YEARBOOK ON HUMAN RIGHTS FOR 1971

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INTERNATIONAL AGREEMENTS

YEARBOOK ON HUMAN RIGHTS FOR 1971

INTRODUCTION

In conformity with the guidance given in Economic and Social Council resolution 683D (XXVI) of 21 July 1958, the twenty-sixth volume in the series *Yearbook on Human Rights* contains the texts of, or extracts from, new constitutions, constitutional amendments, legislation, general governmental decrees and administrative orders and reports on court decisions rendered in 1971, relating to human rights.

Part I of this volume describes constitutional, legislative and judicial developments in 77 States. Part II reports on legislative and judicial developments in one Trust Territory and one Non-Self-Governing Territory. Part III reproduces the texts of, or extracts from, certain international agreements bearing on human rights.

Like the 1970 and earlier volumes, the present *Yearbook on Human Rights* contains material originating from Governments, government-appointed correspondents and research work done within the United Nations Secretariat.

Constitutional developments in 1971 include the promulgation of new constitutions in Bulgaria and Egypt and the adoption of provisional constitutions in the Sudan and the United Arab Emirates. Each of these constitutions embodies certain of the principles proclaimed in the Universal Declaration of Human Rights.

The Bulgarian Constitution provides *inter alia* that the People's Republic of Bulgaria is a socialist State of the working people of town and country with the working class at its head (art. 1 (1)); that in the People's Republic of Bulgaria all power derives from the people and belongs to the people (art. 2 (1)); that the fundamental principles on which the building and operation of the political system of society shall be based are sovereignty of the people, unity of power, democratic centralism, socialist democracy, legality and socialist internationalism (art. 5); that the representative organs shall be elected on the basis of universal, equal and direct suffrage, by secret ballot (art. 6 (1)) and that all citizens who have attained the age of 18 are eligible to elect and to be elected without distinction as to sex, nationality, race, religion, education, occupation, service record, social status or material situation, with the exception of persons placed under total legal disability (art. 6 (3)); that the rights, freedoms and duties prescribed in the Constitution shall be exercised and performed in accordance therewith, except where the Constitution itself provides that the conditions and manner of their exercise or performance are to be determined by law (art. 9 (1)); that the economic system is a socialist system, is based on collective ownership of the means of production, precludes the exploitation of man by man and is developing, on the basis of planning, into a communist economy (art. 13 (1)); that citizens have the right to personal ownership of immovable property and movable goods for the satisfaction of their own and their families' needs (art 21. (1)); that all citizens are equal before the law and that no privileges or restrictions of rights based on nationality, origin, sex, race, education, social status or material situation are recognized (art. 35 (1) and (2)); that women and men enjoy equal rights in the People's Republic of Bulgaria (art. 36); that citizens have the right to work and freely to choose their occupation (art. 40 (1) and (2)); that citizens have the right to insurance, a pension and allowances in the event of inability to work, illness, accident, maternity, disablement, old age or death and for the education of children, and to grants in the cases described by law and that this right shall be guaranteed by a standardized social insurance scheme and the allocation from the national income of the resources necessary for financing insurance (art. 43 (1) and (2)); that citizens have the right to education free of charge at all levels and in all categories of educational establishment as prescribed by law (art. 45 (1)); that every citizen has the right to free medical care (art. 47 (3)); that freedom and inviolability of the individual are guaranteed (art. 48 (1)); that every citizen has the right to protection from unlawful interference in his personal or family life and against any attack on his honour and reputation (art. 50); that citizens have the right to form non-profit political, professional, cultural, artistic, scientific, religious, sporting and other organizations (art. 52 (1)); that every citizen is required to contribute to the maintenance and strengthening of peace and that incitement to war and war propaganda are serious crimes against peace and mankind and, as such, are prohibited and punishable by law (art. 63 (1) and (2)).

The Egyptian Constitution, adopted by referendum on 11 September 1971, provides *inter alia* that the Arab Republic of Egypt is a democratic socialist State based on an alliance of the people's working forces and that the Egyptian people are part of the Arab nation seeking to realize total unity (art. 1); that Islam is the religion of the State, Arabic is its official language, and the principles of the Islamic Shari'a are a major source of legislation (art. 2); that sovereignty belongs only to the people who are the source of authority (art. 3); that the economic basis of the Republic is the socialist system which is based on adequacy and justice in a manner preventing exploitation and aiming at removing class distinction (art. 4); that the State

will guarantee equal opportunities to all citizens (art. 8); that the family forms the basis of society and is built on religion, morals and patriotism (art. 9); that employment is a right, duty and honour guaranteed by the State (art. 13); that education is a right guaranteed by the State and is compulsory at the elementary stage (art. 18); that education at the State's educational establishments will be free at all stages (art. 20); that eliminating illiteracy is a national duty and that all the people's efforts will be mobilized to realize it (art. 21); that the national income will be organized on the basis of a comprehensive development plan guaranteeing an increase in national income, just distribution, raising the standard of living, ending unemployment, increasing work opportunities, linking wages with production, guaranteeing a minimum wage and fixing a maximum wage to insure that differences in income are narrowed (art. 23); that the people will control all means of production and will use their surplus according to the development plan drafted by the State (art. 24); that the State will patronize all forms of co-operative establishments and encourage handicraft industries in order to develop production and increase income, and the State will develop agricultural co-operative societies on modern scientific bases (art. 28); that all citizens are equal before the law and in their public rights and obligations without distinction as to race, origin, language, religion or creed (art. 40); that the State guarantees the freedom of religion and worship (art. 46); and that the People's Assembly exercises the legislative power, approves the State's general policy, the general plan for social and economic development and the State's general budget and exercises control over the acts of the executive in the manner prescribed in the Constitution (art. 86).

The Provisional Constitution of the Sudan, promulgated by Republican Order No. 5 of August 1971, provides, *inter alia*, that the Democratic Republic of the Sudan is a sovereign, democratic socialist State, based on an alliance of the forces of the working people (art. 3); that the sovereignty belongs to the forces of the working people and shall be exercised in the manner described in the Order (art. 4); that the Republic shall have a socialist economic system, which shall aim at creating a society of self-sufficiency and justice and prevent any form of exploitation (art. 8); that Sudanese nationals are equal before the law as to their public rights and obligations, and that there shall be no discrimination among them in this regard on account of race, sex or religion (art. 11); that individuals shall enjoy freedom of belief and the right to practise their religious rites within the limits of the law, morality and public order (art. 12); and that no one shall be arrested, detained or deprived of the use of his property except in accordance with the provisions of the law.

The Provisional Constitution of the United Arab Emirates provides, *inter alia*, that Islam shall be the official religion of the Union (art. 7); that nationals of the Union shall have a single nationality as defined by law and shall, when abroad, enjoy the protection of the Government of the Union in accordance with accepted international procedures, and that no national shall lose, or be otherwise deprived of, his nationality except in exceptional circumstances defined by law (art. 8); that the goals of foreign policy of the Union shall be to support Arab and Islamic causes and interests and to strengthen ties of friendship and co-operation with all nations and peoples, in accordance with the United Nations Charter and the highest international ethics (art. 12). The Provisional Constitution also contains in its chapter III provisions on public freedoms, rights and duties (arts. 25-44).

It may further be reported that, in the Constitution of the Federation of Arab Republics, signed at Tripoli on 1 September 1971, the Arab people in the Arab Republic of Egypt, the Libyan Arab Republic and the Syrian Arab Republic, convinced that they were an integral part of the Arab nation, that the three Republics had absolute faith in the oneness of their destiny, that Arab nationalism was a call to construction, justice and peace, and that it was the Arab road to complete unity and the construction of a democratic socialist system protecting the rights and fundamental freedoms of the citizens and guaranteeing the supremacy of law, decided to establish the State of the Federation of Arab Republics. The basic principles of the Federation are, *inter alia*, that in the Federation, sovereignty shall belong to the people and that the Federal authorities shall exercise their functions in the name of the people as specified in the Constitution (art. 2); that in the Federation, the people shall form an integral part of the Arab nation (art. 3); that the form of government of the Federation shall be democratic and socialist (art. 4); that all Arab Republics which believe in Arab unity, strive for the attainment of a unified Arab society and accept the provisions set forth in the Federal Constitution shall, by unanimous decision of the Presidential Council, be admitted to the Federation (art. 10); that each of the Republics of the Federation undertakes that its own constitution shall not conflict with the provisions of the Federal Constitution (art. 11); and that the constitutions and laws of the Republics shall guarantee, as a minimum, the equality of the citizens before the law and the courts, without discrimination on grounds of sex, origin, language or religion; the inviolability of the home; the principle of crime or penalty in accordance with a statute; the principle that no one shall be arrested save within the limits of the law; the principle that penalties shall be personal; the right of recourse to the courts for all citizens; freedom of movement and residence; the prohibition of expatriation; the guarantee of freedom of belief and worship; the freedom to engage in research; the freedom of the press, of thought and to publish; the freedom of assembly; the secrecy of correspondence; the freedom of the citizens to choose their leaders and to call them to account; the inviolability of private property; the right to work; the right to education; the right to social security and social insurance; the right to medical care; the protection of childhood, motherhood and the family; and the achievement of equality of opportunity among citizens, in all fields (art. 12).

Other constitutional developments in 1971 which are reflected in this volume include the proclamation in Haiti, by National Assembly decree of 14 January 1971, of the Constitution of 1964, with the amendments to articles 8, 47, 51, 53, 56, 91, 92, 94, 101, 102, 103, 155, 158, 196, 197 and 200 thereof, to be the basic Charter of the Republic of Haiti; the adoption in Malaysia of the Constitution (Amendment) Act, 1971 affecting, *inter alia*, freedom of speech and expression and parliamentary procedure; the adoption in Switzer-

land of article 74 (revised) of the Federal Constitution, introducing women's suffrage in federal matters and of art. 24 *(septies)* of the Federal Constitution, giving the Confederation the right to legislate on the protection of man and his environment from harmful and disagreeable influences; the abolishment on 18 November 1971 of the Constitution of the Kingdom of Thailand of 20 June 1968; the revision of the Constitution of the Republic of Turkey of 22 September 1971; the ratification in the United States of the twenty-sixth amendment to the Constitution of the United States, lowering the voting age from 21 to 18 years; and the adoption of amendments XX-XLII to the Federal Constitution of the Socialist Federal Republic of Yugoslavia.

The legislative developments presented in this volume of the *Yearbook* relate to civil and political rights as well as to economic, social and cultural rights.

Laws relating to the right to a nationality were adopted in 1971 in Barbados: Barbados Citizenship (Amendment) Act, 1971; Burundi: Legislative Decree No. 1/93 of 10 August 1971 instituting the Burundi Nationality Code; Israel: Amendment to the Law of Return 1950 enabling Israel nationality to be granted upon application even when the person is still outside the country; Mauritania: Act No. 71-057 of 25 February 1971 amending articles 18 and 36 of Act No. 61,112 of 20 June 1961 establishing the Mauritanian Nationality Code; Mexico: Amendment to article 1, section II, of the Nationality and Naturalization Act of 20 February 1971; Tunisia: Act No. 71-12 of 9 March 1971 amending articles 63 and 65 of the Tunisian Nationality Code.

Matters concerning the right to freedom of movement and residence were dealt with in the Gabonese Ordinance No. 13/71 of 3 March 1971 amending the Act governing the admission of aliens to and their residence in Gabon; Act No. 71-10 of 25 January 1971 of Senegal concerning conditions governing the entry, residence and establishment of aliens; the Passports Regulations, 1971 of Singapore; and the Immigration Act 1971 of the United Kingdom.

Legislation on the right of everyone to take part in the government of his country was adopted in 1971 in Barbados: The Representation of the People Act, 1971-15; the Byelorussian SSR: Act of 15 July 1971 of the Byelorussian SSR concerning District Soviets of Working People's Deputies in the Byelorussian SSR; Czechoslovakia: Act No. 44/1971 concerning elections to the Federal Assembly; Dahomey: Ordinance No. 71-3 C.P. of 12 February 1971 concerning the establishment and operation of the National Consultative Assembly; Denmark: Act No. 445 of 5 October 1971 lowering the voting age from 21 to 20; Honduras: Decree No. 110 of the National Congress of 20 January 1971 amending articles 28, 36 and 93 of the Electoral Act; Luxembourg: Act of 18 February 1971 repealing article 7 of the Grand Ducal Order of 31 May 1945; Mexico: Municipal Electoral Act for the Territory of Southern Lower California of 12 February 1971; the Netherlands: Amendment to the Electoral Law broadening the right to vote by proxy; New Zealand: the Electoral Amendment Act of 1971 limiting the scope of an earlier provision under which persons for reasons indicated therein were disqualified from registering as electors; Norway: Act of 21 May 1971 (No. 48) amending the Act of 17 December 1920 relating to parliamentary elections and the Act of 10 July 1925 relating to municipal elections; the USSR: Model rules concerning the election of district Soviets of Working People's Deputies of 19 March 1971; the United Kingdom: the Local Authority Qualification of Members Act 1971 and the Electoral Law Act (Northern Ireland); and the United Republic of Tanzania: The Elections (Election Petitions) Rules, 1971.

The right to freedom of opinion and expression was the subject of a number of laws adopted during 1971 in Cameroon: Law No. 71-LF-6 of 6 September 1971 penalizing the showing of prohibited films; Finland: Act No. 219 of 12 March 1971 on the responsibility for radio broadcast, the purpose of this act being to regulate the way a person who feels that his honour and reputation or lawful interest have been encroached upon by a broadcasting programme can seek a remedy for that encroachment; Romania: Decree No. 62/1971 concerning the establishment, organization and functioning of the National Council for Romanian Radio and Television; Senegal: Act No. 71-37 of 3 June 1971 relating to radio and television broadcasts outside national territory on behalf of persons or enterprises established in Senegal; the Sudan: The Publicity Regulation Act, 1971; Trinidad and Tobago: The Sedition (Amendment) Act, 1971 to amend the Sedition Ordinance, Ch. 4 No. 6; and the USSR: the Communications Code of 27 May 1971, some of the provisions of which have a bearing on the right to freedom of opinion and expression.

The Government of Argentina, in its contribution, makes reference to Act No. 18,975 of 19 April 1971 repealing Act No. 16,894, which prohibited political activity in Argentina, and states, in this connexion, that the Act is intended to ensure *inter alia* political pluralism, the essence of representative democracy. With regard to the right to freedom of peaceful assembly and association, mention may further be made of the Argentinian Organic Law concerning Political Parties (Law No. 19,102 of 30 June 1971) and Act No. 19,277 establishing the National Electoral Chamber by virtue of which the organization and functioning of political parties and the election process are subjected to judicial control; the Gabonese Ordinance No. 12/71/PR of 26 February 1971 establishing the National Gabonese Women's Union; and the Greek Legislative Decree No. 890 of 27 May 1971 respecting Occupational Associations and Federations.

Provisions relating to the exercise of these rights may also be found in laws promulgated during the period of emergency in 1971 in Sierra Leone: The Public Emergency (No. 2) Regulations, 1971 and Trinidad and Tobago: The Emergency Powers Act, 1971.

Protection against racial discrimination was the subject of legislation adopted in 1971 in Denmark: Act No. 289 of 9 June 1971 prohibiting discrimination on the grounds of race, etc., and in New Zealand: The Race Relations Act, aimed at affirming and promoting racial equality and at implementing the International Convention on the Elimination of All Forms of Racial Discrimination. The Race Relations

Conciliator appointed under the Race Relations Act has the function of investigating, on complaint made to him or of his own motion, any conduct which appears to constitute unlawful discrimination, and, where appropriate, to act as conciliator in such cases.

Besides these laws on racial discrimination, reference may also be made to the report of June 1971 of the United Kingdom Race Relations Board, which showed a decrease in the number of complaints concerning racial discrimination received over the year ended March 1971, and to the Commonwealth declaration agreed on at the meeting of Commonwealth heads of government at Singapore in January 1971, *inter alia* recognizing racial prejudice as a dangerous sickness threatening the development of the human race and racial discrimination as an unmitigated evil of society.

Laws bearing on the treatment of offenders and detainees were promulgated in 1971 in Australia: the Corporal Punishment Abolition Act, 1971 (No. 58 of 1971) of South Australia, abolishing the various forms of corporal punishment still capable of being imposed by the courts of the State; Burundi: Ministerial Order of 1963 which, as amended by Ministerial Ordinance No. 100/160 of 30 December 1970, contains a provision on female prisoners; Canada: the Bail Reform Act (May 1971), extensively revising the laws of arrest and pre-trial detention; Finland: Act No. 303 of 23 April 1971 amending Act No. 317 of 9 July 1953 on the Isolation of Dangerous Recidivists; Malaysia: the Legal Aid Act, 1971; Malta: Act No. XXI of 1971 abolishing capital punishment; and Mexico: Act of 8 February 1971 establishing Standard Minimum Rules for the Social Rehabilitation of Convicted Persons.

During 1971, the Codes of Criminal Procedure of the Byelorussian SSR and Italy, as well as the Criminal Codes of Argentina, Austria, Denmark, Finland, Gabon, Hungary and Israel, were amended. By Legislative Decree No. 2 of 23 January 1971, article 304 *bis*, the first paragraph of the Italian Code of Criminal Procedure was amended by establishing that the defence counsel has the right to be present "during the questioning of the accused".

On 10 December 1971, the Supreme Soviet of the Ukrainian SSR approved the Labour Code of the Ukrainian SSR regulating labour relations for all manual and non-manual workers and promoting the growth of labour productivity, increased efficiency in social production and the consequent raising of the material and cultural level of living of working people. During 1971 labour legislation was also adopted in the Byelorussian SSR, Costa Rica, New Zealand, Norway, Portugal, Spain, Sweden and Zambia.

Provisions relating to the right to social security were contained in legislation adopted in 1971 in Barbados, Czechoslovakia, Ethiopia, Hungary, Liechtenstein, Poland, Spain and Sweden.

The Netherlands, in an Act of 6 May 1971, increased the period of compulsory schooling from eight to nine years, and fixed the legal working age at 15 years. Other developments relating to the right to education include the adoption of educational laws in Algeria, Bolivia, Burundi, Finland, Nepal and Panama.

During 1971, decisions bearing on human rights were rendered by various courts in Argentina, Australia, Belgium, Canada, Ceylon, Guyana, Israel, Italy, Japan, Malaysia, Nepal, the Netherlands, New Zealand, Norway, Poland, Switzerland, the United States and Yugoslavia. The decisions relate *inter alia* to the right to property, the principle of equal treatment, the prohibition of cruel, inhuman and degrading treatment; the right to work, the right to social services, the right to education, the right to a fair trial, the protection of children, the right to privacy, the right to freedom of thought, conscience and religion, the right to liberty and security of the person, the right to a fair hearing, the right to freedom of opinion and expression, the right to freedom of association and the right to vote.

Developments relating to the protection of young persons include the adoption in 1971 in Argentina of Act No. 11,317, respecting the employment of young persons; in Australia, of the Juvenile Courts Act 1971 (No. 69 of 1971) of South Australia; in the Byelorussian SSR, of the regulations governing guardianship and curatorship authorities; in Hungary, of Act IV of 1971 on Youth promoting the participation of youth in the building up of socialism; in Israel, of the Youth Trial, Punishment and Modes of Treatment Law; and in New Zealand of the Guardianship Amendment Act, raising to 18 years the age at which a court will enforce the right to custody of a child against the child's wishes.

The status of women was dealt with in legislation adopted in 1971 in Italy: Act No. 1204 of 30 December 1971, containing new regulations for the protection of working mothers; Norway: Act of 17 December 1971, relating to benefit assistance for divorced and separated persons with dependent children; and Switzerland: article 74 (revised) of the Federal Constitution, introducing women's suffrage in Federal matters. The creation in Canada in February 1971 of the Equal Employment Opportunities Office of the Public Service Commission also affects the status of women.

Part II of the present volume includes information on human rights in the Trust Territory of New Guinea and in the Non-Self-Governing Territory of Papua, under the administration of Australia.

Part III contains the texts of the following international instruments: the Declaration on the Rights of Mentally Retarded Persons, adopted by the General Assembly on 20 December 1971; the Workers' Representatives Convention, adopted by the International Labour Conference on 23 June 1971; and the Universal Copyright Convention as revised at Paris, adopted by the Conference for Revision of the Universal Copyright Convention on 24 July 1971. Part III also contains an indication of the status of certain international agreements in the field of human rights.

The index to the present volume is arranged according to the rights enumerated in the Universal Declaration of Human Rights.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers.

PART I

STATES

ALGERIA

Ordinance No. 71-73 of 8 November 1971 concerning agrarian revolution [1]

(Extracts)

Principles

Article 1. Land shall belong to those who work it. Only those who cultivate and develop it shall have rights to it.

The purpose of the agrarian revolution shall be to eliminate the exploitation of man by man and to organize the utilization of land and the means of working it in such a way as to improve production through the application of effective technology and to ensure a just distribution of agricultural income.

The agrarian revolution shall be aimed at radically transforming living and working conditions in rural areas.

Article 2. The rights of agricultural landowners who do not contribute effectively to production and those of cultivators, whether landowners or not, who fail to work the land shall be abolished.

The size of agricultural property shall be limited so that it does not exceed the work capacity of the landowner and his family and so that it is sufficient to ensure them an adequate income.

Article 3. All forms of speculative trade in water resources used for agricultural purposes shall be abolished. Their use shall be organized according to the needs of each agricultural unit.

Article 4. The rights of peasants who work themselves to land and to the fruits of their labour shall be guaranteed.

Article 5. The State shall allocate available land to peasants without land. The State shall assist them in ensuring that the production on such land meets their needs and those of the nation.

Article 6. The agrarian revolution shall provide for the organization the establishment of the means and the execution of works which will permit better land use.

To that end, the State shall encourage the peasants to form groups with a view to their joint use of land and the means of agricultural production under conditions which will promote improved techniques of cultivation.

Article 7. The State shall ensure the establishment of organizations needed for the provision of supplies to the peasants, for the storage, marketing and processing of their products, and for the extension of credit and of services needed for their activities.

Article 8. The State shall protect the peasants against the effects of any speculation on the means of production or on agricultural products.

Article 9. The State shall participate in the training and technical guidance of the peasants.

Article 10. The State shall formulate and apply a policy for organizing agricultural production, providing agricultural equipment and marketing facilities, and developing agriculture.

Article 11. The State shall pave the way for improvements in small agricultural holdings and promote increased employment in rural areas.

Article 12. The State shall establish the bases for an improvement in living conditions in rural areas, particularly in the housing, health and cultural fields.

Field of application

Article 13. The provisions of this ordinance shall apply to:

(*a*) All land that is being used or is suitable for agricultural purposes, whatever the system of land tenure to which it is subject;

(*b*) Palm plantations;

(*c*) Sheep.

The number of sheep shall be limited but the surplus may not be nationalized. The surplus may be sold freely by the breeders.

The procedures for organizing and utilizing, within the framework of the communes, land that is being used or is suitable for grazing purposes shall be defined at a later stage.

(*d*) Forest land or land that is suitable for forests and esparto-grass areas.

[1] *Journal officiel de la République algérienne*, No. 97, 30 November 1971.

Production enterprises shall be established there under the auspices of the communes in order to associate the peasants with the exploitation of those resources and with the results of their exploitation.

(*e*) Water resources for agricultural purposes. The Water Code shall determine the procedures for managing and maintaining permanent works of all types linked with the collection and distribution of water resources, and how their users shall share in them.

Article 14. The provisions of this ordinance shall not apply to:

(*a*) Livestock belonging to farms even when the agricultural estate on which it is reported to be living is being completely or partly nationalized;

(*b*) The means of production, processing and preparation except when the agricultural estates to which they belong are being fully nationalized.

...

PART I

I. National Agrarian Revolution Fund

TITLE I

ESTABLISHMENT OF THE NATIONAL AGRARIAN REVOLUTION FUND

Article 18. A National Agrarian Revolution Fund is hereby established, the financing, legal régime, allocation and use of which are the subject of the present provisions.

With a view to the taking of practical measures under the agrarian revolution to nationalize and distribute land being used or suitable for agricultural purposes and of the means of production, processing and preparation, the National Fund shall be subdivided into communal agrarian revolution funds at the level of each commune in areas where the agrarian revolution is being carried out.

...

TITLE II

NATIONALIZATION OF AGRICULTURAL LAND OR LAND SUITABLE FOR AGRICULTURAL PURPOSES BELONGING TO NON-EXPLOITING LANDOWNERS

Chapter I

PRINCIPLE OF THE NATIONALIZATION

Section I

General application of the principle

Article 28. The right of ownership exercised over any piece of land being used or suitable for agricultural purposes by any landowner considered to be a non-exploiting owner under the terms of this ordinance shall be abolished.

Subject to the exceptions mentioned in chapter II below, land so designated shall be fully nationalized for the benefit of the National Agrarian Revolution Fund.

The means of production, processing and preparation shall be nationalized together with the fully nationalized land on which they are used.

...

TITLE III

LIMITATION OF PRIVATE OWNERSHIP OF LAND BEING USED OR SUITABLE FOR AGRICULTURAL PURPOSES

Article 64. The fact that land that is being used or is suitable for agricultural purposes is partially affected by the nationalization measures provided for under title II above shall not absolve its owner from the possible application of the limitation measures decreed in this title.

Chapter I

PRINCIPLE OF THE LIMITATION

Article 65. The size of any property that is being used or is suitable for agricultural purposes shall be limited, in all areas where the agrarian revolution is applied, so that the minimum income of an average family living solely on the produce thereof shall be equal, on the date of the publication of this ordinance in the *Journal officiel* of the Democratic and Popular Republic of Algeria, to three times the family income of a worker on an independently operated agricultural unit who puts in 250 days of work annually, bearing in mind how much work can realistically be expected of a person who exploits it directly and with his own hands, within the meaning of this ordinance. The size of the said property shall be three times as great as that of the lot distributed in the commune as it is defined in article 110 of this ordinance.

The size must, however, remain within the limits to be specified in a decree which will also determine the minimum and maximum number of palm trees that can be privately owned.

On the basis of the general limits above, decrees shall determine, for each region where the agrarian revolution is applied, and bearing in mind the quality of the soils, their irrigation and the nature of the crops grown, the minimum and the maximum land areas, and, where necessary, the minimum and maximum number of palm trees of which any owner who exploits the land may have full ownership.

Excess land areas and surplus date-palms shall be nationalized for the benefit of the National Agrarian Revolution Fund.

Article 66. The limitation of all private properties that are being used or are suitable for agricultural purposes shall be applied in such a way that the excess area to be transferred to the National Agrarian Revolution Fund shall not be taken from land on which there are buildings used for housing.

...

PART IV

Practical procedures for carrying out the agrarian revolution

TITLE I

GENERAL

Chapter I

PRELIMINARY PROVISIONS

Article 173. The commune shall be the territorial unit within which operations for the nationalization and distribution of the land that is being used or is suitable for agricultural purposes referred to in this ordinance shall be carried out.

Article 174. Persons called upon to participate in the implementation of the agrarian revolution may not have any interest likely to be affected by the complete or partial nationalization of land decreed in this ordinance.

Article 175. Peasants owning little or no land within the meaning of this ordinance, organized in peasant associations, shall participate, at the level of the commune and within the framework of the bodies set up to that end, in all the preparations and actual operations relating to the implementation of the agrarian revolution.

Article 176. Any person considering himself unlawfully affected by any measure linked either to the nationalization and distribution of land or to the granting of compensation under the agrarian revolution shall have, within the framework of this ordinance, special means of appeal which shall lie to the *wilaya* appeals board in the first instance and to the national appeals board in the final instance.

...

TITLE IV

NATIONAL AGRARIAN REVOLUTION COMMISSION

Article 244. An interministerial commission is hereby established at the national level which shall be called the National Agrarian Revolution Commission; its composition shall be established by decree.

...

Article 246. The National Agrarian Revolution Commission shall carry out all the tasks entrusted to it by the Minister for Agriculture and Agrarian Reform, within the framework of the practical achievement of the agrarian revolution.

...

TITLE V

APPEALS BOARDS

Chapter I

GENERAL PROVISIONS

Article 249. The appeals boards shall be *ad hoc* and temporary bodies having mixed jurisdictions, which shall be competent to consider appeals against complete or partial nationalization orders and land distribution orders issued by the walis within the framework of the practical execution of land nationalization and distribution operations under the agrarian revolution, and appeals against decisions with regard to compensation by the competent departments of the Ministry of Finance, on the basis of the provisions of this ordinance and of the regulation adopted for its application.

The contested orders and decisions shall be referred in the first instance to *wilaya* appeals boards and in the final instance to the national appeals board.

Article 250. The business of the appeals boards shall cease when the rolls have been exhausted.

Article 251. Appeals against nationalization orders by *walis* brought before *wilaya* appeals boards shall have the effect of staying execution.

Article 252. Appeals brought before the national board shall not result in a stay of execution.

...

Chapter II

"WILAYA" APPEALS BOARDS

Article 264. In the chief town of each *wilaya* in an area where the agrarian revolution is being applied a *wilaya* appeals board shall be established the jurisdiction of which shall extend, as far as matters within its competence under ordinance are concerned, throughout the territory of the *wilaya* in question.

...

Chapter III

NATIONAL APPEALS BOARD

Article 271. The national appeals board shall rule in the final instance on judgments by *wilaya* appeals boards; it alone shall be competent to interpret the provisions of this ordinance and of the regulation for its application; the board shall exercise this power making interpretative orders.

...

Ordinance No. 71-74 of 16 November 1971 concerning the Socialist Management of Enterprises [2]

(Extracts)

Chapter I

DEFINITION AND SCOPE

Article 1. The provisions of this ordinance shall apply to the organization and management of socialist enterprises engaged in economic, social and cultural activities, with the exception of the autonomous agricultural sectors or co-operatives.

Article 2. A socialist enterprise shall be an enterprise whose assets consist entirely of public property.

Article 3. A socialist enterprise shall be the property of the State which represents the national community. It shall be governed by the principles of socialist management, defined in this ordinance.

Enterprises run by local authorities shall be governed by the same principles.

...

Article 7. Workers in a socialist enterprise shall be producers who assume certain responsibilities for the management of the enterprise.

Chapter II

RIGHTS AND OBLIGATIONS OF WORKERS

Article 8. A worker is defined as any person who lives on the proceeds of his work and does not employ other workers in his business activities for his own profit.

Article 9. Workers shall have equal rights and duties. They shall receive equal pay and equal benefits for the same work, provided that their qualifications and output are equal.

Article 10. Every worker shall be guaranteed a minimum income. That income shall be fixed by law in accordance with his basic needs, the development of national production and the national incomes policy.

Article 11. Workers shall enjoy full social security and insurance rights, including family allowances.

Article 12. In addition, workers may receive productivity bonuses in accordance with the standards of output laid down in the regulations and depending on the nature of the work.

Article 13. At their place of work, workers shall enjoy satisfactory health and safety conditions.

Article 14. Workers shall be entitled to share in the profits of the enterprise.

Article 15. All workers shall be entitled to trade union rights.

Article 16. Workers shall be entitled to vocational training and to social and cultural betterment. They shall be required to carry out their duties with the utmost diligence and shall endeavour constantly to improve their qualifications and technical knowledge.

Article 17. Workers must play a part in increasing production and productivity and strive for constant improvements in quality and for the achievement of the goals of the plan.

Article 18. Workers shall seek to protect the assets of the enterprise and shall help to fight all forms of waste and misuse of funds.

Chapter III

WORKERS' ASSEMBLIES

Section I

Electoral system

Article 19. A workers' assembly shall be established in every enterprise and in every unit thereof.

...

Section II

Prerogatives

Article 28. Workers' assemblies shall have full control over the management of an enterprise or a unit and over implementation of programmes. In this respect, they shall produce an annual report on the management of the enterprise or unit.

...

[2] *Ibid.*, No. 101, 13 December 1971.

Ordinance No. 71-78 of 3 December 1971 fixing the conditions for the award of scholarships, in-training pay and trainee salaries [3]

(Extracts)

Article 1. With a view to promoting a policy of training the cadres needed to achieve the goals of the development plans, within the framework of the democratization of education and the rational utilization of human resources, scholarships, in-training pay and trainee salaries may be awarded to pupils and students, State officials and employees of local bodies and public institutions

[3] *Ibid.*, No. 102, 14 December 1971.

and agencies, in accordance with the conditions established by this ordinance.

Article 2. The provisions of this ordinance shall be applicable to pupils, students, civil servants and officials enrolling for courses at the beginning of the academic year 1971-1972.

TITLE I
SCHOLARSHIPS

Article 3. A scholarship is an award granted by the State to pupils and students in universities and institutions of higher education and is intended to cover their tuition fees or to supplement their income.

Its award depends on the social position of the recipient, the nature of his studies and the quality of his work.

Students and pupils studying priority subjects shall receive larger scholarships.

Whenever necessary, the conditions for the application of this article shall be established by decree.

Article 4. A scholarship shall be renewed in the case of pupils or students whose term marks or examination results have been judged satisfactory.

It shall be suspended in the case of a serious disciplinary offence and if a year of study has to be repeated.

However, if a year is repeated, the scholarship may be renewed once during the period of study, on the recommendation of the principal of the university or head of the institution concerned.

Scholarship-holders may not be granted any other award, except those provided for in official regulations.

. . .

Article 10. For the duration of their studies pupils and students shall be entitled to the social benefits laid down in the regulations in force.

TITLE II
IN-TRAINING PAY

Article 11. In training pay shall be awarded to a pupil or student under contract to an employer, from the commencement of his studies in an institution of higher education, a technical institute or a specialized school.

Only courses of study or refresher courses of at least one year's duration may establish entitlement to in-training pay.

TITLE III
TRAINEE SALARIES

Article 17. The pupils and students referred to in article 11 above who are following a course of study in a training school or institute in preparation, wholly or in part, for permanent employment in bodies coming under the general civil service regulations shall be considered civil service trainess during their last year of study.

In that capacity, they shall receive a salary calculated in accordance with the levels of training laid down in the salary scales of the various civil service grades.

The list of institutions concerned and the procedure for applying this article shall be fixed by decree.

. . .

TITLE IV
SPECIAL PROVISIONS CONCERNING OVERSEAS TRAINING

Article 22. With a view to ensuring the programming, co-ordination and control of the overseas training and refresher courses available to students who are officials or employees of the State, of local bodies and of public institutions and agencies, the following have been established:

A national university scholarships' commission;

A national commission for overseas training.

Article 23. The function of the national university scholarship's commission is to prepare the annual programme of overseas university training and to see that it is carried out.

It shall consider and propose all regulations concerning the granting of scholarships for study at foreign universities.

In addition, it shall consider applications for scholarships for higher education abroad.

. . .

Article 27. The function of the national commission for overseas training is to prepare and define the procedures for carrying out the annual programme of overseas training and refresher courses, which embraces all vocational activities organized under the auspices of State services, local bodies and public institutions and agencies, with the exception of university teaching staff in so far as their teaching and research functions are concerned.

It shall decide whether to adopt any training and refresher course programmes that may be organized abroad under international agreements or contacts.

It shall be responsible for examining the records of candidates selected to take part in a programme of overseas training or refresher courses.

It shall consider and propose all regulations concerning the organization of overseas training and refresher courses.

. . .

ARGENTINA

NOTE [1]

I. Legislation

1. Act No. 18,975 (*Boletin oficial, 19 April* 1971) repeals Act No. 16,894 which prohibited political activity in Argentina. By permitting and facilitating action by the various parties and the flow of ideas, this Act is intended to uphold, to a large extent, the principles of the Constitution and to ensure political pluralism, the essence of representative democracy.

2. Act No. 19,053 (*ibid.*, 1 June 1971) establishes a system of legal proceedings for offences more serious than ordinary delinquency, thus ensuring the maintenance of order and social harmony without prejudice to due process and the right of legal defence.

3. Act No. 18,953 (*ibid.*, 18 March 1971) amends Act No. 18,701 (*ibid.*, 3 June 1970) which introduced the death penalty and, without repealing it, permits the competent court to choose between capital punishment and imprisonment, an appreciable advance towards the achievement of greater flexibility in the application of the death penalty.

4. Act No. 18,624 (*ibid.*, 20 March 1970) amends Act No. 11,317 respecting the employment of young persons; it provides better safeguards for the health and education of young persons, in accordance with the international labour conventions ratified by the Republic by Act No. 13,560 and Legislative Decree No. 11,594/56.

5. Act No. 18,934 (*ibid.*, 15 February 1971) embodies amendments to the Penal Code, under which usury, an activity incompatible with social justice, is made a punishable offence.

6. Act No. 19,134 (*ibid.*, 29 July 1971), on adoption, is intended to establish a determined order for adoptive relationships and to solve the problem of abandoned children.

7. Act No. 18,913 (*ibid.*, 15 January 1971) amends Act No. 9688 respecting industrial accidents; it enlarges the responsibility of the State, at the national, provincial or municipal level, and increases the amount of compensation.

8. Act No. 19,277 establishes the National Electoral Chamber, subjecting the organization and functioning of political parties and the election process to judicial control.

II. Judicial decisions

The enjoyment of the human rights, proclaimed in and protected by the National Constitution, [2] is ensured in practice by the National Courts, which form part of an independent Judicial Power. In this connexion, the Supreme Court decision of 16 June 1971 in the case of *Meza, Donato and others* (CSN, *El Derecho,* 38-361) may be cited. In that decision the Supreme Court stated that the constitutional provisions concerning rights and freedoms are fully valid throughout the territory of the Republic. Furthermore, in its decision of 28 July 1971 in the case of *Marzzoratte Lorenzo A.* v. *the Province of Buenos-Aires* (CSN, *El Derecho,* 38-351), the Supreme Court affirmed that, where it is obvious that any restriction placed upon any basic right of the individual is illegitimate, the judges should at once re-establish the restricted right by providing for recourse to *amparo.* The Court stipulated that the right to property, affirmed in article 17 of the National Constitution, also includes the protection of the subjective rights of ownership.

[1] Note furnished by the Government of Argentina.

[2] For extracts from the Constitution of Argentina, see *Yearbook on Human Rights for 1946,* pp. 6 and 7.

Organic law concerning political parties

Law No. 19,102 of 30 June 1971 [3]

(Extracts)

TITLE I

GENERAL PRINCIPLES

Sole Chapter

Article 1. Citizens have the right to associate for political purposes. To this end they may form political parties.

Freedom of activity is guaranteed, including that of engaging in propaganda and proselytism on behalf of the parties which, in their constitution, organization, rights, obligations and functioning have fulfilled the requirements laid down in this Organic Law.

Article 2. Recognized political parties are legal political entities. They are, furthermore, persons under private law in accordance with the provisions of ordinary legislation and of this Law.

Parties may freely form confederations, alliances and coalitions.

Article 3. Parties are necessary instruments for the formulation and implementation of national policy. They have the exclusive responsibility of nominating candidates for elective public offices.

The candidatures of non-affiliated citizens may be proposed by the parties and such a possibility shall be acknowledged in their basic charters.

Article 4. Groups which pursue political goals, which fulfil the provisions or article 25 of this Law, and which do not succeed in meeting the requirements necessary for them to be recognized as political parties, may operate as associations governed by private law.

Article 5. This Law, the provisions of which constitute public policy, shall apply to parties which are involved in the election of national authorities and to those which take part in municipal elections in the City of Buenos Aires and in the National Territory of Tierra del Fuego, Antarctica, and the South Atlantic Islands.

The Federal Judiciary shall be competent to deal with all matters regarding this Law.

TITLE II

ESTABLISHMENT AND FORMATION OF POLITICAL PARTIES

Chapter I

REQUIREMENTS FOR RECOGNITION

(1) *District parties*

Article 6. In order to be recognized as a district party, a group must apply to the competent judge.

...

(2) *National parties*

Article 8. A party which decides to operate under the same name, declaration of principles, programme or basic political strategy, and charter, in no less than five electoral districts, may apply for recognition as a national party.

...

Article 10. The district parties do not have the right of secession. The central authorities may decide to intervene in one or more districts in the cases provided for in the charter of the parties concerned.

Article 11. Only recognized parties, confederations or national alliances may participate in the election of President and Vice-President of the nation, with their own candidates.

(3) *Confederations*

Article 12.

(I) Recognized parties may form confederations.

(II) A confederation shall be national when it is composed of several national parties; of a national party and one or several district parties; or of district parties which operate jointly in at least five districts.

(III) Application for recognition of a confederation shall be made to the judge for the location in which any of the parties concerned is domiciled.

...

(4) *Coalition of parties*

Article 15. District and national parties may form coalitions among themselves. Application for recognition of the new party, resulting from the coalition, shall be made to the judge for the location in which any of the parties concerned is domiciled.

The provisions or articles 6 or 8 shall be applicable, according as the new party, resulting from the coalition, is a district or national party.

(5) *Alliances*

Article 16. Recognized parties or confederations may form alliances for electoral purposes, provided that their respective basic charters authorize such alliances.

...

Chapter II

NAME AND OTHER ATTRIBUTES

Article 19. The name constitutes an exclusive attribute of the party. It shall not be used by any

[3] *Boletin Oficial*, No. 22,210, of 6 July 1971.

other party, association or entity whatever within the territoy of the nation. It shall be adopted in the basic document establishing the party, without prejudice to its subsequent change or modification.

Article 20. The designation "party" may be used only by groups recognized, or in the process of being constituted, as such.

...

TITLE III
POLICY AND ORGANIZATION

Chapter I
DECLARATION OF PRINCIPLES, PROGRAMME OR BASIC POLITICAL STRATEGY

Article 25. The declaration of principles and the programme or basic strategy shall support the goals of the National Constitution and shall express adherence to the democratic, representative, republican, multiparty system and respect for human rights and shall not advocate the use of violence to change the juridical order or to attain power. Parties shall undertake to observe, in practice and at all times, the principles contained in such documents, which shall be published, for one day, in the *Boletin Oficial.*

Chapter II
CHARTER AND ELECTORAL PLATFORM

Article 26.

(I) The charter is the fundamental statute of the party....

(II) The charter and its amendments shall be approved by the Judiciary and shall be published for one day in the *Boletin Oficial.*

Article 27.

(I) Before the election of candidates, the competent party organs shall ratify the electoral platform in accordance with the declaration of principles and the programme or basic political strategy.

(II) A copy of the platform and a record of the acceptance of candidatures shall be forwarded to the judge within the time required for the official endorsement of the lists.

TITLE IV
FUNCTIONING OF PARTIES

Chapter I
MEMBERSHIP

Article 28. In order to become a party member, a citizen is required:

(*a*) To be domiciled in the electoral district in which the membership is applied for. For this purpose, the last address entered in his voter-registration document shall be used;

(*b*) To prove his identity;

(*c*) To submit to the party authorities a signed application and a card in quadruplicate containing: name and address, registration number, date of birth, sex, marital status, profession or occupation, and signature or finger-print, duly authenticated in the manner stipulated in the regulations.

If the party authorities, in certifying the signatures on the membership cards, commit any falsehood, they shall be held responsible in accordance with the penal legislation laid down for public officials.

Two copies of the card shall be retained by the party; the other two shall be forwarded to the competent judge. In case of doubt and for any purpose, these latter shall be valid.

The party member shall be given written proof of his membership.

Article 29. The following may not become party members:

(*a*) Persons excluded from the electoral register as a result of laws in force;

(*b*) Military personnel of the Nation's armed forces on active duty or recalled from retirement;

(*c*) Senior and subaltern personnel of the national and provincial security forces on active duty or recalled from retirement;

(*d*) Judges and officials of the Judicial Power of the Nation and of the provinces. Judges of the *Tribunales Municipales de Faltas* (Petty Offences Courts) and correctional judges.

TITLE VI
POLITICAL DISSOLUTION (*CADUCIDAD*) AND COMPLETE DISSOLUTION (*EXTINCIÓN*)

Sole Chapter

Article 48.

(I) Political dissolution (*caducidad*) shall involve the removal of a party's name from the register and the loss of its status as a political entity; it shall continue to exist as a person under private law.

(II) Complete dissolution (*extinción*) shall end a party's legal existence and shall result in its final termination.

...

AUSTRALIA

NOTE *

I. Legislation

A. The principle of equal treatment

(Universal Declaration of Human Rights, articles 2, 6, 7 and 22)

The Aboriginal Lands Act 1970 (No. 8044) of Victoria is designed to rectify many of the omissions and commissions of the past with regard to the land rights of aborigines. It provides that the remaining aboriginal reserves in the State, situated at Framlingham and Lake Tyers, shall be returned to trusts formed of the aboriginal residents on each of these settlements and it gives the freehold title of the land to the trusts. The Act also makes provisions for continued assistance by the State Government in order that these settlements may become and remain prosperous agricultural enterprises.

The Wards' Employment Ordinance Repeal Ordinance 1971 (No. 60 of 1971) of the Northern Territory repeals the Wards' Employment Ordinance which provides minimum conditions of employment for aboriginal wards of the Government. The Principal Ordinance was considered discriminatory. The concept of aboriginal wardship was abolished in 1964 and industrial awards have been extended to include aboriginal employees.

B. Prohibition of cruel, inhuman or degrading punishment

(Universal Declaration, article 5)

The Corporal Punishment Abolition Act, 1971 (No. 58 of 1971) of South Australia abolishes the various forms of corporal punishment still capable of being imposed by the courts of the State, "corporal punishment" for this purpose including whipping, solitary confinement, chaining in leg irons and diets of bread and water.

C. Right to social security

(Universal Declaration, article 22)

The Criminal Injuries (Compensation) Act 1970 (No. 69 of 1970) of Western Australia provides for compensation to be paid to persons who suffer injury as the result of the criminal act of some other person. A court before which a person is charged with a criminal offence may award compensation to the injured person of a maximum of $2,000, where the offence is indictable, or $300, where the offence is a simple offence. The court may award the compensation even if the person charged is acquitted. The act does not provide for cases where no one is charged but the State Government has undertaken to make payments on the same scale in those cases also.

The Social Services Act 1971 (No. 16 of 1971) of the Commonwealth gave an immediate increase or 50 cents per week to the pensions payable to age, invalid and widow pensioners.

D. Right to work

(Universal Declaration, article 23)

The Medical Practitioners Registration Ordinance 1971 (No. 31 of 1971) of the Northern Territory extends the range of applicants eligible for registration so as to include any medical practitioner possessing qualifications gained outside Australia, provided that the standard of training and skill required to obtain such qualifications are, in the opinion of the Medical Board, of equal standard to that of a degree granted within Australia and further, that he has attained a sufficiently high standard of skill in medicine or surgery to be permitted to practise. Previously, only medical practitioners who had qualified within Australia or who were registrable under United Kingdom legislation could be registered to practise in the Territory.

E. Right to social services

(Universal Declaration, article 25)

The Social Welfare Act 1970 (No. 8089) of Victoria is a substantive enactment that establishes a new Ministry of Social Welfare and consolidates five Acts under which the Social Welfare Branch had been working. The new Department will have branch offices in various regions of the State so that it will be brought into close contact with local communities.

* Note furnished by Mr. J. O. Clark, government-appointed correspondent of the *Yearbook on Human Rights*.

The Workers Compensation Act 1970 (No. 8084) of Victoria increases the rate of compensation payable to injured workers and their dependants. It also removes the requirement that the worker or his dependants must make an election to take either compensation under the Act or to sue for damages at common law, although, of course, a claimant cannot obtain the benefits of both compensation under the Act and damages.

The Pensioners (Heating Allowances) Act 1971 (No. 16 of 1971) of Tasmania provides for the granting of heating allowances of $30 to certain pensioners qualifying under a means test.

The Workmen's Compensation Act 1971 (No. 36 of 1971) of South Australia is a consolidating and amending act that replaces the act of 1932 and 19 amending acts. In addition to providing for increased rates of compensation, it provides a comparatively simple system whereby workmen can have their claims for compensation dealt with expediously and with the least amount of technicality.

The Compensation (Commonwealth Employees) Act 1971 (No. 48 of 1971) of the Commonwealth codifies and states in much more detail than the existing act the law concerning the employee's right to compensation. A Commissioner for Employees Compensation will act as arbitrator between the employee and the Commonwealth as employer.

An appeal may be made to an independent tribunal from any determination by the Commissioner.

The act provides for new and higher levels of existing monetary benefits. It provides also for vocational training of incapacitated employees and for a complete system of medical and physical rehabilitation and vocational training for injured employees of the Commonwealth and its statutory authorities.

The Seamen's Compensation Act 1971 (No. 52 of 1971) of the Commonwealth amends the principal act, which provides for compensation for injuries to seamen to be paid by owners of ships engaged in trade between the States. The amending act brings the rates of compensation into line with the increased rates prescribed by the Compensation (Commonwealth Employees) Act 1971 described above.

The Workmen's Compensation Ordinance 1971 (No. 15 of 1971) of the Australian Capital Territory, an amending ordinance, increases the amounts of compensation payable under the principal ordinance.

The National Health Act 1971 (No. 85 of 1971) of the Commonwealth increases patient benefit for ordinary nursing home care by $1.50 per day.

The Juvenile Courts Act 1971 (No. 69 of 1971) of South Australia consolidates and amends the law relating to the commission of offences by young persons and to neglected and uncontrolled children. Its chief features are: (1) the introduction of a scheme for the non-judicial treatment of juvenile first offenders and certain other children; (2) altered provisions for dealing with juvenile offenders and other children under 16; (3) fuller assessment of the circumstances and behaviour of children prior to committal by a court; (4) short-term treatment in the community at youth project centres; and (5) provision for the appointment of a judge at the Adelaide Juvenile Court.

The Maintenance Ordinance 1971 (No. 26 of 1971) of the Northern Territory consolidates and amends the laws relating to maintenance, providing for the making of maintenance orders in favour of wives and children who have been left without adequate means of support. It also provides for payments to be made, to unmarried mothers for the expenses associated with the birth of a child and its subsequent upkeep.

Provision is made also for the enforcement of orders made under the ordinance both interstate and in reciprocating countries.

F. Right to education

(Universal Declaration, article 26)

The Western Australian Tertiary Education Commission Act 1970 (No. 84 of 1970) establishes the already existing Commission as a statutory body charged with the responsibility of promoting, developing and co-ordinating tertiary education in the State. The Commission's powers are widened and it is given legal powers necessary to carry out its responsibilities. It is to advise the Government on all matters relating to tertiary education and to ensure co-ordination between the University of Western Australia, the Western Australian Institute of Technology and the new Murdoch University.

II. Court decisions

A. The principle of equal treatment

(Universal Declaration, articles 2, 6 and 7)

Section 5(1) of the Prohibition of Discrimination Act 1966 of South Australia provides: "A licensee within the meaning of the Licensing Act 1932-1964 shall not refuse to supply food, drink or accommodation to a person by reason only of his race or country or origin or the colour of his skin." *Held*, by the Supreme Court of South Australia:

(1) The section was applicable to persons of the aboriginal race, notwithstanding that at the time of the passing of the Prohibition of Discrimination Act, 1966 it was an offence for a licensee to supply intoxicating liquor to any aborigine or person of aboriginal blood.

(2) It was not necessary, to establish an offence against the section, for the prosecution to prove that there had been a request for the supply of food, drink or accommodation before the refusal of supply. *Port Augusta Hotel Ltd, v. Samuels* (1971) S.A.S.R. 139.

B. Right to fair trial

(Universal Declaration, article 11)

Two defendants were jointly charged before a special magistrate, sitting as a court of summary jurisdiction, with an offence under section 113 of the Mining Act 1930-1962 of South Australia. The special magistrate had previously convicted and sentenced one of the defendants upon a charge of a similar nature, and counsel for this defendant objected to the special magistrate hearing the second charge. The special magistrate however, proceeded to hear and determine the second charge and convicted and sentenced the defendant.

On appeal, *Held* by the Supreme Court of South Australia that in the circumstances there was a sufficient likehood of bias on the part of the special magistrate to disqualify him from hearing the second charge, and that the conviction should be set aside and the matter remitted for hearing before another special magistrate. *Rendulic* v. *Bevan* (1971) S.A.S.R. 340.

Two appellants had pleaded guilty before justices and had been sentenced to imprisonment. On appeal, *Held* by the Supreme Court of Western Australia that justices should not accept a plea of guilty by a defendant who is not legally represented when there is insufficient material in the facts presented to them to justify conviction of the offence charged. *Wills* v. *Williams* (1971) W.A.R. 29.

