or a final ruling by the qualifying board, during the period set aside for challenges and complaints, against a person registered in the civil register or the aliens' electoral roll.

. . .

Chapter XVI

REGISTRATION

. . .

Art. 144. All Paraguayan citizens residing in a given section who are over eighteen years of age or will reach that age on or before 15 February of the year following registration shall be registered in the national civil register, provided that they do not fall within the following categories:

1. Lunatics classified as such by a competent magistrate;
2. Persons deprived of their freedom in virtue of a sentence or warrant of imprisonment from a competent magistrate;
3. Culpable or fraudulent bankrupts who have not been declared rehabilitated;
4. Persons who have lost their citizenship under the provisions of the National Constitution;
5. Deaf mutes who cannot make themselves understood in writing;
6. Men and non-commissioned officers of the Paraguayan armed forces;
7. Men and non-commissioned officers of the police forces.

Art. 145. Aliens over eighteen years of age who have resided in Paraguay for two consecutive years and who do not fall within the categories listed in the preceding article shall be registered in the electoral roll.

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Chapter XIX

VIOLATION OF THE ELECTORAL REGULATIONS, AND PENAL PROVISIONS

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Art. 174. A citizen who is required to vote may not be appointed to or hold any paid public or professional post or employment without first confirming his status as an elector by producing his civil identity card, which must contain a notation to the effect that he has voted in the most recent election. This disqualification shall be removed six months after the payment of the appropriate fine or upon voting in the next election.

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PERU

NOTE ON LABOUR RIGHTS AND SOCIAL SECURITY[1]

The purpose of the American Declaration of the Rights and Duties of Man is to state clearly the minimum rights which every person should enjoy to enable him to develop his personality and attain a standard of living that will make possible his material betterment and above all his spiritual progress. The inherent rights of man are protected by the positive law which involves certain corresponding duties towards the neighbour and society, also set out in the declaration mentioned.

Peru, having ratified this declaration by a legislative resolution, is attempting as far as possible to translate its principles into statutory provisions which will permit a better and more just development of the country.

The right to work and to fair remuneration is explicitly protected in our Constitution[2] in articles 42, 44, 45 and 55, and in article 1572 of the Civil Code,[3] in which freedom of labour is guaranteed, and restrictions on the exercise of civil, political and social rights in any labour contract are prohibited. It is also laid down that work must be justly remunerated and that there must be equal pay for equal work.

As far as the right to leisure time is concerned, legislation has been adopted establishing yearly, weekly and daily rest periods. The yearly rest period consists of 30 days' holiday for manual and non-manual workers, there is one obligatory weekly day of rest and the maximum working day is 8 hours.

The Constitution protects the right of association in article 27, basing itself on the liberty required by man for his development, a liberty which he exercises in organizing with others, thus finding fulfilment for the social aspects of his personality.

In addition, Convention 87 of the ILO, which has been ratified by the legislature, proclaims freedom of association and the right to organize.

As to the right to protection for mothers and children, there are laws and decrees guaranteeing protection for women and minors. Thus law No. 2851 governs the employment of women and minors, and the supreme decree of 1921 regulates the application of that law. There are other provisions dealing with more particular situations of women and minors.

Finally, the right to social security, which protects persons who cannot engage in normal work or are otherwise prevented from earning a living, is safeguarded both by the Constitution and by the ILO conventions approved by Congress.

These include conventions 35, 36, 37, 38, 39 and 40, which refer to old-age invalidity and survivors' insurance for persons employed in industry and agriculture.

Compulsory workers' insurance and employees' insurance have also been established by law.

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[1] Note furnished by the Government of Peru.

[2] The constitutional provisions referred to in this note appear in *Yearbook on Human Rights for 1946*, pp. 227–8.

[3] Article 1572 of the Civil Code provides: "The contract of employment, whether individual or collective, presupposes the payment of wages in cash . . . equal pay for equal work without distinction by reason of sex and the adjustment of the wages to the needs of life of the worker."

PHILIPPINES

HUMAN RIGHTS DEVELOPMENTS IN THE PHILIPPINES DURING 1960[1]

The Constitution of the Philippines adopted some twenty-six years ago (1935) continues to be the fundamental law of the land. The "Bill of Rights" in article III of the constitution, the bulwark of private reights and so essentially similar to the Universal Declaration of Human Rights, has since then been properly observed and continuously upheld.

Hereunder is a report on the rights enumerated in the Universal Declaration of Human Rights, as seen during the year 1960 through legislation, judicial decisions and executive proclamations.

A. LEGISLATION

1. Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers

Republic Act No. 2889, exempting radio broadcasting and television stations from payment of franchise and privilege taxes.

2. Article 25 (1). Right to security in the event of disability, unemployment, widowhood, old age, etc.

(A) Republic Act No. 2621, appropriating the sums of 1,000,000 pesos and 200,000 pesos, respectively, for the relief and aid to fire victims in the cities of Cavite and Butuan, Philippines.

(B) Republic Act No. 3015, granting retired officers and enlisted men of the Philippine Constabulary the rights and privileges enjoyed by retired officers and enlisted men of the Philippine Army under Republic Act No. 340, as amended, and authorizing the appropriations of the necessary funds for the purpose.

3. Article 25 (2). Motherhood and childhood are entitled to special care and assistance

(A) Republic Act No. 2714, establishing in the Department of Labor a bureau to be known as the Women and Minors Bureau, the purpose of which is, among other things:

(1) To enforce the Woman and Child Labor Law, Republic Act No. 679, and such other laws on the same subject which may be enacted by Congress;

(2) To formulate standards and policies which shall promote the welfare of working women and children, improve their working conditions, increase their efficiency, secure opportunities for their profitable employment, and provide for their social, educational and cultural advancement.

4. Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay

(A) Republic Act No. 2625, excluding Saturdays, Sundays and holidays in the computation of vacation and sick leaves of government officers and employees.

B. JUDICIAL DECISIONS (SUPREME COURT)

1. Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him

(*a*) "It is a well-settled rule that no one shall be personally bound until he has had a day in court, by which is meant, until he has been duly cited to appear, and has been afforded an opportunity to be heard. Judgement without such citation and opportunity lacks all the attributes of a judicial determination; it is a judicial usurpation and oppression, and can never be upheld where justice is justly administered. And it has been held that a final and executory judgement may be set aside with the view to the renewal of the litigation when the judgement is void for lack of due process of law." [*Rueda* v. *Juan et al.*, G. R. L-13764, January 30, 1960.]

2. Article 16 (3). The family is the natural and fundamental group unit of society and is entitled to protection by society and the State

(A) "The family home extrajudicially formed shall be exempt from execution except for debts incurred before the declaration was registered in the registry of property." [*Siari Valley Estates, Inc.*, v. *Lucasan et al.*, G. R. L-13287, August 31, 1960, interpreting article 243 (2) of the Civil Code of the Philippines.]

(B) "Marriage in this country is an institution in which the community is deeply interested. The State has surrounded it with safeguards to maintain its purity, continuity and permanence. The security and stability of the State are largely dependent upon it. It is the interest and duty of each and every

[1] Note furnished by the Government of the Philippines.

member of the community to prevent the bringing about of a condition that would shake its foundation and ultimately lead to its destruction. The incidents of the status are governed by law, not by will of the parties." [*Jimenez* v. *Canizares*, G.R. L–12790, August 31, 1960.]

3. Article 17 (2). No one shall be arbitrarily deprived of his property

(A) "Registered lands [under the Torrens system of registration] are not subject to prescription and the government should pay to the owner of the private property which it appropriates, though the purpose is for the benefit of the public, regardless of the passing of time. To determine the due compensation for the property, the basis should be the price or value at the time that it was taken from the owner and appropriated by the government." [*Alfonso* v. *Pasay City*, G.R. L–12754, January 30, 1960.]

4. Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law

(A) "The Director of Patents should as much as possible discourage all attempts at imitation of labels already used and registered to avoid confusion, to protect the public from purchasing the wrong article or brand and also to give protection to those persons who have established goodwill, reputation and name in the manufacture and sale of their products by means of a label of long standing and use, and duly registered." [*Cuanchow Soy and Canning Co.*, v. *Director of Patents et al.*, G. R. L–13941, June 30, 1960.]

(B) "When, as in the present case, one applies for the registration of a trade mark or label which is almost the same or very closely resembles one already in use and registered by another, the same should be rejected and dismissed outright, even without any opposition on the part of the owner and user of a previously registered label or trademark." [*Id.*]

5. Article 23 (1). Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment

(A) "A tenant can only be dispossessed or his tenure terminated for causes provided for by law and only after the same have been duly proven. Expiration of the period in a tenancy contract as fixed by the parties does not of itself extinguish the tenancy relationship." [*Datu et al* v. *Cabangon et al.*, G. R. L–14590, May 25, 1960.]

"And the refusal of a tenant to sign a tenancy contract with his landholder is not among those anumerated in section 50 of Republic Act No. 1199 se amended, as grounds for a tenant's dispossession, which enumeration is exclusive in nature." [*Pagdanganan* v. *Court of Agrarian Relations et al.*, No. G. R. L–13858, May 31, 1960.]

6. Article 23 (3). Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection

(A) "Republic Act No. 1199, as amended, otherwise known as the Agricultural Tenancy Law, was enacted as a remedial legislation and in its interpretation and enforcement all grave doubts must be resolved in favor of the tenant." [*Primero* v. *Court of Agrarian Relations, et al.*, No. G. R. L–10594, May 29, 1957.]

7. Article 25 (1). Everyone has the right to security in the event of widowhood or other lack of livelihood in circumstances beyond his control

(A) "The right of a spouse to receive support cannot be renounced and no compromise upon future support shall be valid." [*Volayo* v. *Court of Appeals et al.*, G. R. L–14541, March 30, 1960.]

8. Article 25 (2). Motherhood and childhood are entitled to special assistance

(A) "When the judgement sought to be executed is one for alimony, a writ of execution for the enforcement of such judgement may still be issued even if the period of five years [prescription of the enforcement of judgement in ordinary cases] had elapsed since it was rendered." [*San Pedro* v. *Almeda Lopez*, G. R. L–16655, July 1, 1960.]

(B) "The purpose of the new civil code in liberalizing voluntary recognition of illegitimate children is that natural children may not suffer. And articles 283, 284, 298 of the Civil Code (effective August 30, 1950) concerning proof of illegitimate filiation are expressly given retroactive effect under paragraph 3, article 2266 of the same code." [*Barles et al.* v. *Ponce Enrile*, G. R. L–12894, September 30, 1960.]

9. Article 23 (2). Everyone, without any discrimination, has the right to equal pay for equal work

(A) "The benefits of a collective bargaining agreement extends to non-union members, because to accord its benefits only to members of the union without any valid reason would constitute undue discrimination against non-union members." [*International Oil Factory Workers Union* v. *Martinez et al.*, G. R. L–15560, December 31, 1960.]

C. PRESIDENTIAL PROCLAMATIONS

1. Article 14 (1). Everyone has the right to seek and enjoy in other countries asylum from persecution

(A) Proclamation No. 637, designating the period of from 1 January to 30 June 1960 for the World Refugee Year Fund Campaign in the Philippines to:

1. Form interest in the refugee problem;
2. Encourage additional financial contributions from governments, voluntary agencies and the general public; and
3. Encourage additional opportunities for permanent refugee solutions through voluntary repatriation, resettlement and integration, on a purely humanitarian basis. (20 December 1959)

2. *Article 2. Everyone is entitled to all the rights and freedoms without distinction of any kind, such as sex*

(A) Proclamation No. 669, declaring 30 April 1960 as Women's Rights Day in order that the Filipino people may know and appreciate the important role played by women in the economic social and political progress of the nation. (29 April 1960)

3. *Article 25 (1). Everyone has the right to security in the event of unemployment, disability, or other lack of livelihood in circumstances beyond his control*

(A) Proclamation No. 668, authorizing the Elks Cerebral Palsy Project, Inc., to conduct a national educational and fund drive during the period of from 1 May to 30 June 1960, among other purposes, to raise funds for the purchase of adequate medicine and specialized equipments for the treatment of persons in the Philippines afflicted with cerebral palsy, a condition which impairs, or causes complete loss of mascular control, rendering those afflicted with it unable to take care of themselves. (11 April 1960)

(B) Proclamation No. 639, declaring the period from 1 to 6 February 1960 as "Aid to the Blind and Handicapped Week" authorizing the raising of funds to constitute a trust fund called the Blind and Handicapped Fund under the control and administration of the Social Welfare Administration. (18 January 1960)

(C) Proclamation No. 670, designating the period of from 1 June to 15 July 1960 for the 12th Annual Fund Campaign of the Community Chest of Greater Manila, to raise funds for 17 welfare agencies engaged in humanitarian activities. (29 April 1960)

(D) Proclamation No. 721, authorizing the Philippine Cancer Society, Inc., to conduct a National Educational, Membership and Fund Drive, during the period from 15 December 1960 to 28 February 1961, for the purpose of disseminating information on cancer, particularly its prevention and cure and, more particularly, to raise funds which the Society needs to achieve its objectives, one among which is to continue rendering free medical services to the public and to expand this activity to reach other parts of the Philippines. (18 November 1960)

POLAND

NOTE[1]

1. In 1960, the following legislation was promulgated in Poland with regard to the penal system.

(i) Law No. 218/60 of the Economic Committee of the Council of Ministers, of 30 June 1960, ensuring to the penal and corrective establishments and reformatories for juveniles the material conditions necessary to carry out their duties. This law is based in part on the recommendations issued by the United Nations fixing the minimum quantity of air required per prisoner in single and in collective cells. In order to gradually reach the recommended volume of air per detainee, this law provides, *inter alia*, special credits for the construction of new, and reconstruction of existing buildings used as penal and corrective establishments and reformatories for juveniles, as well as labour camps for prisoners employed in seasonal work. The completion of such a building programme will increase the present insufficient space allotted per prisoner.

(ii) Law No. 315/60 of the Economic Committee of the Council of Ministers, of 19 September 1960, on employment of prisoners capable to work. It establishes various kinds of employment, dependent upon the term of punishment, the crime committed, the degree of demoralization, and the need for adequate vocational training. It also provides, *inter alia*, for temporary employment, based on labour contracts, on state farms and in other extra-mural work places. With this end in view, the law provides for the expansion of existing and the establishment of new work centres in penal establishments, and or improving the vocational qualifications of the prisoners employed.

2. In an endeavour to extirpate the vice of alcoholism among prisoners, special regulations were issued on 24 December 1960, on the medical treatment of prisoners, and, in order to help the families of prisoners and to ensure adequate living conditions to released prisoners, a special category of social workers in punitive establishments was instituted on 25 January 1960, to supervise those matters.

3. In accordance with the new code of administrative procedure of 14 June 1960, all former restrictions pertaining to the number and length of personal complaints presented by prisoners were abolished.

4. There were no judicial decisions that might be considered as presenting a novel interpretation of the principles adopted in the Declaration of Human Rights.

5. The courts continue unremittingly to act upon the principle of equal treatment of the sexes, as proved in numerous decisions involving parental authority by both parents, equal rights of husband and wife in divorce cases and in cases concerning joint management of common property.

6. With due attention to the special stress placed by the Polish People's Republic on youth problems, the courts avail themselves of every means of procedure to collect all relevant facts required to determine whether or not a divorce might have an adverse effect on the welfare of minor children. (This principle is based on the decision passed by the Civil Law Division (*in toto*) of the Supreme Court on 28 May 1955.)

7. An analysis of divorce cases shows that the rejection of a plea for divorce is frequently based on the fact that the granting of the divorce might jeopardize the welfare of existing minor children. Care for the interests of illegitimate children is evidenced by the number of cases before the courts to establish paternity and to settle any claims connected therewith, in accordance with the decision of the Civil Law Division (in toto) of the Supreme Court of 6 December 1952. The decision emphasizes that the care extended by the Polish People's Republic to children indicates the special interest taken to ensure equitable settlement of all cases involving the well-being and happiness of a child, and particularly of cases dealing with the establishment of paternity.

8. It must also be mentioned that on 13 October 1960, the Polish People's Republic ratified the New York Convention of 20 June 1956, on alimony claims abroad. The provisions of this convention are being applied in relations with other States parties to the convention.

[1] Note furnished by the Government of Poland.

PORTUGAL

LEGISLATION ON HUMAN RIGHTS IN PUBLIC AND PRIVATE LAW[1]

In 1960, the following legislative texts relating to human rights were issued:

Decree No. 42798, of 4 January, to establish a national commission to promote, organize, co-ordinate and supervise Portugal's contribution to the World Refugee Year instituted by the United Nations.

Decree No. 42874, of 15 March, to approve, for ratification, Convention No. 12 concerning workmen's compensation in agriculture, adopted by the General Conference of the International Labour Organisation.

Decree No. 42991, of 26 May, to approve, for ratification, the Geneva conventions for the protection of war victims.

Decree No. 43005, of 3 June, to approve, for ratification, Convention No. 106 concerning weekly rest in commerce and offices.

Decree No. 43020, of 15 June, to approve, for ratification, Convention No. 6 fixing the minimum age for admission of children to night work.

Order No. 17782, of 28 June, to provide for the application of decree law No. 36173 on collective labour conventions, with amendments, in the overseas provinces.

Decree No. 43182, of 23 September, to amend certain provisions respecting the regulation of labour, the protection of women and children and the prevention of industrial and occupational diseases.

Decree No. 43183, of 23 September, to reorganize the Supreme Social Insurance Council.

Decree No. 43186, of 23 September, to regulate the conditions in which provident funds, pension or provident funds and mutual benefit societies may grant loans from their capital to enable beneficiaries or members to build or buy their own houses.

Decree No. 43189, of 23 September, to approve a national scale for the degrees of incapacity caused by industrial accidents and occupational diseases.

Order No. 17889, of 8 August, to regulate the award of scholarships by the Minister for Overseas Provinces to students born in the overseas provinces who wish to attend the higher Institute of Overseas Studies.

Order No. 17963, of 23 September, to regulate the award of marriage and maternity allowances and allowances for nursing mothers to workers belonging to family allowance funds and provident funds.

Order No. 17964, of 23 September, to extend the system of pharmaceutical assistance through the Federation of Provident Funds.

Order No. 17965, of 23 September, to fix the minimum old-age pensions to be paid by syndical provident funds and by pension funds.

Order No. 17966, of 23 September, to extend assistance in the form of medical care and drugs to members of syndical provident funds and of pension or provident funds who have retired because of disability or old age.

Order No. 17967, of 23 September, to establish the Federation of Provident Funds and Social Welfare Societies.

[1] Note furnished by the Government of Portugal.

REPUBLIC OF KOREA

HUMAN RIGHTS IN 1960[1]

I. CONSTITUTIONAL AMENDMENTS[2]

The Constitution of the Republic of Korea underwent a third amendment on 15 June 1960. The constitutional amendment of 29 November 1954, though it contained relatively thorough-going protection provisions for the basic rights of citizens, comparable to those found in most of the democratic countries, was still susceptible to Executive interference mainly due to the ambiguity of provisions in the Constitution. As a consequence, the basic rights had been considerably restricted in broader phases of human activities.

In an attempt to guarantee over-all political freedom often infringed upon in the past, to attain a reformation of the then existing political system, and to fill the gap afore-cited, the Constitution was amended effective 15 June 1960.

The amended constitution provides as follows, in relation to ensuring and protecting the basic rights of citizens:

(1) The reservation provisions set forth in chapter II, which had been most susceptible to interference by the Executive, were deleted and were made applicable only in exceptional cases and even then only in accordance with the article 28. (See articles 10, 11, 13 and 28.)

(2) Even when the rights and duties of citizens are subjected to restriction in accordance with provisions of law, it is stipulated that the essential substance of the liberties and rights of citizens should never be infringed upon. (See article 28.)

(3) No provisions of law are to be enacted concerning censorship or licensing of the press, or with the requiring of permission for assembly and association. (See article 28.)

(4) All the political parties, regardless of whether government or opposition, are entitled to constitutional protection. (See article 13.)

(5) The voting age is reduced to twenty. (See article 25.)

(6) The impartiality and status of public officials are guaranteed in accordance with the provisions of law. (See article 27.)

[1] Information furnished by the Government of the Republic of Korea.

[2] Extracts from these amendments appear below.

II. ENHANCEMENT OF THE STATUS OF WOMEN

The Civil Code of the Republic of Korea currently in force was enacted on 17 December 1957, and took effect on 1 January 1960.

Under the Japanese domination over this country, the "Civil Affairs Decree for Korea", proclaimed by the Japanese Governor-General, stipulated that the Japanese Civil Code should primarily be applied with regard to property, claims, and general principles of civil affairs and that, with a few exceptions, customary law in Korea should be applied in principle with regard to personal relationships.

The validity of the Civil Affairs Decree continued under the U.S. Military Government, and temporarily even after the inauguration of the Republic of Korea.

In order to bring to light the effort made to advance the status of women, it is felt necessary to make clear the major differences between the new Civil Code and the previous Civil Affairs Decree and customary laws, focusing on the status of women:

(1) According to the old system a woman was generally treated as being as incompetent as a minor. For instance, a husband was permitted to exercise the right to give consent to any financial transactions or contracts made by a wife, involving certain properties, and a husband was given the right to withdraw already-given consent or to limit the acts of the wife, whereas no such provisions appear in the newly enacted Civil Code.

(2) A provision in article 827 of the existing Civil Code, according to which a married couple have mutual representation rights to the matters concerning daily housekeeping makes each spouse responsible for the other's acts in housekeeping, and thus not only the legal incompetence of a wife but also a husband's right to administer the property rights of a wife, which had been duly recognized in the customary law of Korea, have been abolished.

(3) Under the customary law of Korea, as to the property of a married couple, the joint administration system had been in practice, whereby a husband had the right to administer and draw income from the property of a wife. In sharp contrast, the new Civil Code has introduced a system of completely separate administration of wife's property rights.

(4) Article 830 of the new Civil Code stipulates that property either possessed before marriage or

obtained after marriage by one of a married couple shall be termed "specially owned property", and article 831 provides that each of a married couple shall administer, utilize, or draw income from specially owned property.

These articles recognize the respective rights of a married couple to specially owned property, while a husband alone had been entitled to administer, utilize, or draw income from specially owned property in the old Civil Code.

(5) According to article 964 of the new Civil Code, a female of lineal descendant occupies the second place in the order of succession in case of decease of the head of a family, while the old system gave her only the fifth place.

(6) Article 886 of the old Civil Code stipulated that a mother exercising parental rights could perform certain financial acts on behalf of a minor only with the consent of a family council. In the present Civil Code, no such provision is included.

III. REVISION OF THE NATIONAL SECURITY ACT

Since the original National Security Act was promulgated on 1 December 1948, the statute has been revised on three occasions, the first being on 29 December 1949, the second on 29 December 1958, and the third on 10 June 1960.

The last revision was intended to remove a number of undesirable clauses which were either instituted or amended in the second revision, and which were feared by many as a political tool for oppressing law-abiding citizens as well as the political opposition. At the same time, the revision led to the introduction of other provisions to prevent any infringement of the fundamental rights of innocent citizens, while providing adequate means to cope with subversive communist activities.

Extracts from the revised Act appear below.

IV. ACT REPEALING THE ACT ON SPECIAL MEASURES FOR THE PUNISHMENT OF CRIMINALS IN THE EMERGENCY AND INTRODUCING SPECIAL MEASURES FOR CRIMINAL CASES MADE NECESSARY BY THE REPEAL OF THAT ACT (PROMULGATED ON 13 OCTOBER 1960)

A. Introduction

With the unprecedented instability of internal security throughout the country due to the communist invasion of 25 June 1950 into the Republic of Korea, the Government felt it highly desirable to adopt certain measures to enforce the speedy and severe punishment of perpetrators of anti-nationalistic or inhumane crimes.

Under such circumstances, a presidential emergency decree, entitled "Act on Special Measures for the Punishment of Criminals in the Emergency", was proclaimed on 25 June 1950. By virtue of this special measure perpetrators of certain crimes had not only been given severe punishment, but had also been tried at a summary court without going through procedures set forth in the Criminal Procedure Code.

As soon as the Government found imminent danger in internal security abating, it immediately took steps to abrogate such measures. The new special disposition measure then introduced enables the cases already concluded to be reinvestigated, and the Criminal Procedure Code to be introduced in considering cases still pending.

B. Extracts of the Act

Art. 1. Presidential decree No. 1 (emergency order) promulgated on 25 June 1950, governing special measures for the punishment of criminals in the emergency, is hereby repealed.

Art. 2. Any criminal case pending but handled in accordance with the emergency decree shall hereafter be dealt with under the Criminal Procedure Code together with this Act.

Art. 3. Anyone on whom a final court decision has been passed, or his legal representative, assistant, spouse or the head of his family, may request a reinvestigation in the interest of the convicted person.

Art. 4. A request for a reinvestigation shall be made to a higher court which has jurisdiction over the case.

Art. 5. Anyone on whom a final decision of a court martial has been passed may request a reinvestigation in accordance with article 3 of this law.

V. PENSIONS ACT, PROMULGATED ON 1 JANUARY 1960

A Pensions Act for civil service personnel has been introduced in 1960 for the first time in the Republic of Korea. The Act provides protection and security for public officials retiring for reasons either of old age or of invalidism.

THE CONSTITUTION OF THE REPUBLIC OF KOREA
Amendments adopted on 15 June and 29 November 1960[1]

Chapter II

RIGHTS AND DUTIES OF CITIZENS

. . .

Art. 10. All citizens shall be free from restrictions on domicile or the change thereof, and from trespasses on and searches of private residences.

Art. 11. The privacy of correspondence of all citizens shall remain inviolate and shall not be infringed.

. . .

Art. 13. Citizens shall not be subjected to any restrictions on the freedom of speech, press, assembly and association.

The political parties shall enjoy the protection of the State in accordance with the provisions of law. However, if the purposes or activities of a political party are contrary to the basic democratic rules of the Constitution, the Executive shall impeach it, with the approval of the President, and the Constitutional Court shall decide on the question of the dissolution of such a political party.

. . .

Art. 19. Persons who are incapable of earning their living due to old age, infirmity or such other reasons as may cause incapability to work shall be protected by the State in accordance with the provisions of law.

. . .

Art. 23. No person shall be prosecuted for a criminal offence unless such act shall have constituted a crime prescribed by law at the time it was committed, or be placed in double jeopardy.

. . .

Art. 25. All citizens who have attained the age of twenty shall have the right to elect public officials in accordance with the provisions of law.

. . .

Art. 27. All public officials shall be the trustees of the sovereign people and shall at all times be responsible to the people. All citizens shall have the right to petition for the removal of any public official who has acted unlawfully.

The political impartiality and status of public officials shall be guaranteed in accordance with the provisions of law.

If a person has suffered damage by unlawful acts of public officials done in the exercise of their official duties, he may request redress from the State or from the public entity concerned; however, the public officials concerned shall not be exempted thereby from their civil or criminal liability.

Art. 28. Liberties and rights of the people not enumerated in this constitution shall not be ignored.

Laws imposing restrictions upon the liberties and rights of citizens shall be enacted only when necessary for the maintenance of public order and welfare. However, such restrictions shall not infringe upon the essential substance of the liberties and rights, and no provisions shall be made for licensing or censorship of speech and the press, or for requiring permission for assembly and association.

. . .

Chapter IV

THE PRESIDENT

. . .

Art. 64. The President may, on a resolution of the State Council meeting, proclaim a state of siege.

However, the President may refuse to proclaim the state of siege despite the resolution of the State Council meeting if he deems it improper.

When the state of siege has been proclaimed, special measures may be taken on the rights of people and the powers of administrative authorities or courts in accordance with the provisions of law.

. . .

Chapter V

THE EXECUTIVE

. . .

Chapter VII

THE COURTS

. . .

Chapter VIII

THE CONSTITUTIONAL COURT

Art. 83. III. The Constitutional Court shall have jurisdiction over any of the following matters:

(1) Review of the constitutionality of law;

(2) Final interpretation of the Constitution;

. . .

(4) Dissolution of political parties;

. . .

Chapter IX

ECONOMY

. . .

Chapter XII

AMENDMENTS TO THE CONSTITUTION

[Article 98, reproduced in *Yearbook on Human Rights for 1954*, p. 183, falls into chapter XII of the Constitution.]

[1] English translation based upon that furnished by the Government of the Republic of Korea. The provisions here reproduced are only those which amend the provisions printed in *Yearbook on Human Rights for 1954*, pp. 180–3, with the addition of extracts from the new article 83.III, on the Constitutional Court.

NATIONAL SECURITY ACT
Promulgated on 10 June 1960[1]

Chapter I

ARTICLE 1

(Formation of Anti-nationalistic Organizations)

Any person who forms an organization with intent to make a presumptuous claim to be a government or to subvert the State shall be punishable in accordance with the following provisions:

(1) Ringleaders are punishable by death or life imprisonment;

(2) Officials and those engaging in a leading role are punishable by death, life imprisonment or imprisonment for five years or more.

(3) Other members are punishable with imprisonment for not more than seven years.

ARTICLE 2

(Accomplishment of Military Objectives)

If any person, belonging to an anti-nationalistic organization or acting under the direction of such an organization, commits offences specified in articles 92–96 of the Criminal Code with the inteniton of accomplishing its objectives, he is punishable in accordance with penalties set forth in corresponding articles of the Criminal Code.

ARTICLE 5

(Accomplishment of General Objectives)

If a person, belonging to an anti-nationalistic organization or acting under the direction of such an organization, commits acts related to the accomplishing of its general objectives, he is punishable in accordance with the following provisions:

(1) Any person, found committing such acts as detecting, collecting, or revealing national secrets and caught in the act of using explosives, shall be punishable with death or life imprisonment.

(2) Any person, found committing such crimes as murder, arson, intentional inundation, or counterfeiting of currency and the use of counterfeit currency, shall be punishable with death or imprisonment for life or for ten years or more.

(3) Any person who has destroyed, plundered, or taken away through stealth or enticement transportation and communication facilities or buildings and other major installations of the State or Public Bodies, or who has removed or taken away vessels, aircraft, automobiles, weapons or any other items, shall be punishable with imprisonment for life or for five years or more.

(4) Any person who is responsible for injury, riot, or concealment, counterfeit or alteration of documents and materials related to national security, or who has either passed or acted as intermediary in passing national secrets, or who has knowingly received counterfeit currency, shall be punishable with limited penal servitude for two years or more.

ARTICLE 4

(Instigation and Propaganda)

Any person, belonging to an anti-nationalistic organization or acting under the direction thereof, found instigating or propagandizing the crimes defined in the three preceding articles, shall be punishable with imprisonment for not exceeding ten years.

ARTICLE 5

(Voluntary Support and Receipt of Money and Goods)

. . .

ARTICLE 6

(Visit to Illegal Areas)

(1) Any person who, with intent to commit the crimes defined in articles 1–5, has gone by stealth into or out of areas under the illegal control of an anti-nationalistic organization shall be punishable with imprisonment for not exceeding five years.

(2) Any person who has committed an act defined in the preceding paragraph, with intent to receive directions from an anti-nationalistic organization or to have discussions for the accomplishment of its objectives, shall be punishable with imprisonment for one year or more but not exceeding ten years.

. . .

Chapter II

RULES FOR SPECIAL CRIMINAL PROCEDURE

ARTICLE *14*

(Arrest and Detention of Witness)

(1) If any person summoned by the prosecution or the judicial police as a witness to a crime defined in the present Act fails to comply with the summons more than two times without justifiable reasons, he shall be detained by an arrest warrant issued by a district court judge.

(2) For the execution of a warrant of detention, the pertinent witness may be temporarily detained in the nearest police station or other appropriate place, if deemed necessary.

[1] Translation furnished by the Government of Korea.

ARTICLE *15*

(Period of Detention)

(1) A district court judge may grant not more than once the request of the judicial police for the extention of the detention period under article 202 of the Criminal Procedure Code, when he considers that there exist reasonable grounds for the continuation of the investigation with respect to the crime defined in articles 1–6 of the present Act.

(2) The extention provided for in the preceding paragraph may not exceed ten days.

. . .

REPUBLIC OF VIET-NAM

NOTE

The Secretariat of State for Foreign Affairs of the Republic of Viet-Nam has informed the United Nations Secretariat that, during 1960, no constitutional change took place, and no judicial decision was delivered, which would be suitable for inclusion in the *Yearbook on Human Rights*.

FEDERATION OF RHODESIA AND NYASALAND

THE EMERGENCY POWERS ACT, 1960, OF SOUTHERN RHODESIA

No. 48 of 1960, promulgated on 2 December 1960[1]

. . .

2. In this Act, unless inconsistent with the context, "essential service" includes —

(*a*) Any hospital service;

(*b*) Any transport service;

(*c*) Any service relating to the generation, supply or distribution of electricity;

(*d*) Any service relating to the supply and distribution of water;

(*e*) Any sewerage or sanitary service;

(*f*) Any service relating to the production, supply, delivery or distribution of food, fuel and coal;

(*g*) Any fire brigade;

(*h*) Coal mining;

(*i*) Communications;

and any other service declared by the Governor by notice in the *Gazette* to be an essential service for the purposes of this Act; "Minister" means the Minister of Justice and Internal Affairs.

3. (1) If at any time it appears to the Governor that any action has been taken or is immediately threatened by any persons or body of persons of such nature and on so extensive a scale as to be likely —

(*a*) To endanger the public safety;

(*b*) To disturb or interfere with public order; or

(*c*) To interfere with the maintenance of any essential service;

in the colony or in any part of the colony, the Governor may by proclamation (hereinafter referred to as a proclamation of emergency) declare that a state of emergency exists in the colony or in any part of the colony, as the case may be.

(2) No such proclamation shall be in force for more than three months without prejudice to the issue of another proclamation at or before the end of that period if Parliament by resolution so determines.

(3) If Parliament is sitting at the date of issue of any proclamation of emergency, the reason for the issue thereof shall forthwith be communicated to it. If Parliament is not sitting, the Governor shall summon it to meet as soon as possible, and the reason for the issue of the proclamation of emergency shall be communicated to Parliament when it is so summoned.

4. (1) Where a proclamation of emergency has been made and so long as the proclamation is in force, it shall be lawful for the Governor to make such regulations as appear to him to be necessary or expedient for the public safety, the maintenance of public order, the maintenance of any essential service, the preservation of the peace, and for making adequate provision for terminating the state of emergency or for dealing with any circumstances which have arisen or in his opinion are likely to arise as a result of such state of emergency.

(2) Without prejudice to the generality of the powers conferred by this section, such regulations may —

(*a*) Make provision for the removal from one part of the colony to some other part of the colony of any person whose removal appears to the Minister to be expedient in the public interest;

(*b*) Make provision for the summary arrest or detention of any person whose arrest or detention appears to the Minister to be expedient in the public interest;

(*c*) Make provision for the arrest of persons contravening or offending against any regulation made under this section, and for the imposition of penalties specified therein for any contravention or failure to comply with any provision of the regulations:

Provided that no such penalty shall exceed a fine of five hundred pounds or imprisonment for a period not exceeding two years or both such fine and imprisonment.

(3) Nothing in this section contained shall authorize the making of any regulations whereby any action relating to a matter dealt with under the Industrial Conciliation Act, 1959, or the Rhodesia Railways Act, 1949, which may at the date of the coming into operation of such regulations be lawfully taken, is rendered unlawful.

(4) Every regulation made under this Act by the Governor shall be laid before Parliament as soon as may be after it is made.

(5) If Parliament, within the next twenty-eight

[1] Published in *The Statute Law of Southern Rhodesia, 1960*, printed on the authority of the Government Printer.

days on which it has sat after such regulation as aforesaid is laid before it, resolves that the regulation be annulled, the regulation shall thereupon cease to have effect except in regard to things previously done or omitted to be done, without prejudice, however, to the making of another regulation.

5. (1) Any regulations made under this Act shall have effect, notwithstanding anything inconsistent therewith contained in any law of the colony.

(2) So far as appears to the Governor to be necessary for the purposes of the regulations, regulations may provide for amending any law, for suspending the operation of any law, and for applying any law, with or without modification.

6. Where any law has been amended, suspended or modified by a regulation, then, notwithstanding the provisions of section 10 of the Interpretation Act [chapter 1], such law shall, with effect from the expiration or repeal of such regulation, have effect as if such amendment, suspension or modification had never been made.

7. Sections 1, 2, 24 and 25 of the Public Order Act, 1955, are hereby repealed.[1]

[1] See *Yearbook on Human Rights for 1955*, pp. 201–2.

THE LAW AND ORDER (MAINTENANCE) ACT, 1960, OF SOUTHERN RHODESIA

NO. 53 OF 1960, PROMULGATED ON 2 DECEMBER 1960[1]

2. In this Act, unless inconsistent with the context —

"Meeting" means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

. . .

"Public gathering" means a gathering of twelve or more persons in a public place, and in part I of this Act includes a public meeting;

"Public meeting" includes any meeting in a public place and any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise;

"Public place" means —

(*a*) Any street, road, passage, square, park, recreation ground or any open space to which for the time being the public or any section thereof have or are permitted to have access, whether on payment or otherwise;

(*b*) Any place described in paragraph (*a*) of this definition notwithstanding that it is private property and has not been dedicated to the use of the public or is situated in any area set aside for occupation by persons of a particular class;

"Public procession" means a procession in a public place;

. . .

4. For greater clarification of existing law, it is hereby declared —

(*a*) That the freedom commonly called the Freedom of Public Assembly does not confer on any individual a right to be at any place situated on land belonging to or vested in the Crown or a local authority or any other person;

(*b*) That roads, streets, lanes, paths, pavements, sidewalks, thoroughfares and the like exist for the free passage of persons and vehicles along them and not for the exercise by any individual of the Freedom of Public Assembly.

5. The Minister may by notice in the *Gazette* appoint any commissioned officer of police or any administrative officer in the public service of the colony as a regulating authority for the purposes of this Act in respect of such area as may be specified in such notice.

Part I

PROCESSIONS, GATHERINGS AND MEETINGS

6. (1) A regulating authority may issue directions for the purpose of controlling the conduct of public processions within his area and the route by which and the times at which a public procession may pass.

(2) Any person who wishes to form a procession shall first make application in that behalf to the regulating authority of the area in which such procession is to be formed, and if such authority is satisfied that such procession is unlikely to cause or lead to a breach of the peace or public disorder, he shall, subject to the provisions of section eight, issue a permit in writing authorizing such procession and specifying the name of the person to whom it is issued and such conditions attaching to the holding of such procession as the regulating authority may deem necessary to impose for the preservation of public order.

(3) Without prejudice to the generality of the provisions of subsection 2 of this section, the conditions which may be imposed under the provisions of that subsection may relate to —

[1] Published in *The Statute Law of Southern Rhodesia, 1960*, printed on the authority of the Government Printer. Among the provisions repealed by the Act was the Public Order Act, 1955, with the exception of sections 1, 2, 24 and 25 (see *Yearbook on Human Rights for 1955*, pp. 201–2).

(*a*) The date upon which and the place and time at which the procession is authorized to take place;

(*b*) The maximum duration of the procession;

and to any other matter designed to preserve public order.

. . .

7. (1) A regulating authority may issue directions for the purpose of controlling public gatherings within his area. Such directions may include —

(*a*) Directions for the control of persons arriving at or departing from the place at which the gathering is to be held or is being or has been held, and for preventing disorder;

(*b*) In the case of a public meeting held in premises, directions for the safety of persons attending such meeting and for preventing overcrowding. For the purpose of this paragraph, "premises" means any building or structure to which for the time being the public or any section thereof have or are permitted to have access, whether on payment or otherwise, but does not include any private domestic residence.

(2) A regulating authority may require written notice of a public gathering to be giving to such authority, specifying the date upon which and the time at which the gathering is to be held, the name and address of the person who is convening the gathering, the name of the body on whose behalf the gathering is being convened, and the purpose for which the gathering is to be held. A requirement under this subsection may —

(*a*) Relate to a particular gathering or to a specified class or to specified classes of gatherings or to the gatherings of any particular organization or to all gatherings;

(*b*) Specify the period of notice to be given and the person by whom such notice may be given;

(*c*) Relate to the whole or any part of the area for which the regulating authority is appointed.

(3) The person who is convening a public gathering shall, at the request of the regulating authority, grant adequate facilities to the satisfaction of such authority for the recording of the proceedings of the gathering in such manner and by such person or class of persons as such authority may specify:

Provided that the convenor shall not be required to provide equipment.

. . .

8. (1) If at any time the magistrate is of opinion that by reason of particular circumstances existing in his district or in any part thereof serious public disorder may be occasioned by the holding of public processions in that district or part, he may make an order prohibiting for such period, not exceeding three months, as may be specified in such order, the holding of all public processions or any class of public processions so specified either in the district or in that part thereof, as the case may be, subject to such exceptions, if any, as may be specified:

Provided that such order shall cease to have effect upon the expiration of a period of seventy-two hours from the time it is made by the magistrate unless the Minister has within that period confirmed the order.

. . .

9. (1) If at any time the magistrate is of opinion that by reason of particular circumstances existing in his district or in any part thereof serious public disorder may be occasioned by the convening of a public gathering in that district or part, he may make an order prohibiting for such period, not exceeding three months, as may be specified in such order, the convening of all public gatherings or any class of public gathering so specified either in the district or in that part thereof, as the case may be, subject to such exceptions, if any, as may be specified:

Provided that such order shall cease to have effect upon the expiration of a period of seventy-two hours from the time it is made by the magistrate unless the Minister has within that period confirmed the order.

. . .

10. (1) If at any time the Minister is of the opinion that by reason of particular circumstances prevailing in the colony or in any part thereof it is desirable to prohibit or restrict the gathering of persons in order to prevent the stirring up of feelings of hostility between one or more sections of the community on the one hand, and any other section of the community on the other hand, or the making of subversive statements or the rousing of passions and emotions which are likely to occasion serious public disorder, he may by order exercise any of the following powers —

(*a*) Prohibit the assembly of a particular public gathering;

(*b*) Prohibit all public gatherings for such period, not exceeding three months, as may be specified in the order, subject to such exceptions, if any, as may be specified;

(*c*) Prohibit any public gathering on any particular day or days of the week during any period, not exceeding three months, as may be specified in the order;

(*d*) Restrict the hours during which public gatherings may be held on any day;

(*e*) Prohibit the convening by all organizations or by any specified organization of a public gathering for such period, not exceeding three months, as may be specified in the order;

(*f*) Impose conditions relating to the maintenance of public order and safety to which all organizations

or any specified organization shall be subject in convening a public gathering.

. . .

11. (1) If at any time the Minister has reason to believe that feelings of hostility between one or more sections of the community on the one hand, and any other section of the community on the other hand would be roused, or that subversive statements are likely to be made, or that passions and emotions are likely to be roused, which might occasion or lead to serious public disorder, if a particular person were to attend a public gathering, the Minister may by notice under his hand addressed and delivered or tendered to that particular person, prohibit him from attending any public gathering within an area and during a period not exceeding three months, specified in such notice, subject to such exceptions, if any, as may be specified.

. . .

13. (1) If three or more persons are assembled in a public place or at a public meeting and conduct themselves in such a manner that a police officer has reasonable grounds for believing a breach of the peace is likely to occur or that public disorder is likely to be occasioned, he may call upon the persons to disperse, and for that purpose he shall endeavour to obtain the attention of those persons by such lawful means as he deems most suitable, and then in a loud voice order them to depart forthwith from the place of assembly. Such order shall be repeated by him three times. If any person fails so to depart immediately after an order is so given and repeated, the persons so remaining shall be deemed to be an unlawful gathering, and to have taken part in an unlawful gathering.

. . .

15. (1) For the proper exercise of his preventive powers and the proper execution of his preventive duties, a police officer may —

(*a*) At a gathering of persons forbid any person from addressing such gathering;

(*b*) Enter and remain on any premises, including private premises, at which three or more persons are gathered;

whenever he has reasonable grounds for believing that a breach of the peace is likely to occur or that a seditious or subversive statement is likely to be made.

For the purposes of this subsection —

(*a*) The term "premises" does not include a private domestic residence; and

(*b*) The term "private premises" means premises to which the public have access (whether on payment or otherwise) only by permission of the owner, occupier or lessee of the premises.

. . .

Part II

PRINTED PUBLICATIONS

16. (1) If the Governor is of the opinion that the printing, publication, dissemination or possession of any publication or series of publications is likely to be contrary to the interests of public safety or security he may by order published in the *Gazette* and in such newspapers as he may consider necessary declare that printed publication or series of publications, or all publications published by any person or association of persons, to be a prohibited publication or prohibited publications, as the case may be:

Provided that no order shall be made under this subsection in respect of any newspaper which at the date of the coming into operation of this Act is registered as a newspaper under the provisions of the Printed Publications Act (*chapter 55*) unless Parliament has by resolution authorized the making of such order.

(2) If an order made under the provisions of subsection 1 of this section specifies by name a publication which is a periodical publication, such order shall, unless a contrary intention be expressed therein, have effect —

(*a*) With respect to all subsequent issues of such publication; and

(*b*) Not only with respect to any publication under that name, but also with respect to any publication under any other name if the publishing thereof is in any respect a continuation of or in substitution for the publication named in the order.

(3) If an order made under the provisions of subsection 1 of this section declares all publications published by a specified person or association of persons to be prohibited publications such order shall, unless a contrary intention be expressed therein, have effect not only with respect to all publications published by that person or association of persons before the date of the order but also with respect to all publications so published on or after such date.

(4) An order made under the provisions of subsection 1 of this section shall, unless a contrary intention be expressed therein, apply to any translation into any language whatsoever of the publication specified in the order.

. . .

(8) For the purposes of this section —

"Publication" includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and any gramophone record or other similar means of representing speech, and every copy and reproduction of any publication; and

"Periodical publication" includes every publica-

tion issued periodically or in parts or numbers at intervals, whether regular or irregular.

17. (1) Any person who prints, publishes, disseminates, distributes, sells, offers for sale, or reproduces any prohibited publication or any extract therefrom shall be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year, and on a subsequent conviction to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(2) Any person who without lawful excuse has in his possession any prohibited publication or any extract therefrom shall be guilty of an offence and liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months, and on a subsequent conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

18. (1) It shall be lawful for the Postmaster-General or any other officer of the Ministry of Posts authorized by him in that behalf or any officer of customs or any other person authorized in that behalf by the Minister, to detain, open and examine any package or article which he suspects to contain any prohibited publication or extract therefrom, and during such examination to detain any person distributing or posting such package or article or in whose possession it is found.

(2) If any prohibited publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by such officer or authorized person, and the person distributing or posting such package or article or in whose possession it is found may forthwith be arrested.

Part III

VARIOUS OFFENCES

19. (1) Subject to the provisions of this section, any person who in any public place or at any public meeting —

(*a*) Wears uniform signifying or displays any flag signifying his association with any political organization or with the promotion of any political object; or

(*b*) Displays any banner, placard or notice bearing any slogan or words or emblem which is likely to lead to public disorder or to strike action being taken; or

(*c*) Sings any song or utters any slogan which is likely to lead to public disorder,

shall be guilty of an offence and liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(2) If the Minister is satisfied that the wearing of any such uniform as is mentioned in subsection 1 of this section on any ceremonial anniversary or other special occasion will not be likely to lead to public disorder, he may by order permit the wearing of such uniform on that occasion, either absolutely or subject to such conditions as may be specified in the order.

(3) The court before which any person is convicted of an offence under this section may direct that the uniform or flag in respect of which the offence has been committed shall be forfeited or destroyed.

(4) For the purposes of this section, the term "uniform" includes an armlet and any article of clothing.

. . .

25. (1) Subject to the provisions of this section, any person who, without lawful excuse the proof whereof lies on him, advises, encourages, incites, commands, aids or procures the boycotting of any other person or class or description of persons, shall be guilty of an offence and liable to imprisonment for a period not exceeding seven years.

(2) In any case where the boycotting was on account of the other person's political or other opinions and to punish him for the position he has taken up or coerce him into abandoning it, the court shall impose a sentence of imprisonment for a period of not less than two years, unless it is of opinion that there are special circumstances in the case which justify a lesser penalty, in which event the court shall endorse those special circumstances on the record of the case and may impose a lesser penalty.

For the purposes of this subsection, the term "special circumstances" means special circumstances surrounding the commission of the offence itself but does not include circumstances peculiar to the offender.

(3) For the purposes of this section, "boycotting" means combining in refusing to hold public, private, business or other relations with a person:

Provided that nothing in this definition shall be construed as imposing any limitation on the rights of members of any religious, social or other organization to terminate the membership of any member or to exclude from membership any applicant therefor in accordance with the constitution of such organization.

. . .

30. Any person who uses any opprobrious epithet or any jeer or jibe to or about any other person in connexion with the fact that such other person has —

(*a*) Undertaken, continued, returned to or absented himself from work or refused to work for any employer; or

(*b*) Undertaken any duties as a member of any police reserve or of any government department,

shall be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year.

. . .

32. Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

. . .

39. (1) In this section —

(*a*) "Subversive statement" means a statement which is likely —

(i) To bring Her Majesty, the Governor-General or the Governor of the colony in person into hatred or contempt;

(ii) To excite disaffection against Her Majesty, the Governor-General or the Governor in person or the Government or constitution of the colony or the Government or constitution of the Federation as by law established or the administration of justice therein;

(iii) To incite any persons to attempt to procure otherwise than by lawful means the alteration of any matter by law established in the colony;

(iv) To incite any person to commit any crime in disturbance of the public peace;

(v) To engender or promote feelings of hostility between one or more sections of the community on the one hand, and any other section or sections of the community on the other hand, or to engender or promote feelings of hostility to or contempt of any class of the inhabitants of the colony on account of race or colour;

(vi) To have the effect of inducing any person or group of persons to offer passive resistance to any law of the colony or of the Federation;

(vii) To have the effect of inciting the public or any section of the public or any person or class of persons to resist or oppose the Government of the colony or any minister or official or police officer otherwise than by lawful means in the maintenance of public order or safety or the application of any law;

(*b*) "Subversive publication" means a publication which contains a subversive statement.

(2) Any person who —

(*a*) Writes, prints or causes to be printed any subversive statement;

(*b*) Distributes or circulates any subversive statement among the public or any section of the public or who supplies or offers to supply any written or printed subversive statement to any other person, whether at a price or not;

(*c*) Displays any writing conveying any subversive statement in such a position that it is visible from any place to which the public has access;

(*d*) Utters or by means of a recording apparatus plays any subversive statement in the hearing of any other person;

(*e*) Has in his possession any subversive publication;

(*f*) Makes or publishes any statement which is false in any material particular and is likely to encourage any person to do any act which may endanger the public safety, disturb or interfere with public order or interfere with the maintenance of essential services,

shall be guilty of an offence and liable to imprisonment for a period not exceeding five years:

Provided that a person shall not be convicted of an offence —

A. Under paragraphs (*a*) to (*e*) of this subsection, if he satisfies the court that the statement alleged to be subversive was made in good faith and with the intention —

(i) Of showing that Her Majesty, the Governor-General, the Governor or the Government of the colony or of the Federation has been misled or mistaken in any measure; or

(ii) Of pointing out errors or defects in the Government or constitution of the colony or the Government or constitution of the Federation as by law established or in the administration of justice therein with a view to the reformation of such alleged errors or defects; or

(iii) Of urging any person to attempt to procure by lawful means the alteration of any matter in the colony by law established,

and that it was made fairly, temperately, with decency and respect and without imputing any corrupt or improper motive;

B. Under paragraph (*f*) of this subsection, if he satisfies the court that before making or publishing the statement he took reasonable measures to verify the accuracy of such statement and had reasonable cause to believe that such statement was true.

(3) The Governor may order that during a period specified in the order, a person convicted under subsection 2 of this section shall not enter or be in any area specified in the order or shall not enter or be in any place outside any area specified in such order.

. . .

43. Any person who publishes or reproduces any false statement, rumour or report which is likely to cause fear, alarm or despondency among the public or to disturb the public peace shall be guilty of an offence and liable to imprisonment for a period not exceeding seven years, unless he satisfies the court that before such publication he took reasonable measures to verify the accuracy thereof.

For the purposes of this section, "statement" includes any writing, printing, picture, painting, drawing or other similar representation.

Part IV

MISCELLANEOUS

44. (1) Whenever public disorder occurs or is apprehended a regulating authority may by order direct that subject to any exemptions for which provision may be made by order, no person in the area or in a specified part of the area in respect of which such authority is appointed shall between such hours as may be specified in the order be out of doors except with the written permission of such authority.

. . . .

46. 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, in 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.

. . .

ROMANIA

LEGISLATION RESPECTING HUMAN RIGHTS ADOPTED IN THE ROMANIAN PEOPLE'S REPUBLIC IN 1960[1]

I. THE ECONOMIC PROTECTION OF HUMAN RIGHTS

(Articles 22–28 of the Declaration of Human Rights)

1. The state budget of the Romanian People's Republic for 1960, adopted under Act No. 1/1959 (published in the *Official Bulletin of the Grand National Assembly*, No. 31, of 31 December 1959) reflects — just like the budgets for previous years — the efforts made to develop the national economy, as well as social and cultural activities, with a view to satisfying to an increasing extent the material and cultural needs of the country's population as a whole. (It is the first budget under a National Economy Development Plan for the years 1960–1965.)

Under the heading of "income" the budget provides the sum of 56,800 million lei, and under "expenditures" the sum of 55,930 million lei, the income being greater than the expenditures (870 million lei). Only about 8 per cent of the total income is derived from dues and taxes imposed on the population; the remainder (92 per cent) is paid by undertakings and state and co-operative economic organizations. Of the expenditures provided for in the budget, 88 per cent is allocated to economic development and social and cultural activities, while only 12 per cent is allocated to the maintenance of the state machinery, to national defence and to the establishment of budgetary reserves.

In absolute figures, expenditures for financing the national economy amount to 33,562.7 million lei, of which 14,789.4 million lei are earmarked for capital investments; expenditures for financing social and cultural activities amount to 13,436.8 million lei, while expenditures for maintaining the state administrative apparatus amount to only 1,571.1 million lei. Similarly, expenditures for state defence amount to only 3,505 million lei.

Thanks to the conscientious preparation and application of the budget, the volume of investments in the national economy increased by almost 33 per cent in 1960 in relation to 1959, while the amounts allotted to social and cultural activities are 1,500 million lei higher.

The most important aspects of the economic development of the Romanian People's Republic are revealed by the following excerpts from the communication of the Central Statistical Board on the fulfilment of the state plan for 1960.[2]

"*V. The Distribution of Goods*

"In 1960, the volume of goods sold in socialist trade, calculated according to current prices, totalled 41,500 million lei — i.e., 15.7 per cent more than in 1959 — taking into account the difference in prices.

"In comparison with the preceding year, sales of food products (including public food) increased by 11 per cent and those of other goods by 20 per cent.

"*VI. Achievements in improving the Living Conditions of the Workers*

"In 1960, income, according to provisional figures, increased by more than 8 per cent.

"The number of wage-earners employed in the national economy was approximately 3,240,000, or over 180,000 more than in 1959.

"In 1960, the average wages of workers and technical and administrative personnel were 9 per cent more than in 1959 and 15 per cent more than in 1958.

"Real wages were approximately 11 per cent more than in 1959 and approximately 18 per cent more than in 1958.

"The average pension was 26 per cent more than in 1959 and 52 per cent more than in 1958, while the number of pensioners increased.

"According to the figures for family budgets, in 1960 consumption per person in wage-earners' families increased on the average as follows: for meat, 6 per cent more than in 1959; for fat, 10 per cent; for milk, 7 per cent; for cheese, 4 per cent; for eggs, 21 per cent; whereas consumption by farmers' families increased as follows: for meat, 17 per cent; for fat, 13 per cent; for eggs, 22 per cent and for butter, 22 per cent.

"As a result of the increase in the population's income during the last two years, together with successive price reductions, there was an increase in purchases in 1960, especially for clothing, shoes and household goods, as well as in expenditures to satisfy cultural needs.

[1] Note furnished in French by the Government of the Romanian People's Republic.

[2] Published in the newspaper *Scinteia*, No. 5069, of 8 February 1961.

"In 1960, 28,000 apartments, representing 830,000 square metres of living space and built solely with state funds, were given to the workers for their use.

"The sum of 13,700 million lei of the state budget was spent for social and cultural activities, representing an increase of 13 per cent over 1959 — viz:

	Million lei	*Increase over 1959 (Percentage)*
Education	3,500	17
Cultural activities	1,000	9
Health and social insurance	3,900	7
Social assistance	3,500	21
State family allowances	1,700	12

"Physical facilities for education and culture were expanded. Three thousand classrooms were built, as well as new homes and canteens for students, laboratories and workshops, the hall of the Palace of the Romanian People's Republic, a new radio-television concert hall, houses of culture, cultural centres, libraries and the like.

"Twelve cinema halls were built in the cities, and at the same time the cinema network in the country was provided with 680 new projectors.

"During the 1960/61 school-year, 2,840,000 pupils and students were enrolled in classes of all grades — that is, 11 per cent more than during the preceding school year.

"Steps are being taken to provide for seven years of schooling as a general practice. More than 96 per cent of those who completed the fourth grade in the 1959/60 school year were promoted to the fifth grade in the 1960/61 school year.

"In conformity with the decision taken by the Central Committee of the Romanian Workers' Party and the Council of Ministers in July 1960, higher education was appreciably extended in 1960, there being 24,800 students for the first year, or 54 per cent more than during the preceding university year. In institutes of technical education, the number of first-year students increased 2.6 times.

"More than 62 per cent of the total number of students are recipients of scholarships.

"The medical assistance provided for the pupulation has continued to improve. By the end of 1960, the number of hospital beds reached the figure of 133,800. Eighty-eight new medical and public health districts were set up, as well as 117 new maternity hospitals. New rest homes and modern hotels have been opened along the Black Sea coast.

"In 1960, more than 575,000 persons passed their vacations at bathing and health resorts and took cures in medicinal bathing establishments."

2. As a result of fulfilment of the two five-year plans for the development of the national economy during the period 1950–1959, numerous modern industrial undertakings were established and new up-to-date technical equipment was introduced in many undertakings which had been set up even before that period. By *decision No. 877/1960 of the Central Committee of the Romanian Workers' Party and the Council of Ministers of the Romanian People's Republic concerning technical improvements in production* (published in the *Collection of Decisions and Regulations of the Council of Ministers*, No. 24, of 18 July 1960), new measures were adopted with a view to stepping up the introduction of advanced technology in industry.

This decision provides, in broad outline, for raising production methods in industry as a whole to the level of contemporary technology, for extending mechanization and automation in undertakings which are still using equipment which is not up to the present level of technology, for specialization and co-operation in certain undertakings, as well as for the expansion and intensification of scientific research connected with the production methods.

The purpose of these measures is the achievement of high labour productivity, a continual reduction of cost prices and a very large production of material goods of superior quality with a view to satisfying to a constantly increasing extent the material and cultural needs of the country's population as a whole.

3. By *decision No. 1053/1960 of the Central Committee of the Romanian Workers' Party and the Council of Ministers of the Romanian People's Republic concerning the education and development of technical, economic and scientific research personnel, as well as the improvement of the wage system* (published in *Scinteia*, No. 4893 of 22 July 1960) wages were increased as from 1 August 1960 from 10 to 25 per cent in the case of engineers, technicians, foremen, and staff engaged in scientific research and in preparing projects, as well as in the case of staff with higher economic experience employed in all sectors of the national economy; by the same decision the system was introduced in the state farms and other state agricultural enterprises, according to which wages are proportional to the extent to which the plan is fulfilled and exceeded, while the funds allotted for bonuses for the technical and administrative personnel of the economic units and scientific research institutes were increased by an average of 50 per cent.

The decision also includes certain measures aimed at providing specialized personnel for industrial and agricultural units and scientific research institutes.

4. By *decisions No. 1627 and 1834/1960 of the Council of Ministers* (the former published in the *Collection of Decisions and Regulations of the Council of Ministers*, No. 43, of 22 November 1960 and the latter in the same collection, No. 49, of 31 December 1960), new regulations were issued concerning the bonuses granted the specialized personnel and the technical and administrative personnel of state economic units and institutions.

As a general rule, under the new regulations, staff of the economic units receive bonuses according to the extent to which the production plan is fulfilled and exceeded and the institutional staff according to the extent to which their specific tasks are carried out. At the same time, the decisions establish new criteria with respect to the granting of bonuses with a view to preserving a correct proportion between bonuses granted to executive staff, administrative staff and workers. The bonus funds have been considerably increased, so that in certain cases they may attain the quarterly maximum of 150 per cent of the scheduled monthly wage.

The new bonus system helps to keep the wage-earners interested in the production process and provides a substantial increase to the income from their work.

5. By *decision No. 995/1960 of the Central Committee of the Romanian Workers' Party and the Council of Ministers of the Romanian People's Republic respecting the reduction of retail sales prices for certain consumer goods* (published in the *Collection of Decisions and Regulations of the Council of Ministers*, No. 29, of 2 August 1960), the prices of more than 1,100 food and industrial products were reduced by 6.77 to 55 per cent.

At the same time, this decision provided that starting with the 1960/61 school year, all textbooks would be furnished free of charge to students in classes I to VII inclusive (comprising primary education and the first stage of intermediate education, both of which are compulsory). This measure affects an average of 2.5 million students annually.

Without counting the other economic benefits, the implementation of the measures adopted in 1960 alone with respect to the increase in the wages of engineers, technicians, foremen, economists and scientific research workers and with respect to the reduction of sales prices represents an increase in the purchasing power of the population of about 2,000 million lei annually.

6. Since 1956, with a view to raising the standard of living of wage-earners and pensioners with children, families have been granted (by decree No. 571 of 5 November 1956) a monthly allowance for each child who has not yet reached the age of fourteen; the amount of the allowance and the number of children entitled to it vary, in general, according to the income of the parents.

Decree No. 285/1960 respecting state family allowances (published in the *Official Bulletin*, No. 15, of 10 August 1960) established a new system in this respect and at the same time repealed the decree of 1956. Under the new regulations, the allowance for each child is 100 lei per month in urban areas and 50 lei per month in rural areas. It is also granted, regardless of the number of children, to all persons receiving a wage or pension of less than 1,300 lei per month inclusively; the allowance is proportionately less for persons receiving more than that sum, according to a certain scale, starting only with the second, third or fourth child. Those working in certain branches of the economy receive an allowance of 100 lei per month for each child even if they live in a rural area, whereas workers and foremen receive the allowance for all children regardless of the amount of their wage. The decree likewise provides that the state children's allowance will also be paid to persons who are paid by means of a remittance, the members of consumer and craftsmen's co-operatives as well as those who although not entitled to a pension receive a social assistance grant from the State. Formerly, these categories were not entitled to receive the children's allowance.

Under the new system, the allowances paid by the State to families with children are more than 300 million lei greater than those paid in the preceding year.

7. In order to enable an increasing number of wage-earners and pensioners to care for their families or to spend their leave with their families at medicinal bathing resorts, the cash contribution paid by such persons to the costs of travel, lodging, maintenance, therapy and medical care was reduced by *decision of the Council of Ministers and the Central Council of Trade Unions* No. 641/1960 (published in the *Collection of Decisions and Regulations of the Council of Ministers*, No. 18 of 1 June 1960) by between 9 and 46 per cent, depending on the amount of the wage or pension and on the season. For certain categories of pensioner, medicinal bathing treatment is even free of charge. In conformity with this decision, the State generally bears 75 per cent of the total expenses referred to above.

8. Under decision of the Council of Ministers No. 1087/1959, wage-earners are entitled to pay for certain kinds of services in monthly instalments. Under decision of the Council of Ministers No. 94/1960 (published in the *Collection of Decisions and Regulations of the Council of Ministers*, No. 5 of 4 February 1960) the provisions of decision No. 1087/1959 have also been made applicable to services such as repairs of buildings used for living quarters and the equipment of these buildings. Payment of the costs of such repairs can be spread out over as many as eighteen monthly instalments. Formerly, wage-earners were not entitled to use the instalment plan referred to above.

9. New material benefits have been conferred on the members of craftsmen's co-operatives in case of retirement or temporary incapacity for work by *decree No. 144/1950 respecting the organization and operation of social insurance in craftsmen's co-operatives* (published in the *Official Bulletin*, No. 6, of 26 April 1960).

This decree defines the rights of members of craftsmen's co-operatives to various types of social

insurance, such as pensions, allowances in case of temporary incapacity for work, allowances for the prevention and treatment of diseases, the improvement of health and maternity benefits, allowances in case of the death of a member in the family, medical assistance, maintenance, medicaments, free medical equipment in case of illness. These rights are guaranteed to the insured persons, as well as to members of their families; the latter are also entitled to a survivor's pension and funeral allowances in the event of the death of the breadwinner.