In an appeal against a conviction and sentence, the appeal was dismissed but the judges made the following observations:

"There are two matters to which we would desire to make reference. The uncontradicted evidence showed that Mr. Bracks, the solicitor for Dugan, arrived at the Criminal Investigation Branch Headquarters on the night of Dugan's arrest, after receiving a phone call. He arrived there at approximately 12.15 in the morning of 18 November 1969, said that he understood that Dugan had been arrested, that he was a solicitor, and that Dugan had previously asked that should he ever be arrested Mr. Bracks' presence would be desired at any interrogation.

"There was a great number of reporters and photographers outside and Mr. Bracks asked Detective Sergeant Coleman to ascertain the position. He was told: 'It is only a rumour that he has been arrested.' Mr. Bracks replied: 'I would suggest if Dugan has been arrested it would be very easy for you to ascertain this.' Sergeant Coleman said in reply: 'I am not an inquiry boy.' Notwithstanding further pressure, nothing was done at all to meet Mr. Bracks' wishes. He was unsuccessful in his inquiry and he finally left the Criminal Investigation Branch about 2 o'clock or 2.30 in the morning. He did not see Dugan.

"The somewhat brusque way in which he was turned away did not reflect credit on the police that night. Mr. Bracks was entitled to see Dugan. In our opinion, the conduct of the police officers concerned was reprehensible.

"Evidence was also given By Detective Constable McNamara that it is not the practice to serve a copy of a 'record of interview' on the accused when it is unsigned. This is a direction from the Commissioner of Police and the only 'record of interview' to be handed to the suspect is one which has been signed.

"We do not know whether this is so or not, but we would have thought that it may be a very unwise direction. If the contents of a 'record of interview' are to be given in evidence, the accused should be given a copy as a matter of fairness. Otherwise it may have the result of making such 'records of interview' suspect and liable to attack. Perhaps if it is a direction from the Commissioner of Police the matter may be reconsidered in due course." *R.* v. *Dugan* (1970) 92 W.N. (N.S.W.) 767.

C. Protection of children

(Universal Declaration, article 25)

Section 17 of the Infants' Custody and Settlements Ordinance 1956 of the Australian Capital Territory provides, *inter alia*, that where, in a proceeding before a court, the custody of an infant is in question, the court in deciding that question shall regard the welfare of the infant as the first and paramount consideration.

Held by the Supreme Court of the Australian Capital Territory: That to regard the welfare of an infant as "the first and paramount consideration" the court should regard the welfare, using that word in its widest sense, of the infant as the exclusive ultimate consideration. Subordinate considerations cannot compete with, but are not to be disregarded in considering, the welfare of the infant. The benefits to be obtained from the love and affection of parents and association with parents are of the greatest importance to the infant's welfare. The merits and demerits of parents are to be considered in the light of the welfare of the infant and not as independent considerations competing with the welfare of the child. *Y.* v. *Y.* (1970) 16 F.L.R. 489.

AUSTRIA

NOTE *

I

The extensive protection of human rights and fundamental freedoms ensured already in the past under the Austrian legal system has been expanded in the year under review by the rules of the Act Amending the Penal Code of 1971 (*Strafrechtsänderungsgesetz 1971, Bundesgesetzblatt* No. 273). These rules concern an essential sector of civil rights and liberties, namely the rights of the defendant (*Beschuldigter*) in criminal proceedings. The most important points are the following:

1. An extension of the right to inspect the files and the removal of restrictions on frank discussion between the defence counsel and the defendant and their correspondence during preliminary inquiries and the judicial investigation are designed to ensure "equality of arms" as between prosecution and defence.

2. The emphasis of the new regulation provided by the 1971 Act for Amending the Penal Code is on the conditions required for imposing detention on remand. This new regulation is characterized by stricter conditions for imposing and maintaining detention on remand.

3. Mandatory detention on remand in the case of crimes punishable by not less than 10 years' imprisonment has, on principle, been retained. But a change in the legal situation has been provided in so far as detention on remand may not be imposed if in the light of certain facts, it can be assumed that none of the reasons for detention enumerated in the law obtain (danger of absconding, danger of suppressing evidence, danger that the defendant will commit the offence or further offences).

4. Another novelty is the introduction of a hearing under remand proceedings (*Haftprüfungsverhandlung*), with the defendant, his counsel (possibly to be appointed *ex officio*) and the public prosecutor taking part. Remand proceedings may be instituted either *ex officio* or on the request of the defendant (his counsel for the defence). A hearing has to be held in any case if a detention on remand has already lasted for two months. The object of remand proceedings is a decision on the question as to whether any grounds for detention continue to obtain. The defendant (or his counsel) must be allowed not less than three days to prepare for the hearing under remand proceedings. A decision under remand proceedings may be attacked by an appeal to be lodged with the court of second instance within a fortnight. The counsel for the defence has to be called in for the hearing before the court of second instance on the appeal of a decision rendered under remand proceedings.

II

In the year under review, the Committee of Experts on the Reform of Fundamental Rights set up by the Federal Government dealt with the following groups of problems:

1. *Procedural rights:* The subjects of the deliberations were: publicity and orality of court proceedings; prohibition of torture; the principle of conducting criminal proceedings only on the basis of a formal charge; and the individual's right to use his mother tongue in criminal proceedings. In connexion with these question, the Committee also discussed the so-called presumption of innocence and the possibility of introducing a guarantee concerning the independence of lawyers.

2. *Political parties:* The discussion of this set of problems dealt with the right to freedom to form political parties whose set-up is in line with democracy; the right of political parties to participate freely and reasonably in the procedure of democratic formation of intent; the freedom of membership in political parties; the freedom of accession to, and withdrawal from, political parties; the right of all members of a party to co-operate in their party's formation of intent especially as regards the nomination of candidates (intra-party democracy).

3. *Electoral law*: Further deliberations concerned the right to vote in elections to legislative bodies and statute-giving bodies of autonomous corporations. The points discussed in this connexion included the universal and equal right to be elected to these bodies; the independence of representatives from their voters' instructions; the right of all candidates running in an election to participate freely and reasonably in the election campaign especially also over the radio and television systems (principle of equality of opportu-

* Note furnished by the Government of Austria.

nity); the right of all voters to truthful information on the candidates and their objectives, and the right to abstain from voting.

4. Another group of problems discussed by the Committee on Fundamental Rights was general and equal access to public offices; the guarantee of the judiciary as the institution responsible for jurisdiction and investment of individual judges with the fundamental right required to ensure the efficacy of that guarantee; and the guarantee of the career service as the institution responsible for the administration and investment of the individual civil servant with the fundamental rights required to ensure the efficacy of that guarantee.

The above groups of problems were considered by the Committee of Experts at nine meetings altogether.

III

Moreover, Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending articles 22 and 40 of the Convention, was ratified in the year under review. The said Protocol entered into force on 20 December 1971.

BARBADOS

NOTE [1]

1. *The National Insurance and Social Security (Amendment) Act, 1971 (Act 1971-1)* (*Supplement to Official Gazette*, 25 March 1971) amends the National Insurance and Social Security Act, 1966 (Act 1966-15) by adding funeral grant and medical expenses to the categories of employment injury benefit payable to persons insured pursuant to section 14 of Act 1966-15.

2. *The Sugar Workers (Provident Fund) (Amendment) Act, 1971 (Act 1971-12)* (*ibid.*, 24 May 1971) amends section 2 of the Act 1968-54 by redefining "sugar worker".

3. *The Representation of the People Act, 1971 (Act 1971-15)* (*ibid.*, 31 May 1971) *consolidates* and revises the laws of Barbados relating to the representation of the people. Extracts from this Act appear below.

4. *The Barbados Citizenship (Amendment) Act, 1971 (Act 1971-31)* (*ibid., 16* August 1971), amends the Barbados Citizenship Act, 1967. Extracts from the Act appear below.

5. *The National Insurance and Social Security (Amendment) (No. 2) Act, 1971 (Act 1971-36)* (*ibid.*, 6 December 1971), repeals section 52 of the National Insurance and Social Security Act, 1966 (Act 1966-15) and replaces it by new sections 52 and 53, dealing respectively with measure of damages in action by an insured person or his dependents against an employer and action by an insured person or his dependents against persons other than an employer.

6. *The Employment Injury (Prescribed Diseases) Regulations, 1971* (*Statutory Instruments Supplement* No. 29. *Supplement to Official Gazette* No. 41, 24 May 1971) prescribe diseases in respect of persons insured under Act 1966-15 pursuant to section 14.

7. *The National Insurance and Social Security (Mariners and Airmen) Regulations,* 1971 *(ibid.)* make provisions for payment of benefits to airmen and mariners insured under Act 1966-15.

8. The Employment Injury *(Insurance and Excepted Employments) Regulations, 1971 (ibid.)* deal *inter alia* with insurable employments (section 3), excepted employments (section 4) and persons to be treated as employers (section 5).

9. *The National Insurance and Social Security (Classification) (Amendment) Regulations, 1971* (*ibid.*) *amend the National Insurance and Social* Security (Classification) Regulations, 1967.

10. *The National Insurance and Social Security (Collection of Contributions) (Amendment) Regulations, 1971 (ibid.)* amend the National Insurance and Social Security (Collection of Contributions) Regulations, 1967.

11. *The National Insurance and Social Security (Benefit) (Amendment) Regulations, 1971* (*ibid.*) amend the National Insurance and Social Security (Benefit) Regulations, 1967.

12. *The Registration of Electors Regulations, 1971* (*Statutory Instruments Supplement* No. 34, *Supplement to Official Gazette* No. 46, 10 June 1971) prescribe, *inter alia*, the conditions of residential qualifications and outline the procedure in respect of the issue of identification cards.

13. *The Sugar Workers (Guaranteed Employment) Order, 1971 (Statutory Instrument* 1971, No. 61) prescribes a guaranteed minimum period of employment for workers employed in the sugar industry.

...

[1] Note furnished by the Government of Barbados.

The Representation of the People Act, 1971-15

Assented to on 29 May 1971 and entered into force on 1 June 1971 [2]

(Extracts)

PART II

House of Assembly franchise and registration of electors

Qualifications of Electors

6. (1) Subject to this Act, a person is entitled to vote as an elector at an election in a constituency if on polling day he is qualified to be an elector for that constituency and is on that day registered in the register of electors to be used at that election in that constituency.

(2) A person is not entitled to vote as an elector at an election in a constituency unless he is registered in the register of electors to be used at that election in that constituency.

(3) A person who is subject under any enactment to any incapacity to vote is not entitled to vote as an elector at an election in a constituency.

(4) No person may:

(*a*) At a general election, vote as an elector in more than one constituency; or

(*b*) At any election, vote as an elector more than once in the same constituency; or

(*c*) At any election, vote without first producing the identification card issued to him under section 25 unless he proves to the satisfaction of the presiding officer that he has not been issued with an identification card or that he has been issued with an identification card and that such card has been lost or destroyed.

7. (1) Subject to this Act and any enactment imposing any disqualification for registration as an elector, a person is qualified to be registered as an elector for a constituency if, on the qualifying date, he:

(*a*) Is a citizen of Barbados; or

(*b*) Is a Commonwealth citizen (other than a citizen of Barbados) who has resided in Barbados for a period of at least 3 years immediately before the qualifying date; and

(*c*) Is 18 years of age or over; and

(*d*) Has resided in that constituency for a period of a least 3 months before the qualifying date or, but for the circumstances entitling him to vote at a Mission, would have been resident at the address at which he was ordinarily resident in that constituency immediately before leaving Barbados.

(2) A person is not qualified to be registered as an elector for more than one constituency.

(3) Where a person who is registered as an elector for a constituency has ceased to reside in that constituency he shall not on that account cease to be qualified to be registered as an elector for that constituency until he has become qualified to be registered as an elector for another constituency.

(4) In reckoning the period of residence in a constituency of an elector referred to in subcection (1) (*d*) the period between the qualifying date and polling day in that constituency shall not be reckoned as a period of residence.

8. A person is disqualified from being registered as an elector and shall not be so registered if he:

(*a*) Is a person found or declared to be a person of unsound mind or a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness by virtue of any enactment; or

(*b*) is undergoing any sentence of imprisonment in Barbados; or

(*c*) Is under sentence of death imposed on him by a court in any part of the Commonwealth or under sentence of imprisonment (by whatever name called) exceeding 12 months imposed on him by such a court or under some sentence substituted therefor by competent authority and has not suffered the punishment to which he was sentenced or received a free pardon therefor; or

(*d*) Is under any enactment, disqualified for registration as an elector.

...

16. (1) All claims for registration made by a person whose name does not appear in the register or the appropriate monthly list and all objections to the registration of persons whose names appear in the registers of electors and the register of foreign service electors and in the monthly lists as the case may be shall be determined in accordance with the regulations by the appropriate registering officer acting with respect to the constituency to which the register or list in question relates.

(2) Notwithstanding subsection (1), when a claim thereunder has been disallowed, the registering officer may in accordance with the regulations refer the matter to the Chief Registering Officer whose decision shall be final.

...

21. A person is qualified to be treated as a foreign service elector at any election in any constituency who is a qualified person and is:

(*a*) Serving abroad as the head of a Mission or a member of the staff of a Mission;

(*b*) A member of the household of a person mentioned in paragraph (*a*).

Offences

27. (1) A person who:

(*a*) Has ceased to be a Commonwealth citizen

[2] *Supplement to Official Gazette*, 31 May 1971.

after attaining the age of 18 years and has not subsequently thereto become a Commonwealth citizen; or

(*b*) Has not attained the age of 18 years; or

(*c*) Does not have the requisite residental qualifications for inclusion in the register of electors, and who wilfully makes any claim to be included in the register of electors is guilty of an offence and is liable on summary conviction to a fine not exceeding $100 or to imprisonment for a term not exceeding 3 months.

(2) A person who objects under this Act or the regulations to the inclusion of any other person in any list or register relating to electors prepared under this Act or the regulations upon any ground which he knows or has reasonable cause to believe to be false is guilty of an offence and is liable on summary conviction to a fine not exceeding $100 or to imprisonment for a term not exceeding 3 months.

(23) A person who knowingly makes a false statement for the purpose of being registered as an elector is guilty of an offence and is liable on summary conviction to a fine not exceeding $100 or to imprisonment for a term not exceeding 3 months.

...

Barbados Citizenship (Amendment) Act, 1971

Act 1971-31, assented to on 13 August 1971 and entered into force on 16 August 1971 [3]

(Extracts)

...

3. Section 4 of the principal Act is hereby repealed and the following sections sustituted therefor.

4. (1) Subject to section 4A, a person who would, but for the fact that he was not on 29 November 1966 a citizen of the United Kingdom and Colonies, have become a citizen of Barbados in accordance with subsection (1) or (2) of section 2 of the Constitution may, upon making application to the Minister in the prescribed manner, be registered at the discretion of the Minister as a citizen of Barbados.

(2) Subject to section 4A a citizen of any country mentioned in the First Schedule, or a citizen of the Republic of Ireland, being a person of full age and capacity may, on making application therefor to the Minister in the prescribed manner, be registered at the discretion of the Minister as a citizen of Barbados if he satisfies the Minister that he:

(*a*) Has been ordinarily resident in Barbados; or

(*b*) Has been in the service of the Government; or

(*c*) Has had partly such residence or partly such service,

for a period of not less than seven years ending with the date of his application, of which not less than five years in the aggregate must have been spent in Barbados, or for such shorter period so ending as the Minister may in the special circumstances of any particular case accept.

(3) Subsections (1) and (2) do not apply to any person who, under section 3 or 6 of the Constitution is entitled to be registered as a citizen of Barbados.

(4) Subject to section 4A, a person is entitled on making application under this subsection to the Minister in the prescribed manner, to be registered as a citizen of Barbados if he satisfies the Minister that he is and has always been stateless and:

(*a*) If he was born before 29 November 1966, that his mother was, at the time of his birth, a citizen of the United Kingdom and Colonies by reason of her birth in Barbados; or

(*b*) If he was born after 29 November 1966, that his mother was a citizen of Barbados, at the time of his birth; or

(*c*) That he was born in Barbados.

(5) Paragraphs (*a*) and (*b*) of subsection (4) apply to persons born illegitimate as well as to persons born legitimate.

(6) An application for registration under this section of a minor may be made by his parent or guardian or, if he has attained the age of 16 years, by the minor himself or by his parent or guardian.

4A. (1) The Minister may, if he is satisfied that the interests of national security and public policy so require, refuse to register as a citizen of Barbados any person who:

(*a*) Under subsection (2) or (3) of section 3 of the Constitution [4] or subsection (4) of section 4 of this act, is entitled to be registered as a citizen of Barbados and applies to be so registered; or

(*b*) Pursuant to subsection (1) or (2) of section 4 applies to be registered as a citizen of Barbados.

(2) Without prejudice to the generality of subsection (1) the Minister may refuse to register as a citizen of Barbados any person referred to in that subsection if he is satisfied that the applicant:

(*a*) Is not of good character; or

(*b*) Has been convicted by a competent court in any country of a criminal offence for which he was sentenced to death or has been detained under a sentence of imprisonment of 12 months or more

[3] *Supplement to Official Gazette*, 16 August 1971.

[4] For the extracts from the Constitution, see *Yearbook on Human Rights 1966*, pp. 24-35.

imposed on him on his conviction of a criminal offence by such a court, and in either case, has not received a free pardon in respect of the offence; or

(*c*) Has engaged in activities, whether within or outside of Barbados, which, in the opinion of the Minister, are prejudicial to the safety of Barbados or to the maintenance of law and public order in Barbados; or

(*d*) Has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged; or

(*e*) Not being the dependant of a citizen of Barbados, has not sufficient means to maintain himself and is likely to become a public charge.

4B. (1) A person born in Barbados after 29 November 1966 shall be a citizen of Barbados by birth if his mother was a citizen of Barbados at the time when he was born and he would, apart from this subsection, be stateless.

(2) Where after 29 November 1966 a newborn infant is found abandoned in Barbados, that infant shall, unless the contrary is shown, be deemed to have been born in Barbados.

4. Section 9 of the principal act is hereby amended by repealing subsections (2) and (3) thereof and substituting therefor the following subsections:

(2) Subject to the provisions of this section, the Minister may, at his discretion, by order deprive of his citizenship any citizen of Barbados who is such by registration or naturalization if the Minister is satisfied that citizen has:

(*a*) At any time after registration or naturalization

(i) Been convicted of treason by a competent court in any part of the Commonwealth; or

(ii) Been convicted by a competent court in any country of a criminal offence on conviction of which the death penalty or a term of imprisonment of not less than seven years may be imposed,

and in either case has not received a free pardon in respect of the offence; or

(*b*) Within five years after registration or naturalization has been convicted by a competent court in any country of a criminal offence and sentenced to imprisonment for a term of not less than 12 months and has not received a free pardon in respect of the offence; or

(*c*) Shown himself by act or speech to be disloyal or disaffected towards Barbados; or

(*d*) During any war in which Barbados was engaged, unlawfully traded or communicated with the enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or

(*e*) Engaged in activities, whether within or outside of Barbados, which, in the opinion of the Minister, are prejudicial to the safety of Barbados or to the maintenance of law and public order in Barbados.

(3) The Minister shall not deprive any person of citizenship under this section on the ground mentioned in paragraph (*b*) of subsection (2) if it appears to him that that person would thereupon become stateless.

...

BELGIUM

NOTE *

I. Legislation

ORGANIC LAW CONCERNING THE CONSEIL D'ETAT: NEW ARTICLE 7 *bis*

The Act of 3 June 1971 (*Moniteur belge* of 19 June 1971) inserts into the Act of 23 December 1946 establishing a Conseil d'Etat an article 7 *bis*, worded as follows:

"*Article 7* bis. Where there is no other competent jurisdiction, the Administration Committee shall render judgement in accordance with equity, taking into account all circumstances of public and private interest, on claims to compensation in reparation for exceptional damage, moral or material, caused by an administrative authority.

"A claim to compensation shall be admissible only when the administrative authority has rejected, in whole or in part, an application for compensation or has failed to give a ruling thereon within 60 days."

This article 7 *bis* replaces the old article 7 (1), while the old article 7 (2) becomes the new article 7.

The old article 7 (1) was worded as follows:

"*Article 7 (1).* The Administration Committee shall, where there is no other competent jurisdiction, take cognizance of claims to compensation in reparation for exceptional damage resulting from measures taken or ordered by the State, a province, a commune or the Government of the Belgian Congo and Ruanda-Urundi, whether the execution thereof was normal or was defective or deferred. The Administration Committee shall give an opinion, stating the reasons on which it is based, in accordance with equity, taking into account all circumstances of public and private interest.

"A petition for an opinion as aforementioned shall be admissible only when the State, the province, the commune, or the Government of the Belgian Congo and Ruanda-Urundi has rejected in whole or in part, an application for compensation or has failed to give a ruling thereon within 60 days.

"The opinion shall be given within a period to be specified by Royal Order. It shall be made public and communicated to the parties concerned. However, the Administration Committee may decide to publish and communicate only the operative part of the opinion, where it deems that the common interest so requires.

"The decisions of the authorities concerning cases on which the Administration Committee has given an opinion pursuant to this article shall refer specifically to the opinion in question and shall indicate its tenor."

"The exceptional damage" reparation for which is governed by article 7 *bis* (formerly by article 7 (1)) is damage caused by a measure which was fully in accordance with the law and the public interest but which, although not vitiated by any fault, had the effect of violating, to the detriment of a member of the public, the equality of citizens vis-à-vis public authorities.

Under the new article 7 *bis*, the Conseil d'Etat acquires power to decide where previously it was competent only to give an opinion.

Moreover, the new text provides reparation for exceptional damage caused by any administrative authority instead of reparation, under the previous less general wording, for exceptional damage resulting from measures taken or ordered by the State, a province or a commune.

The new text also specifies that the exceptional damage may be moral or material.

* Note furnished by the Government of Belgium.

Act of 6 August 1971 amending the Prevention of Vagrancy and Begging Act of 27 November 1891

(*Moniteur belge* of 25 August 1971)

Following the judgement rendered on 18 June 1971 by the European Court of Human Rights at Strasbourg in the "vagrants case", the Act of 27 November 1891 was amended by the Act of 6 August 1971, so that appeals as provided for in the Code of Criminal Procedure may now be lodged against decisions rendered pursuant to articles 13 and 16 of the 1891 Act, including those relating to persons already deprived of their liberty at the time of the amendment.

Social insurance: General scheme

Act of 8 April 1971 establishing a legal qualifying period (*Moniteur belge* of 28 April 1971).

Royal Order of 16 February 1971 amending the Royal Order of 28 November 1969, which was issued to implement the Act of 27 June 1969 amending the Legislative Order of 28 December 1944 on workers' social security (*Moniteur belge* of 24 February 1971).

The general social security scheme is extended to cover:

Members of the scientific staff of independent university-level institutions and holders of fellowships awarded by the Inter University College of Advanced Management Studies (Royal Order of 16 February 1971);

Persons undergoing training as state counsel at a court of first instance or a labour or military court (except in respect of annual holidays) (Act of 8 April 1971).

Sickness and disability

Act of 5 July 1971 relating to the legislation concerning social security for employed persons and the compulsory sickness and disability insurance scheme (*Moniteur belge* of 7 July 1971).

Act of 20 July 1971 amending the Act of 9 August 1963 concerning the establishment and organization of a compulsory sickness and disability insurance scheme (*Moniteur belge* of 29 July 1971).

Royal Order of 18 May 1971 amending the Royal Order of 4 November 1963 to implement the Act of 9 August 1963 concerning the establishment and organization of a compulsory sickness and disability insurances scheme (*Moniteur belge* of 2 June 1971).

Royal Order of 6 July 1971 amending the Royal Order of 4 November 1963 to implement the Act of 9 August 1963 concerning the establishment and organization of a compulsory sickness and disability insurance scheme (*Moniteur belge* of 10 July 1971).

Royal Order of 19 July 1971 amending the Royal Order of 4 November 1963 to implement the Act of 9 August 1963 concerning the establishment and organization of a compulsory sickness and disability insurance scheme (*Moniteur belge* of 23 July 1971).

Royal Order of 20 July 1971 establishing a disability insurance scheme for self-employed persons (*Moniteur belge* of 7 August 1971).

Royal Order of 3 September 1971 amending the Royal Order of 4 November 1963 to implement the Act of 9 August 1963 concerning the establishment and organization of a compulsory sickness and disability insurance scheme (*Moniteur belge* of 17 September 1971).

Apart from regulations adopted for budgetary reasons and those designed to improve the arrangements for the provision of benefits or to make the conditions for flexibility less stringent (Act of 5 July 1971), it should be noted that under the general scheme there is now no qualifying period for medical benefits and the qualifying period is reduced to one month in the case of compensation for women who, having temporarily ceased work for a specified period, again become subject to compulsory sickness and disability insurance, provided that the purpose of their ceasing work was to enable them to take care of their children (Royal Orders of 18 May and 6 July 1971).

Maternity insurance has also been improved through the grant of an additional allowance equivalent to 15 per cent of the wages lost for each working day within the 30 days following confinement (Royal Order of 19 July 1971).

The most important measure in this area is the introduction of disability insurance for self-employed persons, as envisaged in the Act of 9 June 1970 concerning social programming for self-employed persons (Act of 20 July 1971 and Royal Order of 20 July 1971).

In view of the characteristics of this group, the work performed by the self-employed person has been taken as the basic criterion for the scheme. Because of the specific nature of self-employment, there is a waiting period of six months. This is followed by a six-month period of compensable primary disability. For the subsequent period of disability, account is taken of the insured person's capacity to engage in another occupation. This scheme has administrative organs of its own and separate financial management. The self-employed persons eligible for disability compensation are those covered by Royal Order No. 38 establishing social security regulations for the self-employed, with the exception of members of the clergy and of religious communities, self-employed persons in receipt of pensions and those whose businesses or earnings are so small that they are wholly or partly exempt from the payment of contributions. Compensation is payable when the conditions regarding the qualifying period are fulfilled and the existence of the disability is established.

Pensions

Act of 28 May 1971 for the unification and harmonization of capitalization schemes established under the laws relating to old age and

premature death insurance (*Moniteur belge* of 16 June 1971).

Act of 27 July 1971 amending certain provisions concerning pensions for wage-earners, salaried employees, mine workers, seamen sailing under the Belgian flag and employed persons generally, and concerning guaranteed income for the aged and supplementary allowances for handicapped persons (*Moniteur belge* of 11 August 1971).

Royal Order of 4 June 1971 amending the Royal Orders concerning pensions for merchant seamen, wage-earners, salaried employees and employed persons generally (*Moniteur belge* of 10 August 1971).

Royal Order of 27 July 1971 specifying for professional journalists the special rules for entitlement to pensions and the special procedures for the implementation of Royal Order No. 50 of 24 October 1967 relating to retirement and survivors' pensions for employed persons (*Moniteur belge* of 20 August 1971).

Royal Order of 30 July 1971 amending the Royal Order of 17 June 1955 establishing general regulations for the retirement and survivors' scheme for salaried employees (*Moniteur belge* of 24 September 1971).

Royal Order of 30 July 1971 amending the Royal Order of 30 July 1957 establishing general regulations for the retirement and survivors' scheme for salaried employees (*Moniteur belge* of 24 September 1971).

Royal Order of 13 September 1971 to implement chapter I of the Act of 28 May 1971 for the unification and harmonization of capitalization schemes established under the laws relating to old age and premature death insurance (*Moniteur belge* of 13 November 1971).

Royal Order of 8 October 1971 to implement chapter II of the Act of 28 May 1971 for the unification and harmonization of capitalization schemes established under the laws relating to old age and premature death insurance (*Moniteur belge* of 5 November 1971).

Royal Order of 5 November 1971 to implement articles 22, 23, 26 and 27 of the Act of 5 August 1968 establishing certain relationships between public and private pension schemes (*Moniteur belge* of 10 December 1971).

With respect to unification of pension schemes under Royal Order No. 50 of 24 October 1967, the year 1971 was characterized by measures for the harmonization of the various capitalization systems which have been introduced in connexion with old age and premature death insurance, as regards both compulsory and supplementary contributions (Act of 28 May 1971 and Royal Orders of 13 September and 8 October 1971).

Similarly, various orders extended measures originally applicable to pensions the payment of which began after 1968 to apply also to pensions which had been paid since before that date (Act of 27 July 1971 and Royal Orders of 4 June and 30 July 1971). The Royal Order of 27 July 1971 establishes the special procedures concerning pension entitlement for professional journalists. Finally, the Royal Orders of 5 November 1971 ensure the implementation of the provisions of the Act of 5 August 1968 establishing certain relationships between public and private pension schemes by allowing services performed in the public sector to be taken into account under the private schemes.

Family allowances

Act of 14 May 1971 amending the co-ordinated laws relating to family allowances for employed persons (*Moniteur belge* of 30 June 1971).

Act of 20 July 1971 extending entitlement to family allowances to children of workers who are articled as apprentices to members of their family (*Moniteur belge* of 31 July 1971).

Act of 20 July 1971 establishing guaranteed family benefits (*Moniteur belge* of 7 August 1971).

Act of 20 July 1971 amending the co-ordinated laws relating to family allowances for employed persons (*Moniteur belge* of 12 August 1971).

Royal Order of 9 April 1971 amending the Royal Order of 15 February 1968 establishing the conditions under which family allowances are paid for children receiving education or training (*Moniteur belge* of 30 June 1971).

Royal Order of 25 October 1971 to implement the Act of 20 July 1971 establishing guaranteed family benefits (*Moniteur belge* of 5 November 1971).

The most important measures concern, firstly, the establishment of guaranteed family benefits for Belgian children who do not receive family allowances and whose resources do not exceed a certain ceiling (Act of 20 July 1971, Royal Order of 25 October 1971), and, secondly, the establishment of a fund for common facilities and services for the households of employed persons; part of the reserves of the family allowance scheme for employed persons is used to finance this fund (Act of 20 July 1971).

Coverage has also been extended to single women who keep house and to apprentices. Under the Act of 14 May 1971, single women who keep house will now retain their entitlement to family allowances until the age of 25, and such entitlement will no longer be forfeited in the case of children who have signed articles of apprenticeship with a close relative (Act of 20 July 1971).

Finally, it should be noted that the employment of students under certain conditions no longer precludes entitlement to family allowances (Royal Order of 9 April 1971).

Handicapped persons

Royal Order of 22 March 1971 increasing the rate of the special allowance provided for in article 11 of the Act of 27 June 1969 concerning the granting of allowances to handicapped persons (*Moniteur belge* of 27 March 1971).

Royal Order of 7 June 1971 amending the Royal Order of 17 November 1969 establishing general regulations for the granting of allowances to handicapped persons (*Moniteur belge* of 30 June 1971).

Royal Order of 7 June 1971 increasing the rate of the special allowance provided for in article 11 of the Act of 27 June 1969 concerning the granting of allowances to handicapped persons (*Moniteur belge* of 30 June 1971).

In order to make life easier for the persons most afflicted, various allowances for the handicapped have been increased; for instance, the special allowance was increased by 14,600 francs, and later by 15,220 francs, for handicapped persons who are neither housebound nor supported by public funds or sickness and invalidity insurance agencies (Royal Orders of 22 March and 7 June 1971).

Finally, the standard allowances have also been increased (Royal Order of 7 June 1971).

Industrial accidents

Industrial Accidents Act of 10 April 1971 (*Moniteur belge* of 24 April 1971).

Royal Order of 21 December 1971 to implement certain provisions of the Industrial Accidents Act of 10 April 1971 (*Moniteur belge* of 28 December 1971).

Royal Order of 21 December 1971 concerning allowances and social assistance provided by the Industrial Accidents Fund (*Moniteur belge* of 31 December 1971).

Royal Order of 28 December 1971 establishing the special rules for the application to seamen of the Industrial Accidents Act of 10 April 1971 (*Moniteur belge* of 21 December 1971).

The Industrial Accidents Act, which applies to both employed persons generally and to mine workers and seamen, makes compulsory insurance universal.

The amounts payable in compensation are also increased because of the increase in the maximum annual wage taken into account (300,000 francs).

In addition, the Act improves the position of persons who suffer temporary partial disability by providing for their re-employment; finally, if there is any change in the disability, the parties may apply for a review of the compensation within three years from the date of the certificate evidencing the healing of the injury or before the completion of consideration of an application for review.

The Industrial Accidents Fund makes reparation for injuries caused by accidents due to special risks (engines of war); it is responsible for the maintenance and renewal of prosthetic devices and orthopaedic appliances, once the injury has healed; it grants allowances to certain categories of injured persons or their beneficiaries, the amounts and conditions of payment being established by Royal Order; finally, it also provides social assistance for injured persons or their beneficiaries.

Family welfare

The Royal Order of 25 May 1971, concerning the approval and subsidizing of welfare services for families and old people, amends the previous regulations on the granting of subsidies to family welfare services and welfare services for the aged. The purpose of these services is to provide temporary aid to families and old people by making helpers available to assist them in taking care of their children and doing their housework in certain cases—for instance, where the mother is sick or overworked, in case of the sickness, death or prolonged absence of the father of a motherless family, in case of the sickness of a child of a working mother or where a member of the family is seriously handicapped.

The Royal Order increases (from 10 to 12 Belgian francs per hour of service) the standard State subsidy to the operational expenses of welfare services for families and for the aged.

The hourly wage of family helpers and seniors' helpers is taken into account in calculating the subsidies, which previously could be up to 23 Belgian francs for trainee helpers, 35 Belgian francs for helpers with less than five years' experience and 40, 45 or 50 Belgian francs for helpers with at least 5, 10 or 15 years' experience, is now raised to 33, 45, 50, 55 and 60 Belgian francs respectively.

The subsidy for each hour of service is increased to 85 per cent (formerly 75 per cent) of the difference between the gross hourly wage paid by the welfare service to its workers and the contribution required of the beneficiary per hour of service.

These measures are designed to ease the financial burden on the welfare services for families and seniors and thus enable them to extend their assistance to a larger number of families and old people.

The progressive position over the most recent years for which complete statistics are available is as follows:

	31 December 1968	*31 December 1969*	*31 December 1970*
Number of family helpers	3 346	3 456	3 313
Number of seniors' helpers	990	1 148	1 224
Hours of service			
To families	3 060 107	3 258 535	3 177 716
To the aged	2 880 070	3 423 142	3 853 682
State subsidies			
Family welfare	109 974 236	125 957 370	136 282 226
Welfare for the aged	108 014 532	139 314 721	144 899 525

RIGHT TO WORK

The Employment Act of 16 March 1971 (*Moniteur belge* of 30 March 1971) has a twofold purpose:

1. To take a first step towards co-ordinating certain laws, particularly those relating to: Employment of juveniles; Sunday day of rest; Working hours; Employment of women.

2. To ensure better protection for juvenile workers through the establishment of new rules adapted to current social conditions.

1. *Co-ordination*

This Act brings together in a simple text all the provisions of the laws relating to the first three of the above-mentioned subjects, which it abrogates, as well as the provisions of Royal Order No. 40 of 24 October 1967 on the employment of women, which it also abrogates.

The provisions of the Act relating to the Sunday day of rest, working hours and the employment of women do not differ essentially from the provisions of the abrogated laws on those subjects.

2. *Main provisions concerning the protection of juvenile workers*

Scope

The Act applies to juveniles, whether or not bound by a contract of employment, who render services under the authority of employers or of persons deemed to be employers.

The term "juvenile workers" means persons under 18 years of age.

Minimum working age

Children who are under 14 years of age or have not yet completed their compulsory schooling may not be caused to work or to carry out any activity unrelated to their education or training.

However, individual exceptions may be granted to enable children to participate as actors or performers in various cultural, scholarly, educational or artistic events.

Prohibition of certain types of employment

Juvenile workers may not perform:

Underground work in mines and quarries;

Work which exceeds their strength, jeopardizes their health or endangers their morals;

Dangerous or unhealthy work.

Night work

Juvenile workers may not perform night work, that is, work between the hours of 8 p.m. and 6 a.m.

This prohibition is absolute in the case of juveniles under 16 years of age. Above that age, exceptions may be made in the case of:

Work which, because of its nature, cannot be interrupted or delayed; shift work.

In addition, the Crown may if necessary, under such conditions as it shall determine, authorize night work in certain cases provided for in the Act.

In any event, the interval between the cessation and resumption of work must be at least 12 consecutive hours.

Sunday day of rest and holidays

Juvenile workers may not be employed on Sundays and holidays, except in the cases provided for in the Act (which is very restrictive).

Working hours

The regulations regarding working hours for juvenile workers are in principle the same as those for other workers, except for the following provisions:

Working hours may not exceed 10 hours per day;

Juvenile workers may not work for more than 4½ hours without interruption.

If the working day exceeds 4½ hours, a rest period of half an hour is allowed. If the working day exceeds six hours, the rest period is one hour.

The Act of 17 February 1971 (*Moniteur belge* of 23 February 1971) concerning the organization of the economy made certain changes in the law concerning elections for membership in works councils and committees for safety and hygiene:

1. *Conditions of eligibility*

The requirement concerning length of service in a specific trade is abolished, and foreign workers are placed on a footing of complete equality with Belgians.

Belgian and foreign workers are required only to show their length of service with the undertaking in which they are at present employed.

2. *Mandatory elections in certain undertakings*

Elections are mandatory in undertakings employing 150 workers and in undertakings in which a works council has already been set up, provided that the number of persons employed in such undertakings has not been reduced to less than 50.

3. *Protection of candidates*

The period of protection of candidates has been increased from 15 to 30 days before the announcement of the date of the elections.

4. *Number of members*

The maximum number of workers' representatives has been set at 25 and the minimum number at two.

SCALE OF UNEMPLOYMENT BENEFITS

The Royal Order of 13 October 1971 amending, as regards the scale of unemployment benefits, the Royal Order of 20 December 1963 concerning employment and unemployment, and the Ministerial Order of 18 October 1971 to implement the Royal Order (*Moniteur belge* of 16 October 1971), radically changed the method of calculating unemployment benefit rates; the old flat rates will now be individualized and must in future represent 60 per cent of the gross loss of remuneration, whereas previously they were presumed to represent a certain percentage of the wages of a typical worker, that percentage being increased or de-

creased according to the presumed household expenses of the worker concerned.

MEASURES TO PROTECT WORKERS IN CASE OF THE CLOSING-DOWN OF UNDERTAKINGS

The Act of 28 July 1971 amending the legislation concerning the closing-down of undertakings considerably increased the protection of workers affected by such cessations of operations.

As a result of the enlargement of the scope of that legislation workers in undertakings which employed during the last preceding calendar year an average of at least 20 workers (instead of 25 as previously) may benefit from all the arrangements provided for, in particular the temporary allowances introduced by the Act of 20 July 1968.

Moreover, various problems which had emerged from practical experience were resolved to the interest of the workers. A number of amendments were made to the Act of 28 June 1966 concerning the compensation of workers dismissed in case of the closing-down of undertakings, including, in particular:

More flexibility in defining what constitutes a closing-down;

Greater possibilities for exceptions to the established criteria;

Broadening of the conditions relating to length of service; on the proposal of the competent joint committee, one year of service in the undertaking may be replaced by a period of service in the industry concerned;

Extension of the reference period preceding closing-down for employees who are entitled to lengthy notice in advance, which is increased from 12 to 18 months.

In addition, the so-called closing-down allowance established under the terms of this latter Act is substantially increased for workers over 45 years of age (a supplement of 1,000 francs per year of age, with a maximum of 20,000 francs).

Lastly, with a view to ensuring for all workers, irrespective of the size of the undertakings compelled to close down, the benefits of the Act of 30 June 1967 expanding the functions of the Compensation Fund for workers dismissed in case of the closing-down of undertakings, that Act was extended to apply if necessary to all undertakings, irrespective of their size or the industry involved.

NATIONAL INTER-TRADE AGREEMENT OF 15 JUNE 1971

Trade union training

The agreement provides for improved training of workers on both the human and vocational levels by providing workers' delegates with the time and facilities needed to perform their duties (in particular through participation in courses and seminars without loss of remuneration).

Working hours

The normal working week will be reduced to 42 hours in 1972. The agreement provides for a reduction to 40 hours and the provision of a fourth week of vacation by 1975, and in exceptional cases by 1976.

EXERCISE OF THE RIGHT OF ASSOCIATION

The collective labour agreement concerning the status of trade union delegations representing the staff of undertakings, concluded on 24 May 1971 within the National Labour Council, replaces the national agreement of 16 and 17 June 1947 on trade union delegations.

It stipulates, *inter alia,* that a trade union delegation shall be set up in all undertakings, where a representative trade union organization so requests. It provides a better flow of information between the heads of undertakings and the workers and enlarges the scope for action of trade union delegations. The agreement lays down the general lines along which trade union delegations are to be set up and to function, the task of determining the methods of implementation being left to the sectoral joint committees.

The above agreement is supplemented by three collective labour agreements of 30 June 1971. They provide for the provision of facilities for the worker members of works councils, committees for safety, hygiene and improvement of workplaces and trade union delegations to carry out their mandate and to participate in training courses or seminars without loss of remuneration (see also the inter-trade agreement of 15 June 1971 above).

II. Court decisions

Where court decisions relate to human rights, they involve certain articles of the European Convention for the Protection of Human Rights. Three of the judgements rendered by the Court of Cassation during 1971 were the following:

Judgement of 14 June 1971 on a suit alleging violation of article 5, paragraph (3), and article 6 of the European Convention (absence of the plaintiff from hearings of the court deciding on the question of detention pending trial;

Judgement of 6 September 1971 relating to article 6 of the European Convention (power of the judge to weigh the value of the evidence on which his ruling is based);

Judgement of 29 October 1971 relating to article 6, paragraph (1), of the European Convention (right of everyone to a hearing by an independent and impartial tribunal).

III. International agreements

The following International Labour Organisation Conventions entered into force:

Convention No. 95 concerning the protection of wages, on 22 April 1971;

Convention No. 121 concerning benefits in the case of employment injury, on 22 April 1971.

BOLIVIA

Decree Law No. 09873 of 4 September 1971 [1]

(Extracts)

Article 1. All universities throughout the country shall be closed until 28 February 1972.

Article 2. The National University Reform Commission is hereby created; it shall undertake an evaluation of the Bolivian University, with a view to its complete reorganization bearing in mind the country's technical, economic and social needs, the principles exemplified in the most modern systems of organization and teaching, and the imperative need to improve the moral and patriotic standards of future generations. The Commission shall be composed of one representative from the Office of the President of the Republic, two from the Ministry of Education and Culture, one from the Ministry of Finance, one from the Ministry of Planning and Co-ordination, and one more from the Ministry of Labour and Trade Union Affairs.

Article 3. The Commission referred to in the preceding article shall be entitled to recruit local or foreign trained technical personnel, and also to request the co-operation of international specialized organizations; it shall present its report and recommendations by 31 January 1972.

[1] *Gaceta Oficial de Bolivia,* No. 575, 9 September 1971.

Supreme Decree No. 09954 of 13 October 1971 [2]

Article 1. The Commission for the Integral Reform of Bolivian Education is hereby created under the chairmanship of the Minister of Education and Culture, for the purpose of carrying out an integral reorganization of non-university education in Bolivia.

...

Article 3. The Commission for the Integral Reform of Bolivian Education shall make an evaluation of the entire educational system as a whole, including its structure, plans and programmes, its administration and financing, and the instruments required both at the primary and intermediate levels and at the higher levels of technical and non-university-levels training.

Article 4. The Commission for the Integral Reform of Bolivian Education shall carry out its task in direct co-ordination with the University Reform Commission and with any other body established for a similar purpose.

Article 5. The Commission may recruit whatever personnel it considers necessary and may establish whatever subcommissions are necessary to carry out its task and also recruit national or foreign personnel and request technical assistance from international organizations.

Article 6. The basic documents prepared by the Commission hereby constituted, co-ordinated with those of the University Reform Commission, shall be submitted to the Supreme Government by 31 December of this year.

...

[2] *Ibid.,* No. 581, 15 October 1971.

BOTSWANA

NOTE [1]

The Government of Botswana has communicated the text of the Constitution of Botswana of 30 September 1966[2] and that of an address entitled "Community Relations in Botswana, with special reference to Francistown", delivered to the National Assembly by the Hon. A. K. J. Masire, Vice-President of Botswana, on 13 September 1971.

In his address, the Hon. A. K. J. Masire stated, *inter alia,* that the Government was dissatisfied with the state of community relations in Francistown; that non-racialism meant what it said, i.e., that minorities, whatever their colour, would be protected from oppression; and that the Penal Code was designed to protect people from racial insults and would be applied vigorously.

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[1] Note based upon texts furnished by the Government of Botswana.

[2] Extracts from the Constitution of Botswana of 1966 appear in the *Yearbook on Human Rights for 1966,* pp. 38-50.

BULGARIA

Constitution of the People's Republic of Bulgaria

Adopted by referendum on 16 May 1971 [1]

CHAPTER I

Socio-political organization

Article 1

(1) The People's Republic of Bulgaria is a socialist State of the working people of town and country with the working class at its head.

(2) The guiding force in society and the State shall be the Bulgarian Communist Party.

(3) The Bulgarian Communist Party shall guide the building of advanced socialist society in the People's Republic of Bulgaria, in close, fraternal co-operation with the Bulgarian People's Agrarian Union.

Article 2

(1) In the People's Republic of Bulgaria all power derives from the people and belongs to the people.

(2) The people shall exercise this power either through freely elected representative organs—the National Assembly and people's councils—or directly.

Article 3

(1) The State shall serve the people by:

Safeguarding its interests and socialist achievements;

Directing, by means of planning, the socio-economic development of the country;

Creating conditions conducive to the continuous improvement of the people's welfare, public education and health, and to the furtherance of every branch of science and culture;

Ensuring the free development of the individual, guaranteeing his rights and protecting his dignity;

Organizing the defence of national independence, State sovereignty and the territorial integrity of the country;

Promoting and consolidating friendship, mutual assistance and co-operation with the Union of Soviet Socialist Republics and the other socialist countries;

Pursuing a policy of peace and understanding with all countries and peoples.

(2) In the performance of its tasks, the State shall rely to an ever increasing extent upon the public organizations.

Article 4

(1) In building the advanced socialist society, the main lines along which the State's efforts shall be directed shall be:

The continuous development of democracy;

Improving the organization and operation of the State machinery;

Furthering the people's control over the activities of State organs.

(2) The socialist State shall promote the evolution of the socialist society into a communist society.

Article 5

The fundamental principles on which the building and operation of the political system of society are based shall be: sovereignty of the people; unity of power; democratic centralism; socialist democracy; legality and socialist internationalism.

Article 6

(1) The representative organs shall be elected on the basis of universal, equal and direct suffrage, by secret ballot.

(2) The National Assembly shall be elected for five years and the people's councils for two and one half years.

(3) All citizens of the People's Republic of Bulgaria who have attained the age of 18 are eligible to elect and to be elected without distinction as to sex, nationality, race, religion, education, occupation, service record, social status or material situation, with the exception of persons placed under total legal disability.

(4) The manner in which the representative organs are elected shall be determined by law.

[1] Text provided by Mr. Anguel Angueloff, correspondent of the *Yearbook on Human Rights* appointed by the Government of the People's Republic of Bulgaria.

Article 7

(1) Deputies and members of people's councils shall be responsible to their electors, to whom they are required to report on their activities. They may be recalled before the expiry of their term of office.

(2) The recalling of people's representatives shall be effected by a decision of their electors in accordance with the procedure prescribed by law.

Article 8

(1) The People's Republic of Bulgaria shall be governed strictly in accordance with the Constitution and the laws of the land.

(2) Strict compliance with the Constitution and the laws is a fundamental duty incumbent upon all State organs, public officials, public organizations and citizens.

(3) The State, public organizations and citizens have a duty to uphold legality and to prevent crimes and breaches of the law.

Article 9

(1) The rights, freedoms and duties prescribed in the Constitution shall be exercised or performed in accordance therewith, except where the Constitution itself provides that the conditions and manner of their exercise or performance are to be determined by law.

(2) Rights and freedoms shall not be exercised to the detriment of the public interest.

Article 10

(1) The public organizations shall rally the various sectors of the population and ensure their participation in the building of socialism, express and safeguard their particular interests and seek to develop their socialist awareness.

(2) The public organizations shall afford increasing assistance to the organs of State in the accomplishment of their tasks.

(3) The public organizations shall also perform the functions of State which are assigned to them with their consent.

Article 11

The Fatherland Front is an alliance of the working class, the toiling peasants and the people's intelligentsia. It is the social basis of the people's power and a mass school for the patriotic and communist education of the population aimed at involving the working people in the government of the country.

Article 12

The People's Republic of Bulgaria is part of the world socialist community; this is one of the main determinants of its independence and of its progress in every field.

CHAPTER II

Socio-economic organization

Article 13

(1) The economic system of the People's Republic of Bulgaria is a socialist system. It is based on collective ownership of the means of production, precludes the exploitation of man by man and is developing, on the basis of planning, into a communist economy.

(2) The development of the socialist economy is the very foundation of social progress, of the freedom of the individual, of the growth of socialist democracy, of the people's welfare and of the advancement of the Fatherland.

(3) The economy of the People's Republic of Bulgaria is developing as part of the world socialist economic system.

Article 14

The forms of ownership which exist in the People's Republic of Bulgaria are: State (national) ownership; co-operative ownership; ownership by public organizations; and personal ownership.

Article 15

(1) State (national) ownership is the highest form of socialist ownership and constitutes a single entity. It determines the socialist nature of the ownership of co-operative and public organizations and enjoys special protection.

(2) The forms of collective ownership are evolving and gradually merging into single national ownership.

Article 16

(1) Plants and factories, banks, underground wealth, natural sources of power, nuclear power, forests, pastures, water, roads, rail, air and water transport, the postal, telegraph, and telephone system and radio and television broadcasting are state (national) property.

(2) Co-operative and public organizations may, in the cases prescribed by law, own means of production and other assets.

Article 17

(1) The State shall exercise its right of ownership by establishing economic and other organizations and participating in joint State and co-operative enterprises, to which it shall allocate resources for their operation and administration and through the activity of these organizations which shall exercise the rights accorded to them or which they themselves have acquired.

(2) The State may grant co-operative and public organizations and citizens the right to enjoy specific State assets.

(3) The utilization by co-operative organizations and citizens of forests, pastures, water resources and quarries shall be governed by law.

Article 18

State economic organizations shall operate in conformity with the principles of economic accounting.

Article 19

(1) Co-operative property is owned by workers' collectives in voluntary association for the joint undertaking of an economic activity, and by co-operative unions and inter co-operative organizations.

(2) The right of co-operative ownership shall be exercised in the interests of society and of the members of the co-operative.

Article 20

(1) The property of public organizations shall be used for the attainment of their objectives, the accomplishment of the functions assigned to them by State organs, and to further the interests of society.

(2) Public organizations may engage in economic activities consonant with their objectives, in the cases prescribed by law.

Article 21

(1) Citizens of the People's Republic of Bulgaria have the right to personal ownership of immovable property and movable goods for the satisfaction of their own and their families' needs.

(2) Personal ownership may include small means of production, products acquired by the families of co-operative farmers and other workers from the land allocated to them for their personal use, and small means of production used by workers in carrying out other ancillary activities, and the products of such activities. The type and number of small means of production which may be owned in connexion with such ancillary farming shall be determined by law.

(3) To satisfy the housing needs of the citizens, the State shall grant the right to build on land belonging to it, for which purpose it shall make credit available.

(4) The State shall grant its protection to personal property, including savings, acquired through work or by other lawful means.

(5) The right of personal ownership may not be encumbered or curtailed except by law or with the consent of the owner.

(6) Citizens may not exercise their right of personal ownership and their other property rights to the detriment of the public interest.

Article 22

(1) The State shall manage the national economy and other sectors of public life by means of unitary economic and social development plans in order to satisfy more and more fully the continuously increasing material and cultural needs of the citizens.

(2) In the performance of this task, the State shall rely on the initiative and creativity of the workers' collectives, research institutes and public organizations and provide moral encouragement and collective and individual material incentives.

(3) In preparing and implementing the unitary economic and social development plans, the State shall make efficient use of scientific and technical achievements, material resources and manpower, and the benefits of the international socialist division of labour.