By this decree, the rights of members of craftsmen's co-operatives to pensions and allowances were greatly extended and the amount of the pensions and allowances was considerably increased over what it had been in the past.

10. In conformity with the regulation concerning students' internships for practical work in production, adopted in 1958, the costs of board and lodging of students who are carrying out this period of probation in undertakings, on work-sites, and the like, as well as the costs of the necessary equipment for this period of probation are borne by the State. By *decision of the Council of Ministers No. 167/1960* (published in the *Collection of Decisions and Regulations of the Council of Ministers*, No. 6, of 26 February 1960), the aforesaid regulation was amended and completed in such a way that the State will also pay the students' travelling expenses both ways, from their home to their place of work, and at the same time it was amended and completed in such a way that the sums allowed for the students' board and lodging during their practical working internship will be increased.

II. THE GUARANTEE OF FUNDAMENTAL RIGHTS

(Articles 1, 3, 5 and 11 of the Universal Declaration of Human Rights)

1. By decree *No. 212/1960* (published in the *Official Bulletin*, No. 8, of 17 June 1960) certain amendments were made to the Penal Code (republished on 27 February 1948 with its subsequent amendments), of which the following are the most important as far as human rights are concerned:

A. In article 1, which defines an offence, a new sub-paragraph was introduced according to which "The act declared unlawful by the law shall not be deemed to be an offence if, in view of its objective elements and the conditions under which it was committed, it does not present the social danger of an offence, since it is obviously unimportant."

This text clarifies an important point with respect to the constitutive elements of an offence by excluding from its compass any acts which do not represent a danger to society even if, in a formal sense, they combine all the elements of an offence.

The above provision constitutes an important guarantee, since it deals directly with the merits of the charge, the right to be presumed innocent and the right to liberty.

B. Article 24 was completely amended and certain general provisions were introduced concerning the execution of the death penalty. The new text reads as follows:

"*Art. 24.* The death penalty shall be enforced, as an exceptional measure in the cases and subject to the conditions laid down by law, as a punishment for the most serious offences against the socialist or state regime of the Romanian People's Republic, or against its legal system.

"The death penalty shall not be imposed upon an offender who has not yet reached the age of eighteen years at the time of the commission of the offence or upon a pregnant woman or upon a woman who has a child under the age of three years.

"Further, the death penalty shall not be carried out if the condemned person is a pregnant woman or a woman who has a child under the age of three years.

"In the cases referred to in sub-paragraphs 2 and 3, the death penalty shall be commuted to a maximum sentence of hard labour for a limited term."

C. A special chapter has been introduced (chapter I *bis*) concerning crimes against peace and humanity; this chapter includes the new articles 231[1] to 231,[5] the texts of which we reproduce below:

"*Art. 231.*[1] Propaganda for the purpose of inciting to war, spreading tendentious or fictitious news reports calculated to help to incite to war, or any other statement in favour of starting a new war, whether made orally, in writing, by the press, radio, cinema or any other means of propaganda, shall constitute the crime of a threat to the peace of nations and shall be punishable by hard labour for a term of not less than five nor more than twenty-five years and the loss of civil rights for a term of not less than three nor more than ten years.

"*Art. 231.*[2] The commission of one of the acts enumerated below, for the purpose of completely or partially destroying a group or community of human beings, for reasons of race, nationality or religion, shall constitute the crime of genocide and be punishable by the death penalty:

(*a*) The murder of members of the group;

(*b*) Causing serious bodily or mental harm to members of the group;

(*c*) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction;

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

(*e*) Forcibly transferring children of the group to another group.

"Conspiracy to commit the crime of genocide shall be punishable by hard labour for a term of not less than five nor more than twenty years and the loss of civil rights for a term of not less than three nor more than ten years.

"*Art. 231.*[3] The destruction in any way, in time of war, without the justification of military necessity, of monuments or buildings of artistic, historical or archaeological importance, museums, large libraries, scientific collections or important collections of books, archives of historical or scientific value, works of art, manuscripts, valuable books, reproductions of valuable objects or, in general, any cultural property of nations shall be punishable by hard labour for a term of not less than five nor more than twenty years and by the loss of civil rights for a term of not less than three nor more than six years.

"The same penalty shall be imposed for the looting or appropriation, in any form whatsoever, of one of the above-mentioned objects of cultural property which is located in territories under military occupation.

"*Art. 231.*[4] The act of subjecting to inhuman treatment wounded or sick persons, as well as members of the civilian, medical or Red Cross personnel, shipwrecked persons, prisoners of war and, in general, any person who has fallen into the hands of the enemy, or of subjecting them to medical or scientific experiments which are not justified as medical treatment in their own interest, shall be punishable by hard labour for not less than five nor more than twenty years and by the loss of civil rights for a term of not less than three nor more than six years.

"The same penalty shall be imposed for the commission of one of the following acts upon the persons referred to in the preceding sub-paragraph:

(*a*) Compelling them to serve in the armed forces of the enemy;

(*b*) Taking them as hostages;

(*c*) Deporting them;

(*d*) Displacing persons or depriving them of liberty without legal grounds;

(*e*) Depriving them of the right to a fair trial in accordance with the law.

"The act of killing, mutiliating or exterminating the persons referred to in sub-paragraph 1 shall be punishable by death.

"*Art. 231.*[5] The total or partial destruction of buildings or of vessels used as hospitals, of transport facilities of any kind attached to a medical or Red Cross unit for the transport of wounded or sick persons or sanitary Red Cross equipment, or likewise stores of medical equipment bearing the distinctive regulation markings, shall be punishable by hard labour for a term of not less than five nor more than fifteen years and by the loss of civil rights for a term of not less than three nor more than five years.

"The same penalty shall be imposed for the total or partial destruction of any other property when not justified by military necessity and committed on a large scale.

"Likewise, the appropriation in any form whatsoever of the means or equipment intended for the assistance or care of wounded or sick who have fallen into enemy hands shall be subject to the same penalty if not justified by military necessity and if committed on a large scale."

It should be pointed out that acts constituting a threat to the peace of nations, referred to in article 231,[1] were already indictable in Romania under the Act of 16 December 1950 for the defence of peace. The texts referred to above were also introduced pursuant to the following conventions which had been ratified by the Government of the Romanian People's Republic:

The Convention on the Prevention and Punishment of the Crime of Genocide, approved by the United Nations General Assembly on 9 December 1948;

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict;

The conventions concluded at Geneva on 12 August 1949 for the amelioration of the condition of the wounded and sick and relative to the treatment of prisoners of war.

E. The texts of articles 434, 436 and 437 of the Penal Code have been amended to bring them into conformity with the provisions of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, adopted by the United Nations General Assembly on 2 December 1949 and ratified by the Government of the Romanian People's Republic on 16 December 1954.

The amended texts are reproduced below:

"*Art. 434.* Any person found guilty of inciting others to prostitution, or of complicity therein, of encouraging prostitution, or of bribing, inciting or coercing others to engage in prostitution, shall be subject to the same penalty as the original offender.

"*Art. 436.* The exploitation of prostitution in any manner whatsoever, as also the traffic in women for the purpose of prostitution, shall be deemed to constitute the crime of procuring and shall be punishable by imprisonment for not less than one year nor more than five years and by the loss of certain civil rights [interdiction correctionnelle] for not less than one year nor more than three years.

"If the offence is of a serious nature, the penalty shall be rigorous imprisonment for not less than five nor more than twelve years and the loss of civil rights for not less than three nor more than six years.

"*Art. 437.* Letting or renting the whole or part of a building or other premises for the purpose of engaging in prostitution, as well as the financing or participation in the financing of a house of prostitution constitute crimes and shall be punishable by imprisonment for not less than one year or more than three years and by the loss of certain civil rights [interdiction correctionnelle] for not less than one year or more than two years."

Exploitation for purposes of prostitution, the traffic in women, as well as acts directly connected with these crimes, shall constitute offences under articles 433, 439 and 440 of the Penal Code.

F. In order to ensure the effective protection of human dignity, the penalties for false accusation (article 269, Penal Code) and for the offence of racial slander (article 327 *bis*, Penal Code) have been made more severe, the maximum sentence of imprisonment for the former offence having been increased from three to five years and for the latter offence from two to three years.

Similarly, in order to ascertain the truth in judicial or disciplinary proceedings and to guarantee as effectively as possible complete respect for the rights of defendants in such proceedings, a severe penalty has been provided for the offence of bearing false witness, the maximum sentence of imprisonment having been increased from three to five years, and in cases where bearing false witness has resulted in a prison sentence of more than five years, the maximum sentence has been increased from five to seven years.

G. In order to give effect to the obligations assumed by accession to the International Conventions for the Protection of Victims of War, concluded at Geneva on 12 August 1949, the following text has been inserted in the Penal Code as article 415:[1]

"*Art. 415.*[1] The unauthorized use of the Red Cross emblem or name, or that of emblems regarded as having the same status, as well as that of any other marking or name which may constitute an imitation of that emblem or of that designation, shall be punishable by imprisonment for three months to one year or by a fine of 500 to 2,000 lei.

"If the offence is committed in time of war, the penalty shall be imprisonment for not less than three nor more than five years and the loss of certain civil rights for not less than one year or more than three years."

2. *Decree No. 213/60* (published in the *Official Bulletin*, No. 9, of 18 June 1960) has made a number of changes in the Code of Penal Procedure (as republished on 13 February 1948, with subsequent amendments), of which the following dealing with human rights are the most important.

(*a*) *With respect to evidence*, the former article 133 of the Code of Penal Procedure provided that the records of the established facts, as drawn up by the prosecuting authorities, should be accepted as true until proved otherwise, with the exception of findings made personally by prosecuting attorneys and penal investigating commissioners, as well as by certain authorities referred to in special laws, whose findings could only be contested by an affirmation before the courts that they were false [inscription de faux]. By the amendment of article 133, the above-mentioned exceptions have been eliminated, and the principle has been established that in all situations any finding made by the prosecuting authorities, as well as by prosecuting authorities established under special legislation, shall be deemed to be true only until proved otherwise. This has made it possible for all defendants in penal proceedings to defend themselves in all cases with maximum effectiveness against a possibly unjust charge.

(*b*) *With respect to legal remedies*, the extraordinary remedy against final and executory judgements was introduced by amending articles 433–435. Until those texts were amended, it was possible to contest only the execution of judgements and not the judgements themselves. If they were not so contested and if it was desired to quash a final and executory judgement pronounced in the absence of the party and without due observance of the legal procedure for serving summons, it was formerly necessary to resort to an extraordinary remedy called the petition for review; this method of appeal, however, is not open to the defendant and can only be exercised by the Attorney-General of the Romanian People's Republic. The new regulation gives the injured party an opportunity to appeal directly against a judgement such as that referred to above which is null and void and also provides him with an effective means of asking the court to quash a final and executory judgement which was passed without observing the legal provisions respecting service of summons on the parties. According to the new text, the decision may be contested:

(i) When service of summons on the defendant for the date prescribed for judgement of the case was not carried out according to law;

(ii) When the defendant proves that he was unable to appear on the date prescribed for trial of the case or to inform the court that he was unable to appear;

(iii) When the defendant proves that another final judgement respecting him has been handed down previously in connexion with the same case.

It might be mentioned that the two last reasons referred to above for contesting a judgement were formerly included among the reasons which could be pleaded in contesting execution of a judgement.

(*c*) *Procedure in judging juvenile offenders and protecting non-delinquent minors.* Articles 479 to 494 of the Code of Penal Procedure concerning the prosecution

and trial of juvenile offenders and measures for the protection of non-delinquent minors have been completely modified. Under the new special provisions, the examination of the minor, his indictment and the presentation of the evidence gathered during the penal prosecution can only take place in the presence of one of the parents, the guardian, the person to whom the minor is entrusted or the guardian's representative, except in the case of very serious offences which have to be investigated by the security services. Court trials of minors are held by complete judicial bodies consisting of specialized judges and lay advisers who are able to make a just appraisal of the minor's behaviour. Court sessions for trying minors are held separately from other sessions and as a general rule are not public.

Action for the protection of minors of ten to eighteen years of age who have not committed any offences but who are exposed to the temptation of doing so and whose moral or intellectual development is in danger is taken, at the request of the guardianship or prosecuting authorities, only by the courts; formerly, such action could be taken by the administrative authorities. Under article 140 of the Penal Code, the courts can take one of the following measures:

(i) They may commit the minor to the care of his family, a close relative, a third person or a qualified public institution for close supervision and education;

(ii) They may commit the minor to a rehabilitation institution.

When the measure taken is no longer necessary, the court may discontinue it, at the request of the official guardian, the prosecuting attorney or any other interested party, even if the minor in question has not yet reached the age of eighteen (the age of majority). If necessary, the court may decide to keep the minor in the reform school for a maximum period of two years if this action is needed to complete his education and his vocational specialization.

(*d*) *Application of amnesties.* The courts had regularly interpreted article 549 of the Code of Penal Procedure, under which "defendants who have been amnestied may not refuse the benefits of amnesty", as meaning that the defendant could not ask that the proceedings should take their course with a view towards a possible acquittal; amnesty, however — as opposed to acquittal — does not nullify certain consequences of the accusation which are prejudicial to the person in question. The following new sub-paragraph, therefore, has been introduced into article 549:

"The criminal trial shall be continued if the accused or the defendant so requests. In this case, the procedure shall follow the usual rules. If the criminal charge is proved to be unfounded, criminal proceedings will be terminated in the criminal prosecution phase under article 261,[7] (*b*) to (*j*) inclusive, as the case may be, and acquittal will be pronounced at the final judgement; if it is proved that the criminal charge is well founded and that the act is covered by the amnesty, the court will find to that effect and quash the proceedings."

Article 261,[7] (*b*) to (*j*) referred to above, covers those cases where the act charged did not take place, was not committed by the defendant or does not constitute an offence.

The new sub-paragraph has thus enabled the accused or defendant to delete any consequences which may be prejudicial to him in cases where the criminal prosecution taken against him for an act which is later amnestied is proved to be unfounded.

3. *Decree No. 216/1960 to amend the Code of Military Justice* (published in the *Official Bulletin*, No. 10, of 1 July 1960) abrogated all the procedural provisions contained in that code which departed from the general law, so that at present the trial of cases before military courts is in complete conformity with the provisions of the Code of Penal Procedure. The effect of codification has been to standardize the procedural system for all criminal courts in the country (both ordinary and special) and at the same time to broaden the guarantees respecting procedure with a view to ascertaining the truth and to give more opportunities for defence to persons involved in trials within the jurisdiction of the military courts.

4. *Decree No. 226/1969 to amend the Labour Code* (published in the *Official Bulletin*, No. 12, of 21 July 1960) and *decision No. 1050/1960 of the Council of Ministers of the Romanian People's Republic and the Central Trade Union Council respecting the organization and operation of commissions for the settlement of labour disputes* (published in the *Collection of decisions and provisions of the Council of Ministers*, No. 26 of the same date) introduced substantial changes in the procedure respecting the settlement of labour disputes. Under the Labour Code, some labour disputes are settled in first instance by special commissions which sit in undertakings and institutions. These commissions are composed of employees of the undertaking or institution in question who are appointed for one year by the management and by the trade union committee of that undertaking or institution. Before the amendment provided for in decree No. 266/1960 came into force, the decisions handed down by those commissions were reviewed by the higher trade union bodies, without summoning the parties, solely on the basis of reports and possibly new written evidence submitted by the parties.

In order to provide strict guarantee of the rights of the parties, in accordance with the above-mentioned amendments, the task of reviewing the legality and soundness of the decision taken by the commissions which settle labour disputes has been assigned to the trade union committees of the undertakings and institutions themselves, which decide

as courts of appeal, with compulsory summoning of the parties. At the same time, in disputes involving more than 500 lei or reinstatement in employment, under the new rule parties who are dissatisfied with the decision given by the trade union committee can address a final appeal to the People's Court, which will reconsider the dispute. This provides a judicial check on the decisions given by the trade union committees, while ensuring the strict observance of legality in settling labour disputes. In addition, the fact that labour disputes are brought before the people's courts also makes it possible for the Supreme Court to quash a decision which may be illegal by resorting to a petition for review (an extraordinary remedy granted by the Attorney-General of the Romanian People's Republic against final, although illegal or unfounded, decisions pronounced by the courts).

Decision No. 1050/1960 lays down detailed rules of procedure to be followed before the commissions for the settlement of labour disputes and provides for a number of guarantees respecting procedure which are very similar to the rules included in the Code of Penal Procedure. The latter rules are applicable before the people's courts when examining labour disputes.

III. GUARANTEE OF THE RIGHT TO WORK AND THE RIGHTS DERIVED FROM LABOUR RELATIONS

(Art. 21, para. (2); art. 23, para. (1); and art. 25, para. (1), of the Universal Declaration of Human Rights)

1. *Decision No. 918 respecting the assignment and placement in industry of graduates of higher educational institutions* (published in the *Collection of decisions and provisions of the Council of Ministers*, No. 28, of 27 July 1960)

This decision of the Council of Ministers regulates the assignment of graduates of higher educational institutions upon completion of their studies to positions of their specialty, taking into account the grades received by them during their studies. Graduates are assigned to positions where they will have an opportunity to add to the theoretical and practical knowledge required in their speciality. When assigning them, their personal interests are also taken into account. The institutions and undertakings to which they are assigned are obliged to hire them and to sign employment contracts with them.

Graduates who do not reside in the locality to which they have been assigned receive, upon reporting to their post, an installation allowance equal to one month's salary, as well as reimbursement for travel expenses from their homes to their place of work for themselves and their families, as well as for costs of moving.

This decision reflects the State's concern to provide employment for those who have successfully completed the courses of higher education.

2. *Decision of the Council of Ministers No. 795/1960* (published in the *Collection of Decisions of the Council of Ministers*, No. 22, of 2 July 1960) establishes new regulations concerning safety and working equipment.

The decision extends the right to receive safety equipment to all wage-earners who work in conditions which are injurious to their health, as well as the right to receive working equipment to all wage-earners who work under conditions involving damage and premature wear-and-tear to their clothing and shoes. Safety equipment is provided free of charge; 50 per cent of the cost of working equipment is borne by the State.

IV. JUDICIAL PRACTICE

(Art. 11 of the Universal Declaration of Human Rights)

1. By decision No. 29 of 23 January 1960, the Supreme Court of the Romanian People's Republic, Criminal Division, admitted the petition for review granted by the Attorney-General of the Romanian People's Republic against criminal verdict No. 1946/1958 of the People's Court of Stalin district, and against penal verdict No. 178/1959 of the Bucharest Court, Third Bench, by which the female defendant, A. O., was convicted of fraud against the public interest. The above decisions were quashed and the case sent back to the first court for retrial because the defendant's right of defence had been disregarded by improperly rejecting the evidence by which she had attempted to prove that the act charged had never been committed.

By decision No. 141/1960, the Supreme Court of the Romanian People's Republic, Criminal Division, admitted the petition for review granted by the Attorney-General of the Romanian People's Republic against criminal judgement No. 2435/1959 of the People's Court of Oradea district, which, failing appeal, had become final, considering that the defendant, M. M., had been convicted by default of the crime of aggravated theft, although in summoning the defendant to court on the date on which he had been tried the legal procedure for the service of the summons had not been observed.

V. INTERNATIONAL CONVENTIONS

By decree No. 339/1960, the Romanian People's Republic acceded to the Convention on the Nationality of Married Women, adopted on 29 January 1957 by the United Nations General Assembly (published in the *Official Bulletin*, No. 20, of 22 September 1960).

SAN MARINO

NOTE

The Secretariat of State for Foreign Affairs of San Marino has communicated to the Secretariat of the United Nations that no legislative developments concerning human rights took place in San Marino during 1960.

SENEGAL

CONSTITUTION OF THE REPUBLIC OF SENEGAL

As revised by Act No. 60-045 of 26 August 1960[1]

PREAMBLE

The people of Senegal formally proclaims its independence and its devotion to fundamental rights, as defined in the Declaration of the Rights of Man and of the Citizen of 1789 and in the Universal Declaration of 10 December 1948.

It proclaims inviolable respect for and guarantee of: political freedoms; trade union freedoms; the rights and freedoms of the human person, the family and the local community; philosophical and religious freedoms; the right to private and collective property; economic and social rights.

THE PEOPLE OF SENEGAL:

Anxious to prepare the way for the unity of the African States and to ensure the advantages promised by such unity,

Aware of the need for the political, cultural, economic and social unity essential to the assertion of the African personality,

Aware of the historical, moral and material imperatives which unite the States of West Africa,

Decides:

That the Republic of Senegal will spare no effort to achieve African unity.

Title I

THE STATE AND SOVEREIGNTY

Art. 1. The republic of Senegal is a secular, democratic and social State. It ensures equality before the law for all its citizens without distinction as to origin, race, sex or religion. It respects all religious faiths.

. . .

The principle of the republic is government of the people, by the people and for the people.

Art. 2. National sovereignty shall be vested in the Senegalese people, which shall exercise it through its representatives. The people may, in addition, exercise it by way of referendum.

No section of the people, nor any individual, may assume the exercise of sovereignty.

Suffrage may be direct or indirect. It shall at all times be universal, equal and secret.

All Senegalese nationals of both sexes who are of full legal age and in full possession of their civil and political rights shall be entitled to vote under the conditions determined by law.

Art. 3. Political parties and groups shall take part in the process of the suffrage. They may be formed and engage in their activities under the conditions prescribed by law. They must respect the principles of national sovereignty and democracy.

Art. 4. Any act of racial, ethnic or religious discrimination, and any propaganda on behalf of regional interests which is liable to impair the internal security of the State or the territorial integrity of the republic, shall be punishable by law.

. . .

Title II

CIVIL FREEDOMS AND FREEDOMS OF THE HUMAN PERSON

Art. 6. The human person is sacred. The State has a duty to respect and protect it.

The Senegalese people acknowledges the existence of the inviolable and inalienable rights of man as the basis of every human community and of peace and justice throughout the world.

Everyone shall have the right to the free development of his personality, provided that he does not violate the rights of others or act contrary to the rule of law. Everyone shall have the right to life and to physical integrity under the conditions defined by law.

The freedom of the human person shall be inviolable. No one may be convicted of an offence except by virtue of a law which entered into force before the commission of the offence. There shall be an absolute right of defence in all States and at all stages of the proceedings.

Art. 7. All human beings shall be equal before the law. Men and women shall have equal rights.

In Senegal there shall be no subject status or privileged status based on place of birth, person or family.

Art. 8. Everyone shall have the right to express and disseminate his opinions freely in oral, written or pictorial form. Everyone shall have the right to receive an education, unhindered and from sources accessible to all. These rights shall be subject to

[1] Published in *La Justice au Sénégal*, and furnished by the Government of Senegal.

the limitations imposed by laws and regulations and by respect for the good name of others.

Art. 9. All citizens shall have the right freely to establish associations and societies, provided that they observe the formalities prescribed by laws and regulations.

Groups the aims or acitivites of which are contrary to the penal laws or are directed against law and order shall be prohibited.

Art. 10. The secrecy of correspondence and of postal, telegraphic and telephonic communication shall be inviolable. Restrictions on such inviolability may be imposed only by law.

Art. 11. All citizens of the republic shall have the right to freedom of movement and of residence throughout the Republic of Senegal. This right may be restricted only by law. No persons may be subjected to security measures except in cases provided for by law.

Art. 12. The right to property, both individual and collective, shall be guaranteed by the present constitution. This right may be overriden only in a case of legally recognized public necessity and subject to the payment, in advance, of fair compensation.

Art. 13. There shall be inviolability of residence.

A search of premises may be ordered only by a judge or other authority designated by law. Such search may be carried out only in the form prescribed by law. Measures infringing or restricting inviolability of residence may be taken only in order to ward off a collective danger or to protect persons whose lives are in jeopardy.

Such measures may also be taken, as provided by law, in order to guard against immediate threats to law and order, and particularly with a view to lessening the risk of epidemics or protecting young people who are in danger.

Marriage and the Family

Art. 14. Marriage and the family constitute the natural and ethical basis of the human community. They shall be protected by the State.

The State and the community have the social duty of safeguarding the physical and moral health of the family.

Art. 15. Parents have the natural right and the duty to bring up their children. They shall be supported in that task by the State and by the community.

Young people shall be protected by the State and the community against exploitation and moral neglect.

Education

Art. 16. The State and the community shall establish the prior conditions and the public institutions that will ensure the education of children.

Art. 17. The education of young people shall be provided by public schools. Religious institutions and communities shall also be recognized as means of education.

Art. 18. Private schools may be opened with the authorization and under the supervision of the State.

Religion and Religious Communities

Art. 19. Freedom of conscience and the free profession and practice of religion shall be guaranteed to all, subject to the requirements of law and order.

Religious institutions and communities shall have the right to develop without hindrance. They shall be exempt from state supervision. They may regulate and administer their affairs in independence.

Work

Art. 20. Everyone shall have the duty to work and the right to obtain employment. No one may, in his work, be subject to discrimination because of his origin, opinions or beliefs.

Every worker may join a trade union and defend his rights through trade union action.

The right to strike is recognized. It shall be exercised in conformity with the laws by which it is governed. It shall in no case impair freedom of employment.

Every worker shall participate, through his representatives, in the determination of working conditions.

The conditions for the assistance and protection afforded by society to workers shall be determined by special laws.

. . .

Title V

THE NATIONAL ASSEMBLY

. . .

Art. 32. The deputies to the National Assembly shall be elected by direct universal suffrage for a maximum term of five years.

. . .

Art. 36. . . . No instructions given by electors to deputies shall be valid.

. . .

Title VIII

TREATIES AND INTERNATIONAL AGREEMENTS

. . .

Art. 57. If the Supreme Court has declared that an international commitment contains a clause contrary to the Constitution, authorization for its ratification or approval may not be granted until the Constitution is revised.

Art. 58. Treaties or agreements duly ratified or approved shall, from the time of their publication,

have authority greater than that of the laws, provided that the agreement or treaty in question is applied by the other party thereto.

Title IX

THE JUDICIARY

Art. 59. The Judiciary is an authority independent of the Executive and of the Legislature.

Art. 60. . . .

Judges of the Bench shall have fixity of tenure.

Art. 61. No one may be arbitrarily held in custody. The Judiciary, as the guardian of individual freedom, shall ensure respect for this principle, under the conditions prescribed by law.

Art. 62. On application by the President of the republic, the Supreme Court of the republic shall, as one of its duties, determine the constitutionality of laws and of international commitments.

. . .

Title XII

TRANSITIONAL PROVISIONS

. . .

Art. 70. The laws and regulations currently in force shall, unless they are contrary to the present constitution, remain in force until they are amended or rescinded.

SOMALIA

CONSTITUTION OF THE SOMALI REPUBLIC of 1 July 1960[1]

PREAMBLE

IN THE NAME OF GOD, THE COMPASSIONATE AND MERCIFUL, THE SOMALI PEOPLE,

Conscious of the sacred right of self-determination of peoples, solemnly proclaimed in the Charter of the United Nations;

Firmly resolved to strengthen and safeguard the independence of the Somali nation and its peoples' right to freedom in a democracy based on popular sovereignty and on the equality of rights and responsibilities of all citizens;

. . .

In constituting itself as a unitary, sovereign and independent republic, bases the juridical and social order of the Somali nation upon the following.

CONSTITUTION

PART ONE
GENERAL PRINCIPLES

Art. 1. — *The Republic*

1. Somalia is an independent and fully sovereign State. It is a unitary representative democratic republic. The Somali people is one and indivisible.

2. Sovereignty is vested in the people who shall exercise it in the forms prescribed in the Constitution and laws. No section of the people and no individual may claim sovereignty or assume the right to exercise it.

. . .

Art. 2. — *The People*

1. The people shall consist of all citizens.

2. The law shall specify the ways in which citizenship may be acquired and forfeited.

3. No one may be denied citizenship or deprived thereof on political grounds.

Art. 3. — *Equality of Citizens*

All citizens, without distinction as to race, national origin, birth, language, religion, sex, social or economic status, or opinion shall have equal rights and responsibilities before the law.

. . .

Art. 5. — *Supremacy of the Law*

. . .

2. Administrative acts inconsistent with the law and legislative acts inconsistent with the Constitution may be rendered null and void at the instance of the persons concerned in accordance with the provisions of the Constitution.

. . .

Art. 7. — *Human Rights*

The Somali Republic shall comply, in so far as applicable, with the Universal Declaration of Human Rights adopted by the United Nations General Assembly on 10 December 1948.

PART TWO
FUNDAMENTAL RIGHTS AND DUTIES OF THE CITIZEN

Art. 8. — *Right to Vote*

1. All citizens who possess the qualifications prescribed by law shall have the right to vote.

2. The vote shall be personal, equal, free and secret.

Art. 9. — *Right of Access to Public Office*

1. All citizens who possess the qualifications prescribed by law shall have the right of access to public office on equal terms.

Art. 10. — *Right of Petition*

1. All citizens shall have the right to address written petitions to the President of the republic, the National Assembly and the Government.

2. Every petition which is not manifestly unfounded shall be considered.

Art. 11. — *Right of Residence*

1. All citizens shall have the right to reside and travel freely in any part of the national territory and shall not be subjected to deportation.

2. All citizens shall have the right to leave the national territory and to return thereto.

[1] Published in the *Bollettino Ufficiale della Repubblica Somala*, year 1, No. 1, of 1 July 1960. According to one of its transitory provisions, the constitution was to enter into force provisionally on 1 July 1960 and was to be voted on in a referendum within one year from that date.

Art. 12. — *Right of Political Association*

1. All citizens shall have the right to associate in political parties, without prior authorization, for the purpose of co-operating peacefully and democratically in the formulation of national policy.

2. Political parties and associations which are secret, have an organization of a military character or have a tribal denomination, shall be unlawful.

Art. 13. — *Right to form Trade Unions*

1. All citizens shall have the right to form trade unions or to join them for the protection of their economic interests.

2. Trade unions organized according to democratic principles shall have a juridical personality in keeping with the law.

3. Trade unions having a juridical personality may negotiate collective labour contracts that shall be binding on their members.

Art. 14. — *Right to Economic Initiative*

1. All citizens shall have the right to economic initiative under the law.

2. The law may govern the exploitation of the economic resources of the national territory.

Art. 15. — *Duty of Loyalty to the Homeland*

1. All citizens are required to be loyal to the State.

2. The defence of the homeland shall be the duty of all citizens.

3. Military service shall be governed by law.

PART THREE
FUNDAMENTAL HUMAN RIGHTS AND DUTIES

Title I
RIGHTS PERTAINING TO FREEDOM

Art. 16. — *Right to Life and to Personal Integrity*

1. Every person shall have the right to life and to personal integrity.

2. No arbitrary limitations may be placed on such rights.

3. The law may prescribe the death penalty only for the most serious crimes against human life or the State.

Art. 17. — *Personal Freedom*

1. Every person shall have the right to personal freedom.

2. Subjection to any form of slavery or servitude shall be punishable as a criminal offence.

3. No person may be liable to any form of detention or other restriction on his personal freedom except when apprehended *in flagrante delicto* or on an order from the competent judicial authorities accompanied by a statement of reasons and then only in the cases and in the manner prescribed by law.

4. In cases of urgent necessity explicitly defined by law, the competent administrative authorities may adopt provisional measures which shall be communicated forthwith to the competent judicial authorities and confirmed by them within the time-limits and in the manners prescribed by law, failing which such measures shall be deemed to have been revoked and shall be void.

5. In each case of detention or other restriction on personal freedom the reasons for the measure shall be communicated forthwith to the person concerned.

6. No person may be subjected to security measures except in the cases and in the manners prescribed by law and on an order from the competent authorities accompanied by a statement of reasons.

7. No person may be subjected to inspection or personal search except in the cases and under the conditions specified in paragraphs 3, 4 and 5 above, and in the other cases and manners prescribed by law for judicial, public health or fiscal purposes. In every case propriety and the moral dignity of the person shall be respected.

Art. 18. — *Safeguards in Cases of Restriction on Personal Freedom*

Any physical or moral violence against persons subjected to restrictions on their personal freedom shall be punishable as a criminal offence.

Art. 19. — *Extradition and Political Asylum*

1. Extradition may be ordered only in the cases and in the manners prescribed by law and as provided for by international conventions.

2. No person may be extradited for political offences.

3. Any alien persecuted in his own country for political offences shall have the right of asylum in the territory of the State in the cases and under the conditions prescribed by law.

Art. 20. — *Limits to Personal Levy and Estate Taxes*

No personal levy or estate tax may be imposed except as provided by law.

Art. 21. — *Inviolability of the Home*

1. Every person shall have the right to inviolability of his home.

2. No inspection, search or seizure may be carried out in the home or in any other place reserved for personal use except in the cases and under the con-

ditions specified in article 17, paragraphs 3, 4 and 5, and in the other cases in the manners prescribed by law for judicial purposes.

3. Inspections for public health, safety or fiscal purposes shall be carried out only in the cases and in the manners prescribed by law.

Art. 22. — *Freedom of Correspondence*

1. Every person shall have the right to freedom and secrecy of written correspondence and of any other means of communication.

2. No limitation may be imposed thereon except in the cases and under the conditions specified in article 17, paragraphs 3, 4 and 5, and in the other cases and in the manners prescribed by law for judicial purposes.

Art. 23. — *Equality of Social Dignity*

All persons are of equal social dignity.

Art. 24. — *Property*

1. The right to property shall be guaranteed by law, which shall determine the manners in which it may be acquired and the extent to which it may be used, with a view to ensuring its social function.

2. Property may be expropriated only in the public interest and in the manners prescribed by law, against equitable and prompt compensation.

Art. 25. — *Freedom of Assembly*

1. All persons shall have the right to assemble in a peaceful manner and for peaceful purposes.

2. The law may require prior notice of public meetings to be given to the authorities, who may prohibit them only in the interests of public health, safety, morality, order or security.

Art. 26. — *Freedom of Association*

1. Every person shall have the right freely to form associations without authorization.

2. No person may be compelled to join or to continue to belong to an association of any kind.

3. Secret associations or associations having an organization of a military character shall be unlawful.

Art. 27. — *Right to Strike*

The right to strike is recognized and may be exercised within the limits prescribed by law. Any act tending to discriminate against or to restrict the free exercise of trade union rights shall be unlawful.

Art. 28. — *Freedom of Opinion*

1. Every person shall have the right freely to express his opinion in any manner, subject only to such limitations as may be prescribed by law for the purpose of safeguarding morality and public security.

2. Expressions of opinion may not be subject to licensing or to preventive censorship.

Art. 29. — *Freedom of Religion*

Every person shall have the right to freedom of conscience and freely to profess his own religion, to practise it and to teach it, subject only to such limitations as may be prescribed by law for the purpose of safeguarding morality, public health or order.

Art. 39. — *Personal Status*

1. Every person shall have the right to a personal status in accordance with the respective law or custom.

2. The personal status of Moslems shall be governed by the general principles of the Islamic Sharia.

Title II

SOCIAL RIGHTS

Art. 31. — *Protection of the Family*

1. The State shall protect the family, founded on marriage, as the basic element of society.

2. Parents shall support, bring up and educate their children as required by law.

3. The law shall make provision for the fulfilment of the obligations referred to in the foregoing paragraph in the event of the death of the parents or their failure to fulfil them owing to incapacity or any other reason.

4. Children who are of age shall be required to support their parents if the latter are unable to provide for themselves.

5. The State shall protect motherhood and childhood and promote the agencies necessary for that purpose.

6. The State recognizes that it is its duty to protect children of unknown parentage.

Art. 32. — *Welfare Agencies*

The State shall promote and encourage the establishment of welfare agencies for the physically handicapped and for abandoned children.

Art. 33. — *Protection of Public Health*

The State shall protect public health and promote health care free of charge for the needy.

Art. 34. — *Safeguarding of Public Morality*

The State shall safeguard public morality in the manner prescribed by law.

Art. 35. — *Public Education*

1. The State shall promote education as a fundamental interest of the community and shall provide for the institution of state schools open to all.

2. Primary education in public schools shall be free.

3. Freedom of teaching shall be guaranteeed by law.

4. Associations and private individuals shall have the right to establish schools and educational institutes in accordance with the law and without financial support from the State.

5. Private schools and educational establishments may have parity of status with state schools and establishments may have parity of status with state schools and establishments as laid down by law.

6. Instruction in the Islamic religion shall be compulsory for pupils of the Islamic faith in primary and secondary state schools and in schools with parity of status. The teaching of the Sacred Koran shall be a fundamental requirement in state primary and secondary schools for Moslems.

7. Institutions of higher learning shall have their own autonomous statutes within the limits defined by law.

Art. 36. — *Protection of Labour*

1. The State shall protect labour and promote it in all its forms and applications.

2. Forced and compulsory labour of any kind shall be unlawful. The cases in which labour may be ordered for reasons of military or civil necessity or as a result of a conviction for a criminal offence shall be governed by law.

3. All workers without discrimination shall have the right to equal remuneration for work of equal value such as will ensure an existence worthy of human dignity.

4. All workers shall have the right to a weekly rest and annual holidays with pay and may not be compelled to forgo them.

5. The law shall specify the maximum duration of the working day and the minimum age for various types of work and shall ensure that minors and women work only in suitable conditions.

6. The State shall protect the physical and moral integrity of workers.

Art. 37. — *Social Assistance and Social Security*

1. The State shall promote social assistance and social security by means of legislation.

2. The State shall guarantee the right of its civilian and military employees to a pension, it shall also guarantee them assistance in the event of accident, sickness or disability, in accordance with the law.

Title III

JURISDICTIONAL GUARANTEES

Art. 38. — *Right of Legal Redress*

Everyone shall have the right to institute legal proceedings, on a basis of complete equality, before a judge preordained by law.

Art. 39. — *Safeguards against Administrative Abuse*

Judicial remedies may be applied against acts by the public administration in all instances in accordance with the procedure and with the effects prescribed by law.

Art. 40. — *Civil Responsibility of the State for Acts by Its Employees*

1. Any person who suffers injury as a result of acts or omissions which violate his rights and for which officials or employees of the State or of public bodies are responsible in the performance of their duties shall be entitled to compensation from the State or from the public bodies concerned.

2. The penal, civil and administrative responsibility of officials and employees for the acts or omissions referred to in the foregoing paragraph shall be governed by law.

Art. 41. — *Right of Defence*

1. The right of defence shall be granted at every stage and level of judicial proceedings.

2. The State shall guarantee legal assistance free of charge to needy persons in the conditions and according to the procedure provided by law.

Art. 42. — *Non-retroactivity of Penal Law*

No person may be held guilty on account of any act which was not punishable as a criminal offence under the law in force at the time when it was committed, nor may a heavier penalty be imposed than the one that was applicable at that time.

Art. 43. — *Criminal Responsibility*

1. Criminal responsibility is personal. Collective punishment shall be unlawful.

2. An accused person shall be presumed innocent until final sentence has been passed.

Art. 44. — *Social Function of Punishment*

Penalties involving a restriction of personal freedom may not take the form of inhumane treatment or treatment likely to impede the moral rehabilitation of the convicted person.

. . .

PART FOUR
ORGANIZATION OF THE STATE

Title I
NATIONAL ASSEMBLY

Section I
ORGANIZATION OF THE NATIONAL ASSEMBLY

. . .

Art. 51. — *National Assembly*

1. The National Assembly shall be composed of deputies elected by universal, free and direct suffrage and secret ballot, and of *ex-officio* deputies.

. . .

3. All citizens who possess the right to vote and who are at least twenty-five years of age in the election year shall be eligible for the office of deputy. The grounds for ineligibility and the functions incompatible with the office of deputy shall be laid down by law.

4. Over and above the number of elected deputies, any person who has been President of the republic shall be an *ex-officio* deputy for life, provided that he has not been convicted of any of the criminal offences referred to in article 76, paragraph 1.

. . .

Art. 58. — *Deputies*

1. A deputy shall represent the people and exercise his functions without being bound by a mandate.

. . .

Title II
THE PRESIDENT OF THE REPUBLIC

Art. 70. — *Election*

. . .

2. The President of the Republic shall be elected by the National Assembly by a secret vote and by a two-thirds majority on the first and second ballots. A simple majority shall suffice in subsequent ballots.

. . .

Art. 71. — *Qualifications for Eligibility*

1. Any Moslem citizen born of parents who are original citizens, who is entitled to vote and has attained the age of forty-five shall be eligible for the office of President of the republic. Consecutive re-election shall be allowed only once.

2. The President of the republic must not have married, or marry during his term of office, women who are not original citizens.

3. During his term of office, the President of the republic may not exercise any public functions apart from the right to vote, or engage in any professional, commercial, industrial or financial activity.

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Title IV
THE JUDICIARY

. . .

Art. 93. — *Independence of the Judiciary*

The judiciary shall be independent of the executive and legislative powers.

. . .

Art. 96. — *Judicial Guarantee*

1. In the exercise of the judicial function, judges shall be subject only to the law.

. . .

3. Judges shall be irremovable except in the cases prescribed by law.

4. Judges may not hold offices, perform services or engage in any activity incompatible with their functions.

. . .

Art. 97. — *Judicial Procedure*

1. Judicial proceedings shall be public; nevertheless, a judge may decide, in the interests of morality, public health or order, that the proceedings shall be closed.

2. No judicial decision may be handed down unless all the parties have had an opportunity to state their cases and to present their defence.

3. All judicial decisions and measures involving deprivation of personal freedom must be substantiated and shall be subject to appeal in accordance with the law.

. . .

PART FIVE
CONSTITUTIONAL GUARANTEES

Title I
CONTROL OVER THE CONSTITUTIONALITY OF LEGISLATION

Art. 98. — *Constitutionality of Laws*

1. Laws and measures having force of law shall be consistent with the provisions of the Constitution and the general principles of Islam.

2. The constitutionality of a law or of a measure having force of law may be challenged in respect of form or substance by the party concerned, by the *pubblico ministero* or by a competent authority in the course of legal proceedings where even a partial decision depends upon the application of the disputed legislative provision.

3. If the party concerned or the *pubblico ministero* submits the challenge while the case is before a judge of the first or second instance, and provided that the challenge is not manifestly groundless, the judge shall suspend the proceedings and refer the case to the Supreme Court for an interlocutory decision, with which he shall be in duty bound to comply.

4. If the challenge is submitted when the case is already before the Supreme Court, the court may suspend judgement and proceed in accordance with article 99 provided that it does not deem the challenge to be manifestly groundless.

Judges of the first and second instance and the Supreme Court shall proceed in the same manner when raising a question of constitutionality *ex officio*.

Art. 99. — *Constitutional Court*

1. Questions of constitutionality shall be decided by the Supreme Court sitting as the Constitutional Court with the addition of two members appointed for a term of three years by the President of the republic, on the proposal of the Council of Ministers, and of two members elected by a simple majority for the same term by the National Assembly.

2. The qualifications of the additional members shall be prescribed by law.

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Title III

REVISION OF THE CONSTITUTION

. . .

Art. 105. — *Limitations on Revision*

The revision procedure specified in the foregoing article may not be applied for the purpose of altering the republican and democratic form of the State or for restricting the fundamental rights and freedoms of citizens and the fundamental human rights and freedoms guaranteed by the Constitution.

. . .

ACT No. 9, OF 12 FEBRUARY 1960, ON SOMALI CITIZENSHIP[1]

Title I

ACQUISITION OF CITIZENSHIP

Art. 1. — *Acquisition of Citizenship "By Birth"*

A person whose father is a citizen shall be a citizen by birth.

Art. 2. — *Acquisition of Citizenship "By Law"*

Children of Somali Fathers

A person who, being the child of a Somali father, is of age and a citizen or subject of another State or stateless, may acquire Somali citizenship "by law", provided that he has taken up permanent residence in Somali territory and has renounced all the attributes which he formerly possessed as a citizen or subject of a foreign State. Such renunciation shall be made by means of a public declaration before the district judge competent for the area in question.

Art. 3. — *Acquisition of Citizenship "By Grant"*

Aliens and Stateless Persons

Except as otherwise provided in article 2 with respect to the children of Somali fathers, who are not citizens, aliens and stateless persons may be granted Somali citizenship upon an application made by them, provided that:

(*a*) They are of age;

(*b*) They have established their residence in the territory of Somalia for not less than ten years;

(*c*) They have a record of good moral and civil conduct;

(*d*) They have not engaged in any activity prejudicial to the independence of Somalia;

(*e*) They declare, according to the formalities provided in article 2, second paragraph, that they are willing when taking the oaths laid down in article 7 to renounce all the attributes which they may possess as citizens or subjects of a foreign State.

Art. 4. — *Acquisition of Citizenship "By Grant"*

To aliens and stateless persons under special conditions: Except as otherwise provided in the last-preceding article, Somali citizenship may be granted after only five years of residence in the territory of Somalia to an alien or stateless person who:

(*a*) Was born in the territory of Somalia of parents who had been residing there for not less than five years at the time of his birth;

(*b*) Was born of a Somali mother, even if she is not a citizen;

(*c*) Has rendered distinguished service for not less than three years in a department of the Public Administration in the territory of Somalia since 31 March 1950;

(*d*) Has made a noteworthy contribution to the political, economic, social and cultural development of Somalia.

Art. 5. — *Award of Honorary Citizenship*

Apart from the conditions laid down in the preceding articles of this Act, Somali citizenship may be awarded to a person who has rendered outstanding service to Somalia.

Honorary citizenship shall not entail the enjoyment of political rights or any obligation to perform military service. It shall not extend to family members.

[1] Published in *Bollettino Ufficiale della Somalia*, 4th year, No. 2, supplement No. 4, of 18 February 1960. The Government of the Somali Republic has written that: "As regards Somali citizenship, there is as yet no integrated law applicable to the whole territory of the Somali Republic. Act No. 9 of 1960 was passed before independence and applies only to the southern regions of the republic, formerly known as Somalia under Italian administration."

Art. 6. — *Formalities for conferring Citizenship "By Grant"*

Citizenship "by grant", as provided in articles 3, 4 and 5 of this Act, shall be conferred by a decree of the Head of State, acting in consultation with a commission composed of a chairman and twelve members, all of whom shall be appointed by the Council of Ministers, at the proposal of the Minister of the Interior.

. . . .

Art. 7. — *Oath*

In the case of persons who are of age and who have been granted citizenship in accordance with articles 3 and 4, the decree of citizenship shall not take effect unless such persons take an oath to renounce all attributes which they may possess as citizens or subjects of a foreign State and swear allegiance to the State and obedience to the Constitution and other laws.

. . .

Title II

LOSS OF CITIZENSHIP

Art. 8. — *Loss of Citizenship by Renunciation*

The following shall lose citizenship:

(*a*) Persons who, having chosen to reside in a foreign country, voluntarily acquire foreign citizenship or become foreign subjects;

(*b*) Persons who, having chosen to reside in a foreign country and having involuntarily acquired foreign citizenship or become foreign subjects, formally renounce their Somali citizenship;

(*c*) Persons in a foreign country who, having accepted employment from a foreign government or having entered the military service of another State, continue in that employment or service notwithstanding a warning from the Somali Government to withdraw from it within a specific time-limit.

Art. 9. — *Loss of Citizenship through Unfitness*

Citizenship which as been granted as provided in articles 3, 4 and 5 of this Act may be annulled if the person in question is found unworthy thereof.

Such loss of citizenship shall not extend to the wife or children of the person concerned, provided that they remain in Somalia.

Annulment shall be ordered by a decree of the Head of State, in consultation with the commission referred to in article 6.

Title III

RECOVERY OF CITIZENSHIP

Art. 10. — *Conditions for the Recovery of Citizenship*

A person who has lost Somali citizenship may recover it upon an application made by him, provided that he has re-established his residence in the territory of Somalia for not less than three years and proves that he has complied with the other conditions laid down in this Act for the acquisition of citizenship.

In such cases also citizenship shall be conferred by a decree of the Head of State in consultation with the body referred to in article 6.

Title IV

Acquisition, Loss and Recovery of Somali Citizenship by Married Women and Minor Children

Art. 11. — *Married Women*

A woman who is not a citizen shall acquire Somali citizenship upon marrying a citizen. She shall retain it even after the marriage has been dissolved unless she recovers her citizenship of origin by maintaining or transferring her residence abroad.

A woman shall acquire Somali citizenship if, not being a Somali citizen, she marries a man who is not a Somali citizen but subsequently becomes a Somali citizen.

A woman who is a Somali citizen and marries a man who is not a Somali citizen shall lose her Somali citizenship if, by virtue of the marriage, she acquires the nationality of her husband.

A woman who is a Somali citizen and married to a Somali citizen shall, if her husband loses his citizenship, also lose her citizenship unless the husband has become stateless, or unless his new citizenship cannot be extended to her.

A woman who was formerly a citizen but who has lost her citizenship by virtue of marriage may recover it on dissolution of the marriage, provided that there is evidence that she has been resident in the territory of Somalia for not less than one year and that she renounces her foreign citizenship by a public declaration made according to the formalities prescribed in the final paragraph of article 2 of this Act.

The provisions of articles 5 and 9 respecting married women shall not be affected by the foregoing.

Art. 12. — *Minors*

Except as otherwise provided in articles 5 and 9, the minor child of a person who acquires, loses or recovers Somali citizenship shall in all cases take the citizenship of his father.

Notwithstanding the foregoing, he may, within one year of attaining his majority, opt for the citizenship he had at the time of his birth.

Art. 13. — *Majority*

For the purposes of this Act a minor shall be a person who has not completed eighteen years of age.

Nevertheless, for the purposes of articles 2, 3, 4 and 12, the attainment of the majority shall be

determined in accordance with the laws of the State citizenship of which is renounced.

Art. 14. — *Special Categories of Minors*

Somali citizenship shall be granted to minor children of an unknown father and a mother who is a citizen; of unknown parents, who are born in the territory of Somalia.

In the former case citizenship shall be granted upon notification of the birth by the mother or her immediate family; in the latter case, upon notification by the institution or person having care or custody of the child.

Such notification shall be compulsory.

It shall be proved in either case that the minor has not acquired the citizenship or become a subject of another country.

A child of unknown parentage who is found in the territory of Somalia shall be presumed to have been born in the aforesaid territory, failing proof to the contrary.

Title V

TRANSITIONAL PROVISIONS

Art. 15. — *Persons who acquire Citizenship upon the Entry into Force of this Act*

Provided that they are not citizens or subjects of another State, the following categories of person shall acquire Somali citizenship upon the entry into force of this Act:

(*a*) The son of a Somali father who was born in the territory of Somalia;

(*b*) The son of a Somali father who, although not born in the territory of Somalia, has taken up residence there;

(*c*) The daughter of a Somali who was not born in the territory of Somalia, and an alien or stateless woman who is married to a person who complies with one of the conditions laid down in sub-paragraphs (*a*) and (*b*) of this article.

Nevertheless, the daughter of a Somali father, who has married an alien and has acquired the nationality of her husband by virtue of the marriage, shall not acquire Somali citizenship.

Art. 16. — *Persons who acquired Citizenship on 1 February 1958*

Persons who, on 1 February 1958 (the date of the entry into force of Act No. 2 of 1 December 1957), fell within one of the categories specified in sub-paragraphs (*a*) and (*b*) of the article last preceding, are considered for all lawful purposes to have become Somali citizens as from the said date of 1 February 1958.

. . .

Art. 18. — *Repeal of the Act respecting Somali Citizenship on Grounds of Origin*

Act No. 2 of 1 December 1957 is hereby repealed.

. . .

Art. 20. — *Entry into Force of the Act*

This Act shall enter into force upon the date of its publication in the *Bollettino Ufficiale della Somalia.*

THE NATIONALITY AND CITIZENSHIP ORDINANCE, 1960

ORDINANCE NO. 15 OF 1960, ASSENTED TO ON 23 JUNE 1960[1]

2. In this ordinance, unless the context otherwise requires —

"Normally resides" means normally has his home in the Territory of Somaliland and includes a person who from time to time temporarily absents himself from the said territory for the purposes of grazing or herding livestock or in pursuit of his vocation, occupation, employment or education or for recreation;

"Other nationality or citizenship" means the status of a full citizen of a foreign State and does not include the status of a protected person or other status of a like kind;

"Somali" means any person whose mother tongue is the Somali language and who follows Somali customs;

. . .

3. Upon the coming into operation of this ordinance every Somali who does not then possess any other nationality or citizenship, and (*a*) who was born in the Territory of Somaliland; or (*b*) whose father (or in the case of an illegitimate child whose mother) was born in the said territory, shall become a citizen of Somaliland.

4. After the coming into operation of this ordinance, every Somali who shall be born — (*a*) in the territory of Somaliland; or (*b*) of a father (or in the case of an illegitimate child, of a mother) who is a citizen of Somaliland at the time of the child's birth, shall be a citizen of Somaliland.

[1] Text furnished by the Government of the Somali Republic. Published in *Supplement No. 2 to the Somaliland Protectorate Gazette, vol. XX, No. 30, dated 25th June, 1960, containing ordinances.* The ordinance entered into force on 26 June 1960. The Government of the Somali Republic has written that in the northern regions of the republic (formerly known as Somaliland Protectorate) the law applicable to Somali citizenship is ordinance No. 15 of 1960, from which extracts appear above. Concerning the southern regions, see p. 306, footnote 1.

5. (1) Any Somali born before the coming into operation of this ordinance who has not acquired citizenship under section 3 hereof notwithstanding that he possesses the qualifications set out in paragraph (*a*) or (*b*) thereof may apply for registration as a citizen of Somaliland provided that —

(i) At the time of his application he has normally resided in the territory of Somaliland for a continuous period of twelve months immediately prior to such application; and

(ii) He intends to continue normally to reside in the said territory; and

(iii) Either —

(*a*) He has prior to making such application renounced, or

(*b*) He will within six months of the grant to him of such application renounce (in either case so far as he is able to do so) such other nationality or citizenship as he may possess;

Provided that in any case to which (*b*) applies, if the applicant fails (so far as he is able to do so) to make such renunciation during the said period of six months then the grant to him shall become void and of no effect.

(2) The provisions of subsection 1 of this section shall also apply to any person other than a Somali who upon this ordinance coming into operation possesses the qualifications set out in paragraph (*a*) or (*b*) of section 3 hereof.

(3) Applications for the registration as citizens of Somaliland of persons under eighteen years of age may be made on their behalf by their parent or guardian.

(4) Applications for registration under this section shall be granted provided that the requirements of sub-section 1 or 2 of this section, as the case may be, are complied with.

(5) Regulations as to the form of and procedure for such applications shall be made by the Government of Somaliland under this section.

6. Any woman who is at the time of the coming into operation of this ordinance married to or thereafter marries a citizen of Somaliland shall by virtue of such marriage become a citizen of Somaliland unless she at the time of such marriage possesses another nationality or citizenship and does not by virtue of the law applying to such nationality or citizenship lose the same by such marriage, in which case such woman shall be entitled to apply for registration as a citizen of Somaliland upon the conditions set forth in paragraph (iii) of subsection (1) of section 5.

7. A citizen of Somaliland shall lose his citizenship by (*a*) voluntary acquisition of the nationality or citizenship of a foreign State; (*b*) if a woman, upon marriage to a person who at the time of such marriage possesses the nationality or citizenship of a foreign State provided that she thereupon acquires her husband's nationality or citizenship by operation of the law of that State and renounces her Somali citizenship.

SPAIN

NOTE[1]

As has been pointed out in similar reports submitted earlier, all the rights proclaimed in the Universal Declaration adopted by the United Nations are recognized and adequately safeguarded under the present Spanish legal system, the fundamental precepts and tenets of which coincide with the ones on which the Universal Declaration is based.

With more particular reference to the period since 26 July 1960, the date of the last report on this subject,[2] the following provisions concerning, or more or less directly relating to human rights have been enacted:

A. Rights to Freedom, Equality and Safety of the Person

These rights, traditionally embodied in Spanish legislation, were solemnly proclaimed in the Statute of Rights of the Spanish Citizen, of 17 July 1945, which by the Act of 26 July 1947 was declared fundamental law of the State. Another fundamental law of the State, the Act of 17 May 1958, solemnly reiterated the declaration of these rights. Further, in order to provide an effective safeguard for these rights and to ensure that they can be exercised at all times, the Act of 22 December 1960 contained provisions for the regulation of the right of petition which had been recognized and proclaimed in article 21 of the above-mentioned Statute of Rights of the Spanish Citizen.

Under the right of petition, every Spaniard is entitled to apply to the public authorities for action or for decisions on matters within their competence and shall not suffer harm by reason of his exercise of this right. The Act of 22 December 1960 regulates the exercise and effects of this right and provides that if the petition is considered justified general measures may be taken including legislation in order to ensure that the right is fully effective.

With reference to the rights under review, attention should be drawn to the Act of 19 April 1961 which, following the pattern established in the Act of 30 July 1959 concerning the provinces of Fernando Po and Rio Muni, established the juridical organization of the province of Sahara on a basis of complete equality with the other Spanish provinces — save for minor differences justified by the province's special characteristics. Article 7 of the Act, fully respecting the human rights of native-born inhabitants of the province, provides: "The State recognizes the right of Moslem native-born inhabitants to practice the Islamic religion together with its traditional usages and customs."

The right proclaimed in article 13 of the Universal Declaration of Human Rights — freedom of movement and the right to reside in one's own country and to leave it or any other country and return to it — is embodied in the Act of 22 December 1960, article 1 of which declares that every Spaniard has the right to emigrate, subject only to the limitations established by law or necessary for the protection of the emigrant or the higher interests of the nation. This Act, of which the provisions relating to family and employment rights will be considered below, continues and broadens the policies initiated in the Act of 17 July 1956. It maintains the unshakeable principle of the freedom of every Spaniard to emigrate and lays down regulations for the exercise of this right, endowing the emigrant with a legal "status" which ensures his protection in financial, family, spiritual, social and other matters.

The principle of non-discrimination on grounds of sex or marital status in regard to the possession and exercise of political, professional and employment rights, which was proclaimed, in accordance with Spanish tradition, in articles 11 and 24 of the Statute of Rights of the Spanish Citizen, was recently reaffirmed in the Act of 22 July 1961, article 1 of which proclaims that women possess the same rights as men in regard to the exercise of all kinds of political activities, professions and employment, subject only to the limitations established by the Act, which are based on natural facts and circumstances that are self-evident and do not require detailed justification. On the basis of this principle of equality, the Act provides for the special protection to which women are entitled by reason of their sex. Article 4 provides that the types of work from which women are excluded by reason of their heavy, dangerous or unhealthy character shall be specified in regulations.

B. Rights concerning the Family

Family rights occupy a traditionally and exceptionally important place in Spanish law. These rights have been considered at length in earlier reports. During the period under review no special provisions

[1] Note furnished by the Government of Spain. Certain other events of 1960 concerning Spain are dealt with in *Yearbook on Human Rights for 1959*, pp. 260–71.

[2] See *Yearbook on Human Rights for 1959*, pp. 260–71.

have been enacted in this connexion although various orders and decisions of the Ministry of Labour have been issued with reference to the most important statutory provisions. These orders do not affect the fundamental principles, which have been set out in earlier reports.

With regard to family rights, particular reference should be made to the Emigrants' Protection Act of 22 December 1960 mentioned earlier. The legal status established by the Act applies to and protects the families of emigrants as well as the emigrants themselves. Article 15 of the Act, based on the Christian way of life, which is so deep-rooted a Spanish tradition, provides for, or seeks to facilitate, the reunion of emigrants and their families, the latter being provided with protection until such time as they are able to be reunited.

Article 15 provides: "1. The State shall seek to maintain the unity of the family by appropriate action undertaken by the Spanish Emigration Institute directly or in concert with foreign or intergovernmental bodies or bodies connected with the Church or the Movement.

"2. The protection afforded to the family of an emigrant worker after the emigrant leaves the country and until such time as the family is reunited shall include entitlement or continued entitlement, in accordance with the law, to social security benefits; to this end the Spanish Emigration Institute shall undertake the representation of insured persons before the competent social security organs. Until such time as the family is reunited, the Institute shall take steps to ensure that the emigrant provides for his family's needs and, as part of its protective functions, shall where possible seek to meet the children's educational needs through scholarship arrangements in conjunction with official, trade union or recognized vocational training institutions."

C. The Right to work

The particular importance attached to employment rights by the Spanish State is reflected in a series of provisions enacted since the drafting of the report of 26 July 1960.[1]

The most important is the decree of 21 September 1960, which defines the remuneration of labour generally and of labour performed for others. With reference to the latter, the decree defines the scope of the most important portion of such remuneration (wages) and adds to a broad definition of wages a double list of items (statutory minimum rates, long-service bonuses, overtime, special payments, value of services furnished to the worker, value of any board and lodging provided by the employer, family allowances, cost of living bonuses, social security benefits and payments, *per diem* allowances, travel expenses, share of profits, etc.) which, through their inclusion or exclusion, are to be taken into account in the definition of wages. Thus the State, in prescribing statutory minimum rates and financial provisions for social security, the trade unions, in the course of collective bargaining, and individuals in hiring labour on the open market can at all times appreciate the full range of their decisions. The provisions facilitate the orderly administration of enterprises and the satisfactory development of human relations in industry.

Article 1 of the decree states: "For the purposes of this decree, the expression 'remuneration for work' shall be deemed to mean the counterpart of the human effort exerted during, or represented in the results of, the production of goods and servies.

"2. The expression 'remuneration for work' includes not only the emoluments paid in respect of work done by one person for and under the authority of another, but also those received by self-employed persons and those paid to an entrepreneur for his personal activity on behalf of the undertaking he directs.

"3. The remuneration payable for work done by one person for another, which is the subject of this decree, comprises all amounts received in consideration of such work, including, as the basic element, the wage."

Article 2 states: "The expression 'wage' or 'salary' shall mean the remuneration in cash or kind received by one person working for or under the authority of another, whether at time-rates, piece-rates, at specified intervals or for an indefinite period, as the direct and exclusive counterpart of his efforts and the result thereby obtained."

Article 5 defines wages received by persons working for employers and provides: "1. The total payments received by one person working for another must be sufficient to provide a decent living for himself and any members of his family who are dependent on him. Subject to this condition, the wage shall always be proportionate to the output and effort of the person concerned.

"2. When the compulsory wage, its contractual supplements and any other elements of wages are fixed, an indication shall be given, wherever possible, of the output necessary for payment to be made."

Lastly, article 13 provides that any provision regulating wages subsequently enacted or ordered shall specify the hourly wage rate applicable in virtue thereof to each occupational category concerned. The hourly wage rate shall be taken to mean the amount obtained by dividing the total earnings regarded as elements of wages by the actual number of hours that have to be worked during the period of time corresponding to those earnings.[2]

[1] See *Yearbook on Human Rights for 1959*, pp. 260–71.

[2] Translations of the decree into English and French have been published by the International Labour Office as *Legislative Series* 1960 — Sp.2.

In application of the decree, the Ministry of Labour's order of 8 May 1961 defines the terms time-rate, occupational hourly wage, individual hourly wage, occupational annual wage, and individual annual wage. The order establishes and lays down regulations for a "system of incentives". Article 31 provides that the scale for such incentive payments must be such that a worker of normal skill and good efficiency can earn more than he would be paid on a time-rate. The scales must be clear and simple so that workers can easily calculate how much pay they are entitled to. Under article 32 the following factors must be taken into account in establishing incentive scales:

1. Degree of mechanization in the industry;
2. The physical effort and care required;
3. The skill required for the work;
4. The arduous or other special character of the work to be done;
5. The danger of the work;
6. The surroundings in which the work is to be performed;
7. The quality of the materials;
8. The economic importance of the work;
9. Any other circumstances similar in character to the foregoing.

Concern with the human factor in labour matters, which is reflected throughout Spanish labour legislation, is particularly evident in the Ministry of Labour decrees Nos. 1119 and 1156, of 2 June 1960. Under these decree boys and girls who have not attained the age of fourteen years and young persons under the age of sixteen years not in possession of the primary education certificate shall not be employed as domestic servants, and young persons under eighteen shall not be employed in any form of night work — i.e., in any type of work performed between 8 p.m. and 7 a.m. These prohibitions are not innovations in Spanish labour law, for they have been in effect for many years. The provisions in question were specifically enacted to give effect to International Labour Convention No. 6, which has been duly ratified by Spain.