(4) The State budget shall be drawn up on the basis of the unitary economic and social development plan.

Article 23

(1) The State shall encourage co-operatives and their unions and support their activities.

(2) The State shall give every assistance to co-operative farms.

Article 24

Workers' collectives shall participate in the management of economic activities directly or by means of bodies elected by them for the purpose.

Article 25

Under the conditions established by law, citizens may engage in farming, artisan and other kinds of work, using their own labour or that of members of their families. The types of means of production which these citizens may own shall be determined by law.

Article 26

(1) The copyright of works of science, literature and the arts and the rights of inventors and rationalizers shall be protected by the State.

(2) The State and co-operative and public organizations shall create the conditions necessary for the creative activity of authors, inventors and rationalizers and for the application of their work in the economic and cultural development of society.

(3) Authors, inventors and rationalizers may not exercise their rights to the detriment of the public interest.

Article 27

The right to inherit is recognized and guaranteed.

Article 28

The State may, for a public purpose and against fair compensation, expropriate property owned by citizens, co-operatives and public organizations, and the right to own such property. The procedure for expropriation and the manner of compensation shall be determined by law.

Article 29

(1) The law may reserve to the State the exclusive right to engage in certain kinds of economic activity.

(2) Foreign trade is an exclusive right of the State.

Article 30

(1) The land, as a basic natural resource and means of production, shall be protected and utilized in the most rational manner in the public interest.

(2) Co-operative farms shall work, free of charge, the land pooled by their members and by other persons or organizations, or allocated to them by the State.

(3) The allocation of arable land, pastures, and forests may be altered under the conditions prescribed by law.

Article 31

The protection and conservation of nature and natural resources, waters, aid and soil, and cultural monuments, is an obligation incumbent on the State organs, enterprises, co-operatives and public organizations, and a duty for every citizen.

Article 32

(1) Labour is a basic social and economic factor.

(2) The socialist principle: "From each according to his ability; to each according to his labour" shall be applied in the People's Republic of Bulgaria. Public assets, designed to meet the needs of citizens, shall be continuously increased.

(3) The State shall raise the vocational level of the citizens and increase their experience with regard to production. The protection of labour shall be governed by law.

Article 33

(1) The State shall create the conditions necessary for the development of science and technology in order to ensure the scientific administration of society, scientific and technical progress and all-round economic and cultural advancement.

(2) The application of scientific and technical achievements in all sectors of society is an obligation incumbent on the State organs, enterprises, co-operatives and public organizations and a duty for every citizen.

CHAPTER III

Principal rights and duties of citizens

Article 34

Bulgarian nationality shall be acquired and forfeited as prescribed by law.

Article 35

(1) All citizens of the Bulgarian People's Republic are equal before the law.

(2) No privileges or restrictions of rights based on nationality, origin, religion, sex, race, education, social status or material situation are recognized.

(3) The State shall ensure citizens equality by creating conditions and opportunities conducive to the exercise of their rights and the performance of their duties.

(4) Any incitement to hatred and humiliation of human beings on account of racial, national or religious affinity is prohibited and shall be punished.

Article 36

Women and men enjoy equal rights in the People's Republic of Bulgaria.

Article 37

Mothers enjoy the special protection and care of the State and the economic and public organizations including paid leave before and after childbirth, the continued payment of remuneration, free midwifery and medical care, the establishment of maternity homes and assignment to lighter work; the extension of the network of facilities for children, consumer service establishments and public catering.

Article 38

(1) Marriage and the family are under the protection of the State.

(2) Only civil marriage is valid.

(3) The spouses have the same rights and duties in respect of their marriage and family. Parents have the right and the duty to bring up their children and to ensure that they are educated in a communist spirit.

(4) Children born out of wedlock have equal rights with those born in wedlock.

Article 39

(1) The education of youth in a communist spirit is a duty of society as a whole.

(2) The family, school, State organs and public organizations shall take particular care to ensure the intellectual, moral, aesthetic, cultural and physical development of youth, its training through work and its polytechnical education.

(3) Youth shall enjoy special protection.

Article 40

(1) Citizens have the right to work.

(2) Every citizen has the right freely to choose his occupation.

(3) The State shall guarantee the right to work by developing the socio-economic system of socialism.

Article 41

(1) Work shall be remunerated according to its quantity and quality.

(2) Working people have a right to safe and healthy working conditions, which shall be ensured by the application of scientific and technical advances.

Article 42

(1) Citizens have a right to rest.

(2) This right shall be guaranteed by reducing working hours without decreasing remuneration or limiting other benefits related to labour, by annual holidays with pay and by the establishment of a vast system of rest homes, clubs, reading rooms, cultural centres and other recreational facilities.

Article 43

(1) Citizens have the right to insurance, a pension and allowances in the event of inability to work, illness, accident, maternity, disablement, old age or death and for education of children, and to grants in the cases prescribed by law.

(2) This right shall be guaranteed by a standardized social insurance scheme and the allocation from the national income of the resources necessary for financing insurance.

(3) Persons insured under the social insurance scheme shall participate in its management.

Article 44

Minors, persons unable to work and old people, who have no close relatives or whose close relatives do not take care of them, shall enjoy the special protection of the State and society.

Article 45

(1) Citizens have the right to education free of charge at all levels and in all categories of educational establishment as prescribed by law.

(2) Educational establishments belong to the State.

(3) The bases of education are modern scientific progress and Marxist-Leninist ideology.

(4) Primary education is compulsory.

(5) The State shall create the conditions necessary to make secondary education compulsory.

(6) The State shall promote education, improve all aspects of working conditions within educational establishments, grant scholarships and encourage exceptionally talented pupils and students.

(7) Citizens of non-Bulgarian origin have the right to study their own language simultaneously with the compulsory study of the Bulgarian language.

Article 46

(1) Creative activity in science, the arts and culture is at the service of the people and shall be pursued in a Communist spirit.

(2) The State shall devote particular attention to the development of the sciences, arts and culture by setting up higher education establishments, scientific research institutions, publishing houses, librairies, museums, art galleries, theatres, cinemas and radio and television broadcasting centres.

Article 47

(1) The State shall promote public health by organizing therapeutic and preventive treatment centres and other health facilities and services.

(2) The State and the public organizations shall promote health education and instruction in hygiene among the population and foster the development of physical culture and tourism.

(3) Every citizen has the right to free medical care.

(4) The State and the public organizations shall devote particular attention to the health of children and adolescents.

Article 48

(1) The freedom and inviolability of the individual are guaranteed.

(2) No person may be detained for more than 24 hours without a decision by a court or procurator.

Article 49

The home is inviolable. Without the consent of the occupant, no person may enter a home or living quarters or conduct a search there, except in the cases prescribed by law and provided that the requirements of the law are complied with.

Article 50

Every citizen has the right to protection from unlawful interference in his personal or family life and against any attack on his honour and reputation.

Article 51

The secrecy of correspondance, telephone conversations and telecommunications is inviolable, except in the case of mobilization or a state of war or where special permission is given by a court or the procurator.

Article 52

(1) Citizens have the right to form non-profit political, professional, cultural, artistic, scientific, religious, sporting and other organizations.

(2) Citizens may form co-operatives with a view to engaging jointly in an economic activity.

(3) Organizations directed against the established socialist system of the People's Republic of Bulgaria and against the rights of citizens, or which propagate fascist or any other anti-democratic ideology, are prohibited.

(4) Public organizations and co-operatives are entitled to form unions and other groups.

Article 53

(1) Freedom of conscience and worship is guaranteed to citizens. They may perform religious rites and disseminate anti-religious propaganda.

(2) The church is separate from the State.

(3) The legal status of the various religious communities and questions relating to their maintenance and their right to determine their internal organization and to administer their own affairs are governed by law.

(4) Misuse of the church and religion for political ends and the formation of political organizations with a religious basis are prohibited.

(5) Religion is no justification for refusing to perform the duties imposed by the Constitution and laws.

Article 54

(1) Citizens enjoy freedom of speech, the press, assembly, meetings and demonstrations.

(2) These freedoms shall be guaranteed by providing citizens with the material facilities necessary for their exercise.

Article 55

Citizens have the right to make requests, complaints and petitions. This right shall be exercised in the manner prescribed by law.

Article 56

(1) The State shall be held responsible for damage caused by the unlawful acts of its organs and officials in the discharge of their responsibilities.

(2) Every citizen has the right to demand the institution of judicial proceedings against officials for offences committed in the discharge of their responsibilities.

(3) Citizens are entitled, as prescribed by law, to compensation from officials for damage caused them by the latter in the unlawful discharge of their responsibilities.

Article 57

Bulgarian citizens abroad shall enjoy the protection of the People's Republic of Bulgaria and are required to fulfil their duties to it.

Article 58

Citizens are required to comply with the Constitution and laws of the country strictly and conscientiously.

Article 59

(1) Every citizen who is able to work is required to do socially useful work according to his skills and occupation.

(2) Work is a duty and its performance is a point of honour for every member of the socialist community.

Article 60

Citizens are required to preserve and increase socialist property, which is the inviolable basis of the socialist system, to help consolidate the political, economic and defensive power of the Fatherland and to promote the culture and welfare of the people.

Article 61

(1) The defence of the Fatherland is a supreme duty and a point of honour for every citizen.

(2) Treason against the Fatherland is the gravest crime against the people. It is punishable to the full extent of the law.

Article 62

Military service is compulsory for all citizens in accordance with the law.

Article 63

(1) Every citizen is required to contribute to the maintenance and strengthening of peace.

(2) Incitement to war and war propaganda are serious crimes against peace and mankind and, as such, are prohibited and punishable by law.

Article 64

The tax obligations of citizens shall be determined in accordance with their income and property.

Article 65

The People's Republic of Bulgaria shall grant the right of asylum to foreigners persecuted for defending the interests of the working people, for participating in national liberation struggles, for engaging in progressive political, scientific and artistic activities, or for campaigning agaist racial discrimination or to preserve peace.

CHAPTER IV

The National Assembly

Article 66

(1) The National Assembly is the supreme representative organ which expresses the will of the people and its sovereignty.

(2) The National Assembly is the supreme organ of state power.

Article 67

The National Assembly combines the legislative and executive functions of the State and exercises supreme control.

Article 68

The National Assembly shall consist of 400 deputies elected by constituencies, each of which shall have the same number of inhabitants.

Article 69

(1) The powers of the National Assembly shall lapse upon the expiry of its term.

(2) The National Assembly may dissolve itself before the expiry of its term. In that case, it shall continue to exercise its functions until the election of a new National Assembly.

(3) The National Assembly may prolong its term where it expires in time of war or in other exceptional circumstances.

. . .

Article 84

(1) The laws, decisions, declarations and proclamations adopted by the National Assembly shall be published in the *Official Gazette* by the Council of State within 15 days of their adoption.

(2) Laws shall enter into force three days after their publication, unless a different time-limit is set in the laws themselves.

(3) The other acts of the National Assembly shall enter into force upon their adoption by that organ.

Article 85

(1) The National Assembly shall ensure that the laws do not conflict with the Constitution.

(2) It alone shall decide whether a law conflicts with the Constitution and whether the constitutional provisions concerning the adoption of the law have been complied with.

Article 86

In the exercise of their functions, deputies shall be guided by the interests of the people and of their electors.

Article 87

(1) Deputies have the rights to address questions of the Council of Ministers or to its various members, who are required to reply.

(2) Replies to questions raised during a session shall be given during the same session, or during the next session if the National Assembly so decides.

(3) Replies to questions raised between sessions shall be given during the following session.

(4) A question may give rise to a debate and to the adoption of a decision if the National Assembly so decides.

Article 88

Deputies shall not be liable to arrest or to penal proceedings except for grave offences and by decision of the National Assembly or, when it is not in session, the Council of State. Where a deputy is *in flagrante delicto*, such authorization shall not be required for his arrest, in which case the National Assembly or, if it is not session, the Council of State shall be notified forthwith.

Article 89

Deputies shall be immune from penal and disciplinary action in respect of their statements and votes in the National Assembly.

CHAPTER V

The Council of State

Article 90

(1) The Council of State of the People's Republic of Bulgaria is a permanent supreme organ of state power which both formulates and executes decisions.

(2) As the supreme organ of the National Assembly, the Council of State shall ensure the concordance of legislative and executive activities.

(3) It shall be responsible to the National Assembly and report to it on all its activities.

...

CHAPTER VI

The Council of Ministers

(The Government)

Article 98

The Council of Ministers (the Government) is the supreme executive and administrative organ of state power.

...

CHAPTER VII

People's councils

Article 109

(1) The territory of the People's Republic of Bulgaria is divided into municipalities and provinces. The city of Sofia is divided into administrative districts.

(2) Further administrative territorial units may be established only by law.

Article 110

The organs of state power and the people's self-government in the municipalities, districts and provinces shall be the municipal, district and provincial people's councils.

Article 111

(1) The people's councils shall consist of counsellors who, in the exercise of their functions, shall be guided by the interests of the people as a whole and of the populations in the provinces and municipalities, and by the interests of the population in the respective constituencies.

(2) The rules for representation in respect of the election of counsellors shall be determined by law.

...

CHAPTER VIII

The courts and procurator's office

Article 125

(1) The courts administer justice in the People's Republic of Bulgaria. They shall protect the public and social system established by the Constitution, socialist property, the life, liberty, honour and legitimate rights and interests of citizens and the legitimate rights and interests of socialist organizations.

(2) The courts shall consolidate socialist legality and help to prevent crime and unlawful acts, and the effect of their operation shall be to inculcate in citizens a spirit or dedication to the Fatherland and to the cause of socialism and to induce them to comply conscientiously with the law and labour discipline.

(3) The courts shall exercise, in accordance with the law, judicial control over acts emanating from administrative organs and special judicial bodies.

Article 126

(1) In the People's Republic of Bulgaria there shall be a Supreme Court, provincial courts and districts courts, and courts martial.

(2) Other judicial bodies may be established by law to deal with specific types of proceedings.

(3) Special courts are prohibited.

Article 127

(1) Assessors shall take part in the administration of justice except where the law provides otherwise.

(2) Assessors shall enjoy the same rights as judges in the exercise of their judicial functions.

Article 128

Judges and assessors shall be elected. They may be recalled before the expiry of their terms of office.

Article 129

(1) Judges and assessors shall be independent and act only according to the law in the exercise of their functions.

(2) Judgements and sentences shall be pronounced in the name of the people.

Article 130

The courts shall apply the law strictly and in conformity with the principle of the equality of all citizens and juridical persons.

Article 131

The organization of the courts, their territorial jurisdiction and powers, the manner of determining their competence, judicial procedure and the manner in which judges and assessors are elected and recalled, their terms of office and the procedures whereby they report on their activities shall be determined by law.

Article 132

(1) The Supreme Court, the highest judicial organ, shall be elected for a term of five years. It shall exercise supreme judicial control over all courts and ensure that they apply the laws strictly and equally.

...

Article 135

(1) Procurators shall be independent and act only in accordance with the law in the discharge of their functions.

(2) The organization and operation of the Procurator's Office shall be determined by law.

Article 136

(1) Offences and the corresponding penalties shall be determined exclusively by law.

(2) No law which classifies an act as punishable or increases criminal liability shall have retroactive effect.

(3) Penalties shall be individual and commensurate with the seriousness of the offence.

(4) Only the established courts shall impose penalties for offences committed.

Article 137

(1) The aim of the judicial process shall be to establish the objective truth.

(2) Hearings before all courts shall be public, except where the law provides otherwise.

Article 138

(1) Citizens have a right to defence counsel in court.

(2) Accused persons have a right to defence counsel.

...

CHAPTER IX

Adoption of a new Constitution and of constitutional amendments

Article 143

(1) A new Constitution may be adopted or the existing Constitution amended on the proposal of the Council of State, of the Government or of at least one quarter of the deputies.

(2) The draft of a new Constitution or bills for amending the existing Constitution shall be placed on the agenda of the National Assembly at the earliest one month and not later than three months after their submission to that body.

(3) The adoption of such drafts shall require a majority of two thirds of the elected deputies.

(4) The new Constitution and the Act amending the existing Constitution shall enter into force on the day of their publication in the *Official Gazette*.

Transitional provision

The Presidium of the Fifth National Assembly shall exercise the powers of the Council of State until the election of the latter by the next National Assembly.

BURUNDI

Ministerial Ordinance No. 100/160 of 30 December 1970 amending Ministerial Order No. 100/325 of 15 November 1963 on the organization of the prison service [1]

(Extracts)

Article 1. Ministerial Order No. 100/325 of 15 November 1963 shall be supplemented by a chapter IX *bis*, the text of which is reproduced below:

CHAPTER IX *bis*

Concerning children who accompany their mothers to prison

Article 64 (bis). A female prisoner who, at the time of her arrest, is the mother of one or more children under the age of three and one half years may, if she so desires, take her children to prison or be joined by them there.

Similarly, a female prisoner who gives birth to a child during her detention shall be permitted to keep her new-born child with her until he attains the age of three and one half years.

The children shall in all cases be placed in the womens's quarters.

Article 64 (ter). Children who accompany their mothers to prison shall receive, free of charge, the medical care and food dispensed to prisoners.

If a child accompanying his mother to prison is required by medical prescription to have food and beverages not included in the statutory rations of prisoners, such foods and beverages shall, notwithstanding the provisions of article 38, second paragraph, and article 39 of this Ministerial Order, be supplied without further formality at State expense; the governor of the prison in which the child is living shall purchase them forthwith, directly from a local tradesman or producer.

Article 64 (quater). The mother of a child under the age of three and half years may at any time cause the child to leave the prison and be entrusted to a person or institution designated by her.

Where, following such a decision by the mother, the child has left the prison, he may under no circumstances be readmitted.

Article 64 (quinquies). When a child living in a prison attains the age of three and one half years, his mother shall be required to designate the person to whom or the institution to which her child will forthwith be entrusted.

In the absence of such designation by the mother, the child shall be entrusted by the governor of the prison in which he is living, to the nearest public or private orphanage.

Article 64 (sexies). In every prison, a register shall be kept of infants accompanying their mothers.

The register shall indicate the full name and the place and date of birth of each child; the full names, occupations and places of residence of the father and mother; the dates of arrival and departure of the child.

The register shall also mention:

(1) The decision taken by the mother pursuant to article 64 *(quater)* or 64 *(quinquies)*, first paragraph of this Order; the decision shall be recorded by the governor of the prison or his deputy; it shall be signed by the latter official, by the mother and by two witnesses of legal age; where the mother is illiterate, her signature shall be replaced by her right thumb-print;

(2) The decision taken by the governor of the prison, in the absence of a decision by the mother, pursuant to the second paragraph of article 64 *(quinquies)* of this order; the decision shall make express mention of the mother's refusal to designate a person or institution to bring up her child and shall be signed by two witnesses of legal age.

Article 64 (septies). Children accompanying their mothers to prison shall be the object of special care by the administrative staff of the prison and by the medical authority serving the prison.

...

[1] *Bulletin officiel du Burundi*, No. 2/71, 1 February 1971.

Ministerial Ordinance No. 092/080/70 of 24 May 1971 implementing the Civil Service disciplinary regulations in respect of teachers [2]

Article 1. In the case of a teacher, a serious misdemeanour liable to result in termination of his career shall be committed where, *inter alia,* he compromises the honour and dignity of his office by any public manifestation of notorious misconduct, including:

The frequenting of brothels or other similar places;

Scandalous behaviour in public places or similar places (sexual perversion, drukenness, etc.);

Polygamy or polyandry;

Extramarital pregnancy;

Natural paternity or maternity.

Article 2. The Minister of Education and Culture, or his deputy, shall determine, in each case, the administrative and disciplinary measures called for, such as:

Transfer of the teacher;

Suspension or dismissal of the teacher, depending on the gravity of the misconduct or scandalous behaviour;

The files of teachers suspended for an indefinite period as a disciplinary measure shall be submitted to the Appeals Chamber, which shall consider whether they may be reinstated.

[2] *Ibid.*, No. 8/71, 1 August 1971.

Legislative Decree No. 1/93 of 10 August 1971 instituting the Burundi nationality code [3]

(Extracts)

Article 1. Burundi nationality shall be acquired by:

(*a*) The fact of being born of Burundi parents;

(*b*) Legal presumption;

(*c*) Marriage;

(*d*) Option;

(*e*) Naturalization;

(*f*) Recovery by simple declaration.

It shall be lost by:

(*a*) Renunciation of Burundi nationality or voluntary acquisition of a foreign nationality;

(*b*) Forfeiture.

CHAPTER II

Acquisition of Murundi status

Article 2. The following shall have Murundi status by birth:

(*a*) A legitimate child, even if born in a foreign country, whose father had Murundi status on the day of child's birth or, if the father died before the child's birth, on the day of the father's death;

(*b*) A natural child, irrespective of his maternal filiation, who is the subject of voluntary recognition, legitimation or judicial recognition establishing his filiation to Murundi father;

(*c*) A natural child whose paternal filiation has not been established and who is the subject of voluntary recognition establishing his filiation to a Murundi mother;

(*d*) A child disowned by his alien father, provided that at the time when he is disowned his mother possesses Burundi nationality;

(*e*) A child under the age of 18 years whose father or, if paternal filiation has not been established, whose mother acquires or recovers Burundi nationality.

Article 3. The following shall have Murundi status by legal presumption:

(*a*) A child born in Burundi of legally unknown parents;

(*b*) A child found in Burundi, unless it is established that he was not born in Burundi territory;

(*c*) Any person born in Burundi and domiciled there for at least 15 years, unless it is established that he is a national of a foreign State or, being of foreign origin, is not assimilated to citizens of Burundi.

Article 4. An alien woman who marries a Murundi or whose husband acquires Murundi status by option shall become a Murundikazi by marriage if, within two years of her marriage or of her husband's acquiring Burundi nationality, she renounces in the manner prescribed in the following paragraph, her nationality of origin or, where her national law does not permit her to renounce

[3] *Ibid.*, No. 9/71, 1 September 1971.

her nationality of origin, signs a declaration waiving the right to avail herself of her foreign nationality in Burundi or to claim such nationality in her relations with Burundi authorities.

The rununciation or declaration shall be entered in the register of formal changes or declarations of nationality kept at the Ministry of Justice; an abstract of it shall be published in the *Bulletin Officiel du Burundi.*

In the case of an alien woman who married a Murundi before the date of entry into force of this Legislative Decree, the time-limit prescribed in the first paragraph of this article shall begin to run from the date of entry into force of this Legislative Decree.

Article 5. The following may acquire Burundi nationality by option:

(*a*) A child born of parents of whom one at least, pursuant to articles 2 and 3, is Murundi at the time of the option or was formerly a Murundi;

(*b*) A child adopted before the age of 12 years by a person of Burundi nationality who has custody of him;

(*c*) A child whose adoptive parent having custody of him acquired or recovered Murundi status before the child had attained the age of 12 years;

(*d*) An alien woman who has married a Murundi or whose husband has acquired Burundi nationality by option and who has allowed the time-limit of two years prescribed in article 4 to expire.

Article 6. The admissibility of the option shall be subject to the following conditions:

1. In the case of persons covered by article 5 (*a*), (*b*) and (*c*):

(*a*) At the time of the declaration of option, the person concerned shall be at least 18 years of age;

(*b*) At the time of the declaration of option, the person concerned shall not yet have attained the age of 22 years.

The provisions of this subparagraph (*b*) shall not become applicable until two years after the date of entry into force of this Legislative Decree.

The court which rules on approval of the option may annul the forfeiture of nationality of an applicant who proves that he was prevented from making his declaration during the last 12 months of the time-limit for the option, provided that application is made within a period of three months after removal of the impediment;

(*c*) The applicant shall have resided in Burundi for at least eight years between the ages of 6 and 18 years;

(*d*) The applicant shall, if necessary, furnish proof that he will lose his nationality of origin by virtue of the acquisition of Burundi nationality.

2. In the case of persons covered by article 5 (*d*): the said persons shall furnish proof that they will lose their nationality of origin by virtue of the acquisition of Burundi nationality or shall sign a declaration waiving the right, if their application is approved, to avail themselves of their foreign nationality in Burundi or to claim such nationality in their relations with Burundi authorities.

...

Article 9. Burundi nationality may also be acquired by naturalization. Naturalization shall be granted by the legislature; it shall confer Murundi status on an alien.

The admissibility of the application for naturalization shall be subject to the following conditions:

(*a*) The person concerned shall, at the time of the application for naturalization, be at least 21 years of age or, in the case of a child making application at the same time as his father or mother, at least 18 years of age;

(*b*) The person concerned shall have resided in Burundi for at least 12 years. That period shall be reduced to eight years in the case of:

(1) An alien being, at the time of his application, the husband of a woman who, pursuant to article 2 or article 3, is a Murundikazi or has recovered her original Burundi nationality;

(2) An alien being the widower of or divorced from a woman who, pursuant to article 2 or article 3, was prior to the marriage a Murundikazi and by whom he had at least one living child;

(3) An alien who has rendered exceptional services to Burundi;

(4) Persons holding a diploma awarded after at least three years of university or post-secondary studies;

(5) Political refugees;

(*c*) The national law of the person concerned must not permit him to retain his former nationality if he acquires another nationality;

(*d*) The applicant must be of good character. He must not have received any sentence privative of liberty of more than two years;

(*e*) The applicant must prove his attachment to Burundi and his assimilation to citizens of Burundi, particularly by knowledge of the Burundi language.

...

Article 13. All persons possessing Murundi status shall be accorded the full political, civil, economic and social rights inherent in such status.

However, persons who have acquired Burundi nationality pursuant to articles 9 to 12 shall enjoy only civil, economic and social rights; they shall not obtain political rights until a period of 10 years has elapsed from the date of the act of naturalization.

CHAPTER III

Loss of Murundi status

Article 14. Murundi status may be renounced by any person, provided that he is aged at least 18 years, who possesses a foreign nationality or who, by virtue of his renunciation, acquires or recovers a foreign nationality.

The renunciation shall be made before the Minister of Justice or his deputy. It shall be entered in the register of formal changes or declarations of nationality. A person residing abroad may send to the Minister of Justice, by registered mail, a declaration of renunciation bearing his certified signature and accompanied by documents establishing that he fulfils the required conditions.

The renunciation shall take effect only if it has been approved by the Minister of Justice or his deputy.

Article 15. The following shall lose Murundi status, without prejudice, in cases covered by subparagraphs (*b*) and (*c*) below, to the possible application of article 17 relating to recovery:

(*a*) A person who voluntarily acquires a foreign nationality;

(*b*) A Murundikazi who, by virtue of her marriage to an alien, acquires her husband's foreign nationality;

(*c*) A Murundikazi who, by virtue of her husband's voluntary acquisition of a foreign nationality herself acquires that foreign nationality;

(*d*) A child under the age of 18 years who, by virtue of the acquisition of a foreign nationality by the parent from whom he derived Burundi nationality, himself acquires that foreign nationality;

(*e*) A person who is a Murundi pursuant to article 2 (*c*) and whose filiation to an alien father is subsequently established by voluntary or judicial recognition or by legitimation;

(*f*) A person who is a Murundi pursuant to article 3 (*a*) or 3 (*b*) and whose filiation to an alien parent is subsequently established;

(*g*) A child disowned by his Murundi father, unless his mother possesses Burundi nationality;

(*h*) A person who enlists in a foreign army without the consent of the Government of Burundi.

In all the cases referred to above, the loss of Burundi nationality shall be automatic. The loss may, however, be formally attested by the Minister of Justice, acting *ex officio* or upon the application of any interested party. The attestation shall be recorded in the register of formal changes or declarations of nationality.

Article 16. Any person who has acquired Murundi status pursuant to article 4, article 5 or article 9 may be declared to have forfeited Burundi nationality if he fails seriously in his obligations as a citizen or if he acquired Burundi nationality by misrepresentation, fraud, bribery of a public official or any other dishonest act.

The forfeiture shall be pronounced by the court of first instance, which shall render judgement on proceedings instituted by the *ministère public* or by any interested party.

The judgement, the operative part of which shall mention the full identity of the person concerned, shall be subject to an application for reconsideration *(opposition),* to appeal and to an application for cassation.

The *procureur de la République* shall cause an abstract of any decision pronouncing forfeiture which has become final to be published in the *Bulletin officiel* and entered in the register of formal changes or declarations of nationality.

The judgement shall take effect on the day on which it is pronounced if it is given after a trial, and on the day on which it is notified to the person concerned or published in the *Bulletin officiel* if it is given by default.

CHAPTER IV

Recovery of Burundi nationality

Article 17. The following may recover Burundi nationality by simple declaration:

(*a*) A Murundikazi who has lost Burundi nationality pursuant to articles 15 (*b*) or (*c*);

(*b*) Within two years following dissolution of the marriage, a Murundikazi who, having voluntarily acquired her husband's nationality, has lost Burundi nationality pursuant to article 15 (*a*).

The declaration of recovery shall be made before the Minister of Justice or his deputy.

It shall be entered, free of cost, in the register of formal changes or declarations of nationality.

A person residing abroad may send to the Minister of Justice, by registered mail, her declaration of recovery of nationality, bearing her certified signature and accompanied by documents establishing that she fulfils the required conditions.

Article 18. A person who, having had Murundi status pursuant to article 2 or article 3, has lost that status pursuant to article 14 or article 15 (*a*) may recover Burundi nationality by option.

The admissibility of the option shall be subject to the condition that the applicant shall furnish proof that he has lost his foreign nationality or that he loses it by virtue of the recovery of Burundi nationality.

Article 19. A person who, having possessed Burundi nationality, has lost it and is unable to invoke any of the preferential procedures established by this Code must, in order to recover Murundi status, apply for nationality in accordance with the provisions of articles 9 to 13.

CHAPTER V

Disputes concerning nationality

Article 20. The Administration shall have the privilege of first deciding whether or not a person possesses Burundi nationality.

The court of first instance within whose jurisdiction the person concerned resides shall have exclusive competence to try disputes concerning nationality. Any judgement in the matter shall be subject to appeal.

Objections *(exceptions)* to nationality are matters of public policy *(ordre public)* and shall be raised *ex officio* by the judge.

Article 21. Proceedings in respect of nationality shall be instituted by means of a summons.

When issued by a person who contests the decision taken by the Administration concerning his nationality, the summons shall be served on the *ministère public.*

When issued by an interested third party, the summons shall be served on the person whose nationality is contested, but the *ministère public* shall in all cases be a co-party.

The *ministère public* shall also be empowered to institute such proceedings, either *ex officio* or upon the application of an interested third party.

Article 22. Final judicial decisions concerning nationality shall have the force of *res judicata* vis-à-vis all persons.

Article 23. The Minister of Justice is charged with the execution of the present legislative decree which enters into force on the date of its signature.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

NOTE [1]

1. Directives of the Twenty-fourth Congress of the Communist Party of the Soviet Union for the five-year plan for the economic development of the USSR for the period 1971-1975

The ninth five-year plan will mark an important stage in the further progress of Soviet society towards communism, in the construction of its material and technical infrastructure and in the consolidation of the country's economic and defensive strength. The main goal of the five-year plan is to ensure a substantial rise in the material and cultural standard of living of the people through high rates of development in socialist production, increases in its efficiency, scientific and technological progress and accelerated growth in labour productivity.

In the Byelorussian SSR, the volume of industrial production is to be increased by 53-56 per cent. The sectors of the machine-building industry with a low consumption of metals—radio engineering, electrical engineering, electronics and instrument-making—and the chemical and petrochemical industries will be developed at an accelerated rate.

The output of electric power will be increased by 80 per cent, oil production by approximately 100 per cent, the primary refining of oil and the production of peat briquettes by 90 per cent, and the production of artificial fertilizers by 70 per cent, of man-made fibres by 170 per cent, of textiles by 40 per cent, of knitwear by 50 per cent, and of meat and whole-milk products by 40 per cent.

It is planned to complete the construction of third-stage units in the Orsha flax combine, which produces fine linens; to bring into operation the Byelorussian tyre-manufacturing combine, and to increase the productive capacity of the Lukomlskoye Lake State district electric power station, the Mogilev synthetic fibre combine and the Polotsk chemical combine. The following installations will be constructed and brought into operation: the Mozyr oil refinery, the Baranovichi automatic conveyor-line manufacturing plant, the Luninets electric motor plant, the Bobruisk tractor-drawn fertilizer spreader plant, the Orsha plant for the production of standardized conveyor-line equipment, the Pinsk plant for the production of subassemblies for conveyor lines, a plant producing powdered dolomite in the Vitebsk region, the Mogilev silk combine and the spinning combine in Grodno. Construction will be begun on a nitrogenous fertilizer plant, the Fourth Soligorsk potassium combine, a worsted textile factory in Slonim, three specialized cotton enterprises in the Gomel region and the Osipovichi flax combine. Integrated flax-processing plants will be constructed.

Further specialization of agricultural production will be introduced in dairy and livestock farming, pig farming, poultry farming, potato farming and flax farming. The average annual output of grain will be raised to 5.2 million tons, that of meat to approximately 840,000 tons total dead weight, that of milk to 6.1 million tons, and that of eggs to a total of 1,800 million. Large-scale work will be carried out to increase soil fertility and in soil liming; 1.1 million hectares of land which is swampy or contains excess moisture will be drained; soil improvement measures will be implemented over an area of 800,000 hectares; highly productive meadows and pastures covering 900,000 hectares will be created and techniques for exploiting reclaimed land will be improved.

Construction of the Vileika-Minsk water supply system will be completed, and it will be brought into operation.

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

2. Act of 17 December 1971 of the Byelorussian Soviet Socialist Republic

concerning the State Five-year Plan for the Economic Development of the Byelorussian SSR for the period 1971-1975

(Extracts)

The Supreme Soviet of the Byelorussian Soviet Socialist Republic hereby decides that:

Article 1. It approves the State Five-year plan for the economic development of the Byelorussian SSR for the period 1971-1975, itemized according to the years of the five-year period, according to the ministries and departments of the Byelorussian SSR and according to regions and the city of Minsk, which was drawn up on the basis of the Directives of the Twenty-fourth Congress of the Communist Party of the Soviet Union and submitted by the Council of Ministers of the Byelorussian SSR.

Article 2. ...

During the period 1971-1975, the average annual volume of agricultural production will be raised by 25 per cent over the previous five-year period, thus ensuring that the growing needs of the population for food products, and those of industry for raw materials, are more fully met. Labour productivity in collective and State farms will be raised by 55 per cent during the five-year period, and the cost of production will be substantially reduced.

Article 3. In accordance with the Directives of the Twenty-fourth Congress of the Communist Party of the Soviet Union and with the Act of the USSR concerning the State five-year plan for the economic development of the USSR for the period 1971-1975, adopted by the Supreme Soviet of the USSR at the third session of its eighth convocation, and in the manner and within the time-limits laid down in the relevant decisions of the Government of the USSR, measures will be taken to raise further the material and cultural standard of living of the population of the Byelorussian SSR.

...

During the period 1971-1975, the transition to a system of universal secondary education for young people will be completed.

During the five-year period, through the use of all sources of financing, housing will be constructed with a total floor space of 23 million square metres, or 10.3 per cent more than during the period 1966-1970. ...

3. Act of 17 December 1971 of the Byelorussian Soviet Socialist Republic

concerning the State plan for the economic development of the Byelorussian SSR in 1972

(Extracts)

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

Article 1. To approve the State plan for the economic development of the Byelorussian SSR in 1972 submitted by the Council of Ministers of the Byelorussian SSR, subject to the amendments of the plan-budget and sectoral commissions of the Supreme Soviet of the Byelorussian SSR.

Article 2. To approve ... the basic indicators for the State plan for the economic development of the Byelorussian SSR in 1972....

Article 3. ...

To construct in 1972, through the use of all sources of financing, housing with a total floor space of 4.4 million square metres.

Article 4. To request the Council of Ministers of the Byelorussian SSR to consider the suggestions and comments on the State plan for the economic development of the Byelorussian SSR in 1972 contained in the conclusions of the plan-budget and sectoral commissions of the Supreme Soviet of the Byelorussian SSR as well as the suggestions and comments made by deputies at the session of the Supreme Soviet of the Byelorussian SSR and to take appropriate decisions on them.

4. Act of 17 December 1971 of the Byelorussian Soviet Socialist Republic

concerning the State budget of the Byelorussian SSR for 1972

(Extracts)

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

Article 1. To approve the State budget of the Byelorussian SSR for 1972 submitted by the Council of Ministers of the Byelorussian SSR, as amended on the report of the plan-budget and sectoral commissions of the Supreme Soviet of the Byelorussian SSR, providing for revenue and expenditure of 3,424,078,000 roubles.

Article 2. To fix the revenue from State and co-operative enterprises and organizations—turnover tax, payments to production funds, fixed payments, free remainder of profits, deductions from profits, income tax and other revenue from the socialist economy—under the State budget of the Byelorussian SSR for 1972 at the sum of 3,170,871,000 roubles.

Article 3. To allocate a total of 1,899,347,000 roubles under the State budget of the Byelorussian SSR for 1972 for the financing of the national economy: continued development of heavy industry, construction, light industry, the foodstuffs industry, agriculture, transport, housing and municipal services and other branches of the national economy.

Article 4. To allocate a total of 1,423,120,000 roubles under the State budget of the Byelorussian SSR for 1972, including 297,993,000 roubles under the State social insurance budget, for social and cultural activities: general education schools, *tekhnikums*, higher educational establishments, scientific research institutions, vocational-technical educational establishments, libraries, clubs, theatres, the press, broadcasting and other educational and cultural activities; hospitals, crèches, sanatoria and other health and physical culture establishments; pensions and allowances.

5. Report of the Central Statistical Board of the Council of Ministers of the Byelorussian SSR on the fulfilment of the State plan for the economic development of the Byelorussian SSR in 1971

(Extracts)

Giving effect to the decisions of the Twenty-fourth Congress of the Communist Party of the Soviet Union and of the Twenty-seventh Congress of the Communist Party of Byelorussia, the working people of the Republic engaged in socialist competition for the purpose of fulfilling the plan for the first year of the ninth five-year plan ahead of time and successfully fulfilled it.

...

Rise in the material well-being and cultural level of the people

The average number of manual and non-manual workers employed in the national economy in 1971 was approximately 3.2 million, representing an increase of 3.6 per cent over the previous year.

Pursuant to the Directives of the Twenty-fourth Congress of the Communist Party of the Soviet Union, measures were initiated in 1971 to raise the earnings of manual and non-manual workers and to improve the pension coverage of manual, non-manual and collective farm workers.

The minimum monthly earnings of manual and non-manual workers in rail transport were raised to 70 roubles, and the wage rates for middle-bracket categories of workers were also raised. There was an increase in wage rates for tractor operators employed by State farms and other State-run agricultural enterprises, water-resource and forestry enterprises and the organization "Selkhoztekhnika".

The minimum amount of old-age pensions for manual and non-manual workers was raised. Collective farm workers were granted increases both in old-age pensions and in the minimum amount of pensions awarded for disability and loss of the breadwinner. The conditions governing the calculation of pensions for manual and non-manual workers and their families were extended to collective farm workers.

As a result of the new measures introduced in 1971, more than 1 million persons received increased earnings or pensions.

The average monthly cash earnings of manual and non-manual workers amounted to 111 roubles, representing an increase of 4.5 per cent over 1970. With the addition of payments and benefits from social consumption funds, these earnings amounted to 152 roubles, as compared with 145 roubles in 1970. The wages of collective farm workers rose by 4 per cent. Payments and benefits received by the population of the Republic in 1971 from social consumption funds totaled

2,300 million roubles, an increase of 9.6 per cent over the previous year. These payments were made in the form of pensions, allowances, stipends, paid leave, free education and medical care and other State services.

Real income *per capita* increased by 5.6 per cent during the year.

Individual deposits in savings banks increased by 18 per cent during the year and totalled more than 1,700 million roubles on 1 January 1972.

The volume of State and co-operative retail trade during 1971 amounted to 5,674 million roubles, an increase of 9 per cent over 1970 in comparable prices. The retail trade turnover of consumer co-operatives operating in rural areas amounted to 2,129 million roubles and rose by 8 per cent during this period.

The retail trade plan for 1971 was fulfilled by 100.4 per cent. The Ministry of Trade fulfilled the annual retail trade plan by 100.6 per cent, while the Byelorussian Co-operative Union achieved 100-per cent fulfilment.

88,000 new and well-equipped apartments and individual dwellings with a total floor space of 4,240,000 square metres were brought into occupancy with financing by the State, by collective farms and by individuals. During the past year, 114,000 families, or 423,000 Soviet citizens, improved their housing. In the towns and rural localities of the Republic, new general education schools with places for 53,800 pupils, pre-school institutions with places for 16,300 children and a large number of hospitals, clinics and other cultural and social facilities were brought into operation.

The volume of communal services provided was 15 per cent higher—19 per cent higher in rural areas—than in 1970. Almost 400 units were added to the network of enterprises providing such services to the population.

Steps were taken to provide better amenities in towns and rural localities. During the past year, almost 131,000 apartments were supplied with gas.

Further progress was achieved in the development of public education, science and culture.

Approximately 2.9 million persons received education of one type or another. These included 1,863,000 persons attending general education schools, 142,800 people at higher educational establishments, 149,000 persons at *tekhnikums* and other specialized secondary educational establishments and 86,000 at vocational-technical colleges.

The number of persons graduating from eight-year schools and general secondary schools was 188,500 and 112,700 respectively. They included 12,400 and 23,100 young men and women who, respectively, completed their eight-year and secondary education at evening general education schools and vocational-technical colleges without leaving their employment.

Enrolment in extended-day schools and groups was 182,000—9.5 per cent higher than at the start of the 1970-1971 school year.

Attendance at permanent crèches and kindergartens totalled over 287,000. In addition, more than 156,000 children attended seasonal children's institutions.

In 1971, 59,300 young specialists graduated from higher educational establishments and *tekhnikums* in the Republic, 22,100 of them with higher education and 37,200 with specialized secondary education; the number of persons graduating from higher educational establishments and *tekhnikums* rose by 2,800, an increase of 5 per cent over the previous year.

Enrolment in higher educational establishments totalled 30,600 and in specialized secondary educational establishments 47,300.

In the course of the year, vocational-technical colleges trained 59,000 young skilled manual workers and enrolled 64,000 persons; the latter figure includes colleges providing secondary as well as vocational education, which enrolled 4,600 persons. In 1971, approximately 630,000 persons pursued in-service studies, receiving individual or group instruction or taking courses.

Scientific workers totalled 24,000 at the end of the year, including 6,600 holding the degree of doctor of science or that of candidate of science.

At the end of 1971, 6,600 cinema installations were operating in the Republic. Cinema attendances during the year totalled more than 133 million.

Medical services to the population improved during the year. The number of doctors of all kinds increased by 4 per cent, and the number of hospital beds rose by 3 per cent.

During the year, more than 770,000 children and young people spent time at Pioneer and school camps, children's sanatoria and holiday and tourist centres or spent the summer at children's institutions in the country.

On 1 January 1972, the population of the Byelorussian SSR stood at 9.2 million.

6. Report of 15 June 1971 of the Central Electoral Commission for elections to the Supreme Soviet of the Byelorussian SSR

On the results of the elections to the eighth convocation of the Supreme Soviet of the Byelorussian SSR

(Extract)

Elections to the Supreme Soviet of the Byelorussian SSR were held in the Byelorussian Soviet Socialist Republic on Sunday, 13 June 1971.

The election campaign took place in an atmosphere of great political and labour enthusiasm as the entire people strove to give effect to the historic decisions of the Twenty-fourth Congress of the Communist Party of the Soviet Union and to fulfil the plans for the first year of the ninth five-year plan ahead of time. Throughout the Republic, the elections proceeded in an orderly manner, with a high turnout of voters. The elections provided yet another demonstration of the triumph of Soviet democracy, the monolithic solidarity of the Byelorussian people with the Communist Party and the Soviet Government, and the indestructible unity of the Communist and non-Party bloc.

The Central Electoral Commission received from all 425 district electoral commissions final data on the results of the elections to the Supreme Soviet of the Byelorussian SSR and found that in all districts the elections had been carried out in full conformity with the requirements of the Constitution of the Byelorussian SSR and of the Regulations for Elections to the Supreme Soviet of the Byelorussian SSR.

According to the data provided by the district electoral commissions, the total number of electors in the Republic was 5,875,569, of whom 5,874,561, or 99.98 per cent, took part in the voting. In all electoral districts, candidates in the election for deputies to the Supreme Soviet of the Byelorussian SSR received 5,871,319 votes, representing 99.94 per cent of the total of those voting. 3,238 electors voted against them.

Under article 79 of the Regulations for Elections to the Supreme Soviet of the Byelorussian SSR, four ballot papers were declared invalid.

After examining the returns from each electoral district, the Central Electoral Commission, acting in accordance with article 38 of the Regulations for Elections to the Supreme Soviet of the Byelorussian SSR, registered the deputies elected by each electoral district to the eighth convocation of the Supreme Soviet of the Byelorussian SSR.

In all, 425 deputies were elected to the Supreme Soviet of the Byelorussian SSR. These included 112 manual workers, or 26.4 per cent, and 102 collective farm workers, or 24.0 per cent for a total of 214 manual and collective farm workers, representing 50.4 per cent of all deputies. The deputies elected included 296 members or candidates for membership of the Communist Party of the Soviet Union, or 69.6 per cent of the total; 129 non-Party members, or 30.4 per cent; 157 women, or 36.9 per cent; and 71 young people under the age of 30, or 16.7 per cent. Of the total number of deputies elected, 336, or 79.1 per cent, had not served in the previous convocation.

7. Report of the Presidium of the Supreme Soviet of the Byelorussian SSR

on the results of the elections to regional, district, town, rural and settlement Soviets of Working People's Deputies

(Extract)

On Sunday, 13 June 1971, elections to regional, district, town, rural and settlement Soviets of Working People's Deputies, thirteenth convocation, were held in the Byelorussian Soviet Socialist Republic.

Voting commenced everywhere at 6 a.m., ended at 10 p.m. and was carried out in strict conformity with the requirements of the Constitution of the Byelorussian SSR and of the Regulations for Elections to Regional, District, Town, Rural and Settlement Soviets of Working People's Deputies of the Byelorussian SSR.

The elections took place in an orderly manner, with a high turnout of voters, and in an atmosphere reflecting the effort of the entire people to give effect to the decisions of the Twenty-fourth Congress of the Communist Party of the Soviet Union.

As a result of the elections, deputies were elected to six regional Soviets, 117 district Soviets, 86 town Soviets, 15 urban district Soviets, 1,547 rural Soviets and 119 settlement Soviets.

In the elections to regional, district, town, rural and settlement Soviets of Working People's Depu-

ties, the percentage of electors voting was as follows:

For regional Soviets	99.99
For district Soviets	99.99
For town Soviets	99.97
For urban district Soviets	99.97
For rural Soviets	99.99
For settlement Soviets	99.99

...

Under article 99 of the Regulations for Elections to Regional, District, Town, Rural and Settlement Soviets of Working People's Deputies of the Byelorussian SSR, three ballot papers were declared invalid.

The results of the elections to the local Soviets of Working People's Deputies of the Byelorussian SSR are convincing evidence of the triumph of Soviet Socialist democracy and of the unity and solidarity of the working people of the Republic with the Communist Party and the Soviet Government.

In all, 80,648 deputies were elected to local Soviets of Working People's Deputies of the Byelorussian SSR. All the deputies elected were candidates of the Communist and non-Party bloc.

Of the deputies, 24,793, or 30.7 per cent, are manual workers and 26,204, or 32.5 per cent, are collective farm workers. The deputies include 35,372 members or candidates for membership of the Communist Party of the Soviet Union (43.9 per cent), 45,276 non-Party members (56.1 per cent), 36,259 women (45.0 per cent) and 20,502 persons under the age of 30 (25.4 per cent). Of all the deputies elected, 39,120, or 48.5 per cent, had not served in the previous convocation.

In four electoral districts for rural Soviets of Working People's Deputies, no candidate received an absolute majority of votes and none was elected.

In accordance with the Regulations for Elections to Regional, District, Town, Rural and Settlement Soviets of Working People's Deputies of the Byelorussian SSR, new elections will be held in these electoral districts.

8. Act of 15 July 1971 of the Byelorussian Soviet Socialist Republic

concerning District Soviets of Working People's Deputies of the Byelorussian SSR

(Extracts)

CHAPTER I

Basic principles governing the formation and activities of district Soviets of Working People's Deputies

Article 1. Under article 52 of the Constitution (Basic Law) of the Byelorussian SSR, the district Soviets of Working People's Deputies are the organs of State power at the district level.

District Soviets of Working People's Deputies shall deal, within the limits of the powers vested in them by law, with all matters of significance at the district level and, in so doing, shall be guided by the general interests of the State and by the interests of the working people of the district.

District Soviets of Working People's Deputies shall participate in the consideration of matters which are of significance at the regional, republican or all-Union level.

Article 2. District Soviets of Working People's Deputies shall be elected by the citizens residing in the district, on the basis of universal, equal and direct suffrage by secret ballot, for a term of two years.

The procedure for the holding of elections to district Soviets is laid down in the Regulations for Elections to Regional, District, Town, Rural, and Settlement Soviets of Working People's Deputies of the Byelorussian SSR.

Article 3. District Soviets of Working People's Deputies shall direct State, economic, social and cultural construction in the district; approve the economic plan and budget for the district; direct the work of administrative organs subordinate to them and of enterprises, institutions and organizations under district jurisdiction; ensure the observance of laws and the defence of State and public order and of citizens' rights, and assist in strengthening the defensive capacity of the country.

Article 5. District Soviets of Working People's Deputies shall elect an executive committee and form standing commissions, sections, administrations and a planning commission under the executive committee as well as a district committee for popular control.

Article 6. The activities of district Soviets of Working People's Deputies shall be based on collective leadership, the public nature of proceedings, the periodic accountability of deputies to the electorate and of the executive committee and its sections and administrations to the Soviet and to the people, and broad participation by the working people in the work of the Soviet.

District Soviets shall work in close contact with the district-level organs of public organizations.

Article 7. The activities of district Soviets of Working People's Deputies shall be governed by the Constitution of the USSR and the Constitu-

tion of the Byelorussian SSR, by the Act concerning District Soviets of Working People's Deputies of the Byelorussian SSR and other laws of the USSR and the Byelorussian SSR, by the decrees and decisions of the Presidium of the Supreme Soviet of the USSR and the Presidium of the Supreme Soviet of the Byelorussian SSR, by the decisions and orders of the Council of Ministers of the USSR and the Council of Ministers of the Byelorussian SSR and by the decisions of the regional Soviets of Working People's Deputies and their executive committees.

CHAPTER II

Powers and duties of district Soviets of Working People's Deputies

Article 13. In the field of planning, reporting and accounting, district Soviets of Working People's Deputies shall:

(*c*) Review the draft plans of enterprises, institutions and organizations in the district which are under the jurisdiction of higher authorities in so far as they relate to the development of housing and communal services, road construction, social and cultural facilities, the production of consumer goods and local building materials, public amenities, trade, public catering, public education, health, culture and other matters connected with public services; where necessary, make their own proposals to the appropriate higher organs; and, on these matters, approve comprehensive plan indicators and incorporate them into the plan for economic development and social and cultural construction in the district.

Article 14. In the budgetary and financial field, district Soviets of Working People's Deputies shall:

(*i*) Where necessary provide, with funds from the district budget and in the manner and within the limits established by law, financial assistance in the form of lump-sum payment to victims of natural disasters;

(*k*) In accordance with article 2 of the Decree of the Presidium of the Supreme Soviet of the USSR on Local Taxes and Levies, grant abatements and preferences in respect of local taxes and levies both to specific categories of entities and individuals liable to such taxes and levies and to individual taxpayers; have the right to refrain from introducing in the district the transport tax and the livestock tax;

(*l*) Grant, in the manner provided for by law, supplementary preferences to individual taxpayers in accordance with article 3 of the Decree of the Presidium of the Supreme Soviet of the USSR concerning Stamp Duty and article 4 of the Decree of the Presidium of the Supreme Soviet of the USSR concerning Personal Income Tax; exempt from payment of the agricultural tax, in accordance with established procedures, the holdings of citizens who move from farms and thinly populated areas to large settlements;

Article 15. In the agricultural sector, district Soviets of Working People's Deputies shall:

(*f*) Ensure that the collective farm statutes and the democratic principles of collective farm management are observed and that the personal and social interests of collective farm workers are properly harmonized;

(*g*) Consider and rule on appeals by collective farm workers against exclusion from collective farm membership;

Article 16. In the field of land use, water management, forestry and the protection of nature, district Soviets of Working People's Deputies shall:

(*d*) Take decisions granting permission for the temporary use of plots of land for agricultural purposes to collective farms, State farms, enterprises, institutions and other organizations, as well as to individual citizens, in the manner and under the conditions provided for by the law of the USSR and the Byelorussian SSR;

Article 17. In the industrial sector, district Soviets of Working People's Deputies shall:

(*e*) Assist industrial enterprises in the district which are under the jurisdiction of higher authorities in increasing productive efficiency, utilizing material, manpower and financial resources, raising labour productivity and improving social and cultural services to manual and non-manual workers;

Article 18. In the field of construction, planning and individual home-building, district Soviets of Working People's Deputies shall:

(*d*) Organize the construction of housing, communal, social, and cultural facilities, roads, and educational, health, trade, public catering and other facilities through the use of funds allocated by local Soviets; with the agreement of collective farms, State farms, enterprises, institutions and other organizations located in the district, settle matters relating to the joint use of the funds allocated by them for the construction of housing, communal, social and cultural facilities, roads, and educational, health, trade and public catering facilities and, where necessary, matters relating to the pooling of funds; make purchases, directly or through an agent, in connexion with such construction;

Article 20. In the field of housing and communal services, district Soviets of Working People's Deputies shall:

(*c*) Allocate housing stock belonging to the Soviet; ensure that living space in dwellings belonging to State and co-operative and other public organizations is allocated in a proper manner; in appropriate cases issue individual vouchers to citizens for the occupancy of living space;

Article 22. In the field of social and cultural services, district Soviets of Working People's Deputies shall:

(*a*) Direct the provision of social and cultural services to the population by service enterprises and organizations under their jurisdiction; ensure that the said enterprises and organizations fulfil their production and financial plans; supervise their use of basic and circulating capital; approve their reports on their financial operations, and

ensure that their profits are distributed in the proper manner;

Article 23. In the field of public education, district Soviets of Working People's Deputies shall:

(*a*) Direct public education; ensure universal compulsory instruction and develop the system of schools; register children of school age;

(*b*) Direct the provision of out-of-school education to children; organize Pioneer clubs, children's libraries, centres for familiarizing children with technical subjects, young naturalists' centres and Pioneer camps and supervise their activities;

(*c*) Direct children's pre-school education and develop the system of pre-school institutions;

(*d*) Supervise the work of children's homes and pre-school and out-of-school institutions not financed under the district budget;

(*e*) Take measures to improve the provision of educational equipment and materials to schools, boarding schools, and pre-school and out-of-school institutions;

(*f*) Allocate funds for universal primary education in accordance with established procedures and supervise their use;

(*g*) In the cases and in the manner established by law, settle matters relating to the granting of preferential terms to citizens for the maintenance of children in boarding schools and school boarding-houses and for meals for children in extended-day schools and groups;

(*h*) Ensure that children without parents are placed in children's homes, boarding schools or school boarding-houses or with private families; settle matters relating to adoption; supervise guardianship and curatorship arrangements for minors and, where necessary, make such arrangements.

Article 24. In the field of culture, mass education and science, district Soviets of Working People's Deputies shall:

(*a*) Direct cultural and mass education activities and cultural and mass education organizations and institutions under their jurisdiction; take measures to strengthen the material and financial base of such organizations and institutions; supervise the activities of other cultural organizations and institutions, regardless of the jurisdiction to which they are subject;

(*b*) Take measures to ensure that the necessary range of cultural institutions is organized in each large population centre;

(*c*) Supervise the use of the cultural funds of collective farms, State farms, enterprises, institutions and other organizations and, where necessary make arrangements by agreement with them for such funds to be administered centrally;

(*d*) Maintain cinema facilities for the public and take measures to expand the network of cinemas;

(*e*) Take measures to develop the creative talents of the people and their amateur artistic activities and organize district-level cultural events;

(*f*) Promote the development of science and provide assistance in the work of scientific research institutions and higher and secondary specialized educational establishments in the district;

(*g*) Promote the activities of the "Knowledge" society and provide guidance for the work of the society for the protection of historical and cultural monuments;

(*h*) Promote the introduction into daily life of new civic rites and ceremonies;

(*i*) Ensure the registration and protection of cultural monuments, monuments to the fighters of the Soviet Army and the partisans, and protected areas.

Article 25. In the field of health, physical culture and sports, district Soviets of Working People's Deputies shall:

(*a*) Direct district health services and institutions; take measures to strengthen their material and technical base and the organization of medical assistance for the population;

(*b*) Supervise the work of health institutions under the jurisdiction of higher authorities;

(*c*) Take measures to ensure the observance of sanitary regulations for dwellings and public buildings and of suitable sanitary standards in population centres; take measures to organize health education activities among the population;

(*d*) Ensure that measures are taken to prevent noise, reduce noise levels and eliminate noise in industrial works, dwellings, public buildings, courtyards, streets and public squares in population centres;

(*e*) Exercise State control over the observance of regulations concerning protection of the atmosphere, water, the soil and the environment, including the relevant sanitary requirements;

(*f*) Ensure that measures are taken to prevent the spread of infectious diseases and to eradicate them; where there is danger of an outbreak or the spread of an epidemic infectious disease, introduce throughout the district, in accordance with established procedures, special arrangements governing work, study, travel and transport for the purpose of preventing the spread of the disease and eradicating it;

(*g*) Take part in decisions on the granting of resort status to localities, the delimitation of sanitary protection districts for resorts and the establishment of regulations for such districts;

(*h*) Organize maternal and child welfare measures; ensure that health measures are taken for the benefit of children and adolescents; supervise the organization of medical assistance for children and adolescents;

(*i*) Supervise guardianship and curatorship arrangements for persons who have been declared by a court to be legally incapable or of limited legal capacity and, where necessary, make such arrangements;

(*j*) Provide guidance for the activities of the Red Cross Society;

(*k*) Direct physical culture and sports activities; organize district-level sports events; provide guidance for the activities of voluntary sports societies;

(*l*) Approve plans for locating sports installations and facilities within the district, regardless of the jurisdiction to which they are subject;

(*m*) Take measures to develop mass leisure areas and provide them with equipment and services, and supervise the use of such areas.

Article 26. In the field of manpower and training, district Soviets of Working People's Deputies shall:

(*a*) Maintain a register of district manpower resources, regulate their allocation and take measures to ensure their efficient use; organize job placement;

(*b*) Ensure the observance of labour laws and of labour protection and safety regulations in collective farms, State farms, enterprises, institutions and other organizations;

(*c*) Approve plans for the job placement of young graduates of general education schools and ensure that such plans are complied with by all enterprises, institutions and organizations;

(*d*) Provide assistance in the work of vocational-technical educational establishments and in their enrolment of students; organize universal primary technical education in rural areas; supervise training and retraining for basic occupations in collective farms, State farms, enterprises, institutions and other organizations;

(*e*) Ensure that plans for organized labour recruitment and relocation are implemented; ensure that enterprises and organizations fulfil their obligation to provide the necessary working conditions, housing and communal facilities for workers sent to enterprises and construction projects and for persons who are relocating;

(*f*) Promote, in enterprises, institutions and organizations, the development of socialist competition, the introduction of scientific organization of work, the wider use of advanced labour techniques, the raising of labour productivity and the strengthening of labour and industrial discipline;

(*g*) Establish the number of educational, cultural, health and other workers required for the district; ensure that they are properly assigned and utilized and that measures are taken to improve their skills;

(*h*) Fix the days and hours of work for enterprises and organizations engaged in the provision of public services in the district.

Article 27. In the field of social security, district Soviets of Working People's Deputies shall:

(*a*) Administer social security; ensure that the pensions and allowances established by law are awarded and paid in good time and properly and that citizens are granted the benefits and privileges provided for by law; take measures to improve the material conditions of pensioners and the provision of services to them;

(*b*) Exercise control over the prompt payment of collective-farm contributions to the Central All-Union Social Security Fund for Collective Farm Workers and the Central All-Union Social Insurance Fund for Collective Farm Workers; set up the district social security board for collective farm workers and supervise its work;

(*c*) Submit application for the award of personal pensions in accordance with the procedures provided for by law;

(*d*) Take measures for the job placement of disabled persons, dependants of military personnel, and survivors of persons who lost their lives while in military service or fighting with the partisans; organize vocational training for disabled persons; ensure that production processes are organized which make use of the labour of disabled persons;

(*e*) Consider matters relating to the placement of citizens in social security institutions; supervise the work of social security institutions in the district and assist in improving the social and cultural services provided to citizens living in them;

(*f*) Supervise curatorship arrangements for persons of full legal age who, for health reasons, are unable to exercise their rights and fulfil their obligations on their own, make such arrangements for them where necessary, and take measures to improve their material conditions and the provision of services to them;

(*g*) Supervise agencies working in the field of industrial medicine;

(*h*) Ensure that allowances are properly awarded and paid to persons not entitled to receive pensions by the executive committees of rural, settlement and (in the case of towns under district jurisdiction) town Soviets;

(*i*) Provide assistance in the work of societies for the blind and the deaf.

Article 28. In the field of popular control, the maintenance of socialist legality, the defence of State and public order and the protection of the rights of citizens, district Soviets of Working People's Deputies shall:

(*a*) Direct the work of the District Committee for Popular Control; take measures to co-ordinate participation by the working people in the task of exercising State and social control in the district; hear appeals against decisions of the District Committee for Popular Control instituting proceedings against officials;

(*b*) Ensure compliance with the laws of the USSR and the Byelorussian SSR and other enactments of higher organs of State power and State administration as well as the defence of State and public order, socialist property, and the rights and legally protected interests of citizens, State, institutions, enterprises, and co-operative and other public organizations; organize programmes to explain the law to the people and organize the provision of legal assistance to them;

. . .

(*e*) Ensure that citizens' suggestions, applications and complaints are considered and dealt with in good time and in the proper manner, review progress in the consideration of suggestions, applications and complaints made by citizens at collective farms, State farms, enterprises, institutions and other organizations located in the district and hear reports from the heads of such bodies on matters of this kind; . . .

CHAPTER III

Organization of the work of district Soviets of Working People's Deputies

1. *Sessions of district Soviets of Working People's Deputies*

Article 32. In accordance with article 59 of the Constitution of the Byelorussian SSR, sessions of district Soviets of Working People's Deputies are convened by their respective executive committees not less than six times a year, that is, once every two months.

Sessions of a district Soviet may also be convened at the request of not less than one third of the total number of deputies of the Soviet.

Article 33. The first session of a newly elected district Soviet of Working People's Deputies shall be convened by the executive committee of the Soviet as constituted at its previous convocation, not later than two weeks after the elections, and shall be opened by one of the deputies most senior in age. Subsequent sessions of the Soviet shall be opened by the Chairman of the executive committee.

Each district Soviet shall elect a Chairman and a Secretary from among the deputies to conduct its sessions.

Article 34. A quorum shall be deemed to exist for sessions of district Soviets of Working People's Deputies when at least two thirds of the total number of deputies of the Soviet are present.

. . .

Article 39. Decisions of district Soviets of Working People's Deputies shall be adopted, by a show of hands, by a simple majority of the votes of the total number of deputies of the Soviet and shall be signed by the Chairman and the Secretary of the executive committee of the Soviet.

Article 40. Decisions of district Soviets of Working People's Deputies shall be brought to the attention of interested enterprises, institutions, organizations, officials and citizens by the executive committee of the Soviet not later than seven days after their adoption.

Proposals and recommendations contained in decisions of district Soviets which are addressed to enterprises, institutions and organizations in the district which are under the jurisdiction of higher authorities must be considered by the heads of such bodies and the results of such consideration must be communicated to the Soviet within a period of not more than 10 days.

. . .

2. *Executive committees of district Soviets of Working People's Deputies*

Article 42. In accordance with article 56 of the Constitution of the Byelorussian SSR, the executive and administrative organ of the district Soviet of Working People's Deputies is its executive committee, which is elected from among the deputies and consists of a Chairman, Vice-Chairmen, a Secretary and from four to seven members.

The number of members of the executive committee of a district Soviet shall be fixed by the Soviet on the basis of the number of deputies and the special characteristics of the district.

Article 43. In accordance with article 63 of the Constitution of the Byelorussian SSR, the executive committee of a district Soviet of Working People's Deputies is directly accountable both to the Soviet which elected it and to the executive committee of the regional Soviet of Working People's Deputies.

Article 44. The executive committee of a district Soviet of Working People's Deputies shall direct State, economic, social and cultural construction within the district on the basis of the decisions of the district Soviet and of higher organs of State power and administration.

The executive committee of a district Soviet shall consider and deal with matters brought before the Soviet, with the exception of those which must be considered and dealt with only at sessions of the Soviet.

Article 45. The executive committee of a district Soviet of Working People's Deputies shall, convene and make preparations for sessions of the Soviet and organize preliminary public discussion of draft decisions of the Soviet on especially important matters.

Article 46. The executive committee of a district Soviet of Working People's Deputies shall, during the periods between sessions of the Soviet, co-ordinate the work of the standing commissions of the Soviet, invite their participation in preparatory work on matters to be discussed at sessions of the Soviet and at meetings of the executive committee, and consider proposals submitted by the commissions.

Article 47. The executive committee of a district Soviet of Working People's Deputies shall provide deputies with the necessary assistance in performing their duties and in preparing and making reports to the electors and shall keep deputies informed concerning the implementation of decisions of the Soviet and concerning measures adopted in response to criticism and proposals made by deputies at sessions of the Soviet.

. . .

Article 49. The executive committee of a district Soviet of Working People's Deputies shall submit to the Soviet for its approval plans for measures to implement instruction from the electors and shall organize the implementation of the instructions and keep deputies and the public informed concerning such implementation.

. . .

Article 53. The executive committee of a district Soviet of Working People's Deputies shall have the right to annul decisions and orders of executive committees of rural, settlement and (in the case of towns under district jurisdiction) town Soviets and to suspend decisions and orders of rural, settlement and (in the case of towns under district jurisdiction) town Soviets.

Article 54. The executive Committeee of a district Soviet of Working People's Deputies shall adopt decisions and issue orders within the limits of the powers vested in it and in strict conformity

with the law of the USSR and the Byelorussian SSR.

Article 55. Decisions and orders of the executive committee of a district Soviet of Working People's Deputies shall be adopted by a simple majority of the votes of the entire membership of the executive committee.

. . .

Article 57. The executive committee of a district Soviet of Working People's Deputies shall hold meetings when necessary, but in any case not less often than twice a month.

A quorum shall be deemed to exist for meetings of the executive committee of a district Soviet if at least half of its membership is present.

. . .

Article 58. The executive committee of a district Soviet of Working People's Deputies shall, at least once a year, give an accounting of its work to the Soviet which elected it, at meetings of working people at collective farms, State farms, enterprises, institutions and other organizations, and at citizens' places of residence.

. . .

3. *Standing commissions of district Soviets of Working People's Deputies*

Article 66. In order to promote continuing participation by deputies and by a broad group of active Party members in the work of the Soviet in directing State, economic, social and cultural construction, to ensure preparatory work on, and preliminary consideration of, matters falling within the competence of the Soviet, and for purposes of organizational work in the implementation of decisions of the Soviet, its executive committees and higher State organs, district Soviets of Working People's Deputies shall establish standing commissions to serve for the duration of their term.

. . .

Article 68. Standing commissions shall be elected by district Soviets of Working People's Deputies from among their members. Deputies who are members of the executive committee of a district Soviet may not be elected to serve on a standing commission.

. . .

Article 70. Each district Soviet of Working People's Deputies shall establish a credentials commission, a plan-budget commission, a commission on socialist legality and the defence of public order, a commission on youth affairs and, depending on local conditions, standing commissions on various sectors of economic, social and cultural construction.

Article 71. The credentials commission of a district Soviet of Working People's Deputies shall:

(*a*) Verify the credentials of members of the Soviet and submit to the Soviet for its consideration recommendations calling for recognition of the credentials of elected deputies or for annulment of elections in the case of particular deputies;

(*b*) Prepare and submit to the executive committee of the district Soviet proposals for the holdings of elections to replace outgoing members of the Soviet;

(*c*) Present its conclusions on matters connected with the immunity or the recall of a deputy and on applications from deputies to be relieved of their duties.

. . .

Article 73. The commission on socialist legality and the defence of public order of a district Soviet of Working People's Deputies shall:

(*a*) Participate in the formulation and implementation of measures to ensure socialist legality and the defence of State and public order in the district;

(*b*) Present its conclusions on draft decisions of the district Soviet which prescribe administrative penalties in the event of non-compliance;

(*c*) Assist in verifying that socialist legality is observed in the sections and administrations of the executive committee of the Soviet and at collective farms, State farms, enterprises, institutions and other organizations; assist in reviewing progress in the consideration of citizen's suggestions, applications and complaints and the arrangements made for visits by citizens to their deputies;

(*d*) Provide assistance in the work of voluntary people's militias and comradely courts;

(*e*) Participate in the work of explaining the law to the working people and instilling in them a spirit of strict observance of the law and respect for the rules of socialist intercourse.

Article 74. The commission on youth affairs of a district Soviet of Working People's Deputies shall:

(*a*) Prepare and submit to the Soviet and its executive committee for their consideration draft decisions and other proposals relating to education, vocational training, employment, communal life, leisure and protection of the health of young people as well as the participation of young people in State, economic, social and cultural construction;

(*b*) Give preliminary consideration to and formulate conclusions on draft decisions of the Soviet and its executive committee on matters within the competence of the commission which are submitted to it for comment;

(*c*) Take part, in so far as relates to matters within its competence, in the preliminary consideration of district economic development plans and social and cultural construction plans, of the district budget and of reports on budget implementation.

. . .

4. *Members of district Soviets of Working People's Deputies*

Article 79. The term of office of a member of a district Soviet of Working People's Deputies runs from the day of his election to the day of the elections for the district Soviet of the next convocation.

Article 80. A member of a district Soviet of Working People's Deputies shall take part in the work of the Soviet, carry out its commissions,

keep in constant touch with his electors, keep them informed about the decisions taken by the Soviet and its executive committee, see that instructions and proposals from the electors are implemented, see citizens in person and assist them in the disposition of their suggestions, applications and complaints.

Article 81. A member of a district Soviet of Working People's Deputies has the right to submit to the Soviet and its executive committee and standing commissions for consideration proposals concerning matters arising in the performance of his official duties.

Article 82. A member or group of members of a district Soviet of Working People's Deputies has the right during sessions to put questions to the executive committee and to the heads of the latter's sections and administrations or of collective farms, State farms, enterprises, institutions and other organizations in the district concerning any matter within the competence of the Soviet.

The executive committee of a district Soviet and the heads of sections and administrations of the executive committee or of collective farms, State farms, enterprises, institutions and other organizations to whom questions are addressed by members must reply to such questions at the session of the Soviet; where additional time is required to prepare the reply, it must be submitted within a time-limit fixed by the Soviet, notice to that effect being given at the session. The Soviet shall take a decision concerning the reply to the member's question.

Article 83. A member of a district Soviet of Working People's Deputies may communicate with the head of a collective farm, State farm, enterprise, institution or other organization in the district concerning matters connected with his official duties; a reply must be made to such communications within a period not exceeding 10 days.

A member of a district Soviet of Working People's Deputies has the right of special access to the heads of the executive committee and its sections and administrations and to the heads of collective farms, State farms, enterprises, institutions and other organizations in dealing with matters connected with his official duties.

Article 84. A member of a district Soviet of Working People's Deputies shall, on instructions from the Soviet or its executive committee or standing commissions, assist in reviewing the work of collective farms, State farms, enterprises, institutions and other organizations in the district and submit proposals based on the results of the review.

Article 85. Under article 117 of the Constitution of the Byelorussian SSR, a member of a district Soviet of Working People's Deputies is required to report to the electors on his own work and that of the Soviet.

Reports by members of a district Soviet shall be made not less than twice a year. Such reports may be made at any time if the electors so request.

Article 86. A member of a district Soviet of Working People's Deputies shall, during sessions or during meetings of the executive committee or of a standing commission if he has been elected thereto, be exempt from the fulfilment of his production or service obligations while continuing to receive the average earnings (wages) prevailing at his regular place of work.

Article 87. A member of a district Soviet of Working People's Deputies shall, while performing his official duties, be entitled to travel without charge on all types of local public transport within the district.

Article 88. A member of a district Soviet of Working People's Deputies may not, at the initiative of the management, be dismissed from his employment at an enterprise, institution or organization or excluded from membership in a collective farm, nor may he be charged with a criminal offence or arrested within the district without the consent of the Soviet or, during intervals between sessions, the consent of its executive committee.

Article 89. The mandate of a member of a district Soviet of Working People's Deputies who fails to justify the trust placed in him may be revoked at any time by a decision of a majority of the electors taken in accordance with the procedure prescribed by law.

...

Article 91. The function of a member of a district Soviet of Working People's Deputies shall cease before the end of his term of office if his mandate is revoked by the electors or by decision of the Soviet upon his request to be relieved of his post.

Article 92. Where a deputy ceases to be a member of a district Soviet of Working People's Deputies, the executive committee of the Soviet shall, within a period not exceeding two months from the date of his departure from his post, call elections for a new deputy in the electoral district concerned.

5. *Popular participation in the work of district Soviets of Working People's Deputies*

Article 93. District Soviets of Working People's Deputies shall organize broad participation by citizens in dealing with matters of local and national significance.

Article 94. Each district Soviet of Working People's Deputies shall keep the population informed of its activities and of the work of the standing commissions, the executive committee and the latter's sections and administrations by means of regular addresses to the working people by members of the Soviet and the staff of the executive committee and the latter's sections and administrations and also through the press, radio and television.

District Soviets shall submit the most important matters relating to State, economic, social and cultural construction in the district for discussion at meetings of working people at collective farms, State farms, enterprises, institutions and other organizations and at citizen's places of residence.

Article 95. District Soviets of Working People's Deputies shall provide guidance for the activities of district voluntary societies and direct the work of agencies of popular initiative.

9. Act of 15 July 1971 of the Byelorussian Soviet Socialist Republic

concerning town and urban-district Soviets of Working People's Deputies of the Byelorussian SSR

(The basic provisions of this Act are identical with those of the Act concerning District Soviets of Working People's Deputies of the Byelorussian SSR, extracts from which are given above.)

10. Decision of 27 August 1971 of the Central Committee of the Communist Party of Byelorussia and the Council of Ministers of the Byelorussian SSR

concerning Measures to improve the provision of general educational instruction to young working people at evening schools in the Byelorussian SSR

11. Decision of 21 October 1971 of the Central Committee of the Communist Party of Byelorussia and the Council of Ministers of the Byelorussian SSR

concerning measures for the further development of vocational technical education for young people

12. Decision of 18 December 1971 of the Central Committee of the Communist Party of Byelorussia and the Council of Ministers of the Byelorussian SSR

concerning the organization of universal technical education in rural areas

13. Decision of 7 May 1971 of the Central Committee of the Communist Party of Byelorussia and the Council of Ministers of the Byelorussian SSR

concerning the establishment of a Byelorussian Republican Centre for the scientific organization of agricultural work

14. Decision of 22 June 1971 of the Central Committee of the Communist Party of Byelorussia and the Council of Ministers of the Byelorussian SSR

concerning measures for improving working conditions and tying mechanization personnel to agricultural jobs

15. Decision of 31 December 1971 of the Council of Ministers of the Byelorussian SSR

concerning amendments and additions to the recommendations on labour remuneration in collective farms

16. Decree of 29 October 1971 of the Presidium of the Supreme Soviet of the Byelorussian SSR

concerning honorific titles in the Byelorussian SSR

(Extract)

In view of the great importance of honorific titles as a moral incentive for the development of the creative activity of manual workers, collective farm workers and other workers in the economy, science and culture of the Republic in the struggle to achieve further successes in communist construction and for the purpose of consolidating previous enactments concerning honorific titles in the Byelorussian SSR, the Presidium of the Supreme Soviet of the Byelorussian SSR hereby decides:

1. To establish the following honorific titles in the Byelorussian SSR:

People's Actor of the Byelorussian SSR;

People's Poet of the Byelorussian SSR or

People's Writer of the Byelorussian SSR;

People's Artist of the Byelorussian SSR;

Honoured Industrial Worker of the Byelorussian SSR;

Honoured Power Industry Worker of the Byelorussian SSR;

Honoured Designer of the Byelorussian SSR;

Honoured Transport Worker of the Byelorussian SSR;

Honoured Communications Worker of the Byelorussian SSR;

Honoured Geological Prospector of the Byelorussian SSR;

Honoured Agricultural Worker of the Byelorussian SSR;

Honoured Reclamation Engineer of the Byelorussian SSR;

Honoured Forestry Expert of the Byelorussian SSR;

Honoured Scientific and Technical Worker of the Byelorussian SSR or

Honoured Scientific Worker of the Byelorussian SSR;

Honoured Inventor of the Byelorussian SSR;

Honoured Rationalization Expert of the Byelorussian SSR;

Honoured Trade and Public Catering Worker of the Byelorussian SSR;

Honoured Public Services Worker of the Byelorussian SSR;

Honoured Teacher of the Byelorussian SSR;

Honoured Higher Education Worker of the Byelorussian SSR;

Honoured Vocational Technical Education Worker of the Byelorussian SSR;

Honoured Architect of the Byelorussian SSR;

Honoured Economist of the Byelorussian SSR;

Honoured Physician of the Byelorussian SSR;

Honoured Health Worker of the Byelorussian SSR;

Honoured Lawyer of the Byelorussian SSR;

Honoured Actor of the Byelorussian SSR;

Honoured Worker in the Arts of the Byelorussian SSR;

Honoured Cultural Worker of the Byelorussian SSR;

Honoured Physical Culture Worker of the Byelorussian SSR.

17. Decision of 10 December 1971 of the Council of Ministers of the Byelorussian SSR

Approving the regulations governing guardianship and curatorship authorities in the Byelorussian SSR

(Extract)

The Council of Ministers of the Byelorussian SSR hereby decides:

To approve the following Regulations governing guardianship and curatorship authorities in the Byelorussian SSR:

Regulations governing guardianship and curatorship authorities in the Byelorussian SSR

1. The duties of guardianship and curatorship authorities shall be:

To provide for the upbringing of minors who, because of their parents' death, deprivation of parental rights or illness or for other reasons, are without parental care, and to protect the personal and property rights and interests of such children;

To protect the personal and property rights and interests of persons of full legal age who, for health reasons, are unable to exercise their rights and fulfil their obligations on their own.

2. In accordance with article 141 of the Code on Marriage and the Family of the Byelorussian SSR, the guardianship and curatorship authorities are the executive committees of district, town, settlement or rural Soviets of Working People's Deputies.

Guardianship and curatorship functions shall be exercised by the public education sections in the case of minors, by the public health sections in the case of persons declared by a court to be legally incapable or of limited legal capacity and by the social security sections in the case of legally capable persons requiring curatorship for health reasons. . . .

18. Decree of 30 November 1971 of the Presidium of the Supreme Soviet of the Byelorussian SSR

concerning amendments and additions to Articles 340 and 370 of the Code of Criminal Procedure of the Byelorussian SSR

(Extracts)

The Presidium of the Supreme Soviet of the Byelorussian SSR hereby decides:

. . .

2. That the first part of article 370 shall read as follows:

"Where a prisoner, while serving his sentence, contracts a chronic mental or other serious disease which presents an impediment to the completion of the sentence, the court may, upon a submission by the director of the agency responsible for ensuring execution of the sentence and on the basis of the findings of a medical board, order the remission of the remainder of the sentence."

19. Act of 16 July 1971 of the Byelorussian Soviet Socialist Republic

Approving the Corrective Labour Code of the Byelorussian SSR

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

Article 1. To approve the Corrective Labour Code of the Byelorussian SSR and put it into effect as from 1 January 1972.

Article 2. To instruct the Presidium of the Supreme Soviet of the Byelorussian SSR to establish procedures for putting into effect the Corrective Labour Code of the Byelorussian SSR and to bring the legislation of the Byelorussian SSR into line with the Code.

20. Decree of 1 December 1971 of the Presidium of the Supreme Soviet of the Byelorussian SSR

Ratifying the Convention for the Suppression of Unlawful Seizure of Aircraft

The Convention for the Suppression of Unlawful Seizure of Aircraft, signed on behalf of the Byelorussian SSR at The Hague on 16 December 1970, which has been approved by the Council of Ministers of the Byelorussian SSR and submitted for ratification, is hereby ratified, subject to the following reservation made at the time of signature:

"The Byelorussian Soviet Socialist Republic does not consider itself bound by the provisions of article 12, paragraph 1, which states that disputes concerning the interpretation or application of the Convention shall be submitted to arbitration or referred to the International Court of Justice at the request of one of the parties to the dispute."

21. Decree of 6 September 1971 of the Presidium of the Supreme Soviet of the Byelorussian SSR

Ratifying the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof

The Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, signed on behalf of the Government of the Byelorussian Soviet Socialist Republic at Moscow on 3 March 1971 and approved by the Commission on Foreign Affairs of the Supreme Soviet of the Byelorussian SSR, which has been submitted by the Council of Ministers of the Byelorussian SSR for ratification, is hereby ratified.

CAMEROON

Law No. 71-LF-6 of 6 September 1971 penalizing the showing of prohibited films *

1. (1) Any person who exhibits or causes to be exhibited any of the films designated below in a cinema hall or in any public place whatsover in the course of a public performance shall be liable to a fine of from fifty thousand to five hundred thousand francs:

Banned films;

Films which have not obtained the prescribed certificate;

Films prohibited to minors under 13 years of age or under 18 years of age, when such minors have been allowed to enter the cinema hall;

A censored part or censored parts of a film.

(2) In the cases provided for under the preceding subsection, there may in addition be ordered either the closing of the cinema hall for a period of five to fifteen days, or the confiscation of the films and sound recordings concerned.

(3) In case of a repetition of the offence within 12 months, the amount of the fine and the period of closing of the cinema in question may be doubled.

(4) Permanent closing may be ordered in case of repeated offences.

2. (1) Measures to implement the present law shall be prescribed as need be by decree of the President of the Republic.

(2) All previous provisions to the contrary are repealed.

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* *Official Gazette of the Federal Republic of Cameroon*, No. 2 (supplementary), 15 September 1971.

CANADA

NOTE *

Introduction

The legislative enactments of both the federal and provincial governments, important judicial decisions, amendments to existing acts and statutes, studies and programmes relative to human rights undertaken in Canada during 1971—all attest to the continuing interest and commitment to human rights as defined by the Universal Declaration of Human Rights of the United Nations.

The present report, as in previous years, follows the suggested format as outlined in Economic and Social Council resolution 683D (XXVI). It is divided into two sections: the first is comprised of such narration as is necessary to describe trends during the year under review; the second is a compilation of as many copies as necessary of legislation, amendments, general government decrees, policy statements, press releases, judicial decisions referred to in the first part.

A. Federal measures

Criminal Code

The trend toward the reformation of Canadian laws to make them more relevant and more equitable in their application to all sectors of society, particularly the rich and the poor, continued through 1971. The Criminal Code was amended with reference to bail reform.

The Bail Reform Act [1] (May 1971) was an extensive revision of the laws of arrest and pretrial detention. It placed the onus on the Crown to show why a person should be arrested and why he should not be released on his own recognizance or be issued an appearance notice, prior to his trial. The act has had the effect of reducing the requirement of property or cash bail, thereby tending to equalize the conditions of arrest for rich and poor. It came into effect on 1 January 1972.

The Statutory Instruments Act (May 1971)

The act [2] provides for the examination, publication and scrutiny of regulations and other statutory instruments. It provides that every regulation shall be published in the *Canada Gazette* and sets exceptions to this rule. Under the act, a proposed regulation shall be examined by the clerk of the Privy Council in consultation with the Deputy Minister of Justice to ensure that it does not trespass unduly on existing rights and freedoms and is not inconsistent with the Canadian Bill of Rights. This latter function previously was the responsibility of the Minister of Justice under the Canadian Bill of Rights. The authority of the Bill of Rights has been greatly enlarged through important judicial decisions dating especially from 1969.

Social justice

Canada Labour Code 1966-1967 (consolidation) [3]

When the Revised Statutes of Canada, 1970 went into effect on 15 July 1971, five statutes administered by the Department of Labour were consolidated as the Canada Labour Code: the Canada Fair Employment Practices Act, the Female Employees Equal Pay Act, the Canada Labour (Standards) Code the Canada Labour (Safety), Code, and the Industrial Relations and Disputes Investigation Act. The former Canada Labour (Standards) Code [4] is now part III (Labour Standards) of the Canada Labour Code. Extensive amendments were made to this section. Provisions regarding maternity leave, notice of group and individual termination of employment, severance pay and wage garnishment were introduced and will apply even to employees excluded from the application of the act. Equal pay provisions were transferred to part III of the Code. Changes were made in the coverage of the legislation and in provisions governing hours of work, minimum wages, annual vacations and genral holidays. A new exception empowers the Governor in Council to make regulations under article 8A of the act extending the total hours beyond 48 that may be worked in any one week. The amending act went into force on 1 July 1971, with the exception of the notice of termination and severance pay provisions which were proclaimed in force on 1 January 1972.

* Note furnished by the Government of Canada.

[1] *Statutes of Canada*, 1971, chap. 37.

[2] *Ibid.*, chap. 38.

[3] *Revised Statutes of Canada*, 1970, chap. L-I.

[4] *Statutes of Canada*, 1971, chap. 50.

The Federal Court Act, 1971

The Exchequer Court of Canada was transformed into the Federal Court of Canada. The Court, which consists of the Trial Division and the Appeal Division, was assigned new jurisdiction. Of particular interest is the jurisdiction over federal boards, commissions and other tribunals such as the Canada Labour Relations Board.

Applications for extraordinary remedies, such as injunctions against such boards, must now be made to the Trial Division. The Appeal Division will have exclusive jurisdiction to hear applications to review and set aside judicial and quasi-judicial decisions or orders of these boards on the grounds that the board has failed to observe the principles of natural justice, exceeded or refused to exercise its jurisdiction, erred in law, or based a decision on erroneous finding of fact made in a perverse or capricious manner without regard to the material before it. The decision of the Appeal Division is final and not subject to further appeal. A board may at any time during its proceedings refer questions of law, jurisdiction or practice and procedure to the Appeal Division for determination.

Unemployment Insurance Act, 1971

The 1971 changes to the act [5] have, to all intents and purposes, achieved the goal long recommended—universality of coverage. Among the 2.3 million people who have joined the plan since early 1972 are public servants, members of the armed forces, those in occupations previously classed as non-insurable and those who were excluded because they earned more than the $7,800 *per annum* "salary ceiling". Only the self-employed are still excluded.

Premium or contribution rates payable by employer and employee, rulings on who is insurable and who is not and the actual collection of these funds has become the responsibility of the Department of National Revenue since January 1972. The Unemployment Insurance Commission continues to be responsible for all aspects of claims and benefits.

Because of the wider base, benefit rates are higher, ranging from two-thirds in the early stages to 75 per cent of average weekly insured earnings in the later stages of the plan. There is a maximum benefit rate of $100 weekly though this figure, like all maximums and minimums built into the new plan, will be reviewed and can be adjusted annually.

Qualifying conditions have been made easier. A person who has a "minor attachment" to the work force, that is, has had 8-19 weeks of insured employment—uninterrupted by a previous claim—within the last 52 weeks, may qualify for up to 48 weeks of benefits. A person who has had 20 weeks or more of insured employment, under the same conditions, is known as a "major attachment" claimant.

"Major attachment" claimants may qualify for up to 51 weeks of benefits and also enjoy other advantages. If they have to cease work because of sickness or maternity and thereby suffer an interruption of earnings, they may draw unemployment insurance benefits for up to 15 weeks in both cases. When they retire for good from the force, they may also qualify for the retirement benefit.

For both kinds of claimant, the last two stages of the plan depend on the states of the national, or national and regional, unemployment rates.

Status of women

The Equal Employment Opportunities Office of the Public Service Commission has been created (February 1971) and is responsible for "the planning and development of a comprehensive programme to promote equal employment opportunities, focusing initially on the employment of women in particular, their career development and progression to levels of responsibility that are in parallel with their abilities and ambitions". This is in keeping with the Government's desire to implement as much as possible the recommendations of the report of the Royal Commission on the Status of Women.

Multiculturalism

Since October 1971, the Federal Government has had an official cultural policy [6] which recognizes in both philosophical and tangible terms the rights of cultural groups in Canada of other than British or French origin.

At the federal government level, there had been an awarences of the need for such a policy which led to the formation of the Royal Commission on Bilingualism and Biculturalism.

When the Commission was formed, one of its tasks was to examine the question of cultural and ethnic pluralism in Canada and the status of our various cultures and languages.

Its findings resulted in an observation by the Commission that "there cannot be one cultural policy for Canadians of British and French origin, another for the original peoples and yet a third for all others".

When the Prime Minister introduced the new policy of "multiculturalism within a bilingual framework" in the House of Commons, it was supported by the leaders of the Opposition parties and accepted as the most suitable means of assuring the cultural freedom of Canadians.

All recommendations made by the Royal Commission on Bilingualism and Biculturalism in volume IV of its report directed to federal departments and agencies have been accepted by the Government. It is now established policy that although there are two official languages in which Canadians can communicate with their Federal Government, there is no official culture.

The new policy is designed to break down discriminatory attitudes and cultural rivalries.

It accepts the contention of the "other" cultural communities that they are essential elements in the community of cultures which makes Canada what it is. They will be encouraged to share their cultural expression and values with other Cana-

[5] *Ibid.*, chap. 48.

[6] *House of Commons Debates*, 8 October 1971.

dians, thereby contributing to a richer life for all.

Federal funds are made available to enable the National Museum of Man, the National Film Board, the National Library and the Public Archives to display the variety and richness of all the cultures and the contributions they have made to our history. Basically, the Government provides support in four ways.

First, it seeks to assist all Canadian cultural groups that have demonstrated a desire and effort to continue to develop a capacity to grow and contribute to Canada, and a clear need for assistance, the small and weak groups no less than the strong and highly organized.

Secondly assistance is given to members of all cultural groups to overcome cultural barriers to full participation in Canadian society.

Thirdly the Government promotes creative encounters and interchange among all Canadian cultural groups in the interest of national unity.

Fourthly the Government continues to assist immigrants to acquire at least one of Canada's official languages in order to become full participants in Canadian society.

Some of the recommendations in volume IV concern matters under provincial jurisdiction and call for co-ordinated federal and provincial action.

Responsibility for implementing the new policy has been assigned to the Citizenship Branch of the Department of the Secretary of State, the agency now responsible for matters affecting the social integration of immigrants and the cultural activities of all ethnic groups. The first grants under the policy were announced in April 1972.

Language rights: bilingualism in the public service

In accordance with the Official Languages Act, the objective is to ensure that both official languages are accorded equal recognition in the institutions of the Parliament and Government of Canada and, in particular, that all citizens can deal with their government in the official language of their choice. To this end, policies to promote bilingualism on the part of public servants have been instituted, including an extensive second language training programme.

The environment

A Canadian Environment Week Act was passed (March 1971). Under its provisions, in each and every year throughout Canada, the second week of October is to be kept and observed under the name of Canadian Environment Week (*Statutes of Canada*, 1970-1971, chap. 28).

The apparent purpose of the act is to call attention to and rededicate efforts towards the maintenance of a clean environment.

The Department of the Environment Act

By the provisions of this act, a governmental department was created empowering its Minister to initiate, recommend and undertake programmes and to co-ordinate programmes of the Government of Canada that are designed to promote the establishment of objectives relating to environmental quality and pollution control. In addition, the Department is to work toward the promotion and encouragement of practices leading to the better protection and enhancement of environmental quality and co-operate with provincial governments, agencies, bodies or other organizations having similar objectives. The continuing concern for environmental quality and preservation was again reflected with the passage of this act (*Statutes of Canada*, 1970-1971, chap. 42).

Proclamation establishing the Ministry of State for Urban Affairs

This proclamation expressed the recognition of the problems posed by increasing urbanization. The purpose of this new ministry is to formulate and develop policies for implementation in respect of:

(*a*) The most appropriate means by which the Government of Canada may have a beneficial influence on the evolution of the process of urbanization in Canada;

(*b*) The integration of urban policy with other policies and programmes of the Government of Canada; and

(*c*) The fostering of co-operative relationships with regard to urban affairs with the provinces and through them their municipalities, and with the public and private organizations.

B. Provincial measures

Human rights codes

The Newfoundland Human Rights Code, 1969, was proclaimed in force on 3 March 1971. Its prohibitions against discrimination are similar to those of New Brunswick and the other human rights codes.

Significant changes were made during the year in the human rights legislation of New Brunswick, Nova Scotia and Alberta.

The New Brunswick Human Rights Act was revised extensively and re-enacted as the Human Rights Code,[7] effective 1 October 1971. The application of the act and the grounds for the prohibition of discrimination were broadened. The Human Rights Commission was given added functions and powers to administer the Code.

The act forbids discrimination in employment —by employers and employment agencies, and in advertisements and application forms for jobs—, trade union membership, public accommodation and the renting of dwelling units and advertisements and signs, on the grounds of race, colour, religion, national origin, ancestry or place or origin. The prohibition of discrimination on the basis of sex has been added in all areas covered by the Code except in renting, public accommodations and sign displays.

The prohibitions are now expressed in more general terms, forbidding discrimination because of race, colour, etc., without referring to the race, colour, etc., of a particular person or class

[7] *Statutes of New Brunswick, 1971*, chap. 8.

of persons. Under the new code, an employers' organization, as well as an employer or other person acting on his behalf, must comply with the provisions respecting discrimination in employment.

The areas in which discrimination is prohibited have been extended to include membership in employers' organizations and in professional, business and trade associations where such associations control the entry to or the practice of any occupation, calling, business or trade. Statutory provisions restricting membership in professional business and trade associations to Canadian citizens or British subjects are not to be affected.

Discrimination is also forbidden with respect to the manner in which public accommodation is provided, in the renting of commercial units, and in the sale of property. No person may impose or enforce any discriminatory term or condition in any conveyance, instrument or contract that restricts the right of any person or class of persons with respect to property.

Domestic servants in private homes, non-profit organizations and organizations operated primarily to foster the welfare of a religious or ethnic group, are no longer excluded from the act. In the areas concerning employment, services of employment agencies, membership in trade unions or employers' organizations, the use of application forms, the publication of advertisements and inquiries regarding employment, a limitation, specification or preference on the basis of race, colour, religion, national origin, ancestry, place of origin or sex does not constitute discrimination if it is based on a *bona fide* occupational qualification. Previously, this saving clause applied to inquiries, forms of application and advertisements concerning employment.

The Human Rights Commission has additional functions and authority under the new legislation. Its powers of inspection are detailed. The Commission may approve programmes designed to promote the welfare of any class of persons. It may at any time make inquiries concerning the programme, vary or impose conditions on it, or withdraw approval of the programme. An approved programme does not constitute a violation of the act.

The Commission is given authority to dismiss at any time a complaint which, in its opinion, is without merit. Power to issue orders giving effect to the recommendations of a board of inquiry rests solely with the Commission. The earlier statute conferred this power on both the Commission and the Minister of Labour.

Amendments to the Nova Scotia Human Rights Act, which became effective on 8 April 1971, provide further safeguards against discrimination. The act prohibits discrimination in public accommodation, rental practices, sale of property and covenants, employment (including employment agencies), advertisements and application forms, membership in trade unions or professional business associations and advertisements and signs on the grounds of race, religion, creed, colour or ethnic or national origin.

The provision governing discrimination in employment is broadened by directing the prohibition to include "any person", rather than just the employer. "Person" is defined in the act to include an employer, employers' organization or a professional, business or trade association, whether acting directly or indirectly, alone or with another, or by the interposition or another.

Under the Act, an employment agency must not accept discriminatory inquiries from employees or job seekers, and the use of discriminatory application forms, advertisements or inquiries in connexion with employment is prohibited. These prohibitions were re-worded to refer to an inquiry that "directly or indirectly expresses any limitation, specification or preference or invites information as to race, religion, creed, colour or ethnic or national origin". The employment agency itself is forbidden to practise discrimination.

The exemption from the employment provisions of non-profit organizations operated for the welfare of a religious or ethnic group is limited to dealings between the organization and members of the same religious or ethnic group. The exemption is now further limited to situations where religion, creed, colour or ethnic or national origin is a reasonable occupational qualification.

The prohibition of discrimination in connexion with renting—including the terms and conditions of occupancy— has been extended, with one exception, to include all housing units where rental accommodation is provided. The provision does not apply in a case where one room is rented in a house occupied by the landlord or his family and the room is not advertised in any way. Previously, the act covered houses and apartments and units such as boarding or rooming houses used exclusively to provide rental accommodation.

A new section forbids discrimination because of association with minority groups: "discrimination against any individual or class of individuals in any manner prescribed by this act because of race, religion, creed, colour or ethnic or national origin of any person or persons with whom the individual or class of individual associates".

The Human Rights Commission of Nova Scotia is now authorized to obtain an order from the Supreme Court directing compliance by any person who refuses to furnish information or to permit entry to premises as required by the legislation.

The Alberta Human Rights Act [8] was amended, effective 1 July 1971, to add sex, marital status and age (40 to 65 years) to the grounds on which discrimination in hiring and conditions of employment in trade union membership is forbidden. In addition, discrimination based on sex is prohibited in connexion with public accommodation and rental practices. The prohibition in the employment area with respect to age does not affect *bona fide* retirement or pension plans.

Including Alberta, there are now seven provinces that prohibit discrimination in employment and trade union membership on grounds of sex. (British Columbia, Manitoba, Newfoundland, Ontario, Quebec and New Brunswick).

[8] *Statutes of Alberta*, 1971, chap. 48.

Social welfare

Social assistance

During 1971, all provinces made changes in their social assistance programmes.

Coverage was extended in two provinces and eligibility requirements were modified in several. In Nova Scotia, the age limit for payment of provincial assistance to dependent children who are pursuing an education programme was removed.[9] In British Columbia, supplementary social allowances were extended to recipients of war veterans allowances and their widows, who are 65 years or more and in receipt of old age security; wives and widows of such persons also became eligible for free health care services if 65 years or over.[10] Changes in Ontario's provincial assistance programme made it possible for a foster father to qualify for an allowance on behalf of a foster child and modified the eligibility requirements for a dependent father with a dependent child.[11] Eligibility requirements were also eased in a number of provinces as a result of the deletion of or modifications in provisions concerning assets and income.

Rates of assistance were increased in a number of provinces. Nova Scotia increased the budget allowances for food, clothing and miscellaneous essentials by about 15 per cent and raised the board rate for aged and disabled persons, payments on behalf of foster children and the overall monthly maximum for families.[12] In Quebec, the amounts for basic needs allowed families with a dependent child 18 years and over who is attending school were raised and allowances for certain items of special need were increased.[13] British Columbia raised the maximum social allowance for permanently and severely disabled persons not eligible for a disabled person's allowance and the maximum monthly budget limits for persons receiving supplementary allowances to old age security.[14] Other changes in rates included new provisions in Newfoundland, Nova Scotia, Ontario and Manitoba which took account of the special needs of the elderly.[15]

Amendments in several provinces were intended to provide a greater incentive for recipients to enter or return to the labour force and eventually become self-sustaining. In Newfoundland, recipients of short-term assistance are now allowed some income from other sources.[16] In Quebec, an allowance for babysitting services is now payable if it is shown to be necessary to permit a parent to return to work or to obtain or retain employment.[17] In Saskatchewan. the earnings exemption [18] for partially employable persons was raised and extended to one-parent families where the parent works full time.

The right of appeal against decisions of welfare administrators was strengthened as a result of changes in a number of jurisdictions. In Alberta, revised procedures provided for an administrative review and for a further appeal to a local appeal committee.[19] An applicant for or a recipient of assistance may appeal on the grounds that: he was not allowed to apply or re-apply for assistance; his application was denied, assistance was cancelled, suspended, varied or withheld; or the amount granted was insufficient to meet his basic needs. Any other person or a group of persons may appeal if he believes that a recipient or an applicant is or is not eligible for assistance or that the amount of assistance granted is inadequate or excessive.

Revised appeal procedures issued in British Columbia [20] added new publicity requirements and changed the composition of the local boards of review to ensure impartiality.

It is now mandatory for the Director of Rehabilitation and Social Improvement to ensure that every applicant for or recipient of social assistance is informed of his right to apply for a review of any decision that he considers affects him adversely.

The three-member boards of review are now composed of one person nominated by the appellant who is not related to him by blood or marriage, a representative of the welfare authority and a chairman, selected by the other two members, who is not employed by any department or agency of the provincial government or by any municipality and who is not related to the appellant. To guard against any conflict of interests, the representative of the welfare authority must not be employed by any deparment or agency of the provincial government nor by any municipality if the appellant lives in organized territory.

In Ontario, new procedural safeguards were added, designed to ensure that applicants for and

[9] An Act to amend the Social Assistance Act, *Statutes of Nova Scotia, 1970-1971*, chap. 75.

[10] Circular letter to municipalities and officials of the Department of Rehabilitation and Social Improvement, dated 23 August 1971.

[11] The Family Benefits Amendment Act, 1971, *Statutes of Ontario, 1971, chap. 92.*

[12] Provincial Assistance Regulations, effective 1 June 1971.

[13] Regulations under the Social Aid Act, gazetted 1 May 1971.

[14] Circular letters to municipalities and officials of the Department of Rehabilitation and Social Improvement, dated 29 December 1970, 18 March 1971 and 8 April 1971.

[15] Regulations under the Social Assistance Act, Newfoundland Regulation 42/71, gazetted 30 March 1971; Provincial Assistance Regulations, effective 1 June 1971; Regulations under The Family Benefits Act, O. Reg. 277/71, gazetted 10 July 1971; and Regulations under The General Welfare Assistance Act, O. Reg. 276/71, gazetted 10 July 1971; Regulations under The Social Allowances Act, Manitoba Regulation 39/71, gazetted 24 April 1971.

[16] Regulations under the Social Assistance Act, Newfoundland Regulations 94/71, gazetted 3 August 1971, effective 1 April 1971.

[17] Regulations under the Social Aid Act, gazetted 1 May 1971.

[18] Regulations under Saskatchewan Assistance Act, Saskatchewan Regulation 29/71, gazetted 12 February 1971.

[19] Memorandum of the Department of Social Development, dated 19 February 1971.

[20] Regulations under the Social Assistance Act, British Columbia Regulation 145/71, gazetted 17 June 1971.

recipients of assistance receive the benefits to which they are entitled. Before refusing an initial application for a benefit or before suspending or cancelling a benefit, the Director of the Provincial Programme for persons requiring long-term aid must now send the person a written notice of the intended decision, which must include reasons and must also advise him of his right to make submissions against it. If the proposed action is carried out or if an allowance or benefit is varied, it is now also mandatory for the Director to send a notice informing the applicant or recipient of the reasons for decision and informing him of his right to a hearing before the Board of Review which hears appeals against decisions of welfare administrators. Where practicable, an administrator of short-term assistance must also inform an applicant or recipient of an intended action so as to afford him an opportunity to make submissions against it. To safeguard further the rights of appellants, the legislation now stipulates that members of the Board of Review must not have participated in any previous investigation or consideration of the subject matter of an appeal.

The exercise of the right to appeal was facilitated in Saskatchewan by a new provision authorizing the payment of an allowance on a fee-for-service basis to a person appointed by the Minister of Welfare to represent a person at an appeal hearing.[21]

In Newfoundland, the grounds for an administrative review or an appeal to the independent appeal tribunal were extended to include dissatisfaction with a decision of a welfare administrator concerning the refusal of assistance or the amount of assistance granted.[22]

In New Brunswick, the right to an appeal, which was previously in the Regulations, was strengthened by being incorporated in the Social Welfare Act.[23]

Legislation in two provinces reflected the growing recognition of the need to promote the participation of users of health and welfare services. In Quebec, an act which proposes to reorganize the provinces health services and social services[24] provides for participation of representatives of users and other groups in the administration of community service establishments. The board of directors of the local service centres will include representatives of users of the services. As a further means of promoting participation, every public establishment providing health and social services will be required to hold a public information meeting at least once a year, in which residents of the territory served by the establishment will be invited to participate. The act also affirms the individual's right to health services and social services, which must be granted without discrimination or preference based on the race, colour, sex, religion, language, national extraction, social origin, customs or political convictions of the applicant or members of his family.