In connexion with the employment rights proclaimed in article 23 of the Universal Declaration of Human Rights and reaffirmed and recognized as fundamental in the Spanish legal system, particular reference should be made to a series of provisions which, although not new in substance, have been enacted to give effect to the Convention concerning the Organization of the Employment Service adopted by the General Conference of the International Labour Organisation — of which Spain is a member — on 9 July 1948. They are: the order of 4 October 1960 organizing the placement and unemployment service of the Ministry of Labour, which comprises three sections; the prevention of unemployment section, the employment and placement section, and the employment stoppages section; and the order of 13 June 1961 which organizes and regulates the provincial employment services, which have broad responsibilities in regard to the placement and training of workers, the prevention and absorption of unemployment, taking labour censuses, statistics and vocational guidance.

Provision has been made for the risk incurred by persons who for causes beyond their control are unable to exercise their right to work, although fit to do so: This risk is covered by the recent Act of 22 July 1962 which established unemployment insurance and issued the relevant regulations. The Act consolidates a series of earlier enactments which partially and to a limited extent had a similar purpose in view, such as the decrees of 26 November 1959 and the order of 11 December 1959 which provided a special unemployment benefit for cases of emergency and regulated the payment and amount of the benefit.

The Act of 22 July 1961 does not, as might wrongly be supposed, reflect a policy resulting from a shortage of employment opportunities in Spain. On the contrary, it is based on a policy to bring about conditions that would lead to wealth and employment, for the insurance is not intended as a brake, but as an incentive to national development and the raising of the level of living of all Spaniards. As was noted above, the Act is an outgrowth of the earlier enactments concerning unemployment benefits, and the introduction of the system on a national and comprehensive scale represents a highly important step forward in the completion of the Spanish State's social security plan.

Unemployment insurance is provided for the benefit of persons able and willing to work who lose their employment and also their wages. It does not therefore cover persons who stop work voluntarily or who are dismissed because of a fault on their part (article 1). The protection provided by the insurance takes the form of payments, up to certain limits, to replace the income lost through unemployment and, where necessary, appropriate assistance in finding new employment (article 2). The insurance covers short-time work as well as complete unemployment. The benefits available are payable to foreign workers employed by Spanish undertakings, on the same terms as Spanish workers, without prejudice to any reciprocal arrangements that may be embodied in international agreements (article 6). The insurance is financed by joint contributions by employers, workers and the State (article 14). It is managed and administered by the National Insurance Institute, which is the body responsible for the management of the social security system, whose experience in this field is outstanding.

A particularly important place in this branch of social security is occupied by the decree of 13 April

1961, which reorganized and broadened the earlier legislation on insurance against industrial diseases. Under article 2 of the decree, such insurance can be extended by a ministerial order to include other diseases caused by employment and other industrial diseases as they come to light. The decree covers the prevention of industrial diseases as well as all possible risks to workers resulting from such diseases. Of particular interest is the establishment by the decree of the Social Institution for the seriously disabled and orphans of persons who have died as a result of industrial accidents or diseases. The Institution is intended to assist: (*a*) the seriously disabled, their children under the age of 18 years and the children of persons in receipt of pensions for permanent, total or absolute disability resulting from industrial diseases or accidents; (*b*) the orphans and widows of workers who have died as a result of industrial diseases or accidents.

The benefits provided by the Institution may be supplementary to the statutory medical and pharmaceutical assistance to which the beneficiaries are entitled or in the form of assistance in cash or in kind, as for example hospitalization in an appropriate medical establishment. Assistance to the children and orphans of the seriously disabled and of persons injured by industrial accidents consists in the provision of primary or vocational education by means of financial aid while the child is at home, placement in a boarding school, or maintenance grants to cover the cost of the child's food, medical care and clothing. Orphans covered by the scheme are given preferential consideration in the award of scholarships to labour universities and vocational training centres and other scholarships awarded by the trade union organization and educational bodies. Where conditions in the applicant's home are unusually difficult, special grants may be made, either in cash or in kind.

Lastly, while discussing the right to employment, mention must be made of the Act of 22 December 1960 to regulate the emigration of Spanish workers. Apart from establishing the legal status of emigrants, as was mentioned earlier, with particular reference to the nature of the employment, the Act makes the Spanish Emigration Institute responsible in what is called the "preparatory phase of emigration" for entering into direct contact with foreign employers and organizations seeking Spanish workers, to ensure that the individual and collective contracts of employment are not contrary to the interests of the workers. The Institute is also responsible for promoting the vocational training and preparation of emigrants so that they can make the fullest use of their abilities, for their own profit and in the interest of the country of immigration. The Institute may request and make arrangements for the technical and financial co-operation of the undertakings concerned and the competent national and international organizations, both public and private. The Institute is also responsible for assisting emigrants to obtain funds and tools and to transfer money to their families in Spain. It also provides assistance in travelling to and settling in the country of immigration and may propose appropriate loan arrangements to the government, in conjunction with the savings and loan institutions.

D. The Right to Education

This human right, which is proclaimed in article 26 of the Universal Declaration of the United Nations is fully established, regulated and guaranteed in the Spanish legal system.

The fundamental provisions have been examined in earlier reports furnished by this department for purposes similar to that of the present report. Since those reports were written, there has been a certain number of enactments reaffirming the tenor of the earlier provisions and applying them to specific cases. Thus for example the Ministry of Labour's decree of 2 June 1960, to which reference was made above, prohibits the employment in domestic service of young persons under 16 years of age not in possession of the primary education certificate.

A measure of particular importance is the decree of 24 November 1960 to approve the organic regulations for the labour universities, which is similarly intended to confirm existing provisions and improve them in the light of experience. The labour universities, which were set up by the Act of 11 May 1959, have as their specific function the vocational and technical training of Spanish workers and the improvement of their general educational and cultural level so that they may be qualified for any position in society. The labour universities have the status of non-state public institutions and, for academic purposes, enjoy the status and benefits accorded by the education laws to non-state centres recognized by the State. They also enjoy the statutory advantages possessed by approved educational foundations.

The labour universities provide vocational and technical education in the form and at the levels specified by the Act; organize further training and vocational retraining courses on a normal or accelerated basis for adult workers and disabled workers capable of rehabilitation; encourage, through the award of grants, the education of students in other institutions of intermediate and higher education; develop programmes of post-graduate training; conduct vocational and social training courses for adult workers; and seek to extend the influence of the university in its area by appropriate extra-mural cultural programmes. This list of activities may be expanded as a result of future amendments of the legislation governing the various branches of education, the nation's needs for skilled workers and technicians, the development of the labour universities and their plans and the progress made in the work entrusted to them.

The courses offered in each of the various subjects in the labour universities may be divided into two categories:

1. Regulated courses, including vocational, industrial and agricultural training; elementary and higher labour certificate; intermediate and higher technical training; cultural and social training; courses in other subjects which may hereinafter be introduced.

2. Non-regulated courses for the training of specialized workers and technicians to meet the needs of national and regional production and for the advanced vocational and social training of adult workers.

The labour universities are open to Spanish workers generally, and also to the families of workers enrolled in compulsory social insurance schemes which contribute to the establishment and maintenance of the universities. Other students may be enrolled under scholarship arrangements or admitted freely, subject to payment of the necessary fees and within the limits of the quotas annually established by the Ministry of Labour.

In order to further the accomplishment of their purposes, the labour universities are constituted as bodies corporate and possess their own funds. Their governing bodies consist of a board and a rector. The faculty council and financial and administrative committee serve as advisory and consultative bodies. In order to develop their educational functions, the universities have the following advisory, co-ordinating and executive educational bodies: a council of studies, section committees, departmental committees, a cultural training committee, study hall and services committees, including psycho-technical services, audio-visual media and cultural extension services — which are concerned with meeting the training requirements of the regulated courses and the extension of the university's educational function in the area allotted to it — and the medical service, which is responsible for looking after the health of all the university personnel and maintaining the general state of the hygiene of the premises.

In the case of regulated courses, the Ministry of National Education is responsible for issuing diplomas to the students of labour universities. In the case of non-regulated subjects, the university concerned is responsible for issuing certificates to its students to show that they have completed their courses.

SUDAN

THE PASSPORTS AND IMMIGRATION ACT, 1960

ACT NO. 40 OF 1960[1]

Chapter II

PASSPORTS

. . .

6. (1) Diplomatic passports, special passports, and passports for a mission may be issued by the Minister of Foreign Affairs to such Sudanese or class or classes of Sudanese as the Minister of Foreign Affairs may respectively prescribe by regulations.

. . .

7. (1) Subject as in this chapter provided, every Sudanese, not holding a valid passport issued under the preceding section, shall be entitled to the issue of an ordinary Sudan passport (permitting him to travel outside the Sudan).

. . .

8. (1) Every passport shall be endorsed with the names of the foreign states which the holder thereof is authoried to visit.

(2) The passport-holder shall not be entitled to visit any other state, notwithstanding that such state or any other state issues to him a passport or a permit authoriing him to visit such first-mentioned State.

. . .

9. (1) The Minister of Foreign Affairs may at any time withdraw or cancel a Foreign Service Passport issued by him if satisfied that the holder thereof is no longer a fit and proper person to hold such passport.

(2) The Minister may refuse to issue or renew, or may at any time withdraw or cancel an ordinary passport, if satisfied that the applicant for, or holder thereof, as the case may be, is not a fit and proper person to hold such passport by reason of any of the following facts — namely:

(*a*) That he is of bad character, or

(*b*) That his travelling abroad is likely to prejudice the interests of the Sudan or of public security, or

(*c*) That he has committed a breach of the provisions of section 8 (2) of this Act.

. . .

(4) A decision of the Minister of Foreign Affairs or the Minister, as the case may be, on the issue, renewal, withdrawal, or cancellation of a passport shall be final and not subject to review by a court of law.

CHAPTER III

. . .

13. (1) The Minister may, with the consent of the Council of Ministers, at any time by order direct that no person shall leave the Sudan without his written permission.

(2) Such permission may only be refused on grounds of public interest, safety, health or morals.

(3) Sub-section 1 of this section shall not apply to:

(*a*) Pilgrims;

(*b*) Members of diplomatic foreign missions and their immediate dependants;

(*c*) Officials of the United Nations and other international organizations.

. . .

[1] Published in *Legislative Supplement to the Republic of the Sudan Gazette No. 952, dated 15th November, 1960. Supplement No. 1: General Legislations.*

SWEDEN

LEGISLATION ADOPTED IN 1960[1]

1. On 29 April 1960, a new Child Welfare Act was promulgated to replace the previous Act of 1924. According to the new Act, the social welfare of minors remains primarily the responsibility of the municipal administration. Each municipality is to have a special child welfare board, elected by the local government, which is to make itself familiar with the prevailing conditions for children and young persons in the municipality and, in particular, to watch over such minors as, with respect to their physical and mental health and equipment, their home and family conditions and other circumstances, may be considered to be particularly exposed to the danger of unfortunate development. It is also the board's task to work for improvements in the municipality's child welfare and to promote arrangements for better leisure-time conditions for children and young people. Thus, in the new Act special emphasis has been laid upon the importance of general preventive measures. In the individual cases where the board's intervention is called for, as in cases of corruptivity or other misconduct on the part of minors, or where the home and other environmental circumstances are such that the board should intervene to prevent a child from being corrupted, the measures that the board may take range from aid in the form of advice and support, admonitions and supervision to public correctional education. The latter term implies removal of the minor from his home for the purpose of giving him good care and suitable training. He shall then primarily be placed in a suitable private home and only secondarily in a reformatory school.

The rules of procedure of the child welfare boards have been extended in scope in the new Act in order to secure a better guarantee for a complete and reliable hearing of each case before the board and thereby further to secure the effective protection of the law for the persons concerned.

The Act also deals with matters concerning care of foster-children. In the new Act it is stipulated that anyone who wishes to take a foster-child must obtain the permission of the child welfare board. It further lies within the jurisdiction of such a board to prevent parents from taking back their child from a foster-home, should it considerably harm the child to be separated from its foster-home.

The decisions of the child welfare board may in most cases — and always when the rights or freedom of a person is concerned — be appealed against to the county administration and further according to the rules governing appeals in general administrative matters.

2. The Swedish Parliament in 1960 also adopted a new copyright Act and a new Act on Rights in Photographic Pictures to replace two previous Acts of 1919, which owing to the rapid cultural and technical development had become more and more in need of revision. Certain changes were also required to enable Sweden to become party to the Berne Convention, as revised in 1948, and to the Universal Copyright Convention of 1952. The making of the new Acts has been carried out in close collaboration with the other Nordic countries — not only during the preparatory stages but also on the parliamentary level — in order to reach as close a Nordic legal uniformity as possible.

In the new Copyright Act, the protected area has been widened to cover also future developments of literary and artistic forms of expression. The protection will as previously cover products of handicraft and industrial arts, though now extended to articles of clothing and textiles. The new Act also gives protection to musicians, artists and other performers as well as to producers of gramophone records and broadcasters. "Music-at-work" and similar performances have been equated with public performances.

The protection of the non-material right under the Act implies that the author must be mentioned according to what is required by good custom, when copies of the original work are produced or the work is made available to the public. The work must also not be changed or made available to the public in a way that harms the author's literary or artistic reputation or individuality.

The period of protection for authors has been extended to 50 years; while awaiting present legislative work on the protection of patterns, the previous period of protection remains unchanged for products of handicraft and industrial arts. For performers, producers of gramophone records and broadcasters the period of protection has been set at 25 years from the year of the first recording or performance. The period of the protection granted to photographs has been fixed at 25 years, unless they have an artistic or scientific value; in the latter case the period is 50 years.

[1] Note furnished by the Government of Sweden.

SWITZERLAND

NOTE[1]

I. CONFEDERATION

A. LEGISLATION

Protection of Life and Health

A federal Act of 23 December 1959 concerned the peaceful use of atomic energy and protection against radiation, while an ordinance of 13 June 1960 set up a federal commission on the safeness of atomic installations.

An ordinance of 23 December 1960 related to the prevention of occupational diseases.[2]

An ordinance of the Federal Department of the Interior of 26 December 1960 concerned technical measures for the prevention of industrial diseases brought on by chemical substances.

B. INTERNATIONAL AGREEMENTS

Federal orders of 10 March 1960 approved a convention on social security signed on 21 September 1959 by Switzerland and Spain and a supplementary convention on social insurance signed on 12 November 1959 by Switzerland and the United Kingdom. A supplementary agreement to the convention on social insurance of 28 March 1958 between Switzerland and the Netherlands was signed on 14 October 1960.

A federal order of 17 March 1960 approved five International Labour conventions on maritime work — namely, Convention No. 8 concerning unemployment indemnity in case of loss or foundering of the ship (1920): Convention No. 15 fixing the minimum age for the admission of young persons to employment as trimmers or stokers (1921); Convention No. 16 concerning the compulsory medical examination of children and young persons employed at sea (1921); Convention No. 23 concerning the repatriation of seamen (1926); and Convention No. 58 fixing the minimum age for the admission of children to employment at sea (revised 1936).

II. CANTONS

Political Rights of Women

On 5–6 March 1960 a popular vote in the canton of Geneva approved a constitutional Act of 4 July 1959 amending the constitution of the canton so as to extend political rights to women.

Conditions of Work

Two standard contracts were adopted in Valais under article 324 of the Obligations Code [Code des obligations][3]: For domestic workers by an order of 29 January 1960, and for cheese-makers by an order of 25 August 1960.

A federal Act of 28 September 1956 permitted the cantons to extend the scope of collective agreements.[4] Under this enactment, Vaud adopted an order of 29 November 1960 making generally binding, with some qualifications, a collective agreement of 1 April 1960 relating to garment workers.

Among other cantonal measures affecting conditions of work mention may be made of the order of 20 June 1960 of Vaud, implementing the Labour Act of that canton.

Education

In Vaud, an Act of 25 May 1960 dealt with public elementary education and training in domestic science.

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[1] This note is based upon texts and information received from the Government of Switzerland.

[2] The French text of this ordinance and an English translation have appeared in *Legislative Series* 1960 — Swi.1, published by the International Labour Office.

[3] See *Yearbook on Human Rights for 1955*, p. 224.

[4] See *Yearbook on Human Rights for 1956*, p. 211.

THAILAND

NOTE[1]

A. Constitutional Provisions

As was reported in the *Yearbook on Human Rights for 1959*, the administrative power has been in the hands of the Revolutionary Party under the interim constitution of 1958. A Constituent Assembly composed of representatives of various factions and national interests as well as of social classes appointed by the King has also been set up to study and draft a new constitution. At the same time, the Constituent Assembly serves also as a legislative body of the realm.

[1] Note furnished by the Government of Thailand.

B. Legislation

Extracts appear below from the principal enactments of 1960 relating to human rights.

C. Court Decisions

No court decisions of importance to human rights were given during the year 1960.

NATIONALITY ACT (No. 4), B.E. 2503 of 26 January 1960[1]

Sec. 2. This Act shall come into force as and from the day following the date of its publication in the *Government Gazette*.

. . .

Sec. 5. The provisions of section 8 of the Nationality Act, B.E. 2495, shall be repealed and replaced by the following:

"*Sec. 8.* An alien woman who marries a Thai will acquire Thai nationality upon filing an application according to such rule and mode as are prescribed by the ministerial regulations and obtaining approval from the Minister.

"The acquisition of Thai nationality shall not be effective until publication thereof in the *Government Gazette*."

Sec. 6. The following provisions shall be inserted as section 13 *bis* of the Nationality Act, B.E. 2495:

"*Section 13 bis.* An alien woman who has acquired Thai nationality through marriage before or after the day of the coming into force of this Act may have the nationality revoked if:

"(1) The marriage was the result of concealment of facts or misrepresentation of essential facts;

"(2) She has committed any act endangering the safety of the State, or contrary to the national interests or rights or the honour of Thailand;

"(3) She has committed any act contrary to public well-being.

"There vocation of Thai nationality shall not be effective until publication thereof in the *Government Gazette*."

Sec. 7. The following provisions shall be inserted as section 16 *bis* of the Nationality Act, B.E. 2495:

"*Section 16 bis.* Under appropriate circumstances, in view of the security or interest of the State, a person who has acquired Thai nationality by birth may have the nationality revoked if his father is an alien or his mother is an alien and his legitimate father is unknown, and

"(1) His father or mother has received leniency to reside in the Thai kingdom as a particular case;

"(2) His father or mother has been permitted to reside in the Thai kingdom for the time being; or

"(3) His father or mother has entered to reside in the Thai kingdom without obtaining permission under the law on immigration.

"The revocation of Thai nationality shall not be effective until publication thereof in the *Government Gazette*."

Sec. 8. The provisions of section 18 of the Nationality Act, B.E. 2495, shall be repealed and replaced by the following:

"*Sec. 18.* A person who has acquired Thai nationality by naturalization may have the nationality revoked if:

"(1) The naturalization was the result of fraud or concealment of facts;

"(2) There is evidence to show that the naturalized person still keeps his former nationality;

[1] Published in the *Government Gazette*, vol. 77, part 8, of 1 February, B.E. 2503 (1960), pp. 5–11 (special issue). Text furnished by the Government of Thailand.

"(3) The naturalized person has committed any act endangering the safety of the State, or contrary to the national interests or rights or the honour of Thailand;

"(4) The naturalized person has committed any act contrary to public well-being;

"(5) The naturalized person has left Thailand and lived abroad, without having a domicile in Thailand, for not less than seven years; or

"(6) The naturalized person retains the nationality of a country making war on Thailand."

Sec. 9. The following provisions shall be inserted as section 18 *bis* of the Nationality Act, B.E. 2495:

"*Sec. 18 bis*: There shall be a committee consisting of the Under-Secretary of State for Interior as chairman and four other members — namely, the Director-General of the Department of Public Prosecution, the Director-General of the Police Department, the Director-General of the Department of Interior, and a representative of the Ministry of Foreign Affairs to be in charge of the consideration of the revocation of nationality under sections 13 *bis*, 16 *bis* and 18.

"If it should appear that circumstances are such as to entail the revocation of nationality, the competent official shall submit the matter to the Committee for consideration. If the committee is of opinion that an order should be issued for the revocation of nationality, it shall refer the matter to the Minister. In case of the revocation of nationality under section 18, if the Minister should issue an order for the revocation of nationality, the case shall be reported to the King."

SUPPRESSION OF PROSTITUTION ACT, B.E. 2503 of 24 October 1960[1]

Sec. 2. This Act shall come into force as and from the day following the date of its publication in the *Government Gazette.*

Sec. 3. The Prevention of Venereal Disease Act, R.S. 127, shall be repealed.

Sec. 4. In this Act,

"Prostitution" means indulgence in sexual intercourse or in any other act for the purpose of gratifying the passions of another person, being indiscriminately done for remuneration and irrespective of the sex of the parties;

"Brothel" means a place provided for the purpose of prostitution by providing prostitutes therefor;

"Place of entertainment" means a place carrying on business for remuneration, which is arranged for lodging or living, selling food or drinks, or giving amusements, services or facilities;

"Welfare centre" means a welfare centre established under this Act;

"Inmate" means a person committed by order of the Director-General to receive medical treatment and/or vocational training in a welfare centre;

"Director-General" means the Director-General of the Public Welfare Department;

"Minister" means the Minister who takes charge and control of the execution of this Act.

Sec. 5. Whoever, for the purpose of prostitution,

(1) Solicits, entices, offers oneself to, pesters or importunes any person in any street or public place, or does so in any other place publicly and shamefully or to the annoyance of the public;

(2) Wanders or loiters in any street or public place in such manner as to lead to prostitution;

(3) Associates in any brothel;

shall be liable to a term of imprisonment not exceeding three months or a fine not exceeding one thousand baht or both.

Sec. 6. Whoever carries on prostitution in any brothel shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding two thousand baht or both.

Sec. 7. Whoever carries on homosexual prostitution shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding two thousand baht or both.

Sec. 8. Whoever procures a prostitute for another person as a regular business shall be liable to a term of imprisonment not exceeding three months or a fine not exceeding one thousand baht or both.

Sec. 9. Whoever is the owner, keeper or manager of any brothel shall be liable to a term of imprisonment not exceeding one year or a fine not exceeding two thousand baht or both.

Sec. 10. Whoever allows any person to carry on prostitution as a regular business in the place of entertainment of which he is the owner, keeper or manager, shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding two thousand baht or both.

Sec. 11. If it appears, after the court has sentenced any person to the punishment under section 5, 6, or 7, that such person should receive medical treatment or vocational training or both, the Director-

[1] Published in the *Government Gazette*, vol. 77, part 89, of 1 November, B.E. 2503 (1960), pp. 894-900. Text furnished by the Government of Thailand.

General has, after such person has undergone the punishment, the power to commit such person for medical treatment and/or vocational training in any welfare centre for such a period as may be determined by the Director-General, provided that it shall not be longer than one year from the date of having undergone the punishment.

Sec. 12. The Public Welfare Department shall establish welfare centres for medical treatment and vocational training of inmates.

Sec. 13. Subject to the approval of the Minister, the Director-General shall have the power to make rules concerning the discipline and working of inmates.

The Director-General shall have the power to inflict upon any inmate who violates the rules made under the provisions of the preceding paragraph any of the following punishments:

(1) Confinement for periods each not exceeding fifteen days, or

(2) Annulment or reduction of benefits or facilities to be rendered by the welfare centre.

Sec. 14. When the Director-General considers that to commit any inmate to work or earn a living at any place outside the welfare centre, with the permission of the owner of such place, would be more appropriate and beneficial to such an inmate, he shall have the power to take measures accordingly.

Sec. 15. Any inmate who escapes from the welfare centre or the place to which such inmate has been committed to work or earn a living under section 14 shall be liable to a term of imprisonment not exceeding three months or a fine not exceeding one thousand baht or both.

Sec. 16. The Director-General has the power to order, before the expiration of the period determined under section 11, the release of any inmate from the welfare centre or the place to which such an inmate has been committed to work or earn a living under section 14 if he believes that such an inmate will no longer carry on prostitution on account of good conduct or having a reliable person undertaking the support or guaranteeing the offer of subsistence work.

. . .

ROYAL DECREE SPECIFYING OCCUPATIONS AND PROFESSIONS RESERVED FOR THAI PEOPLE (No. 3), B.E. 2503

of 26 December 1960[1]

Sec. 2. This royal decree shall come into force as and from the day following the date of its publication in the *Government Gazette*.

Sec. 3. The occupations and professions specified in the annex of this royal decree shall be reserved as the occupations and professions for Thai people throughout the kingdom.[2]

Sec. 4. Any non-Thai person undertaking any occupation or profession provided in section 3 on the day of the coming into force of this royal decree may continue the undertaking of such occupation or profession for one more year as from the day of the coming into force of this royal decree.

. . .

[1] Published in the *Government Gazette*, vol. 77, part 112, of 31 December, B.E. 2503 (1960), pp. 23–25 (special issue). Text furnished by the Government of Thailand.

[2] These are sericulture, production of silk yarn and silk weaving.

TUNISIA

NOTE[1]

A. 1959

An outstanding event in the field of human rights in 1959 was the drafting of the Constitution of the Tunisian Republic, which gives the force of law to such rights already recognized by Tunisia. In addition to the Constitution, important legislation was adopted in the fields of both public and private law.

I. Constitution

The Constitution of the Tunisian Republic was promulgated on 1 June 1959. This constitution, which was drafted by a constituent assembly elected on the basis of universal suffrage, proclaims the principle of the sovereignty of the people.[2]

Apart from the Constitution, mention should be made of Act No. 59–86, of 30 July 1959 [24 Muherram 1379], concerning the election of the President of the Republic and of members of the National Assembly.[3]

In conformity with the provisions of the Constitution, this Act enables all citizens to take part in the direction of public affairs in their country through representatives freely chosen in periodic elections held on the basis of universal suffrage and the secret ballot.

II. The Civil Service

Act No. 59–13, of 5 February 1959 [26 Rajab 1378], establishing the general status of civil servants,[4] recognizes the right of a citizen to hold public office in his country.

1. *Rights of Civil Servants*

The Act accords to civil servants the right to belong to trade unions, the right of political and religious freedom of thought, equality of rights of men and women as regards recruitment and promotion and the right to leave (holidays, emergency and maternity leave).

Civil servants enjoy all the inviolable rights of defence in disciplinary matters, for they have access to their individual dossiers and are thus able to acquaint themselves with the entire contents thereof. Access to his dossier may be denied to a civil servant on whom a penalty affecting either his person or his honour has been imposed.

2. *Recruitment*

Recruitment by selection of a very limited percentage of the civil service (10 per cent) is reserved to the administration, recruitment on the basis of competitive examination being the normal means of access to the civil service.

Recruitment by selection permits high-level posts to be filled by certain civil servants who have wide administrative experience but are not able in other respects to take part in a competitive examination in which certain educational qualifications are required.

3. *Promotion*

The Act provides for the possibility of promotion by selection as a reward for outstanding services, independent of the normal process of promotion. Such promotions are made upon the recommendation of an administrative committee composed of an equal number of representatives designated by the Administration and representatives elected by the staff.

4. *Leave*

Prior to the promulgation of the above-mentioned Act there were many serious abuses in connexion with the granting of leave. The Act provides for a close examination of applications for leave and for a limitation of the amount of leave granted, in particular leave covering illnesses entitling the patient to full pay (two months instead of three months) and maternity leave (one and a half months instead of four months).

III. State Land

Act No. 59–49, of 7 May 1959 [28 Shawwal 1378], concerning the High Committee for Closed Rural State Land,[5] regroups all state land (former Habus lands, land confiscated by the High Court, former beylic land, land occupied by settlers and situated for the most part on the Algerian-Tunisian frontier)

[1] Information received from the Government of Tunisia.

[2] Extracts from the Constitution were published in the *Yearbook on Human Rights for 1959*, pp. 283–4.

[3] *Journal officiel de la République Tunisienne* No. 40, of 28 and 31 July 1959, p. 798. Extracts from Act No. 59–86 were published in the *Yearbook on Human Rights for 1959*, p. 285.

[4] *Journal officiel* No. 8, of 3 and 6 February 1959, p. 84.

[5] *Journal officiel* No. 26, of 8 May 1959, p. 456.

and redistributes it to farmers capable of developing it in the general interest. The High Committee set up under the above Act is entrusted with the distribution of such land. The conditions governing its allotment are laid down in the Act, with a view to preventing any favouritism and providing work for a large number of agricultural workers with the possibility of acquiring ownership of such land.

IV. Housing

In pursuance of the Government's building policy a number of laws have been drawn up with a view to encouraging housing construction and thus making it possible for every citizen to be decently housed.

1. *Workers' Housing*

Act No. 59–67, of 19 June 1959 [12 Zu'lhijjah 1378],[1] amends the decree of 30 March 1957 [28 Shaban 1376]. That decree had already made provision for state aid to the construction of housing for employees belonging to workers' housing co-operatives either directly or through the agency of their choice under a convention to be concluded between the State and such agency; under article 4 of the 1957 decree, the State transferred groups of dwellings to co-operative societies, the cost of such transfer to be amortized in fifteen years. The new Act of 19 June 1959 extends the term of amortization by another fifteen years.

2. *Urban Housing*

Act No. 59–127, of 7 October 1959 [4 Rabia II 1379],[2] amends and supplements the decree of 27 January 1949 regulating the alienation of real estate acquired by the State with a view either to the construction of dwellings for relocation purposes or for the improvement or expansion of towns.

Article 5 (*a*) which the Act appends to the above decree prescribes the terms of payment granted to persons acquiring parcels of land for the construction of individual houses. These terms must not exceed twenty years. All the annual instalments are in equal amounts and the rate of interest is 4 per cent *per annum*.

3. *Rural Housing*

The State is likewise assisting in the construction of rural housing: Act No. 59–142, of 22 October 1959 [Rabia II 1379], is designed to encourage such construction.[3]

Under this Act, the State furnishes free of charge both materials and the services of a master mason as long as the work of construction is in progress. Those receiving this assistance undertake to carry out the work under the supervision and in accordance with the directions of the rural engineering and agricultural hydraulic authorities.

In addition to construction they may be called upon to carry out other development work with a view to making their exploitation of the land more productive.

V. Surname

Act No. 59–53, of 26 May 1959 [18 Zu'lkadah 1378],[4] obliges every Tunisian to have a surname; henceforth, any citizen may be inscribed in an official register giving his age and his family background.

VI. Adoption of Children

The legislators have also taken action in the field of family law to encourage adoption. Act No. 59–69, of 19 June 1959 [12 Zu'lhijjch 1378],[5] amends the existing adoption legislation, reducing the number of conditions which formerly had to be fulfilled.

Under this Act it is no longer necessary for a widower or divorced man to be married in order to adopt a child.

Furthermore, it is now possible, under certain conditions, to adopt a person who has attained his majority.

VII. Civilian and Military Pension Scheme

Act No. 59–18, of 5 February 1959 [26 Rajab 1378],[6] establishing a civilian and military pension scheme, supersedes the decree of 19 November 1949 concerning the civil service retirement pension scheme and that of 10 July 1952 concerning the military retirement pension scheme.

The purpose of the new Act is to adapt the above-mentioned texts to the situation which came into being with Tunisia's attainment of independence and to simplify the rules governing the payment of the various pensions. From the standpoint of human rights it should be noted that a bonus is granted to employees classified as engaged in non-sedentary employment who are superannuated before the age of sixty.

Considerations of equity dictated the granting of this bonus, for employees classified as engaged in non-sedentary employment have to retire before reaching the age of sixty.

This situation places them at a disadvantage in relation to their colleagues engaged in sedentary employment. The bonus makes it possible to eliminate this inequality.

[1] *Journal officiel*, No. 34, of 23 and 26 June 1959, p. 650.

[2] *Journal officiel* No. 51, of 6 and 9 October 1959, p. 1097.

[3] *Journal officiel* No. 55, of 27 and 30 October 1959, p. 1188.

[4] *Journal officiel* No. 28, of 19–22 and 26 May 1959, p. 500.

[5] *Journal officiel* No. 34, of 23 and 26 June 1959, p. 651.

[6] *Journal officiel* No. 8, of 3 and 6 February 1959, p. 93.

The Act also provides for the suspension of payment of pensions to widows in the event of their remarriage. The pension can be reinstated, with no increase in the payments, only if the woman is again widowed or is divorced (art. 31).

Other legislation has been drafted with a view either to the extension of the retirement pension scheme to various categories of personnel (workers employed under contract by the State, the public establishments, the boards and the communes) and to regular members of the permanent staff of the Tunisian National Railways (Act No. 59–37, of 28 March 1959 [18 Ramadan 1378],[1] or to compulsory coverage of certain categories of temporary staff by the National Retirement Fund (Act No. 59–38, of 28 March 1959 [18 Ramadan 1378].[2]

VIII. Right of Defence before the Courts

The new Tunisian Code of Civil and Commercial Procedure was promulgated by Act No. 59–130, of 5 October 1959 [2 Rabia II 1379].[3]

This code institutes a procedure embodying all the guarantees required for the effective administration of justice and the free exercise of the sacred right of defence.

In order to reduce the cost of court proceedings the Code provides for the elimination of stamp and registration fees for certain documents, making it easier for those concerned to have access to the courts.

B. 1960

In the field of human rights, the year 1960 was characterized by legislative action applying to social matters and the protection of workers, including the establishment of social security and of works committees.

The year 1960 also saw the establishment of the University of Tunis and the launching of a programme for the development of sport in Tunisia.

I. Public Law

1. *Higher Education*

The framework for higher education in Tunisia was established by Act No. 58–118, of 4 November 1958 [21 Rabia II 1378].[4] The purpose of decree No. 60–98, of 31 March 1960 [3 Shawwal 1379],[5] concerning its implementation was to institute such education by establishing the University of Tunis.

In its title II, the Act defines the goals which the University of Tunis seeks to attain. These are:

"(*a*) To organize and provide higher education and to train the higher cadres which the country requires;

"(*b*) To organize and promote scientific, basic and applied research;

"(*c*) To assemble and preserve instruments of research of whatever kind;

"(*d*) To safeguard and promote the national culture, to encourage its flowering and to contribute to the development of its highest forms in the sciences, technology, arts and letters;

"(*e*) To seek out, make accessible and preserve the elements of that culture, whether relating to the past or to the present, such as monuments, literary or scientific works of art and popular literature and arts;

"(*f*) To establish and organize inter-university and cultural relations with other countries in respect of education and research and, in general, to provide for all types of cultural relations and exchanges of information concerning scientific research with foreign scientific and cultural university bodies, whether national or international."

2. *Civilian Sports*

Legislative decree No. 60–4, of 9 February 1960 [11 Shaban 1379],[6] establishes regulations governing civilian sports in Tunisia. Under the terms of this decree, civilian sports are all sports activities carried on by sports groups, associations, federations and committees in accordance with the sports policy and legislation in force in Tunisia.

The Directorate of Youth and Sports is responsible for the implementation of this programme. It guides and supervises the activities of all sports groups established for the purposes of physical education and sports, as also the organization of sports competitions. The Directorate of Youth and Sports provides the moral, technical and material assistance which is required for the development of physical education and sports. It encourages the development of sportsmanship and the training of an elite in the various branches of sport and is responsible for ensuring strict observance of the "Sports Charter".

It is accordingly the judge, in the last resort, of all decisions and measures, whether individual or collective, taken by associations, federations and committees in application of that charter.

Under legislative decree No. 60–1, of 27 January 1960 [28 Rajab 1379],[7] a "National Sports Fund" was established to finance programmes for the acquisi-

[1] *Journal officiel* No. 18, of 31 March 1959, p. 278.

[2] *Ibid.*

[3] *Journal officiel* No. 56, of 3, 6, 10 and 13 November 1959, p. 1218.

[4] See *Yearbook on Human Rights for 1958*, p. 221.

[5] *Journal officiel* No. 16, of 31 March 1960, p. 426.

[6] *Journal officiel* No. 7, of 9 and 12 February 1960, p. 170.

[7] *Journal officiel* No. 5, of 26 and 29 January 1960, p. 111.

tion of sports equipment and the development of youth activities. This fund is supported by state subsidies, the proceeds of betting on sports events, gifts, donations, bequests etc.

In addition, decree No. 60-121 of 6 April 1960 [9 Shawwal 1379],[1] establishes a Higher Tunisian Sports Committee under the authority of the Directorate of Youth and Sports. This committee advises on all problems relating to sports activites and the development of sports in Tunisia.

3. *Housing*

Act No. 60-5, of 30 May 1960 [4 Zu'lhijjah 1379],[2] established a National Housing Improvement Fund, the purpose of which is to "facilitate operations to rehabilitate, repair, equip with sanitary facilities and improve premises used primarily as dwellings."

In addition, an order of 20 June 1960 [25 Zu'lhijjah 1379],[3] provides that "premiums may be granted to individuals or statutory or legal corporations who undertake in Tunisia operations the purpose of which is the construction, extension or improvement of dwellings intended for low-cost rental on a yearly basis or to serve as the main residence of the proprietor, of his direct ascendants or descendants or of those of his spouse".

II. Social Law

1. *Social Security*

With the promulgation of Act No. 60-30 of 14 December 1960 [24 Jumada II 1380][4] social security was established in Tunisia.

Its purpose is to "protect workers and their families against the risks inherent in human life, when such contingencies are liable to have a detrimental effect on the moral and material conditions of their existence."

The organization provides employed persons with family and social insurance benefits.

A National Social Security Fund is responsible for the management of the schemes under which the benefits and insurance are provided.

It is empowered:

(1) To lend assistance in the management of the Industrial Accidents Fund;

(2) To promote health and welfare work;

(3) To subsidize assistance work of a social character carried out by public agencies or by bodies operating in the public interest;

(4) Under special agreements, to administer retirement or mutual benefit schemes.

Act No. 60-33, of 14 December 1960 [24 Jumada II 1380],[5] also establishes a disability, old-age and survivors' pension scheme and an old-age and survivors' benefits scheme in the non-agricultural sector.

The management of these schemes is likewise entrusted to the National Social Security Fund.

2. *Employment of Women and Children*

Legislative decree No. 60-10, of 14 March 1960 [16 Ramadan 1379],[6] amends the decree of 6 April 1950 [18 Jumada II 1369] regulating health and safety conditions as also the employment of women and children in commercial and industrial establishments and the professions.

Article 4 of this legislative decree fixes the duration of the night rest of women and children. The latter, of both sexes, whether workers or apprentices, must have at least twelve consecutive hours of night rest.

In the case of children under sixteen years of age, the period of night rest must cover the interval between 10 p.m. and 6 a.m.

In the case of children over sixteen and under eighteen years of age, as also in the case of women, the period of night rest must cover the interval between 10 p.m. and 5 a.m.

These provisions notwithstanding, children between sixteen and eighteen years of age may work at night in the following cases:

(1) In unforseen cases of *force majeure* which prevent the normal functioning of an industrial undertaking;

(2) If the conditions of their apprenticeship or of their vocational training so require, provided that they have a period of rest of at least thirteen consecutive hours between two periods of work;

(3) If such children are employed in bakeries.

Women may also be employed at night:

(1) In cases of *force majeure*;

(2) If their work entails the use of raw materials which are subject to rapid deterioration;

(3) If they hold supervisory positions or responsible positions of a technical character;

(4) If they are employed in the health services.

3. *Protection of New-born Infants*

Act No. 60-17, of 26 July 1960 [1 Safar 1380],[7] makes the application of prophylactic methods to

[1] *Journal officiel* No. 18, of 8 and 12 April 1960, p. 466.

[2] *Journal officiel* No. 27, of 31 May and 3 June 1960, p. 754.

[3] *Journal officiel* No. 30, of 21 and 24 June 1960, p. 859.

[4] *Journal officiel* No. 57, of 13 and 16 December 1960, p. 1602. See *Legislative Series* 1960 — Tun.1, published by the International Labour Office.

[5] *Journal officiel* No. 57, of 13 and 16 December 1960, p. 1616.

[6] *Journal officiel* No. 13, of 11 and 15 March 1960, p. 325.

[7] *Journal officiel* No. 36, of 29 July and 2 August 1960, p. 1007.

prevent ophthalmic diseases among new-born babies compulsory.

4. *Work Committees*

Act No. 60–31, of 14 December 1960 [24 Jumada II 1380],[1] sets up works committees in establishments and undertakings in Tunisia employing fifty or more employees.

The works committee, composed of elected workers, "shall co-operate with the management in improving the working and living conditions and training facilities enjoyed by the employees in general and in perfecting any regulations relating to such matters."

It shall ensure that the health and safety of the workers are properly safeguarded.

The committee shall be associated in the administration of welfare schemes established in the undertaking for the benefit of the employees or their families, irrespective of the way in which such schemes are financed.

The works committee shall be empowered to investigate all individual or collective grievances or other difficulties arising out of the application of laws and regulations or agreements in operation between the employer and the employees.

The committee shall also have certain powers in the economic field:

(1) It shall be consulted on problems relating to the running of the undertaking, so that the workers can be progressively associated in its management and development;

(2) It shall examine all suggestions put forward by the management or the employees with a view to increasing production and improving the output of the undertaking and shall make proposals for the adoption of suggestions that have been approved;

(3) It shall recommend such rewards as appear to it to be deserved by employees whose ideas or suggestions have been particularly valuable to the undertaking;

(4) It shall also recommend rewards for workers whose output has been conspicuously higher than the average and penalties for those who fail to make an effort to achieve that average.

[1] *Journal officiel* No. 57, of 13 and 16 December 1960, p. 1613.

III. Court Decisions

The Court of Cassation of Tunis, in an order dated 11 July 1960,[2] quashed a verdict handed down by the Court of First Instance of Susa, which had refused, without legal and valid justification, to hear other witnesses in the case before it after having agreed to do so when deferring the case to a later date, thus violating the rights of defence of the accused.

IV. International Conventions

The conventions signed at Rabat on 30 March 1959 [20 Ramadan 1378] by the plenipotentiaries of Tunisia and Morocco, in application of the Treaty of Fraternity and Solidarity concluded on 30 March 1957 [27 Shaban 1377] between Tunisia and Morocco, have been published in the *Journal officiel*.[3] These conventions are six in number: elimination of visas of all kinds; reciprocal judicial assistance, *exequatur* and extradition; radio broadcasting, cinema and other information media; health and labour; post and telecommunication; cultural matters.

[2] Crim. No. 205, 11 July 1960, *Recueil de la Cour de Cassation*, Ministry of Justice, 1959–1960, p. 28.

[3] *Journal officiel* No. 21, of 26 and 29 April 1960, p. 569.

TURKEY

THE CHANGES THAT OCCURRED IN TURKEY IN 1960[1]

The year 1960 was an important one for Turkey, and full of historical events. Although the struggle for liberty in Turkey dates from a distant past, it was only in 1950 when general and free elections, which form the basic foundations of a democratic regime, were held, that human rights and fundamental freedoms were secured in Turkey. As is known, in the 1950 elections the party which had been in power for 27 years lost the elections and was replaced by another which assumed power with the promise of great achievements in every phase of Turkish life. Up to 1954, the belief that democracy had been established in Turkey was accepted on the whole. But after that period economic measures adopted without a thorough plan or a regard for the future gave rise to difficulties, to a higher cost of living, and to dissatisfaction, and increased the lack of tolerance to criticism of the party which came to power in 1950 and was re-elected in 1954. It is possible to find in earlier issues of the *Yearbook on Human Rights* sections dealing with the restrictions imposed on human rights and basic liberties during that period, especially in the issues for 1955, 1956 and 1957.

These pressures were first exerted on the press. Devious ways were found to interfere with the fundamental function of the press, which is to keep the public informed; even the mildest criticism directed towards the persons who governed resulted in heavy fines and even imprisonment.

The students of the universities, which enjoy semi-autonomy and are outside of government control, were forbidden to take part in political activities; some of the professors were removed arbitrarily from their posts; the independence and guarantees enjoyed by the judges were undermined by political appointments, and government officials were pensioned off at will. The state-owned radio was turned into a tool whose sole function was to praise the government. Every passing year saw an increase in these restrictions.

The party in power, in order to secure more votes, granted immunities and special favours to some of the reactionary groups in the country. During the 1957 elections, as the opposition had grown stronger, pressure was exerted on the opposition party, especially its leader. The governing powers tried to interfere with the campaign travel of the opposition party leader, using pressure and the threat of an attempt on his life.

Another form of pressure was the establishment of numerous committees composed of various members of the Grand National Assembly, to investigate the activities of the opposition. The Assembly passed Act No. 7468, of 27 April 1960 (*Official Gazette*, of 28 April 1960) relegating powers to these committees which it did not possess. These dictatorial powers of the investigating committees are enumerated in the second article of the Act, which empowered the committee to:

(*a*) Ban all publications;

(*b*) Stop the publication and distribution of all dailies and periodicals which might appear despite the ban;

(*c*) Seize all such dailies and periodicals, suspend the publication of the periodicals or close the printing presses;

(*d*) Seize all documents and property which were deemed essential to carry out an investigation or which could be used as evidence;

(*e*) Take measures concerning all gatherings, activities, and shows which might have a political character; and

(*f*) Take all necessary measures and decisions for the successful conduct of an investigation, using all available government means.

Article 3 of the Act reads: "All those who oppose in any way the measures and decisions of the investigating committees of the Turkish Grand National Assembly shall be punished with from one to three years in prison."

The Act evoked a great reaction among the intellectual circles of the country.

The students of the University of Ankara, hearing that the orderly protests of the students of Istanbul University were suppressed by force and that the President of the Istanbul University had been attacked, also rose in protest, but their activities were crushed by force, even by resort to machine-gun fire.

The governing powers refused to accept the truth that violence breeds violence and force can be stopped by force. The Turkish Republic, which was founded in 1923, lived through its darkest days between

[1] Note furnished by Dr. Ilhan Lütem, legal adviser, Permanent Mission of Turkey to the United Nations, government-appointed correspondent of the *Yearbook on Human Rights*.

28 April – 27 May 1960. This period of one month saw some Turkish youths battling the armed forces of the government, even sacrificing their lives, the intellectuals looking without hope upon this struggle, and it was a period during which all these pressures became almost tangible. The army, to the last, was faithful to its resolution not to interfere in political affairs. In Turkey, the army is not a separate entity, superior to the people, a privileged class, but rather the nation itself. The Turkish officers, who come from the four corners of the country, are idealists. The great reforms in Turkey were the work of soldiers, like Atatürk and Ismet Inönü. These individuals, although soldiers themselves, realized the danger that might arise from the army's meddling in politics and did their utmost to keep the army apart. This has always been their guiding principle.

But on 27 May 1960, the Turkish armed forces, realizing that the attempt to establish democracy was degenerating into chaos, went into action. It was plainly evident on that date, and the dark days which preceeded it, that the orderly resistance of some intellectuals could hardly affect the situation. At the beginning, the army stood aloof, neither taking part in the repressive measures nor taking action against the people despite the issuance of orders. When an attempt was made to organize a militia of partisans and to drag the country into civil war, a group of intellectual and idealist officers put into effect, with the speed of lightning, a plan they had prepared, thus stopping the drift towards dictatorship. With the help of the people they overthrew the government in power and rendered it harmless. The army, with its coup d'etat of 27 May and with power on its side, had acted like an arbiter. The coup, which was completely successful without bloodshed, awoke admiration within the country and abroad.

Realizing that the Constitution adopted in 1924 did not give sufficient guarantees for a democratic regime to function properly, the task of drawing up a new constitution was entrusted to a group of university professors. Another commission was given the task of studying the anti-democratic laws passed, especially those adopted after 1954, which restricted human rights and freedoms, in order to replace them with liberal laws. This second commission finished its work in one month and handed in its report. Some of the laws found by the commission to be anti-democratic are listed below:

(*a*) Act No. 6334, concerning certain offences committed by way of publication or radio broadcast and Act No. 6732, amending the title of Act No. 6334 to read: Act concerning offences committed by way of publication or radio broadcast, or committed at meetings. (For the texts of these Acts, see: *Yearbook on Human Rights for 1956*, p. 230–231.)

(*b*) Act No. 6733, amending certain articles of the Press Act, No. 5680. (See *Yearbook on Human Rights for 1956*, p. 231 and 233–235.)

(*c*) Act No. 6761, concerning rallies, meetings and demonstration marches. (See *Yearbook on Human Rights for 1956*, p. 231.)

(*d*) Act No. 6185, amending paragraph (*d*) of article 46 of the Act concerning the universities. (See *Yearbook on Human Rights for 1953*, p. 266.)

(*e*) Act No. 6187, concerning the protection of liberty of conscience and of the right to freedom of assembly. (See *Yearbook on Human Rights for 1953*, p. 267.)

(*f*) Act No. 6435, concerning the discharge of civil servants.

These are given merely as examples. The commission also indicated certain Acts which needed to be changed or replaced in order to establish a truly democratic regime. The task of the National Unity Committee, which assumed the direction of the country on 27 May 1960, was to guarantee the establishment of a normal regime and to create an atmosphere of peace and tranquillity so that the duly elected government would be able to make the necessary changes in the constitutional laws.

The first law enacted after the 27 May revolution is entitled "Act abrogating and amending certain provisions of Constitutional Act No. 491."

Article 1 of Act No. 1 provides that: "The Committee of National Unity shall, on behalf of the Turkish nation, exercise the right of sovereignty pending the transfer of its power to the Grand National Assembly to be established in the shortest possible time in accordance with democratic procedure following the inauguration of the new constitution and electoral law."

Act No. 1 also stipulates that "during this period of time all the powers and prerogatives entrusted to the Grand National Assembly, in accordance with the Constitution, shall belong to the Committee of National Unity".

In its subsequent articles, Act No. 1 describes the composition and the mandate of the Committee of National Unity, the duties and prerogatives of the Chief of State and finally the composition of the Council of Ministers and its rules of procedure.

The laws enacted by the committee up to the end of 1960 followed, in general, a pattern of democratic understanding:

(*a*) Act No. 3 of 16 June 1960, relative to the procedures to be followed by the Supreme Tribunal of Justice, made provisions concerning the trial of members of the ousted regime including measures to speed up the proceedings and measures recognizing, to a maximum degree, the right of defence.

(*b*) Persons condemned for insulting and vilifying government officials prior to 27 May 1960, persons prosecuted in accordance with Act No. 7428, con-

cerning the duties and prerogatives of the ill-famed investigating committee established by the previous government, and persons jailed or imprisoned in accordance with Act No. 6761, relative to rallies, meetings and demonstration marches, were all pardoned.

(*c*) Act No. 79, of 10 September 1960, pardoned offences committed against the National Protection Act.

(*d*) Acts No. 113 and 134, enacted respectively in October and November 1960, extended the amnesty to crimes not punished by more than five years' imprisonment, and some reductions were made for sentences exceeding five years.

Crimes of premeditated murder, rape and violations of Forest Conservation Acts and of the Acts against smuggling were left outside the scope of general amnesty.

(*e*) Act No. 115, amending certain articles of the Act concerning the universities, strengthened the academic freedoms and autonomy of the universities.

(*f*) Act No. 143, of 29 November 1960, "amending certain articles of the Press Act", abolished the obligations and heavy penalties imposed by the former administration.

(*g*) Act No. 144, enacted on 29 November 1960, resolved what had been a great cause of controversy under the former regime and, by amending article 481 of the penal code, recognized, under certain conditions, the "right of proof" or the acceptance of the right to prove the truth of an allegation.

A constituent assembly, whose members were in part elected and in part appointed, was established by the National Unity Committee, which took power on 27 May 1960 (Act No. 157, of 13 December 1960, *Official Gazette* No. 10682). The committee then directed the Constituent Assembly to draw up a new constitution and new electoral laws.

The Constitutent Assembly passed the following laws:

(*a*) Act No. 298 governing the general principle of elections and regional distribution of votes.

(*b*) Act No. 304 governing the election of the members of the Senate.

(*c*) Act No. 306 governing the election of deputies.

The Constituent Assembly also accepted the new constitution on 27 May 1961 (*Official Gazette* No. 10816). This new constitution, which had to be submitted to the approval of the nation, according to Act No. 283, passed on 28 March 1961, was voted upon on 9 July 1961, and was accepted by the people by a great majority.[1]

[1] Extracts from this constitution will appear in *Yearbook on Human Rights for 1961*.

UKRAINIAN SOVIET SOCIALIST REPUBLIC[1]

EXTRACTS FROM THE REPORT OF THE CENTRAL STATISTICAL BOARD OF THE COUNCIL OF MINISTERS OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC ON THE FULFILMENT OF THE STATE PLAN FOR THE DEVELOPMENT OF THE NATIONAL ECONOMY OF THE UKRAINIAN SSR IN 1960

In meeting the targets of the seven-year plan, the workers of the Ukrainian SSR achieved new successes in 1960 in developing the national economy and raising the cultural level of the republic.

The national income of the Ukrainian SSR rose by 6 per cent as against 1959, in terms of comparable prices.

The growth of the national income resulted in increased savings which were used for the further expansion of socialist production and an increase in national prosperity, both in the form of higher direct wages and through a growth in the state funds allocated for social consumption.

In 1960 the population received 4,500 million roubles out of social consumption funds for education, medical care, social security and various payments and privileges, as against 4,200 million roubles in the previous year.

The yearly average number of manual and non-manual workers employed in the national economy of the Ukrainian SSR in 1960 was about 10.7 million, over 900,000 more than in 1959, including 291,000 more members of artels of small producers' co-operaitves transferred to the system of state enterprises. The number of workers and of engineers, technicians and other specialists in industry, construction, agriculture and transport increased by more than 660,000 as compared with 1959. The number of persons employed in schools and other educational establishments, scientific and research institutes, cultural establishments, medical institutions, sanatoria and health resorts rose by 112,000. The number of workers employed in trade and in public catering establishments also rose.

The number of specialists with a higher and specialized secondary education working in the national economy of the Ukrainian SSR increased in the course of the year by 140,000. On 1 December 1960 specialists with higher education numbered 680,000, including 196,000 engineers, while specialists with a specialized secondary education numbered 970,000, including 329,000 technicians.

In 1960, 130,400 young skilled workers graduated from vocational and technical schools and were directed to work in industry, construction, transport and agriculture. During the past year 1.7 million manual and non-manual workers improved their qualifications and learned new skills through individual and group apprenticeships and training courses.

The changeover of manual and non-manual workers to a shorter six- or seven-hour working day was completed in 1960 in accordance with decisions adopted at the Twenty-first Congress of the Communist Party of the Soviet Union and the Act passed by the Supreme Soviet.

As a result of the shorter working day the length of the working week for manual and non-manual workers now averages 39.4 hours.

Simultaneously with the changeover of manual and non-manual workers to a shorter working day, wages were adjusted in industry, construction and communications. Pay adjustment is proceeding in transport and has been begun in state agricultural undertakings and in various other branches of the national economy.

The changeover to a shorter working day was effected without any reduction in pay, while in those branches of the national economy where it was accompanied by a pay adjustment, wages have risen, particularly for the lower-paid workers. In accordance with decisions adopted by the Supreme Soviet of the USSR at its fifth session, manual and non-manual workers were being gradually exempted from taxation as from 1 October 1960.

Further progress was made in the development of popular education, science and culture.

The number of students undergoing training of all types in the republic totalled over 10 million.

In accordance with the Act concerning the establishment of a closer correspondence between education and life and the further development of the educational system in the Ukrainian SSR, work continued during the past year on the reorganization of secondary general schools and specialized secondary and higher education.

[1] Texts furnished by the Ministry of Foreign Affairs of the Ukrainian Soviet Socialist Republic.

The number of students attending secondary general schools, including students at schools for young industrial and agricultural workers and schools for adults, was 6,722,000 in the current academic year, or 529,000 more than in the previous academic year. In 1960 over 250,000 persons graduated from secondary schools and received school-leaving certificates; of those, 72,000 had received secondary education, without separation from production, at schools for young industrial and agricultural workers and schools for adults. At the beginning of the current academic year there were 6,384 secondary general polytechnic workers' schools in the republic at which over 360,000 students in the senior classes receive training for industry. In the past year 162,000 young men and women graduated from secondary schools with vocational training, having received training for industry as well as the school-leaving certificate. At the beginning of the 1960–61 academic year over 108,000 students were being educated in boarding schools.

Some 816,000 persons are studying at higher and specialized secondary educational establishments, including correspondence and evening schools; almost 418,000 of them are students in higher educational establishments.

Education at correspondence and evening schools has been further expanded. The number of persons being educated without separation from production at higher and specialized secondary educational establishments, secondary general schools for young industrial and agricultural workers and schools for adults totalled over 965,000, of whom almost 400,000 were students in higher and specialized secondary educational establishments.

Of the students enrolled during 1960 in day courses at higher educational establishments, 31,000, or 75 per cent, were persons who had completed a period of practical work of not less than two years after finishing their secondary-school education.

More than 162,000 young specialists graduated during the past year from higher and specialized secondary educational establishments, including 67,000 specialists with higher education.

The number of scientific workers had reached over 46,000 by the end of the year.

The network of institutions of culture and education servicing the population was further improved.

In the course of 1960 over 31 million persons attended theatre performances and concerts given by musical collectives, and some 700 million attended film shows.

Book publication reached over 113 million copies during the past year; the circulations of newspapers, magazines and other periodicals increased.

Construction of housing and of cultural, social and educational facilities continued to expand. In 1960 almost 10 per cent more housing was built and brought into occupancy by the State than in the previous year. In the past year a total of 14.7 million square metres of housing was brought into occupancy in towns and urban settlements, both by the State and by the people with their own resources and with the help of state loans. Collective farmers and the rural intelligentsia built 151,000 dwellings in the past year.

In 1960 a considerable number of secondary general schools were put into use, especially boarding schools with dormitories; also hospitals, kindergartens and crèches, sanatoria and rest-homes, cinemas and other cultural, social and educational facilities.

In the course of 1960 work continued on the development of municipal services.

Further expansion took place in the system of hospitals, maternity homes, dispensaries, clinics for women and children, preventive health institutions and other medical facilities.

Nearly 25,000 more hospital beds were available than in 1959 and there were about 19,000 more places in permanent crèches and kindergartens; the number of doctors rose by 3,500.

The 1960 figures illustrating the fulfilment of the state seven-year plan for the development of the national economy of the Ukrainian SSR testify to the successful execution of the plan, the further growth of the socialist economy, the development of science and culture and the mounting prosperity of the people of the Ukrainian SSR. [From the newspaper *Pravda Ukrainy*, No. 32, 7 February 1961.]

EXTRACTS FROM THE ACT CONCERNING THE STATE BUDGET OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC FOR 1960

Art. 1. The state budget of the Ukrainian SSR for 1960 (total revenue, 70,209,402,000 roubles; total expenditure, 70,156,969,000 roubles; excess of revenue over expenditure, 52,433,000 roubles) submitted by the Council of Ministers of the Ukrainian SSR, with the amendments adopted on the report of the Budget Commission, is hereby confirmed.[1]

[1] All sums are shown in the old currency, which stands in a 10 to 1 ratio to the 1961 currency.

Art. 3. A total appropriation of 36,462,842,000 roubles shall be made under the State Budget of the Ukrainian SSR for 1960 for the financing of the national economy: the continued development of heavy industry, construction, light industry, the foodstuffs industry, agriculture, transport, housing and municipal services and other branches of the national economy.

Art. 4. A total appropriation of 30,284,007,000 roubles[1] shall be made under the State Budget of the Ukrainian SSR for 1960 for social and cultural activities: universal education schools, technical training schools, higher educational establishments, scientific research institutions, workshop and factory training schools, libraries, clubs, theatres, the press and other educational and cultural activities; hospitals, crèches, sanatoria and other health and physical culture establishments; pensions and allowances.

[*Gazette of the Supreme Soviet of the Ukrainian SSR*, No. 32, 26 November 1959, Act No. 168, pp. 977–978]

[1] Expenditure on social and cultural activities in 1960 constitutes 43.1 per cent of total expenditure under the Budget of the Ukrainian SSR. In 1959 it amounted to 41.4 per cent; in absolute terms the figure for 1960 exceeds the corresponding expenditure in 1959 by 4,135,459,000 roubles.

ACT CONCERNING THE JUDICIAL SYSTEM OF THE UKRAINIAN SSR PASSED BY THE COUNCIL OF MINISTERS OF THE UKRAINIAN SSR ON 30 JUNE 1960

SUMMARY

In accordance with this Act and in conformity with article 84 of the Constitution of the Ukrainian SSR, justice is administered in the Ukrainian SSR by the Supreme Court of the Ukrainian SSR, regional courts and district (city) people's courts.

[Art. 1 of the Act]

The purpose of justice in the Ukrainian SSR is to ensure exact and unswerving compliance with the law by all institutions, organizations, officials and citizens.

Justice in the Ukrainian SSR is called upon to protect the following from any encroachment:

(*a*) The social and state structure as established by the Constitution of the Ukrainian SSR, the socialist system of economy and socialist property.

(*b*) The political, labour, housing and other personal and property rights and interests of citizens, as guaranteed by the Constitution of the Ukrainian SSR.

[Art. 2 of the Act]

Justice in the Ukrainian SSR is administered on the principle of the equality of citizens before the law and before the courts, irrespective of their social origin, property or occupational status, nationality, race or religion.

Justice in the Ukrainian SSR is administered in exact conformity with the legislation of the USSR and that of the Ukrainian SSR.

[Articles 5 and 6 of the Act]

In accordance with article 92 of the Constitution of the Ukrainian SSR, in the administration of justice, judges and people's assessors shall be independent and subject only to the law.

[Art. 7 of the Act]

In accordance with article 91 of the Constitution of the Ukrainian SSR, the accused shall be guaranteed the right to defence.

Associations of lawyers serve to provide defence in court and also to afford other legal aid to citizens, undertakings, institutions and organizations.

The associations of lawyers are voluntary associations of persons exercising the legal profession and operate under a statute concerning legal representation in the Ukrainian SSR, which is confirmed by the Supreme Soviet of the Ukrainian SSR.

[Articles 16 and 17 of the Act]

People's judges in district (city) people's courts shall be elected by the citizens of the districts (cities) on the basis of universal, direct and equal suffrage by secret ballot for a term of five years.

People's assessors in district (city) people's courts shall be elected at general meetings of manual and non-manual workers and peasants at their places of work or residence, and at general meetings of members of the armed forces in their military units, by open vote for a term of two years.

People's judges shall periodically render an account of their work and the work of the people's courts to the electors.

[Articles 21 and 26 of the Act]

Judges and people's assessors may be divested of their powers before the expiration of their term of office only if recalled by the electors or the body which elected them, or by virtue of a court judgement against them.

The procedure to be followed in the summary recall of judges and people's assessors of the courts of the Ukrainian SSR is laid down by a statute concerning the procedure for the summary recall of judges and people's assessors of the courts of the Ukrainian SSR, confirmed by the Presidium of the Supreme Soviet of the Ukrainian SSR.

[Art. 43 of the Act]

[*Gazette of the Supreme Soviet of the Ukrainian SSR*, No. 23, 7 June 1960, pp. 305–312, Act No. 176]

DECREE No. 272 RATIFYING THE CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

On 22 August, the Presidium of the Supreme Soviet of the Ukrainian SSR enacted decree No. 272 ratifying the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In ratifying the Convention, the Presidium of the Supreme Soviet of the Ukrainian SSR made the following statement:

"The Ukrainian Soviet Socialist Republic will apply the provisions of the present convention with regard to arbitral awards made in the territory of States which are not parties to the convention only on a basis of reciprocity."

[*Gazette of the Supreme Soviet of the Ukrainian SSR*, No. 31, 1 September 1960, p. 505, decree No. 272]

UNION OF SOUTH AFRICA

THE UNLAWFUL ORGANIZATIONS ACT, 1960

ACT NO. 34 OF 1960, ASSENTED TO ON 7 APRIL 1960[1]

1. (1) If the Governor-General is satisfied that the safety of the public or the maintenance of public order is seriously threatened or is likely to be seriously threatened in consequence of the activities of the body known as the Pan Africanist Congress or the body known as the African National Congress, he may, without notice to the body concerned, by proclamation in the *Gazette* declare such body, including all branches, sections or committees thereof, and all local, regional or subsidiary bodies forming part thereof, to be an unlawful organization.

(2) If the Governor-General is satisfied that the safety of the public or the maintenance of public order is seriously threatened or is likely to be seriously threatened in consequence of the activities of any organization which in his opinion has been established for the purpose of carrying on directly or indirectly any of the activities of any body which has in terms of sub-section 1 been declared to be an unlawful organization, or of any organization which in his opinion directly or indirectly carries on or proposes to carry on any of the said or any like activities, he may, without notice to the organization concerned, by proclamation in the *Gazette* declare such organization to be an unlawful organization.

(3) Any proclamation issued under sub-section 1 or 2 shall remain in force for a period not exceeding twelve months, but the duration thereof may from time to time be extended by like proclamation in the *Gazette* for further periods not exceeding twelve months at a time.

(4) The Governor-General may withdraw any proclamation under sub-section 1 or 2 by like proclamation in the *Gazette*.

2. The provisions of section one, sub-section 3 of section two, and sections three to fifteen, inclusive, of the Suppression of Communism Act, 1950,[2] except sub-section 10 of section four, sections five *bis* and six, paragraph (*b*) of subsection 1 and sub-section 2 of section seven, and sections eight, eight *bis*, nine, ten and fourteen, shall in so far as they are appropriate and can be applied, *mutatis mutandis*, apply with reference to any organization which in terms of a proclamation under sub-section 1 or 2 of section one of this Act is an unlawful organization, and for that purpose —

(*a*) Any reference in the Suppression of Communism Act, 1950, to any organization which has in terms of sub-section 2 of section two of that Act been declared to be an unlawful organization, shall be construed as a reference to an organization which has been declared to be an unlawful organization under sub-section 1 or 2 of section one of this Act;

(*b*) Any reference in the Suppression of Communism Act, 1950, to the date of commencement of that Act shall be construed as a reference to the date of commencement of this Act;

(*c*) Any reference in the Suppression of Communism Act, 1950, to the date on which any organization becomes an unlawful organization in terms of a proclamation under sub-section 2 of section two of that Act, shall be construed as a reference to the date on which an organization becomes an unlawful organization in terms of a proclamation under sub-section 1 or 2 of section one of this Act;

(*d*) Any reference in the Suppression of Communism Act, 1950, to the objects of communism, shall be construed as a reference to the objects of an organization which is an unlawful organization in terms of a proclamation under sub-section 1 or 2 of section one of this Act; and

(*e*) The reference in sub-section 3 of section two of the Suppression of Communism Act, 1950, to paragraph (*b*), (*c*) or (*d*) of sub-section 2 of section two of that Act shall be construed as a reference to section one of this Act.

3. The Minister shall lay copies of any proclamation issued under section one on the tables of both Houses of Parliament within fourteen days after the publication thereof, if Parliament is then in session, or, if Parliament is not then in session, within fourteen days after the commencement of its first ensuing session.

. . .

[1] Printed in *Statutes of the Union of South Africa, 1960*, published by the authority of the Government of the Union of South Africa.

[2] See *Yearbook on Human Rights for 1950*, pp. 300-6.

THE CHILDREN'S ACT, 1960

NOTE

The Children's Act, 1960 (Act No. 33 of 1960, assented to on 7 April 1960 and printed in *Statutes of the Union of South Africa*, published by authority of the Government of the Union of South Africa) provided for the appointment of commissioners of child welfare, for the establishment of, and procedure in, children's courts, for the protection, supervision and welfare of certain children, for the establishment or recognition of certain institutions for the reception of children and juveniles and for the adoption of children, among other matters. Section 102 of the Act replaced the word "nineteen" by "eighteen" in section 64 of the Criminal Procedure Act, 1955,[1] while section 103 made the same amendment to section 5 (1) of the General Law Amendment Act, 1957.[2] These provisions prohibit the publication, without consent, of information concerning the identity of persons under eighteen against whom a preparatory examination is held or of such persons who are parties to civil proceedings or witnesses in any legal proceedings.

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[1] See *Yearbook on Human Rights for 1955*, p. 239.

[2] See *Yearbook on Human Rights for 1957*, p. 241.

UNION OF SOVIET SOCIALIST REPUBLICS[1]

ACHIEVEMENTS OF THE USSR IN 1960 IN RAISING THE PEOPLE'S MATERIAL AND CULTURAL LEVEL OF LIVING

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 in 1960[2]

In meeting the ambitious targets of the seven-year plan set by the twenty-first Congress of the Communist Party of the Soviet Union in 1960, the second year of the plan, the workers of the Soviet Union achieved new successes in developing all branches of the national economy and further raising the people's material well-being.

According to provisional figures, the national income of the USSR was 144,000 million roubles, which, in terms of comparable prices, represents an increase of 6 per cent over the figure for 1959. During the first two years of the seven-year plan the national income showed an annual increase of 8 per cent as compared with the average annual increase of 7.1–7.4 per cent for the seven-year period, provided for in the control figures.

The growth of the national income made increased savings available for the further expansion of socialist production and an improvement in the people's standard of living both through a rise in direct wages and through an increase in the public funds allocated for general consumption.

The real *per caput* income of the working population rose by 5 per cent as compared with 1959.

In 1960 the population received 24,500 million roubles from public funds for general consumption in the form of education, medical services, social security and various payments and benefits, as against 23,000 million in the previous year.

The yearly average figure for manual and non-manual workers employed in the national economy in 1960 was about 62 million, over 5.5 million more than in the previous year, including 1.4 million more members of producers' co-operatives transferred to the system of state enterprises.

In 1960, as in previous years, there was no unemployment in the country. The change-over to a shorter six- or seven-hour working day for manual and non-manual workers was completed in 1960 in accordance with decisions adopted at the twenty-first Congress of the Communist Party of the Soviet Union and the Act passed by the Supreme Soviet of the USSR at its fifth session. The change-over to a shorter working day for manual and non-manual workers was accompanied by the adjustment of wages in industry, construction, transport and communications. A start has been made on the adjustment of wages in state agricultural undertakings and in several other branches of the national economy.

The change-over to a shorter working day was made without any reduction in wages, while in those branches of the national economy where it was accompanied by a pay adjustment, wages have risen, particularly for low-paid workers.

As a result of the shorter working day, the length of the working week for manual and non-manual workers in the Soviet Union now averages 39.4 hours.

In accordance with decisions adopted by the Surpreme Soviet of the USSR at its fifth session, manual and non-manual workers were being gradually exempted from taxation as from 1 October 1960. Deposits by the population in savings banks continued to increase, and by the end of the past year amounted to 10,900 million roubles; the number of depositors reached 52 million.

The total volume of state and co-operative retail trade (excluding the commission trade in foodstuffs of consumer co-operatives) amounted to 77,700 million roubles. Retail trade as a whole showed an increase of 11 per cent over 1959 in terms of comparable prices. The annual plan for state and co-operative retail trade was over-fulfilled; sales of goods to the population exceeded the plan by 1,100 million roubles. The year's target for the public catering trade was over-fulfilled, the turnover of public cateringe stablishments showing an increase of 10 per cent over 1959 in terms of comparable prices.

The targets set in the seven-year plan for increasing the commodity turnover are being successfully fulfilled. During the first two years of the plan sales of goods to the population were to rise by 15.4 per cent, whereas they actually rose by 19.6 per cent.

The value of the commission trade in foodstuffs of consumer co-operatives in 1960 was 750 million roubles.

[1] Text furnished by the Government of the Union of Soviet Socialist Republics.

[2] Published in *Pravda* of 26 January 1961.

Sales of particular types of goods at state and co-operative shops developed as follows (1960 sales are expressed as a percentage of 1959 sales):

	Percentage
Meat, sausages and other meat products	113
Fish and fish products	104
Animal oil	106
Vegetable oil	105
Milk and milk products	114
Cheese	113
Eggs	108
Sugar	113
Confectionery	104
Tea	105
Vegetables	108
Melon crops	137
Fruit	89
Cotton fabrics	102
Woollen fabrics	116
Silk fabrics	99
Linen fabrics	102
Clothing and underwear	116
Knitted goods	111
Stockings and socks	109
Leather footwear	110
Furniture	119
Soap	108
Sewing machines	107
Domestic refrigerators	121
Washing machines	125
Vacuum cleaners	115
Clocks and watches	95
Motor-cycles and motor-scooters	113
Bicycles	90
Wireless sets	102
Television sets	132
Passenger automobiles	143

Sales of producer goods and building materials to collective farms and to the population increased as follows: cement by 12 per cent; slate by 15 per cent; soft roofing by 12 per cent; commercial timber by 4 per cent; standard houses by 6 per cent; sets of prefabricated parts for standard houses by 35 per cent.

Despite the considerable increase in the volume of trade, the demand for particular consumer goods is not yet being fully met.

In the past year the currency was further strengthened and the purchasing power of the rouble increased. Against a background of a stable currency, the steady growth of production and of the national income made it possible to increase the value of the monetary unit, change the scale of prices and raise the gold content of the rouble, beginning on 1 January 1961.

Where foreign trade is concerned, the Soviet Union further extended its economic ties with foreign countries. The volume of foreign trade showed an increase of 5 per cent over 1959. In the past year, as in previous years, machinery and plant were exported on a considerable scale, in particular for undertakings being built abroad with the aid of the Soviet Union. More oil, oil products, ferrous metals, iron ore, timber products and other goods were exported. Imports of machinery and plant increased, especially of chemical plant, and a variety of consumer goods.

Further progress was made in the development of popular education, science and culture.

The number of students undergoing training of all types in the USSR totalled more than 52 million.

In accordance with the Act concerning the establishment of a closer correspondence between education and life and the further development of the educational system in the USSR, work continued during the past year on the reorganization of general education schools and of specialized secondary and higher education.

The number of students attending general education schools, including students at schools for young industrial and agricultural workers and schools for adults, was 36 million in the current academic year, or almost 3 million more than in the previous academic year. In 1960 over 1 million students graduated from secondary schools and received school-leaving certificates, of whom over 300,000 had received a secondary education without interruption of employment, at schools for young industrial and agricultural workers and schools for adults. At the beginning of the current academic year the country had 15,000 secondary general and polytechnic workers' schools at which over 800,000 students in the senior classes are receiving vocational training. In the past year 172,000 young men and women graduated from secondary schools providing vocational training, having learnt a trade as well as obtaining a school-leaving certificate. At the beginning of the 1960–61 academic year over 540,000 students were being educated in boarding schools.

The number of students at higher and specialized secondary educational establishments, including correspondence and evening schools, is 4,450,000, of whom almost 2,400,000 are in higher educational establishments.

Education at correspondence and evening schools has been further expanded. The number of persons studying without interruption of employment at higher and specialized secondary educational establishments, secondary general schools for young industrial and agricultural workers and schools for adults totalled 4,970,000, of whom 2,208,000 were in higher and specialized secondary educational establishments. Of the students enrolled during 1960 in day courses at higher educational establishments, almost 150,000, or 57 per cent, had completed a period of practical work of not less than two years after finishing their secondary-school education.

More than 820,000 young specialists graduated during the past year from higher and specialized secondary educational establishments. Of these, over 340,000 were specialists with a higher education, including some 117,000 engineers.

The number of academic and research workers had reached over 350,000 by the end of the year.

The network of cultural and educational institutions serving the population was further improved. One hundred and forty new full-length films, including 110 feature and 30 news-documentary and popular-science films, were released in the past year. By the end of 1960, the number of cinemas was over 101,000, having increased by 10,000 since the previous year; the number of cinema attendances in 1960 was 3,600 million, an increase of almost 90 million over 1959.

During the year over 245 million persons attended theatre performances, concerts given by musical companies, and circus shows.

Book publication reached 1,230 million copies during the past year; the circulation of newspapers, magazines and other periodicals increased.

The construction of housing and of cultural, social and educational facilities continued to expand. Nine per cent more housing was built and brought into occupancy by the State than in the previous year; however, the target for residential construction was not reached. In the past year over 85 million square metres of housing were brought into occupancy in towns and urban settlements, including both housing financed by the State and housing by the people from their own resources and with the help of state loans; this represents some 2.4 million well-equipped apartments as against 2,237,000 brought into use in 1959. Collective farmers and the rural intelligentsia built 625,000 dwellings in the past year.

State capital investment in the construction of educational, cultural, scientific, artistic and medical institutions showed an increase of 20 per cent over 1959. Construction of general education schools rose by over 40 per cent, of hospitals and polyclinics by 25 per cent, kindergartens and crèches by 15 per cent. A considerable number of boarding schools, sanatoria, rest-homes, cinemas and other cultural and educational facilities were built. The target for the construction of these institutions was not, however, reached.

Medical services for the population were further improved and developed. The system of hospitals, maternity homes, dispensaries, clinics for women and children, preventive health institutions and other medical facilities was expanded. The number of hospital beds increased by almost 123,000 as compared with 1959, while the number of places in permanent crèches and kindergartens increased by almost 460,000 and the number of beds at sanatoria and rest-homes by 12,000. The number of physicians increased by more than 20,000 during that year.

The measures taken by the Party and Government to raise material standards of living, to improve working conditions and amenities for the population, and to safeguard its health have ensured the maintenance of a high level of fertility and a reduction in the mortality rate. The USSR is still the country with the lowest mortality rate in the world.

According to provisional figures, the population of the USSR on 1 January 1961 was 216 million.

ACT CONCERNING THE COMPLETION IN 1960 OF THE CHANGEOVER TO A SEVEN- OR SIX-HOUR WORKING DAY FOR ALL MANUAL AND NON-MANUAL WORKERS

of 7 May 1960[1]

The Soviet people, carrying into effect the historic decisions of the Twenty-first Congress of the Communist Party of the Soviet Union, have made notable progress in developing the socialist economy and have significantly increased the well-being, and raised the cultural level, of the workers.

The enormous achievements in the development of the national economy and the increase in the productivity of social labour have enabled further progressive reductions to be made in the length of the working day and the work week.

The decisions of the Twenty-first Congress of the Communist Party of the Soviet Union call for the completion in 1960 of the change-over to a seven-hour working day for manual and non-manual workers and to a six-hour working day for workers who work underground, the changeover to a forty-hour work week for all manual and non-manual workers in 1962 and, starting in 1964, the gradual changeover to a work week of thirty to thirty-five hours. As a result the USSR will have the shortest working day and the shortest work week in the world — a major triumph of the Soviet people, illustrating the innate superiority of the socialist society.

The decisions taken by the Communist Party concerning the progressive reduction in the length

[1] Published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, 1960, No. 18, p. 137.

of the working day are being successfully carried into effect. The shortening of the working day is being effected without any reduction in the wages of manual and non-manual workers.

The Supreme Soviet of the Union of Soviet Socialist Republics *resolves:*

Art. 1. The measures for the change-over to a seven-hour and six-hour working day for manual and non-manual workers and for the adjustment of wages and salaries which have been worked out by the Central Committee of the Communist Party of the Soviet Union, the Council of Ministers of the USSR and the All-Union Central Council of Trade Unions and which are at present being carried into effect are herewith approved.

Art. 2. A working day of not more than seven hours shall be fixed for all manual and non-manual workers and, in the case of workers who work underground, a working day of not more than six hours.

The change-over to a working day of seven or six hours for manual and non-manual workers shall be completed in 1960.

ACT CONCERNING THE ABOLITION OF TAXES ON THE PAY OF MANUAL AND NON-MANUAL WORKERS

of 7 May 1960[1]

The Supreme Soviet of the Union of Soviet Socialist Republics notes that, in accordance with the decisions of the Twenty-first Congress of the Communist Party of the Soviet Union and on the basis of the successful achievement of the national economic plans of the USSR, a broad programme for raising the level of living of the Soviet people is being carried out. In 1960 the change-over to a seven-hour working day for all manual and non-manual workers in all branches of the national economy, and to a six-hour working day in the case of workers who work underground, will be completed; measures to raise and adjust the pay of manual and non-manual workers are being carried out according to plan; the production of consumer goods is being significantly increased and the cultural and communal services to the working people are being improved; housing construction is being steadily expanded.

During the past few years steps have been taken to reduce the taxes levied on the population: the agricultural tax has been reduced by 60 per cent; workers on collective farms and a considerable number of manual and non-manual workers have been exempted from the tax on bachelors and citizens of the USSR who live alone or have small families; and the amount of pay not subject to taxation has been raised.

At the present time measures for the development of the national economy and culture and for the improvement of the well-being of the people in our country are being financed, in the main, from the accumulations of socialist undertakings. As the seven-year plan is fulfilled, these accumulations will steadily increase.

With a view to a further improvement in the material well-being of the working people, the Supreme Soviet of the Union of Soviet Socialist Republics *resolves:*

Art. 1. Manual and non-manual workers who receive the following pay at their principal place of employment shall be exempted from the income tax and the tax on bachelors and citizens of the USSR who live alone or have small families:

Those recieving up to 500 roubles per month — as from 1 October 1960;

Those receiving up to 600 roubles per month — as from 1 October 1961;

Those receiving up to 700 roubles per month — as from 1 October 1962.

Art. 2. The rates of income tax and the tax on bachelors and citizens of the USSR who live alone or have small families at present levied on the pay of manual and non-manual workers at their principal place of employment shall be reduced by an average of 40 per cent at the following times:

As from 1 October 1960 — on pay ranging from 501 to 600 roubles per month;

As from 1 October 1961 — on pay ranging from 601 to 700 roubles per month;

As from 1 October 1962 — on pay ranging from 701 to 800 roubles per month;

As from 1 October 1963 — on pay ranging from 801 to 900 roubles per month;

As from 1 October 1964 — on pay ranging from 901 to 1,000 roubles per month.

Art. 3. As from 1 October 1965, the income tax and the tax on bachelors and citizens of the USSR who live alone or have small families, as levied on the pay of manual and non-manual workers, shall be totally abolished. The complete discontinuance of the income tax, in the case of manual and non-manual workers for whom wage rates and salary scales ranging up to 1,000 roubles per month have been established, shall be accompanied by an increase in take-home pay of the entire amount of the tax on such wages and salaries; in the case of manual and

[1] Published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, 1960, No. 18, p. 135.

non-manual workers for whom wage rates and salary scales ranging from 1,001 to 2,000 roubles per month have been established, the discontinuance of the income tax shall be accompanied by increases in take-home pay as follows:

Wages and salaries from 1,001 to 1,200 roubles per month — an average of 79 per cent of the amount of the tax on such wages and salaries;

Wages and salaries from 1,201 to 1,400 roubles per month — an average of 46 per cent of the amount of the tax on such wages and salaries;

Wages and salaries from 1,401 to 1,600 roubles per month — an average of 29 per cent of the amount of the tax on such wages and salaries;

Wages and salaries from 1,601 to 1,800 roubles per month — an average of 15 per cent of the amount of the tax on such wages and salaries;

Wages and salaries from 1,801 to 2,000 roubles per month — up to 10 per cent of the amount of the tax on such wages and salaries.

Concurrently, the wage rates and salary scales of such manual and non-manual workers shall be reduced by the remaining part of the tax computed on such wages and salaries.

In the case of manual and non-manual workers for whom wage rates and salary scales in excess of 2,000 roubles per month have been established, the income tax shall be discontinued with a concurrent reduction of the wages and salaries by the entire amount of the tax computed on such wages and salaries.

The tax on bachelors and citizens of the USSR who live alone or have small families, in respect of all manual and non-manual workers, shall be totally discontinued, the costs being absorbed by the State.

Art. 4. As of 1 October 1965, the income tax and the tax on bachelors and citizens of the USSR who live alone or have small families shall be totally discontinued; the same applies to persons engaged in literary work or work in the arts, with a corresponding reduction in the scale of authors' emoluments and other types of remuneration as laid down by the Council of Ministers of the USSR.

Art. 5. The last deduction for tax purposes from the pay of manual and non-manual workers as provided for in articles 1 and 3 of this Act shall be applied to earnings for the month of September of the corresponding year.

Art. 6. This Act shall also apply to servicemen, students, lawyers, and handicraft workers and artisans employed in co-operatives who are subject to the income tax on the same bases as manual and non-manual workers.

ACT OF THE UNION OF SOVIET SOCIALIST REPUBLICS APPROVING THE DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR AMENDING THE NATIONAL PENSIONS ACT

of 7 May 1960[1]

The Supreme Soviet of the Union of Soviet Socialist Republics resolves:

To approve the decree of the Presidium of the Supreme Soviet of the USSR of 26 December 1959 amending the National Pensions Act and to make corresponding amendments in articles 27, 41, 47 and 51 of the National Pensions Act of the USSR of 14 July 1956, the text of which shall read as follows:

"27. Any earnings of an invalid in group I and any earnings of an invalid in group II not exceeding 1,200 roubles a month shall be disregarded and the pension paid in full.

"In the case of invalids in group II whose earnings exceed 1,200 roubles and of invalids in group III, the pension shall be paid at such rate that the pension and the earnings do not together exceed the total earnings prior to the award of the pension. However, in the case of invalids in group III whose earnings do not exceed 1,200 roubles a month, at least 50 per cent of the pension shall be paid."

"41. Any non-employed invalid in group I or II who is covered by article 39 or 40 of this Act and has one or more dependants incapable of working shall receive a supplement (without exceeding the maximum rate of pension) as follows: for one dependant incapable of working — 10 per cent of the pension; for two or more dependants incapable of working — 15 per cent of the pension.

"Any invalid in group I covered by the same articles of this Act shall receive a supplement for invalid attendance at the rate of 15 per cent of the pension and any non-employed invalid in group II, a supplement at the rate of 10 per cent of the pension (without exceeding the maximum rate of pension)."

"47. If a non-employed invalid in group I or II who is covered by article 45 or 46 of this Act has one or more dependants incapable of working, a supplement shall be paid as follows: 10 per cent of the pension where there is one such dependant;

[1] Published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, 1960, No. 18, p. 143.

15 per cent of the pension where there are two or more such dependants.

"Any invalid in group I covered by the same articles of this Act shall receive a supplement for invalid attendance at the rate of 15 per cent of the pension, and any non-employed invalid in group II, a supplement at the rate of 10 per cent of the pension."

"51. As regards the award of pensions to persons serving with the armed forces as national service privates, sergeants and senior NCOs, or to their families, the provisions of articles 18 (first paragraph), 19, 26, 28, 29, 30, 31, 32 and 37 of this Act shall apply, where appropriate. As regards the award of pensions to the families of national servicemen who were employed persons or members of a co-operative craft society before being called up, item (*a*) of article 36 of this Act shall also apply in appropriate cases.

"Any earnings on an invalid in group I or II shall be disregarded and the pension paid in full.

"In the case of employed invalids in group III, the pension shall be paid at such a rate that the pension and the earnings do not together exceed the total earnings prior to the award of the pension; but in every case at least 50 per cent of the pension shall be paid."

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR CONCERNING TEMPORARY DISABILITY BENEFITS FOR MANUAL AND NON-MANUAL WORKERS WHO LEFT THEIR PREVIOUS PLACE OF EMPLOYMENT OF THEIR OWN FREE WILL

of 25 January 1960[1]

With a view to a further improvement in the provision of temporary disability benefits for manual and non-manual workers, the Presidium of the Supreme Soviet of the USSR resolves as follows:

1. Manual and non-manual workers who left their previous employment of their own free will shall, in all cases of temporary disability, receive benefit on the usual terms irrespective of the period of service at the new place of employment.

2. All manual and non-manual workers discharged at their own request shall retain rights acquired in respect of continuous service provided that they resume work within one month of the date of their discharge.

Rights acquired in respect of continuous service shall be retained irrespective of the interval before work is resumed at the new place of employment in the case of:

(*a*) Manual and non-manual workers who leave their employment on account of sickness, disability or retirement on an old-age pension;

(*b*) Persons giving up work on account of enrolment at higher or specialized secondary educational establishments or in post-graduate courses;

(*c*) Persons leaving work on account of the transfer of the husband or wife to work in another locality;

(*d*) Expectant mothers and mothers with children under the age of twelve months who are transferred to work near their place of residence;

(*e*) Persons discharged for other valid reasons, as provided for in orders of the Council of Ministers of the USSR.

3. The following are hereby repealed: article 6 of the decree of the Presidium of the Supreme Soviet of the USSR of 25 April 1956 annulling the liability to penalties of manual and non-manual workers who leave undertakings and institutions without permission or are absent from work without good reason, and the decree of the Presidium of the Supreme Soviet of the USSR of 31 January 1957 amending article 6 of the decree of the Presidium of the Supreme Soviet of the USSR of 25 April 1956 annulling the liability to penalties of manual and non-manual workers who leave undertakings and institutions without permission or are absent from work without good reason.

4. The Council of Ministers of the USSR shall amend the orders of the Government of the USSR in accordance with this decree.

5. This decree shall come into force on 1 January 1960.

[1] Published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, 1960, No. 4, p. 36.

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR CONCERNING THE ADJUSTMENT OF BENEFITS FOR PERSONS WORKING IN THE REGIONS OF THE FAR NORTH AND IN LOCALITIES ASSIMILATED TO SUCH REGIONS

of 10 February 1960[1]

For the purpose of adjusting the benefits for persons working in the regions of the far north and in localities assimilated to such regions, and of extending these benefits to all manual and non-manual workers in these areas, the Presidium of the Supreme Soviet of the USSR resolves:

1. All manual and non-manual workers in state, co-operative and public undertakings, institutions and organizations shall be paid a supplement to their monthly remuneration not counting district differentials and long-service bonuses in accordance with the following scales:

(*a*) In the Chukchi national area of the Magadan region, the Koryak national area and the Aleut district of the Kamchatka region and also in the islands of the Arctic Ocean and its seas (excluding the islands of the White Sea) — 10 per cent at the end of the first six months of work, with a 10 per cent increase every six months thereafter; in the other regions of the far north — 10 per cent at the end of the first year of work, with a 10 per cent increase every year thereafter;

(*b*) In localities assimilated to the regions of the far north — 10 per cent at the end of the first two years of work, with a 10 per cent increase every two years thereafter.

The supplements shall be paid monthly and shall apply to remuneration of up to 3,000 roubles a month. If the remuneration exceeds this figure the supplement shall be calculated only on 3,000 roubles.

For manual and non-manual workers who have not been transferred to the new conditions of remuneration connected with the adjustment of wages and salaries, the supplements shall, until such time as this transfer takes place, be calculated in percentages of present rates of wages (salary scales), in accordance with the above provisions.

The total supplements to be paid to a worker may in no case be higher than the following: in the regions of the far north, 80 per cent of the wage or salary and in localities assimilated to the regions of the far north, 50 per cent of the wage or salary, and likewise, 80 per cent and 50 per cent of the rates of wages (salary scales) for manual and non-manual workers not transferred to the new conditions of remuneration. In addition, these supplements may not exceed 2,400 roubles for the regions of the far north, and 1,500 roubles for localities assimilated to such regions.

Manual and non-manual workers receiving benefits in accordance with the decree of the Presidium of the Supreme Soviet of the USSR of 1 August 1945, and decision No. 2927 of the Council of People's Commissars of the USSR of 18 November 1945, or in accordance with any other enactments of the Government of the USSR, shall retain any such remuneration increases received up to 1 March 1960, but not in excess of 3,000 roubles a month, throughout the period of their work in the regions of the far north and in localities assimilated to such regions. Any further supplements shall be paid to such persons in accordance with this article.

2. Supplementary leave over and above the annual leave laid down in the legislation in force shall be granted, as follows: in the regions of the far north, for a period of eighteen working days; in localities assimilated to those regions, for a period of twelve working days.

3. All workers in the regions of the far north and in localities assimilated to such regions shall be permitted to combine, wholly or in part, their leave periods for not more than three years.

The time required for travel to and from the place where the leave is to be spent shall, every three years, not be counted as part of the leave period.

The total period of leave, including the time of travel to and from the place where the leave is to be spent, may not exceed six months.

Every three years the cost of travel to and from the place of leave shall be borne by the undertaking, institution or organization.

4. In the event of the temporary disablement of persons working in the far north and in localities assimilated to the regions of the far north, the undertaking, institution or organization shall pay the difference between the amount of the social insurance benefit and actual remuneration (including supplements). However, the benefit together with the additional payment shall not exceed the maximum social insurance benefit payable under the legislation in force.

5. Manual and non-manual workers from other parts of the country transferred to or directed or invited to work in the regions of the far north and in localities assimilated to such regions, if they have signed labour contracts to work in these regions for a period of five years, or for a period of two years in the case of the islands of the Arctic Ocean, shall in addition be granted the following benefits:

[1] Published in *Vedomosti Verkhovnovo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik*, 1960, No. 7, p. 45.

(*a*) The daily allowance for workers and the extraordinary grant for workers and members of their families shall be paid at double the rates laid down in the decision of the Central Executive Committee and the Council of People's Commissars of the USSR of 23 November 1931, concerning compensations and guarantees in the event of transfer, reappointment and direction to work in other localities (*Sobranie Zakonov SSSR*, 1931, No, 68, p. 453), with the exception of those newly arrived workers whose permanent place of residence is less than 1,000 kilometres by railway or 500 kilometres by other means of communication from the new place of work. In such cases the extraordinary grant and the daily allowance shall, as a general rule, be paid at the single rate. If it is impossible to travel to the place of work by railway, by water or by other means of transport, the cost of travel and of the carriage of baggage by air shall be paid;

(*b*) Dwelling space at the place of work shall be provided for workers and their families, in accordance with the rules established for the given locality;

(*c*) Dwelling space shall be retained at the former place of residence throughout the period of validity of the labour contract regardless of whether the members of the worker's family remain there or accompany him. In the latter circumstance, dwelling space shall be retained also for such members of the family;

(*d*) Actual expenditures connected with the travel of the worker and the members of his family to the former place of residence (the cost of travel and of the transport of baggage) shall be reimbursed upon the departure of the worker at the expiration of the period of the labour contract or if the contract has been broken before the expiration of that period for reasons beyond his control;

(*e*) One year of work in the regions of the far north and in localities assimilated to such regions shall be counted as one and a half years of work in calculating the period giving entitlement to old-age and disability pensions.

The benefits provided for in this article shall be accorded also to persons who have gone to the regions of the far north and localities assimilated to such regions on their own initiative and who have concluded a fixed-term labour contract for work in these regions. In such circumstances the cost of travel, and the extraordinary grant and daily allowance provided for in paragraph (*a*) of this article shall not be paid to the worker, but if the members of his family travel to his place of work the cost of travel, the transport of baggage and the extraordinary grant shall be paid for them in accordance with the provisions of paragraph (*a*) of this article.

6. For persons recruited in the area before the entry into force of this decree and not enjoying special benefits under the existing legislation, the period of work giving entitlement to supplements in pay, additional leave and other benefits shall be calculated from the date of the entry into force of this decree.

7. The Council of Ministers of the USSR shall issue a regulation for the application of this decree and make the necessary changes in the enactments of the Government of the USSR.

8. Upon the publication of this decree, the following shall be considered no longer valid:

(*a*) The decree of the Presidium of the Supreme Soviet of the USSR of 1 August 1945 concerning benefits for persons working in the regions of the far north;

(*b*) The decree of the Presidium of the Supreme Soviet of the USSR of 26 October 1945 concerning the extension to manual, non-manual and engineering and technical workers of factory No. 402 of the People's Commissariat for the ship-building industry and construction project No. 203 of the NKVD, of the benefits provided for persons working in the regions of the far north;

(*c*) The decree of the Presidium of the Supreme Soviet of the USSR of 7 October 1947 concerning the extension to manual, non-manual and engineering and technical workers engaged in construction at the shipyard of the main administration of the northern sea route attached to the Council of Ministers of the USSR, in the region of Dvina Bay, of the benefits provided for persons working in the regions of the far north;

(*d*) The decree of the Presidium of the Supreme Soviet of the USSR of 8 August 1955 containing modifications of article 6 of the decree of the Presidium of the Supreme Soviet of the USSR of 1 August 1945 concerning benefits for persons working in the regions of the far north.

9. This decree shall enter into force on 1 March 1960.

DECISION OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION AND OF THE COUNCIL OF MINISTERS OF THE USSR, OF 20 JANUARY 1960, CONCERNING ARRANGEMENTS FOR THE EMPLOYMENT OF AND PROVISION TO MEET THE MATERIAL AND OTHER NEEDS OF MILITARY PERSONNEL DISCHARGED FROM THE ARMED FORCES OF THE USSR IN ACCORDANCE WITH THE ACT CONCERNING A FURTHER MAJOR REDUCTION OF THE ARMED FORCES OF THE USSR

SUMMARY[1]

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR have instructed the central committees of communist parties of the union republics, the councils of ministers of the union and autonomous republics, ministries and departments of the USSR, councils of national economy, territorial, regional, city and district party committees and executive committees of Soviets of working people's deputies to ensure that soldiers, sailors, sergeants, non-commissioned officers and officers discharged from the armed forces are placed in employment not later than one month from the date of their arrival in their places of residence, account being taken of their skills and experience.

The employment provided for discharged members of the armed forces will be primarily in industrial undertakings, construction projects, transport and agriculture, with particular attention to arrangements for sending persons who have expressed the wish to do so to work and settle permanently in the regions of the north, the Urals, Siberia, the far east and the Kazakh SSR, as also on collective and state farms in the regions of the virgin and disused lands of the RSFSR and the Kazakh SSR.

The councils of ministers of the union republics and the executive committees of the Soviets of working people's deputies must:

Provide dwelling space (by whatever authority it may be administered) for officers and men of the re-engagement service discharged or transferred to the reserve as a matter of priority, but in any case not later than three months from the date of their arrival in their place of residence, which shall be chosen with due regard to the current state of the registration list;

Ensure that commissions attached to district (or city) executive committees concerned with the employment and accommodation of officers discharged or transferred to the reserve proceed to make the necessary arrangements forthwith, and, where there are no such commissions, set them up.

For the purpose of helping officers transferred to the reserve to acquire industrial skills, the heads of ministries and departments, councils of national economy, undertakings, constructions and organizations have been directed to give them priority in admission to schools of the FZU (industrial training school) type, and in courses for training in appropriate professions. During their period of training, officers transferred to the reserve, with the exception of pensioners, are to be paid an allowance amounting to 75 per cent of the wage rate (monthly salary) for the work for which they are being trained, but not less than 400 roubles a month.

The Ministry of Higher and Specialized Secondary Education of the USSR has been requested to prepare and issue instructions, compulsory for all ministries and departments administering higher and secondary specialized educational establishments, for the admission, during the 1960/61 and 1961/62 academic years, without entrance examinations, of officers discharged from the armed forces in accordance with the Act concerning a further major reduction of the armed forces of the USSR. These instructions must provide for:

The admission to the first and subsequent classes of higher educational establishments of officers with incomplete or complete higher military education;

The admission to courses preparing for higher educational establishments specially organized for the purpose, and offering up to ten months of free training with an allowance, of officers who have completed the ten-year secondary school course;

The admission to the first and seubsequent classes of specialized secondary educational establishments of officers who have completed courses at secondary military educational establishments;

The admission to the first classes of specialized secondary educational establishments of officers with an education of not less than seven years.

The admissions of officers to educational establishments is to be over and above the figures called for in the plan of admissions laid down for the given higher or secondary specialized educational establishment, and is to be carried out throughout the academic year, as the officers arrive at their permanent place of residence.

[1] Published in the newspaper *Izvestia* of 26 January 1960.

Former officers discharged from the armed forces without entitlement to a pension, if they become students at daily higher or specialized secondary educational establishments or attend courses preparing them for higher educational establishments, will be paid student allowances provided their reports are satisfactory.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR have decided to establish the following benefits for military personnel discharged from the armed forces, who sign labour contracts:

(*a*) The cost of travel to the place of work will be reimbursed and a subsistence allowance at the rate of 15 roubles a day will be paid to persons going to the regions of the north, the Urals, Siberia, the far east and the Kazakh SSR and 10 roubles a day to persons going to other regions;

(*b*) Persons who have signed a labour contract for work for a period of not less than two years will, upon their arrival at the place of work, receive a single non-rescindible grant of 600 roubles for the regions of the north, the Urals, Siberia, the far east and the Kazakh SSR, 500 roubles for the Donkass regions and 300 roubles for other regions.

Persons going to work at undertakings and construction projects for whose workers a higher rate of extraordinary grant has been laid down in the decisions of the Government of the USSR, will be paid such grants in accordance with these decisions;

(*c*) Persons who have signed labour contracts for work at undertakings, construction projects and organizations situated in the regions of the far north and in remote localities assimilated to such regions, are to receive grants, daily allowances and other benefits and privileges in accordance with the legislation in force concerning benefits for persons working in these regions and localities;

(*d*) For officers and men of the re-engagement service discharged from units and establishments situated in remote areas who, within three months from their discharge, have signed labour contracts for work in the regions of the far north and in remote localities assimilated to the regions of the far north, the period of their uninterrupted military service in remote areas will be counted as an uninterrupted period of work for the purpose of the receipt of pay supplements and other benefits established under the legislation in force;

(*e*) Loans amounting to 7,000 roubles may be granted for the construction of individual dwellings, the loan to be amortized over a period of seven years, beginning with the second year after the issue of the loan;

(*f*) Loans of up to 1,000 roubles may be granted for the purchase of household equipment, the loan to be amortized over a period of one and a half years;

(*g*) The costs of travel of members of the family of the signer of a labour contract to his place of work shall be repaid, provided that the travel takes place not later than two years from the date of the conclusion of the labour contract, and also baggage transportation costs for up to 240 kilogrammes for the worker himself and 80 kilogrammes for each member of his famly;

(*h*) The building materials necessary for the construction of houses are to be sold to such persons and they are to be given assistance, for an appropriate payment, in the shipment of these materials by road transport.

Military personnel discharged or transferred to the reserve, who have expressed the wish to take up permanent work on collective and state farms in the regions of the virgin and disused lands of the Kazakh SSR, will be granted benefits in accordance with article 19 of decision No. 1349 of the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR of 3 December 1959 concerning measures to ensure the timely gathering of the harvest and autumn ploughing in the regions of the virgin and disused lands.

Military personnel who have been discharged or transferred to the reserve and have entered agricultural mechanization schools will, if at the end of their training they remain to work on state farms situated in the regions of the virgin lands of the REFSR and the Kazakh SSR, receive a maintenance allowance during the period of their training, in accordance with article 6 of decision No. 1223 of the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR, of 30 October 1959, concerning the training of skilled mechanics for agriculture.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR have decided that if military personnel who have been discharged or transferred to the reserve express the wish to go to work in the regions of the north, the Urals, Siberia, the far east and the Kazakh SSR directly from their military units, the local organs for the recruitment of workers may conclude labour contracts with them, and the military units must give these persons travel documents to the place of work, the conclusion of the contract being mentioned in the transit certificate.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR have instructed the Ministry of the Navy, the Ministry of the Medium Machine Building Industry, the State Committee of the Council of Ministers of the USSR for Air Technology, the State Committee of the Council of Ministers of the USSR for Shipbuilding and the Chief Directorate of the Civil Air Fleet attached to the Council of Ministers of the USSR, together with the Ministry of Defence

of the USSR and the State Planning Committee of the Council of Ministers of the USSR, to consider and resolve the question of finding employment for discharged commanding officers and officers from the engineering and technical staff of the navy and the army air force. They are to report the results to the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR by 1 May 1960.

The Ministry of Defence of the USSR has been authorized:

(*a*) To grant officers who have been discharged or transferred to the reserve and who are not entitled to a pension, in addition to the payments provided for in paragraph 9 of decision No. 1725 of the Council of Ministers of the USSR of 23 September 1955, the following benefits:

One month's pay according to function and military rank for periods of service of five to ten years;

Two months' pay for periods of service of ten to fifteen years;

Three months' pay for periods of service of more than fifteen years.

These sums are to be paid when the persons concerned arrive at their permanent place of residence.

(*b*) To pay persons not of officer rank who have been transferred to the reserve and are attending courses at higher and secondary military educational establishments a single extraordinary grant, as follows:

For persons transferred to the reserve with officer rank — 2,000 roubles;

For persons who do not acquire officer rank in the reserve but have served the prescribed periods of active military duty — 1,000 roubles;

(*c*) To pay officers and men of the re-engagement service discharged or transferred to the reserve a monetary compensation for unused leave during the year of discharge equivalent to one month's pay; pensions of officers of the armed forces of the USSR working in civilian ministries and departments, who are discharged or transferred to the reserve, shall be determined with reference to the salary appropriate to their military rank.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR have requested the Central Committee of the All-Union Lenin's Young Communists League to send in the first instance military personnel transferred to the reserve to the most important construction projects, undertakings and organizations in the eastern regions of the country in accordance with the general appeal made in earlier decisions adopted by the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR.

The councils of ministers of the union republics, the councils of national economy and the executive committees of the Soviets of Working People's Deputies have been instructed to give every assistance to officers who have been discharged or transferred to the reserve in the construction of houses with their own means, and to encourage the construction of houses in rural areas, particularly on collective and state farms in the virgin lands.

The Ministries of Education of the Union Republics have been ordered to arrange for the admission to primary and secondary schools of the children of officers and men of the re-engagement service who have been discharged or transferred to the reserve, upon their arrival at their place of residence.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR have instructed the executive committees of the Soviets of Working People's Deputies to register officers and men of the re-engagement service discharged or transferred to the reserve, and members of their families, for permanent residence in all towns and inhabited areas, except for Moscow, Leningrad and Kiev, where this will be done only if the persons concerned already have dwelling-space or were permanent residents of these cities before entering military service. They are also required to assign without hindrance officers and men of the re-engagement service discharged or transferred to reserve, and the members of their families, regardless of the health regulations, to dwelling-space occupied by the parents of the service man, or his wife or children.

The main political administration of the Soviet army and navy, and the military councils and political directorates (or departments) of military districts, armed forces groups, fleets, armies and naval units have been invited to carry out extensive information work among military and naval personnel to be transferred to the reserve, concerning the importance of the work they can do in the construction of industrial plants, railways and electric power stations, in the coal, metallurgical, oil refining and chemical industries, in forestry, transport and agriculture and in the development of the regions of the virgin and disused lands.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR have drawn the attention of party, soviet, trade union and Young Communist League organizations, and of the heads of ministries and departments, councils of national economy, plants, construction projects, organizations and tate and collective farms to the need to make the maximum endeavour to provide work immediately for military personnel discharged from the Soviet army and navy, and to arrange for their accommodation and professional training.

DECISION OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION AND THE COUNCIL OF MINISTERS OF THE USSR OF 14 JANUARY 1960, CONCERNING MEASURES FOR THE FURTHER IMPROVEMENT OF THE MEDICAL CARE AND HEALTH SERVICES PROVIDED FOR THE POPULATION OF THE USSR

SUMMARY[1]

The health of the population of the Soviet Union has been improved as a result of the continuous rise in the material prosperity and the cultural level of the people, the creation of an extensive system of medical establishments, the provision of free qualified medical care for all, the successful advancement of medical science and the wide-spread practice of physical culture. During the years of Soviet rule there has been a marked decline in morbidity, general mortality has fallen to less than a quarter the previous figure, and child mortality has fallen to a little more than one-seventh. The average life span in the Soviet Union has more than doubled.

Such dangerous infectious diseases as cholera, plague, smallpox, typhus and typhoid, which formerly afflicted the population, have now been eradicated in our country. Malaria, too, has now been virtually eradicated, and the incidence of diphtheria has sharply declined.

The number of hospital beds has doubled during the post-war years. Side by side with state construction, there has been a considerable extension of the construction of medical establishments on the initiative and at the expense of collective farms.

A large number of sanatoria and rest-homes have been built and put into operation, more than 5 million persons accommodated in them annually for rest and treatment. The quality of the curative and preventive medical care provided for the population has been improved. The allocations for public health and the development of medical science increase year by year.

A large number of higher and secondary medical educational establishments have been opened for the training of qualified medical personnel. There are in the country some 380,000 doctors and 1,300,000 medical assistants, midwives, pharmacists and trained nurses. Our country now leads the world in the matter of the supply of doctors.

A broad network of medical research institutes has been created and also the Academy of Medical Sciences of the USSR, which is the guiding organ in medical science. Over 30,000 scientific workers are employed in the country's 273 research institutes and seventy-nine higher medical educational establishments.

The medical industry of the Soviet Union has many achievements to its credit. The production of medicines and medical articles more than tripled during the last seven-year period.

The Central Committee of the Communist Party of the Soviet Union (CPSU) and the Council of Ministers of the USSR have asked all party, soviet and trade union organizations to give more attention to the further development of health protection in the country and have planned a number of measures for improving the medical services provided for the population, increasing the rate and improving the quality of the construction of curative-preventive establishments and medical industry undertakings, increasing the production of medicines and medical articles, enhancing the role of research institutes and the medical departments of higher educational establishments in the search for new and effective remedies and methods for combating illness, and further improving health conditions in populated areas.

The Central Commettee of the CPSU and the Council of Ministers of the USSR have charged the union republics and the ministries and departments of the USSR with the task of increasing the number of hospital beds from 1,532,600 in 1958 to 2,148,600 in 1965, including 336,200 beds in new hospitals with polyclinics and dispensaries and maternity homes, which are being constructed in accordance with state capital investment plans, and 279,800 beds in the medical establishments to be set up in buildings belonging to local soviet, economic, co-operative and public organizations and collective farms.

The councils of ministers of the union republics and the ministries and departments of the USSR have been asked, on the basis of the targets set up in this decision, to draw up plans for the construction and putting into operation of medical establishments in the years 1960–1965.

The Central Committee of the CPSU and the Council of Ministers of the USSR have instructed the Communist Party Central Committee, the councils of ministers of the union republics and the regional or (territorial) executive committees to prepare and carry out measures to ensure the fulfilment of the targets set up in this decision regarding the expansion of the network of medical establishments and also the provision of qualified medical personnel and the raising of the level of the medical services provided for the population, bearing in mind the following conditions:

[1] Published in the newspaper *Izvestia* of 20 January 1960.

The capital allocated for investment in the development of health services should be used principally for the construction of hospitals, polyclinics and maternity homes with a view, in the first instance, to improving hospital care for persons suffering from tuberculosis and cancer and from mental complaints, as also for women during the period of confinement and for infants;

The capacity of polyclinic establishments in towns should be considerably expanded through the development of a network of polyclinic departments of hospitals and also polyclinics and clinics in large industrial undertakings and the quality of the services rendered by the polyclinics should be improved;

Curative-preventive establishments should be supplied with the latest medical equipment, apparatus and instruments, and there should be an increase in the number of diagnostic laboratories and also of X-ray physiotherapy, treatment and other special rooms, especially in polyclinics;

The network of pharmacies should be greatly extended, and the supply to the population of medicines and articles of health and hygiene should be improved;

The provision of the requisite ambulances and trucks to curative-preventive establishments and first aid and emergency aid posts, and to curative and preventive medical establishments should be improved;

The funds allocated for the construction of hospitals, polyclinics and maternity homes should, in the first instance, be used for the enlargement of existing medical establishments and also for the construction of large hospitals both in towns and in rural areas;

In towns and industrial centres hospitals should be built preferably with 300 to 400 beds, and in large cities with 600 or more, since hospitals of that size are more economical to build and to run, in order to provide the population with comprehensive qualified medical assistance;

Rural district hospitals should be enlarged (the number of beds in them being increased to 100–200 and more), furnished with modern medical equipment and staffed with doctors in all the main specialist fields: therapy, surgery, paediatrics, obstetrics and gynaecology, stomatology, etc., and the medico-epidemiological departments of these hospitals should be strengthened.

The Central Committee of the CPSU and the Council of Ministers of the USSR have approved the initiative of the progressive collective farms which have constructed medical facilities at their own expense, and they have recommended that collective farms should use the resources allocated by them for the improvement of health conditions in the first instance for the expansion and construction of rural district and intercollective – farm or section hospitals and pharmacies and also medical – obstetrical posts (collective farm maternity homes). Communist Party central committees, the councils of ministers of the republics, territorial and regional party committees and regional or territorial executive committees have been instructed to give every encouragement to any initiative shown by collective farms in the construction at their own expense of buildings for public health establishments, and to assist them in securing materials and equipment for such construction. The construction of collective farm and intercollective-farm health establishments should, as a rule, follow standard designs worked out by intercollective-farm building organizations or, with the assent of the collective farms, by the building organizations of local soviets of working people's deputies. The State Planning Committee of the USSR has been instructed, together with the councils of ministers of the union republics and the Central Union of Consumers' Co-operatives, to take measures to improve the provision of materials and technical equipment for such construction.

The Central Committee of the CPSU and the Council of Ministers of the USSR have ordered Communist Party central committees and the councils of ministers of the union republics, local party and soviet organs and economic and trade union organizations to prepare in 1960 and to put into effect measures for the improvement of curative-preventive services for women and schoolchildren, the improvement of working conditions for women and the considerable expansion of the network of women's and children's clinics, establishments for children of pre-school age and rest rooms for women at undertakings. The decision permits the free issue of milk products from milk kitchens to children under one year of age who are on an early augmented diet and bottle feeding, and whose parents have many children and small means.

The State Planning Committee of the USSR has been instructed, jointly with the Ministry of Public Health of the USSR and the councils of ministers of the USSR and the councils of ministers of the union republics, to prepare and submit to the Council of Ministers of the USSR in 1960 proposals for the increased production and the widening of the range of foods for very young children, and also for the improvement of the distribution of these products.

The Ministry of Public Health of the USSR has been requested to prepare and, in consultation with the State Planning Committee of the USSR, to establish rules for the provision of motor transport for medical establishments, and the State Planning Committee of the USSR has been asked to ensure that national economic plans make provision for the manufacture of ambulances.

The councils of ministers of the union republics have been required, jointly with the Ministry of

Public Health of the USSR, to prepare in 1960, in accordance with the Act concerning the establishment of a closer correspondence between education and life and the further development of the educational system in the USSR, and to put into effect measures to improve the training of medical personnel and also to provide for the increased training of stomatologists, and for fully meeting the needs of the population in the matter of dental care and bridgework. The Ministry of Public Health of the USSR has been instructed to review and confirm, in accordance with the established procedure, the programmes and courses for the training of environmental hygiene specialists, so as to ensure that they are more thoroughly acquainted with health and hygiene questions connected with the widespread introduction of new techniques and technology in all branches of the national economy.

The Central Committee of the CPSU and the Council of Ministers of the USSR have instructed local Party and Soviet organs to take steps for the considerable improvement of the working and living conditions of medical personnel, particularly in rural localities, and for the provision of dwelling space for them without delay. With a view to the further improvement of the theoretical and practical training of doctors, the Central Committee of the CPSU and the Council of Ministers of the USSR have instructed the Ministry of Public Health of the USSR and the Central Committee of the Medical Workers' Trade Union to prepare and issue regulations regarding the certification of doctors; to carry out measures for substantial extension and improvement of the system of further training for medical personnel by means of arrangements whereby they may take advanced courses while continuing with their work; and to prepare and carry into effect measures designed to improve the organization of the work of doctors, bearing in mind the need to relieve them of tasks not germane to their work (the filling in of unnecessary report forms, etc.).

The Central Committee of the CPSU and the Council of Ministers of the USSR have approved extensive measures for the development of the production of medical articles; the expansion of scientific research to discover and evolve new medicines, medical instruments, apparatus and hospital equipment; the improvement of planning and the provision of materials and technical supplies; the speeding up of the construction and modernization of undertakings of the medical industry; and also the expansion of the network of pharmacies and the improvement of the supply to the population of medicaments, thermometers, gauze and cotton wool. By 1965 the output of medicines, medical equipment and other medical products will have multiplied 3.5 times by comparison with 1958; the union republics and the Ministry of Public Health of the USSR have been given target figures for the manufacture of these articles during the years 1960–1965.

The councils of ministers of the union republics have been instructed, on the basis of the targets set up in the present decision, to prepare a plan for the output of medical equipment and other medical products, for the years 1960–1965, giving particular attention to the need for greatly increased factory production of patent medicines and ready-mixed and packaged preparations, thereby reducing the need for the making up of medical prescriptions in pharmacies.

The decision provides for the expansion of the capacity for the production of penicillin to 4.8 times the present capacity, of streptomycin to 5.5 times, of chloromycetin to 7 times and of antibiotics in the tetracycline series to 13 times. It is intended to organize the production of new and highly effective antibiotics (collimycin, mycerin, etc.), vitamins and hormone preparations. The production of adrenocorticotropic hormone will be multiplied 5.7 times, that of novalgin 3 times, of caffeine 7 times, novocaine 3.3 times and sulfadimetine 5.6 times.

For the purpose of equipping medical institutions provision has been made for the expansion of the production and introduction into use of the newest articles of medical technology, using the findings of radio-electronics and nuclear physics, and the increased production of equipment and apparatus, including: phono-cardiographs — output to be multiplied 13 times; diagnostic X-ray apparatus with electro-optical transformers — output to be multiplied 9 times; gamma-ray machines — output to be multiplied 6 times. The decision also provides for the increased production of modern surgical instruments for the performance of operations on the heart, lungs, stomach and other organs, and also for the increased production of spectacles.

The volume of capital investment in the development of the medical industry during the current seven-year period will be four times greater than in the previous seven-year period. These sums are to be spent on the construction of new factories and the modernization of existing plants.

The decision also provides for the specialization of undertakings and workshops in the manufacture of articles necessary for health protection.

The Central Committee of the CPSU and the Council of Ministers of the USSR have instructed the councils of ministers of the union republics, during the years 1960–1965, to open 6,500 new pharmacies and specialized shops for the sale of medical equipment, instruments, spectacles and dental materials in regional and territorial centres and also to expand the network of undertakings for the repair and installation of X-ray and other medical equipment.

The State Planning Committee of the USSR and the councils of ministers of the union republics have been instructed to make provision in their annual

national economic plans for the issue to medical industry undertakings of the necessary resources in an amount suffiicient to ensure the uninterrupted fulfilment of the programme for manufacture of medicaments, medical instruments, apparatus and other medical articles.

The State Committee on Construction of the Council of Ministers of the USSR has been ordered, together with the Ministry of Public Health of the USSR, to prepare and confirm in 1960 models of cheap, comfortable and hygienic medical furniture, sanitary and technical equipment and electric lighting fixtures for public health establishments. The State Planning Committee of the USSR has been instructed, together with the councils of ministers of the union republics, to prepare and submit to the Council of Ministers of the USSR proposals for organizing the mass production of such furniture, fixtures and equipment, and for the supply of the aluminium, plastics and other modern materials necessary for such production.

The councils of ministers of the union republics are required to ensure the extensive vitamin-enrichment of staple foodstuffs such as flour, refined sugar and edible fats.

The decision also provides for the improvement of the supply to curative-preventive and sanitary-epidemiological establishments of refrigerators, vacuum-cleaners, washing-machines and other household machinery and electrical equipment.

The Central Committee of the CPSU and the Council of Ministers of the USSR have decided to allocate 1,800,000 roubles, over and above the amount of capital investment laid down in the master figures for the development of the national economy of the USSR during 1959–1965, for the construction during 1961–1965 of public health establishments, undertakings of the medical industry, research institutes, experimental factories, pharmacies and pharmaceutical warehouses.

In view of the fact that the conditions now exist for the further reduction and complete eradication of infectious diseases, the councils of ministers of the union republics, together with the Ministry of Public Health of the USSR and the Academy of Medical Sciences of the USSR, have been invited to work out, in the light of local conditions, and to put into effect measures for the eradication of diphtheria, tularemia, poliomyelitis and a number of diseases with a local incidence (malaria, ancylostomiasis, trachoma, etc.), and also to bring about a marked decrease in the incidence of typhoid, whooping-cough, ascariasis, acute intestinal infections and brucellosis. In addition, they have been instructed to ensure the participation in the implementation of these measures, side by side with the public health agencies of communal and agricultural organs, the veterinary service, national educational bodies and also undertakings, state and collective farms and economic and social organizations and the population.

The councils of ministers of the republics, the councils of national economy and the local soviets of working people's deputies have been instructed to prepare, with the co-operation of research and planning institutes and also trade union organizations, and carry out measures to remedy and prevent the pollution of reservoirs, the soil and the air in towns and industrial centres by industrial waste and household refuse; to improve water supply, sewerage, and street-cleaning in inhabited areas; further to improve working conditions and safety arrangements at industrial undertakings and on state and collective farms; to ensure the observance of health rules at undertakings of the foodstuffs industry, in public feeding establishments and in the food trade; and to ensure the observance of health rules and conditions in the planning, construction and operation of industrial undertakings.

The Central Committee of the CPSU and the Council of Ministers of the USSR have asked the Ministry of Public Health of the USSR, together with the councils of ministers of the union republics, to draft proposals for reinforcing health supervision and improving the work of public health organs.

The Central Committee of the CPSU and the Council of Ministers of the USSR have instructed the Ministry of Public Health of the USSR, the Academy of Sciences of the USSR, the Academy of Medical Sciences of the USSR and the academies of sciences of the union republics, to see to it that the appropriate research organizations concentrate their attention in the next few years on the following very important public health matters: the finding of methods and remedies for the effective cure and prevention of influenza, tonsilitis, measles, epidemic hepatitis, intestinal infections and other diseases; the preparation of measures for the further lowering of child mortality and the protection of the health of mothers and children; the protection of the health of workers in new branches of industry; the finding of remedies and methods for the cure and prevention of cardio-vascular diseases; the discovery of the causes of cancer and other malignant tumours and the devising of measures for their prevention and effective cure; the working out of standards in the sphere of hygiene for populated areas, food hygiene and hygiene in schools and places of work and the study of the basic questions in the theory of medicine (physiology, bio-chemistry, cytology, virusology, immunology). The councils of ministers of the union republics have been requested to take the necessary measures to strengthen the medical-biological departments of the union republics' academies of sciences.

The decision of the Central Committee of the CPSU and the Council of Ministers of the USSR requires the councils of ministers of the union repub-

lics, the Ministry of Public Health of the USSR and the Academy of Sciences of the USSR to provide for: substantial expansion of basic and applied research directed towards evolving new and effective remedies and technical medical articles using the latest findings of biology, chemistry, nuclear physics, electronics and cybernetics; the strengthening of existing and the setting up of new applied research work-rooms and laboratories at undertakings belonging to the medical industry, and also the improvement of their work in perfecting production processes and the speedy introduction of the mass production of new types of medicaments, medical apparatus, instruments and equipment.

In order to attract large numbers of medical workers in curative-preventive establishments to research and to encourage them in creative activity, it has been recognized that it would be useful to set up, in the larger hospitals, polyclinics and medico-epidemiological establishments, branches of medical scientific societies. The Ministry of Public Health of the USSR, with the aid of the All-Union Central Council of Trade Unions, has been requested to draft and issue regulations regarding such branches.

Since the putting into effect of health and sanitary measures and the improvement of the protection of the health of the people are impossible without the active participation of the population at large, the Central Committee of the CPSU and the Council of Ministers of the USSR have approved the initiative of Party, Soviet, trade union and Young Communist League organizations, and organizations of the Red Cross Society in the Tula region and in the towns of Orekhovo-Zuevo, Borisov and others, in improving hygiene conditions, providing public amenities and planting trees in towns and villages and at undertakings, with the active participation of the population, and have recommended that local Party and Soviet organs should extend this experiment and encourage independent action by the population in the endeavour to secure a healthy environment. It has been recognized that there is a need to improve considerably the work of the permanent public health commissions of local Soviets of working people's deputies and to induce broader sectors of the population to take a more active part in that work.

In order to engage the participation of workers in the effort to improve the work of medical establishments, the need has been recognized to set up at curative-preventive and health and hygiene establishments social councils consisting of medical workers and representatives of Party, Young Communist League, trade union and economic organizations and of the population. The All-Union Central Council of Trade Unions together with the Ministry of Public Health of the USSR are to prepare and issue a regulation concerning social councils at medical establishments.

Communist Party central committees and the councils of ministers of the union republics, the Ministry of Public Health of the USSR, the Ministry of Culture of the USSR, the State Radio and Television Committee of the Council of Ministers of the USSR, and the Executive Committee of the Union of Red Cross and Red Crescent Societies of the USSR are required under the decision of the Central Committee of the CPSU and the Council of Ministers of the USSR, to improve the dissemination, among the population, and particularly among students and young workers, of information on medicine and hygiene through films, radio, television and the press and also through an increased output of educational literature and posters.

The Central Committee of the CPSU and the Council of Ministers of the USSR have pointed out that one of the most important tasks of Party, Soviet, Young Communist League, trade union and other public organizations is to show constant concern for the health of the population and they have expressed their conviction that the Soviet people, inspired by the historic decisions of the Twenty-first Congress of the Communist Party of the Soviet Union, will warmly support all measures for the further improvement of public health in our country.

Highly appreciating, as they do, the beneficial activities of medical workers, the Central Committee of the CPSU and the Council of Ministers of the USSR have expressed the hope that they will apply all their energy and knowledge towards an all-round improvement in the medical services provided for the population.

The decision of the Central Committee of the CPSU and the Council of Ministers of the USSR concerning measures for the further improvement of the medical care and health services provided for the population of the USSR fully implements the decisions taken by the Supreme Soviet of the USSR at its fourth session.

The latest reduction of the armed forces will mean substantial savings for our people and our country. The USSR Government will devote a large part of these savings to the further improvement of the well-being of the Soviet people. As will be seen from the decision summarized herein, no small share of these resources will go to the improvement of the medical care provided for the population.

DECISION OF 22 JULY 1960 OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION AND THE COUNCIL OF MINISTERS OF THE USSR ON SCHOOL CONSTRUCTION AND MEASURES FOR IMPROVING PHYSICAL FACILITIES OF SCHOOLS

SUMMARY[1]

The introduction of general and compulsory eight-year education and the development of a broad network of secondary general and polytechnical schools giving practical training for industry, boarding schools and schools with an extended school day necessitate a significant expansion and improvement of the physical facilities of general education schools.

With a view to guaranteeing the timely fulfilment of the plan for the construction of schools, boarding schools with dormitories, and the improvement of the academic standards and physical facilities of the schools, the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR decided to provide for the allocation of additional funds for the construction of buildings for general education schools and boarding schools over and above the amount specified in the target figures of the seven-year plan. In accordance with these increases in capital investment, the union republics and the Ministry of Communications approved for 1961–1963 a plan for bringing into service buildings for general education schools, boarding schools and dormitories, constructed at state expence.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR instructed the State Planning Commission of the USSR, the councils of ministers of the union republics and the Ministry of Communications to make provision in the yearly national economic plans for capital investment for the construction of buildings for general education schools, boarding schools and dormitories, together with the necessary auxiliary premises in the amounts necessary to guarantee the fulfilment of the plan for the bringing into service of schools, boarding schools and dormitories and the completion of the maximum number of school projects before the beginning of the academic year.

The central committees of the communist parties of the union republics, the territorial and the regional party committees, the councils of ministers of the union and autonomous republics, and the executive committees of the territorial and regional soviets of working people's deputies are required to ensure the timely fulfilment of the plans for school construction. The recommendation was made to the central committees of the communist parties and the councils of ministers of the union republics that the function of control over the progress of school construction should be entrusted to the secretaries of the central committees of the communist parties and the deputy chairmen of the councils of ministers responsible for questions of capital construction.

Great attention was devoted in the decision to the planning of new types of buildings for eight-year and secondary general education schools and boarding schools and the provision of the necessary equipment to the newly erected schools. The councils of ministers of the union republics were invited to arrange for the production, in housing-construction and wood-working centres, of desks, laboratory and demonstration tables, cupboards of various types and other kinds of equipment for day and boarding schools according to models selected at the all-union exhibition of furniture for civic buildings and approved by the State Committee on Construction of the Council of Ministers of the USSR and also for the production of units and sections for the construction of schools, including schools built from the funds of the collective farms.

The State Committee on Construction of the Council of Ministers of the USSR, the councils of ministers of the union republics, and design and construction organizations were invited to take the necessary steps to reduce construction costs of school buildings by improving their plans, introducing industrial construction techniques, using new construction materials and making a more economical choice of construction sites.

It was recommended that the funds allocated to school construction in cities and large populated areas should be chiefly used for the construction of large schools which would be more economical from the point of view of both capital investment and operational costs.

With a view to the expansion of school construction, the decision authorized the national economic councils of the economic administrative districts, the Ministry of Communications, and the directors of undertakings to use from 1961 to 1965 for the construction of buildings for general education schools and schools for working youth a part of the funds allocated for the construction of dwelling houses under the decision "On the development of housing construction in the USSR" taken on 31 July 1957 by the Central Committee of the Communist Party of the USSR and the Council of Ministers of the USSR, and also a part of the resources of the undertakings fund.

[1] Published in the newspaper *Pravda* of 10 August 1960.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR recommended that the central committees of the communist parties of the union republics, the regional and territorial committees of the Communist Party of the Soviet Union, the councils of ministers of the union republics and the regional (territorial) executive committees should consider the question of a significant reduction in the use of shifts in the schools and the transfer to these schools of administrative and other buildings suitable for school-work, the building of additional classrooms in existing schools and the further expansion of school construction by the collective farms. It was also recommended that they should during 1960 and 1961 plan and carry out measures in each school to do away entirely with the third school shift.

In addition, the councils of ministers of the union republics and the Ministry of Communications were authorized to arrange for the construction in 1961 to 1963 of extra classrooms in the general education schools out of funds allocated for capital repairs on schools.

The decision also invited the councils of ministers of the union republics and the regional (territorial) executive committees to make available, for the specific purpose of the construction of general education schools and boarding schools to be built from the funds of the collective farms, construction materials and units (timber, roofing, glass, cement, pipes, plumbing and electrical equipment, etc.) from market stocks and local construction materials in the quantities required.