Manitoba enacted legislation[25] providing for the establishment of a citizens advisory council to be known as "The Manitoba Health and Social Development Advisory Council" which will include at least seven representatives of users or consumers of health services or social development services who are not involved in any profession or occupation in these fields.

Health

An Advisory Council was set up in New Brunswick to advise government on matters relating to the provisions of health services and to suggest new orientations, aims and revisions of programmes relating to health services.[26]

According to the Quebec Law,[27] the Minister of Social Affairs shall seek to improve the state of the health of the people, the social environment in which they live and the social conditions of individuals, families and groups. It is also stated that every person has the right to receive adequate, continuous and personal health services from a human, scientific and social standpoint Services guaranteed under this act must be granted without discrimination or preference based on the race, colour, sex, religion, languages, national extraction, social origin, customs or political convictions of the person applying for them. Medical records of patients are to be confidential. The last two aspects have both social and human rights implications.

The Hospital Services Commission Act[28] of Ontario was amended so that any person 65 years of age or over and his or her dependents, resident in the province for at least 12 months, are exempted from paying hospital insurance premiums.

Child welfare

Newfoundland amended the Adoption of Children Act to make the receiving or giving of payment in consideration of the adoption of a child an offence and providing for penalties for any person found guilty of violating this provision.[29]

Two provinces, Nova Scotia and Ontario, passed legislation respecting the funding of day care centres for the children of working mothers. Nova Scotia passed the Day Care Services Act[30] under which the province is authorized to make capital and operating grants to private and municipal day centres. Ontario, which has for many years made grants for the operating costs of municipally sponsored day care centres, authorized capital grants to municipalities for the costs of erection

[21] Regulations under the Social Assistance Act, Saskatchewan Regulation 83/71, gazetted 26 March 1971.

[22] The Social Assistance Act, 1971, *Statutes of Newfoundland*, 1971, No. 77.

[23] An Act to amend the Social Welfare Act, *Statutes of New Brunswick*, 1971, chap. 66.

[24] An Act to organize health services and social services, *Statutes of Quebec*, 1971, chap. 48.

[25] The Health and Social Development Advisory Council Act, *Statutes of Manitoba*, 1971, chap. 39.

[26] *Statutes of New Brunswick*, 1971, chap. 7.

[27] Bill 65, Quebec, 2 December 1971.

[28] *Revised Statutes of Ontario*, 1970, chap. 209.

[29] *Statutes of Newfoundland*, 1971, No. 30, 2 June 1971.

[30] *Statutes of Nova Scotia*, 1971, chap. 13, 8 April 1971.

of a new building or building an addition to or purchase of existing buildings. These grants were extended also to day care centres for the mentally retarded. Provincial grants were also made available for the first time for day care in private homes.[31]

Labour reforms

Industrial relations

New Brunswick's new Industrial Relations Act,[32] which was proclaimed in force on 1 April 1972, is a complete revision of the former Labour Relations Act. The new legislation includes: extended coverage; status for voluntarily recognized unions similar to that of certified unions; percentages established for obtaining the right to a representation vote and the right to certification without a vote; fresh options open to the Department of Labour in providing conciliation and mediation services; special provisions for the construction industry, including accreditation of employers' organizations and a Construction Division of the Board; new restrictions on the right to strike or lock-out including special provisions applicable to municipal firemen and policemen; regulation of picketing, and recognition of trade unions, councils of trade unions, councils of trade unions and employers' organizations as legal entities.

The Nova Scotia Trade Union Act[33] was amended to provide for a voluntary recognition of trade unions, preventative mediation and special certification procedures for the construction industry. A Construction Industry Panel of the Labour Relations Board was established and the Board's authority in the matter of successor rights and orders regarding work stoppages was expanded.

Effective 19 August 1971, the Prince Edward Island Labour Act[34] incorporated the Industrial Relations Act and four employment standards acts. Changes made in the industrial relations provisions include extended coverage, in particular to voluntarily recognized unions; speedier certification in the construction industry; earlier notice to bargain; and a mediator as an alternative to a conciliation board. A union applying for certification is required to have majority support rather than having to have a majority of the employees as members in good standing as previously. Disputes during the life of a collective agreement must be settled by arbitration.

New Brunswick and Nova Scotia have restricted the circumstances under which *ex parte* injuctions may be granted in labour disputes.

Considerable attention was given to the construction industry. In addition to the provisions already mentioned in the summaries of New Brunswick, Nova Scotia and Prince Edward Island laws, Quebec passed two Acts amending the Construction Industry Labour Relations Act.[35]

Several provinces enacted or amended legislation governing special groups of workers, such as fishermen, teachers, hospital workers, municipal policemen and firemen and employees of crown agencies.

Two provinces passed emergency legislation. The scope of the Saskatchewan Essential Services Emergency Act was broadened to include all labour disputes in the province that threaten the public interest of welfare. This legislation has since been repealed. Nova Scotia introduced a special law applicable to the construction of industrial plant.

Labour standards

The existing employment standards laws (minimum wages, vacations with pay and industrial standards) were consolidated under part II of the Prince Edward Island Labour Act which was proclaimed in force on 19 August 1971. In addition to making changes in existing provisions, the act extended its coverage and introduced requirements regarding individual notice of termination and wage protection.

The area of wage protection received considerable attention, with seven jurisdictions enacting legislation in this field. Increases in minimum wage rates went into effect or were annouced in 10 jurisdictions. New Brunswick increased its annual vacation with pay from one to two weeks. Further, the Saskatchewan Labour Code was amended to lower hours of work. Also amended were four employment standards acts in the province of Newfoundland.[36] Manitoba and Saskatchewan amended legislation to bolster the existing equal pay provisions.

An Employment Standards Advisory Board has been established in New Brunswick, consisting of a chairman and two or more members equally representative of employer and employees. The Board is to conduct investigations and hold conferences as required by the Minister of Labour.[37] Its purpose is to collect information and develop new legislation regarding the employment standards legislation (six acts) administered by the Department. The Employment Standards Advisory Board has replaced the Minimum Wage Board.

Workmen's compensation

During 1971, the provinces of Saskatchewan, Quebec, Manitoba, Ontario and Newfoundland made amendments to their workmen's compensation acts. Alberta, New Brunswick, Nova Scotia and Prince Edward Island made similar changes. The range of the changes made showed considerable variation. However, the effect generally was to increase the compensation under the act; to define methods of calculating average earnings;

[31] *Statutes of Ontario, 1971*, chap. 93, 28 July 1971 and Ontario Regulation 547/71, 22 December 1971.

[32] *Statutes of New Brunswick, 1971*, chap. 9.

[33] *Statutes of Nova Scotia*, 1970, chap. 5.

[34] *Statutes of Prince Edward Island*, 1971, chap. 35.

[35] *Statutes of Quebec* (amendment) Bill 55, June 1971.

[36] *Statutes of Newfoundland*, 1971, Nos. 19, 33, 37 and 53.

[37] *Statutes of New Brunswick*, 1971, chap. 4.

to bring out conformity to the age of majority and to provide powers to the boards to set up committees of medical referees or medical review boards in place of single specialists. The amended legislation also provided in certain cases for the assessment and levy of penalties for violation of safety regulations under the act and non compliance with the orders of the boards.

In Newfoundland, the Industrial Standards Act,[38] the Annual Vacations with Pay Act,[39] and the Minimum Wage Act [40] were amended so that Government is now empowered to ensure that employees receive all outstanding wages and other compensation due from their employers; in Saskatchewan,[41] the Labour Standards Act was amended for similar purposes. The amendment includes persons employed in managerial capacities with certain exception. It provides for appeal by either the employee or employer as to the amount of wages in arrears.

The environment

Concern about the dangers of pollution and the need to maintain a clean environment led to the establishment of pertinent government legislation in Saskatchewan,[42] Alberta [43] and British Columbia.[44] These authorities are required to keep under constant review all matters pertaining to the preservation of the environment and by restriction of relevant permits, prevent its despoliation. In a further attempt to ensure conservation, Alberta [45] and British Columbia [46] have empowered their authorities to acquire lands to serve as ecological reserves, which once acquired become non-disposable.

As a means to control and prevent littering, Alberta [47] and Saskatchewan [48] passed legislation forbidding the sale of beverages in non-returnable containers.

The Clean Air Act [49] and the Clean Water Act (April 1971) [50] are both further measures by Alberta to control and prevent pollution of the environment. This legislation charges the Minister of the Environment with the administration of the acts. The construction of specified plants and facilities that may pollute the air or water are subject to the regulations and to the prior approval of plans and specifications under the acts.

The Alberta Environmental Research Trust Act (chap. 31, April 1971) [51] incorporated a Trust to seek and receive property by gift, bequest, devise, transfer or otherwise and to use such funds for fundamental research on environmental improvement.

Law reform

Newfoundland created a Law Reform Commission [52] to consider and inquire into any matter relating to the reform of the law, having regard to the statute law, common law and judicial decisions, and judicial and quasi-judicial procedures under any act.

Age of majority

In Newfoundland,[53] Alberta [54] and Ontario [55] the age of majority was reduced; in the first it is now 19 and in the other two, 18. This was reduced from 21 years. The voting age is now 18 in the federal jurisdiction, 18 in Manitoba, Ontario, Saskatchewan, Quebec and Prince Edward Island; 19 in Alberta, British Columbia, Nova Scotia, Newfoundland, the Northwest Territories and the Yukon; and 21 in New Brunswick.

Education-minority rights

By an amendment to the Education Act, the National Assembly of Quebec confirmed the right of persons professing the Jewish religion to vote in school elections [56] and to become school commissioners in certain parts of Montreal.

Administration of justice

Ontario amended its Administration of Justice Act [57] of 1968 to allow for the payment of incurred expenses to a person, charged with an offence, who normally resides away from the court which he is to attend. Similar allowances are to be paid to persons aiding in the administration of justice. By an amendment to the Liquor Control Act, a person found intoxicated in a public place in Ontario shall no longer be charged but shall be taken by the officer to a designated detoxification centre.

Social justice

Both Quebec [58] and New Brunswick [59] enacted crime victims compensation acts which provided that compensation shall be paid to persons injured when certain crimes are committed: assisting a peace officer in the performance of his duties, arresting or attempting to arrest a person committing an offence, or while preventing or attempting to prevent the commission of an offence.

Legal aid

The Barristers' Society of New Brunswick [60] and the Law Society of Manitoba [61] are now

[38] *Statutes of Newfoundland*, 1971, Act No. 19.
[39] *Ibid.*, Act No. 28.
[40] *Ibid.*, Act No. 33.
[41] *Statutes of Saskatchewan*, 1971, chap. 19.
[42] *Ibid.*, chap. 2.
[43] *Statutes of Alberta*, 1971, chap. 24.
[44] *Statutes of British Columbia*, 1971, chap. 17.
[45] *Statutes of Alberta*, 1971, chap. 114.
[46] *Statutes of British Columbia*, 1971, chap. 16.
[47] *Statutes of Alberta*, 1971, chap. 10.
[48] *Statutes of Saskatchewan, 1971*, chap. 23.
[49] *Statutes of Alberta*, 1971, chap. 16.
[50] *Ibid.*, chap. 17.
[51] *Ibid.*, chap. 31.
[52] *Statutes of Newfoundland*, 1971, No. 38.
[53] *Ibid.*, No.71.
[54] *Statutes of Alberta*, 1971, chap. 1.
[55] *Statutes of Ontario*, 1971, Bill 122.
[56] *Statutes of Quebec*, 1971, Bill 26.
[57] *Statutes of Ontario*, 1972, Bill 2.
[58] *Statutes of Quebec*, 1971, Bill 83.
[59] *Statutes of New Brunswick*, 1971, chap. 10.
[60] *Ibid.*, chap. 11.
[61] *Statutes of Manitoba*, 1971, chap. 76.

entrusted with the establishment and administration of legal aid plans to provide help, in their respective provinces, to those who cannot afford to retain the services of a lawyer.

Personal Investigations Act

According to the Personal Investigations Act of Manitoba [62] no person shall conduct a personal investigation on another without the written consent of the subject of the investigation, except where an application for credit, insurance, employment or tenancy is made; however, in the excepted cases, no report shall contain any reference as to the aplicant's race, religion, ethnic origin or political affiliation unless such information is voluntarily supplied.

Protection of individual rights

Three acts of note were passed in Ontario: the Statutory Powers Procedure Act, the Judicial Review Procedure Act and the Civil Rights Statute Law Amendment Act. This legislation is intended to protect the rights of individuals that are affected by decisions of government boards and tribunals. All three acts are to be proclaimed in force. Among other matters, the latter act provides for uniform procedures under the Ontario Human Rights Act, the Age Discrimination Act and the Women's Equal Employment Opportunity Act.

Any person who has reasonable grounds for believing that the Human Rights Code or the Age Discrimination Act has been contravened may now file a complaint with the Human Rights Commission. The Commission may refuse to consider a complaint unless consent is obtained from the person actually discriminated against. Formerly, only the aggrieved person could register a complaint. Similar provisions are contained in the Women's Employment Opportunity Act regarding complaints to the Women's Bureau.

Under all three acts, where an initial informal inquiry fails to settle the complaint, the matter may be referred to a board of inquiry. The powers of the intitial investigator are outlined in detail and the powers of the boards are changed. Board members must not have taken any part in any previous investigation or consideration of the complaint and must act impartially, giving all parties full opportunity to participate in the proceedings.

The board now has exclusive jurisdiction to decide whether the anti-discrimination provisions have been contravened and to issue orders requiring compliance. A board order may be appealed to the Supreme Court. Previously, under the Code and the Age Discrimination Act, the board could only make recommendations. which could be implemented in an order from the Minister of Labour.

C. Reports, studies and programmes

Opportunities for Youth

The Federal Government. in its constant endeavour to assure equality of access to resources by all segments of society, initiated some major programmes for its youth. In January 1971, it announced "Summer 71", a programme designed to enable summer activities by young Canadians. The major component of this programme was a project entitled "Opportunities for Youth".

Opportunities for Youth was provided a budget of $25 million, of which $23 million was made available to high school and university students on a straight grants basis to undertake projects during the summer. These projects were conceived, articulated and developed by youth themselves.

In the words of the Secretary of State: "The programme is to make it possible for citizen groups, voluntary organizations and young people themselves to develop opportunities this summer of 1971. Priority is being given to post-secondary students—including those who will be entering post-secondary institutions—who are seeking employment and also to students from areas of lowest job opportunities. To achieve the objectives and priorities, the following criteria were employed. First, the number of jobs created by youth projects, and the cost of each job; secondly, the number of participants and benefits projected to each project; thirdly, the promotion of national solidarity, which by the way does not mean French/English relations but solidarity between Canadians all over the country."

This programme resulted in the participation of 27,832 young Canadians in 2,312 separate projects over a four-month period. The projects, which involved 70 separate categories, encompassed social research, providing recreation, social services and cultural activities.

The Government, in evaluating these programmes, has found them to be effective and popular.

Special Employment Programme (SEP) 1971/72

The Special Employment Programme was introduced in October 1971 by the Federal Government to create employment throughout the winter months. In addition to a variety of capital works and loans projects, the co-ordinated package included:

A Local Initiatives Programme [63] *(LIP)* to enable municipalities and private groups and organizations to create worthwhile projects of benefit to the community which would give local employment to jobless persons over the winter, and

A Canada Manpower Training-on-the-Job Programme (CMTJP) to create opportunities with local employers for unemployed workers to gain on-job experience and training in transferable skills.

The CMTJP complements the regular institutional Canada Manpower Training programme which was also supplemented under SEP.

The total budget for SEP 1971/72 was $578 million of which $215 million was allotted to LIP, CMTJP and the CMTP Supplemental Programme.

[62] *Ibid.*, p. 33.

[63] Press Release of the Office of the Minister of Manpower and Immigration.

Its Your Turn

In August 1969, the Federal Government established a Committee on Youth under the auspices of the Department of the Secretary of State. The task of this Committee was to study the aspirations, attitudes and needs of youth and the Government's present role in this area.

Though the study was commissioned by the Government of Canada, the inquiry was an independent one and the report of the Committee, *It's Your Turn*, published in 1971, represents the opinions of its authors. It has been made available generally to the Canadian public. The recommendations are presently being studied by an interdepartmental committee.

An analysis of the report of the Committee confirms the validity of two conclusions drawn by that report: The first is that Canadian young people—14 to 24 years of age—manifest a great deal of diversity in their needs, interest and aspirations. They are not, in other words, by any means a homogeneous group. The second is that young people do not wish to be segregated from the rest of society, but wish to participate as equals in the mainstream of community life.

Of particular interest for this report is the Committee's recommendation on "Citizenship and Human Rights". It recommended that in the development of a general citizenship policy youth be accorded full and equal rights with other members of the citizenry; that priority be given to the development of a federal human rights programme and that the operation of such a programme be supported and co-ordinated with the activities of a mechanism concerning youth suggested in the report.

Analysis of discriminatory references in social studies textbooks

The Ontario Institute for Studies in Education, with the sponsorship of the Ontario Human Rights Commission, has published *Teaching prejudice : A Content Analysis of Social Studies Textbooks Authorised for Use in Ontario.* According to the present Premier of Ontario, the study was commissioned

"... not just for the purpose of removing material which may be offensive to any of the groups which make up our multi-national family, but more important, to make sure that our textbooks do contain the type of material which does full justice to the contributions of many people to the development of our province and nation."

The researchers discovered considerable deficiencies in textbooks about various racial and national groups. They found that misinformation was passed on to school children indirectly—by inference and implication—with the excessive use of negative images. Also, negatively value-laden words were used in writing and in discussions that described certain minority and racial groups to disadvantage.

The researchers made the following recommendations in *Teaching Prejudice*:

That publishers of school textbooks be asked to make appropriate revisions in all texts containing errors and defects, and that in the interim all school teachers be supplied with lists of errata.

That books which provide an up-to-date and scholarly information on the status and history of minority groups in Canada and elsewhere be sought or, if necessary, commissioned, by the Ontario Department of Education. These books should include information on the dynamics of prejudice.

That to prevent the use of inadequate or biased textbooks the Department of Education develop guidelines for authors and publishers, and that a standing committee, which would include in its membership representatives of the Ontario Human Rights Commission, be established to evaluate textbooks.

That further studies be conducted to assess the treatment of subcultures in Canadian society, including ethnic racial and religious minorities, and to assess the treatment of such other groups as women, the poor, youth, the aged, trade unionists and political minorities.

That since the matter of intergroup relationships is of national importance, all teacher-education authorities give this matter top priority in developing their instructional programmes.

Teaching Prejudice was published as a book, and has received wide distribution in Canada.

Investigation into the employment of visible minority groups in mass media advertising

Because Toronto is the main English language communications centre of Canada, and the focal point of Canada's publishing, advertising and television industry, the images produced by creative personnel working in these industries are seen by all Canadians. The investigation into the employment of visible minority groups in mass media advertising was commissioned by the Ontario Human Rights Commission for two reasons: one, because advertising is such a significant and powerful educational force, there was concern as to whether the picture of society it presented misled and miseducated in such a way that it contributed to the tensions and social problems of society. This is of special significance to Canada because of the pluralistic nature of Canadian society, and the expressed desire of Canadians to maintain a "mosaic" where various minority groups can preserve their cultural identity. Secondly, the Ontario Human Rights Commission believed it had insufficient data on the employment of visible minority people in mass media advertising.

The analysis revealed that members of visible minority groups were, by and large, discriminated against because advertising personnel had continued to follow practices and patterns which had become established over the years. The investigators therefore made a total of 10 recommendations to the Ontario Government, the Ontario Human Rights Commission, the advertising industry, and to all ethnic groups in Canada, on action they should take to correct the situation.

D. Judicial decisions

Courchene v. *Marlborough Hotel Co. Ltd.*[64]
Manitoba Queen's Bench

The defendant, manager of the front office of the Malborough Hotel, prepared a directive instructing his staff to refuse Indians and metis accommodation at the hotel. It was established in court that the president of the defendant corporation, having seen the memorandum soon after its preparation and before its instructions were implemented, at once repudiated it and ordered that its contents be ignored.

Weeks later, a copy of the memorandum which began with the statement: "As we are having innumerable problems with the Indians and metis coming into this hotel . . .", came to the attention of the Manitoba Indian Brotherhood whose president brought the matter to court on allegations of discrimination against Indians in the denial of accommodations because of race, and publication of a libel against Indians. This was a class action and not an individual complaint or libel.

With respect to the allegation, the Court ruled that what is true cannot be defamatory, since on his examination for discovery the plaintiff could not say that any part of the memorandum was false. In connexion with the second allegation, publication of libel, the Court, in dismissing the plaintiff's action, pointed out that the memorandum was immediately recalled and destroyed by the president who issued new corrective directives. In addition, copies of the memorandum were not lying about anywhere in the front office, and if the memorandum was published beyond the confines of the hotel, that was neither the intention nor desire of the defendants. The Court suggested that the plaintiff was so intent on proving discrimination that he did not see that the contrary situation was the case.

Re *Ward and Board of Blaine Lake School*[65]
Saskatchewan Queen's Bench

The principal of Marcelin Public School required an 11-year-old student to have his hair cut. The mother was informed about the request, following which the student had some alterations made to his hair style. The principal's action was in accordance with a School Board ruling which stated that if all students do not have a reasonable haircut immediately, the Board may have to exercise its duty and suspend those students who do not abide by the regulation.

Since the principal's request was not complied with, the student was suspended from attending classes, whereupon an application to quash the School Board ruling and obtain the re-instatement of the suspended student was made.

Counsel for the applicants expressed the opinion that the mode in which the student wore his hair and the length of same was a matter for him and his parents to decide; that any interference with this was an invasion of his right to privacy; that the action of the Board was not designed to uphold discipline or protect the health of the student; that it was an undue exercise of arbitrary authority on the part of the Board.

The application was dismissed on the grounds that in passing a regulation dealing with the maximum length of students' haircuts, the board of a school is exercising its power to administer and manage the educational affairs of the school and is acting in a ministerial rather than a judicial or quasi-judicial manner.

Attorney-General for Ontario v. *Orange Productions Ltd,*[66] *Ontario High Court*

The Attorney-General of Ontario sought an application for an interim injunction to restrain the defendants from holding a rock festival on the grounds that it would constitute a public nuisance.

The Court held that a nuisance is public if it materially affects the convenience of a class of people, though it is unnecessary to establish that all members of the class are affected. Such a nuisance must be so widespread in its range and indiscriminate in its effect that no one person, except the Attorney-General acting on behalf of the community, can take proceedings on his own to stop it.

The motion was granted since it was shown that at an earlier festival, sponsored by the defendants, nude bathing, public sexual intercourse, open consumption of alcohol and drugs, trespass to private property, excessive noise and dust and traffic congestion had occurred.

[64] (1971) 20 *Dominion Law Reports* (3rd) p. 109.
[65] *Ibid.*, p. 651.
[66] (1971) 21 *Dominion Law Reports* (3rd), p. 257.

CEYLON (SRI LANKA)*

NOTE [1]

I. Legislation

1. *Estate Quarters (Special Provisions) Act, No. 2 of 1971*

This act provides that where the services of an estate employee, who is provided with quarters on the estate, are terminated by the employer, the employee will have the right to continue in occupation of such quarters until ejected therefrom on a decree of court.

2. *People's Committee Act, No. 16 of 1971*

This act provides for the establishment of people's committees throughout Ceylon and defines their powers, functions and duties.

These new bodies are intended to associate the people with the work of formulating and implementing national economic plans. The establishment of people's committees was announced in the Throne speech, which also stated that people's committees would transform the administration, make it more democratic and closely linked with the people. Government proposals were placed before the people and before Parliament by means of a white paper. Representations made by the public and other proposals made by Members of Parliament were considered and those proposals which were accepted by Government have been embodied in the bill.

Each committee consists of 11 persons appointed by the Minister, three of whom shall be between the ages of 18 and 25 years and one of whom shall be the elected member representing the ward. The Rural Development Society, Praja Mandalaya, Co-operative Society, Trade Unions and the Member of Parliament of the area may recommend persons for appointment to the committee. The Minister will appoint one of the members of the committee to be chairman. The members of the committee themselves shall choose a secretary.

The general objects of the committee are to:

(*a*) Keep vigilence over the activities of government departments, local authorities or other institutions with a view to preventing abuse of authority, waste, neglect of duty and corruption;

(*b*) Make complaints to the proper authorities in order to prevent antisocial, illegal and immoral activities such as smuggling, illicit immigration, running of brothels, etc.;

(*c*) Promote co-operative societies, cultivation committees, rural development societies, etc.;

(*d*) Promote liaison between government departments, government corporations, local authorities and the people of the area;

(*e*) Assist the people of the area to make representations individually or collectively to the proper authorities;

(*f*) Suggest schemes to the Government for the betterment of the living conditions and the physical, mental and spiritual development of the people;

(*g*) Maintain peace and harmony between various racial, religious and other groups.

The Committee shall also have power to make inquiries, receive written replies and examine documents in the custody of government departments, government corporations, local authorities, co-operative societies, cultivation committees, rural development societies and any private non-religious organisation which receives funds from the Government.

3. *Prevention of Social Disabilities (Amendment) Act, No. 18 of 1971*

This act amended the Prevention of Social Disabilities Act No. 12 of 1957 so as to:

(*a*) Enhance the punishment which may be imposed for an offence, under the act;

(*b*) Empower a court to cancel or suspend in certain circumstances a licence issued to any person authorizing him to carry on a business on any premises if an offence under this act is committed on or in relation to such premises;

(*c*) Declare all offences under this Act to be cognizable;

(*d*) Provide for a court to presume that a social disability was imposed on any person by reason of such person's caste and to lay the burden of proving that the social disability was imposed for any other reason on the person charged;

(*e*) Extend the meaning of the expression "social disability";

* In 1971 the official name of Sri Lanka was Ceylon.

[1] Note furnished by the Government of Ceylon.

(*f*) Confer on police officers certain powers in order to prevent the imposition of social disabilities on persons by reason of their caste.

4. *Small Tenements (Repeal) Act, No. 41 of 1971*

This act repealed the Small Tenements Ordinance (chapter 102) which enabled an unscrupulous landlord to get rid of a tenant in occupation of a small tenement by serving a quit notice and, if the quit notice was unheeded, by applying to Court for recovery of possession, an *ex-parte* determination and an order *nisi,* which after service on the tenant became absolute if the tenant did not appear and show cause against the order within seven days.

II. Judicial Decisions

1. *Endoris* v. *Kiripetta (73 N.L.R. 21)*

It was held that a court will not deprive a parent of the custody of a child for the reason only that it would be brought up better and have a better chance in life if given over to another. It is for the person seeking to displace the natural right of the father to the custody of his child to make out his case that consideration for the welfare of the child demands it.

2. *Queen* v. *Rev. Gnanaseeha Thero and 21 others (73 N.L.R. 154)*

When considering whether confessions made by accused to a magistrate were free and voluntary, not only facts preceding the confessions but also facts which immediately followed the making of the confessions are relevant. In the present case, the circumstances of the arrest, detention incommunicado and questioning of the accused by the police while they were under preventive detention under Emergency Regulations, the long duration of the interrogations, the existence of signed statements in the hands of the police, the unusual nature of the custody and the other unusual features that preceded the production of the accused before the magistrate were factors that should have warned the magistrate of the need to probe much further than being content with the normal questioning by him in a straightforward case. Furthermore, the circumstances that during the time allowed for reflection and after the confessions were recorded the accused were not in judicial custody but were sent back to the custody of prison officers and police officers could also have a bearing on the question of the voluntariness of the confessions made by the accused.

Where persons are taken into preventive detention under the Emergency Regulations, a magistrate has no power to record in terms of section 134 of the Criminal Procedure Code statements made by suspects while they are still in the custody of police officers. Preventive detention of a person under the Emergency Regulations before the service on him of a detention order is illegal.

3. *Veeriah* v. *Selvarajah (73 N.L.R. 12)*

The accused-appellant, who was an estate labourer, was charged with criminal trespass in that he did not leave his line room after he had been given notices by the superintendent of the estate to quit the line room upon the termination of his services. It was held that there was reasonable doubt as to whether the accused's dominant intention in not leaving the line room was to cause annoyance to the superintendent. It was also highly probable that he remained in the line room while making *bona fide* endeavours to secure reinstatement through a tribunal set up by law for the purpose. The accused was therefore entitled to be acquitted.

4. *Queen* v. *Koranelis Silva (74 N.L.R. 113)*

Release on bail pending appeal to the Court of Criminal Appeal will only be granted in exceptional circumstances. Where the sentence is a long one, the mere circumstance that the hearing of the appeal is not likely to take place for a fortnight or a month is of itself no ground for the grant of bail.

5. *Queen* v. *Gunatilake (73 N.L.R. 118)*

Under Section 24 of the Evidence Ordinance, a confession by an accused is irrelevant in criminal proceedings if the making of it was caused by any inducement, threat or promise proceeding from a person in authority and this inducement, threat or promise was sufficient in the opinion of the court to give the accused grounds for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

It was held that for the purposes of the section a Superintendent of an estate was a person in authority over an accused person employed under him as a watcher.

6. *Smale* v. *Commissioner of Inland Revenue (74 N.L.R. 355)*

The protection from arrest and imprisonment given to an insolvent by sections 36 and 164 of the insolvency Ordinance is available not only when the insolvent is coming to surrender but also at later stages right up to the stage of examination and allowance of certificate. Such protection, however, does not extend to a case where the insolvent is one who has incurred a tax liability to the Crown.

7. *Podi Appuhamy* v. *Seneviratne (74 N.L.R. 367)*

When a person has executed a bond standing surety for an accused's appearance in Court, the absence of the accused without excuse is in itself sufficient *prima facie* proof that there has been a breach of the undertaking given in the bond. There are no further grounds that a magistrate need record before the surety is called upon to show cause why his bond should not be forfeited.

8. *Frugtniet* v. *Edwin Fernando (74 N.L.R. 448)*

Under the Roman-Dutch law the father and the mother are entitled to the custody of the children of their marriage, and the father has a preferent right. But if the father fails or neglects to concern

himself with the care of his children, the mother is entitled, by reason of her natural guardianship, to apply for a writ of habeas corpus in respect of a child who is in the custody of a third party. In such a case, however, if the child had been handed over to the third party by the mother herself on the understanding that it would not be claimed back, the welfare and happiness of the corpus is the paramount consideration and the mother's natural right is not sufficient *per se* to entitle her to claim back the child.

9. *Suntheralingam* v. *the Inspector of Police Kankesanturai (74 N.L.R. 457)*

The appellant, a Hindu by religion, on 1 July 1968 prevented one M.S., also a Hindu by religion but socially of a lower caste, from entering the inner courtyard of the Maviddapuram Temple for the purpose of worhipping. He acted with the authority of the high priest of the temple, and his reason for doing so was that M.S. belonged to the Palla caste, people of which caste, according to the religious usage and customs, did not enter the inner courtyard and worshipped only from outside. He was convicted of an offence under section 2 (read with section 3(*b*)) of the Prevention of Social Disabilities Act, No. 21 of 1957.

It was held that:

(*a*) Upon the evidence introduced regarding the organization and constitution of the Maviddapuram Temple (a public charitable religious trust) it could not be said that the Prevention of Social Disabilities Act was invalid by reason of section 29 (2) (*d*) of the Ceylon (Constitution) Order in Council, which enacts that Parliament shall not make a law which alters the constitution of any religious body except with the consent of the governing authority of that body;

(*b*) Even assuming that prior to the act the Tesawalamai Regulation (Cap. 63) applied to and gave legislative sanction to such Hindu customary religious usages as were involved in the present case, the real question was whether these usages survived the act;

(*c*) That the act did not merely prohibit for the future the imposition of fresh social disabilities but as from its date made illegal the imposition by reason of caste of any social disability upon any person;

(*d*) That section 4 of the Tesawalamai Regulation (Cap. 63) was *pro tanto* repealed by the passing of the act;

Obiter: The exclusion which is made illegal by section 2 and 3 (*b*) of the act is exclusion by reason of the caste of the person excluded. Exclusion of followers or worshippers from places of worship within a temple on religious grounds unconnected with caste, for example, exclusion of all except the high priest from the Moolaistanam, are unaffected by the act.

CONGO

Ordinance No. 25-71 of 30 September 1971, Making Student Accident Insurance Compulsory [1]

Article 1. The provisions of Decree No. 63-12 of 6 February 1963 [2]... are hereby rescinded and replaced by the following provisions:

Article 2. Any child, pupil or student enrolled in a school or pre-school institution in the People's Republic of the Congo must be covered by an insurance policy against accidents and damage incurred during school activities, including transport to and from the school, i.e. against risks to which he is exposed by reason of his attendance of the said institution and during activities connected with the school.

School principals and their administrative assistants shall take out insurance covering their civil responsibility during school hours.

Sports clubs, their directors and members shall take out insurance covering their civil responsibility during their sporting activities.

Article 3. School and sports accident insurance is provided only by the Congolese Re-insurance Fund, in accordance with Ordinance No. 2-70 of 10 January 1970.

Article 4. A decree adopted by the Council of State shall establish the general conditions of the school insurance policy.

Article 5. The compulsory insurance provided for in this ordinance shall in no way prevent action being brought under common law by the victim of an accident or his heirs, and assigns against the persons responsible or against the State, as an interested party on the grounds of its civil responsibility.

If the Congolese Re-insurance Fund has taken over the victim's rights, it may take the action mentioned in the previous paragraph, under the same conditions.

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[1] *Journal officiel de la République populaire du Congo*, No. 20, 15 October 1971.

[2] *Journal officiel de la République du Congo*, No. 6, 15 February 1963.

COSTA RICA

Act No. 4903 of 17 November 1971 Respecting Apprenticeship [1]

Summary [2]

The Act consists of 29 sections and also contains transitional provisions stating, *inter alia*, that until the Executive of the nation issues provisions to the contrary by decree, employers are authorized in agricultural or livestock undertakings or activities to employ persons between 13 and 18 years of age as apprentices or learners (beginners) on condition that in each individual case the contract is authorized by the Ministry of Labour and by the National Organization for the Protection of Children.

This act, as indicated in its section 1, shall regulate the national system of apprenticeship, the specific object of which is the methodical and complete vocational training of young persons during previously determined periods, in training centres and within undertakings, to make them sufficiently skilled for taking up skilled classified employment into which they have already been or may be recruited on a contractual basis.

Section 2 provides that the competent authority for the purposes of the organization and inspection of apprenticeship for occupations in all the sectors of economic activity is the National Apprenticeship Institute, which shall collaborate closely in this field with undertakings.

Other dispositions of the act deal with the age of admission to apprenticeship, which shall be from 15 to 18 years of age, both ages inclusive (section 4); young persons who have reached their thirteenth but not yet their fifteenth birthday and who may be recruited under contract as "learners" or "beginners" in semi-skilled employment (section 5); the national apprentice system, which shall function on a permanent basis, according to the country's skilled manpower requirements as determined by the National Apprenticeship Institute (section 6); the establishment of a joint committee of representatives of the private and public sectors, which shall carry out the terms of reference laid down in this act (section 10); the contract of apprenticeship, which shall be made in writing and according to which the apprentice undertakes to give his services to an employer in exchange for the facilities provided by the latter, to enable the apprentice to acquire methodical and complete vocational training in the occupation for which he is recruited, for a specified period and in return for specified wages (section 13).

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[1] *La Gaceta*, No. 240, 2 December 1971.

[2] Summary based upon English translation of the act, published by the International Labour Office—*Legislative Series*, 1971-C. R. 1.

CZECHOSLOVAKIA

NOTE [1]

Act No. 44/1971, Collection of Laws, concerning elections to the Federal Assembly gives all citizens of the Czechoslovak Socialist Republic the right to elect deputies of the Federal Assembly, provided they have reached the age of 18 on the day of election, regardless of their ethnic origin, sex, religious beliefs, profession, length of stay, social origin, financial circumstances and former activities. However, those citizens who have been legally declared incompetent to perform legal acts because of mental disorder or whose competence for legal acts has been limited as a result of such disorder do not have the right to vote. Citizens who are serving a term of imprisonment or are under detention do not vote. Every citizen of the Czechoslovak Socialist Republic who has the right to vote and who, on the day of the election, has reached the age of 21 can be elected to the Federal Assembly. The act provides that elections to the Federal Assembly are performed by secret ballot on the basis of general, equal and direct right to vote. The act further provides for the technical and organizational questions connected with preparations for elections and with elections themselves. These are questions related to the lists of voters, polling districts and wards, election committees, the proposing and registration of candidates, the proclamation of elections, the method of voting and the ascertaining of election results. The candidates are proposed by organizations rallied in the National Front. The candidates are proposed for individual election districts. For each district one or more candidates can be proposed. That candidate is elected in whose election district more than 50 per cent of the registered voters took part in the vote and who received a simple majority of the valid votes. The act provides also for the possibility of recalling a deputy who has lost the confidence of his constituents or committed an act unworthy of a deputy. The suggestion to recall a deputy is submitted by the respective body of the National Front which notifies the deputy concerned of the suggestion for his recall. The deputy has the right to express himself on the suggestion orally or in writing. The respective body of the National Front submits the suggestion to the Presidium of the Federal Assembly, which takes steps to convene meetings of constituents in the election district where the suggestion to recall the deputy is discussed. At these meetings the constituents decide on the suggestion by public vote.

In a similar way as the Act on Elections to the Federal Assembly, *Acts of the Czech National Council No. 53/1971, Collection, and No. 54/1971, Collection, and Acts of the Slovak National Council No. 55/1971, Collection,* also regulate the principle of elections and the holding of elections to lower levels of representative bodies: to the Czech National Council, the Slovak National Council and to national committees of all levels. The provisions of the listed acts have been specified by a number of further legal regulations. The legal regulations in question stipulated election districts and proclaimed elections.

The Ordinance of the Government of the Czechoslovak Socialist Republic No. 98/1971, Collection, raised the allowance at birth of a child from Kčs 1,000 to the amount of Kčs 2,000.

Act No. 106/1971, Collection, increased certain pensions. There was especially a considerable raise in the lowest pensions which are the only source of income for the pensioner.

Act No. 107/1971, Collection, grants a maternity allowance to women caring for children when, at the given time, they have no income from employment. The right to this maternity allowance accrues to a woman who provides full-time and proper care for a child up to the age of two and who, apart from that, cares for another child at the age of compulsory school attendance, or, if it is a disabled child requiring constant care, up to the age of 26. The maternity allowance is paid till the day on which the child has reached the age of two. Its amount varies, according to the number of children in the care of the woman, from Kčs 500 to Kčs 1,200 monthly.

[1] Note furnished by the Government of the Czechoslovak Socialist Republic.

DAHOMEY

Ordinance No. 71-3 C.P. of 12 February 1971 Concerning the Establishment, Organization and Operation of a National Consultative Assembly [1]

(Extracts)

TITLE I

Mission, composition and organization

Article 1. A National Consultative Assembly is hereby established for the duration of the Presidential Council; its mission shall be to make suggestions to the Government on political, economic and social matters.

...

Article 4. The following may not be members of the National Consultative Assembly:

Persons that have been convicted of crimes;

Persons that have been sentenced to a penalty of more than one month's imprisonment, whether suspended or not, and with or without a fine as well, for theft, fraud, false pretences, or embezzlement of public funds;

Persons under a judicial disability;

Bankrupts and persons whose businesses are being wound up so long as they have not required their legal capacity;

A ward under guardianship;

Persons condemned to a penalty depriving them of the right to vote.

...

TITLE II

Powers

Article 8. The National Consultative Assembly shall be seized of requests for opinions or studies by the Chairman of the Presidential Council.

All draft ordinances containing official economic and social programmes, particularly the national development plan, must be submitted to this Assembly.

Any other draft ordinance or decree and any political or social problem may also be submitted to it.

The National Consultative Assembly shall give its opinion within the time-limit set for it.

Article 9. The National Consultative Assembly may, on its own initiative, decide to consider any political, economic, social and financial questions and undertake, with the consent of the Presidential Council, any studies or investigations connected therewith so as to put forward views and suggestions likely to promote the economic and social development of the nation.

...

[1] *Journal officiel de la République du Dahomey*, No. 6, 15 March 1971.

Ordinance No. 71-18 C.P./M.J.L. of 22 May 1971, Establishing the State Security Court [2]

(Extracts)

Article 1. In peace-time, crimes and offences against the security of the State provided for in articles 75 and 108 of the Penal Code and punished thereunder shall be referred to a State Security Court, whose authority shall extend throughout the territory of the Republic ...

The Court shall also be competent to take cognizance of:

(*a*) Infractions of the law committed in connexion with crimes and offences against the security of the State;

...

Article 2. The action by the State authorities shall be initiated by the Public Prosecutor attached

[2] *Ibid.*, No. 13, 15 June 1971.

to the State Security Court, on a written order from the Minister of Justice.

Article 4: In order to prevent the disclosure of any secret connected with national defence, action may be taken, even by purely administrative means, to impound as a preventive measure any objects, printed matter or other papers that might be divulged.

...

Article 11. The crimes and offences referred to the State Security Court, as provided in article 1 of this ordinance, shall be investigated and prosecuted according to the rules of common law, with the following exceptions.

...

Article 13. In the cases mentioned in articles 40 and 66 of the Code of Criminal Procedure, and notwithstanding article 65 of that Code, the Public Prosecutor may carry out searches or seizures or order them to be carried out anywhere, even by night.

Article 14. The examining judge may not report until he has received an indictment from the Public Prosecutor attached to the State Security Court.

Article 15. The examining judge may, accompanied by his clerk, visit any part of the territory of the Republic in order to carry out his investigations.

He may grant letters rogatory to judicial officers and members of the *Police Judiciaire* requesting them to carry out whatever investigations may be required anywhere in the territory of the Republic. The judicial officer or member of the *Police Judiciaire* designated for this purpose shall inform the Public Prosecutor of the court which has jurisdiction in the district he will be visiting.

The examining judge may carry out searches or seizures or order them to be carried out anywhere even by night.

Article 16. On his first appearance in court, the examining judge shall invite the accused to give him the name of his defence counsel within two days.

If he does not do so, the President of the Bar or the president of the State Security Court shall appoint counsel for him.

The examining judge shall issue all writs.

...

Article 19. A person who has already been accused may make a statement about the same facts or related facts to the examining judge in other proceedings.

The statement shall be made under oath, counsel being invited to be present in the regular way.

Article 20. As soon as his investigation seems to be complete, the examining judge shall communicate the file to the Public Prosecutor, who shall send him the indictment as soon as possible.

Article 21. The examining judge shall determine whether the charges against the accused constitute offences under the Penal Code which lie within the competence of the State Security Court.

Article 22. If the examining judge decides that the acts do not constitute a crime or an offence, or if the identity of the person guilty of one of the offences is unknown, or if the charges against the accused are not sufficiently serious, he shall order the case to be dropped.

If the accused is under preventive detention he shall be released subject to the provisions of article 25, paragraph 3, of this ordinance.

Article 23. If the examining judge decides that the accused is charged with an offence that does constitute a crime lying within the competence of the State Security Court under article 1 of this ordinance, he shall refer the case to that Court.

The accused shall be informed within 24 hours of the referral order and his counsel shall also be informed of the order within the same period.

An accused person who has been arrested shall remain under detention until there has been a ruling on the substance of his case by the State Security Court.

The examining judge shall transmit the file together with his order, to the Public Prosecutor attached to the State Security Court, who shall summon the accused for an early hearing.

The accused may appear before the State Security Court not less than six days from his being served with the summons.

During that time, the file shall be made available to the accused's defence counsel, who may have discovery of the documents immediately.

Article 24. If the examining judge decides that the accused is charged with an offence that does not constitute a crime lying within the competence of the State Security Court under article 1 of this ordinance, he shall declare himself incompetent. The order for the arrest or detention of the accused shall remain in force; within eight days from the date of the examining judge's order declaring his incompetence, the Public Prosecutor shall refer the case to the public prosecutor of the court which would normally be competent.

In the case covered by the present article, previous examinations, proceedings and decisions shall remain valid and need not be repeated.

Article 25. The public Prosecutor may appeal to the State Security Court against any of the orders signed by the examining judge.

...

He shall appeal by making a declaration to the Clerk of the Court within 24 hours of receiving notification of the judge's order.

The order against which the Public Prosecutor is appealing shall have no effect until the Court has announced its decision.

The accused may also appeal against orders refusing his provisional release. He shall appeal within the same period and in the same way as the Public Prosecutor.

The Court shall make a decision and issue an order within three days of being seized of the matter.

Article 26. When the crimes or offences within the competence of the State Security Court have been committed by military personnel or when

military personnel of any grade are involved in them, the investigation of the case may be entrusted to a military examining judge with the rank of officer.

...

Article 27. From the time the investigation is closed up to the time when the accused appears before the State Security Court, the President of the Court may order any supplementary investigations he may consider desirable if he does not consider the investigation complete. The supplementary investigation shall be carried out either by the President himself or by some legal officer or officer of the *Police Judiciaire* whom he may designate for this purpose.

The summonses and notifications to the witnesses who are suspected or accused may be served by the members of the *force publique.*

Article 28. The rules laid down in the Code of Criminal Procedure regarding the hearing of criminal cases shall be applicable to proceedings before the State Security Court, with the modifications mentioned below.

No one may become a civil party to a suit except before the Court; he may constitute himself a civil party either before the hearing by declaration to the clerk of the Court or while the case is being heard.

Each party shall inform the other, 48 hours before the opening of the proceedings, of the witnesses and experts that will be summoned to appear at its request.

Any exceptions based on regular procedure for seizing the Court or on former procedures that proved null and void shall, under penalty of foreclosure, be presented in a single memorandum before the discussion of substance.

Unless the presiding judge decides otherwise, the incident shall be considered together with the substance of the charge.

The procedure laid down in the previous paragraph shall be adopted for any exceptions that may arise in the course of the proceedings.

No appeal against the decisions mentioned in article 25 and the present article may be brought before the Court of Cassation except in conjunction with the decision on substance.

The President of the State Security Court shall be invested with the discretionary powers mentioned in article 273 of the Code of Criminal Procedure.

Article 29. After declaring the closure of the proceedings, the presiding judge may not sum up the accusation or the defence.

If aggravating circumstances come to light during the proceedings which are not mentioned in the summons, the presiding judge shall, at the request of the Public Prosecutor, declare that they are to be discussed.

...

Article 32. If the prisoner is found guilty, the State Security Court shall deliberate and vote immediately on the application of the principal penalty and of additional or supplementary penalties.

Article 33. The presiding judge shall read out the verdict in public session.

If the charge against the accused does not come within the purview of the Penal Code or if the accused is found not guilty, the Court shall acquit him, and the presiding judge shall order his release unless he is being detained for some other cause.

The procedure shall be the same if the accused can produce an excuse which absolves him.

If the accused is found guilty, the verdict shall determine the penalties to which he is condemned.

If the accused is condemned or absolved, the verdict shall order him to pay the State's costs.

...

Article 38. The Court may order the immediate restitution of any articles that are being held by the legal authorities.

...

Article 42. When a state of emergency is declared in all or part of the territory of the Republic, the measures below shall come into force throughout the whole territory and for the duration of the state of emergency:

The period of close watch may be extended to not more than 30 days in the circumstances set out in article 12, paragraph 2;

In the case of flagrant crimes and offences within its competence, the State Security Court may be seized directly by the Public Prosecutor of the results of the preliminary inquiry, if a written order to this effect, giving reasons, is issued by the Minister of Justice. The order shall give the legal description of the facts alleged against the suspected person and explain why the charges against him are sufficient. In these cases, the Public Prosecutor shall order the prisoner to be detained in prison after he has been questioned as to his identity and the facts of which he is accused.

The accused shall be informed of the date and time of his appearance before the Court. Three days at least must elapse after his interrogation before the accused appears in court.

The accused shall then be invited to choose counsel for his defence; if he does not do so, the President of the Court shall designate counsel for him.

An accused person under detention may not be granted provisional release except at the order and in agreement with the Public Prosecutor.

...

Ordinance No. 71-27 C.P./M.E.P. of 24 June 1971 Establishing a Professional Card Called Foreigner's Business Card [3]

(Extracts)

Article 1. A professional card called a "foreigner's business card" is hereby established.

No foreigner may carry on any business unless he possesses a valid foreigner's business card.

Article 2. Any person who cannot claim Dahomean nationality under Act No. 65-17 of 23 June 1965 [4] shall be considered a foreigner.

However, foreigners who are nationals of countries with which Dahomey has signed an establishment agreement shall enjoy, in so far as the law and the regulations permit, the same treatment as that which is applied to Dahomean nationals in their country of origin.

In addition, the nationals of States which accord a *de facto* privileged treatment to Dahomeans residing in their territory shall enjoy the same treatment, provided that this is authorized jointly by the Minister of the Interior and the Minister for Economic Affairs.

Article 3. To obtain a "foreigner's business card", a foreigner must fulfil the following conditions:

He must possess a residence permit for one year at least and enjoy civil capacity and commercial capacity;

He must possess assets worth at least 10 million francs CFA and prove his ability to invest at least 2,500,000 francs CFA (two million five hundred thousand francs CFA) in commercial property (excluding the value of land) within not more than two years.

Article 4. The file of the agreement describing the activity or activities in which the applicant wishes to engage, the place which they are to be carried on and for how long shall be submitted to the Minister for Economic Affairs.

Article 5. The Minister for Economic Affairs shall be sole judge of the advisability of issuing the card requested. He shall decide to grant or to refuse it within a period of 45 days. The person concerned shall be notified of his decision. There may be no recourse to an administrative tribunal against this decision.

Article 6. The foreigner's business card may not be issued unless he has:

Paid a fixed fee to the public treasury;

Paid for his business licences;

Been registered in the business register.

Article 7. There shall be two types of professional card:

(a) The card issued to foreigners engaged in commercial or industrial activities;

(b) The card issued to a foreigner engaged exclusively in handicrafts.

Article 8. No professional card of the types mentioned above may be issued for a period of more than three years; it shall be renewable.

Article 9. The card shall indicate the activity or activities in which the holder is authorized to engage and the place in which they are to be carried on. No change may be made in these indications without the authorization of the Minister for Economic Affairs.

Article 10. Any foreigner who has obtained a foreigner's business card shall comply with the regulations in force, particularly with the following:

He shall enrol in the Dahomean Social Security Fund;

He shall respect the labour laws.

...

Article 13. Any foreigner who contravenes the regulations in force and the provisions of this ordinance shall be subject to the following penalties, without prejudice to any proceedings that may be brought against him for other offences against the residence regulations for foreigners:

His foreigner's business card may be withdrawn and his business closed;

He may have to pay a fine of 1 to 10 million francs CFA.

Article 14. All foreigners affected by this ordinance shall comply with it within six months at the most.

...

[3] *Journal officiel de la République du Dahomey*, No. 15, 15 July 1971.

[4] For extract from Act No. 65-17, see *Yearbook of Human Rights for 1965*, pp. 66-70.

DENMARK

NOTE [1]

1. On 4 June 1971, the Danish Parliament assented to Denmark's ratification of the United Nations Covenants of 16 December 1966 on economic, social and cultural rights and on civil and political rights. The Covenants were ratified by Denmark on 6 January 1972.

2. Act No. 288 of 9 June 1971 amending the Criminal Code and Act No. 289 of 9 June 1971 prohibiting discrimination on the grounds of race, etc. were introduced in order to enable Denmark to ratify the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965. The Convention was ratified by Denmark on 6 December 1971 and by Royal Orders Nos. 26 and 27 of 3 and 4 February 1972, respectively. Acts Nos. 288 and 289 were brought into operation in Greenland. The texts of Acts Nos. 288 and 289 appear below.

3. Under the Public Health Security Act (No. 311) of 9 June 1971, which will come into force on 1 April 1973, the entire Danish population will automatically be covered by the Public Health Security Scheme and so be eligible for medical care, etc. in the event of illness. The cost of the Scheme will be paid from public funds provided through taxation.