The national economic councils, the managers of undertakings and the directors of construction sites are required, with the assistance of the directors of secondary schools, to provide, in the undertakings and at the construction sites under their management, shops, shop sectors and work areas where secondary-school students may be given production training.

The same decision calls for a substantial increase in the manufacture of school desks and visual aids to education and for the provision of the necessary equipment to school workshops.

DECISION OF 10 MARCH 1960 OF THE COUNCIL OF MINISTERS OF THE USSR "CONCERNING THE TRANSFER OF SANATORIA AND REST HOMES TO THE TRADE UNIONS"

SUMMARY[1]

With a view to the further improvement of the organization of services and facilities in rest homes, sanatoria and health resorts for working people and the enhancement of the role of the trade unions in this important function, the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR, having approved the proposal of the All-Union Central Council of Trade Unions, the central committees of the communist parties and the councils of ministers of the union republics, have adopted a decision concerning the transfer to the trade unions of sanatoria (other than for tuberculosis) and rest homes administered by the ministries of health of the union republics.

Sanatoria, rest homes, hospitals and polyclinics at health resorts, and boarding houses and hotels at health resorts, both those already in operation and those in the process of construction, are to be transferred free of charge to the management of the trade-union councils of the republics, while the corresponding institutions in the Russian Soviet Federative Socialist Republic are to be transferred to the management of the All-Union Central Council of Trade Unions by 1 May 1960. Sanatoria for the treatment of tubercular patients will remain under the administration of the ministries of health of the union republics.

The general supervision of the work of the reassigned sanatoria and health resort institutions and rest homes, and the staff responsible for their upkeep, as also the distribution of vouchers for admission to sanatoria and rest homes, will be carried out by the All-Union Central Council of Trade Unions.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR invited the All-Union Central Council of Trade Unions, together with the State Planning Commission, the Ministry of Finance, the Ministry of Agriculture, and the Ministry of Health of the USSR and the councils of ministers of the union republics, to draft proposals for widening the network of sanatoria, rest homes, boarding houses and summer health centres, the construction of nursing homes, and the improvement of the procedure for the issuance of vouchers for sanatoria and rest homes to manual and non-manual workers, workers on collective farms and pensioners, with a view also to a more efficient use of the existing network of nursing homes and the provision of boarding-houses for varying periods of sojourn.

The Ministry of Health of the USSR and the ministries of health of the union republics were asked to improve the medical procedures for the selection of persons to be treated at sanatoria and health resorts, render scientific, technical and consultative assis-

[1] Published in the newspaper *Izvestia* of 27 March 1960.

tance to sanatoria and health resort institutions, assign doctors and other medical staff who have graduated from higher and secondary medical educational establishments to work in sanatoria and health resort institutions, allot to the trade-union organizations, with a view to the preparatory and post-graduate training of the medical personnel of sanatoria and rest homes, the necessary number of certificates for admittance to institutes for advanced medical studies and of posts in clinics and scientific research institutes, and provide sanatoria and health resort institutions with medical equipment and medicines.

The scientific research institutes of the ministries of health of the union republics will be responsible for the study of the resources of health resorts, for working out new methods for the curative and preventive medical use of health resort facilities and for considering questions regarding the operational organization of sanatoria and health resorts.

UNITED ARAB REPUBLIC

NOTE[1]

Act No. 89 of 1960 (*Official Journal*, No. 71 of 24 March 1960) concerns the entry, residence and departure of foreigners.

Act No. 132 of 1960 (*Official Journal*, No. 80 of 9 April 1960) amends Act No. 91 of 1959 promulgating the Labour Code. The amendments concern trade unions and are to be found in *Legislative Series* 1960 — U.A.R.2, published by the International Labour Office.

Extracts appear below from Act No. 156 of 1960 on the Organization of the Press (*Official Journal*, No. 118 of 24 May 1960).

Act No. 182 of 1960 (*Official Journal*, No. 131 of 13 June 1960) concerns the fight against narcotic drugs.

[1] Information furnished by M. Adel El Tahry, Substitut au Conseil d'Etat, government-appointed correspondent of the *Yearbook on Human Rights*.

DECREE OF THE PRESIDENT OF THE UNITED ARAB REPUBLIC ENACTING ACT No. 156 OF 1960 CONCERNING THE ORGANIZATION OF THE PRESS of 24 May 1960[1]

Art. 1. Newspapers may not be issued without a licence from the National Union.

For the purposes of this Act, the term "newspapers" includes journals, magazines and all other publications issued periodically under a single title, with the exception of magazines and bulletins issued by public bodies, societies, learned bodies and trade unions. Proprietors of newspapers which are published at the time of the entry into force of this Act shall obtain a licence from the National Union within thirty days from the date of the entry into force of this Act.

Art. 2. No one may engage in journalism without a licence to do so from the National Union, and any person so engaged at the time of promulgation of this Act shall obtain a licence as aforesaid within forty days from the date of the entry into force of this Act.

Art. 3. The ownership of the following newspapers and all their appurtenances shall revert to the National Union and the rights and obligations of their proprietors shall be transferred to it against payment of compensation for the value thereof assessed in accordance with the provisions of this Act: newspapers of "Dar-El-Ahram"; newspapers of "Dar Akhbar El-Yom"; newspapers of "Dar Roz El-Youssef"; newspapers of "Dar El Hilal".

Appurtenances shall be deemed to include, in particular, the premises, machinery and printing and distribution facilities of newspapers and their related printing, advertisement and distribution establishments.

Art. 4. The assessment of compensation to be paid to newspaper proprietors shall be carried out by a committee composed of a counsellor of the Court of Appeal, as chairman, and of two members, one to be chosen by the proprietor of the newspaper concerned and the other by the National Union. The composition of the committee shall be the subject of an order of the President of the republic.

Decisions of the committee shall be made by a majority of votes after the parties have been heard; its decisions shall be final and shall not be subject to appeal by any means of recourse.

Art. 5. Compensation as referred to in the preceding article shall be paid in state bonds bearing 3 per cent interest, redeemable over twenty years.

The President of the republic shall make an order fixing the redemption dates and conditions for the said bonds and the conditions governing their negotiation.

Art. 6. The National Union shall establish special agencies to administer the newspapers which it owns and shall appoint for each agency a board of directors to be responsible for administering the agency's newspapers.

Art. 7. A chairman and one or more managing directors shall be appointed for each board of directors, which shall take all legal actions on behalf of the National Union.

[1] Published in *Official Gazette* No. 118, of 24 May 1960.

Art. 8. The person or body which cformerly administered the newspaper may not engage in any work thereon and no official may perform any of the functions falling within the competence of the Board of Directors or of the managing director without authorization from the latter.

Art. 9. Any natural or legal person that is administering, supervising or holding in trust or is in possession of any property belonging to the newspaper or its related establishments, or which is the creditor or debtor of the said newspaper, shall submit a statement to that effect together with supporting documents to the managing director within a period exceeding thirty days from the date of the entry into force of this Act.

Act. 10. Any action or measure taken contrary to the provisions of this Act shall be deemed to be null and void.

Art. 11. Any offence against the provisions of this Act shall be punishable with imprisonment for a term not exceeding one year or with a fine not exceeding five hundred pounds or with both these penalties.

Art. 12. Any provision which is contrary to the provisions of this Act shall be revoked.

Art. 13. This Act shall be published in the *Official Gazette*, and shall enter into force in both regions of the republic on the date of its publication.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

HUMAN RIGHTS IN 1960[1]

1. Article 3 of the Universal Declaration of Human Rights

The First Offenders (Scotland) Act, 1960, is similar in effect to the corresponding English Act of 1958, and applies to Scottish courts of summary jurisdiction (i.e., sheriff, burgh, and J.P. courts).

The position in Northern Ireland in regard to regulations under the Civil Authorities (Special Powers) Acts remains as stated in the *Yearbook* for 1959. The powers have been exercised only to the extent strictly required by the exigencies of the situation.

2. Article 22 of the Universal Declaration

With effect from 29 February, the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations, 1960, relaxed the rules about supplementary industrial injury benefits for people who go abroad, to allow unemployability supplement and constant attendance allowance to be paid for certain periods of temporary absence from Great Britain. The basic industrial disablement benefit is already payable for any period of absence abroad.

In March, the National Insurance (Earnings) Regulations, 1960, were made to provide for a further easement of the earnings rule, to enable gainfully employed retirement and widow pensioners and widowed mothers to earn more without deduction from their pension or allowance.

The National Insurance (Pensions, Existing Contributors (Transitional), Amendment Regulations, 1960, were made in August to allow people eligible only for a reduced retirement pension because they had not paid contributions for the last year of the old contributory pensions scheme (July 1947 to July 1948) to pay those back contributions in order to qualify for a higher rate of pension.

In September, the National Insurance (General Benefit) Amendment Regulations, 1960, came into force affecting certain long-term hospital patients. The main effect of these regulations was that mentally disordered people who are committed by the courts to legal custody in hospital are treated for National Insurance and Industrial Injuries Insurance purposes in the same way as other mentally and physically ill patients and are no longer disqualified for national insurance benfits or contribution credits. Those transferred to hospital from prisons or other penal institutions while undergoing sentence continue to be disqualified until the effective end of the sentence. The regulations also include a number of minor consequential provisions.

The National Insurance Act, 1960, passed at the end of the year, amended the retirement condition for retirement pensions. With effect from 30 December 1960, a retirement pension can be awarded, irrespective of hours worked, if net earnings are expected to be less than 71*s.* a week. It is still possible for people earning more than that amount weekly to be treated as retired if they are working not more than 12 hours a week or in other circumstances not inconsistent with retirement. The same Act provided for increases in benefit and contribution rates to operate from the beginning of April 1961, when the supplementary graduated retirement pension scheme came into force.

In the course of the year a series of regulations were made concerning the graduated pension scheme. These regulations (listed below) laid down the rules for (1) the assessment, and collection through the "pay as you earn" system, of the graduated contributions; (2) the preservation of pension rights for employees contracted out of the graduated part of National Insurance retirement pensions; (3) the refund of graduated contributions wrongly paid; and (4) the liability for flat-rate contributions where a person has two employments in the same week, in one of which he has been contracted out of the graduated scheme:

The National Insurance (Assessment of Graduated Contributions) Regulations, 1960;

The National Insurance (Collection of Graduated Contributions) Regulations, 1960;

The National Insurance (Non-participation — Assurance of Equivalent Pensions Benefits) Regulations, 1960;

The National Insurance (Graduated Contributions and Non-participating Employments — Miscellaneous Provisions) Regulations, 1960.

Several international reciprocal agreements on social security (listed below) were brought into force during the year. The general effect of these agreements is to ensure the maintenance of social insurance rights acquired or in the course of acquisi-

[1] Note furnished by the Government of the United Kingdom.

tion. They enable contributions or residence in one country to be taken into account in the other for the purposes of claiming benefit.

An arrangement with Canada covering family allowances, unemployment benefit and retirement pensions came into force on 1 January 1960.

A comprehensive agreement with Denmark became operative on 1 March 1960 covering all benefits provided under the schemes of National Insurance and Industrial Injuries Insurance in the United Kingdom and the corresponding benefits in Denmark. The agreement also includes reciprocal provisions on family allowances, health services and national assistance.

An agreement with Finland came into force on the same date, similar in all respects except that it has no health service provisions.

A revised agreement with the Irish Republic, superseding the existing agreement of 1953, came into operation on 8 May 1960. In addition to a number of amendments and improvements, largely administrative, the new agreement improved the position of a substantial proportion of persons claiming sickness and maternity benefits by virtue of the reciprocal arrangements.

A supplementary agreement with Switzerland, operative from 1 July 1960, added provisions concerning sickness benefits to the provisions of the existing agreement and enabled citizens of the United Kingdom resident in Switzerland to qualify for Swiss non-contributory pensions.

The agreements in question are the following:

The Family Allowances and National Insurance (Canada) Order, 1959;

The Family Allowances, National Insurance and Industrial Injuries (Denmark) Order, 1960;

The Family Allowances, National Insurance and Industrial Injuries (Finland) Order, 1960;

The National Insurance and Industrial Injuries (Republic of Ireland) Order, 1960;

The National Insurance (Switzerland) Order, 1960.

3. Article 23 of the Universal Declaration

(i) *Payment of Wages Act, 1960*

Certain restrictions on the manner of payment of wages imposed by the Truck Acts, 1831 to 1940, were removed by the Payment of Wages Act, 1960, which affects manual workers to whom the Truck Acts apply and their employers. From 1 December 1960, any worker who wants his wages paid into a bank account, or by postal order or by money order instead of in cash, may have them paid in that way if his employer agrees. However, no employed person need have his wages paid in any of these ways, nor is any employer bound to agree to a request for payment of wages in any of these ways. Provision is also made in the Act, to come into force only on a date to be fixed by order of the Minister of Labour, for allowing payment of wages by cheque. This order has not yet been made.

(ii) *The Factories Act, 1959 (Commencement No. 2) Order, 1960 (S.I. 1960 No. 1028) (C. 8)*

(iii) *The Washing Facilities (Running Water) Exemption Regulations (S.I. 1960 No. 1029)*

(iv) *The Washing Facilities (Miscellaneous Industries) Regulations, 1960 (S.I. 1960 No. 1214)*

These orders brought into force from 1 August 1960 section 18 of the Factories Act, 1959, whereby all factory owners and occupiers must, unless specially exempted, include running hot and cold (or warm) water among the facilities for washing which they provide for their workers. Factories where five or fewer workers are employed are given until 1 August 1961, to comply with these requirements.

(v) *Factories Act. 1959 (Commencement No. 3) Order, 1960, (S.I. 1960 No. 1611) (C. 15)*

(vi) *The First-Aid (Standard of Training) Order, 1960 (S.I. 1960 No. 1612)*

(vii) *The First-Aid (Miscellaneous Industries) Order, 1960 (S.I. 1960 No. 1691)*

These orders bring into effect sections 1 and 19 of the 1959 Act, concerning the cleanliness of premises and first-aid. The standard of training required of people nominated under the Factories Act to be in charge of first-aid boxes in factories employing more than 50 workers is prescribed. The industries and processes are specified in which waterproof adhesive wound dressings and waterproof adhesive plaster have to be provided. These items, which are in addition to the first-aid requirements which have to be provided in factories generally, are to protect workers with open cuts against "wet" or acid processes.

(viii) *The Factories Act, 1959 (Commencement No. 4) Order, 1960 (S.I. 1960 No. 1839) (C. 17)*

This order brought into operation on 1 December 1960, sections 9 to 17 and 24 of the Factories Act, 1959, containing new important provisions relating to fire. These strengthen the law about means of escape and fire alarms, require all factories to have appropriate means of fighting fire, provide for co-operation between Her Majesty's Factory Inspectorate and fire authorities and empower the Minister of Labour to make regulations on fire prevention, fire fighting and other aspects of fire precautions in places subject to the Factories Acts.

(ix) *The Diving Operations Special Regulations, 1960 (S.I. 1960 No. 688)*

These regulations, which came into operation on 1 July 1960, impose requirements for the safety and

health of persons employed in diving operations in any place to which the Factories Act, 1937, applies.

(x) *The Ship-building and Ship-repairing Regulations, 1960 (S.I. 1960 No. 1932)*

These regulations, which came into operation on 31 March 1961, bring within their scope work on ships over 100 feet in length in yards and dry docks, and the repair of ships afloat in public wet docks and harbours. They also include requirements for precautions to be taken against fire and explosion and for the fencing of dry docks, means of access and staging.

4. Article 25 of the Universal Declaration

Dock Workers' (Pensions) Act, 1960, and Dock Workers' (Regulation for Employment) (Amendment) Order, 1960 (S.I. 1960 No. 2029)

During 1960 the security for dock workers in old age, after retirement from work, was improved by the introduction by the Dock Workers' (Pensions) Act, 1960, and amendments to the Dock Labour Scheme incorporated in the Dock Workers' (Regulation of Employment) (Amendment) Order, 1960, of a pension scheme, optional for existing dock workers, but compulsory for future entrants to the industry. The great majority of dock workers in Great Britain were covered by the scheme, which was to be run jointly by employers and workers.

5. Other Acts

(i) *The Administration of Justice Act, 1960*

This Act makes certain modifications in the procedure of appeal in criminal cases. Its most important provision is to confer a right of appeal from the order of a court on an application for habeas corpus in a criminal matter. An appeal was formerly available only in civil matters.

The procedure for applying for habeas corpus is also modified, and the Act also introduces a right of appeal in case of contempt of court.

(ii) *The Marriage (Enabling) Act, 1960*

This Act makes it possible for a man to marry his divorced wife's sister, or a woman to marry her divorced husband's brother.

(iii) *Legal Aid*

The operation of the Legal Aid and Advice Act, 1949, was extended in a number of ways during 1960. Of these, the most important was probably the extension to the criminal courts. Two orders were made by the Lord Chancellor: The Legal Aid and Advice Act, 1949 (Commencement No. 8) Order, 1960 (S.I. 1960 407), and the Legal Aid and Advice Act, 1949 (Commencement No. 9) Order, 1960 (S.I. 1960 2056). The effect of the first of these was to make legal aid available in "claims cases", that is to say cases where there is no immediate prospect of proceedings in court. The effect of the second was to make legal aid available for appeals to the House of Lords.

S.I 1960 2057 provided regulations consequential on the second of these orders.

The Legal Aid Act, 1960, increases the financial limits for eligibility for legal aid, and Statutory Instruments 729, 730 and 1472 apply increased limits in cases of legal advice and "claims cases".

UNITED STATES OF AMERICA

HUMAN RIGHTS IN THE UNITED STATES IN 1960—A SUMMARY OF PERTINENT ACTIONS TAKEN BY FEDERAL, STATE, AND OTHER GOVERNMENTAL AUTHORITIES [1]

CONTENTS

INTRODUCTORY NOTE

The following survey is of necessity selective. It is confined to legislative, judicial, and other official acts of consequence during the calendar year of 1960 and therefore does not discuss all the basic rights guaranteed in state and federal law. A more nearly complete picture of achievement would encompass the countless day-to-day activities of the various agencies of government, and of the American people themselves, in the protection, enhancement and enjoyment of individual rights and freedom for all.

HUMAN RIGHTS IN GENERAL

Human Rights Day

In recognition of the twelfth anniversary of the proclamation of the Universal Declaration of Human Rights by the General Assembly on 10 December 1948, and of the one hundred and sixty-ninth anniversary of the adoption of the United States Bill of Rights on 15 December 1791, President Eisenhower proclaimed the period of 10 December to 17 December as Human Rights Week.

". . . to the end that we may rededicate ourselves to the full achievement of the objectives set forth by our Bill of Rights and to the support of the United Nations' objectives of peace and human rights for all, without distinction as to race, sex, language, or religion.

"Let each of us examine his conscience, so that we may be more sensitive to the needs and worth of every individual. Let us remember that it is only through free and responsible efforts that humanity can make lasting progress toward the goal of peace with justice, and let us direct our actions so as to encourage these efforts in every country by strengthening their foundations in our own."

Following the example set by the President, a majority of the state governors issued proclamations and other communications relating to the observance of Human Rights Day, and celebrations were undertaken by individual citizens, local organizations, trade unions, religious groups and educational institutions throughout the country.

Treaties

A convention of establishment between France and the United States, which entered into force in 1960, included provisions for the protection of the fundamental rights of their nationals in each other's country. Among the rights specified were freedom of conscience, worship, information, and the press; the right to humane treatment, immediate notification of the accusations, defence by a chosen attorney and rapid judgement, if taken into custody; as well as property rights. The treaty also provides for co-operation to further "the interchange and use of scientific and technical knowledge, particularly in the interest of increasing productivity and improving standards of living. . . ." A treaty of amity, economic relations and consular rights with Muscat and Oman and dependencies, containing similar guarantees of human rights to the nationals of the two countries, also entered into force in 1960.

Constitution of American Samoa

On 27 April 1960, the Constitution of American Samoa was approved by its people at a constitutional convention.

[1] Note furnished by the Government of the United States of America.

Provisions of the Constitution guarantee freedom of speech, press and religion; life, liberty and security of persons; fair trial; privacy; the dignity of the individual and the rights of the accused; while imprisonment for debt, slavery, retroactive laws, and unreasonable searches and seizures are prohibited. The creation of a legislature is designed to assure government by the will of the people.

In addition to the usual enumeration of civil and political rights, the Constitution of American Samoa includes provisions forbidding the employment of children under the age of sixteen in any occupation injurious to health or morals or hazardous to life or limb; provides for the enactment of laws for the protection of the health, safety, morals and general welfare of the people; and establishes free non-sectarian public education with compulsory attendance for all children between the ages of seven and sixteen years.

An unusual provision of the Constitution (article I, section 3) includes the statement: "It shall be the policy of the Government of American Samoa to protect persons of Samoan ancestry against alienation of their lands and the destruction of the Samoan way of life and language, contrary to their best interests."

CIVIL AND POLITICAL RIGHTS

Basic guarantees of civil and political rights are contained in the Constitution of the United States, particularly in the first ten amendments thereto, collectively known as the Bill of Rights, and in corresponding provisions of the constitutions or organic laws of the States and other jurisdictions. The exercise of governmental power is limited by and must conform to these provisions. Both federal and state courts are vigilant to protect individual rights by preventing, invalidating or redressing action which violates constitutional guarantees. Both legislation and judicial decisions are therefore of great importance in this field. Those cited in the following sections appear of continuing significance.

In May 1960, the Federal Civil Rights Act was enacted. This legislation gives added authority to the federal government to protect the right to vote without racial discrimination. Action taken by the Government under this aspect of the 1960 Act and prior legislation is discussed below under "Government By the Will of the People". During the year 1960, the United States Commission on Civil Rights continued to conduct hearings, conferences and investigations in various fields.

In March, the State of Kentucky created a Commission on Human Rights to encourage fair treatment to all, to foster mutual understanding, to conduct research, and to receive and investigate complaints of discrimination, bringing the number of states with similar bodies to twenty-five.

EQUAL PROTECTION OF THE LAW

(Articles 2 and 7 of the Universal Declaration of Human Rights)

Education (Art. 26 (1) of the Universal Declaration). Progress continued in desegregating schools in the 17 states where state laws had provided separate schools for Negroes until the Supreme Court found such laws unconstitutional in 1954. Twenty-eight additional school districts were desegregated in 1960, either through voluntary action or as a result of court orders requiring compliance with the Supreme Court rules,[1] leaving only three states in which all public educational facilities were segregated. Federal court action brought in September 1960 resulted in an order to admit Negro students to the University of Georgia, and thus to begin desegregation in that state.[2] The public-school system in Atlanta was placed under court order to begin desegregation in the autumn of 1961.

Louisiana, where some institutions of higher education have been desegregated for several years, began its first desegregation in the lower schools in New Orleans in the autumn of 1960, under court order. Persistent efforts were made by the state to assert the doctrines of states' rights, or interposition, and to maintain a segregated school system. Although court action in New Orleans began as a private suit, the Federal Government entered the litigation in November 1960, and took an active role in the case. The Supreme Court of the United States upheld the lower federal courts in declaring that the so-called interposition theory is a nullity and that federal court orders must be obeyed.[3] Although litigation was continued, token desegregation was effected.

At the end of the year desegregation suits were pending in Alabama and South Carolina as well as in a number of the states in which partial desegregation has been effected.

Voluntary desegregation action taken at the higher educational level constituted significant advances in the states of Florida and Tennessee. As a result of a federal district court order in February 1960, West Texas State College became the first teachers' college in Texas to admit Negro students. The Civil Rights Commission made a special study of problems in higher education, resulting in a report to the President on "Equal Protection of the Laws in Public Higher Education, 1960".

In March of 1960, the U.S. Commission on Civil Rights held its second annual conference on "The Problems of Schools in Transition". Educators and

[1] *Brown* v. *Board of Education*, 347 U.S. 483, 349 U.S. 294.

[2] *Holmes* v. *University of Georgia*, D.C. N.D. Ga., 6 January 1961. Although a federal court had also ordered an end to discriminatory admission practices of a Georgia state college in 1959, no Negro students have yet attended that institution. *Hunt* v. *Arnold*, 172 F. Supp. 847.

[3] *Bush* v. *Orleans School Board*, 364 U.S. 500.

other persons having first-hand knowledge of specific situations from 13 states met and discussed various plans for desegregating formerly segregated school systems, problems arising therefrom, the academic handicaps of some Negroes entering previously white schools and methods used to meet the problems involved. The reports showed positive results in raising the scholastic achievement of Negro students.

Public Accommodations and Facilities and the Concept of "State Action". The principle of equal protection of the laws, as set forth in the Fourteenth Amendment to the Federal Constitution, is limited to action by the governments of the states. The concept of such state action is still under development by the federal courts in connexion with discrimination in public parks and other public facilities. In a recent Alabama case, the segregated seating rules of a privately owned but state-franchised bus company, conforming to a city segregation ordinance, were held to constitute state action on the part of the bus company, and thus to violate the Fourteenth Amendment.[1] In a case involving refusal of service to a Negro by a private lessee of state property, discussed in the United States report for 1959, the Supreme Court of the United States reversed the Supreme Court of Delaware and held that such discrimination, even by a private lessee, constitutes state action.[2]

Similarly, a federal district court held that a private theatre in an opera house leased from the city of Frederick, Maryland, wherein the lease expressly contemplated segregation and other reservations, could not discriminate on the basis of race or colour.[3] The city of Miami, Florida, was ordered to desegregate its Manor Park swimming pool in September.[4]

Various actions led to desegregation of restaurants in railroad and bus terminals in southern cities where separate facilities had previously been the rule. During 1960, the Supreme Court of the United States held segregation of bus terminal restaurants unconstitutional.[5] Thereafter, a federal district court upheld the rights of a Negro under the 14th Amendment, who was refused service in a privately owned restaurant that was leased from the city of Atlanta, Georgia, at the city-owned airport, because the plaintiff was travelling in interstate commerce, and there was no showing that the reserved space for the restaurant was "not used or needed" for city purposes.[6] Likewise, a federal circuit court of appeals remanded a case to the district court with instructions that a commission created by the South Carolina legislature to promulgate rules governing the use of a municipal airport in Greenville, S.C., was acting for the state, and could not segregate the waiting rooms in the airport.[7]

Of particular significance during 1960 was the development of a student protest movement, the "sit-ins", whose objective was to open restaurants, lunch counters and other places of public accommodation, owned by private individuals, to Negroes and other proscribed groups. Under state anti-disturbance and anti-trespass laws, a number of arrests and convictions occurred under state laws.[8] Many privately owned businesses voluntarily declared a policy of desegregation in response to the protest movement, thereby making court action unnecessary. A recent survey shows that 28 of the 50 states already have laws banning racial and religious discrimination in public places, and that in a number of others discrimination is not a problem.

Women's Civil and Political Status. In 1960, two states, Arizona and Louisiana, enacted laws liberalizing and enlarging the property rights of a surviving spouse and giving a widow the same rights as a widower in relation to the separate property. In addition, the United States Supreme Court held that a man and wife are two distinct persons and the wife's legal personality is not merged in that of her husband.[9]

This case overruled a lower court decision that an indictment charging husband and wife with conspiracy against the United States was invalid because husband and wife were considered one person in law with only one will and so were incapable of conspiring.

The decision of the Supreme Court stated:

"Considering that legitimate business enterprises between husband and wife have long been commonplaces of our time, it would enthrone an unreality into a rule of law to suggest that man and wife are legally incapable of engaging in illicit enterprises and therefore, forsooth, do not engage in them."

It further stated that the assumption "a wife must be presumed to act under the coercive influence of her husband . . . implies a view of American womanhood offensive to the ethos of our society."

This decision appears to give additional weight to the long line of cases which have held that under the federal and state constitutions women have, since the establishment of the United States, "always been considered citizens the same as men."[10] It is not in conflict with those decisions that have

[1] *Boman* v. *Morgan*, 280 F. 2d 531.

[2] *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715.

[3] *Jones* v. *Marva Theatres*, 180 F. Supp. 49 (D. Md. 1960).

[4] *Prymus* v. *High* (S. D. Fla. 1960), 5 Race Rel. L. Rep. 1150.

[5] *Boynton* v. *Virginia*, 364 U.S. 454.

[6] *Coke* v. *City of Atlanta* (N.D. Ga. 1960), 4 Race Rel. L. Rep. 1027.

[7] *Henry* v. *Greenville Airport Commission* (4th Cir. 1960), 5 Race Rel. L. Rep. 453.

[8] *Garner* v. *Louisiana*, 365 U.S. 840.

[9] *U.S.* v. *Dege*, 364 U.S. 51 (1960).

[10] *Minor* v. *Happersett*, 21 Wall 162 (1875).

held that "women may be put in a special class under the state's protective power."[1]

Fair Trial and Hearing
(Articles 3, 5, 9, 10 and 11 of the Universal Declaration)

The Fifth and Fourteenth Amendments to the United States Constitution provide that no person may be deprived of life or liberty by governmental authority without due process of law.

An unusual appeal to the United States Supreme Court from a police court in the city of Louisville, Kentucky, was made in a case involving the arrest and trial of a Negro on charges of loitering and disorderly conduct. The city's only evidence was the testimony of the arresting officer, who alleged he had seen the defendant in a cafe, where he had remained about a half-hour without buying anything. The manager of the cafe testified that he had not objected to the defendant's conduct. The defendant was convicted and fined $10 despite his contention that conviction on such testimony was a denial of due process. Since no state appeal was available from a conviction involving so small a fine, an appeal was taken directly to the United States Supreme Court on the substantial federal question of due process. The Supreme Court reversed the conviction, because there was no evidence in the record to support it, holding that "it is a violation of due process to convict and punish a man without evidence of his guilt."[2]

In *Blackburn* v. *Alabama*,[3] the accused had signed a written confession after 8 or 9 hours of sustained interrogation. Shortly thereafter he indicated symptoms of insanity and was subsequently committed to a mental hospital. Four years later, when he was competent to stand trial for the robbery, his old confession was admitted into evidence. The Supreme Court held against the use of the confession, since it was involuntary and its use in the robbery prosecution deprived the accused of his liberty without due process of law.

In another case,[4] the defendant was denied his request for counsel and was convicted of larceny. The counsel for his co-defendant had entered a plea of guilty in the presence of the jury. The Supreme Court held that the possibility of prejudice to the defendant was a matter which required the assistance of a lawyer and under these circumstances the denial of counsel operated to deprive the defendant of due process of law guaranteed by the Fourteenth Amendment.

In three opinions, deciding four cases,[5] the Supreme Court extended its 1957 ruling in *Reid* v. *Covert*,[6] which invalidated a court-martial conviction for a capital offence of a dependant of a serviceman overseas. The extension of the earlier ruling by the court invalidated court-martial convictions of civilian dependants of members of the armed forces overseas and civilian employees of the armed forces overseas in peace time. The court held that trial by court-martial was violative of the constitutional rights of the persons tried. The cases involved a civilian dependant convicted of a non-capital offence,[7] a civilian employee convicted of a capital offence,[8] and a civilian employee convicted of a non-capital offence.[9]

In addition, the dismissal of school-teachers for incompetency on the basis that they had refused to answer the questions of a congressional committee was held to be a deprivation of liberty and property without due process.[10] However, where the state law made it the duty of any public employee to give testimony relating to subversion, the discharge of county employees for refusing to answer the questions of the U.S. House of Representatives Un-American Activities Committee was held not to violate the Fourteenth Amendment due process clause.[11] The court ruled that a state may legitimately predicate discharge of its employees on the refusal to give information touching on the field of security.

During 1960, the Congress of the United States passed legislation creating a Legal Aid Agency for the District of Columbia. Publicly supported defender systems for indigent defendants have been in existence since 1911 in a number of state courts, but no such agency had previously been created by the Federal Government. With a view to assessing the situation with regard to the status of equal protection for all, the Civil Rights Commission in 1960 authorized studies in a number of areas in the administration of justice.

Privacy
(Article 12 of the Universal Declaration)

The Fourth Amendment to the United States Constitution protects the individual from unreasonable searches and seizures and requires that warrants shall issue only upon "probable cause".

The Supreme Court, in the area of illegal searches and seizures,[12] rejected the doctrine under which evidence illegally obtained by state officers was nonetheless admissible in federal courts so long as federal officers did not participate in the illegal seiz-

[1] *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 379 (1937).
[2] *Thompson* v. *City of Louisville*, 362 U.S. 199.
[3] 361 U.S. 199.
[4] *Hudson* v. *North Carolina*, 363 U.S. 697.
[5] 361 U.S. 234; 361 U.S. 281; 361 U.S. 278.
[6] 354 U.S. 1.
[7] 361 U.S. 234.
[8] 361 U.S. 278.
[9] 361 U.S. 281.
[10] *Board of Public Education* v. *Intille*, 163A 2d 420, cert. den. 364 U.S. 910.
[11] *Nelson* v. *Los Angeles County*, 362 U.S. 1.
[12] 364 U.S. 206; 364 U.S. 253.

ure.[1] In another case,[2] the court held that in criminal cases, such as narcotics violations, where the offence may be established solely by proof of possession, a person challenging a search and seizure as unreasonable under the Fourth Amendment is not required, in order to establish his "standing" to move to suppress the evidence, to make a preliminary showing of a possessory interest in the item seized. It further ruled that a person legitimately on premises where a search is conducted may challenge its legality when the fruits of the search are to be used against him.

Freedom of Movement
(Article 13 of the Universal Declaration)

In *Porter* v. *Herter*,[3] a circuit court affirmed a judgement upholding the right of the Secretary of State to refuse to validate a passport for travel to certain areas even though the individual seeking the passport was a member of Congress. A member of Congress had brought suit urging that because of his status as Congressman he was entitled to travel as he desired in order to secure information which would be useful to him in connexion with his legislative duties. The circuit court reaffirmed the 1959 decisions in *Worthy* v. *Herter*[4] and *Frank* v. *Herter*,[5] which decided that freedom of movement may be restricted geographically as an instrument of foreign policy. The opinion of the circuit court noted that the Congressman had no specific authorization to travel in such areas and stated that his status as a member of Congress did not alone entitle him to be exempted from regulations of the Executive Department in matters within the latter's constitutional competence. The Supreme Court denied review,[6] making the circuit court's decision final.

Asylum and Nationality
(Articles 14 and 15 of the Universal Declaration)

On 14 July 1960, a joint resolution of the Senate and House of Representatives was enacted into law, "To enable the United States to participate in the resettlement of certain refugees." The Act authorized the Attorney-General to parole into the United States, prior to 31 December 1960, a number of refugee-escapees under the mandate of the United Nations High Commissioner for Refugees not to exceed 25 per cent of the total number of refugees resettled in all other countries during World Refugee Year (1 July 1959–30 June 1960). Thereafter, in each succeeding six-month period until 1 July 1962, the Attorney-General may parole a number of refugee-escapees not to exceed 25 per cent of the total number resettled in all other countries during the preceding six-month period. By 31 December 1960, a total of 4,141 refugee-escapees were approved for parole into the United States under the Act. In addition, 2,238 refugee-escapees were issued special non-quota visas and were admitted to the United States.

The Act of 14 July 1960 also extended the orphan programme and during the calendar year 1960, a total of 2,382 orphans adopted, or to be adopted, by United States citizens were among the numerous aliens who came to make a home in the United States.

In accord with long-established practices manifesting the emphasis traditionally placed by the United States on the right to nationality and a national homeland, 126,818 persons were granted United States citizenship during the calendar year.

Freedom of Religion
(Article 18 of the Universal Declaration)

The First Amendment to the United States Constitution provides that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The state constitutions also contain guarantees of religious freedom. In addition, the Supreme Court has interpreted the Fourteenth Amendment due process clause as making the prohibition of the First Amendment applicable to the state governments.[7]

In a number of state courts the validity of Sunday closing laws was challenged.[8] In all except one case,[9] state courts upheld these laws. In upholding the validity of a New Jersey law prohibiting the sale of certain goods on Sunday, the New Jersey Supreme Court stated that the mere circumstance that the policy of a statute coincides with the views of a sectarian group does not make it violative of the constitutional prohibition against the establishment of a religion.[10]

Freedom of Speech, Press and Association
(Articles 18, 19, 20 and 29 of the Universal Declaration)

The First Amendment to the United States Constitution also provides that Congress shall make no law abridging the freedom of speech, or of the press or the right of the people to assemble peaceably. The Supreme Court has held that the Fourteenth Amendment protects these freedoms from abridgment by the states.[11] In addition, the state constitutions provide guarantees for these freedoms.

[1] 232 U.S. 383.
[2] 362 U.S. 257.
[3] 278 F. 2d 280, cert. den. 364 U.S. 837.
[4] 270 F. 2d 905, cert. den. 361 U.S. 918.
[5] 269 F. 2d 245, cert. den. 361 U.S. 918.
[6] 364 U.S. 837.
[7] 293 U.S. 245; 330 U.S. 1.
[8] 165 A2d 39; 162 A2d 608; 160 A2d 265; 171 N.E2d 565; 105 N.W.2d 650; 115 S.E.2d 273, U.S. Sup. Ct. appeal pending.
[9] *State v. Woodville Appliance, Inc.* 171 N.E.2d 565.
[10] *Two Guys from Harrison Inc.* v. *Furman*, 160 A2d 265.
[11] *Gitlow* v. *People of New York*, 268 U.S. 652.

The Supreme Court held unconstitutional a city ordinance which forbade the distribution of any handbill which did not have printed thereon the name and address of the person who prepared, distributed or sponsored it.[1] The court stated that requiring identification on handbills would restrict the freedom to distribute information and thereby restrict freedom of expression.

An Arkansas law enacted in 1958 required all public-school teachers and employees in the state to file affidavits listing organizations to which they had belonged or made contributions for a period of five years preceding their employment. State courts and a federal district court held the act to be constitutional. In December 1960, the Supreme Court of the United States reversed these judgements, holding that "to compel a teacher to disclose his every associational tie is to impair that teacher's right of free association, a right closely allied to freedom of speech and a right which, like free speech, lies at the foundation of a free society."[2]

The Supreme Court also upheld the right of the National Association for the Advancement of Colored People to refuse to divulge its membership lists as required by a state law. This state requirement was characterized as a significant repressive encroachment upon the First Amendment protecting freedom of assembly and association.[3]

While the courts have zealously protected freedom of speech, press and association, these rights are not unlimited. For example, the constitutional guarantee of free speech was held by a state court not to entitle a self-confessed advocate of violence to speak at a time and place where it was inevitable that public disorder and riot would result.[4] Nor does the First Amendment prevent the Federal Communications Commission from denying a radio licence renewal to an applicant who refused to answer questions concerning Communist Party membership.[5] In addition, the right of free speech does not protect the distribution of obscene material.[6] However, where the standards applied for determining obscenity are too broad, vague or unreasonable,[7] or where the subject matter is in fact not obscene,[8] the material may not be suppressed.

[1] *Talley* v. *California*, 362 U.S. 60.

[2] *Shelton* v. *Tucker; Carr* v. *Young*, 364 U.S. 479.

[3] *Bates* v. *Little Rock*, 361 U.S. 516.

[4] *Rockwell* v. *Morris*, 208 N.Y.S. 2d 154.

[5] *Borrow* v. *F.C.C.*, 285 F.2d 666, cert. denied, 364 U.S. 892, rehearing denied, 364 U.S. 939.

[6] *United States* v. *Frew*, 187 F. Supp. 500; *Zenith International Film Corp.* v. *City of Chicago*, 183 F. Supp. 623.

[7] *Police Commissioner of Baltimore City* v. *Siegel Enterprises*, 162 A2d 727, cert. denied, 81 S.Ct. 273; *People* v. *Leverson*, 8 Cal, Reptr. 739; *In re Louisiana News Company* 187 F. Supp. 241.

[8] *Grove Press, Inc.* v. *Christenberry*, 276 F. 2d 433; *Excelsior Pictures Corp.* v. *City of Chicago*, 182 F. Supp. 400.

Government by the Will of the People
(Article 21 of the Universal Declaration)

The United States Constitution guarantees a representative form of government. Although the individual states are authorized to establish the qualifications of voters, the states may not discriminate on grounds of race[9] or sex,[10] and may not deny equal protection of the law.[11]

The enactment of the Civil Rights Act of 1960 enlarged the Federal Government's authority to bring proceedings for protection of the right to vote. One provision of the Civil Rights Act of 1957 empowered the Government to bring suit to prohibit state action denying Negroes the right to vote. The 1960 Act extends the benefits of injunctions obtained in such suits to all Negroes in the same locality, upon a showing that the discrimination was the result of an established pattern or practice. Where such a pattern or practice is found to exist, the federal judge may appoint federal voting referees to handle the registration of qualified Negro voters.

The 1960 Act also requires state officials to preserve records of voting and registration for a period of twenty-two months and to furnish them to the Attorney-General as a basis for investigation to determine whether voting rights have been violated. During 1960 demands for voting records were made in some seventeen counties in six different states. These demands were resisted in court actions in a number of counties, but the constitutionality of the statute and the legality of the Government's demands were sustained.[12]

The Civil Rights Act of 1957 also permits the Government to bring suit against private persons, as distinguished from state officials, who interfere with an individual's right to vote in federal elections. During 1960, the first suit under this provision of the Act was brought against a group of business men and landlord farmers in Tennessee, who were using economic pressure against Negroes to prevent their registering to vote in the November 1960 federal elections. Many of the Negroes were share-cropper farmers whose landlords threatened, late in December 1960, to terminate their contracts and evict the tenants. A federal district court restrained thirteen of the seventy-four defendants from intimidation or coercion for the purpose of interfering with the right of any other person to register and vote, but refused to restrain the landowners on the theory that this would mean interference with contract and property rights and was not authorized by the 1957 Act. The court of appeals, however, reversed the lower court and prohibited the evictions.[13]

[9] Fifteenth Amendment.

[10] Nineteenth Amendment.

[11] Fourteenth Amendment.

[12] *State of Alabama* v. *Rogers*, 285 F. 2d 430.

[13] *United States* v. *Beaty*, C.A. 288 F. 2nd 653.

The Supreme Court rendered four significant decisions during 1960 in connexion with the right to vote. In *United States* v. *Raines*[1] the court sustained the constitutionality of the 1957 Act and remanded the case for further proceedings to the federal court in Georgia, which had orginally dismissed the complaint. After the remand, the Federal Government obtained a broad judgement directing the Georgia officials to permit Negroes to vote and to refrain from discriminatory application of state literacy and other laws and procedures. In another case the Government had charged that Negroes were systematically purged form the voting rolls in Washington Parish, Louisiana. A Supreme Court decision resulted in the restoration of 1,377 Negroes to the rolls.[2] In *United States* v. *Alabama*, the Federal Government sought to prevent discriminatory practices by state registrars. Due to the resignation of the registrars prior to filing of the suit, the State of Alabama was made a defendant. Reversing the lower court, the Supreme Court held that a federal district court, under a special provision of the 1960 Act, had jurisdiction to entertain an action against a state to remedy alleged discrimination against Negroes in the exercise of their voting rights.[3] Thereafter, in further proceedings, Negro voters were ordered restored to the voting rolls.

In Tuskegee, Alabama, the city limits were so altered as to exclude practically all Negroes from the city limits, thereby making them ineligible to vote. The Federal Government entered a suit brought by private litigants as *amicus curiae* and the Supreme Court accepted the position that a state may not deprive persons of their right to vote on racial grounds by the device of redrawing *municipal* boundaries.[4]

ECONOMIC, SOCIAL AND CULTURAL MATTERS

While individual initiative functioning in a system of private enterprise is the principal means for economic, social, and cultural progress in the United States, the various governments co-operate with and aid such private initiative in furtherance of steady advancement and development in these fields. Broad human rights are guaranteed in many state constitutions and laws. Responsibility for legislation in these fields rests largely with state and local governments though the Federal Government often gives assistance in numerous ways.

Of interest in the economic and social field were international agreements coming into force, or extended, during 1960 with Guinea and Uruguay relating to technical and other related cooperation; with Chile-providing emergency relief necessitated by natural disasters and a grant for disaster rehabilitation; a third-country technical assistance training programme in Japan; and agreements with various countries concerning educational exchange programmes and the peaceful uses of atomic energy. An agreement with Mexico facilitated construction of the Amistad dam on the Rio Grande River to form part of a system of dams that will control floods, provide additional water for irrigation and permit production of electric power.

Social Security

(Article 22 of the Universal Declaration)

Social security in the United States is provided largely through programmes administered by the various states. The Federal Government shares in the costs of state programmes for the needy in special categories — the aged, the blind, the disabled, and dependent children. The 1960 amendments to the Federal Social Security Act provided also for medical assistance to persons aged 65 and over who cannot meet the costs of medical care and are not already provided for under old-age assistance programmes. The Federal Government's share in this medical assistance programme ranges from 50 per cent to 80 per cent under a formula related to state *per capita* income. The Federal Government also increased its share in existing programmes providing medical aid to persons receiving old-age assistance.

Other amendments to the Social Security Act eliminated previous requirements so that insured disabled workers can qualify for benefits regardless of age; liberalized certain requirements for eligibility; increased benefits for surviving children; extended coverage to American Samoa and Guam; and strengthened the financing provisions.

Revisions in the unemployment insurance programme extended coverage to a few additional groups and brought Puerto Rico into the system. In order to relate benefits more closely to present wage scales and living costs, payments were increased for federal civilian employees injured on duty and to the survivors of such employees dying from such injuries.

Several states took legislative action increasing unemployment insurance benefits, and a few states extended the duration of such payments.

Work and Remuneration

(Articles 23 and 24 of the Universal Declaration)

Fair Employment Practices. During 1960, Delaware enacted a law to prohibit discrimination in employment because of race, creed, colour or national origin or because an individual is between 45 and 65 years of age. In Alaska, a law was enacted prohibiting discrimination against older workers. Thus, 17 states and Puerto Rico now have mandatory fair employment practices laws applying to private employment. Nine of these states and Puerto Rico also

[1] 362 U.S. 17.

[2] *United States* v. *Thomas*, 362 U.S. 58.

[3] *United States* v. *Alabama*, 362 U.S. 602.

[4] *Gomillion* v. *Lightfoot*, 364 U.S. 339.

prohibit discrimination because of age. In addition, the Commission on Civil Rights authorized its staff to investigate the laws, policies, programmes and practices of the Federal Government as they relate to employment opportunities.

Wages and Hours Laws. During 1960, two of the 35 states with minimum wage laws enacted new legislation greatly improving existing standards. New York established a statutory minimum rate for the first time but retained also its previous procedure, under which wage boards may set higher rates for particular occupations. The new Act extended coverage to 700,000 workers not previously covered by any minimum-wage law. Massachusetts amended its minimum-wage law to require overtime pay at time and one-half of the regular rate for hours in excess of 40 a week. By wage board action, higher minimum wage rates became effective in Massachusetts, New Hampshire, New York, Utah, Vermont, Wisconsin, the District of Columbia and Puerto Rico. Various court decisions extended federal minimum wage protection to additional groups of workers and protected employees' rights. These actions were especially important to women workers, large numbers of whom are concentrated in the trade and service industries to which such laws and orders chiefly apply.

By the end of 1960, twenty states had laws prohibiting discrimination in wage payments on the basis of sex, including three states not previously reported.

Safety. Continuing the trend of recent years, the states of Maryland, Massachusetts, New York and Virginia passed laws in 1960 for the control of radiation hazards.

Workmen's Compensation. Improvement continued in workmen's compensation legislation, with increases in cash benefits in a number of states and in medical and rehabilitation benefits in several others. The trend also continued toward wider coverage for groups not already protected by law.

Migratory Workers. In November the President signed an executive order establishing the President's Committee on Migratory Labor. The committee is to maintain a continual review of the needs of migrant workers and their families; aid federal agencies in mobilizing and co-ordinating more effective services to migrants; facilitate and encourage actions to promote improved living and working conditions of migratory workers; and work with state and other public and non-public agencies to secure the success of the programme. The committee will seek the co-operation of federal officials, governors' committees, local committees, national civic and church groups, and employer and worker organizations.

Several states also took action in 1960 to improve conditions for migratory workers. Nevada passed an act regulating the activities of farm labour contractors and Massachusetts adopted a code establishing housing and sanitation standards for farm labour camps. Massachusetts also amended its workmen's compensation law to provide compulsory coverage for seasonal farm workers. A few additional states adopted or strengthened laws or regulations for the protection of agricultural workers.

Labour Relations. Court and National Labour Relations Board decisions during 1960 protected the rights of individual employees from interference by unions or employers, affirmed their right to form and join unions or refrain from joining unions, clarified the right to strike and other trade union rights, and supported the principle of free collective bargaining. In one case, an employer was directed to pay damages to a union for moving his plant to a new location to avoid employing union labour in violation of the no-relocation guarantee in the contract.[1] A federal court ruled that a temporary injunction may be secured restraining local union officers from using union funds for defence against legal actions accusing them of improper conduct in office.[2] The Supreme Court, in several decisions, indicated a "hands-off" policy in labour arbitration, holding that the courts should not inject themselves into disputes, and affirming that federal policy encourages the settlement of disputes by arbitration.[3]

Vocational Rehabilitation

(Article 23 of the Universal Declaration)

During the fiscal year ended 30 June 1960, 88,275 disabled persons were rehabilitated into employment by governmental agencies in the United States; this was an increase of 7,536 persons over 1959.

The President's Committee for the Employment of the Physically Handicapped, which works to develop maximum employment opportunities for the handicapped, received increased funds in 1960 for their activities, which include information to employers, programmes of public education, and co-operation with government officials, professional trade groups and organized labour to achieve its goal.

Recognizing that in the rehabilitation process the sheltered workshop for the disabled is frequently an essential link between a hospital bed and a job, Pennsylvania followed other states in authorizing assistance to public and private agencies in developing and operating such workshops. Recent state legislation has tended to broaden the concept of rehabilitation to include those who can attain varying degrees of self-sufficiency in meeting the demands of daily living, as well as the disabled who may be restored to employment.

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[1] *United Shoe Workers of America* v. *Brooks Shoe Manufacturing Co.* 187 F. Supp. 509.

[2] *Highway Truck Drivers Local 107 Teamsters* v. *Cohen,* 284 F.2d 162 (1960).

[3] *Steelworkers* v. *American Manufacturing Co.,* 80 S.C. 1343. *Steelworkers* v. *Warrier & Gulf Navigation Co.,* 80 S.C. 1347. *Steelworkers* v. *Enterprise Wheel & Car Corp.,* 80 S.C. 1358.

On the international scene, congressional action providing that funds derived from the international sale of surplus agricultural products could be used to finance programmes of medical, cultural, educational, and scientific research for rehabilitation was implemented during the year in co-operation with Brazil, Burma, Indonesia, India, Israel, Pakistan, Poland, the United Arab Republic and Yugoslavia.

Leisure

(Article 24 of the Universal Declaration)

As technological developments have increased leisure time for the people of the United States, more organized recreation has been provided through both private and government efforts.

Over 26 and one-half million vacationers visited the 29 national parks in 1960, among which are the Yellowstone, the Yosemite, the Grand Canyon and other areas of great natural beauty. In addition, state and local governments have extensive recreational facilities, including large forest reservations and state parks as well as playgrounds, gymnasiums, swimming pools, tennis courts, athletic fields, golf courses, picnic areas, beaches, camping areas, and community centres. In 1960, Los Angeles city alone reported 112 park areas ranging from small neighbourhood facilities to Griffith Park of more than 4,000 acres.

Many communities provide leisure activities by utilizing their public school buildings during vacation periods and when classes are finished for the day. For example, Pennsylvania laws authorize reimbursement to school districts for professional personnel in school-sponsored recreation programmes for children and youth, and Florida provides financial support for school staffs employed in summer recreation activities. The varied programmes often stress participation by the entire family — Milwaukee's (Wisconsin) is so extensive that it has long been known as the "city of the lighted schoolhouses". In Flint, Michigan, the community recreation programme includes adult education lectures on world affairs and the arts, while the District of Columbia offers instruction in French, Hebrew, Russian and Spanish.

The personnel who supervise public leisure programmes must usually have some combination of college education, special training and leadership experience. Many large cities maintain their own training programmes for recreation employees. The scope of activities in 1960 is illustrated by the Junior Olympic Track Meet sponsored by Montgomery county, Maryland, and the Canusa Games, in which citizens of Michigan compete with athletes from across the border in Ontario, Canada.

The increasing life-span of citizens has resulted in rapid expansion of special programmes for the aged. "Golden age" clubs for senior citizens provide movies, dancing, music, excursions, current events discussions and informative forums concerning social services available to the aged. In 1960, Los Angeles authorities co-operated with 130 senior citizens clubs with 30,000 members. Many communities have also formed "teen clubs" to offer adolescents supervised social activities, outings and sporting events. Oakland, California, has a "teen troupe" which presents plays for the younger children of the city. Increasing attention is also being given to recreation facilities for the handicapped.

Standard of Living

(Article 25 of the Universal Declaration)

Total personal income after taxes, in terms of constant purchasing power, rose 60 per cent from 1947 to 1960; on a per capita basis, the rise was 28 per cent. Transfer payments — government payments for old-age insurance, pensions, unemployment benefits, relief, and similar items — have risen more rapidly than the total in recent years, increasing from 4.9 per cent of all personal income in 1953 to 7.2 per cent in 1959. This increase was largely in old-age and survivors insurance, reflecting both increased benefits to the receiver and extension of coverage to additional groups in the population.

During 1960, 37,700,000 consumer units (67.4 per cent) had incomes of $4,000 or over as compared with 17 million in 1947. The increasing living standards reflected a dynamic private economy, in which the federal and state governments strive to encourage and supplement private initiative.

Housing

(Article 25 of the Universal Declaration)

New housing starts in 1960, including all types, and both farm and non-farm, totaled 1,279,400. Thus, 1960 was the twelfth year in succession with over one million housing starts. Sixty-two per cent of American families now own their own homes.

Housing units available for occupancy in 1960 totaled 58.3 million, 81 per cent of which contain private inside toilet and bath with hot running water; 1950's totals were 46.1 million housing units with 63 per cent containing full plumbing. Availability of housing increased substantially in the decade. In 1960, only 2.4 per cent of married couples were sharing a housing unit with another family compared with 5.6 per cent in 1950, while the median size of all occupied housing units rose from 4.7 rooms in 1950 to 4.9 rooms in 1960, and the median number of persons per occupied dwelling declined from 3.1 to 2.9.

An important factor in progress toward more and better housing is the mortgage insurance provided by the Federal Government through its Housing Administration. During 1960 this service became available to more families because of a reduction in the minimum down-payment required and other changes. The public housing programme continued

its expansion in 1960, with construction under way on 28,879 low-rent units and an additional 16,401 placed under management.

In recognition of the housing requirements of the elderly, the Federal Government authorized $50 million for direct loans. In addition, one-third of new public housing projects developed with federa grants were designed for elderly citizens. Over 18,000 homes in more than 200 different public housing developments were occupied by older people in 1960.

In the area of community facilities, the continued rise in college enrolments increased the demand for more housing for students and faculty. To meet this need, the College Housing Program was again expanded, additional appropriations were provided, and plans approved for additional construction. By the close of 1960, accommodations for more than 200,000 students and faculty members had been substantially completed under this programme, while projects to provide housing for another 40,000 were under construction.

The urban renewal programme continued to expand in response to growing public interest. New emphasis was given to the concept of over-all community planning, and prime attention was given to conserving and renovating existing structures. Purchasers of land cleared in federal urban renewal programmes were notified that state and local anti-discrimination laws would apply.

By the end of 1960, 870 urban renewal projects in 475 communities had been approved for federal assistance, an increase of 58 over 1959. Some of these projects were in small communities and others in larger cities, ranging in population from 749 to 7,781,984. Qualifying legislation for federal financial assistance in urban renewal was in effect in almost all states and other jurisdictions, and many of these had also qualified for the broader urban renewal programme, which includes rehabilitation and conservation of existing structures.

At both the state and local level, laws forbidding discrimination in housing were clarified and broadened during 1960, with a view to making them more effective weapons in the fight against discrimination. A new Massachusetts law made it illegal to discriminate in the granting of mortgage loans because of the prospective borrower's race, colour, creed, national origin or ancestry. The Colorado Anti-Discrimination Commission issued its first order under the Colorado Fair Housing Act, requiring a realtor to cease discrimination and to find suitable quarters for the couple who brought an action against him. The New York Supreme Court upheld a New York city ordinance barring discrimination in private housing and forbidding owners of multiple dwellings to deny accommodations on account of race, colour or religion. In view of the increasing number of states and cities with legislation banning discrimination in housing, the Federal Housing Administration appointed a special inter-group-relations adviser to serve as a liaison with state and local agencies administering Fair Housing laws.

Health

(Article 25 of the Universal Declaration)

The prevention and control of communicable diseases and other health dangers, enforcement of food and drug standards, and provision of medical services to certain groups are co-operative efforts of federal and state governments. In the United States, medical, surgical, and hospital services are generally provided by private means. About 132 million persons, four million more than at the end of 1959, were covered by voluntary hospital care insurance at the end of 1960.

Major federal legislation was enacted providing for international cooperation in health research and in research and planning; grants to states for medical care for aged individuals of low income; regulation of interstate distribution and sale of hazardous substances for household use; authorization for a study of fumes discharged from motor vehicles; and project grants for graduate or specialized training in public health. State legislatures enacted laws dealing with radiation protection, air pollution control, accident prevention, nursing and similar homes, care of the aging and medical care.

Of special importance in the field of public health were two laws passed by the Federal Congress: the Hazardous Substances Labeling Act and a Color Additives Amendment to the Federal Food, Drug, and Cosmetic Act. The former requires all household chemical products containing potentially harmful materials to bear warnings of their hazards, while the latter is intended to insure the purity of all added colourings that may be used in foods, drugs, and cosmetics.

Child Welfare

(Article 25 of the Universal Declaration)

The sixth decennial White House Conference on Children and Youth was held in 1960 "to promote opportunities for children and youth to realize their full potential for a creative life in freedom and dignity." More than 7,600 people attended, including 571 participants from 86 other countries. The conference evaluated present programmes and services and the need for expansion, and made over 600 specific recommendations. Major areas of concern were education, employment opportunities, human rights, welfare services, health, family life, day care for children of working mothers, juvenile delinquency, recreation, community planning, and ideals and values in our society. Various state committees, national organizations, federal agencies and other groups took steps to implement many of the conference recommendations.

Federal legislation enacted during 1960 substantially strengthened the Children's Bureau of the Department of Health, Education and Welfare; research and demonstration programmes were expanded, grants to the states were authorized for maternal and child health, crippled children's and child welfare services, and special research grants were made directly to institutions of higher learning. The Federal Congress also passed an International Health Research Act establishing health research and training fellowships in the United States and in participating foreign countries; providing fellowship funds to public and non-public private institutions or agencies; and making grants or loans of equipment and materials in connexion with medical research.

On the state level, various bodies were studying existing laws and programmes with a view to improving child welfare legislation. Renewed emphasis was given the concept that, whenever possible, children should be helped in their homes and care and services should be provided to strengthen family ties. Attention was given to children receiving foster parent care and improvements were made in adoption laws. More uniform procedure in child welfare matters was furthered in 1960 as more states adopted interstate compacts for the protection of children away from home.

The number of handicapped children receiving medical and other services under state crippled children's programmes increased, reflecting the broadening of the definition of "crippling" to cover such handicapping conditions as cystic fibrosis, nephrosis, congenital heart disease and epilepsy. More states undertook surveys to discover early causes of phenylketonuria in the hope of preventing mental retardation from this cause. Important progress was made toward the racial desegregation of such services for delinquent boys and girls as training schools, reception and diagnostic centres, detention homes, youth camps, and residential centres.

Education

(Article 26 of the Universal Declaration)

Continuing the trend of recent years, emphasis on education in the United States intensified in 1960. Public education in the United States is primarily the responsibility of state and local governments, and these units continued to improve practically all types of school facilities. Expenditures for higher secondary and elementary education increased in a majority of states.

In addition to increasing education expenditures and constructing more classrooms, many states initiated new programmes. Some of these provided more scholarship aid or better library facilities, while added emphasis on science, mathematics and foreign-language training fostered new teaching methods. Concern for foreign-language development led to a greater choice in languages offered, increased enrolments in language classes at all levels of instruction (including elementary school), allocation of additional time, preparation of new teaching materials, improvement of teacher qualifications and greater attention to the mastery of oral skills.

Forty-seven states reported additional guidance counsellors on the staff of local schools, and training programmes for counsellors continued to expand. Vocational training programmes were enlarged in 1960 and renewed attention was given to intellectually gifted children and educable mentally retarded children. Arizona and Rhode Island established new systems of public two-year junior colleges, bringing to 18 the number of states providing such institutions.

Most states adopted new pay scales providing substantial increases or improved fringe benefits for their teachers in salary; new provisions on sick, annual, and maternity leave and on retirement and pension payments; better training facilities and improved general working conditions. Many states also set up or extended special committees to conduct comprehensive studies in ways to improve education at all levels.

Through action of the Federal Communications Commission, 259 television channels were available in 1960 for non-profit educational institutions, with 46 of these operating in 31 states. The number of teachers exchanged between United States and foreign institutions again increased in 1960.

Cultural Opportunities

(Article 27 of the Universal Declaration)

Cultural activities in the United States are provided in large part through private inititative or voluntary civic organizations. Government agencies play a significant role in providing physical facilities and financial assistance for these activities in addition to operating public programmes.

The increasing interest in music in the United States is reflected in the growth of community-sponsored symphony orchestras to 1,077 in 1960. Illustrative of this trend are programmes in the city of Los Angeles, where a Bureau of Music sponsors the Civic Center Orchestra, and the Civic Center Ballet administers the weekly activities of 39 choral and community-sing units, and presents more than 100 band programmes and special concerts each year. In Washington, D.C., the municipal government supports the Civic Symphony Orchestra and the Civic Opera Association, while the bands of the armed forces present a series of summer concerts there and in other parts of the nation. Such cultural programmes are not limited to the larger cities — in 1960 smaller municipalities in Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Utah, and West Virginia, to cite a few states,

reported musical and other events in the cultural sphere.

Many cities maintain or assist dramatic groups which present plays, musicals, and operettas, often especially for children. In 1960, one of the most successful programmes was that of the Children's Theatre established 15 years ago by the District of Columbia Department of Recreation. New York City contributed to the support of the summer Shakespeare Festival in Central Park, and plans have been advanced for the construction of a permanent auditorium.

The performing arts play a large part in the recreation activities of the armed forces and the Veterans' Administration, while many private musical and dramatic groups meet in public social centres.

Special art events are frequently sponsored by public museums and art galleries. A three-day "All City Outdoor Art Festival" in Los Angeles drew over 30,000 people to view the work of 2,000 local artists. In the District of Columbia, the annual Folk Dance Festival features the music, dances, and native costumes of all nations, as do similar events in other cities. A folk festival presenting songs and dances of the United States is held annually on a national basis, and in 1960 this was held in Washington.

The Library of Congress, known primarily for its research activities and its collections of nearly 39 million pieces of material, presented 38 musical events in the fiscal year 1960 in addition to sponsoring 31 "extension" chamber music concerts in cities throughout the country. It also commissioned ten composers in the United States and abroad to write new works of music. A new project of the library, a national union catalogue of manuscript collections throughout the country, is designed to enable scholars to locate principal collections of original source materials. The library published a *Guide to the Study of the United States of America*, identifying and describing some 10,000 "representative books reflecting the development of American life and thought," and also *A Handbook of Latin American Studies*, reviewing some 3,000 items published in 1955–1958. It continues publication of its *World List of Future International Meetings*, instituted in 1959.

The educational exchange programme of the Department of State sponsored the exchange of more than 7,000 persons between the United States and 111 other countries and territories during 1960, an increase of about 1,000 persons over 1959. The students, teachers, university lecturers, research scholars and specialists who participated received grants in diverse fields, with the great majority in the physical and natural sciences, the social sciences, the humanities and education. Although official programmes represent only a small part of the numbers travelling abroad, they assure continuing contacts between cultural leaders in the United States and in other countries. Agreements to facilitate educational exchange were signed or amended during 1960 with Korea, Portugal and Uruguay.

Benefits of Scientific Advancement
(Article 27 of the Universal Declaration)

The research activities of the Department of Agriculture are among the most extensive programmes of the United States Government, and each year farmers and consumers throughout the United States and in many other countries benefit by the information resulting from agricultural discoveries. Because these research programmes are continuous, in some cases going back over a century, the changes in any given year do not reflect the scope or importance of long-term achievements.