4. By Act No. 445 of 5 October 1971, the voting age for general elections was lowered from 21 to 20 years.

5. Act No. 280 of 10 June 1970 makes general provision for the public to examine documents in matters which are or have been under consideration by the public administration. In addition to rules on the access of the public to examine official documents, the act provides for rules permitting any person who is a party to an administrative case not only to examine the documents of the case to a somewhat wider extent, but also to require the decision of the case to be deferred until he has made a statement on the matter. The act supersedes Act No. 141 of 13 May 1964 on the access of parties to documents in administrative files. Extracts from the act appear below.

[1] Note furnished by Mr. Niels Madsen, government-appointed correspondent of the *Yearbook on Human Rights*.

Act No. 280 of 10 June 1970 on Access of the Public to Documents in Administrative Files

Entered into force on 1 January 1971

(Extracts)

Chapter 1

The Access of the Public to Documents in Administrative Files

Section 1. Everyone shall have the right to request that he may examine documents in matters which are or have been under consideration by the public administration.

Subsection 2. The request shall specify the matter regarding which the person concerned wishes to examine the documents.

Section 2. The right of access to information shall not include documents containing:

(1) Information relating to a private individual's personal or economic circumstances;

(2) Information relating to technical devices or processes or to work or business conditions, to the extent that it is of considerable economic importance for the person or activity with which the information is concerned that the request should not be granted.

Subsection 2. Furthermore, the rules laid down in section 1 shall not apply if it is found that the right to examine the documents in the matter should be subordinated to important considerations involving:

(1) National security, defence of the realm and relations with foreign powers or international institutions;

(2) The execution of official activities for supervision, control or planning, or of measures contemplated in regard to tax and excise legislation;

(3) Public economic interests, including the carrying out of business activities of public authorities;

(4) The protection of other interests where the special circumstances of the matter make secrecy necessary.

Subsection 3. If a document comes only in part under the rules laid down in subsections 1 and 2 the person concerned shall be allowed to examine the remaining parts of the document.

Subsection 4. The competent minister may decide that certain types of matters or kinds of documents for which the rules laid down in subsections 1 and 2 would normally lead to refusal of a request under section 1 shall be exempted from the rules laid down in section 1.

...

Chapter 2

SPECIAL RULES APPLICABLE TO PARTIES IN AN ADMINISTRATIVE MATTER

Section 10. Applicants, complainants and other parties in a matter which is or has been under consideration by the public administration shall have the right to request that they may examine documents relating to that matter, regardless of the rules laid down in section 2. This, however, does not apply when it is found that the party's interest in using knowledge of the documents in the matter for the safeguard of his interests should be subordinated to vital considerations involving official or private interests. If such considerations only apply to part of the document, the party shall be allowed to examine the remaining parts of the document.

Subsection 2. Any person who is applying or has applied for appointment or promotion in public service may, regardless of the rules laid down in section 6, subsection 1, request to examine the documents, etc., relating to his situation.

Subsection 3. Rules on secrecy binding persons engaged in public service or activities do not affect their obligation to make information available to a party in a matter.

Subsection 4. If it is important in order to sageguard a party's interests that he should receive a copy or photocopy of the documents in the matter, his request for such copies shall be granted.

...

Act No. 288 of 9 June 1971 amending the Criminal Code

Section 1

In the Criminal Code (cf. Legislative Notification No. 347 of 15 August 1967), as last amended by Act No. 120 of 24 March 1970, *section 266 b* shall read as follows:

"266 b. Any person who, publicly or with intent to propagate them in a wider circle, makes statements or any other communication by which a group of persons is threatened, insulted or exposed to indignities on grounds of race, colour, national extraction, ethnic origin, or religion shall be liable to a fine, simple detention or imprisonment for any term exceeding two years."

Section 2

This act shall come into operation on 1 August 1971.

Section 3

This act shall not extend to the Faroe Islands or Greenland but may by royal order be brought into operation in those territories. As far as Greenland is concerned, this may be done by including the provision of section 1 of this act in the Criminal Code relating to Greenland, subject to the modifications indicated by the special conditions of that territory.

Act No. 289 of 9 June 1971 Prohibiting Discrimination on the Grounds of Race, etc.

1. (1) Any person who, within a trade or business or a non-profit undertaking, on the ground of a person's race, colour, national extraction, ethnic origin or religion refuses to serve the person concerned on the same conditions as others shall be liable to a fine, simple detention or imprisonment for any term not exceeding six months.

(2) The same penalty shall apply to any person who, on any of the grounds mentioned in the foregoing subsection, refuses to give a person access on the same conditions as others to any place, performance, exhibition, meeting or the like that is open to the public.

2. This act shall not apply to any act of negligence.

3. Where any of the offences mentioned in section 1 of this act is committed by a joint-stock company, a co-operative society or the like, the company or the society as such may be held liable to a fine.

4. Cases relating to offences against this Act shall be dealt with as police prosecutions.

5. This act shall come into operation on 1 August 1971.

6. This act shall not extend to the Faroe Islands or Greenland but may by royal order be brought into operation in those territories subject to the modifications indicated by the special Faroese and Greenland conditions.

DOMINICAN REPUBLIC

Act No. 112 of 6 April 1971 [1]

Freedom of Information

(Extracts)

Article 1. All companies publishing daily, weekly, monthly or any other type of periodical publication established in the country shall be under the obligation to deposit two (2) copies of each issue. These copies are intended for the following purposes: one copy for readers in the Library and the other for the corresponding series in the periodicals collection of the Library.

Article 2. Similarly, anyone who publishes or prints in the country any publication, whatever the form or the means of reproduction, and whatever the type of publication, including books, pamphlets, programmes, single sheets, circulars and similar publications, shall be under the obligation to send two copies of them to the National Library.

Article 3. Agencies selling foreign periodicals and reviews for circulation in the country shall send one copy of each to the National Library.

Article 4. Companies producing phonographic records shall be under the obligation to send at least one of each of the records made in their studios to the National Library.

...

[1] *Gaceta Oficial*, No. 9223, 23 April 1971.

EGYPT

Constitution of the Arab Republic of Egypt [1]

PART I

The State

Article 1. The Arab Republic of Egypt is a democratic socialist State based on an alliance of the people's working forces. The Egyptian people are part of the Arab nation seeking to realize total unity.

Article 2. Islam is the religion of the State, Arabic it its official language, and the principles of the Islamic Shari`a are a major source of legislation.

Article 3. Sovereignty belongs only to the people who are the source of authority. The people will exercise authority, safeguard it, and preserve national unity in the manner prescribed in the constitution.

Article 4. The economic basis of the Arab Republic of Egypt is the socialist system which is based on adequacy and justice in a manner preventing exploitation and aiming at removing class distinction.

Article 5. The ASU is the political organization which, through its existing organization based on the principle of democracy, represents the alliance of the people's working forces; namely, peasants, workers, soldiers, the intelligentsia, and national capital. The ASU is the tool of this alliance in entrenching the values of democracy and socialism, following up national action in its various domains and propelling this national action toward its charted objectives.

The ASU confirms the authority of the alliance of the people's working forces through the political action practised by its organizations among the masses and in the various organizations assuming responsibility for national action.

The basic statutes of the ASU prescribe conditions for membership in the ASU and its various organizations and the safeguards for its activities in a democratic way. Workers and peasants will comprise at least 50 per cent of the membership in these organizations.

Article 6. Citizenship in Egypt is defined by law.

PART II

Basic components of society

Chapter I

SOCIAL AND MORAL COMPONENTS

Article 7. Social solidarity is the basis of society.

Article 8. The State will guarantee equal opportunities for all citizens.

Article 9. The family forms the basis of society. It is built on religion, morals and patriotism. The State will be careful to preserve the authentic character of the Egyptian family and the values and tradition it represents in addition to confirming and developing this character in relations within Egyptian society.

Article 10. The State will guarantee the protection of motherhood and childhood, care for the small and the young and provide them with appropriate conditions for developing their talents.

Article 11. The State will reconcile women's duties to their families and women's work in society. The State will also ensure women's equality with men in the political, social, cultural and economic domains without violating the laws of the Islamic Shari`a.

Article 12. Society will be committed to caring for morals and protecting them and strengthening authentic Egyptian traditions. Society will abide by the high standard of religious education, moral and patriotic values, the people's historic heritage, scientific facts, socialist conduct and public ethics within the law. The state will be committed to adhering to and boosting these principles.

Article 13. Employment is a right, duty, and honour guaranteed by the State. Excelling workers will be appreciated by the State and society. No employment will be imposed on the citizens except by law in order for them to discharge public duty in return for fair compensation.

Article 14. Public posts are rights of the compatriots and are a mandate for those assuming

[1] Text based on an unofficial translation from the Arabic, published in *al-Ahram* of 6 September 1971. The Constitution was adopted by referendum on 11 September 1971. For the text of the Constitution of the Federation of Arab Republics, see under Syrian Arab Republic, p. 229 below.

them to serve the people. The State will insure protection of public servants and enable them to discharge their duty of caring for the people's interests. The public servants will only be dismissed by way of disciplinary action, except in instances defined by law.

Article 15. The ex-servicemen, those disabled in war or because of it and the wives and children of martyrs will be given preference in work opportunities in accordance with the law.

Article 16. The State will guarantee cultural, social and medical services. In particular, it will see to it that the services are provided to the villages and that they are regularly improved.

Article 17. The State will guarantee social and health insurance services and disability, unemployment and old-age payments for all citizens in accordance with the law.

Article 18. Education is a right guaranteed by the State. It is compulsory at the elementary stage. The State will act to make it compulsory at other stages. The State will supervise the entire educational process and guarantee the independence of the universities and scientific research centres in order to link education with the requirements of society and production.

Article 19. Religious education is a primary subject in the general education curriculum.

Article 20. Education at the State's educational establishments will be free at all stages.

Article 21. Eliminating illiteracy is a national duty. All the people's efforts will be mobilized to realize it.

Article 22. The creation of civil titles is prohibited.

Chapter II

Economic components

Article 23. The national income will be organized on the basis of a comprehensive development plan guaranteeing an increase in national income, just distribution, raising the standard of living, ending unemployment, increasing work opportunities, linking wages with production, guaranteeing a minimum wage and fixing a maximum wage to insure that differences in incomes are narrowed.

Article 24. The people will control all means of production and will use their surplus according to the development plan drafted by the State.

Article 25. Every citizen will have a share in the national income. This share is specified by law which considers the nature of the citizen's work and his unexploited property.

Article 26. The workers will share in the management of the projects and in their profits. They will commit themselves to developing production and implementing the plan in their productive units in accordance with the law. Preservation of the means of production is a national duty. Workers' representation on the boards of directors of the public sector units will be in the region of 50 per cent. For small peasants and small craftsmen, the State shall see to it that the law guarantees 80 per cent representation on the boards of directors of the agricultural co-operative societies and industrial co-operative societies.

Article 27. Beneficiaries of service projects benefiting the public will participate in the management of the projects and control them according to the law.

Article 28. The State will patronize all forms of co-operative establishments and encourage handicraft industries in order to develop production and increase income. The State will develop agricultural co-operative societies on modern scientific bases.

Article 29. Ownership will be controlled by the people and protected by the State. There are three kinds of ownership: public, co-operative and private.

Article 30. Public ownership—that is, people's ownership—is bolstered by continuous support for the public sector.

Article 31. Co-operative ownership means ownership by co-operative societies. The law safeguards them and guarantees their self-management.

Article 32. Private ownership is represented by unexploited capital. The law formulates its social function in serving national income within the framework of the development plan without deviation or exploitation. The use of this capital will not conflict with the well-being of the people.

Article 33. Public ownership is inviolable. Its protection and support is the duty of every citizen according to the law because it is a support for the homeland's strength, the basis of the socialist system, and a source of the people's prosperity.

Article 34. Private ownership is safeguarded. It will not be placed under sequestration except by law and by a court order. Ownership may not be expropriated except for public use and with just compensation. The right of heritage is guaranteed.

Article 35. There will be no nationalization unless it is dictated by public interest and then it will be effected by a law and with compensation.

Article 36. General confiscation of funds is prohibited. Special confiscation can only be carried out by court order.

Article 37. The law determines maximum agricultural ownership in a manner protecting the peasant and the agricultural worker from exploitation and asserting the authority of the alliance of the active people's forces at the level of the village.

Article 38. The taxation system will be based on social justice.

Article 39. Saving is a national duty protected, encouraged and organized by the State.

Part III

Public liberties, rights and obligations

Article 40. All citizens are equal before the law. They are equal in their public rights and obligations without distinction as to race, origin, language, religion or creed.

Article 41. Individual freedom is a natural right. It is protected and inviolable. Except in the case of *flagrante delicto,* it is impermissible to arrest, search, imprison or restrict the freedom and movement of any person except by a judicial order necessitated by the need for investigation and protection of the society. Such an order will be issued by a competent judge or the public prosecution in accordance with the rules of the law. The law specifies the period of imprisonment pending investigation.

Article 42. Every citizen imprisoned or whose freedom has been restricted must be treated in a manner preserving his human dignity. It is impermissible to harm him physically or psychologically. It is also impermissible to detain or imprison him in places other than those subject to the laws concerning the organization of prisons. Any statement proved to have been made by a citizen under the pressure of any of the conditions stated above or as a result of threats is invalid and cannot be used against him.

Article 43. It is impermissible to conduct any medical or scientific test on any person against his will.

Article 44. Houses are inviolable. They may not be entered or searched except with a judicial order in the manner prescribed by the law.

Article 45. The private life of the citizens is sacred and protected by the law. The sanctity and privacy of postal and telegraphic correspondence, telephone conversations and other means of communication are guaranteed. It is impermissible to confiscate, read or censor them without a judicial order, and then only for a fixed period prescribed by law.

Article 46. The State guarantees the freedom of religion and worship.

Article 47. Freedom of opinion is guaranteed. Every person is entitled to free expression of his opinion and to its dissemination by speech, writing, photographs and so forth within the limits of the law. Self-criticism and constructive criticism are a guarantee of the soundness of the national structure.

Article 48. Freedom of the press, printing, publication, and information media is guaranteed. Censorship of the newspapers is forbidden. Warning, suspending or proscribing newpapers by administrative means is also forbidden. As an exception, it is permissible during a state of emergency or war to impose limited censorship on newspapers, publications and other information media in matters related to public safety or national security in accordance with the law.

Article 49. The State guarantees citizens the freedom of scientific research and literary, artistic and cultural creativeness and provides the means of encouraging activities.

Article 50. It is impermissible to restrict the residence of any citizen to a fixed area or to force him to reside in a fixed area except under the conditions stated by law.

Article 51. It is impermissible to deport any citizen from the country or to prevent him from returning to the country.

Article 52. Citizens are entitled to emigrate abroad permanently or temporarily. The law regulates this right and the measures and conditions of emigration from the country.

Article 53. The State will grant political asylum to any foreigner persecuted for defending people's interests, rights, peace or justice. The extradition of political refugees is forbidden.

Article 54. Citizens are entitled to orderly private meetings, provided they do not carry firearms, without prior notice. Security men are not allowed to attend citizen's private meetings. Public meetings, processions, and gatherings are permissible within the limits of the law.

Article 55. Citizens are entitled to form societies in the manner prescribed by law. The establishment of societies whose activities are hostile to the social system, secret or of a military nature is forbidden.

Article 56. The establishment of trade unions and federations on a democratic basis is a right guaranteed by law. These unions and federations shall have a legal personality. The law will organize the contributions of the unions and federations to implement social development plans and programmes, raise the standard of competence and bolster the socialist conduct of their members, and safeguard their funds. The unions and federations are responsible for questioning their members on their conduct and activities in accordance with the codes of honour and morals. They will also defend their members' rights and liberties as stated in the law.

Article 57. Any attack on the personal freedom and private life on the citizens or on any of the other personal rights and liberties which are guaranteed by the constitution and the law is a crime in which a criminal or civil case cannot be prescribed. The State guarantees fair compensation to the victim.

Article 58. Defending the homeland and its territory is a sacred duty. Conscription is compulsory under the law.

Article 59. Protecting, bolstering and preserving socialist gains are national duties.

Article 60. Preserving domestic unity and keeping State secrets is the duty of every citizen.

Article 61. Paying taxes and public revenues is obligatory under the law.

Article 62. The citizen is entitled to vote, nominate, and express an opinion in the referendum in accordance with the law. Contribution to public life is a national duty.

Article 63. Every individual is entitled to address public authorities in writing and with his signature. Public authorities may be addressed collectively in the name of regular organizations and corporate people.

PART IV

The supremacy of the law

Article 64. Supremacy of the law is the basis of rule in the State.

Article 65. The State is subject to the law. The independence and inviolability of the law are two basic guarantees for protecting rights and liberties.

Article 66. Penalty is personal. There shall be no conviction or penalty except under the law. No penalty shall be carried out except in accordance with a court sentence. Penalty shall be only for acts committed while the law is in force.

Article 67. The defendant is innocent until he is convicted in court. The defence of the defendant is guaranteed. Every defendant will have a defence counsel.

Article 68. Litigation is a right protected and guaranteed for all people. Every citizen is entitled to resort to his normal judge. The State guarantees that judicial quarters will be close to the litigants to expedite judgement. The law forbids the immunization of any administrative action or decision against judicial control.

Article 69. The right of defence personally or through a defence counsel is guaranteed. The law guarantees the means of resorting to justice and defending one's rights to those who cannot afford them financially.

Article 70. A criminal case can be filed only by an order from a legal quarter except under conditions stated in the law.

Article 71. Any person arrested or detained must immediately be informed of the reasons for his arrest or detention. He has the right to contact anyone to inform him of what happened or to seek his assistance in the manner prescribed by the law. He must also be notified immediately of the charges brought against him. He or anyone else is entitled to complain to the court against any measure restricting his personal freedom. The law regulates the right to complain to guarantee judgement within a fixed period; otherwise, a detainee must be released.

Article 72. Sentences are issued and executed in the name of the people. Refraining from or obstructing the execution of sentences by civil servants is a crime punishable under the law. In such a case, the plaintiff is entitled to immediately file a criminal case in the relevant court.

PART V

The system of government

Chapter I

THE HEAD OF STATE

Article 73. The head of State is the President of the Republic. He will safeguard the sovereignty of the people, respect for the constitution, supremacy of the law, domestic unity and socialist gains. He will also safeguard the jurisdictions of authorities to insure that they carry out their function in national action.

Aricle 74. The President of the Republic, in case domestic unity or the safety of the homeland are threatened or the State establishments are obstructed from carrying out their constitutional functions, shall adopt urgent measures to deal with this threat. He will address the people and hold a referendum on the measures adopted within 60 days from the date such measures are adopted.

Article 75. To be elected President of the Republic, a person must be an Egyptian, the issue of an Egyptian father and mother, enjoy civil and political rights and be not less than 40 years of age, calculated according to the Gregorian calendar.

Article 76. The People's Assembly nominates the President of the Republic. The nomination will be referred to the citizens for their approval. A nomination motion for President will require the support of at least one-third of the members of the People's Assembly. The nominee who obtains two-thirds of the People's Assembly votes will then be referred to the citizens for approval. If the nominee fails to obtain the afore-mentioned majority, the nominating procedure will be repeated 2 days after the first vote. The nominee who obtains an absolute majority will then be referred to the citizens for approval. The nominee will be considered the President of the Republic if he obtains an absolute majority of the votes of those who take part in the referendum. If the nominee fails to obtain this majority, the Assembly will nominate another person. The same measures will apply to the nomination and election of this nominee.

Article 77. The President's term of office is six Gregorian years commencing on the date of the proclamation of the result of the referendum. The President may be re-elected for a similar consecutive term.

Article 78. Measures for selecting the new President of the Republic will begin 60 days before the expiration of the President's term of office. The new President will be selected at least one week before the expiration of the President's term of office. Should this period elapse before the selection of the new President for any reason, the former President will continue to exercise the functions of President until his successor is selected.

Article 79. Before assuming his duties the President shall take the following oath before the People's Assembly:

"I swear in the name of Almighty God to preserve the republican régime faithfully, to respect the constitution and the law, to safeguard fully the interests of the people, and to maintain the independence of the homeland and the integrity of its territory."

Article 80. The emoluments of the President of the Republic are laid down by law. No change of the President's emoluments may be applied during the term of office in which it is decided. The President of the Republic may not receive any other stipend or remuneration.

Article 81. The President of the Republic may not exercise a liberal profession during his term of office or undertake any commercial, financial, or industrial activity. Nor may he buy or lease any property belonging to the State, or lease or sell to the State or exchange with the State any part of his property whatsoever.

Article 82. If, on account of any temporary obstacle, the President of the Republic is unable

to carry out his functions, he delegates his powers to the Vice-President.

Article 83. In case of resignation, the President of the Republic addresses his letter of resignation to the People's Assembly.

Article 84. In the case of the President's office becoming vacant or in the case of the President's permanent incapacity to carry out his functions, the president of the People's Assembly will assume the presidential office temporarily. If the assembly is dissolved the president of the Supreme Constitutional Court shall assume the President's office. Neither of the two, however, shall be nominated for President. The People's Assembly will then proclaim the office of the President vacant. The selection of the President shall take place within 60 days from the date of the presidential office becoming vacant.

Article 85. The indictment of the President of the Republic for high treason or a crime is effected by a proposal to be presented by at least one-third of the members of the People's Assembly. The indictment must be approved by a two-thirds majority of the Assembly members.

The President is suspended from the exercise of his functions immediately when the indictment is issued. The Vice-President shall temporarily assume the presidential office until a decision is made on the indictment.

The President is tried by a special court set up by law which will also set out the court's procedure and define the penalties.

If the President is found guilty, he shall be relieved of his office without this affecting the other penalties.

Chapter II

THE LEGISLATURE, THE PEOPLE'S ASSEMBLY

Article 86. The People's Assembly exercises the legislative power, approves the State's general policy, the general plan for social and economic development and the State's general budget. The People's Assembly exercises control over the acts of the executive in the manner prescribed in the Constitution.

Article 87. The law determines the number of constituencies into which the State is divided. The law also determines the number of elected members of the People's Assembly which will not be less than 350. Half of these shall be workers and peasants. Election of members shall be through direct general elections and secret ballot. The law shall determine the definition of a worker and a peasant. The President of the Republic may appoint a number of members, not to exceed 10, to the People's Assembly.

Article 88. The law determines the qualifications of the People's Assembly members. The law also determines the procedures and the statutes of elections and referendums which will be carried out under the supervision of a judiciary panel.

Article 89. State and public sector officials may nominate themselves for People's Assembly membership. Their office and jobs will be preserved for them as prescribed by law.

Article 90. Before exercising their functions, People's Assembly members shall take the following oath before the Assembly:

"I swear by Almighty God to preserve faithfully the safety of the homeland and the republican régime and to safeguard the people's interests and respect the constitution and the law."

Article 91. Members of the People's Assembly receive a remuneration prescribed by law.

Article 92. The People's Assembly term is five Gregorian years from the date of the first session.

Elections for the new People's Assembly take place within the 60 days preceding the termination of the Assembly's term.

Article 93. The People's Assembly is the judge of the validity of the mandate of its members. The Court of Cassation will investigate questions concerning the validity of objections submitted to the Assembly when the Assembly's president refers such questions to the Court. Such objections shall be referred to the Court of Cassation within 15 days of the date the Assembly learns of the objection and the investigation will be completed within 90 days of the date the objection is referred to the Court of Cassation. The result of such an investigation and the Court's findings will be submitted to the Assembly for a decision on the validity of the objection within 60 days of the date of the submission of the results to the Assembly. Assembly membership shall not be considered invalid except by a decision adopted by a majority of two-thirds of the Assembly members.

Article 94. Where a vacancy occurs before the expiration of a member's term, a successor is elected or appointed within 60 days of the date the Assembly is informed of the vacancy. The new member's term will be the balance of the term of his predecessor.

Article 95. No member of the People's Assembly may, during his term, buy or take on lease any state property or lease or will to or exchange with the State any of his property or conclude any contracts with the State in the capacity of a contractor or supplier.

Article 96. No member of the People's Assembly may be deprived of his membership except on the ground of loss of confidence and esteem, or on the ground of loss of characterization as a worker or peasant on the basis of which he was elected or on the ground of failure to discharge his duties as a member of the Assembly. A decision to deprive a member of his membership must be passed by a two-thirds majority.

Article 97. The People's Assembly is the body which accepts the resignation of its members.

Article 98. Members of the People's Assembly shall not be called in question for the ideas or opinions expressed in the exercise of their functions in the Assembly or in its committees.

Article 99. Unless caught in the act, no member of the People's Assembly may be subject to criminal proceedings without prior permission from the Assembly. When the Assembly is not in session, permission must be obtained from the Assembly president. The Assembly will be notified of the action taken at its first meeting.

Article 100. Cairo is the seat of the People's Assembly. In exceptional circumstances, the Assembly may hold its session in another town upon the demand of the President of the Republic or of the majority of the Assembly members. Assembly sessions held elsewhere are illegal and the decisions issued are null and void.

Article 101. The President of the Republic convokes the People's Assembly in an annual ordinary session before the second Thursday in November. If not so convoked, the Assembly will meet according to the constitution on the afore-mentioned day. Ordinary sessions continue for at least 7 months. The President of the Republic may terminate the Assembly's ordinary session. The Assembly's session may not be terminated before approving the State's general budget.

Article 102. The President of the Republic convokes the Peoples Assembly in an extraordinary session in case of necessity or upon the written petition of the majority of People's Assembly members. The President of the Republic announces the termination of the extraordinary session.

Article 103. The People's Assembly shall elect its president and two deputy speakers at the first meeting of the ordinary annual session and they shall exercise their functions until the following annual session. When any of their positions become vacant, the Assembly will elect a successor for the remaining period.

Article 104. The People's Assembly draws up its own internal regulations determining the manner in which it exercises its functions.

Article 105. The People's Assembly has the executive power to maintain order within the Assembly through its own president.

Article 106. People's Assembly sessions shall be public. The Assembly can meet *in camera* at the request of the President of the Republic or the Government, or at the request of the Assembly's speaker or of at least 20 members. The assembly will then decide whether the question referred to it should be discussed in public or *in camera.*

Article 107. There shall be no forum if the majority of the Assembly's members are not present. The Assembly will adopt its decision by absolute majority of the votes of those present except in cases where a special majority is required. Voting will be on each of the draft bill's articles separately.

Article 108. The President of the Republic, when necessary and under exceptional conditions, and upon the authorization of the People's Assembly with a two-thirds majority of its members, has the right to issue decrees which have the force of law.

The authorization must be for a specific period and must indicate the subject of these decrees and their bases. These decrees must be submitted to the People's Assembly at the first session after the expiration of the authorization period.

If they are not submitted or if the Assembly does not approve them, the force of the law they enjoy shall cease.

Article 109. The President of the Republic and every People's Assembly member has the right to propose laws.

Article 110. Every draft law will be referred to one of the Assembly's competent committees with the appropriate report. Draft laws submitted by People's Assembly members, however, will not be referred to such a committee before they are examined by a special committee to determine whether the Assembly should consider them and before the Assembly approves them.

Article 111. A draft law proposed by a member and rejected by the Assembly may not be submitted again during the same session.

Article 112. The President of the Republic has the right to issue laws or oppose them.

Article 113. If the President of the Republic opposes a draft law already approved by the People's Assembly, he will return it to the assembly within 30 days of the date the Assembly communicates it to him. If the draft law is not returned by this date, it shall be considered a law and shall be issued. If it is returned by the above date and approved again by the Assembly by a two-thirds majority of its members, it shall be considered a law and shall be issued.

Article 114. The People's Assembly shall approve the general plan for economic and social development. The law shall define the method of preparing the plan and presenting it to the People's Assembly.

Article 115. The general budget draft must be submitted to the People's Assembly at least two months before the beginning of the fiscal year. It shall not become valid unless approved by the Assembly. A vote will be taken on each chapter of the draft budget which will be issued by law. The People's Assembly may not amend the draft budget except with the approval of the Government. If the new budget is not approved before the beginning of the fiscal year, the old budget will remain in force until the new budget is approved. The law defines the method of preparing the budget as well as the fiscal year.

Article 116. People's Assembly approval must be sought to transfer any sum from one section to other sections of the general budget, as well as for every expenditure not included in the budget or exceeding its estimates. This will be done by law.

Article 117. The law prescribes the rules relating to the budgets and accounts of the general establishments and organizations.

Article 118. The final account of the State's budget must be submitted to the People's Assembly in no more than one year from the end of the fiscal year. A vote will be taken on each chapter of the account which shall be issued by law. The annual report and remarks of the central audit department must also be submitted to the People's Assembly. The Assembly may ask the central audit department for any other statements or reports.

Article 119. No general tax may be established, modified or abolished except by law. No one may be exempted except in the cases specified by law. No other taxes or duties may be exacted except within the limits of the law.

Article 120. The executive authority may not contract loans or undertake a project that would involve spending from the state treasury in a future period, except with the consent of the People's Assembly.

Article 121. The law regulates the basic rules for the collection of public revenues and the manner of their expenditure.

Article 122. The law prescribes the rule of payment of salaries, pensions, indemnities, financial assistance and bonuses which are to be made from the state treasury, and sets the exceptions therein and the quarters which shall exercise the application thereof.

Article 123. The law prescribes the rules and measures pertaining to granting concessions for the exploitation of natural wealth resources and public utilities, and defines the conditions under which state estates may be disposed of free of charge and under which the State's movable property may be given away, and the pertinent rules and measures thereof.

Article 124. Any People's Assembly member may put questions to the Prime Minister, his deputies, and any minister or his deputies on matters which come under their jurisdiction. The Prime Minister, his deputies, or the ministers or whoever they delegate will answer the member's questions. The member may withdraw his question at any time. The question may not be turned into interpellation at the same session.

Article 125. Each People's Assembly member has the right to put interpellation to the Prime Minister, his deputies, the ministers or their deputies to make them account for affairs that come under their jurisdiction. The discussion of the interpellation will take place at least seven days after its submission, except in cases which the Assembly considers urgent, and with the approval of the Government.

Article 126. The ministers are responsible before the People's Assembly for the State's general policy. Each minister is responsible for the work of his ministry.

Article 127. The People's Assembly, upon request of one tenth of its members, may censure the Prime Minister and issue the censure decision with the approval of the majority of the Assembly members. This decision may not be issued except after an interpellation is put to the Government and after three days at least from the date of the request. If censure is approved, the Assembly will submit a report to the President of the Republic including the elements of the matter in question, the opinion reached and the reasons for it. The President of the Republic may return the report to the Assembly within 10 days. If the Assembly approves it again, then the President of the Republic may put the subject of the dispute between the Assembly and the Government to a public Referendum.

The referendum must take place within 30 days of the date of the Assembly's last approval. The Assembly sessions shall be suspended in this case. If the result of the referendum is in support of the Government, then the Assembly will be considered dissolved, and if the contrary, then the President of the Republic will accept the cabinet's resignation.

Article 128. If the Assembly decides to withdraw confidence in one of the deputy prime ministers, ministers, or their deputies, then the person involved must resign his post. The Prime Minister will submit his resignation to the President if the People's Assembly decides to censure him.

Article 129. Any 20 members of the People's Assembly may ask for discussion of any general question, with a view to clarifying the cabinet's policy on it.

Article 130. People's Assembly members may express wishes regarding important matters to the Prime Minister, his deputies, or the ministers.

Article 131. The People's Assembly may form a special commiteee or charge one of its committees to examine the activity of a specific administrative department, general establishment, executive or administrative machinery, or a general project with a view to finding facts and informing the Assembly about their financial, administrative or economic conditions, or to investigate any question related to any of the above actions. To carry out its task, the committee may gather whatever evidence it considers necessary and listen to the statements of whomever it wishes. All the executive and administrative quarters must heed its request and place at its disposal all the documents, records and anything else it asks for.

Article 132. At the opening of the People's Assembly ordinary session, the President of the Republic will make a statement outlining the State's general policy. He is entitled to make any other statements at the Assembly. The People's Assembly may debate the statement of the Republic's President.

Article 133. After forming the cabinet, the Prime Minister will submit the cabinet's programme at the opening of the ordinary session of the People's Assembly. The People's Assembly shall debate this programme.

Article 134. It is permissible for the Prime Minister, his deputies, the ministers and their deputies, to be members of the People's Assembly. Any of them who are not members may participate in a discussion but will have no vote when taking views.

Article 135. The Prime Minister and ministers will be heard at the People's Assembly and its committees whenever they ask to speak. They may seek the assistance of any senior officials they wish. A minister's vote will not be counted when expressing views unless he is a member.

Article 136. The President of the Republic may not dissolve the People's Assembly except when necessary and after a popular referendum. The President of the Republic will issue a decree suspending the Assembly's sessions and fixing the date of the referendum within 30 days. If the absolute majority of the voters decide on dissolution, then the President of the Republic will issue the relevant decree. The decree must include an invitation to the voters to elect a new People's Assembly within 60 days of the date of announcing the

results of the referendum. The new Assembly will meet within 10 days after the elections.

Chapter III

Section I

The President of the Republic

Article 137. The President of the Republic assumes and exercises executive power as prescribed in the constitution.

Article 138. The President of the Republic lays down, in collaboration with the cabinet, the general policy of the State and supervises its execution as prescribed in the constitution.

Article 139. The President of the Republic may appoint one or more vice-presidents and may determine their powers and relieve them of their posts.

The principle regulating the presidential office applies to the vice-presidents.

Article 140. Before exercising his functions, the vice-president takes the folllowing oath before the president:

"I swear by Almighty God to faithfully preserve the republican régime, to respect the constitution and the law, to fully safeguard the interests of the people, and to preserve the independence of the homeland and the safety of its territories."

Article 141. The President of the Republic appoints and dismisses the Prime Minister, the deputy prime ministers, the ministers and the deputy ministers.

Article 142. The President of the Republic has the right to convene the cabinet and attend its sessions. He will chair the sessions he attends and has the right to request reports from the ministers.

Article 143. The President of the Republic appoints and dismisses civil servants, military personnel and political representatives as precribed under the law.

The President of the Republic approves the political representatives of foreign powers accredited to the State.

Article 144. The President of the Republic issues the regulations necessary to implement laws but without amending or disrupting such laws or granting exemptions to them. The President may delegate others to issue such regulations. The law may prescribe the person to implement it.

Article 145. The President of the Republic enacts the regulations on apprehension.

Article 146. The President of the Republic issues the decrees necessary for setting up and organizing public services.

Article 147. If, during the absence of the People's Assembly, it is necessary to adopt urgent measures, the President of the Republic may issue decrees having the force of law. Such decrees must be submitted to the People's Assembly within 15 days following their issuance if the Assembly is in session, or at its first session if the assembly has been dissolved or its sessions have been suspended. If such decrees are not submitted, they will cease to have the force of law, with retroactive effect, without it being necessary to issue a decision to that effect. If such decrees are submitted to and rejected by the Assembly, they will cease to have the force of law, with retroactive effect, unless the Assembly approves their validity during the period they were effective or decides to regularize their consequences in some other manner.

Article 148. The President of the Republic declares a state of emergency as prescribed by law. Such declaration must be submitted to the People's Assembly within the following 15 days for a decision.

If the People's Assembly is dissolved, the question is submitted to the new People's Assembly at its first meeting.

In all cases the declaration of a state of emergency will be for a limited period which may not be extended except with the approval of the People's Assembly.

Article 149. The President of the Republic has the right to grant pardons and commute penalties.

A general amnesty may not be granted, however, except by law.

Article 150. The President of the Republic is the supreme commander of the armed forces and declares war after approval by the People's Assembly.

Article 151. The President of the Republic concludes treaties and communicates them to the People's Assembly accompanied by appropriate explanation. Such treaties will have the force of law after their conclusion, ratification, and publication in conformity with the rules in force.

Conciliation, alliance, trade and navigation treaties, as well as all treaties entailing territorial changes or affecting the rights of sovereignty or those involving expenditures by the public treasury for which no provision is made in the budget, must have the approval of the People's Assembly.

Article 152. The President of the Republic may refer important questions affecting the country's vital interests to the people.

Section II

The Government

Article 153. The Government is the higher executive and administrative body of the State. The Government will consist of the Prime Minister, his deputies, the ministers, and their deputies. The Prime Minister will supervise the actions of the Government.

Article 154. A person appointed as minister will be Egyptian. He will not be less than 35 years old and will enjoy all his civil and political rights.

Article 155. The members of the cabinet will, immediately before assuming their duties, take the following oath before the President of the Republic:

"I swear by Almighty God to faithfully preserve the republican régime, to respect the constitution and the law, to safeguard fully the interests of the people and to preserve the independence of the homeland and the safety of its territories."

Article 156. The cabinet will, in particular, exercise the following jurisdictions:

A. Participate with the President in preparing the State's general policy and supervise its implementation in accordance with the laws and republican decrees.

B. Direct, co-ordinate, and follow up the activities of the ministries, quarters attached to them, and the general organizations and establishments.

C. Issue administrative and executive decisions in accordance with the laws and regulations and supervise their implementation.

D. Prepare draft laws and decisions.

E. Prepare the State's draft budget.

F. Prepare the draft of the State's general plan.

G. Contract and grant loans in accordance with the provisions of the constitution.

H. Supervise the enforcement of the laws, safeguard the State's security, and protect the citizens' rights and the State's interests.

Article 157. The minister is the supreme administrative head of his ministry. He will draw up the ministry's policy within the framework of the State's general policy and implement it.

Article 158. Ministers may not, during tenure of office, practise a liberal profession; engage in commercial, financial, or industrial activities; or buy or lease any property belonging to the State or lease, sell, or exchange any part of their property to or with the State.

Article 159. The President of the Republic and the People's Assembly will have the right to refer a minister to justice for crimes committed by him in the exercise of his functions or as a result thereof. The indictment of a minister by the People's Assembly will be effected by a proposal submitted by at least one-fifth of the Assembly's members. The indictment will be issued only if approved by a two-thirds majority of the Assembly's members.

Article 160. The minister against whom charges are brought will be suspended from office until his case is decided. The expiration of his tenure of office will not prevent the filing or the continuation of the case against him. The minister's trial, court procedures and guarantees, as well as the penalty will be effected in the manner prescribed by the law. These provisions apply to the deputy ministers as well.

Section III

The local administration

Article 161. The Arab Republic of Egypt will be divided into administrative units enjoying the status of a legal person. These units will include the provinces, cities, and villages. Other administrative units enjoying the status of a legal person may be established if dictated by public interests.

Article 162. The local popular councils will be formed gradually through direct elections as administrative units. At least half of the members of the popular councils will consist of workers and peasants. Chairmen and deputy chairmen of the councils will be elected from among the members.

Article 163. The law prescribes the method of forming the local popular councils and defines their jurisdictions, revenues, guarantees for its members, their relations with the People's Assembly and the Government, and their role in preparing and implementing the development plan and supervising various activities.

Section IV

The specialized national councils

Article 164. Specialized councils will be formed at the national level to help draw up the State's general policy in all fields of national activity. These councils will be attached to the President of the Republic. Their formation and jurisdictions will be defined by a presidential decree.

Chapter IV

THE JUDICIAL AUTHORITY

Article 165. The judicial authority is independent. Courts of various types and levels will assume this authority and issue their verdicts in accordance with the law.

Article 166. The judges are independent. In the administration of justice they will be subject to no power except that of the law. No power may interfere in lawsuits or in the affairs of justice.

Article 167. The law determines the judicial bodies, defines their jurisdictions, organizes the method of their formation, and prescribes the conditions and measures appointing and transferring their members.

Article 168. Judges are not liable to dismissal. The law regulates the manner of discipline.

Article 169. Sessions of the courts will be conducted in public unless a court decides in the interests of public order and morality to sit in camera. In all cases, the verdict will be pronounced in a public session.

Article 170. The people will contribute to the establishment of justice in the manner and within the limits prescribed by the law.

Article 171. The law will organize the formation of state security courts and define their jurisdictions and the conditions to be met by the court members.

Article 172. The state council is an independent judicial body. It will specialize in settling administrative disputes and disciplinary cases. The law prescribes its other jurisdictions.

Article 173. A supreme council chaired by the President of the Republic will manage the affairs of the judicial bodies. The law will define the method of its formation, jurisdictions and regulations. Its opinion will be sought regarding the draft laws organizing the affairs of judicial bodies.

Chapter V

THE SUPREME CONSTITUTIONAL COURT

Article 174. The Supreme Constitutional Court will be an independent and separate judicial body in the Arab Republic of Egypt. Its headquarters will be in Cairo.

Article 175. The Supreme Constitutional Court alone will assume judicial control of the constitutionality of laws and bills. It will interpret the legislative provisions in the manner prescribed by law. The law will define the court's other jurisdictions and regulate its procedure.

Article 176. The law will define the method of forming the Supreme Constitutional Court and the conditions which its members will meet as well as their rights and immunity.

Article 177. The members of the Supreme Constitutional Court will not be liable to dismissal. The court will deal with its members in the manner prescribed by the law.

Article 178. The Supreme Constitutional Court's verdict in constitutional cases and its decisions interpreting legislative decisions will be published in the *Official Gazette*. The law will deal with the effects of a verdict declaring a legislative decree unconstitutional.

THE SOCIALIST PUBLIC PROSECUTOR

Article 179. The socialist public prosecutor will be responsible for taking measures guaranteeing the rights of the people, insuring the safety of society and its political system, safeguarding socialist gains, and enforcing socialist conduct. The law will define his other jurisdictions. He will be subject to the supervision of the People's Assembly in the manner prescribed by the law.

Chapter VII

THE ARMED FORCES AND THE NATIONAL DEFENCE COUNCIL

Article 180. Only the State will form the armed forces who will belong to the people and whose duty will be to defend the country, its territorial safety and security, and protect the socialist gains of the people's struggle. No organization or group may set up military or paramilitary formations. The law defines the terms of service and promotion in the armed forces.

Article 181. General mobilization will be effected according to the law.

Article 182. A council to be called the National Defence Council will be formed. The President of the Republic will be its chairman. It will specialize in considering matters related to insuring the country's safety. The law will define other jurisdictions.

Article 183. The law will organize the military judiciary and define its jurisdictions within the limits of the principles mentioned in this constitution.

Chapter VIII

THE POLICE

Article 184. The police constitute a regular civil body. The President of the Republic is their supreme head. The Police will carry out their duty in serving the people. They will insure the tranquillity and security of citizens, see to the preservation of public order, security and morals, and implement the duties imposed on them by the laws and regulations in the manner prescribed by the law.

PART VI

General and interim rules

Article 185. Cairo will be the capital of the Arab Republic of Egypt.

Article 186. The law will determine the Egyptian flag and the regulations relative thereto. It will also determine the emblem of the State and the regulations relative thereto.

Article 187. The law will apply only to acts committed after it is enacted and will have no retroactive effect. Provisions to the contrary may by stipulated in a law, except in criminal cases, with the approval of the majority of the People's Assembly members.

Article 188. Laws will be published in the *Official Gazette* within 2 weeks from the date of their promulgation. Unless other dates are fixed, they will be enforced a month after the second day of their publication.

Article 189. The President of the Republic and the People's Assembly may ask that one or more articles of the constitution be amended. The application for amendment will list the pertinent articles and the reasons calling for their amendment. If the application is made by the People's Assembly, it must be signed by at least one-third of the members. In all cases the Assembly will debate the principle of amendment and issue a decision by a majority of its members. If the application is rejected, another application for the amendment of the same articles cannot be submitted before 1 year from the date of the rejection. If the People's Assembly approves the amendment in principle, the articles to be amended will be discussed 2 months after the approval. If two-thirds of the Assembly members approve the amendment, the amendment will be put to a public referendum. If the amendment is approved, it will be considered effective as of the date the referendum results are announced.

Article 190. The term of office of the present President of the Republic will expire 6 years after the date of his election as the President of the United Arab Republic.

Article 191. The provisions of all laws and regulations in force before the issuance of this constitution will remain appropriate and valid. They may be abrogated or amended according to the rules and procedures established in this constitution.

Article 192. The Supreme Court will exercise the jurisdictions prescribed in the law forming it until the Supreme Constitutional Court is formed.

Article 193. This Constitution will be enforced as of the date of the announcement of its approval by the people in a plebiscite.

EL SALVADOR

Regulations respecting safety and health in workplaces promulgated by Decree No. 7 of 2 February 1971 [1]

Summary [2]

The Regulations are divided into four parts, consist of 79 sections and entered into force eight days after their publication in the *Diario Oficial.*

As stated in section 1 of the Regulations, their purpose is to lay down minimum safety and health standards to be observed in performing work in work places, without prejudice to more detailed regulations issued for each industry in particular.

Section 2 provides that the Regulations shall be observed in all workplaces (private, of the State, municipalities and autonomous and semi-autonomous official institutions) and that special regulations shall apply to work places where agricultural, stock-farming and mining activities are carried on.

Other dispositions contained in the Regulations deal with hygiene in workplaces (sections 3-54) and safety in work centres (sections 55-72).

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[1] *Diario Oficial,* No. 27, 9 February 1971.

[2] Summary based upon English translation of the Decree, published by the International Labour Office—*Legislative Series,* 1971-Sal. 1.

ETHIOPIA

Order No. 70 of 13 April 1971 to provide for the establishment of a rehabilitation agency for the disabled [1]

Summary [2]

The Order consists of 14 sections and entered into force on the day of its publication in the *Negarit Gazeta*.

Section 2 states that in this Order, unless the context otherwise requires, "disabled" shall mean any person who, because of limitations of normal physical or mental health, is unable to earn his livelihood and does not have anyone to support him, and shall include any person who is unable to earn his livelihood because of young or old age.

Section 3 established a Rehabilitation Agency for the Disabled as an autonomous public authority having separate juridical personality.

The purpose of the Agency, as indicated in section 5, shall be to foster and facilitate, through direct assistance and extension services, increasingly effective participation of private charitable organizations engaged in the rehabilitation of the disabled.

Other dispositions of the Order deal with the powers and duties of the Agency (section 6), the composition of the Agency (section 7), the funds of the Agency (section 10) and the accounts and annual reports of the Agency (section 12).

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[1] *Negarit Gazeta*, No. 16, 13 April 1971.

[2] Summary based upon English translation of the Order, published by the International Labour Office—*Legislative Series*, 1971-Eth. 1.

FINLAND

NOTE [1]

I. Legislation

RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON

Act No. 783 of 26 November 1971 amending the Penal Code (*Suomen Asetuskokoelma*, hereinafter referred to as *AsK*—Official Statute Gazette of Finland—No. 783/71)

In connexion with the ratification of the Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970, the Penal Code was amended to the effect that certain acts mentioned in the Convention were penalized. For this purpose, a new article 14*a* was inserted in chapter 34 of the Code, according to which anyone who in an aircraft, by using violence or threat, unlawfully compels the captain or a member of the crew to take a measure relating to the pilotage of the aircraft or to give it up or who in the said way otherwise takes the aircraft in his control or interferes in the pilotage or the flight of the aircraft, shall be sentenced for the capture of an aircraft to hard labour for at least 2 and at most 12 years. If the capture does not cause a serious danger to the passengers or the crew of the aircraft or if the offence, taking into consideration all the circumstances leading to the offence or revealed in connexion with it as a whole, is otherwise to be deemed pettier than an ordinary capture, the offender shall be sentenced for the unlawful seizure of an aircraft to imprisonment which then may vary from 14 days to 4 years.

At the same time, a new paragraph 2 was inserted in article 3 of chapter 1 of the Code providing that a foreigner may be sentenced for an offence mentioned above in accordance with Finnish law, even where the offence is not penalized by the law of the State where it was committed.

2. ADMINISTRATION OF CRIMINAL JUSTICE

Act No. 303 of 23 April 1971 amending Act No. 317 of 9 July 1953 on the Isolation of Dangerous Recidivists (*AsK* No. 303/71)

The purpose of the original act, now amended, was to make it possible to isolate such convicts who, according to the criteria laid down in the act, were to be deemed as dangerous recidivists, in a penitentiary for a period not definitely fixed by the court. In determining who was to be regarded as a dangerous recidivist, no difference was made as to the nature of the offences committed by the convict. Consequently, many convicts who had been found guilty of practising thievery or other offences affecting property on a relatively small scale, came under the category of dangerous recidivist. This could not be considered reasonable, and the results of this criminal policy turned out to be unsatisfactory.

In this respect, the amendment has completely changed the criteria for dangerous recidivist. According to the new Act, such classification can be extended only to offenders who have been sentenced to prison for two years at least as found guilty of:

(1) Murder, manslaughter, serious wounding, robbery combined with outrage, violence, rape, arson causing danger to life, or other offence indicating outrage, violence or particular danger to the life or health of another person;

(2) Offences perpetrated in a single act or a continued offence containing elements of such violence or danger;

(3) Attempt at, or participation in, an offence indicating such violence or danger;

and who, 10 years prior to the offence or offences in question, have been found guilty of a similar offence and who, furthermore, in the light of the circumstances connected with their offences and other evidence concerning their personality, obviously have to be regarded as particularly dangerous to the life or health of other persons.

In cases as mentioned above, the court may, at the demand of the public prosecutor, determine that the convict be isolated in a penitentiary in accordance with the provisions of this act. Before making this decision, the court may seek the opinion of the National Board of Health or order that the accused be put under medical inspection in order to discover his state of mind and character.

A decision of the district or municipal court to the effect that the convict may be isolated in a peni-

[1] Note prepared by Mr. Voitto Saario, government-appointed correspondent of the *Yearbook on Human Rights*.

tentiary shall be submitted *ex officio* to the appropriate court of appeal for eventual review. The final decision as to whether or not a dangerous recidivist shall be isolated in the said way rests with a special body, the Prison Court, the members of which are the Chief of the Administration of Prisons and four other persons appointed by the President of the Republic for a term of five years. Two of them shall be experienced judges and one a physician experienced in the treatment of insanity.

The convict shall be given an opportunity to submit his objections at a session of the Prison Court, and he is entitled to be assisted by a counsel of his own choice. If he lacks his own means, he may be granted a free trial and counsel may be assigned to him at the State's expense.

A convict, isolated in a penitentiary, shall be released on probation when he has fully undergone the penalty inflicted upon him, which means that the total time he has spent in a prison and in a penitentiary corresponds to his sentence. However, if the Prison Court considers that he is still dangerous to the life or health of other persons, the release may be postponed. In such a case the question of release shall be taken up at six months' intervals at most. The time of probation is two years, which the Prison Court for special reasons may shorten or prolong by one year at most. Furthermore, the Prison Court may grant a convict isolated in a penitentiary conditional liberty for four weeks a year at most. This time shall be credited to him as part of his term of penalty, provided that he has followed the instructions given to him.

3. Freedom from attacks upon one's honour and reputation

Act No. 219 of 12 March 1971 on the Responsibility for Radio Broadcast (*AsK* No. 219/71)

The purpose of this act is to regulate the way a person who feels that his honour and reputation or lawful interest have been encroached upon by a broadcasting programme can seek a remedy for that encroachment.

The basic principle embodied in the act is that, if a broadcasting programme contains something which, according to the Penal Code, constitutes a criminal act, the person who is to be regarded as the perpetrator of the act or as an accessory to it shall be responsible for the act.

In order to facilitate the enforcement of this principle, any broadcasting company is bound to designate a responsible programme editor for each programme to be broadcast. His duty is to supervise the programme and prevent its broadcasting if the programme is criminal in content. No programme may be broadcast against the will of the responsible programme editor.

If the programme editor himself cannot be regarded as the perpetrator of a criminal act contained in a programme, he shall, nevertheless, be considered guilty of neglect of his supervisory duty and sentenced to a fine or imprisonment for one year at most, unless he can prove he has observed all necessary caution to prevent the criminal act in question.

The broadcasting company, together with the perpetrator of the criminal act and the responsible programme editor who has neglected his supervisory duty, is liable to provide indemnification for the injury caused by the broadcasting of such a programme.

Before a programme is broadcast, the name of the responsible programme editor shall be put on a list which is available to the public.

If a broadcasting company fails to designate a responsible programme editor or to put the name of the responsible programme editor on the list as mentioned above, the company itself or the person acting on behalf of the company shall be regarded as the responsible programme editor.

The City Court of Helsinki has jurisdiction over cases concerning requests for punishment or indemnification in connexion with a criminal act contained in a broadcasting programme.

4. Right to protection against unemployment

(*a*) Act No. 65 of 22 January 1971 on *Kehitysaluerahasto Oy* (The Developing Region Fund, Inc.) (*AsK* No. 65/71)

The combat against unemployment has continuously concerned the Finnish Government and various measures have been taken to overcome it. Since the employment situation is worse in those parts of the country which are lagging behind in their economic life compared to the commercial and industrial centres of the country, particular efforts have been made to encourage and subsidize local enterprises in these developing regions.

In order to facilitate financial aid to such enterprises, a special organ, the Developing Region Fund, Inc., was established by this act. At least 51 per cent of the shares of the corporation shall be owned by the State. The rest of the shares may be owned by rural or municipal communes, provinces, credit institutions, insurance companies, other companies or societies and private individuals.

The task of the corporation is to examine the possibilities of developing various branches of economic life in the regions which are lagging behind in this respect and to take the initiative in the establishment or enlargement of enterprises in such regions. The corporation may also grant loans to these enterprises and buy their shares in order to support them in their struggle against economic difficulties. Furthermore, the corporation may finance research work, training projects and economic elucidation purporting to facilitate the function of the enterprises concerned.

The loans granted to an enterprise for this purpose may amount to 75 per cent of the total investment value. Loans may even be granted without security for them. From the capital stock one half of the shares at most may be bought by the corporation itself, unless special reasons temporarily require a bigger acquisition of them.

The corporation is governed by an administrative council and board of directors. It functions under the supervision of the Ministry of Commerce and Industry.

(*b*) Act No. 946 of 23 December 1971 on Full Employment (*AsK* No. 946/71)

This act replaces the previous act of 28 June 1963 on the same subject (*AsK* No. 331/63). By the new act, the State assumes general responsibility for securing and improving the livelihood of citizens and for maintaining stable economic growth in the country. To this effect, the State shall promote balanced demand for and supply of labour in various fields and regions. In order to bring about full employment, the State shall endeavour to affect the demand for labour by measures in conformity with the general economic policy pursued by it. In particular, the State shall endeavour to promote the adaptation of the demand for and supply of labour in the labour market to the prevention of unemployment, on one hand, and the lack of labour, on the other, by measures of general labour policy. For this purpose, research work shall be done in order to ascertain the development of production, technology, labour and employment situation as well as the amount, quality and structure of labour.

Anyone seeking work shall be directed to work which is as suitable as possible for him. In order to facilitate this task, the State shall pursue vocational advice and employment service, promote the vocational and regional floating of labour and take care of the international change of apprentices.

Vocational training courses and other similar projects shall be so organized that the number of people to be trained and the duration of training periods can be increased at times when unemployment is threatening and, on the other hand the completion of training can be sped up at times when the employment situation is getting better.

The State, the communes and the federations of communes shall see to it that their investments are so timed as to stabilize conjucture fluctuations. Similarly, they shall time public works financed by them in such a way as to stabilize fluctuations in the demand for and supply of labour during a year.

When the State grants loans, subsidies or interest supports for the financing of private works of an investment nature, it shall impose certain conditions fixed by the Council of State on the receiver with a view to securing full employment.

If a person, despite all efforts made by the State and the commune concerned, remains unemployed the State shall take care of his maintenance in accordance with provisions specially enacted for this purpose.

The act contains detailed provisions on the machinery by which employment opportunities are created by the State, the rural and municipal communes and the federations of communes. The provisions concerning the enforcement of the act are contained in Decree No. 948 of 23 December 1971 (*AsK* No. 948/71).

5. Special care and assistance for children

Act No. 568 of 2 July 1971 on Educational Advisory Bureaux (*AsK* No. 568/71)

The Educational Advisory Bureaux have as their task to promote the sound psychical development of children and young people and for this purpose.

(1) Help by way of advice and guidance to custodians, teachers and authorities concerned in questions relating to the education of children and young people;

(2) Examine behaviour problems and psychical disturbances relating to the education and development of disturbances relating to the education and development of children and young people and take care of them by medical, psychological and social means;

(3) Render also other kinds of advisory service in this field.

An Educational Advisory Bureau shall have by-laws confirmed by the Ministry for Social Affairs and Public Health. It must also have a board consisting of at least six members, one of whom must be experienced in social welfare, one in public health and one in public education.

At an Educational Advisory Bureau, there must be at least one physician, one psychologist, one social welfare worker and other personnel according to the needs.

Educational Advisory Bureaux may be established and maintained either by private persons or organizations or by rural and municipal communes. In the latter case, all services rendered by such a Bureau shall be free of charge. All Educational Advisory Bureaux function under the supervision of the Ministry for Social Affairs and Public Health, and must give information and reports to the Ministry upon its request. On certain conditions, the Educational Advisory Bureaux may receive State subsidy.

II. International agreements

1. Decree No. 477 of 11 June 1971 brings into force in Finland the Convention on Offences and Certain Other Acts Committed on board Aircraft, done at Tokyo on 14 September 1963 (*AsK* No. 477/71).

2. Decree No. 640 of 5 August 1971 brings into force in Finland the European Convention on Extradition, done at Paris on 13 December 1957 (*AsK* No. 640/71).

In connexion with the ratification of the Convention, Finland reserved the right, when granting extradition, to stipulate that the extradited person may not be summoned to appear before a court which is only provisionally, or under exceptional circumstances, empowered to deal with the offences in question, as well as the right to refuse extradition for the execution of a sentence rendered by such special court.

Finland also reserved the right to refuse extradition in special cases if such a measure, for humanitarian reasons, would be unequitable on account of the age, the state of health or any other personal condition of the individual concerned or special circumstances.

The extradition of an individual on whom final judgement has not yet been passed for the offence in respect of which extradition is requested shall be granted only if the offence corresponds

to an offence wich is punishable under Finnish law by a sentence of imprisonment for more than one year. If an individual has been sentenced for such an offence in a foreign State, Finland may grant extradition only if the part of the punishment not yet undergone is at least four months' loss of liberty.

Furthermore, Finland reserved the right to regard the taking or attempted taking of the life of a Head of State or a member of his family as a political offence if it is committed in an open battle.

Where an offence under military law also comprises an offence in respect of which extradition is permitted, Finland reserved the right to stipulate that the extradited person may not be penalized in application of provisions relating to offences committed by members of the armed force.

If the person whose extradition has been granted has not been taken over on the date appointed by the requesting State, Finland reserved the right immediately to release the person.

3. Decree No. 909 of 17 December 1971 brings into force in Finland the Agreement on Cultural Co-operation among Denmark, Finland, Iceland, Norway and Sweden, adopted in Helsinki on 15 March 1971 (*AsK* No. 909/71).

The purpose of this Agreement is to strengthen and improve co-operation among the contracting parties in the field of culture by developing further the common cultural interests of the Nordic countries and by increasing the total effect of the investments made by the contracting parties in education, research work and other cultural activities by means of common planning, coherence, co-operation and division of efforts. The agreement also aims at creating a basis for a coherent participation in international cultural co-operation.

4. Decree No. 1011 of 17 December 1971 brings into force in Finland the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 (*AsK* No.1011/71).

GABON

Ordinance No. 12/71/PR of 26 February 1971 Establishing the National Gabonese Women's Union [1]

(Extracts)

TITLE I

Objective

Article 1. There shall be established within the Gabonese Democratic Party a National Gabonese Women's Union, a public institution for social development, information and joint endeavour open to all female Gabonese citizens, without distinction as to ethnic or social origin or faith.

The National Gabonese Women's Union shall keep women informed of all matters relating to the status of women, shall receive, study and propose any useful suggestion in that field, and shall ensure that women receive training in all fields, with a view to assisting their full social, cultural and political developent in accordance with the guidelines laid down by the Government.

The National Gabonese Women's Union shall be placed under the supervision of the Minister for Social Affairs.

Article 2. However, a woman may not belong to the National Gabonese Women's Union:

If she is unable to exercise her civic rights;

If she is not at least 16 years of age.

TITLE II

Organization

Article 3. The National Council shall be the highest body of the National Gabonese Women's Union and shall be responsible for preparing the Union's programme of activities in accordance with the policy laid down by the Government in the field of women's development.

...

Article 4. The implementation of the programme established by the National Council shall be entrusted to a National Office of the National Gabonese Women's Union consisting of the members of the National Council residing at Libreville ...

Article 5. The National Gabonese Women's Union shall be represented in each region and in the commune of Libreville by an *animatrice*, who shall be responsible for implementing and coordinating the programme of activities prepared by the National Office.

The regional *animatrice* shall represent the region in the National Council of the Union.

Article 6. A section of the National Gabonese Women's Union shall be established in each district. However, there may be several sections in the urban centres of Libreville and Port-Gentil.

Each section shall be placed under the supervision of a female official, who shall be responsible, *inter alia*, for organizing:

The activities of the Women's Centre in accordance with the programme prepared by the regional *animatrice*;

Observances to celebrate national or local holidays;

Exhibitions, at least twice yearly, of articles created by women belonging to the section.

The supervisor of the Women's Centre shall represent the section in dealing with the local administrative authorities. She shall forward progress reports quarterly to the regional office.

Article 7. Villages or groups of villages may establish committees to implement the guidelines prepared by the sections, to which they shall be directly attached.

...

[1] *Journal officiel de la République gabonaise*, No. 7, 1 April 1971.

Ordinance No. 13/71 of 3 March 1971 amending the Act Governing the Admission of Aliens to and their Residence in Gabon [2]

Article 1. Articles 5, 10 and 11 of Act No. 34/62 governing the admission of aliens to and their residence in Gabon shall be amended as follows:

"*New article 5.* An alien who is called upon to reside in Gabon for a period exceeding three months must possess a residence card, which shall be issued to him only upon presentation of a copy of his police record issued within the past three months by a competent authority in his country of origin.

"Persons who are not required under the existing regulations to deposit security shall not be required to produce the latter document."

"*New article 10.* An alien who has entered the territory irregularly, who has not left it upon the expiry of his allotted period of residence, or whose residence card has been withdrawn during its period of validity may be expelled without prejudice to any penalties incurred."

"*New article 11.* An alien who has received a sentence that has become final or who has been sentenced to a penalty affecting his person and honour or a penalty for committing an act prejudicial to the external or internal security of the State, public policy and safety, the authority of the State and the credit of the nation, shall automatically be expelled.

"Aliens may be expelled in accordance with a procedure established by decree if their presence in the territory constitutes a threat to the maintenance of public order, the protection of health, morality, or public safety, or for any other reason which may be decided by the President of the Republic.

"Expulsion orders shall be issued by the Minister of the Interior except in the case of persons in possession of a "privileged resident" card, who may be expelled only by presidential decree."

Article 2. This ordinance shall be applied as a law of the State and shall be published in accordance with emergency procedure.

[2] *Ibid.*

Act No. 16/70 of 17 December 1970 amending an article of the Penal Code [3]

Article 1. Article 141 of Act No. 21/63 of 31 May 1963 establishing the Penal Code shall be amended as follows:

"Any official or agent of the State or of a public body who embezzles or misappropriates public or private funds or bills of an equivalent value, or documents, securities, bills of exchange or personal property of which he was the depositary by reason of his office, shall be sentenced to hard labour for life if the value of the property embezzled or misappropriated exceeds 250,000 francs.

"If the value of the property embezzled or misappropriated does not exceed 250,000 francs, the penalty shall be imprisonment for not less than two years or more than ten years.

"In either case, an offender who has been sentenced shall be for ever debarred from holding public office.

"In addition, a fine of not more than one fourth and not less than one twelfth of the amount owing and of any compensation shall be imposed on him.

"In no case may the provisions of article 41 of this Code be applied to a sentenced offender.

"Sentenced offenders may be prohibited from exercising, in whole or in part, the civic, civil and family rights enumerated in article 18. If a complaint is filed by the Minister to whom the sentenced offender is responsible or by the Minister of Finance, proceedings may be instituted by the public authorities even if no repayment order has been issued."

Article 2. This Act shall be applied as a law of the State and shall be published in accordance with emergency procedure.

[3] *Ibid.*, No. 11, 29 May 1971. Extracts from the Penal Code appear in the *Yearbook on Human Rights for 1963*, pp. 132-137.

Act No. 17/70 of 17 December 1970 establishing a special Court to deal with the embezzlement of public funds [4]

(Extracts)

Article 1. Any official or agent of the State or a public body who embezzles or misappropriates funds valued in excess of 250,000 francs within the meaning of article 141 of the Penal Code shall be brought before a special Criminal Court.

Article 2. The special Criminal Court shall consist of a president, appointed by decree from among the judges on the bench, and four assistant judges at least 25 years of age, who shall have a deliberative voice and shall also be appointed by decree.

...

Article 3. The functions of the *Ministère public* in the special Criminal Court shall be discharged by the *Procureur général* of the judicial chamber of the Supreme Court, or by his representative.

Article 4. The functions of the office of the clerk of the court shall be discharged by the office of the clerk of the judicial chamber of the Supreme Court.

...

Article 7. Preliminary investigations in cases brought before the special Criminal Court shall be conducted by one of the examining judges of the court of main instance of Libreville, who shall be appointed by the senior examining judge of this court.

Article 8. The proceedings and the preliminary investigation shall be conducted in accordance with the rules of ordinary law in criminal matters...

Article 17. The present Act shall be applied as a law of the State and shall be published in accordance with emergency procedure.

...

[4] *Ibid.*

GREECE

Legislative Decree No. 890 of 27 May 1971 respecting Occupational Associations and Federations [1]

Summary[2]

As stated in section 1 of the Legislative Decree, occupational associations and their federations shall have as their aims and objects the study, protection and promotion of the moral, economic and occupational interests of their members. Section 1 further states that workers and employers shall have the right, without distinction of any kind and without requiring prior authorization, to constitute occupational associations of workers and employers and to affiliate thereto, subject only to the condition that they observe the law and rules of such associations.

Under section 3, it is unlawful for workers and employers to be members of the same occupational association or federation, and it is also unlawful for civil servants and established employees of public bodies to join or be members of an occupational association of manual or non-manual workers in the private sector.

Section 4 provides that it is unlawful for employers or their agents or representatives *inter alia* to prevent or deter members of their personnel from setting up occupational associations or federations or becoming members thereof, by dismissing them or threatening to dismiss them from their employment, or by any other unlawful means, and to compel them by the same means to set up occupational associations or federations or to become members of certain occupational organizations of this kind.

In so far as political dependence is concerned it is, as indicated in section 5, unlawful for any occupational association or federation to be dependent on a political party or to be involved in activities having direct or indirect political aims.

By virtue of section 8, occupational associations or federations may become members of international workers' or employers' organizations, as the case may be, in accordance with their own rules.

As provided for in section 9, an occupational association or federation shall have the right to submit, through its authorized representatives, to the competent administrative or judicial authorities complaints concerning the infringement of provisions concerning workers' protection.

Other provisions of the Legislative Decree deal with registers of trade union bodies, rules of workers' occupational associations or federations, general members' meetings, the administration of organisations' property, the protection of trade union officials, strikes and lockouts, pensioners' association and federations, and civil and criminal law penalties.

[1] *Efemeris tes Kyberneseos*, Part I, No. 106, 28 May 1971.

[2] Summary based upon English translation of the Legislative Decree, published by the International Labour Office—*Legislative Series*, 1971-Gr. 1(A).

Legislative Decree No. 891 of 27 May 1971 respecting Financial Support to Workers' Associations and Federations [3]

Summary [4]

Section 1 of the Legislative Decree concerns the establishment of a corporate body in private law entitled "Trade Union Special Fund Management Organisation" (ODEPES), having as its objectives the financial support of all workers' occupational associations and federations lawfully active in the country, and the safeguard of the free exercise of trade union rights.

Section 6 provides that any dispute arising between an association or federation entitled to receive the financial support provided for in this Legislative Decree and the Organisation shall be submitted to the court of first instance competent for the place where the occupational association or federation has its headquarters: the procedure to be followed shall be that applying in the case of industrial disputes referred to in section 691 *et seq.* of the Code of Civil Procedure (except the conciliation procedure before a conciliation board).

Other provisions of the Legislative Decree deal with assets of the Organisation, organisations entitled to financial support, and the amount of financial support.

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[3] *Efemeris tes Kyberneseos,* Part I, No. 106, 28 May 1971.

[4] Summary based upon English translation of the Legislative Decree, published by the International Labour Office—*Legislative Series*-Gr. 1(B).

GUYANA*

Act No. 14 of 1970
Judicial Committee of the Privy Council (Termination of Appeals) Act, 1970

Assented to on 3 July 1970

(Extracts)

I. Legislation

...

2. (1) The jurisdiction conferred on the Judicial Committee by article 92(4) of the Constitution is hereby abolished.

(2) Nothing in subsection (1) shall affect any appeal or petition for special leave to appeal to the Judicial Comittee from a decision of the Court of Appeal, being an appeal or a petition that was pending immediately before 1 June 1970, and:

(*a*) In the case of an appeal, is one in which the records were registered in the Office of the Privy Council before 1 June 1970; or

(*b*) In the case of a petition, is one that was filed in that Office before 1 June 1970.

(3) In this section, "the Judicial Committee" has the meaning assigned to it by article 125(1) of the Constitution.

II. Judicial decisions

J. W. Evelyn v. *William Chichester*, civil appeal No. 29 of 1969, Court of Appeal of the Supreme Court of Judicature of the Republic of Guyana.

The respondent, W. Chichester, was a deckhand employed on one of the vessels of the Transport and Harbours Department, a department of the Government of Guyana. By letter dated 25 November 1968, he was dismissed by the appellant, J. W. Evelyn, the General Manager of that department, and debarred from obtaining any further employment therefrom. As a consequence, the High Court of the Supreme Court of Judicature of Guyana was moved by the said respondent Chichester by *certiorari* proceedings to have this record of dismissal quashed and set aside on the ground that it was made contrary to law and offended certain legal principles. The application was succesful. The appellant appealed to the Court of Appeal of the Supreme Court of Judicature to obtain a reversal of the order which was handed down by the Court of First Instance. The Court of Appeal by a unanimous decision, affirmed the order of the trial judge and dismissed the appeal with costs.

It was urged on behalf of the appellant that the respondent was a public officer employed by the Government of Guyana and as such was liable to be dismissed at pleasure, and that the General Manager when he actually dismissed him was acting for and on behalf of the Public Service Commission which was created and established under article 96 of the Constitution. During the examination of the legal issues controverted in the instant case, the Court ruled that the effect of article 119 was to exclude the jurisdiction of the Court to make enquiry into the functions of a commission (in the instant case, the Public Service Commission) but that, having regard to the provisions of article 125 (8), it was entitled to enquire:

(*a*) Whether an examination of the Constitution would support a finding for the competence of the Commission since a commission cannot arrogate to itself powers not vested in it by the Constitution, and,

(*b*) Whether the Commission in the exercise of its functions acted in accordance with the applicable law.

* Texts furnished by the Government of Guyana.

HAITI

National Assembly Decree of 14 January 1971 [1]

(Extracts)

Article 1. The Constitution of 1964, [2] with the amendments to articles 8, 47, 51, 53, 56, 91, 92, 93, 94, 101, 102, 103, 155, 158, 196, 197 and 200 thereof, is proclaimed the basic Charter of the Republic of Haiti.

. . .

[Articles 8, 47, 51, 56, 91, 92, 198 and 199 of the amended Constitution read as follows:

"*Article 8.* All Haitians of either sex who have completed their eighteenth year may exercise their civil and political rights provided they fulfil the conditions laid down in the Constitution and the law."

"*Article 47.* Subject to the provisions of the preceding article, the exercise of national sovereignty is delegated to three powers: the executive power, the legislative power and the judicial power.

They constitute the government of the republic, which is essentially civil, democratic and representative."

"*Article 51.* A member of the legislative body must:

1. Be a Haitian who has never renounced his nationality;

2. Have completed his eighteenth year;

3. Be in enjoyment of his civil and political rights; and

4. Have resided at least five years in the district to be represented."

"*Article 56.* The powers of the National Assembly are:

1. To declare war upon the advice of the executive power;

2. To approve or reject treaties of peace and other treaties and international conventions;

3. To revise the Constitution;

4. To constitute itself a high court of justice."

"*Article 91.* A President of the Republic must:

1. Be Haitian-born and never have renounced his nationality;

2. Have completed his eighteenth year;

3. Be in enjoyment of his civil and political rights;

4. Have his domicile in the country; and

5. Have already received a discharge from his duties if he has been responsible for the management of public funds."

"*Article 92.* Before taking office, the President of the Republic takes the following oath before any official of the judiciary of his choice:

'I swear before God and before the nation faithfully to observe and enforce the Constitution and the laws of the Republic, to respect the rights of the Haitian people, to work for their prosperity and greatness and to maintain national independence and the integrity of the territory'."

"*Article 198.* The legislative power may declare during a regular session, on the proposal of one of its members or of the executive power, that the provisions of the Constitution in effect must be partially or totally revised.

The President of the Republic shall be notified immediately of the declaration, which shall be published in the *Journal Officiel.*

Once the declaration has been published the legislature shall meet as the National Assembly to decide on the proposed revision either at the same session or at an extraordinary session."

"*Article 199.* Once the revision is completed the National Assembly shall hold a special meeting to proclaim the new Constitution if the Constitution has been totally revised or the amended provisions if the revision has been only partial and, in that case, it will incorporate the amended provisions in the Constitution."]

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[1] *Le Moniteur,* No. 6-A of 20 January 1971.

[2] For extracts from the Constitution of 1964, see *Yearbook on Human Rights for 1964,* pp. 128-134.

Act of 16 June 1971 [3]

Article 1. The religions, sects and churches whose relations with the Haitian State are not governed by a concordat or by any other kind of treaty and which also carry out their mission under the supervision of the Secretariat of State for Public Worship shall require written authorization to initiate or continue their programmes from that Secretariat of State which shall determine on what conditions the authorization shall be granted.

Article 2. The religions, sects and churches which have been recognized by the Haitian Government and are already carrying on activities in Haiti, shall have three (3) months, starting from the promulgation of this Act, in which to submit to the Secretariat of State for Public Worship three (3) copies of their detailed plan of action in spiritual and temporal matters.

Article 3. These religions, sects and churches may not establish any new mission in Haiti without a special authorization from the Secretariat of State for Public Worship. The conditions on which such authorization may be granted, shall be set forth in internal regulations.

Article 4. Priests, ministers, archdeacons, vicars, bishops and persons holding any other office in those religions, sects and churches who are thereby likely to have an influence on the education of the Haitian people and on future generations may not carry on their ministry without a written authorization from the Secretariat of State for Public Worship. If the Secretariat of State should see fit to postpone or withhold its approval it shall so inform the person concerned and his superiors.

Article 5. Once the Secretariat of State for Public Worship has granted its approval, the persons concerned shall enjoy all the prerogatives attached to their office, the protection of Haitian law and the assistance and support of the Haitian Government so as to ensure the complete success of their mission.

Article 6. These reformed religions, sects and churches shall include in the litany of their religious observances a special prayer calling for Heaven's blessings on the country and on the Chief of State and his Government.

Article 7. This Act shall rescind all Acts and clauses thereof, all decrees and provisions thereof and all legislative decrees and provisions thereof which are not consistent with it. It shall be published and the Secretaries of State for Public Worship and Foreign Affairs of the Interior and Nations Defence and of Social Affairs shall be responsible for its application, each in his own sphere.

[3] *Le Moniteur*, No. 52, 1 July 1971.

HONDURAS

Decree No. 110 of 20 January 1971 [1] adopted by the National Congress

Article 1. Articles 28, 36 and 93 of the Electoral Act [2] shall be amended to read as follows:

"*Article 28.* Political parties may form coalitions in order to constitute blocks of selected candidates in the elections refered to in that Act, provided that the coalition is formed at least 60 days before the elections, if it is a complete coalition, and 30 days before the elections, if it is a partial coalition. The organization responsible shall communicate to the National Elections Council the bases and purposes of the coalition within 20 working days after the decision to group the parties has been taken. When three or more registered political parties form a coalition, the coalition parties shall have the right to appoint a regular member and an alternate to each of the electoral bodies as though the coalition were a single political party. If the coalition is only partial, each political party shall retain its own representatives. The coalitions and pacts entered into by legally registered political parties are governed by public law, are legally binding and must be respected during the term prescribed in the coalition or pact."

"*Article 36.* The central directing body of the legally registered political parties shall take the necessary steps with the National Elections Council to ensure that the registration of the candidates to the Presidency of the Republic, of those who have been designated for the presidency, and of Deputies to the National Congress or the National Constituent Assembly, as the case may be. Deputies shall be citizens in full enjoyment of their rights, over 25 years of age, Honduran by birth and inhabitants of or residing near to the Department for which they were elected."

"*Article 93.* The voting papers shall consist of a small piece of white paper of the size and kind specified by the National Elections Council. At the top it shall bear the name of the Council. The insignia representing the political parties participating in the election shall be shown separately and very clearly and shall be properly identified by means of a caption; the papers shall indicate as clearly as possible the square in which the elector is to record his vote. The insignia of coalitions shall also be recorded on the voting paper when they are complete coalitions, but this requirement need not be met when the coalitions are partial. In order to decide on the characteristics of the voting papers, the National Elections Council shall hold a special meeting to which it shall invite the representatives of the political parties. What has been decided shall be communicated to them, sufficiently early, and the National Elections Council shall be under the obligation to disseminate the decisions widely so that they may be generally known. The voting paper referred to in this article shall be provided by the National Elections Council, which shall be under the obligation to send sufficient quantities of them to the Local Elections Councils in due time for holding the elections that have been called."

Article 2. This Decree shall enter into force on the date of its publication in the Official Gazette, *La Gaceta.*

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[1] *La Gaceta*, No. 20288, 29 January 1971.

[2] For extracts from the Electoral Act, see *Yearbook of Human Rights for 1966*, pp. 168-173.

Presidential Decision No. 68 of 15 May 1971

Came into force on the date of publication in the official gazette, LA GACETA [3]

(Extracts)

Regulations for the application of the social security act

TITLE I

Field of application

Chapter I

FORM OF APPLICATION

Article 1. The social security system shall be introduced gradually and progressively in so far as the risks covered, the geographical areas of applicability and the categories of workers protected are concerned.

Article 2. These regulations shall govern the application of social security covering the following risks: illness and ordinary accidents, maternity, work accidents and occupational diseases, disability, old age and death.

Article 3. The Board of Directors of the Institute shall determine the limits of the field of application of social security and shall extend or amend them by a decision which must be approved by the Executive Power before it can enter into force.

[3] *La Gaceta*, No. 20394, 8 June 1971.

Chapter II

WORKERS COVERED BY COMPULSORY SOCIAL SECURITY

Article 4. The following shall come under the compulsory social security system:

(1) Private employees serving natural or legal persons, whatever type of labour contract or form of remuneration they may have.

(2) Civil servants, employees of autonomous and semi-autonomous bodies and of the decentralized agencies of the State.

Article 5. A worker is any natural person who for the payment of a remuneration and under a work contract or relationship or an apprenticeship arrangement provides material or intellectual services, or both or either, for other natural or legal persons who come under the social security system.

Article 6. The following shall be exempt from compulsory social security until the terms on which they shall compulsorily insured have been fixed:

(1) Workers in cottage industries;

(2) Domestic workers;

(3) Seasonal workers;

(4) Casual workers engaged on work unconnected with the usual activities of the employer;

(5) Agricultural workers, unless they work for an employer who employs more than 10 permanent workers.

...

HUNGARY

NOTE [1]

Act III of 1970 amending Act III of 1966 on the Election of Members of the National Assembly and Council Members [2]

The law prescribes the establishment of individual constituencies in the election of members both to the National Assembly and to the local councils. The members are directly elected on the basis of universal and equal suffrage. Members of the Budapest municipal council and of the county councils are elected by the local councils.

Act I of 1971 on Councils

The law enhances the role of the councils in carrying on the local affairs of state administration and in providing for the population, and it enlarges the participation of the people in discharging the functions of the councils. It is laid down in the law that the councils and their bodies are representative self-governing organs which handle their affairs with the assistance of the Patriotic People's Front, of the mass and other organizations of the population, and in close co-operation with them.

Act III of 1971 on Co-operatives

The law regulates the conditions of the beginning and termination of membership, the members' rights and duties, the property relations between the member and the co-operative, as well as the labour conditions of the members. It regulates furthermore the conditions of granting various social benefits to co-operative members and the ways of settling membership disputes, and it specifies the representative organs of co-operatives.

Act IV of 1971 on Youth

By defining the basic rights and duties of the youth and the tasks of state organs and co-operatives, the law promotes the participation of youth in the building up of socialism. It contains detailed provisions on the education and teaching of youth, their participation in public and social life, their social conditions and health protection, their cultural and sporting activities and their social organizations.

Law-decree No. 4 of 1970 on Passports

In virtue of article 3, paragraph (1), of the Law-Decree every Hungarian citizen has the right to obtain a passport and go abroad in so far as he meets the statutory requirements. The types of passport are the following: diplomatic passport, foreign service passport, service passport, navigator's service passport, individual passport, collective passport, emigrant's passport, consular passport, frontier pass, repatriation permit.

Law-decree No. 7 of 1970 on General Amnesty

On the occasion of the twenty-fifth anniversary of the liberation of Hungary the Presidential Council of the People's Republic exercises the right of executive or procedural amnesty in favour of the persons defined in the law-decree. Besides, the persons enumerated therein are exempted from the disadvantages ensuing from previous convictions.

Law-decree No. 35 of 1970 on Associations

The formation of an association may be initiated by state, social and co-operative organs as well as by private citizens. Any adult Hungarian citizen may become a member of an association.

Law-decree No. 28 of 1971 amending and complementing the Criminal Code

The primary aim of the law-decree is to differentiate the ways of criminal prosecution further. At variance with the former conception in which criminal offences were uniformly regarded as crimes, the law-decree distinguishes two categories: felonies and delicts qualified according to the degree of their dangerousness to society. Capital punishment continues to be an exceptional kind of penalty; what is more, the law-decree even restricts the scope of the criminal offences punishable with death. It introduces the imposition of life sentence, relaxes the conditions of exemption from the disadvantages resulting

[1] Note furnished by the Government of Hungary.

[2] For a summary of Act III of 1966, see *Yearbook on Human Rights for 1966*, p. 175.

from previous convictions, differentiates the enforcement of loss of liberty and accordingly specifies four grades of punishment (penal servitude, severe prison, confinement, imprisonment).

Government decree No. 45/1970 (XI.4) on Regular Yearly Increases in Old-age Pensions and Other Allowances

The allowances due in a certain amount fixed by the statute shall be increased by two per cent every calendar year. The already fixed amount of old-age pensions shall be raised by 2 per cent.

Government Decrees Nos. 1/1971 (II.8), 2/1971 (II.8), 3/1971 (II.8), 4/1971 (II.8), 5/1971 (II.8), 6/1971 (II.8) and 7/1971 (II.8) on the Construction and Distribution of Flats, on House Rents, Rent Allowances, Housing Contributions and Other Favours

These legal regulations are aimed at developing a differentiated housing economy and sound housing policies. With this end in view, the new flats are distributed among the lawful claimants on the basis of their financial and social circumstances. Special favours are granted to families with children and to young married couples.

Government Decision No. 1013/1970 (V.10) on Improvement of the Economic and Social Conditions of Women

According to the decision, it shall be the responsibility of the managers and directors of the enterprises, institutions and co-operatives to ensure that women receive equal pay with men for work of equal value. In filling the leading posts care shall be taken that women with executive abilities are not put in a less advantageous position than men.

Government Decision No. 1016/1970 (V.24) on Some Questions of Youth Policy

The Government transforms the National Council of Education into a National Council of Youth Policy and Education. The task of the Council shall be to promote state guidance of youth policy, to follow and co-ordinate related activities of state bodies, and to supervise the effective utilization of the public means made available for this purpose.

Government Decision No. 1014/1971 (IV.28) on General Principles for Improving the System of Extension Training of Workers

In accordance with the decision, the enterprises, with due consideration to the characteristics of their respective sectors, shall at definite intervals provide extension training to their workers, especially skilled workers. This training shall be free of charge and organized by the enterprises themselves.

Government Decision No. 1029/1971 (VII.3) on the Further Development of the Vocational Guidance of Youth

The decision makes the vocational guidance of youth an integral part of the teaching and educational process taking place in the primary and secondary schools. The related administration is entrusted to the Minister of Labour who discharges this function with the assistance of the National Council of Vocational Guidance and the ministries concerned.

Government Decision No. 1045/1971 (X.27) on Assistance in the Continued Education of Children of Manual Workers

The education of manual workers' children shall be promoted, first of all in the upper grades of primary school (10 to 14 years of age) and in secondary school (14 to 18 years), by social and pedagogical means. The decision provides for the institution, from 1973 on, of scholarships to help talented and diligent children of manual workers to pursue studies in secondary school.

IRAN[1]

Copyright Act (22 Dey 1348/12 January 1970)

(Extracts)

Chapter I

DEFINITIONS

Article 1. For the purposes of this act, the term "author" means any writer, composer or artist and the term "work" means anything produced by such a person by means of his scholarship, art or creative skill, regardless of the method employed.

Article 2. The works protected under this act are as follows:

1. Books, treatises, pamphlets, plays and any other written works of a scientific, technical, literary or artistic nature;

2. Poems, lyrics, songs and other vocal compositions. however written, recorded or published;

3. Audio-visual works for presentation on stage, screen, radio or television, however written, recorded or published;

4. Musical works, however written, recorded or published;

5. Paintings, drawings, sketches, engravings, original geographical maps, calligraphic works and any other kind of decorative or depictive work produced by any single or composite process;

6. Any kind of statuary;

7. Architectural works, such as designs and plans for buildings;

8. Photographic works produced by an original and innovative process;

9. Original works relating to industry, handicrafts and carpet designing;

10. Original works based on folklore or the national cultural and artistic heritage;

11. Technical works of an original and innovative character;

12. Any kind of original work produced by a combination of any of the above-mentioned categories.

Chapter II

AUTHOR'S RIGHTS

Article 3. The rights of the author shall comprise the exclusive right of publication, broadcasting, exhibition and presentation of his work and the right of moral and material exploitation of his name and his work.

Article 4. The moral rights of the author shall not be subject to any limitation of time or place and shall be non-transferable.

Article 5. Authors of works protected under this Act shall enjoy material rights, on a non-transferable basis, in respect of all of the following:

1. The production of cinematographic and television films and the like;

2. Stage performances, such as theatre, ballet and other kinds of spectacle;

3. Making a visual or sound recording of the work on a disc or on tape or by any other means;

4. Broadcasting by radio, television and any other media;

5. Translation, publication, reproduction and exhibition of the work by printing, portrayal, photography, engraving, stereotype, moulding and the like;

6. Use of the work in scientific, literary, industrial, handicraft and publicity operations;

7. Use of the work in the assembly or production of any of the other works listed in article 2 of this Act.

Article 6. A work produced by the collaboration of two or more authors in which the contribution of each author is not separate from the contribution of the other author or authors shall be termed a "work of joint authorship", and the rights pertaining thereto shall be held in common by the authors.

Article 7. Quotations from and the use of published works for literary, scientific, technical and educational purposes and for purposes of criticism with acknowledgement of the source shall be permissible within reasonable limits.

[1] Texts furnished by Dr. Jalal Abdoh, government-appointed correspondent of the *Yearbook on Human Rights.*

Note. Acknowledgement of the source shall not be obligatory in the case of lessons prepared and reproduced by teachers in educational establishments for instruction in such establishments, provided that there is no element of exploitation for profit.

Article 8. Public libraries, institutions for the collection of publications and educational and scientific establishments which are administered on a non-profit basis may copy works protected under this Act by photocopying or similar processes to the extent that is necessary and congruent with their functions, in accordance with regulations to be approved by the Council of Ministers.

Article 9. The Ministry of Information may continue, after the approval of this Act, to make use of works broadcast or published by it before the approval of this Act, on the same basis as in the past.

Article 10. The Ministry of Education may continue to make use of works printed and published by it under the textbook Act before the approval of this Act, on the same basis as in the past.

Article 11. The copying of the works listed in article 2, subparagraph 1, above, as protected under this Act and the recording of radio and television programmes shall be permitted only for personal use and not for exploitation for profit.

Chapter III

DURATION OF THE AUTHOR'S RIGHTS AND OF OTHER LEGAL SAFEGUARDS

Article 12. The duration of the author's material rights set forth in this Act, where transferred by assignment or by inheritance, shall be 30 years from the date of the author's death. If there is no heir and the rights have not been transferred by assignment, they shall be placed at the disposal of the Ministy of Culture and Art for the same period for the purpose of general use.

Note. The duration of protection of a work of joint authorship, as defined in article 6 of this act, shall be 30 years from the death of the author who dies last.

Article 13. The material rights in a work that has been commissioned shall belong to the person who commissioned it for 30 years from the date of its production, except where a shorter period or a more limited régime is agreed upon.

Note. Monetary and honorary prizes awarded in scientific, artistic and literary competitions in accordance with the terms of the competition for works protected under this act and coming within the scope of the present article shall be the property of the author.

Article 14. A person to whom the rights of the author are transferred shall enjoy those rights for a period of 30 years from the date of the transfer, except where a shorter period is agreed upon.

Article 15. With regard to articles 13 and 14, upon the expiry of the period stipulated in those articles, enjoyment of the rights mentioned therein shall revert to the author if he is still living and, if the author is not still living, shall be subject to the régime provided for in article 12.

Article 16. In respect of the following, the material rights of the author shall be protected under this Act for a period of 30 years from the date of publication or first presentaion:

1. Cinematographic and photographic works;

2. Any work which is the property of a legal person or the rights to which have been transferred to a legal person.

Article 17. The name, title and special distinguishing mark of a work shall enjoy protection under this Act, and no one shall be permitted to use them for another work of the same or of a similar kind in a misleading manner.

Article 18. Persons to whom rights have been transferred, publishers and persons who have permission, in accordance with this Act, to quote or otherwise use a work for the purpose of exploitation for profit shall be obliged to indicate the name of the author, title and special distinguishing mark of the work, in the appropriate customary manner.

Article 19. Any alteration or distortion of works protected by this Act and the publication of such works without the author's permission shall be prohibited.

Article 20. Printing-houses, sound-recording enterprises, and establishments and persons engaging in the printing, publishing, broadcasting, recording or reproduction of works protected under this Act shall be obliged to indicate the number of impressions and number of copies of each book, recording, reproduction, broadcast or publication and the serial number of each musical and vocal disc on each unit issued, together with the date and the name of the printing-house, enterprise or establishment concerned.

Article 21. Authors may register their works, with the names, titles and special distinguishing marks thereof, at the centres publicly designated for each type of work by the Ministry of Culture and Art.

Regulations concerning the procedure for performance of the registration formalities and the designation of the authority competent to receive applications for registration shall be submitted for approval to the Council of Ministers.

Article 22. The material rights of the author shall come under the protection of this Act at the time of the first printing, broadcasting, publication or performance of his work in Iran, provided that such work has not been printed, published, broadcast or performed previously in any other country.

Chapter IV

INFRINGEMENTS AND PENALTIES

Article 23. Any person who publishes, broadcasts or exhibits the whole or a part of a work produced by another and protected under this Act, either under his own name or under the author's name without the latter's permission or knowingly and deliberately under the name of a third person other than the author shall be sentenced to corrective detention for a term of six months to three years.

Article 24. Any person who without permission prints, broadcasts or publishes under his own name or that of another a translation produced by another shall be sentenced to corrective detention for a term of three months to one year.

Article 25. Any person who infringes article 17, 18, 19 or 20 of this Act shall be sentenced to corrective detention for a period of three months to one year.

Article 26. With regard to persons infringing article 17, 18 19 or 20 of this Act, in cases where, owing to the expiry of the duration of the author's rights, a work may, subject to the provisions of this Act, be freely used by all, the Ministry of Culture and Art shall act as plaintiff

Article 27. The plaintiff may request the court which renders the final judgement to publish the substance of the judgement at its own expense in the newspaper of its choice.

Article 28. Where the infringer of this Act is a legal person, in addition to the prosecution of the individual who by his decision was responsible for the commission of the offence, the damages of the plaintiff shall be paid from the assets of the legal person concerned. If the assets of the legal person concerned are insufficient for this purpose, the difference shall be paid from the assets of the individual responsible for committing the offence.

Article 29. While the suit is pending, the judicial authorities may issue an order to the officers of the court to prevent the publishing, broadcasting or exhibition of the works which are the subject of the suit.

Article 30. Works produced before the approval of this Act shall enjoy protection thereunder. Persons who, up to the date of the approval of this Act, have made use of or exploited for profit the works of others without permission shall henceforth not have the right to publish, perform, broadcast, reproduce, exhibit or sell such works except with the permission of the author or his representative and subject to the provisions of this Act. Any person who infringes the provisions of this article and, similarly, any person who, in order to evade the legal penalty, antedates the printing, recording, reproduction or exploitation of a work to the period preceding the approval of this Act shall be sentenced to the penalty prescribed in article 23.

Cases brought before the judicial authorities prior to the approval of this Act shall be dealt with independently.

Article 31. The prosecution of offenders under this Act shall commence with the bringing of suit by the plaintiff and terminate with his waiver of his claim.

Article. 32. Articles 245, 246, 247 and 248 of the Criminal Code are hereby repealed.

Article 33. The regulations governing the implementation of this Act shall be drawn up by the Ministry of Culture and Art, the Ministry of Justice and the Ministry of Information and submitted to the Council of Ministers for approval.

...

Act concerning Social Insurance for Farmers: Additional Articles 23, 24, 25 and 26 (21 Ordibehesht 1349/11 May 1970)

(Extracts)

Article 23. This Act shall apply to agricultural workers who engage in agricultural occupations outside urban limits and whose principal occupation and means of livelihood is activity in agricultural affairs.

Note. For the purposes of the Act concerning Social Insurance for Farmers, the term "agricultural occupations" means:

(*a*) All kinds of work relating to preparation of the soil, irrigation, sowing, cultivation, reaping, mowing, pest control and similar activities performed manually or mechanically for the purpose of growing annual or perennial agricultural, garden, kitchen-garden, decorative or forest plants;

(*b*) All kinds of work relating to the supply and distribution of water from surface or subterranean sources by manual or mechanical means for agricultural purposes;

(*c*) All operations relating to animal husbandry, stock-breeding, poultry-farming and similar activities;

(*d*) All activities which are recognized as agricultural occupations by the Supreme Council of the Rural Research Centre of the Ministry of Land Reform and Rural Co-operatives (Act Establishing Agricultural Joint-Stock Companies, article 15, and Statute of the Centre, article 4).

Article 24. For the purposes of this Act, the term "agricultural worker" means any person who engages in one of the agricultural occupations mentioned in the note to article 23 of this Act for a wage or salary (in cash or in kind or a combination of the two) or under an official or other contract for a limited or unlimited period for an agricultural employer, whether the latter is a legal or a physical person.

Note. Assessment of the income referred to in article 15, note 2, and determination of the persons covered by article 23 of this Act shall be the responsibility of the Ministry of Land Reform and Rural Co-operatives. The salary and benefits of the executive director of the Farmer' Social Insurance Organization shall be on the same scale as those of under-secretaries of Ministries.

Article 25. In each region where appropriate action is taken under article 3 of the Act concern-

ing Social Insurance for Farmers, agricultural employers shall insure their employees with the Farmers' Social Insurance Organization.

The joint payment of the insurance premium provided for in article 26 of this Act shall be the responsibility of the employer.

The employer shall deduct the employee's share of the premium from his wage or salary and shall pay it to the Organization together with his own share.

Article 26. Provisions governing the scale of the insurance premiums, the respective shares of employer and employee, the procedure for payment and collection of the premiums and the obligations of insurer (the Organization) and insuree shall be set forth in regulations to be drawn up by the Ministry of Land Reform and Rural Co-operatives and submitted to the Parliamentary Committee on Land Reform and Rural Co-operatives and the Parliamentary Committee on Finance for approval.

...

Act Establishing County and Provincial Councils (1 Tir 1349/22 June 1970)

(Extracts)

Chapter I

ESTABLISHMENT OF THE COUNCILS

Article 1. With a view to enabling people everywhere to participate in local administration, the implementation of the principle of entrusting the business of the people to the people, the promotion of urban and rural development and the identification and satisfaction of local needs a county council shall be established in each county seat, with the exception of the State capital, and a provincial council shall be established in each provincial capital, in accordance with the provisions of this Act. The councils shall have legal personality.

Note 1. The State may propose to the Parliamentary Committee for the Interior such amendments to this Act as it deems necessary within five years from the date of the approval of this Act.

Decisions of the Parliamentary Committee approving amendments so proposed shall have effect until such time as the amendments are finally approved by the two Houses.

Note 2. In the chief gubernatorial regions, provincial councils shall be established in accordance with the provisions of this Act and the chief governors shall assume the responsibilities and prerogatives of provincial governors as provided for in this Act.

Article 2. The members of county and provincial councils shall be elected, in accordance with the provisions of this Act, for a term of four years by the residents of the area concerned; there shall be no impediment to their re-election.

Article 3. Each county council shall be composed of the elected representatives of the county seat and the districts within the county and each provincial council shall be composed of two members from each county council within the province.

Article 4. The number of members of each county council shall be as follows:

1. Five persons in each county seat with a population not exceeding 30,000;

2. Seven persons in each county seat with a population of between 30,000 and 50,000;

3. Nine persons in each county seat having a population of between 50,000 and 100,000;

4. Eleven persons in each county seat with a population of between 100,000 and 200,000;

5. Thirteen persons in each county seat with a population of between 200,000 and 500,000;

6. Fifteen persons in each county seat with a population of more than 500,000.

Note. In addition to the above-mentioned numbers, one person shall be elected from each district with a population of under 10,000. In the case of districts having a population of more than 10,000, one extra representative shall be elected for every 7,500 persons in excess of the base figure of 10,000.

Chapter II

ELECTION OF MEMBERS OF COUNTY AND PROVINCIAL COUNCILS

Article 5. Electors must meet the following requirements:

1. Be of Iranian nationality;

2. Be at least 20 years of age;

3. Have been resident in the electoral district for at least six months prior to the elections.

Article 6. Candidates for election must meet the following requirements:

1. Be of Iranian nationality;

2. Be at least 25 years of age;

3. Have an adequate reading and writing knowledge of the Persian language;

4. Have been resident in the electoral district for at least two years prior to the elections.

Article 7. The following persons shall not be entitled to vote or to stand for election:

1. Persons not having legal capacity;

2. Persons in bankruptcy by reason of dishonesty or fraud;

3. Persons having deliberately committed a crime or serious offence;

4. Persons of ill repute.

Article 8. The following persons, by reason of their office, shall not be entitled to stand for election to county or provincial councils:

1. The Prime Minister, ministers, under-secretaries of ministries and representatives of the two Houses, anywhere in the country;

2. Provincial governors, county governors, public prosecutors, municipal mayors, district governors and all heads of State organizations and profit-making or commercial State establishments and their deputies and assistants, in the areas to which they are appointed;

3. Principal and alternate members of the electoral supervisory councils of a county council, in their own electoral districts;

4. Chairmen and members of municipal councils and chairmen of public health boards.

Note 1. If holders of the offices mentioned in subparagraphs 2 to 4 of this article wish to stand for election in the districts to which they have been appointed, they shall submit their resignation from office, together with notification of their desire to stand for election, before the commencement of the elections. Where such persons are official employees of the State, they shall submit, together with their resignation from office, an application for leave of absence. The State shall be obliged to admit such applications.

Note 2. Any other official employee of the State who is elected to membership of a county or provincial council shall, if he accepts the appointment, submit his resignation and apply for leave of absence. The State Shall be obliged to admit such applications, and the applicant be classified as released on leave of absence from the date of his acceptance of nomination to the council.

A term as member of a council shall be regarded as a period of leave of absence.

Note 3. No salary shall be paid to an official employee of the State who is granted leave of absence in the manner set forth in notes 1 and 2 during the period of the leave. Provided that such a State employee pays his retirement contributions on the basis of the amount of his salary at the time of his resignation from office, the ministry or State establishment concerned shall be obliged to pay an amount equivalent to its own proportionate contribution into the Civil Service Retirement Fund. In such cases, the period of leave of absence shall, for retirement purposes, be counted as a part of the State employee's term of active service.

Note 4. The State shall not have the right to appoint a State employee serving on a provincial or county council in accordance with the provisions of the foregoing notes to any post in a ministry or State establishment during his term of membership. However, upon the expiry of their term of membership, such persons shall receive the same treatment as other State employees on the active list, in accordance with the Civil Service Employment Act.

Note 5. State employees who are on the active list but not assigned to any post and who are elected to county or provincial councils shall be treated in accordance with the provisions of this article.

Article 9. Persons coming under the Imperial Armed Forces Act shall be barred from voting and standing for election during their term of service.

Article 10. Voters must obtain a ballot-paper before voting.

The procedure for the organization of offices for the registration of voter's names, ascertainment of their eligibility and the issuing of ballot slips shall be established in accordance with regulations to be drawn up by the Ministry for the Interior on the basis of this Act and submitted to the Council of Ministers for approval.

Article 11. After receiving the order of the Ministry of the Interior for the holding of elections, the county governor or his deputy shall within five days publish a notice in each county constituency in order that persons wishing to stand for election to county councils may, within 10 days, notify the governor of their desire in the manner prescribed below. Each prospective candidate shall personally notify the county governor's office in writing of his desire to stand for election and shall transmit to the office, together with his own letter, a letter of reference signed by between 30 and 150 members of the local electorate, having regard to article 4. The prospective candidate's letter of notification and the letter of reference shall be drafted in accordance with a model to be prepared by the Ministry of the Interior.

Article 12. Immediately following the publication of the notice mentioned in article 11, the county governor shall establish a commiteee composed of himself, the heads of the Departments of Justice, Public Health and Education or, in their absence, their deputies, and one reliable local resident. The commitee shall first inspect the credentials of the proposed candidates within 15 days and shall proceed forthwith to announce the names of the eligible candidates, who shall be the only persons for whom votes may be cast. The committee shall then proceed to designate and summon three persons eligible to stand for election from each of the following categories:

1. The ulema;

2. University and school teachers, physicians, engineers and lawyers;

3. Merchants and tradesmen;

4. Farmers;

5. Manual workers and employees.

Note. In areas where one or more of the public departments mentioned in this article is not represented, the heads of other public departments or reliable local residents shall be invited to become members of the five-member committee to perform the prescribed functions. Similarly, if one or more of the five categories of individuals listed is not represented the requisite number shall be made up from the remaining categories.

Article 13. At its first meeting, the fifteen-member comittee shall elect by secret ballot and by a majority vote eight persons literate in Persian and meeting the requirements for candidacy, from among its members or from outside, to serve on the supervisory council, and eight persons, elected in the same manner, to serve as alternates. For the purposes of this election, two thirds of

the members of the fifteen-member committee shall constitute a quorum. In towns having a population of less than 10,000, the committee for the election of the supervisory council shall be composed of two persons from each category listed and the supervisory council shall be composed of five members and five alternates.

Article 14. Immediately following their election, the members of the supervisory council shall elect from among themselves, by secret ballot and by a majority vote, a chairman, a vice-chairman and two electoral clerks.

Article 15. The election shall be completed in one day, and the central electoral supervisory council shall, if necessary, establish one or more branches, each composed of five reliable local residents, in one or more locations to accept ballots at set hours on the prescribed day.

Article 16. The supervisory council shall publish a notice containing the following information between five and 10 days prior to the election date:

1. The meeting place of the council, the number of branches, the date and time set for the election and the duration of the voting time, which shall be at least 10 hours;
2. The conditions of eligibility to vote;
3. The number of members to be elected;
4. The names of the candidates for membership in the county council whose eligibility has been confirmed and who meet the requirements set forth in this Act, with a statement that voters may elect the candidates of their choice from among those nominated by the supervisory council.

Article 17. The voting shall be by secret ballot, and the procedure for receiving and counting ballots and determining the majority candidates shall be in accordance with regulations to be drawn up by the Ministry of the Interior and submitted to the Council of Ministers for approval.