For example, among the discoveries of agricultural scientists in 1960 were new information on the movement of nutrients from the soil to the interior of plants and on how plants resist diseases; a new method of applying weed killer resulting in 90 per cent control compared with 75 per cent effectiveness before; a laboratory instrument that can measure differences in relative humidity of soil samples as small as 1/2,000 of one per cent in order to determine factors influencing availability of water to plants; and a chemical which can be mixed in the food of house and fruit flies to prevent reproduction. In addition to many projects under way in the Agriculture Department's laboratories at Beltsville, Maryland, near Washington (D.C.), research was being conducted at many points throughout the country; for example, on disease of poultry at Ames, Iowa; on cotton insects at Mississippi State University; on grain insects in South Dakota and Georgia, and on soil conservation and land use in laboratories in South Dakota and Missouri. Studies conducted at the U.S. Regional Poultry Laboratory in East Lansing, Michigan, support the belief of many scientists that viruses cause some forms of cancer. Much of this research is the result of co-operation between federal and state authorities; for instance, joint research in Illinois made possible completely automatic handling of poultry feed from storage bins to feeders, and new crop varieties of pears, peabeans, lettuce, wild rye and wheat were produced by various state experiment stations with the assistance of federal government scientists.

New ways to utilize agricultural products were also developed in 1960, including the use of chemically modified cereal starch to improve the wet strength of paper and to provide protective or decorative coatings for glass, metal or wood; quick-drying, oil-in-water emulsion paints from linseed oil for use on exterior surfaces; and the processing of additional foods for instant use — such as sweet potato flakes that can be converted in 60 seconds to full-flavour mashed potatoes with the addition of hot water or milk.

Reports in 1960 gave evidence of the benefits of agricultural research in numerous ways. For instance, the average number of eggs per hen per year had increased 50 per cent compared with 30 years ago, and vastly increased crop yields with less manpower and no increase in acreage were attributed to improved crop varieties and better protection against plant insects and disease as well as to more efficient use of machinery. The fact that young adults in the United States today average two inches taller than those of 60 years ago is credited in large measure to improvements in diet.

The sharing of information on scientific findings is the responsibility primarily of the Cooperative Extension Service, through which federal and state departments of agriculture work with state universities, farm organizations, country and local extension agents and private industry to develop local demonstration programmes, testing services, training workshops and consultations with farmers on their own farms. The Federal Department of Agriculture publishes a wide variety of information bulletins, which are constantly revised to incorporate new findings. Among the new publications in 1960 were *The Nutritive Value of Foods*, which contains the most recent results of world-wide research in a comprehensive table comparing the values of several hundred commonly used foods, and *Food and Your Weight*, which stresses the need for a varied and balanced diet with information on caloric values. Similar bulletins and periodicals are published by state universities and many other agricultural agencies at the various levels of government.

Under a new programme begun two years ago, funds from the sale abroad of United States agricultural surpluses were made available for research grants to foreign scientific institutions, in the four general fields of marketing, utilization of farm products, farm production and forestry. Among the problems studied under this programme were the maintenance of crops in storage, the preservation of foods through freezing and dehydration, the control of newly discovered virus diseases in livestock to prevent their spread into new countries and areas, and the biochemical changes affecting the quality of maturing crops.

Exchange programmes with farmers of other countries continued, with appreciation of the mutual benefits to the participants: in 1960, for instance, it was reported that a water pollution problem in Maine had been solved by application of methods suggested by observers from the Netherlands, and that insects sent by visitors from other countries were helping to control pests proving dangerous in the United States. Technical assistance in insect survey and detection methods was made available to several countries in the Middle East, South Asia and Africa.

In continuation of programmes for the development of peaceful uses of atomic energy, treaties with 21 countries came into force or were extended in 1960. A treaty with Australia extended co-operative efforts in space research by continuing tracking stations established during the International Geophysical Year. In addition, this treaty provided tracking facilities for Project Mercury, which is designed to carry a man into space. Similar agreements with the Federation of Nigeria, Mexico, Spain and the United Kingdom (for Zanzibar) also came into force in 1960.

UPPER VOLTA

CONSTITUTION ADOPTED BY REFERENDUM ON 27 NOVEMBER 1960[1]

PREAMBLE

The people of Upper Volta proclaim their adherence to the principles of democracy and human rights, as set out in the Declaration of the Rights of Man and of the Citizen of 1789 and in the Universal Declaration of 1948, and as guaranteed by this constitution.

They affirm their intention to co-operate in peace and friendship with all peoples that share their ideal of justice, liberty, equality, fraternity and human solidarity.

TITLE I
THE STATE AND SOVEREIGNTY

. . .

Art. 2. The Republic of Upper Volta shall be one, indivisible, secular, democratic and social.

Its principle shall be government of the people, by the people and for the people.

Art. 3. Sovereignty shall be vested in the people.

No section of the people and no individual may assume the exercise of sovereignty.

Art. 4. The people shall exercise sovereignty through their representatives and by way of referendum. . . .

Art. 5. The vote shall be universal, equal and secret.

All citizens of Upper Volta of both sexes who are of full age and in full possession of their civil and political rights shall be entitled to vote under the conditions established by law.

Art. 6. The republic shall ensure equality for all before the law, without distinction as to origin, race, sex or religion.

It shall respect all creeds.

Any particularist propaganda of a racial, ethnic or regional nature and any manifestation of racial discrimination shall be punished by law.

Art. 7. The political parties and groups shall assist in the exercise of the franchise. They may be formed and engage in their activities freely, on condition that they respect the principles of national sovereignty and democracy, and the laws of the republic.

TITLE II
THE PRESIDENT OF THE REPUBLIC, AND THE GOVERNMENT

. . .

Art. 9. The President of the republic shall be elected by direct universal suffrage for a term of five years. He shall be eligible for re-election.

. . .

Art. 14. The President of the republic may, with the consent of the officers of the National Assembly, submit to a referendum any matter which in his opinion requires direct consultation of the people.

. . .

Art. 25. The offices of President of the republic or member of the Government shall be incompatible with the exercise of any parliamentary mandate and with any public employment or professional activity.

. . .

TITLE III
THE NATIONAL ASSEMBLY

Art. 27. The Parliament shall be composed of a single assembly, known as the National Assembly, the members of which shall be known as deputies.

. . .

Art. 29. The deputies of the National Assembly shall be elected by direct universal suffrage on a complete national list.

. . .

Art. 35. Each deputy shall represent the nation as a whole. Any compulsory mandate shall be null and void.

. . .

TITLE VII
THE JUDICIAL AUTHORITY

. . .

Art. 59. In the exercise of their functions, judges shall be subject only to the authority of the law.

The President of the republic shall guarantee the independence of judges.

He shall be assisted by the Superior Council of the Judiciary.

. . .

[1] The Constitution was promulgated by decree No. 475-PRES of 30 November 1960 (*Journal officiel de la République de Haute-Volta*, second year, No. 47 *bis* special, of December 1960). The text of the Constitution is annexed to Act No. 86-60-AN, of 9 November 1960, giving effect to the draft constitution (*Journal officiel*, second year, No. 44 *bis* special, of 12 November 1960).

Art. 62. No one may be arbitrarily arrested.

Any accused person shall be presumed innocent until he is proved guilty by a procedure providing the safeguards essential to his defence. The judicial authority, as the guardian of personal freedom, shall ensure respect for this principle, as prescribed by law.

. . .

TITLE XII
AMENDMENT

. . .

Art. 73. . . .

The republican form of the government shall not be subject to amendment.

TITLE XIII
GENERAL AND TRANSITIONAL PROVISIONS

Art. 74. The provisions necessary for giving effect to this constitution, which abrogates the constitution promulgated by decree No. 157/PRES, of 19 March 1959, shall be the subject of legislation adopted by the National Assembly.

. . .

Art. 76. The legislation at present in force in Upper Volta shall remain applicable, in so far as it does not contravene this constitution, subject to the enactment of new provisions.

URUGUAY

NOTE[1]

No legislation introducing any fundamental changes as regards the recognition or protection of human rights was adopted in Uruguay in 1960.

The following may be mentioned in this connexion: Articles 53 and 57 of Act No. 12804, of 30 November 1960 (*Diario Official* [D.O.] of 16 December 1960), instituting the income tax, granted to the administration — for the purposes of collection and inspection — "wide powers" to "inspect movable and immovable property held on any basis by taxpayers and persons liable to taxation", except that "private dwellings may be inspected only by prior judicial order; such order shall be issued when there are reasonable grounds for believing that an offence has been committed and that such an inspection is necessary."

Act No. 12786, of 15 November 1960 (*D.O.* of 28 November 1960) ratified the International Convention for the Safety of Life at Sea, open for signature in London from 10 June to 10 July 1948. Acts No. 12793, of 17 November 1960 (*D.O.* of 6 December 1960), and No. 12839, of 22 December 1960 (*D.O.* of 5 January 1961), made provision for insurance against illness and disability, as well as for assistance and other medical and pharmaceutical benefits, on behalf of manual and non-manual workers in motor transport concerns and in the building and related industries. Act No. 12840, of 22 December 1960 (*D.O.* of 30 December 1960), granted a supplementary annual salary to manual and non-manual workers in industry, commerce and other private activities. Act No. 12842, of 22 December 1960 (*D.O.* of 4 January 1961), raised the minimum wage of rural workers, with extra amounts for food, housing and in respect of family allowances. Article 121 of Act No. 12803, of 30 November 1960 (*D.O.* of 16 December 1960), assigned to teachers and workshop instructors on the roll of the Council of Secondary Education and the University of Labour, whether established in their posts or effectively occupying them, a monthly allowance for the purchase of bibliographical, informational, educational or scientific material. Many Acts extended or increased superannuation payments (No. 12693, of 8 January, *D.O.* of 18 January; No. 12694, of 8 January, *D.O.* of 8 January; No 12715, of 17 May, *D.O.* of 1 June; No. 12747, of 4 August, *D.O.* of 16 August; No. 12748, of 4 August, *D.O.* of 15 August; No 12755, of 11 August, *D.O.* of 5 September; No 12761, of 23 August, *D.O.* of 31 August; No. 12775, of 13 September, *D.O.* of 26 September; No 12776, of 13 September, *D.O.* of 26 September; No 12778, of 20 September, *D.O.* of 4 October; No. 12815, of 20 December, *D.O.* of 1 January 1961; No. 12816, of 20 December, *D.O.* of 2 January 1961; and No. 12844, of 31 December, *D.O.* of 12 January 1961). Other Acts encouraged the purchase, construction or improvement of housing (No. 12707, of 9 April 1960, *D.O.* of 27 April; No. 12710, of 5 May, *D.O.* of 19 May; No. 12795, of 22 November, *D.O.* of 12 December; No. 12805, of 1 December, *D.O.* of 12 December). Yet others provided for unemployment allowances and benefits, established work scholarships and granted loans to workers in various fields (No. 12757, of 11 August, *D.O.* of 19 August; No. 12758, of 11 August, *D.O.* of 19 August; No. 12706, of 9 April, *D.O.* of 3 May; No. 12799, of 24 November, *D.O.* of 7 December; No. 12703, of 10 February, *D.O.* of 12 May; 12807, of 1 December, *D.O.* of 12 December; No. 12797, of 24 November, *D.O.* of 6 December; No. 12837, of 22 December, *D.O.* of 30 December; and No. 12838, of 22 December, *D.O.* of 5 January 1961).

Special mention should also be made of article 134 of Act No. 12802, of 30 November 1960 (*D.O.* of 14 December). This article, intended to govern the application of article 68 of the Constitution, stated that "for the purposes of tax exemption, cultural institutions shall include seminaries or training establishments or other institutions of any religion, reading rooms, rooms for the holding of public functions, premises designed for classes in business, music, needlework and home economics and sports and recreation grounds and centres for young people founded and maintained by a parish or by a non-profit-making organization." It also exempted from any national or departmental income tax, and from any other levy or contribution, cultural and educational institutions and sporting federations or associations and the bodies of which they were composed, provided that both the former and the latter were legal entities. The same privileges were granted for property possessed, received or acquired by such bodies, "by the present and future dioceses of the Roman Catholic Apostolic Church or by any other religious institution for the purposes of their rites, for charitable or educational work or for sporting

[1] Note furnished by Dr. Anibal Luis Barbagelata, Professor of Constitutional Law, Montevideo, goverment-appointed correspondent of the *Yearbook on Human Rights.*

activities", by the Society of St. Vincent de Paul (Conference of Men and Women), by "charitable associations giving free assistance to the poor, sick and disabled", and by "permanent political parties or sections thereof which are entitled to use the emblem of the party and by trade unions which are legal entities."

At a lower level, because of the lower legal status of this type of legislation, there should be mentioned the executive decree of 29 September 1960 (*D.O.* of 31 October 1960), which established the principle of the free importing of all merchandise, products and goods; the executive decree of 31 March 1960 (*D.O.* of 2 June 1960), which, in order to enable Uruguayan plastic artists to take part in exhibitions abroad and sell their works outside the country, specified that works by artists resident in the country might be exported free of duty for the purpose of displaying them in such exhibitions, with certain restrictions intended to prevent the loss of works which were part of the artistic and historical heritage of the nation; the executive decree of 30 June 1960 (*D.O.* of 8 July 1960), which established a Co-ordinating Commission on Wages and Prices under the Ministry of Industry and Labour; the executive decree of 8 January 1960 (*D.O.* of 25 January 1960), which exempted from customs duties and other national dues "gifts of books, materials and equipment for purposes of study, instruction or scientific research made by foreign governments or diplomatic missions to official institutions of a cultural, scientific or educational nature"; and the executive decrees of 15 November 1960 (*D.O.* of 7 and 19 December 1960), of which the first extended to Italian citizens, on a reciprocal basis, the system of admission to and temporary residence in the national territory without a consular visa, and the second authorized the Ministry of Foreign Affairs to arrange, with the diplomatic missions of the countries with which special systems for temporary admission without a visa had been established, for the extension of this privilege, on a reciprocal basis and subject to the conditions laid down in the decrees of 5 November 1959, to travellers holding diplomatic or official passports who were nationals of countries desiring such privileges.

VENEZUELA

CRIMINAL EXAMINATION CODE

of 26 June 1957[1]

INTRODUCTORY TITLE

Chapter I. — *General Provisions*

. . .

Art. 11. The defendant in any criminal proceedings shall be represented by one or more counsel whom he shall appoint at the time laid down by law or, in the event of refusal or failure to reply, by the counsel assigned to defend him by the judge.

The defendant may not appoint more than three defence counsel to represent him before the same court in the same case. In any event, each defence counsel appointed shall have full authority to act for the defendant.

. . .

Art. 17. Persons without knowledge of the Spanish language who are required to make a statement shall be assisted by one or more interpreters who, if they are not official interpreters, shall be appointed by the court and shall take an oath before undertaking their duties.

. . .

BOOK ONE. — *THE EXAMINATION*

Title I

THE EXAMINING OFFICIALS AND THE PROSECUTOR'S OFFICE (MINISTERIO PÚBLICO)

Chapter I. — *Examining Officials and Criminal Police*

Art. 71. The examination consists of the steps taken to prepare for the trial and to ascertain and verify the commission of punishable acts, including all the circumstances which may affect the classification of such acts and the guilt of the offenders, the securing of the persons of the offenders and of the objects used or involved in the commission of the offence.

The examination must be terminated within thirty days following the detention of the accused under a court order. The summonses and judicial measures which cannot be executed within this time-period shall be executed during the trial.

. . .

Art. 73. The examination proceedings, whether begun *ex officio* or at the request of a party, shall be kept secret, except from the representative of the prosecutor's office, until the examination is declared terminated.

Nevertheless, a defendant remanded in custody shall have the right to consult the record of the examination proceedings, and to that end may request, through the director of the jail or institution in which he is detained, that he be transferred to the court in order to study such record in association, if he wishes, with a person in his confidence.

. . .

Art. 75-D. The criminal police, in its investigation of the punishable acts, shall take an unsworn statement for information purposes from the person who is ostensibly guilty, without exercising any pressure or coercion.

. . .

Art. 75-F. No house may be searched by criminal police officers unless they have previously obtained a search warrant from the competent judge; they shall display the search warrant and their credentials to whomsoever it may concern.

This provision shall not apply in the following cases:

(1) When a person who is to be found in the house has been surprised *in flagrante delicto* and is being pursued with a view to his arrest;

(2) When a person to be found in the house is an escaped prisoner;

(3) When a search may prevent the commission of an offence.

If a search is carried out without observance of the prescribed formalities, the offenders shall be subject to the penalties provided in article 185 of the Penal Code for the offence of trespass to a dwelling-house, without prejudice to the penalties provided by the internal regulations of the department to which such offenders belong.

. . .

Title III

CONDUCT OF THE EXAMINATION

Chapter I. — *Verification and Proof of the Corpus Delicti*

Art. 115. The basis of the criminal proceedings is the proof of the existence of an act or omission expressly declared by law to be an offence or petty offence.

[1] Published in *Gaceta Oficial* No. 540 extraordinary, of 30 July 1957.

The *corpus delicti* shall be established:

(1) By the examination which the examining officer shall make through physicians, experts or trained persons, and, if such evidence proves insufficient, by the examination of weapons, instruments and objects which may have been used or prepared for use in or towards the commission of the offence;

(2) By the examination of traces, footprints and marks that may have been left by the commission of the offence;

(3) By the inspection of books, documents and other papers connected with the offence, and of all other material that may help to clarify it;

(4) By the depositions of witnesses who may have seen or heard material evidence;

(5) By compelling circumstantial evidence [indicios] and deductions which justify a conviction that the offence has been committed.

. . .

Chapter VI. — *Detention*

Art. 182. Whenever it is established that an act punishable by deprivation of liberty has been committed — prosecution of that act not being clearly barred by operation of the statute of limitations — and there is evidence of the guilt of some person, the examining official [funcionario instructor] shall order the detention of the defendant and shall issue the appropriate document for the execution of that order.

The order must be in precise written form, and shall contain:

(1) The personal particulars of the accused and other data which may identify him and, if possible, the address of the place where he can probably be found;

(2) A brief statement of the acts on which the detention order is based, the legal grounds of the order, and a provisional statutory description of the offence;

(3) A statement as to whether the proceedings were instituted *ex officio* or upon complaint of a party;

(4) The name of the jail or other public place of detention to which the person under arrest is to be conducted;

(5) The date, the full signature of the official issuing the order and of the clerk [secretario], and the seal of the office.

The detention order shall be served on the person to be apprehended at the time of its execution or immediately thereafter.

Art. 183. No detention may be effected without observance of the conditions laid down in the preceding article, unless the person detained is surprised *in flagrante delicto* and the offence punishable by deprivation of liberty.

In that case, every authority must, and any private individual may, detain the offender surprised in the act.

Art. 184. For the purposes of the preceding article the term *in flagrante delicto* means that the offence is in the process of being committed or has just been committed.

When the offender is pursued by police authority, by the victim or by public hue or cry, or when a person is found in or near the premises where an offence was committed, immediately after the commission thereof, in possession of weapons, instruments or other objects which give reason to believe that he participated in the offence, the rules applicable to offenders surprised *in flagrante delicto* shall also apply.

Art. 185. The person who detains an offender surprised *in flagrante delicto* shall surrender him immediately, together with any weapons or instruments which he believes were used in the commission of the offence or might be useful as evidence, to the nearest police authority or to the examining official, who shall prepare a report which shall be signed by the person who effected the detention and by the detained person if such persons know how to write.

The following particulars shall be stated in the record:

The name and surname of the person who effected the detention and of the person under detention;

Particulars of the person under detention, if known;

The persons present at the commission of the act;

The place, day and hour when the offence took place;

Any other circumstances which might be useful in the inquiry or as evidence.

If the person who effected the detention fears that the detained person may escape or if he cannot deliver the detained person to an authority or official, he shall surrender the said person to any detachment of the guard or army, in which case both the commander of the detachment and the person who effected the detention shall be under a duty to inform the nearest examining authority or the competent judge immediately.

Art. 186. A person detained after being surprised *in flagrante delicto* may not be held in custody if the detention is not expressly confirmed by an order of the examining judge within ninety-six hours after the detained person has been brought before him. To that end, the judge shall give the proceedings priority over any other work of the court and shall make the examination proceedings as brief as possible, with a view to ruling on the release of the defendant within the established time-limit.

If the judge finds that the detained person did not commit an act punishable by deprivation of liberty, he shall order the release of such person.

Art. 187. Any director of a jail who receives a person without the order referred to in article 182 shall be subject to the penalty laid down in the Penal Code.

. . .

Art. 190. Only a defendant who is in custody may lodge an appeal against a detention order, and the hearing shall be limited to such appeal only. A copy of the appeal must be transmitted immediately to the superior court, which shall impose a disciplinary penalty of 100 bolivars on the lower court for any delay.

The superior court shall rule on the appeal by way of summary hearing and shall immediately transmit its decision to the lower court. An application from the decision of the superior court on points of law [recurso de casación] shall be permitted only when it is alleged that the acts charged are not criminal in character or that prosecution is clearly barred by operation of the statute of limitations.

When the detention order has been issued by a judge of a lower court who has no jurisdiction over the case, an objection [reclamo] to the order may be lodged within five days following the date on which the defendant is placed at the disposal of the judge before whom he has to make the preliminary statement.

The time-limit for filing an appeal shall be five days from the date on which the defendant makes a preliminary statement, if the detention order is issued by the judge of the case, or, if the case is referred to that judge on an objection, from the date on which he confirms the detention.

When the defendant has not lodged an objection or appeal from the detention order, the judge who is competent to review the order may revoke such order if he finds that the existence of the offence has not been established or that there is not substantial evidence of the guilt of the person under detention. In such cases, and also when a case is brought before the court on an objection, the revocation shall be reviewed by the superior court, in accordance with the procedure laid down in the first part of this article.

Art. 191. When the examining official or court hears from any source that the defendant shows signs or symptoms of mental impairment, he shall be subjected without delay to expert examination and observation; if from the expert report and the statements of other persons who can give reliable evidence by reason of circumstances and their relations with the accused, the existence of such mental impairment is established, the mentally impaired person shall be placed without delay at the disposal of the executive authority in order that the latter may decide what action is to be taken.

The preliminary examination shall nevertheless continue until it has been concluded, and the case shall proceed without interruption, if there are other defendants charged with the same offence.

Chapter VII. — *Preliminary Statement*

Art. 192. Within two days following the detention of the defendant the examining official shall take a preliminary statement from him in accordance with the provisions of this chapter.

If the offence is not punishable by deprivation of liberty, the examining official shall issue an order declaring the proceedings against the defendant duly initiated and directing him to appear to make a preliminary statement within twenty-four hours of his having been summoned, with due allowance for distance.

Art. 193. In any of the cases referred to in the preceding article and whenever the defendant has to be heard in person, he shall be informed of the punishable act which is being investigated and he shall have read to him the provision of the Constitution which guarantees that the defendant may not "be bound to take an oath or be compelled to make an admission of guilt against himself, his spouse or any other relative within the fourth degree of consanguinity or the second degree of affinity."

. . .

Art. 195. In making his preliminary statement the defendant shall be assisted by provisional counsel [defensor provisorio], whom he shall appoint within twenty-four hours preceding the preliminary examination. If the accused does not appoint counsel or the counsel he appoints refuses to act, and if the public defender cannot undertake that function, the judge shall appoint a provisional defence counsel *ex officio*;

Art. 196. In no event may the defendant be asked leading or deceptive questions.

Art. 197. The defendant may make a statement as many times as he wishes, and the judge shall receive him and record his deposition in so far as it is relevant to the case.

If the defendant does not wish to, or cannot, dictate his own statements, which should be concise and concrete, the judge shall undertake the task.

. . .

Art. 203. If one of the defendants is entirely deaf, deaf mute, or mute, and does not know how to read or write, two persons who understand the signs with which he communicates his thoughts shall be appointed to interpret his statements.

If the defendant cannot be understood even by that method, the proceedings shall continue.

If he can read or write, he shall make his statements in writing for the record.

Chapter VIII. — *Review and Termination of Preliminary Examination*

Art. 204. As soon as all the steps which might be useful in establishing the *corpus delicti* and dis-

closing the guilty party have been taken or, even if it has not been possible to take all such steps, thirty days after the detention of the defendant, the examining official, if he is not himself the competent judge, shall transmit the file and the defendant to the competent judge.

The competent judge shall issue a written order declaring the preliminary examination concluded and shall notify the representative of the public prosecutor's office of the action he has taken.

If the detention order was issued against more than one person and thirty days have passed since only one or some such persons were detained, the preliminary investigation shall be declared concluded with respect to the detained person or persons only.

. . .

BOOK TWO. — *TRIAL AND STAT OF PROCEEDINGS — OPENING OF THE TRIAL*

TITLE I

Chapter I. — *Defence Counsel and Prosecutors*

Art. 209. After he has declared the preliminary examination concluded in conformity with article 204, the judge shall invite the defendant, through the clerk of the court, to appoint defence counsel within twenty-four hours. The defendant may confirm the provisional appointment or may appoint another person or persons as counsel to represent him at the trial.

If the defendant, after notification, does not appoint counsel, the public defender shall undertake the defence or, if there is no public defender, the court shall appoint defence counsel *ex officio.*

Art. 210. The public prosecutor's office shall always intervene in public prosecutions, even when there is a complainant.

When steps have to be taken outside the town in which the court is situated, auxiliary defence counsel shall be appointed if defence counsel establishes that he cannot be present at such proceedings; auxiliary prosecutors shall also be appointed when necessary.

The auxiliary prosecutors shall be appointed by the representative of the public prosecutor's office, who may delegate this power to the Judge Commissioner; and auxiliary defence counsel shall be appointed by the defendant or by his defence counsel. If the auxiliary defence counsel does not accept the appointment, the Judge Commissioner may designate an auxiliary defence counsel.

Art. 211. At any stage in the proceedings the defendant may dismiss the defence counsel appointed by him or by the court; in that event, new appointments shall be made in the manner provided.

Art. 212. If the defendant is without counsel at any time during the trial because the defence counsel appointed dies, resigns or is excused, or is dismissed by the defendant, the public defender or, in the absence of such an official, a defence counsel appointed by the court shall undertake the defence until counsel appointed by defendant agrees to act.

. . .

Title III

EVIDENCE

Chapter II. — *Confession*

Art. 247. A confession made by the defendant at the trial shall be considered as conclusive evidence against him, provided that all the following conditions are satisfied:

(1) The confession is made by the defendant freely to the court;

(2) The *corpus delicti* has been fully established;

(3) There is, in addition, at least some secondary evidence or grounds for belief in the guilt of the defendant in the record.

Nevertheless the judge may, if he chooses, consider a confession as conclusive evidence, upon proof that it was not made as a result of mental impairment or other cause which would render it inadmissible as illogical or against nature, and provided always that it is made freely to the court and the *corpus delicti* has been fully established.

The defendant shall not be required to take an oath in order to make his confession, but the fact that he takes an oath of his own accord shall not diminish the evidential value of the confession provided that there is an entry in the records indicating that the defendant was informed of the constitutional provision quoted in article 193 of this code.

When a confession is qualified, the judge must carefully compare it with all the other evidence in the record including the other statements of the defendant recorded in the file; and he may admit only the objective factual references favourable to the defendant contained in the said confession when they do not appear to be false or improbable. When the judge divides the defendant's confession, he should state in the judgement the grounds on which such action is taken.

Evidence may be accepted by the defendant against his own confession and, if conclusive, such evidence shall destroy the confession.

If the confession does not satisfy either of the first two conditions in this article, it may not be given any weight even as secondary evidence.

The judge may accept any statement of the defendant not relating to his acknowlegement of guilt as secondary evidence of such cogency as the court may deem appropriate.

Art. 248. Confessions not made to the court and confessions made to the criminal police authorities shall be considered only as secondary evidence the cogency of which shall depend on the character of

the person who made the confession and the relevant circumstances.

. . .

Title VI

SUSPENSION OF THE CASE, STAY OF PROCEEDINGS AND RELEASE OF THE DEFENDANT

Chapter III. — *Release of the Defendant*

. . .

Art. 320. Provisional release or release subject to security may be granted in the following cases:

1. After the charges have been heard and answered by the defendant in court, if he is not charged with an offence punishable by a term of imprisonment with compulsory labour or by a maximum term of less rigorous imprisonment or detention for more than two years, until such time as the trial court passes sentence.

For the purposes of this sub-paragraph, charges made by a complainant shall be taken into consideration only in private prosecutions.

If the offence renders him liable to a term of less rigorous imprisonment or detention for more than two years but less than four years, the judge may grant provisional release to the defendant provided that he is not a recidivist and has been of good conduct prior to the offence. If the offence was due to negligence, the judge may grant provisional release to the defendant in the conditions indicated even if the offence is punishable by a longer term of imprisonment.

. . .

Art. 322. The sureties provided by the accused to secure provisional release shall be at least two in number, of acknowledged good behaviour and responsibility, and security shall not be accepted from public servants, ministers of any religion, persons incapable of entering into a binding contract or persons domiciled outside the jurisdiction of the court to which the security is given, unless in the latter case the surety expressly submits to the jurisdiction of the court.

When the defendant establishes that it is impossible for him to provide sureties, the court may exempt him from the requirement of security referred to in this article. In such case, the defendant shall undertake, in a document he shall sign before the court, not to leave the town where the institution in which he is detained is situated and to report to the authorities in a place which the judges in the proceedings shall designate.

. . .

BOOK THREE. — *APPLICATIONS TO THE COURT OF CASSATION, EXECUTION OF SENTENCES AND SPECIAL PROCEEDINGS*

Title III

SPECIAL PROCEEDINGS

Chapter XI. — *Proceeding for Petty Offences and Certain Other Offences*

. . .

Art. 418. At the same hearing and at the specified hour the detained person shall be brought to the judge's chambers; the complainant shall also attend, a summons not being required. Counsel appointed by the defendant shall also attend; if no defence counsel is appointed and if there is no public defender, the judge shall at the same hearing appoint a defence counsel *ex officio* and place him under oath; the defence counsel so appointed shall undertake the defence and shall also attend the above-mentioned hearing.

. . .

The judge shall inform the defendant of the grounds for his detention, shall listen to his reply and shall allow him at that hearing to cross-examine the witnesses present, personally or through his defence counsel, if he has one.

Art. 419. At the same hearing the defendant may indicate orally the evidence which he considers useful to his defence; it shall be left to the judge's discretion either to admit the evidence and to set another hearing in which to consider it, or to exclude it if he considers that the matter has been made sufficiently clear.

. . .

AGRARIAN REFORM ACT
of 5 March 1960
NOTE

Article 1 of this Act reads as follows:

"1. The purpose of this Act is to transform the agrarian structure of the country and to incorporate its rural population into the economic, social and political development of the nation, by replacing the latifundia system with an equitable system of land ownership, tenure and operation based on the fair distribution of the land, satisfactory organization of credit, and full assistance to agricultural producers, in order that the land may constitute, for the man who works it, a basis for his economic stability, a foundation for his advancing social welfare and a guarantee of his freedom and dignity."

The Act provides for the possibility of expropriation, in return for compensation, of lands which do

not fulfil the social function of property as defined in the Act: that funtion is to include its efficient and profitable use.

The Act appears in *Gaceta Oficial*, No. 611 Extraordinary, of 19 March 1960. Translations of the Act into English and French appear in *Food and Agriculture Legislation*, vol. IX, No. 2, of 1 December 1960, published by the Food and Agriculture Organization of the United Nations.

YUGOSLAVIA

DEVELOPMENTS IN 1960 RELATING TO HUMAN RIGHTS[1]

In 1960 further progress was made in the respect, protection and implementation of human rights in the Federal People's Republic of Yugoslavia. The general economic and social progress and the gradual expanding of social self-government to new sectors of social life had contributed towards the full assertion of many human rights. A large number of important new legal provisions, both federal and republican, directly pertaining to human rights, were adopted in 1960. A survey of the more important regulations[2] which are of a general interest and more particular significance in respect of the implementation of human rights is given below.

I. CRIMINAL PROCEDURE

Act amending and supplementing the Code of Criminal Procedure (revised text published in *Official Gazette of the F.P.R.Y.*, No. 5/60)

After the introduction of important changes into the Criminal Code in June 1959, an Act introducing many changes and additions into the existing Code of Criminal Procedure, in conformity with the trend of further humanization of criminal punishment, was adopted at the end of 1959. These changes are particularly concerned with the new institutions introduced by the Criminal Code (for example, the judicial reprimand) and with the elaboration of the procedure relating to minors and the procedure relating to rehabilitation and annulment of sentence — i.e., with matters which are regulated in the new Criminal Code in a completely different manner — furthermore, some changes and additions were introduced because practice had shown them to be necessary.

The following are the more important changes and additions:

A. In view of the lowering, in the Criminal Code, of the maximum sentence of imprisonment from 5 to 3 years, certain changes have been introduced into the competence of courts *ratione materiae*. Thus, county courts are now competent, with some small exceptions, to deal with all offences punished by imprisonment.

The rights of the parties to participate in investigation proceedings have been broadened, more specifically in the sense of an intensified implementation of the principle of contradiction.

Among the amendments concerning legal remedies we shall cite the right of the injured party, which did not exist up till now, to lodge an appeal against the sentence if the prosecution has been taken over from him by the public prosecutor. The reasons for renewing criminal proceedings have also been broadened, more specifically in cases where the judgement rejecting the indictment was caused by a criminal act committed by the public prosecutor, and in the case of subsequently discovered acts in sentences for an extended or collective criminal offence.

A new article has been adopted in order to speed up criminal proceedings for offences which are being prosecuted on the basis of a private complaint (libel and insult). The judge may summon the defendant and plaintiff in order to clarify the matter and to try to reconcile the parties; under certain conditions, he may immediately put the case down for hearing.

Rehabilitation and annulment of sentence have undergone substantial changes in the Criminal Code. This has called for the adoption of corresponding procedural provisions. The decision on the annulment of a sentence is made, *ex officio*, by the authorized bodies of internal affairs of the district people's committee, which inform thereof the bodies concerned with the keeping of penal records. Should the competent body fail to adopt a decision, the convicted person may raise the case in court. No reference to the annulled sentence may be made in a certificate based on penal records. Upon the request of the convicted person, under specific conditions, a decision may be adopted annulling the legal consequences of the sentence. The county court assembles the data required for such a decision, while the supreme court of the people's republic (autonomous province) adopts the decision. Against this decision an appeal may be lodged with the Federal Supreme Court.

Finally, it should be stressed that — in addition to the existing cases — an appeal to a third instance court has also been made possible, if a judgement of acquittal has been brought in the first instance and a judgement of conviction in the second.

[1] Note prepared by Dr. Boško Jakovljević, Research Fellow of the Institute for International Politics and Economics, Belgrade, government-appointed correspondent of the *Yearbook on Human Rights*.

[2] The original texts of the legal provisions described here were published in the *Official Gazette of the Federal People's Republic of Yugoslavia*, in the Serbo-Croat, Slovene and Macedonian languages, and in the official gazettes of the people's republic.

B. The entire chapter relating to the procedure applied in the case of minors has been altered, in order that it may be brought into conformity with major changes effected in the Criminal Code with regard to them. These changes provide for a wider choice in the conduct of proceedings, by adopting new institutions which have evolved in every-day practice, and all with a view to bringing about greater humanization. The changes stress the importance of a comprehensive study of the personality and environment of minors; they lay greater emphasis upon the specialization of organs competent to conduct such proceedings; they strengthen the role of guardianship bodies and establish a uniform system of prosecution, with a view to ensuring the consistent implementation of policies best suited to this specific age group of criminal offenders. The following are some of the more important changes:

In the county court the minor must have a lawyer as defence counsel.

Special divisions for minors are set up in courts. They are composed, in addition to special judges for minors, of lay jurors appointed from among persons possessing pedagogical qualifications and experience.

The competence of courts *ratione materiae* and their territorial jurisdiction are regulated differently in order to pay greater attention to the special treatment of minors. Thus, the district court is competent in a large number of cases; as a rule, the court of the residence of the minor is competent.

Criminal proceedings against minors can be instituted only by a public prosecutor. If the latter fails to do so, the injured party may address himself to a court with the request that the latter decide upon the institution of proceedings, as there is no private complaint in this case. Preliminary proceedings, termed as urgent, may be instituted, as a rule, by the judge for minors; the latter may, however, entrust them to competent bodies. The entire preliminary procedure has the characteristics of a preparatory procedure in which there do not exist two phases, inquiry and investigation, but a uniform procedure. In accordance with this there is no confinement during investigation, but, as an exception, custody which may last three days; it may be extended, only if deemed necessary, by the judge and division for minors of the county court, but it may not exceed three months. As a rule, a minor is held in custody separately from adults.

When a decision of acquittal or dismissal or a corrective measure is pronounced, it is pronounced in the form of a decision and not of a sentence.

A minor may be sent to an educational institution or disciplinary centre upon the pronouncement of the first instance decision, even before it becomes final, if the parents agree to this and if it happens to be in the interest of the minor.

The court may, whenever it deems it necessary or upon the proposal of the public prosecutor or management of an institution, alter the type of educational measure or annul it. In order that the court may be informed of the behaviour of a minor and of the results of the execution of the measure pronounced, the management of an institution is under obligation to submit, every six months, a report to the court; the judge may also visit such institutions.

The Act also regulates the partial application of these special proceedings, concerned with minors, in the case of younger adults (18–21 years of age), under determined conditions.

The enumerated amendments to the Code of Criminal Procedure are designed to offer greater guarantees to citizens so that — in the case of criminal prosecution — their rights will be protected, that full attention will be paid to all the circumstances having a direct bearing upon the offence and that an impartial appraisal of their actions will be ensured. Consequently, these amendments represent a further step in the direction of humanization of criminal punishment.

II. FREEDOM OF THOUGHT AND EXPRESSION

Act on the Press and other Forms of Information (*Official Gazette of the F.P.R.Y.*, No. 45/60)

This Act represents a further step in the development of the rights of Yugoslav citizens to freedom of thought and expression. This right was regulated by the Act on the Press of 1946 and by certain provisions of the laws on publishing houses, on films, on radio, etc. The new Act codifies the rules which used to be embodied in different regulations and brings them into harmony with the general social development which has, in the meantime, taken place, as well as with the expanded material resources which have made it possible for the citizens to make a better use of these rights. Because of this some rights and obligations have been further elaborated and have gained a richer content.[1]

III. LABOUR LEGISLATION

Act on the Employment Service (*Official Gazette of the F.P.R.Y.*, No. 27/60)[2]

Instead of the former employment and professional guidance institutions, this Act provides for the establishment of special employment institutes. These institutions are self-supporting and are organized in conformity with the principles of social self-government.

In order to employ workers in harmony with the social plans and needs of economic and public services

[1] Extracts from the Act appear on pp. 388–400.

[2] Translations of this Act into English and French have been published by the International Labour Office as *Legislative Series* 1960 — Yug.1.

and in order to provide security to temporarily unemployed workers, the institutes: (1) follow the employment situation and the needs of workers and propose measures for the placement of workers (location of projects, opening of new departments, public works, etc.); (2) act as an intermediary in case of employment of workers; (3) offer vocational guidance; (4) are concerned with the vocational training of unemployed persons; (5) are concerned with the rights of workers during their provisional unemployment; (6) see to the accommodation of persons seeking employment.

The institutes are established (*a*) within the territory of one or more municipalities and (*b*) within the people's republic or autonomous province or region.

The institutes located within a municipality keep files on the temporarily unemployed and on persons seeking permanent employment. Upon receiving notification about a vacancy or a newly created post, the institutes refer the persons possessing the required qualifications to fill the vacancy. Priority is given to persons receiving maintenance allowances during unemployment and those with longer records of service. The institutes also co-ordinate their placement activities.

IV. HEALTH AND SOCIAL SECURITY

1. *General Act on the Organization of Health Services* (*Official Gazette of the F.P.R.Y.*, No. 45/60)

This Act has placed the basic rules for the functioning of the health services on new foundations. The Act represents an important turning point in the organization of health services, as it has developed still further, in harmony with the general trend of development in Yugoslavia away from state control of social services, social management (introduced as early as 1953) in this sphere of activities, with the aim of offering better and more complete health services to the citizens. The Act lays down only general rules, which are elaborated in detail in the special laws adopted by the people's republics.

The Act provides that the purpose of health services is in particular:

To ensure physical and mental health and improve health conditions, as the basic prerequisite for the development of the working, creative and defensive capabilities of the people and for the development of the economic forces of the country;

To ensure a sound development of children and youth;

To ensure favourable health conditions during pregnancy and childbirth and after childbirth for the woman, mother and child;

To eliminate the causes and consequences of illness and disability;

To improve environmental sanitary conditions and ensure hygienic conditions for the life and work of citizens and for the prolongation of human life;

To advance the health education of individuals and of the people as a whole.

Health services are rendered by health institutions, as independent institutions administered on the principles of social self-government, and by health workers.

Health institutions do not act in isolation from other social factors. For this reason, the Act provides for the co-operation of health institutions with the institutions for health insurance, the medical corps of the Yugoslav People's Army, the Yugoslav Red Cross, economic organizations, educational, social and other independent institutions, trade unions, professional societies and associations of health workers as well as other social organizations and citizens. The participation of citizens is particularly reflected by the fact that their representatives are members of organs of social self-government, of health institutions and institutions for health insurance.

In the provisions concerning the health institutions themselves, the Act assigns the central place to the citizen who turns to these institutions for medical help. It provides for the duty of the institution to organize medical assistance as effectively and completely as possible, and to ensure professional secrecy.

The citizens may freely choose their physician and corresponding health institution which will offer them medical aid. A citizen who has been refused treatment or is not satisfied with the aid received may demand that the manager of the institution should re-examine his case; if the new decision does not satisfy him either, he may demand that his case be brought before the managing board or council. If his request for treatment has been rejected, a reason must be given for the rejection. A citizen has the right to demand an advisory examination by doctors of the same or some other health institution.

The public is provided with a powerful means of exercising control over the activities of the institution through the discussion of its reports. The discussion of the report takes place, once a year, at the meeting attended by the members of the council and of the working collective, the representatives of the institutions for health insurance and other interested bodies, institutions, organizations and citizens; the report is made available to the public before the meeting.

In regard to the establishment of new health institutions, the people's committees and executive councils draw up, initially, a general programme of development for these institutions. The establishment can be undertaken when all the requirements have been met with regard to building and technical conditions, etc. After the meeting of these require-

ments, institutions may be established by people's committees, executive councils, and other government bodies authorized by special regulations, by institutions for health insurance, by economic and other organizations and institutions and by other social legal persons.

Health institutions are managed by (1) the council, (2) the managing board, elected by the council, and (3) the director. The council is composed of (*a*) members appointed by the founder, from among citizens who are able to contribute to the work of the council, (*b*) members elected by the working collective, and (*c*) members delegated by the institutions for health insurance and other interested institutions and organizations.

Professional work of a general interest for the implementation of health protection in the territories of political-territorial units is carried out by a determined health institution in the capacity of health centre. This work includes: the following and study of health and hygienic conditions and organization of health institutions; the gathering and elaboration of statistical data; and the elaboration of proposals for programmes for the development of the network of health institutions, for the advancement of health services, for the organization of meetings of experts, etc.

Health protection is financed from health insurance funds and funds provided by political-territorial units, economic and other organizations, health and other institutions and citizens. Health institutions are financed from income accruing from payments for medical assistance — from health insurance and other funds, from payments of persons who are not employed and are, therefore, not covered by the obligatory health insurance scheme, as well as from other income. The amount of compensation is fixed by the council of the health institution.

The Act lays down general rules for physicians and other health workers who are independent in their professional work, each of them within his own sphere of activity. The Act provides that — in addition to performing professional work of health protection in accordance with the principles of medical science and exerting to the utmost their professional abilities — health workers should perform this work also in accordance with the principles of medical ethics as laid down by the Federation of Medical Associations of Yugoslavia in co-operation with the federations or professional assocations of other health workers of Yugoslavia. Professional and other associations of health workers of Yugoslavia ensure that professional work is executed in the spirit of the principles of medical ethics. The rules of these associations prescribe the steps which may be taken against health workers who violate the principles of medical ethics, as well as the procedures to be followed in this connexion.

Health workers must keep as a professional secret all that they come to know in the performance of their vocation and they are responsible for the keeping of official secrets. They may be released from keeping a professional secret only under conditions prescribed by law.

Physicians and other health workers render medical aid through health institutions, and only exceptionally in private practices under conditions prescribed by laws of the republics.

The Act applies as from 1 April 1961.

2. *Act on Health Insurance of Agricultural Producers*

This federal Act, enacted already in 1959,[1] laid down general principles only. In 1960, corresponding laws were enacted in the people's republics, elaborating these principles.[2]

3. *Decree on the Conditions and Procedure for permitting Abortion* (*Official Gazette of the F.P.R.Y.*, No. 9/60)

Following upon the amendment of the provisions concerning the criminal act of abortion made in the new Criminal Code, this decree determines, on the basis of the authorization referred to in this code, the cases of permitted abortion and broadens particularly the social circumstances which provide a basis for such abortion.

The performance of an abortion may be permitted, with the consent of the pregnant woman, when it has been established on the basis of a medical finding that (1) the life of the woman concerned cannot be saved or a serious impairment of her health averted in any other way and (2) that the child might be born with grave physical or mental deficiencies owing to a disease of the parents. If not more than three months have elapsed from the time of conception, an abortion may be permitted also (3) if pregnancy was caused by the criminal offence of rape, by a sexual act committed upon a helpless person, by a sexual act committed upon a minor, by a sexual act committed by a person misusing his position, by seduction or by incest, and (4) when it may be justifiably expected that, owing to the birth of the child, the pregnant woman would suffer grave personal, family or material disadvantages which could not be averted in any other way. However, abortion will not be permitted if the termination of pregnancy would endanger the life of the pregnant woman.

The procedure for permitting abortion is instituted on the basis of the request of the pregnant woman, and, if she is a minor or unable to take care of herself,

[1] See *Yearbook on Human Rights for 1959*, p. 330.

[2] See: *Official Gazette of the People's Republic of Serbia*, No. 7/60; *Official Gazette of the People's Republic of Croatia*, No. 24/60; *Official Gazette of the People's Republic of Slovenia*, No. 38/59; *Official Gazette of the People's Republic of Bosnia and Herzegovina*, No. 7/60; *Official Gazette of the People's Republic of Macedonia*, No. 15/60; *Official Gazette of the People's Republic of Montenegro*, No. 21/60.

the request may be submitted by her parents or guardian. The proceedings are free of charge for the woman.

Requests of this kind are subject to a decision by special commissions set up at health institutions provided with gynaecological services (hospitals, maternity hospitals, gynaecological-obstetrical clinics, etc.). The commissions are composed of three members, two of them being physicians (one an obstetrician and gynaecologist) and one a social worker. The members of the first instance commission are appointed by the council of the municipal people's committee in charge of public health, and those of the second instance commission by the appropriate council of the district people's committee. The procedure is considered to be urgent; the decision must be reached within three days and, in the case of a justified delay, within not more than seven days. The first instance commission makes decisions by a majority vote, unless one of the physicians, member of the commission, is of the opinion that there are medical counter-indications. If the request is rejected, a request may be submitted for a decision in the same matter by the second instance commission; the latter decides by a majority vote and its decision is final.

An abortion without the commission's decision may be performed only if there is immediate danger to life or health, and there is no time to wait for a decision.

All facts learned in the course of this procedure constitute an official secret.

The commission is, in a suitable manner, to warn the woman of the harm done to her health by an abortion.

4. *Decree on the Vocational Rehabilitation of Disabled War Veterans* (*Official Gazette of the F.P.R.Y.*, No. 41/60)

Disabled war veterans, peace-time military disabled persons and children of killed, dead and missing persons are entitled to vocational rehabilitation under the Act on Disabled War Veterans. This decree elaborates the manner and conditions of using this right.

The right to this rehabilitation is enjoyed by men up to the age of 45, and, under certain conditions, up to the age of 50; and by women up to the age of 40 and 45 respectively.

The decree prescribes the kind of qualification received by these persons in view of the qualifications they possessed before. It covers in particular the rehabilitation of farmers, who are to be trained, at courses and schools, in more up-to-date methods of farming.

Persons sent for rehabilitation have the right to material security of from 2,000 to 14,000 dinars monthly; the amount depends on the professional qualifications for which they are trained and on the income earned by the disabled person in his capacity of member of the household. In addition, the disabled person is entitled to the payment of his transportation costs, if his place of residence is far from the place where the rehabilitation is effected; if the rehabilitation is effected outside the place of his permanent residence and permanent transportation cannot be provided, he receives room and board free of charge in the place where the rehabilitation is effected or an allowance for separate living up to 4,000 dinars (unmarried persons) and 8,000 dinars (persons maintaining a family).

The decision on the right to vocational rehabilitation is taken by the administrative body of the district people's committee in charge of social protection, after having obtained the finding, assessment and opinion of the commission for disabled persons. An appeal against this decision may be submitted to the appropriate body of the people's republic (province).

5. *Decree on Vocational Rehabilitation of Children of Insured Persons* (*Official Gazette of the F.P.R.Y.*, No. 51/60)

The children of the following categories of persons are eligible for vocational rehabilitation: (1) children of insured persons who have a permanent employment; (2) children of persons disabled at work who are themselves undergoing vocational rehabilitation and are eligible for material security or for temporary compensation on the basis of the right to employment; (3) children of beneficiaries of a personal or disablement pension; (4) children of beneficiaries of a family pension.

Those disabled children are eligible to this rehabilitation who are unable to live and work independently owing to inury, illness or handicap in their physical or mental development, and who cannot be trained to live and work independently through regular schooling or training for a certain profession or practical work. The rehabilitation is effected if there is a likelihood that such a person will be rehabilitated within four years at the most. Persons are eligible up to the age of 45 (men) or up to the age of 40 (women).

In addition to rehabilitation, disabled children are entitled to the reimbursement of transportation costs.

Expenses for this rehabilitation are borne by the Social Security Institute, which also makes the decisions with regard to rehabilitation, at the request of (*a*) the parents, (*b*) the guardian, (*c*) the child if he is able to take care of himself or (*d*) the administrative body of the municipal people's committee in charge of matters of guardianship. An appeal against a decision may be lodged with a higher Social Security Institute.

6. *Regulations on Sheltered Workshops for Vocational Rehabilitation and Employment of Disabled Persons* (*Official Gazette of the F.P.R.Y.*, No. 3/61)[1]

According to the Disablement Insurance Act, sheltered workshops are established in order to perform the following: (*a*) vocational rehabilitation and (*b*) employment of disabled persons for whom, because of the kind and state of their disablement, special conditions must be made available. These workshops are independent institutions managed by a council, a managing board and a director. The financial means for their establishment and supplementary means for their operations are provided by the founder — i.e., social security institutes, people's committees, executive councils, institutes for the employment of workers and economic and other organizations and institutions.

The right to the use of these workshops is enjoyed by disabled persons and other persons who are entitled to vocational rehabilitation under the Disablement Insurance Act, children of insured persons, disabled war veterans and handicapped persons sent for vocational rehabilitation by the body competent for social protection.

V. PATENT RIGHTS

Act on Patents and Technical Advancements (*Official Gazette of the F.P.R.Y.*, No. 44/60)

Inventors and authors of technical advancements are entitled, because of their creative work, to the title of author, to receive equitable rewards and to enjoy other rights under this Act.

Inventions are protected by patents which are issued, in compliance with the prescribed procedure, by the Patents Board. No complaint may be lodged against the decision of this board, but proceedings in a court may be instituted.

Yugoslav citizens and organizations may request the protection of their inventions abroad only if they have previously submitted, in Yugoslavia, a request for the issuing of a patent. Foreigners enjoy with regard to their inventions the same rights as Yugoslav citizens, on the basis of international agreements or the application of the principle of reciprocity.

The validity of a patent is fifteen years. The rights of the holder of a patent are transferred to his heirs. The holder of the patent may, by contract, cede his right to utilize the patent. If, without any justified reasons, he fails to use the patent for three years, the right of utilization of a patent may be granted, on the basis of a court decision, to some other person, after the payment of an equitable compensation to the holder of the patent. If it is in the general interest, the patent may be expropriated by the decision of the Supreme Economic Court, after the payment of an equitable compensation by the Federation. Inventions of interest to national defence are considered confidential and the competent body for the issuance of such patents is the Secretariat of State for National Defence. Other inventions of particular interest may also be proclaimed as confidential; in such case they are recorded in a special register.

The Act contains special rules for inventions in organizations. If an agreement between an organization and the inventor cannot be reached, the right to the patent belongs to the organization, while the inventor is entitled to an equitable compensation, which is fixed, if need be, by a court.

Technical solutions realized through a more rational application of existing technical means constitute technical advancements, whose authors are entitled to an equitable eompensation to be paid by the organization making use of the advancements.

A person whose right has been infringed is entitled to receive compensation. He may, furthermore, request that the infringer be prevented form continuing to infringe the right in question.

VI. CULTURE AND EDUCATION

1. *Resolution on the Training of Professional Personnel* (*Official Gazette of the F.P.R.Y.*, No. 25/60)

This resolution was passed by the Federal People's Assembly. It introduces a new system of education and training of professional personnel and gives greater possibilities to everyone to improve his knowledge and to increase his professional qualifications during his entire life. Laws elaborating these principles will be adopted on the basis of this resolution.

2. *Act amending and supplementing the General Act on Universities* (*Official Gazette of the F.P.R.Y.*, No. 23/60)

In addition to a number of changes in the teaching at universities, the Act has introduced a system making university education accessible to all citizens, regardless of their previous formal qualifications, provided they satisfy the conditions for admission determined according to the qualifications acquired (entrance examinations, etc.).

3. *Act on the Organization of Schools in which Teaching is done in the Languages of National Minorities* (*Official Gazette of the People's Republic of Serbia*, No. 29/60)

This Act has been adopted by the People's Republic of Serbia. It ensures to members of minorities conditions for schooling in their national language, equal to those enjoyed by members of the Yugoslav nationalities. Similar laws are being elaborated in the other people's republics.

[1] Translations of these regulations into English and French have been published by the International Labour Office as *Legislative Series* 1960– Yug.2.

ACT CONCERNING THE PRESS AND OTHER MEDIA OF INFORMATION[1]

Chapter I
BASIC PROVISIONS

Art. 1. With a view to implementing the democratic rights of citizens, strengthening the role of public opinion in social life, and providing the public with the fullest possible information concerning events and conditions in all spheres of life in Yugoslavia and abroad, freedom of the press and of other media of information is guaranteed.

Art. 2. Subject to the conditions laid down by law, Yugoslav citizens, irrespective of nationality, race, language or religion, shall have the right to express and disseminate their opinions through media of information, to avail themselves of such media for the purpose of obtaining information, to disseminate information, to publish newspapers and other press media, to establish institutions and organizations for the publication and dissemination of information, and to participate in the management of media for the communication of information to the public.

Art. 3. Neither notification nor authorization shall be required in order to publish information.

There shall be no censorship of the press or of other media of information, except when a state of mobilization or war exists.

Art. 4. The social community shall promote the establishment of institutions and organizations which publish and disseminate information for the enlightenment of the public, shall place stipulated material resources at their disposal, shall provide them with material and other facilities for carrying on their activities, and shall assist them in the training and advanced training of specialized personnel.

Art. 5. Institutions and organizations engaged in the publication and dissemination of information shall enjoy autonomy in carrying on those activities.

Such institutions and organizations shall be administered in accordance with the principles of social self-administration.

State organs shall have, with respect to institutions and organizations engaged in the publication and dissemination of information, only those rights and obligations which are prescribed by law.

Art. 6. There shall be free exchange of information between Yugoslavia and other countries.

Such exchange of information may be restricted only where the law so provides for the purpose of safeguarding the independence, security and free development of the country, ensuring respect for personal freedom, human rights, public order and morality, and promoting the development of international co-operation in the spirit of the United Nations Charter.

With a view to promoting knowledge of each other among the countries of the world, special facilities for the exchange of information between Yugoslavia and other States shall also be provided, on the basis of reciprocity, through international agreements and other forms of co-operation with various States.

Art. 7. The publication of information damaging to the honour, reputation and rights of citizens or to the interests of the social community shall constitute an abuse of freedom of information and shall be dealt with in the manner prescribed by law.

The publication and dissemination of information may be restricted only for the pupose of preventing abuses of freedom of information in the cases specified by this Act.

Art. 8. Sources of information shall be accessible under the same conditions to all organs of the State, institutions, organizations and persons engaged in the publication and dissemination of information.

The laws and regulations governing the organization of state organs and the regulations of institutions and organizations shall prescribe the manner in which information on matters within the competence of such organs, institutions and organizations is to be provided.

Art. 9. Citizens, state organs, autonomous institutions, economic and social organizations, and private bodies corporate shall be guaranteed the right of public reply to published information under the conditions laid down by this Act.

Art. 10. Journalists and other persons employed in the field of public information shall, in the performance of their duties, act in accordance with the principles of professional ethics and social responsibility and in a spirit of respect for truth, human rights and the cause of peaceful co-operation between peoples.

Journalists' associations and other appropriate professional associations and institutions which, in accordance with their statutes, promote professional ethics and awareness of social responsibility among journalists and other persons employed in the field of public information and provide such persons with advanced training shall be granted assistance and facilities so that they may carry on their activities as effectively as possible.

Art. 11. With a view to promoting international relations and comprehensive co-operation with other countries in the field of public information on the basis of equal rights, this Act specifies the rights and obligations of foreign news bureaux, foreign correspondents and foreign information agencies, as well

[1] Promulgated by decree of 31 October 1960 and printed in *Službeni List* No. 45, of 9 November 1960.

as the conditions under which they may carry on their information activities in Yugoslavia.

In exercising the rights specified by this Act, foreign agencies and foreign correspondents engaging in information activities in Yugoslavia shall comply with Yugoslav laws and regulations in every respect.

Art. 12. The Information Department of the Federal Executive Council and the republican administrative organs competent in information matters shall, within their sphere of competence, facilitate the gathering of official and other information by institutions and organizations engaged in the publication and dissemination of information and perform specified functions relating to international co-operation in the field of public information.

Art. 13. For the puposes of this Act, the term "information" means news, data, opinions and anything else communicated through the press or other media of public communication.

For the purposes of this Act, the term "other media of information" refers to the provision of information to the public by means of radio, television and films and by such other means as are specified in this Act.

Act. 14. The establishment, organization and operation of newspaper, publishing and film enterprises and institutions and of radio and radio-television stations shall be governed by special regulations.

Chapter II
THE PRESS

1. *General Provisions.*

Art. 15. For the purposes of this Act, the term "the press" means newspapers, magazines, bulletins, documents, books, catalogues, prospectuses, posters, leaflets, pictures, maps, drawings whether or not accompanied by a text, sheet-music accompanied by a text or explanatory notes, and anything else of a similar nature produced by means of printing equipment or reproduced by some other mechanical or chemical means and intended for the general public.

For the purposes of this Act, the term "the press" does not include printed or otherwise reproduced matter used exclusively for official purposes in the internal work of state organs, institutions and organizations, blank form, bookkeeping ledgers and other books of a similar nature, price-lists, directions for the use of machinery and medicaments, travel tickets, invitation cards, etc., provided that their content is of the kind customary in the case of such materials.

Art. 16. Press matter may be published and distributed by organs of the State, institutions, organizations, private bodies corporate, groups of citizens, and individual citizens, subject to the conditions laid down by federal law.

Art. 17. The publication of printed matter with the aid of funds or other material resources provided from abroad shall not be permitted.

The publication of printed matter shall be deemed to be financed from abroad if the cost of such publication is covered wholly or in part by funds or other material resources of foreign origin, irrespective of whether such funds or other resources are obtained regularly or periodically from the foreign sources in question and irrespective of their amount.

The publication of printed matter shall not be deemed to be financed from abroad if funds obtained from foreign sources represent payment for subscriptions or advertising at the normal rates.

Art. 18. The provisions of the preceding article shall not apply to printed matter published by the United Nations, published under agreements concluded between international organizations or foreign institutions and organizations on the one hand, and Yugoslavia on the other hand, or published with the authorization of the Information Department of the Federal Executive Council.

Art. 19. All printed or otherwise reproduced matter which, for the purposes of this Act, is deemed to be press matter (hereinafter referred to as "printed matter") shall specify the designation (or the surname and given name) and the address of the publisher and, if it was printed at a printing establishment, of such establishment, as well as the place and year of printing or reproduction.

In the case of printed matter in a foreign language, the particulars referred to in the preceding paragraph shall also be be provided in one of the languages of the Yugoslav peoples.

Art. 20. The printing establishment or, in the case of matter not reproduced at a printing establishment, the publisher shall forthwith transmit three copies of all printed matter to the competent county public prosecutor.

In the case of printed matter in a foreign language, the printing establishment or publisher shall also transmit one copy to the republican administrative organ competent in information matters.

Art. 21. Except for the provisions of the preceding article, the provisions of this Act relating to the press shall also apply, *mutatis mutandis*, to gramophone records, tape recordings, films intended for private exhibition, and transparencies which are in circulation or are publicly exhibited.

2. *Publication and Distribution of Newspapers and Other Periodicals*

Art. 22. For the purposes of this Act, the term "newspapers" means daily and other newspapers, as well as bulletins, which are published for the purpose of providing the public with regular information.

The provisions of this Act relating to newspapers shall also apply in all respects to magazines and other periodicals.

Art. 23. Newspaper enterprises, newspaper organizations and news agencies shall have the right to engage in the publication of newspapers as their principal activity.

Newspapers may also be published by state organs, autonomous institutions, economic and social organizations, and private bodies corporate, provided that the rules, regulations or statutes of the institution, organization or body corporate concerned make provision for the publication of a newspaper and that such publication contributes to the performance of functions or activities which are within the competence of such institution, organization or body corporate.

Art. 24. Newspapers may also be published by groups of citizens. Such groups shall consist of not less than five persons.

Any group of citizens intending to publish a newspaper shall register with the district people's committee administrative organ competent in internal affairs. The application for registration shall be accompanied by a copy of the group's regulations.

A group of citizens which publishes a newspaper shall have the status of a body corporate.

In addition to provisions containing the particulars furnished in the declaration referred to in article 25, the regulations of such groups shall in particular contain provisions concerning the publication and editorial direction of the newspaper, its business management, and the group's representation before state organs and in dealings with third persons.

Art. 25. Any person intending to publish a newspaper shall, not later than fifteen days prior to the commencement of publication, submit a declaration to the republican administrative organ competent in information matters.

Such declaration shall indicate:

(1) The name of the newspaper which is to be published;

(2) The nature of the newspaper;

(3) The frequency with which the newspaper is to appear;

(4) The place of publication of the newspaper and the address of the editorial office;

(5) The language in which the newspaper is to be published;

(6) The designation (or surname and given name) and the address of the publisher;

(7) The surname, given name and address of the responsible editor;

(8) The sources of the newspaper's funds and the manner in which it is to be financed;

(9) The name and address of the printing establishment where the newspaper is to be printed.

The place where the newspaper's editorial office is situated shall be deemed to be its place of publication.

Art. 26. The declaration referred to in the preceding article shall be accompanied by suitable proof that the person designated in the declaration as the responsible editor is not disqualified from holding that position under the terms of article 30 of this Act.

Where the newspaper in question is to be published by an autonomous institution, economic or social organization, or private body corporate, the declaration shall be accompanied by a certified extract from the regulations or statutes of such institution, organization or body corporate consisting of those portions of the said regulations or statutes in which provision is made for the publication of a newspaper.

Where the newspaper is to be published by a group of citizens, the declaration shall be accompanied by proof of registration and by a certified copy of the group's regulations.

Art. 27. A declaration of intent to publish a newspaper shall cease to be valid if publication of the newspaper does not commence within six months after the date on which the declaration was submitted or if publication is interrupted for a period of more than six months.

A declaration of intent to publish a magazine or other periodical shall cease to be valid if publication of such magazine or other periodical does not commence within six months after the date on which the declaration was submitted or if publication is interrupted for a period of more than one year.

Art. 28. Changes relating to any of the particulars contained in a declaration of intent to publish a newspaper (article 25) or in the documents accompanying such declaration (article 26) which occur during publication of the newspaper shall be reported by the publisher to the republican administrative organ competent in information matters within eight days after the date on which the change in question occurs.

The publisher of a newspaper shall also notify the republican administrative organ competent in information matters in the event that publication is discontinued.

Art. 29. Every newspaper shall have a responsible editor.

The responsible editor shall be responsible for all information published in the newspaper, subject to the conditions laid down by this Act.

A newspaper may also have more than one responsible editor. In such cases, the responsible editors shall be responsible for information published in

different editions or specified sections of the newspaper.

Responsible editors must reside at the place of publication of the newspaper.

Art. 30. No person shall be appointed to the position of responsible editor who is not a Yugoslav citizen, who is not professionally qualified or who, during the preceding three years, was convicted of a premeditated crime and sentenced to rigorous imprisonment or to ordinary imprisonment for a term of more than one year.

In exceptional cases, a person who is not a Yugoslav citizen may be appointed to the position of responsible editor of a newspaper if he obtains authorization for such appointment from the republican administrative organ competent in information matters.

Art. 31 Each copy of a newspaper shall indicate, in addition to the particulars specified in article 19 of this Act, the surname and given name of the responsible editor.

Each copy of a newspaper having more than one responsible editor shall indicate the edition or section of the newspaper for which each of the responsible editors is responsible.

Art. 32. The publisher of a newspaper may distribute his newspaper through his own facilities or through press distribution enterprises, bookstores, co-operatives, the postal service and special sales agents.

Publishers who distribute their newspapers through their own facilities may establish offices in any part of Yugoslavia to handle sales. The establishment and operation of such offices shall be governed by the general laws and regulations relating to the business departments of enterprises.

Publishers who do not distribute their newspapers through their own facilities shall deal with press distribution enterprises, bookstores, co-operatives or special sales agents on a contract basis. Special sales agents may also be in the employ of the publisher.

Art. 33. The financial and business operations of newspaper publishers shall be subject to public supervision.

Newspaper publishers shall publish in their newspapers, immediately after the final statement of accounts has been approved, the annual report on the financial and business operations of newspapers provided for in the Basic Act on newspaper enterprises and organizations.

3. *Right of Reply*

Art. 34. Citizens, state organs, autonomous institutions, economic and social organizations, and private bodies corporate shall be entitled to require the responsible editor of a newspaper to publish such reply as they may make to information published in the newspaper which is damaging to their honour, reputation, rights or interests.

Where the person to whom the information relates is dead, the right to require publication of a reply shall devolve successively upon such person's children, spouse, parents, brothers and sisters. If those persons do not request publication of a reply, the right to do so may be exercised by the state organ, autonomous institution, economic or social organization, or private body corporate with which the deceased was associated, provided that the information in question relates to his activities in connexion with such organ, institution, organization or body corporate.

Art. 35. The person submitting a reply shall indicate therein the information to which the reply relates and the issue and page of the newspaper in which the said information was published.

The reply shall consist exclusively of data intended to refute the assertions contained in the published information.

The reply shall be signed by the person submitting it.

Art. 36. The responsible editor of a newspaper shall be required to publish replies made to published information, except in cases where:

(1) The reply does not relate directly to the information which gave rise to the request for publication of a reply, or it contains only opinions or general observations instead of specific data relating to the assertions contained in the published information;

(2) In view of the nature of the reply, its publication would cause distribution of the newspaper to be prohibited or would cause criminal proceedings to be initiated against the editor;

(3) The reply relates to assertions contained in the published information whose truth has been established, with final effect, by the competent state organ;

(4) It is evident that the published information has not damaged the honour, reputation, rights or interests of the person to whom it relates;

(5) The reply has not been signed by an authorized person;

(6) The reply is written in discourteous or abusive language;

(7) The reply is disproportionately longer than the published information in question or than the part thereof containing the assertions which occasioned the reply;

(8) The reply is submitted more than thirty days after the date on which the information in question published in a daily newspaper, or more than sixty days after the date on which the information was

published in a newspaper or periodical other than a daily newspaper;

(9) A reply is submitted whose content is the same as that of a reply previously submitted, although a judicial action to compel publication of the earlier reply to the same published information is still under way;

(10) A reply to the same published information, submitted by one of the persons authorized to do so under article 34, paragraph 2, of this Act, has already been published.

Art. 37. Where no reason exists for refusing publication of a reply, the latter shall be published, in the case of a daily newspaper, in the first or, at the latest, in the second issue, and, in the case of a newspaper other than a daily newspaper or of a magazine, in the first issue following its receipt at the editorial office of the newspaper or magazine in question.

The reply shall be published, without changes or additions, in the same section of the newspaper, under the same heading and in the same type size as the published information to which it relates.

The responsible editor may, in exceptional cases, publish the reply in extract if it is disproportionately longer than the published information to which it relates or if certain parts of the reply do not directly relate to the said information.

The responsible editor may also publish the reply in modified form if he reaches an agreement to that effect with the person who submitted the reply within the period prescribed by this Act for publication of the same.

Replies shall be published free of charge.

Art. 38. Where a responsible editor refuses to publish a reply made to published information or fails to publish it in the manner and within the period prescribed in the preceding article, the person who submitted it shall be entitled to file a complaint against the responsible editor, for the purpose of compelling publication of the reply, in the county court having jurisdiction over the place where the newspaper in question is published.

The complaint shall be accompanied by copies of the published information and of the reply thereto.

The complaint shall be filed within a period of thirty days after the expiry of the period prescribed for publication of the reply.

Art. 39. In actions to compel publication of a reply made to published information, the first trial hearing shall be held within eight days after the complaint is received at the court.

In such actions, there shall be no preliminary hearing, nor shall the defendant be required to file a reply to the complaint.

The plaintiff, the defendant and any necessary witnesses shall be summoned by the court to appear at the first trial hearing. The summons to the plaintiff shall state that, in the event of his failure to appear at the first hearing, he shall be considered to have withdrawn the complaint and the summons to the defendant shall state that a judgement can be rendered even in the event of his failure to appear.

Art. 40. Proceedings in an action to compel publication of a reply shall be confined to examining and establishing the facts governing the defendant's obligation to publish the reply.

Art. 41. In actions to compel publication of a reply made to published information, the court shall reject the plaintiff's claim if it establishes the existence of any of the circumstances specified in article 36, paragraphs 1–3 and 5–10, of this Act, or if it finds that the published information is not damaging to the honour, reputation, rights or interests of the person to whom it relates or that the responsible editor has discharged his obligation by publishing the reply made to the said information in extract or in modified form in accordance with article 37, paragraphs 3 and 4, of this Act.

Art. 42. Where, in addition to the proceedings in an action to compel publication of a reply made to published information, criminal proceedings are initiated in respect of an offence committed through publication of the said information, the court conducting proceedings in the action to compel publication of the reply shall not suspend such proceedings.

Art. 43. If the responsible editor of the newspaper is changed after the complaint has been filed with the court, the plaintiff may amend the complaint before the trial is concluded, naming the new responsible editor in place of the original defendant. Such amendment of the complaint shall not require the consent of the responsible editor against whom it was originally filed or that of the new responsible editor, who shall be required to enter the litigation in his place.

Art. 44. The court shall render its judgement immediately after the trial has been concluded.

The court shall transmit a certified copy of the judgement to the parties within three days after the date on which the judgement is rendered.

Art. 45. If the court upholds the plaintiff's claim, it shall order the defendant in its judgement to publish the reply in the newspaper within the period and in the manner specified in article 37, paragraphs 1 and 2, of this Act.

The court may, in addition, impose a fine of up to 100,000 dinars on the responsible editor who took part in the proceedings if he failed to publish the reply even though it was apparent that such failure could not be justified on any of the grounds specified in article 36 of this Act.

Art. 46. The parties may appeal the judgement of the court of first instance to the republican (provin-

cial) supreme court within a period of three days after the date on which a copy of the judgement is transmitted to them.

Appeals shall not be submitted to the other party for reply.

An admissible appeal filed within the specified time-limit shall be transmitted to the appellate court by the president of the council, together with all the records of the case, within two days after it is received at the court of first instance.

The appellate court shall rule on the appeal within a period of three days after the appeal and the accompanying records are received.

No petition for review may be filed against the judgement of the appellate court.

Art. 47. The court shall also transmit forthwith to the board of directors of the publisher of the newspaper concerned, or, if such board does not exist, to the said publisher, a certified copy of the final judgement ordering publication of the reply made to the published information.

Art. 48. If, after the original or the final judgement ordering publication of the reply has been rendered, the responsible editor of the newspaper is changed, the obligation, established in the judgement, to publish the reply shall devolve upon the new responsible editor.

Art. 49. Save as otherwise provided in this Act, the provisions of the Act on civil procedure shall apply, as appropriate, in actions to compel publication of a reply.

Art. 50. The right to require publication of a reply shall also exist in respect of information disseminated by means of other printed matter and by the means specified in article 21 of this Act, as well as in newspapers and other periodicals which have ceased publication.

The provisions of this Act relating to the right of reply and to the procedure for its implementation in the case of newspapers and other periodicals (articles 34–49) shall also apply, *mutatis mutandis*, in respect of the right of reply and the procedure for its implementation in the cases referred to in the preceding paragraph.

Art. 51. As regards the manner of publication of a reply in the cases referred to in the preceding article, the person submitting the reply shall have the right to require the publisher of the printed matter or of the newspaper or periodical which has ceased publication, or the manufacturer of the means of communication referred to in article 21 of this Act, to ensure publication of the reply, at his own expense, in a specified daily newspaper.

In addition to the right referred to in the preceding paragraph, the person submitting the reply shall have the right to require the discontinuance of further distribution of the printed matter or means of communication referred to in article 50, paragraph 1, of this Act.

Where the person submitting the reply takes judicial action to implement the aforementioned right, the court shall rule on his request in accordance with the relevant circumstances.

4. *Prohibition of the Distribution of Press Matter*

Art. 52. It shall be forbidden to distribute printed matter by means of which:

(1) Criminal offences are committed against the people and State or the armed forces of Yugoslavia;

(2) False, distorted or alarming reports or assertions which arouse public anxiety, or which threaten public order and peace, are put forward or disseminated;

(3) Documents or data are published which relate to the Yugoslav armed forces or to the national defence and constitute a military secret;

(4) Confidential documents or data are published which, by virtue of their significance, constitute an official or economic secret of special importance to the social community;

(5) Acts of aggression or other actions contrary to the aims of the United Nations are advocated or encouraged;

(6) The maintenance and development of friendly relations between Yugoslavia and other countries are directly impaired;

(7) Injury is caused to the honour and reputation of our peoples, their supreme representative organs or the President of the republic, or to the honour and reputation of foreign peoples or leaders or of diplomatic representatives of foreign States;

(8) Grave injury is caused to morality;

(9) Documents or data are published which are prejudicial to the administration of justice.

In order to protect children and young people, it shall also be forbidden to distribute printed matter intended for or distributed among children or young people if its content is prejudicial to their education.

More detailed provisions specifying what is to be regarded as constituting a military, official or economic secret within the meaning of paragraph 1, subparagraphs 3 and 4, of this article shall be issued by the Federal Executive Council.

Art. 53. So that there shall be no delay in halting the distribution of printed matter of the kind described in the preceding article, the county public prosecutor shall be authorized to impose a temporary ban on the distribution of such matter.

The temporary ban shall take the form of a written order, which shall indicate the written matter giving rise to the ban and the legal provision on which the latter is based.

A temporary ban on the distribution of printed matter imposed under paragraph 1 of this article shall remain in effect pending a final judicial decision in the matter.

Art. 54. An order imposing a temporary ban on the distribution of printed matter shall be transmitted forthwith by the county public prosecutor:

(1) To the competent county court, together with a proposal that distribution of the printed matter in question should be prohibited;

(2) To the responsible editor, publisher, or printer concerned, together with instructions not to distribute the printed matter pending a final judicial decision;

(3) To the district people's committee administrative organ competent in internal affairs, together with instructions to confiscate temporarily or place temporarily under seal all copies of the printed matter and, if necessary, to place under seal or confiscate the type, matrices and other like means of reproduction as well.

The responsible editor, publisher or printer and the district people's committee administrative organ competent in internal affairs shall take immediate action in compliance with the instructions of the public prosecutor.

Art. 55. In enforcing an order issued by a county public prosecutor temporarily prohibiting the distribution of printed matter, the district people's committee administrative organ competent in internal affairs shall have the right to conduct a search of the editorial office, administrative office and other business premises (printshop, storeroom, sales office, etc.) of the publication concerned, as well as of the living quarters of the author, responsible editor, publisher and printer, whenever it believes that copies of the prohibited matter are to be found there.

. . .

Art. 57. Within three days after receipt of a proposal by a public prosecutor calling for a ban on the distribution of printed matter, the court receiving such proposal shall schedule and hold a hearing.

The public prosecutor and the publisher of the printed matter shall be summoned to participate in the hearing. If the identity of the publisher is not known, the printer or, if his identity is also unknown, the distributor shall be summoned to participate.

Apt. 58. Proceedings relating to a proposal to prohibit the distribution of printed matter shall not be interrupted or suspended.

Hearings on a proposal to prohibit the distribution of printed matter shall not be postponed unless such postponement is necessary for the purpose of taking evidence.

Art. 59. In proceedings relating to a proposal to prohibit the distribution of printed matter, the court may conduct a hearing and render a decision even it the persons duly summoned to participate fail to appear. The persons summoned to participate in the hearing shall be explicitly so advised in the summons.

Art. 60. A court receiving a proposal to prohibit the distribution of printed matter shall render a decision prohibiting such distribution or shall reject the public prosecutor's proposal and annul his order temporarily prohibiting distribution.

Art. 61. A court imposing a ban on the distribution of printed matter shall indicate in its decision those portions of the printed matter in question which provoked the ban.

It its decision imposing the ban, the court shall order the confiscation af all copies of the printed matter. The court may stipulate that such action shall not be taken with respect to those portions of the printed matter which, it finds, can be detached from the portion that provoked the ban by virtue of the fact that they are unbound sheets, supplements, wrappers or the like.

The court may, if circumstances warrant, order that the plates, matrices and other like materials used for purposes of reproduction should also be confiscated and the type broken up.

The court shall determine whether the confiscated objects are to be destroyed, turned over to a state organ or an institution, or sold.

Art. 62. Where a court rejects a proposal to prohibit the distribution of printed matter and annuls an order issued by a public prosecutor temporarily prohibiting such distribution, the objects temporarily confiscated on the basis of the said order shall be ordered returned to the person from whom they were confiscated.

Art. 63. A court considering a proposal to prohibit the distribution of printed matter shall render its decision immediately upon the conclusion of the hearing, and the president of the council shall announce such decision without delay.

The decision of the court shall be in writing, and a certified copy thereof shall be transmitted to the participants in the hearing within three days after the decision is announced.

Art. 64. The decision of a court of first instance on a proposal by a public prosecutor calling for a ban on the distribution of printed matter may be appealed to the republican (provincial) supreme court by any participant in the hearing within a period of three days after the date on which a copy of the decision is transmitted to him.

Appeals shall not be submitted for reply.

An admissible appeal filed within the specified time-limit shall be transmitted to the appelate court by the court of first instance, together with all the records of the case, within two days after it is received.

The appellate court shall rule on the appeal within a period of three days after it receives the appeal and the accompanying records.

No appeal shall lie against the decision of the appellate court.

. . .

Art. 66. In proceedings relating to a proposal to prohibit the distribution of printed matter, the provisions of the Code of Criminal Procedure shall apply as appropriate, except as otherwise provided by this Act.

5. *Foreign Press Matter*

Art. 67. For the purposes of this Act, the term "foreign press matter" refers to all matter of the kind specified in article 15, paragraph 1, of this Act which is printed or otherwise reproduced abroad or which is printed or otherwise reproduced in Yugoslavia by or on the instructions of a foreign publisher.

Bulletins issued by diplomatic missions in Yugoslavia shall also be regarded as constituting foreign press matter for the purposes of this Act if they are distributed outside the diplomatic corps or outside a specified group of state executives, organs or institutions.

Art. 68. Foreign press matter may be freely brought into the country.

In special cases, authorization shall be required in order to bring into the country for purposes of distribution, or in order to distribute, foreign press matter which is intended for Yugoslav citizens or is printed in the languages of the Yugoslav peoples.

Such authorization shall be granted, separately for each item of printed matter, by the Office of the Federal Secretary of State for Internal Affairs. In special cases, authorization may also be granted, in respect of newspapers and other periodicals, for an indefinite period of time.

The authorization referred to in paragraph 2 of this article shall not be required for the purpose of bringing into the country and distributing press matter published by the United Nations.

Art. 69. Only economic enterprises which are registered for the importation of foreign press matter in the foreign trade register may bring such matter into the country for purposes of distribution.

Save as otherwise provided by this Act, it shall be forbidden to bring foreign press matter into the country for purposes of distribution except through the enterprises referred to in the preceding paragraph.

Art. 70. Enterprises authorized to bring foreign press matter into the country shall notify the Office of the Federal Secretary of State for Internal Affairs concerning each item of foreign printed matter imported for purposes of distribution, such notification to be made immediately upon receipt of the item by the enterprise concerned.

The Office of the Federal Secretary of State for Internal Affairs may require the enterprise concerned to transmit to it forthwith one copy of the imported item of foreign printed matter or merely to submit such copy to it for inspection.

Art. 71. Foreign press matter may be distributed only by enterprises duly authorized to do so. Such authorization shall be granted by the Office of the Republic Secretary of State for Internal Affairs.

Art. 72. It shall be forbidden to bring into the country and distribute foreign press matter whose content is of the kind described in article 52 of this Act.

Decisions prohibiting the importation or distribution of foreign press matter shall be taken by the Office of the Federal Secretary of State for Internal Affairs.

Such decisions may not be appealed against; nor may administrative proceedings be instituted against them.

. . .

Art. 75. Foreign press matter shall be confiscated if:

(1) It is brought into the country without authorization in cases where such authorization is required;

(2) It is brought into the country, for purposes of distribution, otherwise than by enterprises or institutions authorized to bring foreign press matter into the country;

(3) The number of copies of such matter delivered to particular institutions, organizations or persons is greater than that required to meet their normal needs;

(4) Its importation or its distribution in Yugoslavia is prohibited (article 52);

(5) It is published in Yugoslavia without authorization or contains unlawful information (articles 78 and 110).

Foreign press matter shall be confiscated without compensation.

Art. 76. Decisions concerning the confiscation of foreign press matter shall be taken by the district people's committee administrative organ competent in internal affairs or by a frontier, port or airport office of the internal affairs administration.

Decisions concerning the confiscation of foreign press matter may be appealed.

Appeals shall not serve to stay execution of a decision.

Administrative proceedings may not be instituted against decisions concerning the confiscation of foreign press matter.

. . .

Art. 78. Bulletins within the meaning of article 67, paragraph 2, of this Act which are issued by a

diplomatic mission shall contain only such information as serves to promote knowledge of the country represented by the mission.

The provisions of article 71 of this Act shall not apply to such bulletins.

Art. 79. The provisions of this Act relating to foreign press matter shall apply, *mutatis mutandis*, to such means of communication referred to in article 21 of this Act as are manufactured abroad and brought into the country for purposes of distribution or public exhibition.

Chapter III
RADIO AND TELEVISION

Art. 80. For the purposes of this Act, the term "transmission of information by radio and television" refers to all broadcasts of radio and radio-television stations which transmit information.

Art. 81. All radio and radio-television stations which broadcast programmes intended for the general public must have a responsible editor.

Radio and radio-television stations may have more than one responsible editor. In such cases, the various responsible editors shall have direct charge of the production of particular broadcasts by the radio or radio-television station concerned.

As regards the qualifications for holding the position of responsible editor of a radio or radio-television station and the responsibility attaching to that position, the provisions of this Act concerning the qualifications for holding the position of responsible editor of a newspaper and the responsibility attaching to that position (articles 29 and 30) shall apply.

Art. 82. The right to require publication of a reply to information shall also exist in respect of information disseminated in broadcasts of radio and radio-television stations.

The provisions of this Act relating to the right of reply and to the procedure for its implementation in the case of newspapers and other periodicals (articles 34–49) shall also apply, *mutatis mutandis*, in respect of the right of reply and the procedure for its implementation in the case of radio and radio-television stations.

Art. 83. Where there is no reason to refuse publication of a reply, the latter shall be broadcast within two days after it is received by the radio or radio-televisions station concerned and, as a general rule, at the same hour as that at which the information in question was broadcast and in a broadcast of the same type.

Where television is concerned, replies shall be broadcast in verbal form only.

Art. 84. The transmission by radio or radio-television stations of programmes whose content is of the kind described in article 52 of this Act shall be prohibited.

As regards the prohibition of such programmes and the procedure for imposing such prohibition, the provisions of this Act relating to prohibition of the distribution of press matter and to the procedure for imposing such prohibition (articles 52–66) shall apply, *mutatis mutandis*.

Chapter IV
FILMS

Art. 85. For the purpose of this Act, the term "information transmitted through the medium of films" refers to newsreels and other films containing information about particular events, persons, regions, subjects, conditions or activities.

For the purposes of this Act, the term "newsreels" refers to films used for the purpose of providing the public with regular information concerning events and conditions in Yugoslavia or abroad.

Art. 86. Newsreels must have a responsible editor.

As regards the qualifications for holding the position of responsible editor of a newsreel and the responsibility attaching to that position, the provisions of this Act concerning the qualifications for holding the position of responsible editor of a newspaper and the responsibility attaching to that position (articles 29 and 30) shall apply.

Art. 87. All newsreels which are placed in circulation shall be separately designated by means of a number, date or title or by some other means whereby they may be distinguished form one another. Such designation shall be placed at the beginning of the reel of film.

Art. 88. The right to require publication of a reply shall also exist in respect of information disseminated through the medium of newsreels and other films.

The provisions of this Act relating to the right of reply and to the procedure for its implementation in the case of newspapers and other periodicals (articles 34–49) shall also apply, *mutatis mutandis*, in respect of the right of reply and the procedure for its implementation in the case of newsreels and other films.

Art. 89. As regards the manner of publication of a reply, the person submitting the reply shall have the right to require the responsible editor of the newsreel or the institution or enterprise which produced the film to ensure publication of his reply to the information in question, at the expense of the said institution or enterprise, in a specified daily newspaper.

The person submitting the reply shall, moreover, have the right to require excision of those portions of the newsreel or other film to which the reply relates or, if that is not possible, the discontinuance of further exhibition of the newsreel or other film.

Art. 90. The circulation and exhibition of newsreels and other films whose content is of the kind described in article 52 of this Act shall be prohibited.

As regards prohibition of the circulation and exhibition of newsreels and other films and the procedure for imposing such prohibition, the provisions of this Act relating to prohibition of the distribution of press matter and to the procedure for imposing such prohibition (articles 52–66) shall apply, *mutatis mutandis.*

Chapter V

FOREIGN INFORMATION ACTIVITIES

Art. 91. For the purposes of this Act, the term "foreign information activities" refers to the work of foreign news bureaux, correspondents and information agencies.

Such activities may be carried on only under the conditions laid down by this Act.

1. Foreign News Bureaux and Correspondents

Art. 92. A foreign news bureau shall be considered to exist in those cases where a foreign news agency or newspaper maintains in Yugoslavia not less than two permanent correspondents or, alternatively, one permanent correspondent and not less than three permanent employees.

Art. 93. The term "foreign news agency" means an enterprise or institution whose head office is situated abroad and whose principal activity consists in the gathering and distribution of information for the purpose of keeping the public regularly informed.

Foreign photographic agencies, radio stations, radio-television stations, phototelegraphic agencies, newsreel enterprises, and other enterprises or institutions engaged in the gathering and distribution of information shall be placed on an equal footing with foreign news agencies.

For the purposes of this Act, the term "foreign newspapers" means daily and other newspapers and other types of periodicals which are published abroad.

Art. 94. Correspondents of foreign news agencies or newspapers, as well as news photographers and film and television cameramen who work for foreign news agencies or newspapers, shall, regardless of whether they are aliens or Yugoslav citizens, be considered to be permanent foreign correspondents if they are assigned to work in Yugoslavia in the capacities referred to for a period of more than two months.

Art. 95. Foreign news bureaux, permanent foreign correspondents and permanent employees of foreign news bureaux must register with the Information Department of the Federal Executive Council.

Applications for the registration of foreign news bureaux or permanent foreign correspondents shall be submitted by the head office of the foreign news agency or newspaper concerned, and applications for the registration of permanent employees of foreign news bureaux shall be submitted by the person in charge of the bureau.

Applications for the registration of foreign news bureaux must indicate the person who is to be in charge of the bureau and is to be responsible for its work.

Decisions authorizing the registration of foreign news bureaux or permanent foreign correspondents, which shall be taken on a discretionary basis, shall confer upon the foreign news bureau or permanent foreign correspondent concerned the right to engage in information-gathering activities in Yugoslavia for a specified period of time.

Decisions refusing authorization for the registration of foreign news bureaux or permanent foreign correspondents may not be appealed, nor may administrative proceedings be instituted against them.

Art. 96. Foreign news agencies and newspapers shall notify the Information Department of the Federal Executive Council in the event that the person in charge of a foreign news bureau is changed or that a permanent correspondent is relieved of his duties.

Art. 97. The Information Department of the Federal Executive Council and the republic administrative organs competent in information matters shall ensure that permanent and part-time foreign correspondents are given ready access to sources of information and shall provide them with all necessary assistance in their work.

Art. 98. The Information Department of the Federal Executive Council may remove from its register any foreign news bureau or permanent foreign correspondent violating the provisions of this Act or other provisions relating to information activities.

A permanent foreign correspondent may also be removed from the register if he is sentenced in Yugoslavia to a term of imprisonment exceeding six months or to a more severe penalty.

Decisions removing foreign news bureaux or permanent foreign correspondents from the register may not be appealed against; nor may administrative proceedings be instituted against them.

. . .

2. Foreign Information Agencies

Art. 100. Foreign States may, in order to keep the Yugoslav public informed about events and conditions in their respective countries, establish information agencies (foreign information agencies) in Yugoslavia on the basis of agreements concluded with Yugoslavia.

International organizations may also establish foreign information agencies in Yugoslavia on the basis of agreements concluded with Yugoslavia.

Art. 101. Foreign information agencies may carry on information activities in Yugoslavia in the forms and within the scope stipulated in the agreements concluded between the foreign States or international organizations concerned and Yugoslavia.

Art. 102. Foreign information agencies must register with the Information Department of the Federal Executive Council.

Applications for the registration of foreign information agencies must indicate:

(1) The name of the foreign State or international organization establishing the agency;

(2) The types of information activity which the agency is to carry on;

(3) The premises to be used by the agency and the address at which such premises are situated;

(4) The surname, first name and nationality of the person in charge of the agency and of the latter's personnel;

(5) The agency's regulations.

Art. 103. The regulations of foreign information agencies shall, in particular, indicate the name and location of the agency, the types of activity it is to carry on and the manner in which it is to carry on such activities, the organizational structure of the agency and the nature of its administrative organs, the agency's financial sources, and the disposition to be made of its property in the event that it terminates its operations.

Art. 104. Registration shall confer upon foreign information agencies the right to operate in Yugoslavia.

Authorization for the registration of a foreign information agency may be refused if the agency's regulations contain provisions contrary to the agreement providing for its establishment or to Yugoslav laws and regulations.

Decisions refusing authorization for the registration of foreign information agencies may not be appealed, nor may administrative proceedings be instituted against them.

Art. 105. Changes relating to any of the particulars contained in an application for the registration of a foreign information agency and amendments to the agency's regulations which occur in the course of its operations shall be reported by the foreign State or international organization which established the agency to the Information Department of the Federal Executive Council within eight days after the date on which the change in question occurs.

The foreign State or international organization which established a foreign information agency shall also notify the Information Department of the Federal Executive Council in the event that the agency terminates its operations.

Art. 106. Foreign information agencies shall have the status of bodies corporate.

Art. 107. The person in charge of a foreign information agency and the agency's other personnel may not hold employment with a diplomatic mission or consulate of a foreign State.

Such persons shall register in the manner provided in article 95 of this Act.

Art. 108. Foreign information agencies may not be housed in the buildings of diplomatic missions or consulates or in the living quarters of persons enjoying diplomatic immunity.

The premises of foreign information agencies may not be transferred to third parties for their use.

Art. 109. Foreign information agencies may bring foreign press matter into the country to meet the requirements of their reading rooms and libraries.

The importation of such matter shall be governed by the provisions of this Act relating to the importation of foreign press matter.

Art. 110. Bulletins issued by foreign information agencies may present information serving to promote knowledge of the country which established the agency or, if the latter was established by an international organization, information relating to the activities of such organization.

The printing establishment or, if the bulletin is not reproduced at a printing establishment, the publisher shall transmit forthwith to the Office of the Federal Secretary of State for Internal Affairs one copy of each issue of the bulletin.

Act. 111. Foreign information agencies which publicly exhibit films must obtain a permit for the public exhibition of each such film from the office of the Republic Secretary of State for Internal Affairs. Such permit shall specify the film and the time and place of its exhibition.

Decisions refusing issuance of the permit referred to in the preceding paragraph may be appealed to the office of the Federal Secretary of State for Internal Affairs.

Administrative proceedings may not be instituted against decisions of the office of the Federal Secretary of State for Internal Affairs.

Art. 112. The provisions of this Act relating to the obligation to provide certain particulars (articles 19 and 31) and those relating to responsible editors (article 29) shall also apply to bulletins issued by foreign information agencies.

Art. 113. Foreign information agencies shall keep books concerning their business and financial operations.

. . .

Art. 114. The Information Department of the Federal Executive Council shall have the right to restrict or prohibit the operations of a foreign information agency if:

(1) In carrying on its activities, the agency concerned violates the provisions of this Act, of an international agreement or of an agreement concluded with an international organization;

(2) The foreign State concerned restricts or prohibits the operations of a Yugoslav information agency in its territory in violation of the provisions of the relevant international agreement.

Decisions restricting or prohibiting the operations of foreign information agencies may not be appealed against; nor may administrative proceedings be instituted against them.

. . .

Chapter VI
PENAL PROVISIONS

1. Criminal Liability

Art. 116. Persons who commit criminal offences through the press, radio, television, films or the means of communication referred to in article 21 of this Act, as well as the accomplices of such persons, shall be liable in respect of such offences in accordance with the provisions of the Penal Code.

Art. 117. Where the responsible editor of a newspaper or other periodical, radio station, radio-television station or newsreel, a publisher, a printer, the responsible official of a film production enterprise, or the responsible official of an enterprise engaged in manufacturing the means of communication referred to in article 21 of this Act is not liable under the preceding article, he shall be criminally liable under the conditions laid down in articles 118–124 of this Act.

Art. 118. The responsible editor shall be liable in respect of criminal offences committed through a newspaper or other periodical:

(1) If the author of the published information in question remains unknown until the conclusion of the trial in the court of first instance, or

(2) If the information in question was published without the author's knowledge or without his consent, or

(3) If prosecution of the author is prevented by material or legal circumstances of whose existence the responsible editor was aware at the time when the information was published.

If the responsible editor had valid reason to believe that the author was known but it is subsequently established that he is unknown, the court may exempt the responsible editor from punishment.

Art. 119. The publisher or, if no publisher exists or the publisher's prosecution is prevented by material or legal circumstances, the printer shall be liable, under the conditions laid down in article 118 of this Act, in respect of criminal offences committed through printed matter of a non-periodical character.

Where the publisher or printer is a state organ or body corporate, the responsible official of such organ or body corporate shall be criminally liable in the capacity of publisher or printer.

Art. 120. The responsible editor of the radio or radio-television station concerned shall be liable, under the conditions laid down in article 118 of this Act, in respect of criminal offences committed through the medium of radio or television.

Art. 121. The responsible editor of the newsreel concerned shall be liable, under the conditions laid down in article 118 of this Act, in respect of criminal offences committed through the medium of newsreels.

For purposes of criminal liability, the editor-montage man of a newsreel shall be deemed to be its author.

Art. 122. A person serving in place of the responsible editor of a newspaper or other periodical, radio station, radio-television station or newsreel in cases where the said editor is absent or otherwise prevented from performing his duties shall be liable in the capacity of responsible editor.

Art. 123. The responsible official of the enterprise which produced the film in question shall be liable, under the conditions laid down in article 118 of this Act, in respect of criminal offences committed through the medium of films (other than newsreels).

For purposes of criminal liability, the scenarist, director and chief cameraman shall be deemed to be the authors of a film.

Art. 124. The manufacturer of the means of communication in question, or the responsible official of the enterprise which manufactured it, shall be liable, under the conditions laid down in article 118 of this Act, in respect of criminal offences committed through the means of communication referred to in article 21 of this Act.

For purposes of criminal liability, the author of the text, music or picture in question shall be deemed to be the author of information desseminated through the means of communication referred to in article 21 of this Act.

. . .

3. Legal Effects of Conviction

Art. 129. Persons sentenced to rigorous imprisonment for a term of not less than two years for criminal offences committed through the press, radio, television, films or the means of communication referred to in article 21 of this Act may not perform the functions they had previously performed in the above-mentioned fields for a period of three years after completion, remission or lapse of the sentence.

. . .

Chapter VII

TRANSITIONAL AND CONCLUDING PROVISIONS

. . .

Art. 139. The following shall cease to have effect upon the entry into force of this Act:

(1) The Act concerning the Press (*Službeni list FNRJ* Nos. 56/46 and 105/48);

(2) Articles 29, 50, 62–66, 68, 69 and 71 of the Basic Act concerning newspaper enterprises and organizations (*Službeni list FNRJ* No. 29/56);

(3) Article 59 of the Basic Act concerning films (*Službeni list FNRJ* No. 17/56);

(4) Articles 33, 48 and 49 of the Act concerning broadcasting stations (*Službeni list FNRJ* No. 52/55);

(5) Article 7, paragraph 2, and article 12, paragraph 2, of the decree concerning the establishment and operation of cultural and educational institutions (*Službeni list FNRJ* Nos. 107/49 and 27/50);

(6) The regulations concerning the accreditation and activities of correspondents of foreign news agencies and newspapers and concerning the registration and operation of news bureaux of foreign news agencies and newspapers and of business offices of foreign news agencies (*Službeni list FNRJ* No. 30/57);

(7) All other laws and regulations which are at variance with the provisions of this Act.

Art. 140. This Act shall enter into force thirty days after the date of its publication in *Službeni list FNRJ*.

PART II

TRUST AND NON-SELF-GOVERNING TERRITORIES

A. Trust Territories

BELGIUM

TRUST TERRITORY OF RUANDA-URUNDI

NOTE[1]

1. *Right to a Fair Hearing in Court*

The decree of 16 June (*Bulletin Officiel du Ruanda-Urundi*, No. 12 *bis*, 12 July 1960, p. 1063) repealing the decree of 5 July 1948 as amended, institutes a Code of Judicial Organization and Jurisdiction.

Chapter II deals with the Ministère public [Office of the public prosecutor]; article 11 of that chapter procides that the Ministère public "shall exercise a special protection over non-registered indigenous inhabitants", and that these magistrates "may act as principals in civil proceedings on behalf and in the interest of indigenous inhabitants whose rights have been violated."

Article 24 guarantees that, in criminal and disciplinary matters "the complaint, the denunciation, the orders, decisions and judgements" shall be communicated to the parties at their request.

In criminal matters, chapter III of the decree, which is entitled "The courts", makes provisions for lower or "police" courts, courts of first instance, and a court of appeal. Article 27 provides that "the regular or acting territorial administrator shall be judge of the police court *ex officio* . . . "; however, article 28 further stipulates that "in such towns and territories as may be determined by royal order, the judge of the police court shall be a career magistrate". In all cases, the right to appeal against the judgement of the police courts and courts of first instance is provided for (articles 92 and 98).

Chapter IV deals with the cases in which a judge may be challenged, and with the procedure involved.

2. *Human Rights in Penal Proceedings*

The decree of 16 June (*Bulletin Officiel du Ruanda-Urundi*, No. 12 *bis*, 12 July 1960, p. 1085) extends to Ruanda-Urundi the decree of 6 August 1959, supplemented by that of 19 October 1959, instituting a new Code of Penal Procedure in the Belgian Congo.

The new code modifies the former one (decree of 11 July 1923, as amended) on several counts. In particular, as is explained in the preamble, the new Code in many respects introduces the same system for indigenous and non-indigenous inhabitants. This is the case, for instance, as regards arrests by the judicial police (article 4), summons of witnesses (article 15), warrants ordering preventive custody and confirming that custody (articles 27 and 31) and orders compelling witnesses to testify (article 78).

In order to lay hold of a suspect and deliver him before the judiciary authority competent to order his being placed in preventive custody, the officers of the judicial police and of the Ministère public have the right to arrest him. Such arrests are valid only under certain conditions, in particular if there are "serious indications of guilt" and when the offence is punishable by penal servitude for not less than six months (articles 4 and 15).

The same conditions must normally also exist in order to justify a decision ordering preventive custody, rules for which are laid down in chapter III (articles 27, paragraph 1); nevertheless, such an order may also be given in cases involving a penalty of less than six months of penal servitude "if there is reason to believe that the accused may seek to escape, or if he is of unknown or doubtful identity, or if, in view of the serious and exceptional circumstances involved, preventive custody is mandatory in the interest of public security" (article 27, paragraph 2). Preventive custody must be authorized by a judge (article 29) "the accused having been previously heard and, if he so wished and in the absence of any objection on the part of the officer of the Ministère public, having been assisted by counsel. . . . " (article 30).

The initial order of committal to preventive custody is valid for fifteen days, at the end of which period it may, however, "be extended for one month, and thereafter from month to month, during such time as may be required in the public interest" (article 31, paragraph 1). Only one extension is authorized if the offence does not seem to involve a penalty of more than two months' penal servitude (article 31, paragraph 2). The extensions are decided after the accused — to whom the assistance of counsel may not then be refused — has been heard (article 31, paragraph 3).

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

Article 32 provides that the accused may be provisionally released at his own request, subject to the deposit of a sum of money as bail and, should the judge deem it necessary, to his submitting to certain restrictions as regards his residence and movements.

Under articles 37 to 47, the accused may appeal to a higher judicial authority against orders concerning preventive custody.

Chapter V deals with the procedure to be followed in the courts. In particular, article 73, paragraph 1, provides that at the hearing each of the parties to a case may have recourse to the assistance of a counsel accepted by the court, who may speak on the party's behalf. Paragraph 2 of that article states that "failing an objection by the accused, the judge may appoint a counsel for him, such counsel being selected by the judge from among the prominent persons in the locality where he is sitting. If the counsel thus appointed is an agent of the Belgian Congo, he shall not refuse such a task, under pain of incurring disciplinary sanctions." Under article 34, the accused or his counsel shall speak last. Article 87 provides that the judgements must contain "an indication of the acts for which the accused was held responsible, a brief statement of the proceedings in prosecution and of the proceedings at the hearings, the submissions, if any, of the parties, the grounds and the decision".

Chapter VI lays down the procedure in respect of applications for reconsideration and appeals against judgements imposing a penalty. Measures in implementation of judgements are dealt with in chapter VII.

Chapter VIII on the subject of "legal costs" provides that certain costs may be waived or reduced (articles 123, 127, 135) in the case of indigent persons or persons of restricted means.

3. *Regulation of Freedom of Association and of Assembly*

Legislative order No. 11/98 of 9 April 1960 (*Bulletin officiel du Ruanda-Urundi*, No. 8, 30 April 1960, p. 627) prohibits, with certain exceptions in the case of non-political organizations, "all private militia, or other organizations of private persons, with the purpose of resorting to force, or of deputizing for the army or police, as interfering in their acts or replacing them" (article 1). It also prohibits "public exhibitions by groups of private persons having the appearance of military troops, owing either to the exercises carried out or to the uniforms or equipment worn" (article 2). Infringements of these provisions are punishable by penal sanctions (article 3).

Article 4 of this legislative order imposes penal sanctions on "persons who, in the course of a demonstration or meeting or on the occasion of a meeting, are found to be carrying objects constituting a threat to public safety".

4. *Social Security; Penal Sanctions*

The following texts to which reference is made in the section relating to the Republic of the Congo (Leopoldville),[1] have been specifically declared to apply to Ruanda-Urundi.

Emergency decree of 31 May 1960 on the equalization of family allowances for workers;

Emergency decree of 14 March 1960 amending the decree of 19 February 1957 to establish invalidity allowances for workers;

Emergency decree of 14 March 1960 amending the decree of 6 June 1956 on workers' pensions;

Emergency decree of 18 May 1960 approving International Labour Convention No. 65 (Penal Sanctions (Indigenous Workers) Convention).

[1] See page 88.

LEGISLATIVE ORDER No. 221/296 OF 25 OCTOBER 1960 CONCERNING THE TRUSTEESHIP POWERS[1]

Art. 1. Belgium shall exercise trusteeship over the districts, the States and the subordinate authorities through the Resident-General.

The Resident-General shall be represented in each State by the Resident.

In respect of the territories or provinces and the communes, he shall be represented by a trusteeship officer [délégué de la tutelle].

. . .

Art. 9. The trusteeship officer may:

1. Order the evacuation of certain places;

2. Prohibit or suspend a meeting;

3. Order searches by day or by night.

Art. 10. In addition to the powers provided for in the preceding article, the Resident may:

1. Order people to remove from a certain place, to be placed under surveillance or to be interned;

2. Prohibit or suspend meetings or make them subject to authorization;

3. Prohibit or limit travel or make it subject to authorization;

4. Order a search for, order the surrender or confiscation of, and regulate the use and possession of, arms, munitions, explosives and other devices or products which he considers dangerous.

[1] Published in the *Bulletin officiel du Ruanda-Urundi*, 37th year, No. 20, of 31 October 1960. Translation by the United Nations Secretariat.

In cases of emergency, the powers provided for in items 1 and 3 may be exercised by the trusteeship officer. His decisions shall cease to have effect if they are not confirmed within thirty days by the Resident.

Art. 11. In addition to the powers provided for in articles 9 and 10, the Resident-General may:

1. Prohibit or suspend associations and publications or make them subject to authorization;

2. Order a search for, order the surrender or confiscation of, and regulate the use and possession of, means of transport, communication and transmission;

3. Suspend the dispatch and delivery of mail.

In cases of emergency, the same powers may be exercised by the Resident. His decisions shall cease to have effect if they are not confirmed within thirty days by the Resident-General.

Art. 12. The authority shall in each case appoint an agent to carry out searches. He must produce the search warrant at the request of any individual or authority with an interest in establishing or checking his powers.

The agent entrusted with the search may, in the course thereof, seize objects, papers and documents which appear to be suspect or dangerous for the security of the State and the preservation of the peace.

Art. 13. The authority which decides that persons are to be evacuated, removed, placed under surveillance or interned shall determine the conditions for such actions. It shall take such provisions as it considers necessary for the care and preservation of the property of the persons who are subject to such measures.

. . .

Art. 15. This legislative order shall enter into force on 25 October 1960.

NEW ZEALAND

TRUST TERRITORY OF WESTERN SAMOA

NOTE[1]

I. Constitution

The draft constitution of the independent State of Western Samoa was adopted in 1960 by a constitutional convention held in the Territory, and was subsequently endorsed by the Samoan people at a plebiscite conducted under the supervision of the United Nations in May 1961. This constitution, which will come into force on the accession of the Trust Territory to independence on 1 January 1962, embodies a bill of rights safeguarding the fundamental human rights and freedoms of the individual.

II. Legislation

1. *Workers Compensation Ordinance 1960*

This legislation provides for the civil liability of employers in respect of personal injury to or death of workers caused by an accident arising out of and in the course of their employment.

2. *Indecent Publications Ordinance 1960*

This ordinance prohibits the sale, exhibition, delivery, etc. of indecent documents. Indecency is defined in terms of a tendency to deprive or corrupt those into whose hands the document is likely to come and of an undue emphasis on matters of sex, horror, crime, cruelty and violence. The nature of the document, the circumstances of the alleged offence and the literary or artistic merit or medical, legal, political or scientific character or importance, of the document, are also to be taken into account. No document is to be held to be indecent unless the Court is of the opinion that the act of the defendant was of an immoral or mischievous tendency.

3. *Labour Ordinance 1960*

This ordinance establishes a Labour Department which is to administer Labour legislation. It also provides for a system of conciliation and arbitration of industrial disputes. Any award made by the Commissioner of Labour, or Conciliation Committee, or the Arbitration Committee, becomes binding on the parties to it.

4. *Censorship of Films Ordinance 1960*

This prohibits the exhibition of films which have not been approved by a censor of films. Approval is not to be given with respect to any film or any part of a film which, in any censor's opinion depicts any matter which is contrary to public order or decency or the exhibition of which would for any other reason be undesirable in the public interest. There is a right of appeal, from every decision of a censor, to the Chief Justice of the High Court of Western Samoa.

[1] Note furnished by the Government of New Zealand.

B. Non-Self-Governing Territories

NETHERLANDS

NETHERLAND NEW GUINEA[1]

NOTE[2]

1. Right to own Property

The Act of 30 June 1960 (*Netherlands Statutebook* No. 261, 1960) contains provisions protecting the rights of the native population to own land. The Act provides among other things that the population can only be deprived of these rights under Article 127 of the Netherlands New Guinea Constitution Act in the interests of the general welfare after adequate compensation has been paid or guaranteed and that these rights can only be restricted in accordance with legal regulations.

2. Right to take part in the Government of One's Country

The Act of 10 November 1960 (*Statutebook* No. 454, 1960) provides for the establishment of a central representative body, the New Guinea Council, and of lower representative councils.

A. *The New Guinea Council* (articles 72–119 (*e*))

(i) *Composition:* The council is composed of 16 elected members and 12 members to be appointed by the Governor, i.e. a total of 28 members. In proportion to the further development of the country, this number will be increased to 48. The majority of the members are therefore elected. The appointments relate in the main to areas where the population, in their present state of development, cannot yet take part in elections. In making these appointments care is taken that the representative nature of the Council finds the greatest possible expression.

(ii) *Electoral provisions:* The principal requirements for the franchise are: Dutch nationality (the Papuans are Dutch nationals), at least three years' residence in Netherlands New Guinea and a minimum age of 21. Practically the same conditions apply to eligibility for election except that the minimum age is 23. No distinction is made according to groups of the population, so that no seats are reserved for certain groups. The electorate is in no way differentiated. The New Guinea Council Election Ordinance (*Netherlands New Guinea Statutebook* No. 71, 1960) provides for the division of the country into 14 electoral districts. One member is elected per constituency with the exception of the more densely populated Schouten Islands and the Japen-Waropen constituency, which return two members each. Direct elections are held in the urban constituencies of Hollandia and Manokwari. In the other districts indirect elections take place, which means that persons known as electors are elected in the first stage.

(iii) *Functions of the Council:* The Council co-operates fully in the formulation of ordinances for the territory with the right of amendment. The Council has the right of petition. The Council co-operates in the preparation of the budget. During the debate on the budget all aspects of the policy of the Government can be discussed in public.

B. *Lower Representative Councils* (articles 120–124 (*b*))

These councils deal primarily with the interests of the regional and local communities. The provisions governing their composition and functions are laid down in the Regional Communities Ordinance (*Netherlands New Guinea Statutebook* No. 84, 1960). The Election Decree concerning Regional Councils (*Netherlands New Guinea Statutebook* No. 85, 1960) provides for the electoral procedure.

[1] At the time of the furnishing of this note, there was a dispute as regards the political status of this territory, between the Government of Indonesia and the Government of the Netherlands. The status of the territory has since changed as a result of the Indonesia-Netherlands Agreement of 15 August 1962.

[2] Note furnished by the Government of the Netherlands.

NEW ZEALAND

COOK ISLANDS

NOTE[1]

1. *Prohibition of Forced or Compulsory Labour Ordinance 1960*
   This ordinance prohibits forced and compulsory labour.

2. *Dangerous Drugs Amendment Act 1960*
   This Act (see under metropolitan New Zealand) is also in force in the Cook Islands.

[1] Note furnished by the Government of New Zealand.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

BECHUANALAND

THE BECHUANALAND PROTECTORATE (CONSTITUTION) ORDER[1] IN COUNCIL, 1960

Made on 21 December 1960[1]

Part III

LEGISLATIVE COUNCIL

22. (1) There shall be a Legislative Council in and for the Bechuanaland Protectorate.

(2) The Legislative Council shall consist of—

(*a*) The Resident Commissioner, who shall be the President;

(*b*) Three persons (who shall be styled "ex officio members") for the time being holding the public offices enumerated in section 23 of this order;

(*c*) Seven persons, being holders for the time being of public offices in the Territory (who shall be styled "official members") as may be appointed by office or name by the High Commissioner by instrument under the public seal;

(*d*) Twenty-one persons (who shall be styled "elected members") as may be elected in the manner prescribed by section 24 of this order; and

(*e*) Not more than four persons (who shall be styled "nominated members") as may be appointed by the High Commissioner by instrument under the public seal in pursuance of section 25 of this order.

. . .

24. (1) Of the elected members—

(*a*) Ten shall be Africans elected by the Electoral College of the African Council from among the members of the college in accordance with the provisions of section 62 of this order;

(*b*) Ten shall be Europeans and shall be elected from ten constituencies (by whatever name called) by the Europeans qualified as voters in such constituencies; and

(*c*) One shall be an Asian and shall be elected by Asians qualified as voters in the territory.

. . .

26. Subject to the other provisions of this order, a person shall be qualified to be an elected or nominated member of the Legislative Council if, and shall not be qualified to be elected or appointed as such, unless he—

(*a*) Is either a British subject or British protected person of the age of twenty-one years or upwards; and

(*b*) In the case of a Member elected under the provisions of paragraphs (*b*) and (*c*) of subsection 1 of section 24, possesses the other qualifications and none of the disqualifications of a voter specified in the law for the time being in force relating to the election of such members.

27. (1) No person shall be qualified to be elected as an elected member or appointed as a nominated member of the Legislative Council or, having been so elected or appointed, shall sit or vote in the Legislative Council, who—

(*a*) Is, by virtue of his own act, under any acknowledgment of allegiance, obedience, or adherence to a foreign Power or State; or

(*b*) holds any public office in a permanent capacity or by virtue of a contract of service expressed to continue for a period exceeding six months; or

(*c*) Is an unrehabilitated insolvent or undischarged bankrupt, having been adjudged or otherwise declared an insolvent or a bankrupt under any law in force in any part of Her Majesty's dominions; or

(*d*) Is under sentence of death imposed on him by a court in any part of Her Majesty's dominions, or subject to the provisions of subsection 2 of this section, is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such court or substituted by competent authority for some other sentence imposed on him by such a court or is under such a sentence of imprisonment, the execution of which is suspended; 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 Bechuanaland; or

(*f*) Is disqualified for membership of the Council

[1] Published as *Statutory Instruments*, 1960, No. 2416, by H.M. Stationery Office, London. The order entered into force on 5 May 1961.

under any law for the time being in force in Bechuanaland relating to offences connected with elections.

(2) For the purposes of paragraph (*d*) of subsection 1 of this section —

(*a*) Two or more sentences of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and

(*b*) No account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

. . .

Part VI

THE AFRICAN COUNCIL

56. (1) There shall be an African Council in and for the Bechuanaland Protectorate.

(2) The African Council shall consist of —

(*a*) The Resident Commissioner, who shall be the President of the Council;

(*b*) The Government Secretary;

(*c*) Not more than six official members appointed by name or office by the Resident Commissioner;

(*d*) The African authorities of the Bakhatla, Bakwena, Bamalete, Bamangwato, Bangwaketsi, Barolong, Batawana and Batlokwa tribes;

(*e*) Thirty-two Africans appointed or elected in the prescribed manner from the thirteen electoral districts of Bechuanaland specified in the first and second columns of the fourth schedule to this order, the number from each such electoral district being the number stated in the third column of the said schedule; and

(*f*) Not more than two persons, not being holders of any public office, appointed by the Resident Commissioner.

. . .

62. (1) At the first meeting of the African Council and thereafter at the first meeting of the Council after a dissolution, it shall be the duty of the Council immediately to resolve itself into the Electoral College for the purpose of electing in the manner prescribed in subsection 3 of this section ten of its members to be elected members of the Legislative Council in accordance with the provisions of paragraph (*a*) of subsection 1 of section 24 of this order. . . .

THE GAMBIA

THE GAMBIA (CONSTITUTION) ORDER IN COUNCIL 1960

Made on 8 April 1960[1]

Part I

PRELIMINARY

1. (1) In this order, unless the context otherwise requires —

. . .

"The Gambia" means the Colony and Protectorate of the Gambia;

. . .

Part III

HOUSE OF REPRESENTATIVES

22. There shall be a House of Representatives in and for the Gambia constituted in accordance with the provisions of this order.

23. The House of Representatives shall consist of —

(*a*) The Governor, who shall be President;

(*b*) A speaker;

(*c*) 4 *ex-officio* members;

(*d*) Not more than 3 nominated members;

(*e*) 27 elected members;

(*f*) Such temporary members, if any, as may be appointed under section 36 of this order.

. . .

27. (1) The elected members of the House of Representatives shall be persons qualified for election as such in accordance with the provisions of this order and, shall be elected in accordance with the provisions of subsection 2 of this section.

(2) (*a*) Seven of the elected members shall be elected, in the manner provided by any law in force in the colony, to represent the colony:

Provided that of such members, five shall be elected for the town of Bathurst and two for the Kombo Saint Mary division.

(*b*) Twelve of the elected members shall be elected, in the manner provided by any law in force in the Gambia, to represent the protectorate.

(*c*) Eight of the elected members shall be elected by the head chiefs, in the manner provided by any law in force in the Gambia, to represent the protectorate.

. . .

31. (1) Subject to the provisions of section 32 of this order, any person who, at the date of his appointment or nomination for election —

[1] Published as *Statutory Instruments*, 1960, No. 701, by H.M. Stationery Office, London. The order entered into force on 19 April 1960.

(*a*) Is of the age of twenty-one or upwards and is a British subject or a British protected person; and

(*b*) Is able to speak the English language with a degree of proficiency sufficient to enable him to take part in the proceedings of the House of Representatives; and

(*c*) Is, in the case of a person seeking to be elected to represent the colony as provided in paragraph (*a*) of subsection 2 of section 27 of this order, registered as a voter in any electoral district in the Gambia; and

(*d*) Is, in the case of a person seeking to be elected to represent the protectorate as provided in paragraph (*b*) of subsection 2 of section 27 of this order, registered as a voter in any electoral district in the protectorate, or registered as a voter in any electoral district in the Gambia and has either been born in the protectorate or is recognized by native law and custom as being a member of a protectorate family,

shall be qualified to be appointed as a nominated member or elected as an elected member of the House of Representatives and no other person shall be so qualified.

. . .

32. (1) No person shall be qualified to be appointed as a nominated member or elected as an elected member of the House of Representatives or, having been so appointed or elected shall sit or vote in the House, who at the time of his appointment or election —

(*a*) Is, by virtue of his own act, under any acknowledgment of allegiance, obedience, or adherence to a foreign Power or State; or

(*b*) (i) In the case of a nominated member, holds any public office, or (ii) in the case of an elected member, holds or is acting in, any such office; or

(*c*) In the case of an Elected Member, holds the office of speaker; or

(*d*) Has been adjudged or otherwise declared a bankrupt under any law in force in any part of Her Majesty's dominions and has not been discharged; or

(*e*) Subject to the provisions of the following subsection, is under sentence of death imposed on him by a court in any part of Her Majesty's dominions, or is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; 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 consideration exceeds one hundred pounds) with the Government of the Gambia for or on account of the public service and —

(ii) In the case of an Elected Member, has not published, within one month before the day of election, in the English language in the *Gazette* and in some newspaper circulating in the Gambia, 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 under any law for the time being in force in the Gambia a person certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic; or

(*h*) Is disqualified for membership of the House of Representatives under any law for the time being in force in the Gambia relating to offences connected with elections; or

(*i*) In the case of an elected member, is disqualified for election by any law for the time being in force in the Gambia 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 any responsibility for the compilation or revision of any electoral register.

(2) For the purposes of paragraph (*e*) of the preceding subsection —

(*a*) Where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence of or exceeding six months if (but not unless) any one of those sentences amounts to or exceeds that term; and

(*b*) No account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

[Sections 33–34 define the circumstances under which the seats of nominated or elected members become vacant.]

. . .

KENYA

THE KENYA (CONSTITUTION) (AMENDMENT No. 2) ORDER IN COUNCIL, 1960

Made on 30 November 1960[1]

6. Part IV of the principal order is revoked, and the following part is substituted therefor —

"*Part IV*

"LEGISLATIVE COUNCIL

"23. (1) There shall be a Legislative Council in and for Kenya.

"(2) Subject to the provisions of this part, the Legislative Council shall consist of —

(*a*) A Speaker appointed in accordance with section 24 of this order;

(*b*) The persons (who shall be styled 'ex officio members') who for the time being are Ministers or temporary Ministers and are not members of the Legislative Council under any other provision of this part;

(*c*) Fifty-three persons (who shall be styled 'constituency members') elected in accordance with the provisions of any law enacted in pursuance of section 25 of this order;

(*d*) Twelve persons (who shall be styled 'national members') elected in accordance with the provisions of regulations made under section 26 of this order;

(*e*) Such persons (who shall be styled 'nominated members') as may be appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State.

. . .

"25. (1) Of the seats in the Legislative Council for Constituency Members —

"(*a*) Ten shall be reserved for Europeans;

"(*b*) Eight shall be reserved for Asians, of which three shall be reserved for Asians of the Muslim faith and five shall be reserved for Asians not of that faith;

"(*c*) Two shall be reserved for Arabs.

"(2) Subject to the provisions of this order, provision may be made by or in pursuance of any law enacted under this order for the election in Kenya of persons as constituency members, including (without prejudice to the generality of the foregoing power) the following matters —

. . .

"(i) The definition and trial of offences relating to elections and the imposition of penalties therefor, including the disqualification for election as a Constituency Member of any person concerned in any such offence;

"(j) The disqualification for election as a constituency member of any person by reason of —

(i) His holding or acting in any office or appointment specified (either individually or by reference to any class of office or appointment) by or in pursuance of any such law as aforesaid; or

(ii) His belonging to any of the armed forces of the Crown or any police force so specified or to any class of person so specified that is comprised in any such force.

. . .

"26. (1) Of the seats in the Legislative Council for National Members —

(*a*) Four shall be held by Africans;

(*b*) Four shall be held by Europeans;

(*c*) Three shall be held by Asians, of which one shall be held by an Asian of the Muslim faith and two shall be held by Asians not of that faith; and

(*d*) One shall be held by an Arab.

"(2) Subject to the provisions of this order, the Governor may, by regulations, make provision for the election of the national members by the constituency members of the Legislative Council, including (without prejudice to the generality of the foregoing power) the following matters —

. . .

(*d*) The application, subject to such exceptions and modifications (if any) as may be specified in the regulations, to the election of the national members of any provisions of any law enacted in pursuance of paragraph (i) of subsection 2 of the last foregoing section.

. . .

"27. (1) Subject to subsection 2 of this section and to the next following section, a person shall be qualified to be elected or appointed as a constituency member, a national member or a nominated member if, and shall not be qualified to be so elected or appointed unless, he

[1] Published as *Statutory Instruments*, 1960, No. 2201, by H.M. Stationery Office, London. This Order in Council amended the Kenya (Constitution) Order in Council, 1958, of which extracts appear in *Yearbook on Human Rights for 1958*, pp. 290–1. Of the provisions quoted above, sections 15 and 17 of the amending order entered into force on 7 December 1960 and section 6 on 23 December 1960.

"(*a*) Is of the age of twenty-one years or upwards; and

"(*b*) Is a British subject or a British protected person or —

(i) Is a member of any race indigenous to the sub-continent of India; and

(ii) Was immediately before 15 August 1947 under the suzerainty or protection of Her Majesty; and

(iii) Has at any time since that day and before the 5th day of August, 1960, been registered as an elector for the purposes of the election of Asian members of the Legislative Council then established for Kenya:

and also, in the case of a constituency member or a national member, he —

"(*c*) is registered as an elector; and

"(*d*) Has been ordinarily resident in Kenya for a period of two years immediately before the date of his nomination for election; and

"(*e*) Is able to read, write and speak the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Legislative Council.

"(2) A person shall not be qualified to be elected as a constituency member to a seat that is reserved in pursuance of subsection 1 of section 25 of this order, unless he belongs to the category of persons for whom that seat is so reserved; and a person shall not be qualified to be elected as a national member to any seat unless he belongs to the category of persons to whom that seat is allocated by subsection 1 of the last foregoing section.

"28. (1) No person shall be qualified to be elected or appointed as a constituency member, a national member or a nominated Member who —

"(*a*) Is, by virtue of his own act, under any acknowledgment of allegiance, obedience, or adherence to a foreign Power or State;

"(*b*) Is a member of the Council of State or holds or is acting in the office of judge of the Supreme Court, judge of Her Majesty's Court of Appeal for Eastern Africa or judge or magistrate of any inferior court of Kenya;

"(*c*) Subject to the provisions of subsection 4 of this section, is under sentence of death imposed on him by a court in any part of Her Majesty's dominions or is serving a sentence of imprisonment (by whatever name called) of or exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him as aforesaid or is under such a sentence of imprisonment the execution of which has been suspended;

"(*d*) Is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kenya;

"(*e*) Has been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions and has not been discharged;

"(*f*) Is restricted as to residence in consequence of an order made under the Deportation (Immigrant British Subjects) Ordinance, 1949, or is detained or restricted as to residence in pursuance of any regulations made under the Emergency Powers Order in Council, 1939, as amended, the Detained and Restricted Persons (Special Provisions) Ordinance, 1960, or the Preservation of Public Security Ordinance, 1960; or

"(*g*) Is disqualified for election as a constituency member by virtue of any law enacted in pursuance of paragraph (i) of subsection 2 of section 25 of this order or is disqualified for election as a national member by virtue of any regulations made in pursuance of paragraph (*d*) of subsection 2 of section 26 of this order.

"(2) No person shall be qualified to be elected as a constituency member or a national member who —

"(*a*) Is disqualified for election as a constituency member by virtue of any law enacted in pursuance of paragraph (*j*) of subsection 2 of section 25 of this order; or

"(*b*) Has served a sentence of imprisonment (by whatever name called) exceeding two years imposed on him by a court in any part of Her Majesty's dominions or substituted by competent authority for some other sentence so imposed on him.

"(3) A person shall not be qualified to be elected as a national member if, at the date of his nomination as a candidate for election, he is a constituency member, or to be elected as a constituency member if, at the date of his nomination as a candidate for election, he is a national member.

"(4) For the purposes of paragraph (*c*) of subsection 1 and paragraph (*b*) of subsection (2) of this section —

"(*a*) Two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences except that, for the purposes of the said paragraph (*c*), if any one of those sentences is of or exceeds twelve months they shall be regarded as one sentence; and

"(*b*) No account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine. . . ."[1]

. . .

15. The principal order is amended by the insertion after part VII of the following part —

[1] Paragraph (*b*) was deleted from the order by the Kenya (Constitution) (Amendment No. 2) Order in Council, 1961.

"*Part VII A*

"FUNDAMENTAL RIGHTS

"64 A. (1) Subject to the provisions of this section, the provisions contained in the fourth schedule to this order shall have effect in Kenya:

"(2) At any time when (*a*) Her Majesty is at war; or (*b*) part II of the Emergency Powers Order in Council, 1939, as amended, or subsection 2 of section 3, or subsection 2 of section 4, of the Preservation of Public Security Ordinance, 1960, is in operation in Kenya; measures may be taken in accordance with regulations made under the said order in council or the said ordinance or in accordance with provisions made by or under any other law enacted under this order derogating from the provisions of the fourth schedule to this order to such extent as may be reasonably justifiable in order to deal with the situation then prevailing in Kenya:

"Provided that nothing in this subsection shall authorize a derogation from the provisions of section 1 of that schedule except in respect of deaths resulting from lawful acts of war or from the provisions of section 2, section 3 or subsection 8 of section 5 of that schedule.

"(3) Nothing in the fourth schedule to this order shall affect the operation of the provisions of the Detained and Restricted Persons (Special Provisions) Ordinance, 1960, as in force on the 30th day of November, 1960.

"64 B. (1) Where any person is detained in derogation from the provisions of section 4 of the fourth schedule to this order by virtue of subsection 2 of the last foregoing section, that person shall be entitled to require that his case should be referred within sixty days of the beginning of the period of detention and thereafter during that period at intervals of not more than twelve months to a tribunal established by law, and that tribunal may make recommendations concerning the necessity or expediency of continuing the detention to the authority that has ordered it; but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendation.

"(2) A tribunal established for the purposes of this section shall be constituted in such manner as to ensure its independence and impartiality, and its chairman shall be a person who holds or has held judicial office, whether in Kenya or elsewhere, or is qualified to be appointed to such office in Kenya.

"64 C (1) Any person who alleges that any of the provisions of this part or of the fourth schedule to this order has been contravened in relation to him may apply to the Supreme Court for redress.

"(2) The Supreme Court shall have original jurisdiction to hear and determine any application made to it in pursuance of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any rights to which the person who makes the application may be entitled under this part or under the fourth schedule to this order.

"(3) Provision may be made by or under any law enacted under this order for conferring upon the Supreme Court such powers in addition to those conferred by this section as are necessary or desirable for the purpose of enabling the Supreme Court more effectively to exercise the jurisdiction conferred upon it by this section.

. . .

"(5) Any party to any proceedings brought in the Supreme Court in pursuance of this section shall have the same rights of appeal as are accorded generally to parties to civil proceedings in the Supreme Court sitting as a court of original jurisdiction."

. . .

"17. The principal order is amended by the insertion after the third schedule thereto of the schedule set out in the schedule to this order.

. . .

"*THE SCHEDULE*

"Schedule to be inserted as Fourth Schedule to the Kenya (Constitution) Order in Council, 1958.

"*Fourth Schedule*

"FUNDAMENTAL RIGHTS

"1. (1) No person shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty.

"(2) A person shall not be regarded as having been deprived of his life in contravention of subsection 1 of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable —

(*a*) For the defence of any person from violence or for the defence of property; or

(*b*) In order to effect an arrest or prevent the escape of a person detained; or

(*c*) For the purpose of suppressing a riot, insurrection or mutiny; or

(*d*) In order to prevent the commission by that person of a criminal offence

"2. (1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

"(2) Nothing in this section shall invalidate any law by reason only that it authorizes the infliction of any punishment that is lawful in Kenya on the 30th day of November, 1960.

"3. (1) No person shall be held in slavery or servitude.

"(2) No person shall be required to perform forced labour.

"(3) For the purposes of this section 'forced labour' does not include (*a*) any labour required in consequence of the sentence or order of a court; or (*b*) any labour required of members of the armed forces of the Crown in pursuance of their duties as such or, in the case of persons who have conscientious objections to service in the armed forces, any labour required instead of such service; or (*c*) any labour required in the event of an emergency or calamity threatening the life or well-being of the community or (*d*) any labour that forms part of normal communal or other civil obligations.

"4. (1) No person shall be deprived of his personal liberty save in the following cases and in accordance with a procedure permitted by law —

"(*a*) In consequence of his unfitness to plead to a criminal charge, in execution of the sentence or order of a court, whether in Kenya or elsewhere, in respect of a criminal offence of which he has been found guilty or in execution of the order of a court of record in Kenya punishing him for contempt of that court or of a court inferior to it; or

"(*b*) In execution of the order of a court made in order to secure the fulfilment of any obligation imposed on him by law; or

"(*c*) For the purpose of bringing him before a court either in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or, to such extent as may be reasonably necessary, to prevent his committing a criminal offence; or

"(*d*) In the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare; or

"(*e*) For the purpose of preventing the spreading of infectious or contagious diseases, or in the case of persons who are, or are reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or vagrants, for the purpose of their care or treatment or the protection of the community; or

"(*f*) For the purpose of preventing the unlawful entry of that person into Kenya, or for the purpose of effecting the lawful expulsion, extradition or other lawful removal from Kenya of that person or the taking of proceedings relating thereto; or

"(*g*) For the purpose of taking proceedings relating to the imposition of any order prohibiting that person from entering or from leaving any area in Kenya or for the purpose of securing the enforcement of any such order or of any conditions contained in any order suspending such an order as aforesaid.

"(2) Any person who is arrested or detained shall be promptly informed, in language that he understands, of the reasons for his arrest or detention.

"(3) Any person who is detained in accordance with paragraph (*c*) of subsection 1 of this section shall be brought before a court without undue delay unless sooner released, and if he is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial or for proceedings preliminary to trial at a later date.

"(4) Any person who is unlawfully arrested or detained shall be entitled to compensation.

"(5) Nothing in subsection 1 of this section shall invalidate any law by reason only that it authorises —

"(*a*) The arrest or detention of a member of the armed forces of the Crown or a member of a police force for the purpose of bringing him before an officer of such armed forces or an officer of such police force, as the case may be, upon reasonable suspicion of his having committed an offence against the discipline of such armed forces or such police force; or

"(*b*) The detention of such a member in execution of a sentence of detention for a period not exceeding three months imposed by such an officer in respect of such an offence punishable by detention of which that member has been found guilty;

"but in any case such as is referred to in paragraph (*a*) of this subsection, subsections 2 and 3 of this section shall apply and for the purposes of such application subsection 3 shall be construed as if the reference to paragraph (*c*) of subsection 1 of this section were omitted and as if the reference therein to a court were a reference to such an officer as aforesaid.

"5. (1) Every court, and any tribunal having jurisdiction in Kenya to determine the civil rights and obligations of any person, shall be established by law and so constituted as to be independent and impartial.

"(2) Where proceedings for the determination of the civil rights or obligations of any person are instituted before any court or tribunal that person shall be entitled to a fair hearing within a reasonable time.

"(3) Whenever a person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing within a reasonable time by a court.

"(4) All proceedings of every court and the proceedings of any tribunal relating to the determination of a person's civil rights or obligations (including the announcement of the decisions of the court or tribunal) shall be in public:

"Provided that a court or such a tribunal may, to such extent as it may consider necessary in special circumstances where publicity would prejudice the interests of justice or to such extent as it may be empowered or required so to do by or under any law in the interests of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of twenty-one years, or the protection of the private lives of persons concerned in the proceedings, exclude from its proceedings persons other than the parties thereto and their legal representatives or order that the identity of any person concerned in the proceedings shall not be publicly disclosed.

"(5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty:

"Provided that nothing in this sub-section shall invalidate any law by reason only that the law imposes upon any such person the burden of proving particular facts.

"(6) Every person who is charged with a criminal offence shall be entitled —

"(*a*) To be informed promptly, in language that he understands and in detail, of the nature of the offence; and

"(*b*) To be given adequate time and facilities for the preparation of his defence; and

"(*c*) To defend himself in person or by legal representatives of his own choice; and

"(*d*) To examine in person or by his legal representatives the witnesses called by the prosecution before any court and to obtain the attendance of witnesses to testify on his behalf before the court on the same conditions as those applying to the witnesses called by the prosecution, and to examine such witnesses in person or by his legal representatives; and

"(*e*) To have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence:

"Provided that nothing in this subsection shall invalidate any law by reason only that it prohibits legal representation in African courts.

"(7) When any person is tried for any criminal offence, the court shall keep a record of the proceedings, and the accused person or any person authorized by him in that behalf shall be entitled to obtain copies of the record within a reasonable time upon payment of such fee as may be prescribed by law.

"(8) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

"(9) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence save upon the order of a superior court; and no person who shows that he has been pardoned for a criminal offence shall thereafter be tried for that offence:

"Provided that nothing in this subsection shall invalidate any law by reason only that it authorises any court (other than a court-martial) to try any member of the armed forces of the Crown for a criminal offence notwithstanding that he has been tried for that offence or for any other offence by a court-martial and either convicted or acquitted; but if any such menber, having been found guilty by a court-martial of any offence, and having been awarded any punishment in respect thereof, is subsequently convicted by a court (other than a court-martial) of that offence or of any other criminal offence of which he could have been found guilty at the trial by court-martial, the court convicting him shall, in sentencing him to any punishment, take into account any punishment awarded to him for the offence of which he was found guilty by such court-martial.

"(10) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

"6. (1) Every person shall be entitled to respect for his private and family life, his home and his correspondence.

"(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

"(*a*) In the interests of defence, public safety, public order, public morality, public health or the economic well-being of the community; or

"(*b*) for the purpose of protecting the rights or freedoms of other persons.

"7. (1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom, either alone or in community with others, and in public or in private to manifest and propagate his religion or belief in worship, teaching, practice and observance.

"(2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observances if such instruction, ceremony or observances relate to a religion other than his own.

"(3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in the course of any education provided by that community or denomination.

"(4) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

"(*a*) In the interests of defence, public safety, public order, public morality or public health; or

"(*b*) For the purpose of protecting the rights or freedoms of other persons, including their right or freedom to observe and practice their religions without the unsolicited intervention of members of other religions.

"8. (1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

"(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

"(*a*) In the interests of defence, public safety, public order, public morality or public health; or

"(*b*) For the purpose of protecting the rights, reputations and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating telephony, telegraphy, posts, wireless broadcasting or television or regulating public exhibitions or entertainments; or

"(*c*) For the purpose of imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

"9. (1) Every person shall be entitled to assemble freely and associate with other persons and in particular to form and belong to trade unions and other associations for the protection of his interests.

"(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society —

"(*a*) In the interests of defence, public safety, public order, public morality or public health; or

"(*b*) For the purpose of protecting the rights or freedoms of other persons; or

"(*c*) For the purpose of imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

"10. (1) No property, movable or immovable, shall be compulsorily taken possession of, and no right over or interest in any such property shall be compulsorily acquired, except —

"(*a*) Where such taking possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development and utilisation of any property to the promotion of the public benefit; and

"(*b*) Where the necessity therefor in any such interests as aforesaid is so imperative as to afford reasonable justification for the causing of any hardship that may result to any person owning, or having any other right over or interest in, the property; and

"(*c*) By or under the provisions of a law which, of itself or when read with any other law in force in Kenya —

(i) Requires the prompt payment of full compensation; and

(ii) Gives to any person owning, or having any other right over or interest in, the property a right of access to the Supreme Court for the determination of his ownership of, or other right over or interest in, the property, the legality of the taking possession of the property or the acquisition of his right over or interest in the property, his right to compensation and to prompt payment thereof, and the amount of compensation; and

(iii) Gives to any party to any proceedings in the Supreme Court relating to any of the matters aforesaid the same rights of appeal from the determination of that Court as are accorded generally to parties to civil proceedings in the Supreme Court sitting as a court of original jurisdiction.

"(2) (*a*) Nothing in this section shall affect the operation of any existing law.

"(*b*) In this subsection the expression 'existing law' means a law in force in Kenya on the 30th day of November, 1960, and includes a law made after that date which amends any such law as aforesaid but which does not —

(i) Add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired; or

(ii) Add to the purposes for which or circumstances in which property may be taken possession of or rights over or interests in property may be acquired; or

(iii) Make the conditions governing entitlement to any compensation or the amount thereof less favourable to any person owning, or having any other right over or interest in, the property; or

(iv) Deprive any person of any right or entitlement such as is mentioned in sub-paragraph (ii) or subparagraph (iii) of paragraph (*c*) of subsection 1 of this section.

"(3) Nothing in this section shall be construed as affecting any provision of law of general application —

"(*a*) For the imposition or enforcement of any tax, rate or due; or

"(*b*) For the imposition or enforcement of any

penalty or forfeiture for breach of the law, whether under civil process or after conviction of a criminal offence; or

"(*c*) Relating to leases, tenancies, mortgages, charges, bills of sale, chattels transfers or any other rights or obligations arising out of contracts; or

"(*d*) Relating to the vesting or administration of the property of persons adjudged or otherwise declared bankrupt, of persons of unsound mind, of deceased persons, or of any body, corporate or unincorporate, that is in the course of being wound up; or

"(*e*) Relating to the execution of judgements or orders of courts; or

"(*f*) Providing for the taking of possession of property which is in a dangerous state or is injurious to health; or

"(*g*) relating to enemy property; or

"(*h*) Relating to trusts or trustees; or

"(*i*) Relating to the limitation of actions; or

"(*j*) Relating to the temporary taking of possession of property for the purposes of any examination, investigation, trial or inquiry; or

"(*k*) Providing for the carrying out of work on land for the purpose of soil conservation, or for the purpose of agricultural development or improvement where the owner or occupier of the land has, on being required to carry out such development or improvement, refused or failed, without reasonable excuse, to carry out the same.

"(4) Nothing in this section shall be construed as affecting any provision of law for the compulsory taking possession in the public interest of any property of, or the compulsory acquisition in the public interest of any right or interest in property of, any body corporate that is established directly by any law in force in Kenya and is financed in whole or in part out of public funds.

"11. (1) Every person shall be entitled to carry on any trade, business, profession or occupation.

"(2) Nothing in the last foregoing subsection shall invalidate any law that is reasonably justifiable in a democratic society imposing restrictions upon the carrying on of any trade, business, profession or occupation in the interest of defence, public safety, public order, public morality, or public health or otherwise in the public interest.

"(3) A person shall not, by reason only that he is of a particular race, tribe, community, place of origin, religion or political opinion—

"(*a*) Be subjected either expressly by, or in the practical application of, any law or any executive or administrative action of the Government of Kenya to disabilities, restrictions or disadvantages with respect to taxation, the use or enjoyment of his property, employment or the carrying on of any trade, business, profession or occupation to which persons of other races, tribes, communities, places of origin, religions or political opinions are not made equally subject; or

"(*b*) Be accorded either expressly by, or in the practical application of, any law or any such executive or administrative action any privilege or advantage with respect to any of the matters aforesaid that is not accorded equally to persons of other races, tribes, communities, places of origin, religions or political opinions.

"(4) Nothing in the last foregoing subsection shall invalidate any law or prevent any executive or administrative action by reason only that—

"(*a*) It subjects to disabilities, restrictions or disadvantages any person who, under any law in force in Kenya with respect to immigration, has been permitted to enter, and is entitled to remain in Kenya for temporary purposes only or for not more than four years; or

"(*b*) It imposes any disability, restriction or disadvantage, or accords any privilege or advantage that, having regard to its nature and to special circumstances pertaining to the persons to whom it applies, is reasonably justifiable in a democratic society.

"(5) Nothing in this section shall invalidate any law or prevent any executive or administrative action that imposes disabilities or restrictions on persons holding office under the Crown or in the service of a body corporate established directly by any law in force in Kenya or members of the armed forces of the Crown or members of a police force or prescribes or imposes qualifications or disqualifications for appointment to any such office or as a member of any such force.

"(6) The provisions of subsections 3, 4 and 5 of this section shall be without prejudice to part VI of this order.

"12. In this schedule, unless it is otherwise expressly provided or required by the context—

"'African court' means a court established by or under the African Courts Ordinance, 1951;

"'Court' means any court of law having jurisdiction in Kenya (other than a court-martial) and shall be construed as if it includes Her Majesty in Council:

"Provided that, in relation to a member of the armed forces of the Crown, it also includes a court-martial;

"'Law' includes an unwritten rule of law;

"'Member of the armed forces of the Crown' includes any person who is subject to naval, military or air-force law;

"'Member of a police force' includes any person who is subject to any law relating to the discipline of a police force."

THE KENYA (LAND) ORDER IN COUNCIL, 1960

Made on 30 November 1960[1]

Part VI

MISCELLANEOUS

Racially Restrictive Covenants not to be capable of Creation in Future

16. Where, at any time after the 13th day of October, 1959, any land in Kenya is subjected to any covenant, condition or restriction created after that date whereby persons who are members of a particular race or who are not members of a particular race are prevented from owning or from occupying such land or from acquiring an interest therein, such covenant, condition or restriction shall be void:

Provided that this section shall not apply to a covenant, condition or restriction imposed by any written law, nor to a covenant, condition or restriction imposed upon land since the said date where —

(*a*) The land is a plot of land forming part of an estate laid out for sale in lots subject to like restrictions to be imposed on all the lots as part of a general scheme of development and for the mutual benefit of the owners and occupiers of the lots generally; and

(*b*) Before the said date at least two of the lots had been subjected to a like covenant, condition or restriction.

[1] Published as *Statutory Instruments*, 1960, No. 2202, by H.M. Stationery Office, London. The order entered into force on 7 December 1960.

THE PRESERVATION OF PUBLIC SECURITY ORDINANCE, 1960

ORDINANCE NO. 2 OF 1960, ASSENTED TO ON 8 JANUARY 1960[1]

2. In this ordinance, the expression "public security" includes the securing of the safety of persons and property, the maintenance of supplies and services essential to the life of the community, the prevention and suppression of violence, intimidation, disorder and crime, the prevention and suppression of mutiny, rebellion and concerted defiance of and disobedience to the law and lawful authority, and the maintenance of the administration of justice.

3. (1) If at any time the Governor is satisfied that it is necessary for the preservation of public security so to do, he may, by notice in the Gazette, declare that the provisions of subsections 2 and 3 of this section shall come into operation, and thereupon those provisions shall come into operation accordingly; and they shall continue in operation until the Governor, by further notice in the Gazette, directs that they shall cease to have effect, whereupon they shall cease to have effect except as respects things previously done or omitted to be done.

(2) Subject to the provisions of subsection 3 of this section, the Governor may for the preservation of public security, by regulation —

(*a*) Make provision for the prohibition of the publication and dissemination of matter prejudicial to public security, and, to the extent necessary for that purpose, for the regulation and control of the production, publishing, sale, supply, distribution and possession of publications;

(*b*) Make provision for the prohibition, restriction and control of assemblies;

(*c*) Make provision for the prohibition, restriction and control of the residence, movement and transport of persons, the possession, acquisition, use and transport of moveable property, and the entry to, egress from, occupation and use of immovable property;

(*d*) Make provision for the regulation and control of food and liquor supplies, medical supplies, clothing supplies, fuel and lubricant supplies, chemical supplies, supplies of arms, ammunition and explosives, hospital, health, medical and nursing services, conservancy and sanitation services, water, gas and electricity services, fire services, posts and telecommunications services, wireless and broadcasting services, railway services, road transport services, port, dock and harbour services, airport, air and meteorological services, and the production, manufacture, importation, exportation and bulk, wholesale and retail distribution of such supplies and distribution and performance of such services;

(*e*) Make provision for, and authorize the doing of, such other things as appear to him to be strictly required by the exigencies of the situation in the colony.

(3) Regulations made under this section shall not make provision for any of the matters set out in subsection 2 of section 4 of this ordinance.

4. (1) If at any time the Governor is satisfied that the situation in the Colony is so grave that the exercise of the powers conferred by section 3 of this ordinance is inadequate to ensure the preservation

[1] Published in *Colony and Protectorate of Kenya: Ordinances Enacted During the Year 1960*, printed by the Government Printer, Nairobi. The ordinance entered into force on 11 January 1960.

of public security, he may by notice in the *Gazette* declare that the provisions of subsection 2 of this section shall come into operation, and thereupon those provisions shall come into operation accordingly; and they shall continue in operation until the Governor by a further notice in the *Gazette* directs that they shall cease to have effect, whereupon they shall cease to have effect except as respects things previously done or omitted to be done.

(2) The Governor may, for the preservation of public security, make regulations to provide, so far as appears to him to be strictly required by the exigencies of the situation in the colony, for (*a*) the detention of persons; (*b*) requiring persons to do work and render services.

5. Regulations made under section 3 or section 4 of this ordinance may —

(*a*) Make provision for the payment of compensation and remuneration to persons affected by the regulations;

(*b*) Make provision for the apprehension and trial of persons offending against the regulations, and, notwithstanding the provisions of paragraph (*e*) of section 31 of the Interpretation and General Provisions Ordinance, 1956, for such penalties as the Governor may think fit for offences thereunder;

(*c*) Make provision for suspending the operation of, or for amending, any written law other than an imperial enactment;

. . .

Provided that nothing in the foregoing provisions of this section or in the provisions of section 3 or section 4 of this ordinance shall authorize the making of any regulations providing for the trial of persons by military courts.

. . .

THE DETAINED AND RESTRICTED PERSONS (SPECIAL PROVISIONS) ORDINANCE, 1960

ORDINANCE NO. 3 OF 1960, ASSENTED TO ON 8 JANUARY 1960[1]

2. (1) In this ordinance, unless the context otherwise requires —

"Area of restriction" means any area, not being a place of detention, prescribed by or under regulations made under this ordinance as an area for occupation by specified persons under restriction as to residence in pursuance of such regulations;

"Place of detention" means any place prescribed by or under regulations made under this Ordinance for the detention of specified persons;

"Place of origin", in relation to any person, means the place in which he has or last had a home, or, if he has and has had no home, the place in which the community to which he belongs resides, or, if he belongs to no community, such place as the Governor may determine in that behalf;

"Rehabilitated", in relation to any person, means that that person has genuinely and permanently renounced any adherence to and association with any and every specified unlawful society and all unlawful aims thereof, and that, to the satisfaction of the Governor, the return of that person to his place of origin will not materially prejudice the public safety or the maintenance of public order; and "rehabilitation" has a corresponding meaning;

"Specified person" means —

(*a*) Any person in respect of whom, immediately prior to the commencement of this ordinance, a detention order made under regulation 2 of the Emergency Regulations, 1952, was in force, whether or not the operation of such detention order had been suspended under that regulation and whether or not such person was, or had at any time previously been, detained in pursuance thereof; or

(*b*) Any person in respect of whom, immediately prior to the commencement of this ordinance, an emergency restriction order made under regulation 2A of the aforesaid regulations was in force; or

(*c*) Any person declared under subsection 2 of this section to be a specified person for the purposes of this ordinance;

"Specified unlawful society" means the unlawful society commonly known as "Mau Mau", the unlawful society commonly known as "Kiama Kia Muingi", and any other unlawful society which the Governor may, by notice in the *Gazette*, declare to be, by reason of the similarity of its unlawful aims, objects, activities or practices to those of Mau Mau, a specified unlawful society for the purposes of this ordinance;

"Unlawful society" means a society which has been declared under paragraph (ii) of subsection 2 of section 69 of the Penal Code to be a society dangerous to the good government of the colony, and a society which is an unlawful society within the meaning of section 9 of the Societies Ordinance, 1952.

(2) If on the commencement of this ordinance the Governor is satisfied with respect to any person —

(*a*) That such person is for the time being outside the colony; and

[1] Published in *Colony and Protectorate of Kenya: Ordinances Enacted During the Year 1960*, printed by the Government Printer, Nairobi. The ordinance entered into force on 11 January 1960.

(*b*) That, if such person entered the colony, it would be necessary for securing the public safety and the maintenance of public order to exercise control over such person,

he may, by notice published in the *Gazette* not later than seven days after the commencement of this ordinance, declare such person to be a specified person for the purposes of this ordinance.

3. (1) The Governor may, for securing the public safety and the maintenance of public order, make regulations to provide, so far as appears to him to be strictly required by the exigencies of the situation in the colony, for —

(*a*) The detention of specified persons;

(*b*) The prohibition, restriction and control of the residence and movement of specified persons;

(*c*) The prohibition, restriction and control of the possession, use, acquisition and disposal of movable property by specified persons while in detention or under restriction of residence or movement in pursuance of the regulations, their association and communication with other persons, and the receipt and despatch by them of postal, telegraphic and other communications:

Provided that, if regulations providing for any of the matters aforesaid are made under this subsection, provision shall likewise be made requiring that a review of the case of each person detained or restricted in pursuance of such regulations shall be carried out by the Governor, or by a reviewing authority appointed by the Governor, at least once during every successive period of twelve months so long as such person remains detained or restricted in pursuance of such regulations, and that such review shall be directed to securing the termination of such detention or the removal or relaxation of such restrictions if and as soon as such termination, removal or relaxation can in the opinion of the Governor be effected without serious prejudice to the securing of the public safety and the maintenance of public order, due regard being had to the progress of such person in rehabilitation and to the likely effects, if any, of such termination, removal or relaxation on the continued progress of other specified persons in rehabilitation and towards eventual release from detention or restriction under such regulations.

(2) Regulations made under subsection 1 of this section may, so far as appears to the Governor necessary or desirable for the purposes of such regulations —

(*a*) Make provision for the registration, and the maintenance of records and particulars of specified persons, and for the taking of photographs and fingerprints of such persons;

(*b*) Prescribe the conditions on which members of the families of specified persons, and any other persons not under restriction of residence in pursuance of such regulations, may reside in areas of restriction;

(*c*) Make provision for the management, administration and supervision of places of detention and areas of restriction, and for the regulation and control of entry thereto, egress therefrom, any matters affecting health, hygiene or sanitation therein, the discipline of specified persons detained and of public officers serving in places of detention, the residence and movement of any persons within areas of restriction, trading by and other occupations of any persons within areas of restriction, and the possession, use, acquisition and disposal of movable property by any persons within areas of restriction;

. . .

(*e*) Make provision for the regulation and control of assemblies within areas of restriction;

. . .

(*g*) Make provision for the prohibition of the production, publishing, sale, supply, distribution and possession by and to specified persons of matter, and of publications containing matter, prejudicial to the public safety or the maintenance of public order or otherwise calculated to retard the rehabilitation of such persons and their progress towards release from detention or restriction in pursuance of such regulations;

. . .

NORTHERN RHODESIA

RACE RELATIONS ORDINANCE, 1960

ORDINANCE NO. 32 OF 1960[1]

Part I

GENERAL

. . .

2. In this ordinance, unless the context otherwise requires —

"Business" means any trade, business or enterprise carried on in any scheduled premises under the authority of a licence;

"Business premises" means shops, banks, hotels and offices which are open to the public generally, but does not include any scheduled premises;

. . .

"Proprietor" in relation to any business means

[1] Published in *Northern Rhodesia Government Gazette*, of 26 August 1960, Supplement. The ordinance entered into force on 1 September 1960.

the person holding any licence in respect of such business;

"Racial discrimination" means discrimination either of an adverse or of a preferential nature practised by any person or group of persons against, or in favour of, any other person or group of persons for reasons only of race or colour;

"Scheduled premises" means any premises of a type specified in the Second Schedule to this Ordinance.

Part II

ESTABLISHMENT, ETC., OF COMMITTEES

3. (1) There shall be established a Central Race Relations Advisory Committee in and for the territory.

(2) The members of the Central Committee shall be appointed by the Governor in Council, and the committee shall consist of a chairman and not less than seven nor more than nine other members of whom at least two shall be representative of the commercial community of the territory; and the membership of the committee shall contain at least one representative of the African race, of the Asian race and of the European race.

. . .

4. (1) There shall be established in and for such districts as the Governor in Council may think fit District Race Relations Committees.

. . .

8. (1) The Central Committee shall —

(*a*) Recommend to the Governor such action as it may consider desirable to improve race relations between the people of various races within the territory and, in order to promote and develop a better understanding between people of such races, may sponsor or organise lectures, exhibitions and other similar projects;

(*b*) Subject to the provisions of this section, inquire into complaints and grievances, whether general or particular, relating to racial discrimination in any business premises, or into conduct or behaviour in any such premises which is likely to be detrimental to good race relations, and shall ascertain to what extent, if at all, such complaints or grievances are well founded;

(*c*) Endeavour, with the consent of the persons concerned in any such complaints and grievances, to act as a conciliator between such persons with a view to remedying such complaints and grievances;

(*d*) Recommend to the Governor how such complaints or grievance may be removed or remedied;

(*e*) Act as an advisory body to persons seeking advice or information on questions of race relations within the territory, and receive and consider such representations as may be made to it by any person for improving relations between the various races or for the removal or mitigation of racial discrimination in any business premises;

(*f*) Collect and collate information from any source on any matter connected with or relating to any of its own functions.

. . .

9. (1) A District Committee shall consider any complaint which may be made to it of racial discrimination being practised in any business premises within the district, or any of the districts, in respect of which it has been established, or of any conduct or behaviour in any such business premises which is likely to be detrimental to good race relations, and may request the attendance before it of any persons who, in the opinion of the committee, may be of assistance to the committee in its consideration of any such complaint.

(2) A district committee shall use its best endeavours actively to promote in the District or Districts in respect of which it has been established good relations between persons of the various races, and shall so far as is possible take all necessary steps to remove or remedy legitimate grievances.

(3) Where a district committee considers that it is unable effectively to deal with a complaint made before it of racial discrimination or of such conduct or behaviour as is referred to in subsection 1 of this section, in any business premises, it shall, within fourteen days of the date of the last meeting dealing with the matter, refer the complaint, together with all relevant documents and records, to the central committee for consideration and advice.

(4) Any person who is dissatisfied with the recommendations or advice of a district committee may refer the matter to the central committee for further consideration within fourteen days of such recommendation or advice being given.

(5) Every district committee shall, within fourteen days after the holding of any meeting of such committee, furnish to the central committee a copy of the minutes of such meeting, and shall also furnish to the central committee such other records or information touching the matters dealt with at such meeting as the central committee may require in any case.

. . .

Part III

RACIAL DISCRIMINATION ON SCHEDULED PREMISES

11. In this part and in part V of this ordinance, unless the context otherwise requires —

. . .

"Party" in relation to a complaint or a further complaint, means the complainant and the respondent therein;

"Respondent" means a person against whom a complaint or further complaint is made;

. . .

12. During the hours that any scheduled premises are open in respect of any business carried on therein, the proprietor of such business shall not practise, nor cause or permit to be practised by any of his servants or agents, any racial discrimination on such premises:

Provided that compliance by a proprietor or his servants or agents with the mandatory provisions of any law shall not be deemed to be racial discrimination for the purpose of this section.

13. (1) The Governor in Council shall, by notice in the *Gazette*, establish a race relations board for the territory or such number of race relations boards in respect of such areas as he may think fit.

. . .

14. (1) Any person against whom any racial discrimination is alleged to have been practised in contravention of the provisions of section twelve of this ordinance, or who is personally aggrieved by any preferential discrimination alleged to have been so practised in favour of any other person or class of persons, may make a complaint in respect of such discrimination to the district committee established for the district in which the premises concerned are situate, or, in the absence of such district committee, to the central committee.

(2) A complaint shall be made in writing within seven days after the date of the act or omission in respect of which such complaint is made and shall be accompanied by an address at which notice may be given to, or documents served upon, the complainant.

(3) Where a complaint is made the committee concerned shall, as soon as practicable, serve upon the respondent a copy of such complaint and shall give notice to the parties thereto of the date, not being less than three nor more than seven days after the date of such service, upon which the complaint will be considered by the committee, and upon such consideration the committee shall endeavour to promote reconciliation between the parties.

(4) Where, after a committee has considered a complaint, it is unable to promote reconciliation between the parties thereto, it shall, unless it conciders the complaint to be frivolous, give to the complainant a certificate (hereinafter referred to as a complaint certificate) stating the details of the complaint and stating that the committee has been unable to promote reconciliation between the parties thereto.

. . .

15. (1) A complainant who has received a complaint certificate may, within seven days after the date of such certificate, make a further complaint, in respect of the complaint detailed in such certificate, to the board established in respect of the area in which the premises concerned are situate.

(2) A further complaint shall be in writing and shall be accompanied by the complaint certificate concerned and by an address at which notice may be given to, or documents served upon, the complainant and the complainant shall, within the period of seven days mentioned in subsection 1 of this section, serve a copy of such further complaint upon the respondent and upon the committee by which such complaint certificate was issued.

(3) Within seven days after the receipt of a copy of a further complaint by a committee, such committee shall transmit to the Board concerned a full record of the proceedings of the committee out of which such further complaint arose.

16. (1) Whenever a board receives a further complaint it shall, within fourteen days after such receipt, investigate such further complaint, and shall ascertain to what extent, if at all, it is well founded.

(2) If it is proved to the satisfaction of a Board, upon an investigation under subsection 1 of this section, that a proprietor is in contravention of the provisions of section twelve of this ordinance it may —

(*a*) In the case of a first such contravention, order that such proprietor be cautioned;

(*b*) In the case of a second such contravention, order that —

(i) Such proprietor be cautioned; or

(ii) Such proprietor shall pay a penalty not exceeding one hundred pounds;

(*c*) In the case of a third or subsequent such contravention, order that —

(i) Such proprietor be cautioned; or

(ii) Such proprietor shall pay a penalty not exceeding one hundred pounds; or

(iii) Any licence held by such proprietor in respect of the scheduled premises concerned shall not be renewed or replaced upon its expiry and that the licensing authority shall not issue or grant another such licence to such proprietor during such period, not exceeding three years, as the board may specify:

Provided that no order shall be made under this sub-paragraph in respect of any licence issued for the year 1960.

(3) No order shall be made under the provisions of subsection 2 of this section in any case where the racial discrimination concerned was practised by an employee of the proprietor and such proprietor proves to the satisfaction of the Board —

(*a*) That he did not instigate or abet such discrimination; and

(*b*) That he had taken all reasonable steps to prevent any such discrimination.

. . .

18. . . .

(2) Any party may appear before a tribunal either in person or by a legal practitioner.

. . .

(4) A board may —

. . .

(*c*) Award to any party to a further complaint such costs as the board considers reasonable, and may direct how such costs are to be paid, and the costs awarded may be recovered, from the party ordered to pay such costs by the party to whom they were awarded, by civil action.

. . .

[Section 19 provides a proprietor who is dissatisfied with an order of a Board with a right of appeal to the High Court.]

. . .

Part V

MISCELLANEOUS

. . .

27. Any person who —

(*a*) Enters, or behaves in, any scheduled premises in such a manner as to indicate that his purpose is not only to obtain the normal services provided in such premises by the proprietor; or

(*b*) Acts in any scheduled premises in an insulting, provocative or offensive manner towards any person of a different race or colour; or

(*c*) Incites or endeavours to incite any other person to enter, behave or act in such manner as aforesaid;

shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

. . .

31. This ordinance shall cease to have effect on the thirty-first day of August, 1963, unless continued in force by motion of the Legislative Council.

. . .

SECOND SCHEDULE

(*Section 2*)

SCHEDULED PREMISES

Premises used as —

Tea rooms, cafés, restaurants, hotel dining-rooms, hotel lounges other than bar lounges, cinemas licensed under the Theatres and Cinematograph Exhibition Ordinance.

NYASALAND

THE PRESERVATION OF PUBLIC SECURITY ORDINANCE, 1960

ORDINANCE NO. 1 OF 1960, ASSENTED TO ON 17 MAY 1960[1]

2. In this ordinance, the expression "public security" includes the securing of the safety of persons and property, the maintenance of supplies and services essential to the life of the community, the prevention and suppression of violence, intimidation, disorder and crime, the maintenance of the administration of justice and the prevention and suppression of mutiny, rebellion and concerted defiance of and disobedience to lawfully constituted authority and the laws in force in the protectorate.

3. (1) If at any time the Governor is satisfied that it is necessary for the preservation of public security so to do, he may, by notice in the *Gazette*, declare that the provisions of subsections 2 and 3 shall come into operation and thereupon those provisions shall come into operation accordingly; and they shall continue in operation until the Governor, by further notice in the *Gazette*, directs that they shall cease to have effect, whereupon they shall cease to have effect except as respects things previously done or omitted to be done.

(2) Subject to the provisions of subsection 3, the Governor may, for the preservation of public security, by regulations —

(*a*) Make provision for the prohibition of the publication and dissemination of matter which appears to him to be prejudicial to public security, and, to the extent which appears to him to be necessary for that purpose, for the regulation and control of the production, publishing, sale, supply, distribution and possession of publications;

(*b*) Make provision for the prohibition, restriction and control of assemblies;

(*c*) Make provision for the prohibition, restriction and control of residence, movement and transport of persons, the possession, acquisition, use and

[1] Published in *The Nyasaland Gazette Supplement* of 20 May 1960. The ordinance entered into force on 15 June 1960. The Government of the United Kingdom has written that "shortly before the ending of the State of Emergency on 16th June, 1960, and to enable the Government to preserve peace and order thereafter, the Governor brought into force Subsections 2 and 3 of section 3 of the Preservation of Public Security Ordinance and the Detained Persons (Special Provisions) Ordinance. On 27 September 1960 the Governor ordered the release of all remaining detainees under the emergency and the cancellation of all control orders. There are now no political detainees in Nyasaland."

transport of movable property, and the entry to, egress from, occupation and use of immovable property;

(*d*) Make provision for the regulation, control and maintenance of supplies and services;

(*e*) Make provision for, and authorize the doing of, such other things as appear to him to be strictly required by the exigencies of the situation in the protectorate.

(3) Regulations made under this section shall not make provision for any of the matters set out in subsection 2 of section 4.

(4) The coming into operation of subsection 2 of section 4 of this Ordinance shall not cause the provisions of subsections 2 and 3 of this section to cease to have effect.

4. (1) If at any time the Governor is satisfied that the situation in the Protectorate is so grave that the exercise of the powers conferred by section 3 is inadequate to ensure the preservation of public security, he may, by proclamation, declare that the provisions of subsection 2 shall come into operation and thereupon those provisions shall come into operation accordingly; and they shall continue in operation until the Governor, by a further proclamation, directs that they shall cease to have effect except as respects things previously done or omitted to be done.

(2) The Governor may, for the preservation of public security, make regulations to provide, so far as appears to him to be strictly required by the exigencies of the situation in the Protectorate, for (*a*) the detention of persons; (*b*) requiring persons to do work and render services.

5. Regulations made under section 3 or section 4 may —

(*a*) Make provision for the payment of compensation and remuneration to persons affected by the regulations;

(*b*) Make provision for the apprehension and trial of persons offending against the regulations, and, notwithstanding the provisions of paragraph (*b*) of section 13 of the Interpretation and General Clauses Ordinance, for such penalties as the Governor may think fit for offences thereunder;

(*c*) make provision for amending, or for suspending the operation of, any law other than —

(i) An Act of the Imperial Parliament (and any laws made under such Act) which cannot be amended or excluded by a law enacted by the Legislative Council;

(ii) An enactment of the Federal Legislature and any laws made under any such enactment;

. . .

Provided that nothing in the foregoing provisions of this section or in the provisions of section 3 or section 4 shall authorize the making of any regulations providing for the trial of persons by military courts.

. . .

THE DETAINED PERSONS (SPECIAL PROVISIONS) ORDINANCE, 1960

ORDINANCE NO. 2 OF 1960, ASSENTED TO ON 17 MAY 1960[1]

2. (1) In this ordinance, unless the context otherwise requires —

"Place of detention" means any place prescribed by or under regulations made under this Ordinance for the detention of specified persons;

"Specified person" means —

(*a*) Any person in respect of whom, immediately prior to the commencement of this ordinance, a detention order made under regulation 24 of the Emergency Regulations, 1959, was in force, whether or not the operation of such detention order has been suspended under that regulation and whether or not such person was, or had at any time previously been, detained in pursuance thereof; or

(*b*) Any person declared under subsection 2 to be a specified person for the purposes of this ordinance.

(2) If on the commencement of this ordinance the Governor is satisfied with respect to any person (*a*) that such person is for the time being outside the protectorate; and (*b*) that, if such person entered the protectorate, it would be necessary for securing the public safety and the maintenance of public order to exercise control over such person, he may, by notice published in the *Gazette* not later than seven days after the commencement of this ordinance, declare such person to be a specified person for the purposes of this ordinance.

3. (1) The Governor may, for securing the public safety and the maintenance of public order, make regulations to provide, so far as appears to him to be strictly required by the exigencies of the situation in the protectorate, for —

(*a*) The detention of specified persons;

(*b*) The prohibition and control of the residence and movement of specified persons;

(*c*) The prohibition and control of the possession, use, acquisition and disposal of movable pro-

[1] Published in *The Nyasaland Gazette Supplement* of 20 May 1960. The ordinance entered into force on 15 June 1960.

perty by specified persons while in detention or under control of residence or movement in pursuance of the regulations, their association and communication with other persons, and the receipt and despatch by them of postal, telegraphic and other communications:

Provided that, if regulations providing for any of the matters aforesaid are made under this subsection, provision shall likewise be made requiring that a review of the case of each person detained in pursuance of such regulations shall be carried out by a reviewing authority, which shall be the Governor or a tribunal appointed by the Governor, at least once during every successive period of six months so long as such person remains detained in pursuance of such regulations, and that such review shall be directed to securing the termination of such detention if and as soon as such termination can in the opinion of the Governor be effected without serious prejudice to the securing of the public safety and the maintenance of public order, due regard being had to the extent to which, in the opinion of the reviewing authority, that person is no longer likely to commit or to instigate others to commit or to be the cause of others committing acts of violence or public disorder and to the likely effect, in the opinion of the reviewing authority, of such termination on the continued necessity to exercise control under this ordinance over other specified persons.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations made under subsection 1 may, so far as appears to the Governor necessary or desirable for the purposes of such regulations —

(*a*) Make provision for the registration, and the maintenance of records and particulars of specified persons, and for the taking of photographs and fingerprints of such persons;

. . .

(*d*) Make provision for the prohibition of the production, publishing, sale, supply, distribution and possession by and to specified persons of matter, and of publications containing matter, prejudicial to the public safety or the maintenance of public order or otherwise calculated, by reason of its likely effect upon such persons, to render it necessary to continue to exercise control over them under this ordinance;

. . .

SINGAPORE

AMENDMENTS TO THE SINGAPORE CITIZENSHIP ORDINANCE, 1957

NOTE

The provisions of the Singapore Citizenship Ordinance, 1957, which appear in the *Yearbook on Human Rights for 1957*, pp. 287–90, were amended, up to the end of 1960, as follows:

1. By inserting "recruited outside Malaya" after "person" in the first line of section 11, paragraph (*a*). (Singapore Citizenship (Amendment) Ordinance, 1958, ordinance No. 1 of 1958, entering into force on 15 January 1958, as amended by ordinance No. 6 of 1958.)

2. By the operation of the following provisions of the Singapore Citizenship (Amendment) Ordinance, 1959, ordinance No. 36 of 1959, entering into force on 3 June 1959:

"2. Section 2 of the Singapore Citizenship Ordinance, 1957 (hereinafter in this ordinance referred to as the 'principal Ordinance') is hereby amended

"(*a*) By renumbering the existing section as subsection (1);

"(*b*) By deleting the definition of 'Commonwealth country' appearing in subsection (1) thereof; and

"(*c*) By adding a new subsection thereto as follows:

" '(2) In calculating for the purposes of this ordinance any period of residence in Singapore no account shall be taken —

" '(*a*) Of any period during which a person was not lawfully resident in Singapore; or

" '(*b*) Of any period spent as an inmate of any prison or as a person detained in lawful custody in any other place other than a mental hospital under the provisions of any written law of Singapore; or

" '(*c*) Save with the consent of the Minister, of any period during which a person is allowed to remain temporarily in Singapore under the authority of any pass issued under the provisions of any written law of Singapore or the Federation of Malaya relating to immigration.'

"3. The principal ordinance is hereby amended by inserting immediately after section 3 thereof the following new section:

" '. . . 3A. (1) Every person who —

" '(*a*) Under this ordinance is a citizen of Singapore; or

" '(*b*) Under the British Nationality Act, 1948, as from time to time amended, is a citizen of the United Kingdom and colonies; or

" '(*c*) Is a citizen of any country, other than the State of Singapore, for the time being included in subsection (3) of section 1 of the British Nationality Act, 1948,

shall by virtue of that citizenship have the status of a British subject.

" '(2) Any person having the status aforesaid may be known either as a British subject or as a Commonwealth citizen; and accordingly in this ordinance and in any other enactment or instrument whatever whether passed before or after the commencement of this ordinance the expression "British subject" and the expression "Commonwealth citizen" shall have the same meaning.'

"4. Section 5 of the principal ordinance is hereby amended by inserting a full-stop immediately after the word 'later' appearing in the fifth line of the proviso thereto and by deleting paragraphs (*a*) and (*b*) of the said proviso.

"5. Subsection 2 of section 8 of the principal ordinance is hereby amended by deleting the words 'Commonwealth country' appearing in the third line thereof and substituting therefor the words 'country, other than the State of Singapore, for the time being included in subsection 3 of section 1 of the British Nationality Act, 1948.'

"6. Section 12 of the principal ordinance is hereby amended by inserting immediately after the word 'refusing' appearing in the first line of the proviso thereto the word 'such'.

"7. Section 18 of the principal ordinance is hereby repealed and the following substituted therefor:

" '. . . 18. In calculating for the purposes of this ordinance a period of residence in Singapore (*a*) a period of absence from Singapore of less than six months in the aggregate; and (*b*) a period of absence from Singapore exceeding six months in the aggregate for any cause generally or specially approved by the Minister,

shall be treated as residence in Singapore; and a person shall be deemed to be resident in Singapore on a particular day if he had been resident in Singapore before that day and that day is included in any such period of absence as aforesaid.'

"8. Section 22 of the principal ordinance is hereby amended —

"(*a*) By deleting the words 'a citizen of Singapore by registration or by naturalization' appearing in the first and second lines of subsection 3 and in the second line of subsection 4 thereof and substituting therefor the words 'any such citizen';

"(*b*) By deleting paragraph (*b*) of subsection 4 thereof and substituting therefor the following:

" '(*b*) Registered annually in the prescribed manner his intention to retain his citizenship'."

"3. By the operation of the following provisions of the Singapore Citizenship (Amendment No. 1) Ordinance, 1960, ordinance No. 41 of 1960, entering into force on 27 May 1960:

" '1. . . .

" '(2) Sections 2 and 3 of this ordinance shall be deemed to have come into operation on the 6th day of April, 1960.

" '2. Section 8 of the Singapore Citizenship Ordinance, 1957 (hereinafter in this ordinance referred to as the "principal ordinance") is hereby amended by deleting subsections 1 and 2 thereof and substituting therefor the following:

" '(1) A person who is born in the Federation of Malaya shall be entitled on making application therefor to the Minister in the prescribed form to be registered as a citizen of Singapore if he satisfies the Minister that he —

" '(*a*) Is of full age and capacity;

" '(*b*) Is of good character;

" '(*c*) Has resided in Singapore throughout the twelve months immediately preceding the date of his application; and

" '(*d*) Has during the twelve years immediately preceding the date of his application resided in Singapore for periods amounting in the aggregate to not less than eight years.

" '(2) A person who is a citizen of the United Kingdom and Colonies or of the Republic of Ireland or of a country, other than the State of Singapore, for the time being included in subsection 3 of section 1 of the British Nationality Act, 1948, may, on making application therefor in the prescribed manner, be registered as a citizen of Singapore if he satisfies the Minister that he —

" '(*a*) Is of full age and capacity;

" '(*b*) Is of good character;

" '(*c*) Has resided in Singapore throughout the twelve months immediately preceding the date of his application;

" '(*d*) Has during the twelve years immediately preceding the date of his application resided in Singapore for periods amounting in the aggregate to not less than eight years; and

" '(*e*) Intends to reside permanently in Singapore.'

"3. Section 15 of the principal ordinance is hereby amended —

"(*a*) By deleting the word 'eight' appearing in the last line of paragraph (*d*) thereof and substituting therefor the word 'ten'; and

"(*b*) By inserting immediately after subsection 3 thereof the following new subsection:

" '(4) Where an application is made under this section on or after the 1st day of January, 1961, such application shall not be granted unless the applicant satisfies the Minister that he has an elementary knowledge of the national language:

" 'Provided that the Minister may exempt an applicant who has attained the age of forty-five years from compliance with the provisions of this subsection.'

"4. Section 21 of the principal ordinance is hereby amended —

"(*a*) By deleting subsection (1) thereof and substituting therefor the following:

" '(1) If the Minister is satisfied that any citizen of Singapore by birth, descent, registration or naturalization has at any time after the 6th day of April, 1960, acquired by registration, naturalization or other voluntary and formal act (other than marriage) the citizenship of any country outside Malaya, the Minister may declare such person to have ceased to be a citizen of Singapore.

" '(2) Any citizen specified in subsection 1 of this section who has at any time after the 6th day of April, 1960, voluntarily claimed and exercised any rights available to him under the law of any foreign country, being rights accorded exclusively to the citizens or nationals of that foreign country, shall cease to be a citizen of Singapore. If any question arises as to whether any such person has ceased to be a citizen of Singapore under this subsection the same shall be determined by the Minister whose declaration thereon shall be final and shall not be called in question in any court.

" '(3) If the Minister is satisfied that any citizen specified in subsection 1 of this section has at any time after the 6th day of April, 1960, voluntarily claimed and exercised any rights available to him under the law of the United Kingdom or of the Republic of Ireland or of any other country, other than the State of Singapore or the Federation of Malaya, for the time being included in subsection 3 of section 1 of the British Nationality Act, 1948, being rights not available to other Commonwealth citizens, the Minister may declare such person to have ceased to be a citizen of Singapore.' and

"(*b*) by renumbering the existing subsection 2 thereof as subsection 4.

"5. Subsection 3 of section 22 of the principal ordinance is hereby amended —

"(*a*) By deleting the full-stop appearing at the end of paragraph (c) thereof and substituting therefor a semi-colon and the word 'or;' and

"(*b*) By inserting the following new paragraph:

" '(*d*) Has at any time after registration or naturalization been engaged in any activities which are prejudicial to the security of Malaya, or the maintenance of public order therein, or the maintenance therein of essential services, or in any criminal activities which are prejudicial to the interests of public safety, peace or good order.' "

4. By the operation of the following provisions of the Singapore Citizenship (Amendment No. 2) Ordinance, 1960, ordinance No. 68 of 1960, entering into force on 9 December 1960:

"2. Section 8 of the Singapore Citizenship Ordinance, 1957 (hereinafter in this Ordinance referred to as 'principal ordinance'), is hereby amended by inserting immediately after subsection 2 thereof the following new subsection:

" '(2 A) (*a*) A person who was born in the Federation of Malaya or who is a citizen of the United Kingdom and colonies or of the Republic of Ireland or of a country, other than the State of Singapore, for the time being included in subsection 3 of section 1 of the British Nationality Act, 1948, may on making application therefor in the prescribed form be registered as a citizen of Singapore if he satisfied the Minister that he —

(i) Has served satisfactorily for a period of not less than three years in full-time service or for a period of not less than five years part-time service in such of the armed forces of Singapore as the Minister may prescribe by notification in the *Gazette*;

(ii) Intends to reside permanently in Singapore.

" '(*b*) An application under this subsection may be made either while the applicant is serving in such service as aforesaid or within the period of five years, or such longer period as the Minister may in any particular case allow, after his discharge.

" '(*c*) In calculating for the purposes of this section the period of full-time service in such forces of a person who has served both in full-time and in part-time service, any two months of part-time service shall be treated as one month of full-time service.'

"3. Section 11 of the principal ordinance is hereby amended by deleting the expression 'sections 8 and 9' appearing in the first line thereof and substituting therefor the expression 'sections 8, 9 and 15'.

"4. Subsection 2 of section 15 of the principal ordinance is hereby amended by deleting the expression 'three years in full-time service or for a period of not less than four years' appearing in the second and third lines of sub-paragraph (i) of paragraph (*a*) thereof and substituting therefor the words 'four years in full-time service or for a period of not less than six years'."

UNITED STATES OF AMERICA

DEVELOPMENTS IN NON-SELF-GOVERNING TERRITORIES

See pp. 359–360 and 365, concerning American Samoa and Guam.

PART III

INTERNATIONAL AGREEMENTS

INTERNATIONAL LABOUR ORGANISATION

NOTE[1]

At its 44th Session (Geneva, 1960), the International Labour Conference adopted the following three instruments:

Radiation Protection Convention, 1960 (No. 115);

Radiation Protection Recommendation, 1960 (No. 114);

Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113).

The texts of these instruments are reproduced in the *Official Bulletin* of the International Labour Office, vol. XLIII, 1960, No. 2.

[1] Information furnished by the International Labour Office.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

NOTE[1]

At its Tenth Session in 1958, the General Conference of UNESCO adopted the following two conventions:

Convention concerning the International Exchange of Publications, UNESCO Document 10C/Resolutions, p. 87 (1958);

Convention concerning the Exchange of Official Publications and Government Documents between States, UNESCO Document 10C/Resolutions, p. 90 (1958).

At its Eleventh Session in 1960, the General Conference adopted the following three instruments:

Convention against Discrimination in Education, UNESCO Document 11C/Resolutions, p. 119 (1960);

Recommendation against Discrimination in Education, UNESCO Document 11C/Resolutions, p. 123 (1960);

Recommendation concerning the most effective means of rendering museums accessible to everyone, UNESCO Document 11C/Resolutions, p. 125 (1960).

[1] Information furnished by the secretariat of UNESCO.

OTHER AGREEMENTS

MULTILATERAL AGREEMENT ON THE FUNDAMENTAL RIGHTS OF NATIONALS OF THE STATES OF THE COMMUNITY

Concluded on 22 June 1960 between the French Republic, the Federation of Mali and the Malagasy Republic[1]

The Governments of the contracting States,

Deeming it to be in accordance with the spirit of the Community that any national of one member State of the Community should be able to enjoy fundamental rights in the territory of all the other member States, without prejudice to such rights as may be granted to him under conventions of establishment,

Being desirous of defining the said rights,

Have agreed on the following provisions:

Art. 1. Any national of one State of the Community shall enjoy public freedoms in the territory of any other State of the Community on the same terms as the nationals of such other State.

In particular, the free exercise of cultural, religious, economic, professional and social activities, individual and public freedoms such as freedom of thought, conscience, religion and worship, opinion, expression, assembly and association, and freedom to join trade unions, are guaranteed in conformity with the Universal Declaration of Human Rights.

These rights and freedoms shall be exercised in conformity with the laws in force in the territory of each of the contracting parties.

Art. 2. Any national of one State of the Community shall be free to enter or leave the territory of any other State of the Community, and to travel and establish his residence wherever he may choose within that territory.

This provision shall be without prejudice to the right of each State to take the necessary measures for the maintenance of public order and for the protection of public health, morality and security.

Art. 3. Without prejudice to any agreements between the Contracting Parties, each State of the Community shall define in its legislation the conditions under which nationals of other States of the Community may exercise civil and political rights in its territory.

Art. 4. Any national of one State of the Community shall enjoy in the territory of every other State of the Community the full protection of the law in respect of his person, his property and his other interests.

He shall have access to the courts of every other State of the Community on the same terms as the nationals of such other State.

He shall receive in the territory of every other State of the Community the same treatment as the nationals of such other State with respect, in particular, to the right to invest capital, to acquire, own, administer or lease movable or immovable property, rights and interests of all kinds, and to enjoy and dispose of such property, rights and interests.

Art. 5. Any national of one State of the Community shall benefit in the territory of every other State of the Community, on the same terms as the nationals of such other State, from any provisions under which the State or a public body is liable to pay compensation in respect of damage to persons or property.

Art. 6. No national of a State of the Community may be subjected to any arbitrary or discriminatory measure likely to jeopardize his property or interests, in particular where such property and interests consist in a direct or indirect share in the assets of a company or other corporate body. His property shall not be liable to expropriation on grounds of the public interest or of nationalization, except against reasonable compensation previously paid or guaranteed.

Art. 7. This agreement shall be open for signature by any member State of the Community from . . . . . 1960.

It shall come into force, in respect of those States, from the date on which at least two signatory States notify the government acting as depositary that they have completed the constitutional formalities required for this purpose.

It shall become effective in respect of each succeeding signatory State from the date on which such a notification is made by that State.

[1] See page 135. This agreement was ratified by Act No. 60-683 of 18 July 1960 (*Journal officiel de la Rèpublique française*, No. 166 of 18 July 1960) and its text is contained in Decree No. 60-694 of 19 July 1960 (*Journal officiel*, No. 167 of 20 July 1960). The agreement was promulgated for the Malagasy Republic by Act No. 60-009 of 5 July 1960 (*Journal officiel de la République Malgache* of 9 July 1960).

Art. 8. By unanimous agreement of the contracting parties and subject to reciprocity, the provisions of this agreement may be extended to the nationals of other States, in particular of African States.

Art. 9. This agreement shall be deposited in the archives of the Government of the Malagasy Republic, which shall transmit a certified true copy to each signatory State and to each State which becomes a party to the agreement under the terms of article 8.

STATUS OF CERTAIN INTERNATIONAL AGREEMENTS[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 1960, the following became parties to the convention, by instruments of ratification or accession deposited on the dates indicated: Peru (24 February) and Venezuela (12 July).

2. *Convention relating to the Status of Refugees (Geneva, 1951)* (see *Yearbook on Human Rights for 1951*, pp. 581–8)

During 1960, the following became parties to the convention, by instruments of ratification or accession deposited on the dates indicated: Brazil (16 November), Greece (5 April), New Zealand (30 June) and Portugal (22 December).

3. *Convention on the Political Rights of Women (New York, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 375–6)

Turkey became a party to the convention, by instrument of ratification deposited on 26 January 1960.

4. *Convention on the International Right of Correction (New York, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 373–5)

No states became parties to the convention during 1960.

5. *Slavery Convention of 1926 as amended by the Protocol of 7 December 1953 (New York, 1953)* (see *Yearbook on Human Rights for 1953*, pp. 345–6)

No states became parties to the convention during 1960.

6. *Convention on the Status of Stateless Persons (New York, 1954)* (see *Yearbook on Human Rights for 1954*, pp. 369–75)

During 1960, the following became parties to the convention, by instruments of ratification or accession deposited on the dates indicated: Belgium (27 May), France (8 March) and Luxembourg (27 June).

7. *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Geneva, 1956)* (see *Yearbook on Human Rights for 1956*, pp. 289–91)

During 1960, the following became parties to the convention, by instruments of ratification or accession deposited on the dates indicated: Ecuador (29 March), India (23 June) and Norway (3 May).

8. *Convention on the Nationality of Married Women (New York, 1957)* (see *Yearbook on Human Rights for 1957*, pp. 301–2)

During 1960, the following became parties to the convention, by instruments of ratification or accession deposited on the dates indicated: Albania (27 July), Bulgaria (22 June), Ecuador (29 March), Guatemala (13 July) and Romania (2 December).

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 1960.

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 1960.

3. *Freedom of Association and Protection of the Right to Organize Convention, 1948* (see *Yearbook on Human Rights for 1948*, pp. 427–30)

During 1960, the ratifications of the following were registered, on the dates indicated: Argentina (18 January), Cameroun (7 June), the Central African Republic (27 October), Chad (10 November), Congo (Brazzaville) (10 November), Costa Rica (2 June), Dahomey (12 December), Gabon (14 October), Ivory Coast (21 November), Madagascar (1 November), Mali (22 September), Nigeria (17 October), Peru (2 March), Senegal (4 November), Togo (7 June), United Arab Republic (26 July) and Upper Volta (21 November). (Cameroun, the Central

[1] Concerning the status of these agreements at the end of 1959, see *Yearbook on Human Rights for 1959*, pp. 373–5. The information contained in the present statement concerning International Labour conventions and agreements adopted under the auspices of the Organisation of American States and the Council of Europe was furnished by the International Labour Office, the Pan American Union and the Secretariat-General of the Council of Europe, respectively. The information concerning the Geneva conventions of 12 August 1949 was taken from the *Annual Report, 1960*, of the International Committee of the Red Cross. With the exception of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character and the Agreement on the Importation of Educational, Scientific and Cultural Materials and Protocol thereto (for which the Secretary-General of the United Nations acts as depositary), the information concerning agreements adopted under the auspices of UNESCO was furnished by the secretariat of UNESCO.

African Republic, Chad, Congo (Brazzaville), Dahomey, Gabon, Ivory Coast, Madagascar, Mali, Nigeria, Senegal, Togo and Upper Volta confirmed the obligations under the Convention which had previously been accepted on their behalf).

4. *Right to Organise and Collective Bargaining Convention, 1949* (see *Yearbook on Human Rights for 1949*, pp. 291–2)

During 1960, the ratifications of the following were registered, on the dates indicated: Costa Rica (2 June) and Nigeria (17 October). (Nigeria confirmed the obligations under this Convention which had previously been accepted on its behalf.)

5. *Equal Remuneration Convention, 1951* (see *Yearbook on Human Rights for 1951*, pp. 469–70)

During 1960, the ratifications of the following were registered on the dates indicated: Costa Rica (2 June), Denmark (21 June) Peru (1 February) and the United Arab Republic (26 July).

6. *Social Security (Minimum Standards) Convention, 1952* (see *Yearbook on Human Rights for 1952*, pp. 377–89)

No States ratified the convention during 1960.

7. *Maternity Protection Convention (Revised), 1952* (see *Yearbook on Human Rights for 1952*, pp. 389–92)

No States ratified the convention during 1960.

8. *Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955* (see *Yearbook on Human Rights for 1955*, pp. 325–7)

The ratification of Portugal was registered on 12 April 1960.

9. *Abolition of Forced Labour Convention, 1957* (see *Yearbook on Human Rights for 1957*, pp. 303–4)

During 1960, the ratifications of the following were registered, on the dates indicated: Argentina (18 January), Australia (7 June), Cyprus (23 September), Finland (27 May), Iceland (29 November), Nigeria (17 October), Pakistan (15 February), Peru (6 December), Philippines (17 November) and Somalia (ex British Somaliland) (18 November). (Cyprus, Nigeria and Somalia confirmed the obligations under the Convention which had previously been accepted on their behalf.)

10. *Discrimination (Employment and Occupation) Convention, 1958* (see *Yearbook on Human Rights for 1958*, pp. 307–8)

During 1960, the ratifications of the following were registered on the dates indicated: Bulgaria (22 July), Denmark (21 June), Guatemala (11 October) Guinea (1 September), Honduras (20 June), India (3 June), Philippines (17 November) and the United Arab Republic (10 May).

11. *Minimum Age (Fishermen) Convention, 1959* (see *Yearbook on Human Rights for 1959*, pp. 367–8)

The ratifications of Guinea and Liberia were registered on 7 November 1960 and 9 May 1960 respectively.

12. *Medical Examination (Fishermen) Convention, 1959* (see *Yearbook on Human Rights for 1959*, pp. 368)

The ratifications of Guinea and Liberia were registered on 7 November 1960 and 9 May 1960 respectively.

13. *Fishermen's Articles of Agreement Convention, 1959* (see *Yearbook on Human Rights for 1959*, pp. 368–70)

The ratifications of Guinea and Liberia were registered on 7 November 1960 and 9 May 1960 respectively.

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)

Ghana became a party to the agreement, by instrument of accession deposited on 22 March 1960.

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)

Denmark and Guatemala became parties to the agreement, by instruments of ratification or accession deposited on 4 April 1960 and 8 July 1960 respectively.

3. *Universal Copyright Convention and Protocols thereto (Geneva, 1952)* (see *Yearbook on Human Rights for 1952*, pp. 398–403)

Belgium became a party to the convention and to protocols I, II and III, by instrument of ratifiication deposited on 31 May 1960.

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 1960, the following became parties to the convention, by instruments of ratification or accession deposited on the dates indicated: Albania (20 December), Belgium (16 September), Dominican Republic (5 January), Ghana (25 July), Guinea (20 September), Lebanon (1 June), Liechtenstein (28 April), Malaya (12 December) and Spain (7 July).

During 1960, the following became parties to the protocol, by instruments of ratification or accession

deposited on the dates indicated: Albania (20 December), Belgium (16 September), Ghana (25 July), Lebanon (1 June), Liechtenstein (28 April) and Malaya (12 December).

5. *Convention concerning the International Exchange of Publications (Paris, 1958).* (See p. 434, above)

Up to the end of 1960, the following had become parties to the convention, by instruments of ratification deposited on the dates indicated: France (30 May 1960), Guatemala (23 November 1960) and Israel (4 January 1960).

The convention entered into force on 23 November 1961.

6. *Convention concerning the Exchange of Official Publications and Government Documents between States (Paris 1958)* (See p. 434, above)

Up to the end of 1960, the following had become parties to the convention, by instruments of ratification deposited on the dates indicated: Ceylon (7 December 1959), France (30 May 1960), Guatemala (23 November 1960) and Israel (4 January 1960).

The convention entered into force on 30 May 1961.

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 States became parties to the convention during 1960.

2. *Inter-American Convention on the Granting of Political Rights to Women (Bogotá, 1948)* (see *Yearbook on Human Rights for 1948*, pp. 438–9)

No States became parties to the convention during 1960.

3. *Inter-American Convention on the Granting of Civil Rights to Women (Bogotá, 1948)* (see *Yearbook on Human Rights for 1948*, pp. 439–40)

No States became parties to the convention during 1960.

4. *Convention on Diplomatic Asylum (Caracas, 1954,* (see *Yearbook on Human Rights for 1955*, pp. 330–2)

No States became parties to the convention during 1960.

5. *Convention on Territorial Asylum (Caracas, 1954)* (see *Yearbook on Human Rights for 1955*, pp. 329–30)

No States became parties to the convention during 1960.

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 States became parties to the convention during 1960.

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 States became parties to the protocol during 1960.

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)

No States became parties to the agreement or the protocol during 1960.

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)

No States became parties to the Agreement or the protocol during 1960.

5. *European Convention on Social and Medical Assistance, and Protocol thereto (Paris, 1953)* (see *Yearbook on Human Rights for 1953*, pp. 359–61)

Greece became a party to the convention and to the Protocol by ratifications deposited on 23 June 1960.

6. *European Convention on Establishment (Paris, 1955)* (see *Yearbook on Human Rights for 1956*, pp. 292–7)

No States became parties to the convention during 1960.

VI. Other Instruments

Geneva Conventions of 12 August 1949 (see *Yearbook on Human Rights for 1949*, pp. 299–309)

No States became parties to the conventions during 1960.

INDEX

When the item on a particular page to which reference is made in this index is not readily identifiable, a further reference is given in parentheses after the page number. This further reference is usually the date or reference number of the enactment, judicial decision or international agreement in question, or the number of the provision concerned or the number of the heading under which the item appears.

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