Article 18. If any member of a supervisory council resigns or dies during the course of the election, the alternate member who received the largest number of votes shall be invited to take his place on the council. If several principal and alternate members resign or die but a sufficient number of principal and alternate members is left to constitute a quorum, the council shall perform its functions with the remainder of its original membership. If there is no longer a quorum, the county governor shall appoint additional members from among the persons selected under article 12, beginning with those who received the largest number of votes, in order that the council may continue its work. Where two or more persons received an equal number of votes, lots shall be cast.

Article 19. If, during the course of the election, one or more members of the supervisory council refuses to participate in the work and attend the meetings of the council and fails to attend upon written notice from the county governor, he shall be deemed to have resigned and an alternate member shall be appointed in his place.

Article 20. If the person who resigns, refuses to participate in the council's work or dies is the chairman, vice-chairman or one of the clerks, a chairman, vice-chairman or clerk, as the case may be, shall be selected by the procedure set forth in article 18.

Article 21. If, during the course of the election, a complaint or objection is raised concerning it, this shall not constitute a legal impediment to the continuation of the election. However, an abstract of the complaint or objection shall be entered in the special register of the supervisory council, an acknowledgment shall be sent to the person submitting it, and an investigation shall be carried out in accordance with the provisions of article 22.

Article 22. During the week following the day on which the voting is concluded and the names of the succesful candidates announced, the supervisory council shall receive and investigate complaints and objections concerning the election and announce the results of the investigation. If a complaint is brought against the supervisory council, the latter shall transmit it, before the conclusion of the first day of the following week to the committee mentioned in article 12 for investigation and decision. The said committee shall within one week, complete the investigation of the complaint and transmit its opinion, in the form of a procès-verbal to the county governor and to the supervisory council. The decision of the committee in such cases shall be final, and the county governor and the supervisory council shall be bound to implement it.

Article 23. In cases where a fresh election is necessary, it shall be held in accordance with the provisions of this Act.

The initial term of office of provincial and county councils shall, by way of exception, extend until the completion of the legal term of office of the town councils already established at the time of the implementation of this Act, in order that, for subsequent terms, the elections for county and town councils may be held on the same date.

Article 24. If no complaint is brought concerning the election or if, after due investigation, the complaints brought are not upheld by the five-member committee referred to in article 12, the supervisory council shall issue to the persons elected to membership of the county council credentials signed by a majority of the members of the supervisory council and by the county governor.

Article 25. After the investigation of complaints has been concluded and credentials issued to the members of the county council, the ballot-papers shall be destroyed in the presence of the members of the county council, the chairman and members of the electoral supervisory committee and the county governor, and the chairman of the supervisory council shall, on the same occasion, declare the supervisory council dissolved.

Article 26. The procedure for the election of district representatives shall be as follows. Each village council shall elect a representative from among its members and send written notification of his election to the office of the district governor. The village council representatives, together with two representatives of the district cen-

tre elected by the council of the central village or central town of the district shall assemble at the district centre on a date to be set in advance and announced to them by the district governor. When at least two thirds of the elected representatives have assembled at the office of the district governor, they shall proceed, in the presence of the district governor, to elect from among themselves or from among the residents of the district and by a majority of the votes of those present, a district representative or district representatives fulfilling the requirements for membership in the county council to membership in the county council and shall transmit his or their credentials, with the signature or seal of the majority of the elected representatives participating in the vote to the office of the county governor.

If on the day set two thirds of the elected representatives are not present at the office of the district governor, a new day shall be set for the election of the members of the council and the election shall be held by a majority of the members attending.

Note. In any village where a village council has not been established, the development council of the district shall designate one resident of the village concerned who meets the requirements for candidacy to participate in the election of the district representative.

Chapter III

PROCEDURE FOR THE ESTABLISHMENT OF COUNTY AND PROVINCIAL COUNCILS

Article 27. When two thirds of the credentials of the elected representatives of the districts and the county seat have been received at the office of the county governor, he shall summon all the members of the county council, the reliable local residents and representatives of the categories referred to in article 12 and the heads of public departments and establishments for the opening of the council and shall open the council in the illustrious name of His Imperial Majesty the Shahanshah.

Article 28. Immediately after its opening, the council shall be established under the chairmanship of the oldest member and with two of the youngest members serving as clerks and the swearing-in ceremony shall take place as follows in the presence of all the invitees. Each member shall read out and sign the following oath, inserting his name in the appropriate place:

"I ..., the undersigned, do hereby call God Almighty to witness and do swear by the glorious Koran to discharge the duties and obligations devolving upon me in my capacity as a member of the county council with complete honesty and uprightness and to the best of my endeavour, to prevent my personal interests from interfering in my discharge of these duties, to make my constant goal and purpose the good and well-being of the entire people and nation of Iran, to be loyal to the Constitution and the constitutional monarchy of Iran and to be loyal and true to His Imperial Majesty the Shahanshah."

Note 1. Members elected from minority religious groups shall swear by their respective holy books.

Note 2. Members of county councils arriving after the opening meeting shall perform the swearing-in ceremony and sign the oath at the first official meeting which they attend.

Article 29. After the taking of the oath, the county council shall elect, by secret ballot and by a majority vote, a chairman, a vice-chairman and two clerks from among its members for a term of two years and shall proceed to discharge its legal functions. The Council shall also elect two of its members to membership in the provincial council and, after issuing them with credentials, shall notify the office of the county governor of their election.

Article 30. In the event of the death or resignation of one of the members, whether he is an elected representative of a town or of a district within a county area, the person who obtained the next largest number of votes in the constituency concerned shall be invited to take his place for the remainder of his term of office.

Article 31. Any member of a county council who ceases to fulfil one or more of the requirements for membership in the council or accepts Government office or, without an acceptable excuse and the prior consent of the council, fails to attend four consecutive meetings of the council shall be dismissed from office. Notice of dismissal shall be sent to the member concerned, who shall be entitled to submit an objection to the provincial council within a period of one week and may attend a meeting of the provincial council for the purpose of defending himself. The decision of the provincial council shall be final in such cases, and the candidate who obtained the next largest number of votes shall be invited to replace the dismissed member, in accordance with the aforegoing articles.

Article 32. The opening and swearing-in ceremony for provincial councils shall be the same as that for county councils.

Article 33. Within 10 days of being informed of the names of the persons elected in the counties to membership in the provincial council, the provincial governor shall proceed to establish and open the provincial council, in accordance with article 27, and shall summon the members of the council for this purpose.

Article 34. When two thirds of the members of the provincial council are present, the council shall be constituted under the chairmanship of the oldest member, shall elect, by secret ballot and by a majority vote, a chairman, a vice-chairman and two clerks from among its number for a fixed term of two years, shall proclaim the official establishment of the council and shall begin to discharge its prescribed functions in accordance with this Act.

Article 35. The provincial council shall be convened once every three months. Extraordinary meetings of the council shall be convened at the request of two thirds of the members or on the proposal of the Governor.

Article 36. At its first annual session, each provincial council shall elect a committee composed of three to five persons. The functions of this committee shall be as follows:

1. To supervise the implementation of the decisions of the provincial council and to draft the agenda of subsequent meetings;

2. To audit the provincial budget, which must be submitted to the council for auditing;

3. To consider any other questions which may be referred to the provincial council between sessions;

4. To take a decision concerning routine matters referred to the council between sessions and referred to the standing committee by the chairman of the council and to prepare a report on such decisions for submission to the council.

Article 37. Each county and provincial council shall have a secretariat, which shall be responsible to the chairman of the council.

Article 38. The provincial governor or his deputy may attend meetings of the county and provincial councils and may participate in their debates without the right to vote. The county governor or his deputy may attend meetings of the county council on the same terms.

Similarly, a council may invite heads of State departments or organizations, if it deems it necessary or at their own request, to attend its meetings without the right to vote.

Article 39. The meetings of the council shall be open, and any member of the public shall be free to attend. However, such persons shall not have the right to participate or intervene in the council's debates or to make demonstrations. The chairman of a council may, where necessary, at the request of one third of the council members or of the provincial or county governor, hold closed meetings. Publication of the proceedings of such meetings shall be dependent on the approval of the council.

Note. Whenever a provincial council is considering a question relating to one of the counties within the province, the governor and other regional administrative heads of the county concerned may, with the consent of the provincial governor, participate, without the right to vote, in the meetings and debates relating to the areas under their administration.

Article 40. The internal procedure of each council shall be the responsibility of the chairman, and any member who violates that procedure shall be treated in accordance with the council's rules of procedure. Any non-member attending a council meeting who acts in a disorderly fashion or intervenes in the debate of the council shall be removed from the council chamber on the chairman's instructions by the police officers responsible for the maintenance of order.

Should such an offender commit an action liable to criminal prosecution, a procès-verbal shall be drawn up and transmitted to the competent judicial authorities for appropriate action.

Notes. Each county and provincial council shall have rules of procedure which it has itself approved. The Ministry of the Interior shall draft model rules of procedure and submit them as guidelines to the councils.

Article 41. All elections in the councils shall be held by secret ballot, using ballot-papers. Voting on the approval of the budget shall be open and by ballot-papers. Voting on other matters shall be by standing, unless two thirds of the members present request a secret ballot.

Article 42. Two thirds of the members of a council shall constitute a quorum, and a council's decisions shall be regarded as valid if they are approved by more than one half of all the members of the council.

Article 43. A summary record of the discussions and decisions of each meeting, together with the names of any absent members, shall be entered in a special register by one of the clerks and signed by the chairman of the council and the clerk.

Article 44. Each council's decisions, in addition to being announced in open session in the council, shall also be written out separately and posted in specified places for public information.

Article 45. The convening of meetings and the taking of decisions in places other than the official meeting-place of a council or at other than the appointed times shall be prohibited, and meetings so held shall be invalid.

Until such time as a special meeting-place has been designated for a council, the provincial governor or the county governor shall provide accommodation for council meetings in the office of the provincial governor, county governor or municipal administration.

Article 46. If a council acts in contravention of its legal functions, it shall receive an admonition from the provincial governor. If such admonition is not effective, the council shall be dissolved pursuant to a duly substantiated proposal by the Ministry of the Interior and subject to approval by the Council of State or, in its absence, by the Council of Ministers. In this event, where there is still more than one year of the council's term still to run, the Ministry of the Interior shall issue an order for the election of a new council to complete the term.

Note. After the entry into force of this Act, in the event of the dissolution of a county council, its functions, with the exception of the imposition of taxes, shall be discharged by a board composed of the county governor, who shall be the chairman, and the heads of the departments of justice, public health and education, the chairman of the municipal council and one reliable local resident or, where there is no municipal council, two reliable local residents selected by the county governor until such time as a new council is established.

Article 47. Prior to its entry into force, a copy of every decision taken by a county or provincial council must be submitted to the county or provincial governor, as the case may be.

Where a county or provincial governor deems a decision to be contrary to the law or outside the competence of the council concerned, he shall notify the council of his views and objections in

writing within 10 days and shall report the matter to the Ministry of the Interior. The council may reconsider the matters which gave rise to the objection. If the council maintains its original opinion and the Ministry of the Interior supports the view of the county or provincial governor, the Ministry of the Interior shall refer the disputed issue to the Council of State or, in its absence, to the Council of Ministers for investigation and the adoption of a final decision. The decision of the Council of State or the Council of Ministers shall be final, and, in any event, action on the disputed decision shall be suspended unitl a final ruling is handed down.

Article 48. Decisions taken by county and provincial councils within their respective spheres of competence shall, provided that they do not give rise to an objection under article 47 of this Act, be enforceable 10 days after the date of their notification to the county or provincial governor.

Every three months, each council shall be obliged to issue a public report on its activities.

Article 49. Local public departments, and State organizations and local councils shall be obliged to make available to county and provincial councils, at their request, all necessary information relating to the functions of the latter, provided that the information in question is not confidential. In the event of a dispute, the ruling of the provincial governor shall be followed.

Article 50. Three months prior to the expiry of the term of office of a county council, the county governor shall, having regard to the provisions of article 11, convene the committee provided for in article 12 for the purpose of convening the supervisory council and holding the elections for the subsequent term.

Chapter IV

FUNCTIONS AND POWERS OF COUNTY AND PROVINCIAL COUNCILS

Article 51. The functions and powers of a county council shall be as follows:

1. To approve developmental and social projects for the county area, within the limits of the council's approved budget and credits and having regard to the relevant laws; these projects shall include such local matters as the establishment of vocational and other schools, model farms, the building of secondary and rural roads and the establishment of clinics and institutions for hygiene and public co-operation and similar projects which are supplementary to the approved national plans; the council may establish and administer these projects with the revenue at its disposal or through State aid;

2. To supervise matters relating to the district development councils and to guide the latter in the preparation of development and social projects;

3. To hold and administer all movable and immovable property belonging to the council or to institutions established by the council and to take decisions concerning the purchase, sale and conveyance thereof;

4. To approve such contracts as it deems necessary for the discharge of its functions;

5. To take decisions concerning, and to supervise, the expenditure of funds made available to the council from State sources for the discharge of the functions laid down in this Act;

6. To approve and to amend as necessary the budget and supplementary budget of the council and to issue a statement of accounts;

7. To supervise matters relating to hygiene and health in the county area;

8. To supervise matters relating to public charity and co-operation in the county area;

9. To supervise educational matters in the county and to help in carrying out the programme of the literacy campaign and the work of the Revolutionary Corps;

10. To present and receive gifts on the council's behalf;

11. To take decisions concerning the settlement of disputes between the municipalities and village councils within the county area in cases which do not come by law under the jurisdiction of any other specifically designated authority;

12. A county council may issue an opinion on the following matters either directly or at the request of the competent organizations:

(*a*) Social, economic, educational, cultural and health matters;

(*b*) Urban and rural development;

(*c*) Public supllies and possessions;

(*d*) Public transport;

(*e*) County, municipal and district boundaries;

(*f*) The preservation and upkeep of public endowments and appropriate expenditure of the revenues deriving therefrom in accordance with the pertinent laws;

(*g*) The promotion of agriculture, animal husbandry and pest control;

(*h*) The construction and maintenance of roads;

(*i*) The protection and preservation of antiquities and the establishment of museums and libraries.

Article 52. In addition to the functions conferred on county and provincial councils under this Act, the State may, gradually, as appropriate and having regard to local circumstances, transfer to the councils functions which before the date of the approval of this Act were the responsibility of some of the State organizations and establishments and shall make available to the councils the related executive and financial facilities.

Article 53. In order to defray the expenses of the projects referred to in article 51, a county council may, on a temporary basis, levy special taxes, which shall be utilized solely for the purpose of defraying these expenses and announced publicly with mention of the project concerned.

Such taxes must not be such as to affect adversely the public economy of the country, and the decision on that point shall lie with a committee composed of the Ministers of the Interior, Finance and the Economy.

The county council must submit a proposal to levy special taxes for the implementation of development projects to the aforementioned committee for scrutiny before levying such taxes. The committee shall notify the council of its opinion not later than two months from the date on which it is notified of the proposal. Should the committee fail to notify the Council of its opinion withim the period stipulated, the decision of the Council shall become enforceable without further delay.

Note. As soon as the credit required for the implementation of the project has been procured, the decision concerning the levying of taxes for the project shall automatically cease to have effect.

Article 54. Whenever plans and designs are required for the implementation of urban and rural development projects and a council is unable to draft such plans and designs itself, the appropriate State organization shall provide the necessary technical services and guidance free of charge.

Article 55. When submitting to the central authorities a proposal for a project to meet local needs and applying for credit for development purposes, State organizations and institutions must first solicit the opinion of the provincial or county council, as the case may be, and, if the council wishes to state its opinion, it must do so within 15 days. The aforementioned organizations shall be obliged to transmit the Council's opinion to the central authorities.

Article 56. The Ministry of the Interior shall draw up regulations concerning the determination of the needs of the various regions of the country and the priority of projects and plans for the guidance of the councils and shall submit the aforementioned regulations to the Council of State for approval.

Article 57. In all cases where a project whose execution falls within the competence of a county council under the provisions of this Act extends beyond the boundaries of a single county or affects more than one county, the execution of that project shall be the responsibility of the provincial council.

The identification of projects relating to more than one county shall be effected on the basis of a proposal by the provincial governor and approval by the provincial council.

Article 58. The provincial council shall investigate disputes between county councils and between county councils, on the one hand, and municipal councils, public health councils and the committees for the supervision of education quotas of the municipal revenues, on the other. The decision of the provincial council shall be final.

The budget and the financial regulations of county and provincial councils

Article 59. Each county and provincial council shall have an annual budget containing all figures relating to the council's income and expenditure.

Note. The financial year of the council shall be one solar year beginning on 1 Farvardin and ending on the last day of Esfand of the same year.

Article. 60. The officers of the council shall prepare the budget by the end of Dey and shall submit it to the council for approval and publish it for general perusal by the end of Esfand.

Article 61. A final statement of the accounts of each provincial and county council shall be submitted annually to the council for approval and published for general perusal by the end of Khordad of the following year.

Article 62. The sources of income of the county and provincial councils shall be as follows:

1. The income from the taxes levied under article 53 and from the property and establishments belonging to the council;

2. The portion which the village development councils and the municipal councils, having regard to the development programme of the county earmark for county expenditures from their own development budget allocations at the request of the county council and with the approval of the provincial governor;

3. The sum allocated as a subsidy for the council's development activities from the State Treasury or from the credit allocations of the Plan Organization, in accordance with the prescribed conditions: all subsidies allocated for country and provincial councils under this subparagraph shall be entered annually in the national budget and made available to each of the councils according to their needs at the proposal of the Ministry of the Interior and subject to approval by the Council of Ministers;

4. Gifts and other miscellaneous unforeseen income within the limits of the law;

5. A portion of all taxes on income and taxes on movable and immovable property collected in the area under the council's jurisdiction, the amount of this portion to be specified each year in the national budget.

Note. The income of the provincial councils shall consists of the types of income listed in subparagraphs 4 and 5 of this article.

Article 63. In order to defray the cost of development projects, county and provincial councils may, in case of need, procure from internal sources a credit or loan in an amount not exceeding 20 per cent of the council's annual budgetary income. The procurement of a loan exceeding the aforementioned 20 per cent shall be subject to approval by the Council of Ministers.

Article 64. The members of county and provincial councils shall receive an emolument proportionate to the volume of their work and paid from the credits of the council, having due regard to the budget.

Note 1. For the purpose of the implementation of the provision set forth in this article, county and provincial councils shall be divided into three categories, and the amount of the emolument shall be determined in accordance with regulations to be drawn up by the Ministry of the Interior and submitted to the Council of Ministers for approval.

Note 2. Any member of a county council who is not resident in the county seat and any member of a county council who represents his county in the provincial council shall receive from the appropriate section of the council's budget, in addition to his regular emolument, a travel allowance, based on regular rates, and a subsistence allowance for the days he spends in the county seat of the provincial capital for the purpose of participating in council meetings.

The amount of the travel and subsistence allowances shall be determined in accordance with regulations as prescribed in this article.

Article 65. The provincial and county councils (*anjomanhaye ostan o shahrestan*) shall perform the functions assigned in previously enacted legislation to the provincial and district councils (*anjomanhaye eyalati o velayati*) in so far as participation in other councils and assemblies is concerned.

Article 14, note 2, of the Act governing Elections to the House of Deputies, article 12, note 4, of the Act governing Elections to the Senate, the 1325 AH Provincial and District Councils Act and any other legislative provisions which are incompatible with the present Act are hereby rescinded.

...

Decree of the Council of Ministers No. 19904, concerning Social Insurance for Farmers (29 Shahrivar 1349/20 September 1970)

(Extracts)

...

Where the parents of a farmer who is insured as a member of an agricultural joint-stock company or rural co-operative are residents of a village or farm in the area of operation of the agricultural joint-stock company or rural co-operative and are considered by the executive director of the agricultural joint-stock company or the area supervisor of the rural co-operative to be dependants of the insured individual, they shall, to the extent possible, enjoy the benefits of the Act concerning Social Insurance for Farmers.

...

[Also submitted but, by agreement with the Consulting Official, not translated: Regulations Implementing Articles 10 and 17 of the Act Establishing Provincial and County Councils (20 Tir 1349/11 July 1970).]

ISRAEL

NOTE [1]

I. Legislation

The two most important pieces of legislation enacted in 1971 are laws dealing with the setting up of the institution of the ombudsman, both nationally and municipally, and the Youth (Trial, Punishment and Modes of Treatment) Law, Apart from a number of relatively small amendments relating to nationality, probation and the organization of the social welfare system, the legislative activity of the Knesset (Parliament) has also been marked by a considerable revision of the Dangerous Drugs Ordinance.

1. The ombudsman

Control and supervision over the administrative apparatus have traditionally been exercised at two main levels—internally, by various disciplinary bodies and tribunals controlling the activities of public or civil servants, and externally, by the supervision of such bodies as the Knesset itself and the judiciary, in particular the High Court of Justice with its judicial review jurisdiction. Although such control and supervision has on the whole been effective in safeguarding the rights of the citizen in his contacts with the executive, there remain many areas which are not amenable to judicial and other supervision, either because of their nature or because the private individual does not or cannot for practical and jurisdictional reasons pursue the matter through existing channels. Throughout the world, this situation has led to the search for new means of dealing with complaints and grievances by the citizen of the administrative process and procedures. The most notable and popular of these means is the *ombudsman.*

A special committee of the Knesset, appointed to investigate the question recommended in 1968 the adoption of the ombudsman system, embodied as a special branch of the State Comptroller's office. That office is almost as old as the State itself. Politically independent and responsible only to the Knesset, its major function is the inspection of the finances and the management of the property of the State and its economic and other enterprises, and it possesses the establishment and expertise for this new departure in administrative control. Moreover, its annual reports have exercised considerable influence in improving procedures and induding the rectification of defective practices and the like, as a result of which it has won wide public support and confidence. After lengthy Knesset debate (the bill was introduced at the end of 1969) an additional chapter has now been added to the State Comptroller Law, 1958 (Consolidated Version), giving the State Comptroller the additional task of Commissioner of Public Complaints, as a distinct department with a director appointed by the Knesset Committee on the Comptroller's recommendation and directly responsible to him.

Complaints may be lodged by any person, either orally or in writing (in the case of prisoners, special provision is made to prevent the prison authorities from possibly impeding the transmission of complaints), against any body which is subject to inspection by the State Comptroller, including Government offices, State enterprises or institutions or bodies or persons holding or managing or controlling property on behalf of the State, local authorities, or other bodies specifically made subject to inspection under the Law by the Knesset. Such complaints may concern any act or omission directly affecting the complainant or depriving him of any benefit (a member of the Knesset may lodge complaints on behalf of third persons) which is contrary to law or done without lawful authority or inconsistent with properly ordered administration or involves too inflexible an attitude of flagrant injustice. The following complaints are not receivable—complaints against the President of the State, the Knesset (or any of its committees or members for an act done in or for the purpose of carrying out his function as a member), courts and tribunals in respect of any judicial act or pending court matters, the Army regarding service regulations, conditions or discipline, the Police and Prison Service regarding disciplinary matters or the State Service Commission in matters relating to terms of service except for deviations from statutory provisions and regulations.

The Commissioner must inform the complainant, the person complained of and his superior

[1] Note prepared by Mr. P. Elman, government-appointed correspondent of the *Yearbook on Human Rights.*

officer of the results of the investigation, setting out his reasons subject to preserving state security. Reasons need not be given where an appointment to office, or prejudice to the rights of another person not in accordance with law, or disclosure of professional secrets or other secret information are involved. Where the complaint is justified, he may indicate to the person complained of or his superior officer the need for putting right any shortcoming that has revealed itself in the course of the investigation and the manner of doing so, and within two months he must be notified of the steps taken to remedy the siuation. Where there is reason to think that a criminal offence has been committed, the Commissioner must draw it to the attention of he Attorney-General, and he may do so in the case of a suspected disciplinary offence.

The findings and conclusions of the Commissioner do not confer any judicial right or remedy upon the complainant or any other person, which he did not previously possess, nor do they prevent him from exercising any right or seeking any remedy to which he is entitled.

The Commissioner must submit an annual report to the Knesset, which debates it in committee and then approves it in plenum. The report must be published after submission to the Knesset.

In somewhat parallel fashion, an amendment of the Municipalities Ordinance, 1934, enables the council of any municipality having 30,000 or more inhabitants to appoint a comptroller; it must do so when so requested by the Minister of the Interior. The functions of the comptroller, acting under the general directives of the Mayor, includes review of the activities of municipal officers and the keeping of municipal accounts, inspection of the manner in which municipal funds are held and property kept and maintained; more particularly the normal executive practice is to be inquired into so as to ensure observance of the law, moral probity, efficiency and economy. He has power to require the production of books and documents and the giving of any information or explanation he may require. Annual reports must be submitted to the mayor, and copies with the mayor's observations delivered to each member of the council and to the Minister. The amendment, it is noteworthy, was initiated as a private member's bill and was passed without significant change. Although the national ombudsman has powers which extend to local authorities, and the tasks of the local comptroller are more limited than that of the national ombudsman, according to all reports they serve very much the same purpose in keeping a check upon bureaucratic action.

2. Children

(a) *Juvenile Offenders.* The purpose of the Youth (Trial, Punishment and Modes of Treatment Law, 1971 is to replace the Juvenile Offenders Ordinance of 1937 by more up-to-date and improved arrangement for the treatment of young people in trouble, starting with the preliminary investigations and proceeding down to after-care treatment, the purpose being to create conditions which answer the needs of young offenders and are directed to their civic rehabilitation. The provisions are based upon the experience of "juvenile" judges and probation officers.

The Law does not quite follow the pattern found in other countries of having a body entirely separate from the ordinary courts for dealing with juveniles. The existing Juvenile Courts continue as part of the normal judicial system, but the procedure has been modified to answer the purposes in mind, and in addition to possessing the normal penal powers they are enabled to order the taking of educational and rehabilitation measures in the treatment of youth.

In consonance with the Youth (Care and Supervision) Law, 1960 and the Legal Capacity and Guardianship Law, 1962, the distinction under the old law between young people of various age groups has been abandoned and the provisions of the new law are made to apply to all those under 18 years of age, except that no imprisonment is to be imposed on children under 14. All offences with which minors are charged, including appeals (but not felonies which the Criminal Code Ordinance, 1936, requires to be heard by a District Court), are to be brought before a Juvenile Court. The Minister of Justice is, however, empowered to order that felonies also should so be brought; regulations made under the Law list some 65 various felonies that are to be heard in the Juvenile Courts.

Juvenile Courts must as far as possible hold their hearings generally *in camera* and in a place where no other trials are held, and if they are, not at the same time. Provision has been made for dealing with cases where a minor is charged together with an adult. Accused minors must so far as possible not be taken to and from court or be kept in court together with accused adults. This separation of minors from adults is also reflected in a provision which requires their detention, when under arrest, to be in a place kept apart for the detention of minors. A minor under 14 years must not be kept under arrest without a court warrant for more than 12 hours and a minor over 14 years for more than 24 hours, subject to extensions for prescribed reasons which have to be recorded, such as in the former instance where the safety of the public or minor or the desirability of keeping him away from undesirable persons so require. Notification of arrest must be given by the police officer in charge to one of the parents or some other person close to the minor, or to a probation officer where the minor's welfare might otherwise be prejudiced.

The parent must be furnished with copies of the summons and information, and notified that he may be present at the trial, unless for special reasons the court decides otherwise. At any time a parent may be ordered to be present in court. Parents may also be permitted to file all necessary documents and examine witnesses.

No minor may be brought to trial after the lapse of one year from the date the offence was committed. The court may appoint defence counsel if it considers that to be in the interest of the minor; where the minor has no counsel the court must assist him in examining witnesses. Two interim steps may be taken after all information has been filed—the court may order the minor

either to be kept in a home or closed home (where freedom is restricted) for the residence and custody of minors for a period not exceeding 90 days or to be committed to the temporary supervision of a probation officer.

The court may either decide upon an acquittal or find that the minor has committed the offence charged. In the latter event it must direct the submission of a probation officer's report as to family background, economic situation and special information as to the reasons that might have led to the offence being committed, together with recommendations as to the kind of punishment that may help towards rehabilitation. Upon receipt of this report the court may do one of three things. It may discharge the minor without any order. Secondly, it may convict and sentence him, having regard *inter alia* to his age at the date of the offence; instead of imprisonment he may be sent to a closed home for a period not exceeding the term of imprisonment prescribed for the offence: in any event the death penalty may not be imposed nor is it necessary to impose life imprisonment, mandatory imprisonment or a minimum penalty which some laws prescribe as an alternative to the death penalty. Thirdly, the court may order the following modes of treatment which can be varied on application of a probation officer or the Superintendent of Homes as the case may be: committal to the care and supervision of a fit person, other than a parent, for a prescribed period; probation; an undertaking from him or his parent with or without security as to future behaviour; the duty of reporting at a day home for a prescribed period; confinement to a home or closed home; directions as to his behaviour; payment of a fine or the costs of the proceedings; payment of compensation by the minor or parents to anyone who has sustained damage as a result of the offence. The costs of any treatment ordered may have to be borne wholly or in part by the minor or his parent, if either has the necessary means.

There are a number of provisions enabling the Superintendent of Homes to transfer a minor from a closed home to a home, from a home to a foster family, to extend confinement in a "home" for a period not exceeding one year in order to complete treatment or train him for a vocation, but only after hearing the minor and his parent. The flexibility of the system of treatment in homes is also ensured firstly by the appointment of release committees consisting of a judge, a probation officer, a physician, an educationalist and one other person, which may order release from a home or closed home with or without conditions, normally after one year has passed since admission, and secondly by the Superintendent's power to permit leave of up to 30 days in each year, or more with the approval of the Committee.

A separate chapter of the Law contains after-care provisions. For one year after release from a home or closed home, but not later than his twenty-first birthday, a person comes under the supervision of an after-care officer who must maintain contact with him and pay attention to the location of his dwelling and its conditions, his studies, his work and the way he spends his leisure time. There is a reciprocal obligation to comply with the directions of an office. On application of the person concerned or the officer, the period of after-care may be shortened or terminated if the court thinks that supervision is unnecessary.

(b) *Probation.* The Probation Ordinance (New Version), 1969, has undergone a number of amendments, the most important of which are the following. The purposes of the conditions which may be included in a probation order have been defined more elaborately. The court must now have regard to ensuring the physical and mental welfare of the person under probation, his social rehabilitation and training in good behaviour and prevention of backsliding. The court is enabled to give directions as to the place where the person should dwell whilst under probation, due regard being paid to his religion. The Probation Service has been reorganized by the appointment of two chief probations officers, one for adults and one for minors, with a sufficient number of qualified probation officers. In addition, probation committees have been established, consisting of persons whom the Minister of Social Welfare thinks are suitable for the purpose, to advise on all matters relating to probation, the prevention of delinquency and the rehabilitation of offenders. In like fashion, a chief welfare officer and welfare officers have been appointed under law to implement the Youth (Care and Supervision), Law, 1960, and the Adoption of Children Law, 1960, and a requirement has been added that consultation should be had with appropriate outside bodies.

(c) *Traffic in children.* An amendment of the Criminal Code Ordinance, 1936, makes it an offence, punishable with three years imprisonment, to offer or give consideration in money or money's worth to keep a child under 14 years of age, or to seek or receive consideration therefor. Any parent or guardian of a child under 14 years who hands over or agrees to hand over the child to a person not his parent so as to rid himself of his obligations or rights in respect of the child commits an offence punishable by two years' imprisonment, but it is a good defence if the child was handed over for purposes of adoption in accordance with law, or for a determinate period with the approval of a welfare officer, or if the child was handed over to a grandparent, or an uncle, aunt, brother or sister of a parent for the benefit of the child.

3. Nationality

Under the Law of Return, 1950, any Jewish person who comes to Israel and expresses his desire to settle is entitled to receive Israel nationality. An amendment to the Nationality Law of 1952 now enables nationality to be granted upon application even when the person is still outside the country. The purpose of this amendment is quite clear in view of the policy of some States to permit the emigration of their Jewish nationals but at the same time to deprive them of their nationality, with all the difficulties to which such a step gives rise.

4. Dangerous drugs

In view of the growing apprehension of the dangers associated with the world-wide increase in the trafficking and use of drugs, the opportunity has been taken to amend the Dangerous Drug Ordinance of Mandate times by removing a number of doubts that had crept into its interpretation and by bringing it more into line with present conditions. Power has been given to add to and periodically vary the list of drugs set out in the Schedule to the Ordinance, which are treated as being dangerous. The export, import (or facilitating the export or import), trade or any other transaction in and the supply of dangerous drugs, whether or not for consideration, is prohibited except in so far as it may be permitted under the ordinance or license. No one may lawfully act as a go-between for any of the aforesaid purposes, whether or not for consideration. The cultivation, manufacture, preparation or extraction of dangerous drugs may only be carried on under licence. No one may possess or use any dangerous drug except in so far as the same is allowed under the ordinance or licence. Possession is defined to include possession by another person on behalf of the defendant, even if that other person is not aware of the situation and includes the presence of drugs in any place not under the control, charge or supervision of any person.

II. Judicial decisions

1. Duty of the police in dispersing rioters

Ra'ad v. *The State of Israel* (1971) 24 *Piskei-Din* (I) 197 (the Supreme Court sitting as a Court of Civil Appeal)

This was an appeal against dismissal of a claim for damages for the death of the head of a family during the dispersal of a serious riot by the police. The circumstances in which the accident occurred were highly obscure. Under section 83 of the Criminal Code Ordinance, 1936, if after being ordered to disperse peacefully by a police officer three or more persons continue to be riotously assembled together, the police may do all things necessary for dispersing or apprehending them and, if any person resists, may use all such force as is reasonably necessary for overcoming such resistance, without being liable in any criminal or civil proceedings for having thereby caused harm, death or damage to any person or property. The Court found that in the present instance the police had acted to contain a highly charged state of emergency and when they were themselves in danger of serious injury and even of their lives, when they could not be expected to proceed with the standard of care which "normal" conditions would require of them. In construing section 83, as above, the Court had the following to say (per *the President, Agranat J.*):

"... What adds complexity to our problem is that according to the law the police in carrying out their task are authorized to stand their ground and not retreat, and therefore, if as a result thereof danger to their own lives or persons is apprehended, they are justified in employing means which they find requisite both to avoid that danger and to overpower the rioters, including the use of live ammunition, even if this may involve death or other physical injury to the rioters or innocent bystanders. Nevertheless, even under such conditions one can never justify intentional or irresponsible firing by the police which has the aforesaid result and which although carried out at a critical point during the rioting is done out of punitive and vengeful motives alone, having nothing in common with the reasonable use of force."

The President concluded with the following observation:

"The use of live ammunition ... in order to put down a tumultuous riot always carries with it the danger of fatal or injurious consequences to others, even if done with precaution proper in the circumstances, because an unforeseeable event can by chance intervene. It is therefore better, and also essential, not to employ such measures unless there is no other way out, after verbal persuasion and less dangerous physical means have been of no avail, as occurred in the present case."

2. Plea-bargaining

Ben Yitzhak v. *The State of Israel* (1971) 25 *P.D.* (II) 393 (the Supreme Court sitting as a Court of Criminal Appeal)

Plea-bargaining between prosecution and accused (under which the accused admits the offence charged against him in consideration of the prosecution asking for a lighter sentence or charging him with a less serious offence) is a common practice in many countries, and there is a continuing debate whether it should be formally regulated with proper safeguards for the accused, including a right to retract. In the present case, the appellant was charged with knowingly receiving stolen property; along with him two other persons were charged with house-breaking and theft. He agreed to admit the facts relating to him and to give evidence at the trial of the others who denied the charges against them. To this end the prosecution agreed not to ask for a prison sentence. In the Lower Court the prosecution applied to have the appellant's case to be despatched first so that the might be called as a witness in the trial of the others and urged in his favour that he had been of assistance in the investigation of the facts. The Court, however, sentenced the appellant to nine months' imprisonment after taking into account his criminal record. On appeal, it was urged on his behalf that his part in the affair had in any event been a minor one and there was no reason to deny the request of the prosecution. The latter did not support the appeal, stating that it had reason to believe that the appellant would not abide by his agreement and give evidence against the others. The Court dismissed the appeal. It observed that plea-bargaining was not unknown in Israel. There were some who condemned it out of hand but others considered it an unavoidable necessity to be recognized and properly regulated. Although the Court was not at the moment prepared to

canvass this question, it stated that it was not bound by any agreement of this kind; if a judge was informed that a plea-bargain had been made, he must explain the matter very carefully to the accused and inform him of his rights. Had the present appellant asked the court to be allowed to retract his admission of the facts in view of complications that had arisen in the meantime, it might not have refused to do so, but no such application had been made by him.

3. Duty to record conversations held with prisoner

Leibovitz v. *The State of Israel* (1971) 25 *P.D.* (II) 225 (the Supreme Court sitting as a Court of Criminal Appeal)

This appeal actually turned on the admissibility of a number of statements made by the appellant after arrest on a charge of murder, which, it was urged on behalf of the accused, had been induced as a result of serious maltreatment by the police interrogators. After reviewing the circumstances and more particularly the medical evidence brought both the prosecution and by the defence, the Court found itself unable to accept the plea of the accused on this score. In the course, however, of examining the evidence, it emerged that throughout the first night after his arrest, the accused had been kept awake by the police, certain police officers engaging him in conversation and asking questions about the incident. No record at all was kept of these conversations or generally of the circumstances. In this regard, the Court was highly critical of the police for entirely disregarding the rule it had laid down in *Abu-Hazira* v. *A.G.* (1966) 20 *P.D.* (IV) 787, 796-797, that:

"In point of proper administrative procedure (if not in the needs of justice) it is a simple and elementary duty imposed upon every police officer to make a record in the investigation file of any conversation carried on with a suspect, indicating the date, hour and place when and where it took place; and if the subject matter of the conversation is connected with the investigation or is likely to be brought to the notice of the Court, the record must also include as much detail as possible of the contents of the conversation and particularly what was said to the suspect by the officer concerned. The record must be made immediately after the conversation is held or during the course thereof."

4. Imprisonment for civil debt

Farjeon v. *Commissioner of Prisons* (1971) 25 *P.D.* (II) 389 (the Supreme Court sitting as a High Court of Justice)

Under section 13 of the Penal Law (Modes of Punishment) Law (Consolidated Version), 1970, a term of civil imprisonment is to be borne in addition to any other term, civil or criminal, for which a person is liable, and where he is already serving a term of criminal imprisonment that term is to be interrupted for him to serve the civil term first. Imprisonment for a civil judgement debt, however, is not encouraged; it is to be ordered only as a last resort, after an investigation as to means and after evidence has been brought of evasion of payment; the maximum period is 21 days and within three days of commencement of sentence the debtor must have his case reviewed (chapter seven of the Execution Law, 1967). Apparently, the last provision is not always observed by the prison authorities and the Court in the instant case took the opportunity to state that is desirable that in such instances the order for imprisonment should clearly draw the attention of the police or prison authorities to the duty to bring the prisoner before the Chief Execution Officer within three days of receiving the prison order. In any event, it is not right that a person should remain incarcerated for debt so long as he has not been given the opportunity to appear before the Execution authorities to state his case. Accordingly, the above provision, that a criminal term is to be interrupted to allow for a civil term to be first served, is not to be implemented unless the prisoner has appeared before the Execution authorities and the civil term has not been reduced or set aside. Moreover, since a person already serving a sentence is normally without means, the provision as to review must be strictly applied even before the expiration of the statutory three days.

5. Right to strike

Finstein and others v. *Secondary School Teachers Association* (1971) 25 *P.D.* (I) 129 (the Supreme Court sitting as a Court of Civil Appeal)

This appeal was lodged by the proprietors and parents of pupils of a private secondary school against a refusal of the Lower Court to grant an injunction against the teachers who had come out on strike in a dispute with the proprietors but had not given the 15 days' prior notice required by the Settlement of Labour Disputes Law, 1957 (as amended), although the strike had actually commenced after this period had elapsed. The parents based themselves on section 62 of the Civil Wrongs Ordinance, 1944/1947, under which any person who knowingly and without justification causes any other person to break a legally binding contract with a third person commits a civil wrong against that third person but that third person may not recover compensation in respect of this wrong unless he has suffered pecuniary damages thereby. This provision is qualified by a further provision stating that "a strike or lockout shall not be deemed a breach of contract".

The parents urged that the strike had induced a breach of the contracts between them and the proprietors and that upon its proper construction the above qualifying provision applied to labour contracts alone. The Court, in dismissing the appeal, held (per *Cohn J.*):

"In our opinion [the above submission] does not express the intention of the legislature correctly. It is common knowledge that it is of the nature of strikes and lockouts to cause breaches of many contracts of an exceedingly wide variety; and if the instigators of a strike or the strikers or those declaring a lockout were to have to bear the loss flowing from these breaches, it would make an end of strikes and render them impossible. One

may say that nothing is further from the mind of the Israel legislature than a desire to put a stop to strikes: if one of the English judges in a recent decision called a strike 'a holy cow', with us it is to be regarded as at least a kind of sanctified tradition which no one may any longer call into doubt. In our view, section 62 as aforesaid is not to be so confined as to exclude only breaches of labour contracts from the action of unlawfully causing a breach of contract, but the proper construction to be given to this provision is that whatever the contract of which a strike or lockout induces the breach, such strike or lockout cannot serve as a cause of action under this section."

The proprietor's argument was based on section 63 of the Civil Wrongs Ordinance, which makes a breach of a statutory duty intended for the benefit or protection of some other person who thereby suffers damage, a civil wrong. Here the breach of a statutory duty consisted of non-observance of the provision as to prior notice and the fact that under the Restrictive Trade Practices Law, 1959, arrangements which impose restraints relating to the employment and conditions of employment of employees are alone taken out of its provisions and a strike is not such a restraint.

The Court rejected this argument as well:

"A strike is in fact only one means, if also the most drastic, for improving conditions of employment, and as such it affects directly the terms of the engagement of employees. For the purposes of the Settlement of Labour Disputes Law, we have already said that the strike in fact broke out after the period prescribed by the Law had expired and accordingly no damage was suffered by the appellant, ... damage being one of the elements of the civil wrong under section 63."

6. Right of parents in choice of schools

Kramer and others v. *Municipality of Jerusalem and others* (1971) 25 *P.D.* (I) 767 (the Supreme Court sitting as the High Court of Justice)

Recent reforms in the educational system, particularly the raising of the age of transition from primary to secondary schools, have necessitated the transfer of children from one school to another. In the present case, a number of parents refused to move their children from the private recognized school they were attending to a not distant State school. They contended that it was a fundamental right of parents to choose how and where to educate their children and that every provision restrictive of that right was unlawful. Moreover, a reform which was not expressly sanctioned by statute but was administratively introduced could not render the transfers legally enforceable. In dismissing the petition, the Court pointed out that under the State Education Law, 1953 parents had the right to choose a school on first registration of their children, but once having done so, they were subject to the regulations relating to transfers. The State was not merely interested in establishing and maintaining a school system, it also supervised the kind and quality of education that was provided. Parents could not be absolutely free in their choice of schools; otherwise, serious difficulties would be created with respect to accommodation, size of classes and the like which could not be justified and it would also derogate from the rights of other parents. The private right or interest must reasonably be reconciled with the public good and it was not exceptional that for reasons of social and educational policy the authorities should place restrictions upon the rights of parents. The present educational reforms were the outcome of long and arduous deliberation by all branches of the administrative structure, including a parliamentary committee, in an effort to give the new system proper form and substance. Under law, the Minister of Education was fully authorized to introduce procedures for the orderly transfer of children and the regulations he had made could not be attacked so long as they were consistent with and did not frustrate the purposes for which the power to make them had been conferred by the legislature. In the instant case, the regulations were of the very essence of the new system, a *sine qua non* of its full and effective implementation. The discretion of the competent authorities with regard to transfers was exercisable not only as between State schools *inter se* but also between such schools and private recognized schools which were part of the national educational system.

7. Right to receive business licence

Hamama v. *Mayor of Petah Tikvah* (1971) 25 *P.D.* (I) 113 (the Supreme Court sitting as a High Court of Justice)

The petitioner applied, in accordance with the Licensing of Businesses Law, 1968, to the Mayor for a licence to carry on a fruit and vegetable store in a main street of the town; one of the principal purposes of the said law is to ensure compliance with the provisions of the laws relating to town planning. The application was refused in reliance upon a decision of the local planning committee to amend the existing outline planning scheme which had not yet come into effect at the date of the application, by introducing regulations restricting the opening of stores of the kind in question in the centre of the town. Notice of the decision had been published after the application was refused and no steps had as yet been taken towards its implementation. On the hearing of an order *nisi* calling upon the Mayor to show cause why the licence should not be granted the Court said that:

"The rule is that everyone is entitled to engage in business as he wishes, subject to the restrictions placed upon him under law, and any authority which refuses to grant him a licence to carry on business, where such licence is required, must justify its refusal on the basis of an express or implied provision of law ... and the Licensing of Businesses Law, 1968, has introduced no changes in this respect. [That law] tells us that the discretion of the licensing authority must be confined to *the laws* relating to planning, and therefore, in refusing any citizen a licence, it may not be guided by what appears to it to be desirable from the point of view of town planning if its

considerations do not rest upon any legal provision. I fear that counsel for the petitioner was right in his criticism of the grounds given by the mayor in refusing to grant the licence. The very terms of the decision of the local planning committee are obscure. It does not say that new licences for carrying on the businesses mentioned in the decision will no longer be granted at all . . . but that the grant of such licences is to be restricted. In actual fact, other fruit and vegetable stores exist [the street concerned] and counsel for the respondent explained to us that the local committee's intention to preserve these and only to forbid entirely the opening of new stores of this kind. If such was the intention, it does not emerge from the written word.

". . . Even had the notice of the amendment been properly published, it would still not have been sufficient to impose restrictions upon the public unless the District Commission had decided to exercise its powers under section 78 of the [Planning and Building Law, 1965] to prescribe conditions on which building permits, permits for the use of land or approval of a plan for the partition of land shall be granted in respect of the area of the scheme or variation, and such conditions shall be in force until the approval of the Scheme or until the deposit or rejection of the Scheme or variation, or until such conditions are cancelled by the body which prescribed them, whichever first occurs. . . . If the Commission has not exercised its powers under section 78, the stage has not yet been reached at which any restriction whatever may be placed on the grant of permits, even those contrary to any plan or variation of a plan then in preparation; and if a variation has not yet reached the stage of being deposited, . . . there is no prohibition by reason of the Law itself."

ITALY

Note on the development of human rights (1971) [1]

I. Legislation

In accordance with the principle of the protection of the mother and child, proclaimed by article 25 (2) of the Universal Declaration of Human Rights, and the Italian constitutional provision based on the same principle (article 37 of the Constitution), [2] two legislative measures have been promulgated in Italy which complement the extensive legislation on the subject which already exists.

Act No. 1044 of 6 December 1971 (*Gazzetta Ufficiale* No. 316 of 15 December 1971) makes provision for a "Five-year plan for the establishment of communal crèches with the assistance of the State". This Act, which was promoted by the trade unions, is designed to meet one of the main needs of working women, namely the need for child-care facilities during working hours to ensure the children's safety and also to promote their mental and physical development. The problem was one which called for a legislative solution which would stress the social aspect and therefore affects the entire community. The lack of that type of social service has direct and definitely adverse effects on the employment of women, their stability of employment and their professional status. The Act is designed to define in concrete terms the right of women to work, which otherwise might remain nothing but a statement of principle, however important.[3]

Article 1 of the Act defines the nature and purposes of this provision in the following terms: "The assistance given as a matter of family policy to children up to three years of age in crèches is a social service in the public interest. The purpose of the crèches is to provide temporary care for the children, to assist the family and to facilitate the access of women to employment within the framework of a comprehensive system of social security." The Act then provides for the construction and administration of at least 3,800 crèches for the period 1972 to 1976, through State allocation of special funds to the regions. The regions can then grant subsidies to the communes, partly in the form of a lump sum, towards the costs of building and equipping a crèche, and partly in the form of an annual contribution towards operating expenses, etc. The special fund for crèches (article 2) is the responsibility of the Ministry for Hygiene and Health, which is entrusted (article 3) with supervising the implementation of the annual plans for crèches. After specifying the necessary administrative procedures (articles 4 and 5), the Act confers responsibility on the region (article 6) for establishing the general criteria with respect to the construction, administration and supervision of the crèches. However, it specifies that they must: (1) be organized to meet the needs of families both as regards the location selected and operating procedures; (2) be managed with the participation of families and representatives of social welfare organizations in their area; (3) have a sufficient number of trained staff capable of providing the child with medical care and elementary training; (4) comply with technical standards of construction and physical lay-out necessary for the harmonious development of the child.

The health and medical supervision of the crèches is entrusted to the local "health units" (article 7). Articles 8 to 10 contain the regulations for obtaining the funds needed to implement the Act. Article 11 repeals article 11 of Act No. 860 of 26 August 1950.

Act No. 1204 of 30 December 1971 (*Gazzetta Ufficiale,* No. 14, 18 January 1972) contains new regulations for the protection of working mothers. More than 200 deputies of various political affiliations joined in promoting this Act, which extends, amends and largely complements (with a total of 35 articles) Act No. 860 of 26 August 1950 on the protection of working mothers, by providing many positive innovations.[4]

[1] Note transmitted by Dr. Maria Vismara, Government appointed correspondent of the *Yearbook on Human Rights.*

[2] Article 37 of the Constitution: "Working women shall have the same rights as men and shall be entitled to equal pay for equal work. Their conditions of employment must enable them to perform their essential functions in the home and must provide special and adequate protection for mothers and children."

[3] Statement by the Rapporteur to the Chamber of Deputies (doc. 976, December 1968).

[4] Since the text of the essential parts of the Act of 1950 appeared in the *Yearbook of Human Rights for*

Title I of the Act deals with "protective measures". Article 1 amends the previous Act by including apprentices among those benefiting from the protective measures envisaged; while no mention is made of female agricultural workers, they are included, in greater detail, in the category of dependent women workers. Pursuant to article 2 of the Act of 1950, article 1 provides for the application of articles 2, 4, 6 and 9 to women working at home, and articles 4, 5, 6, 8 and 9 to women engaged "in domestic and family service". Article 2 is an improvement on the previous law, because it further clarifies the obligation to reinstate a woman worker who has been dismissed, if it can be proved that she already qualified for the protection due to working mothers when she was dismissed. In the case of seasonal workers, the law states that when work starts on a specific activity, working mothers shall be accorded priority in the matter of reinstatement. Article 3 extends to seven months after confinement the prohibition against using female workers during the period of pregnancy to carry or lift heavy objects or perform dangerous, difficult or unhealthy work. In the previous law, the prohibition was limited to three months. The last paragraph of this article refers to the Workers' Statute [5] concerning changes in job assignments. Article 4 amends the previous Act by prohibiting the women from working during the two months preceding their confinement, while the period of maternity leave remains fixed at three months before confinement for women assigned to work which is difficult or in any case dangerous to the pregnancy. The type of work involved will be specified by a decree from the Ministry of Labour and Social Security after consultation with the trade union organizations. Article 5, like the previous Act, specifies that the Labour Inspectorate may, on the basis of a medical examination, prohibit a pregnant woman from working even when—and this constitutes the innovation—the employee cannot be assigned to other tasks (article 4, Act of 1950 and article 3, Act of 1971).

Article 6 reproduces article 14 of the previous Act. Under article 7, the female worker is not only entitled, even after the three months following confinement specified by the Act, to six months of optional, non-compulsory leave, but may also take leave from work during the illness of a child less than three years of age if she submits a medical certificate. Periods of absence on these grounds shall be calculated on the basis of length of service, and shall not affect annual leave, the thirteenth annual payment or the end-of-year bonus. Article 8 specifies that leaves and absences to which female workers are entitled may not be included in the period of compulsory absence from work. Articles 9 and 10, which cover medical care during pregnancy and confinement, the daily break for breast-feeding in a room specially provided for that purpose on the premises or, if there is no such room, the right to leave the premises, etc., do not introduce any fundamental changes in the previous Act. Article 11 allows the employer to replace female workers absent on maternity leave by persons engaged on a fixed-term contract, in accordance with Act. No. 230, which sets forth the rules governing that type of contract. Article 12 reproduces article 15 of the previous Act.

Title II deals with "economic treatment". Article 13 extends the application of the rules in Title II to all professional categories specified in article 1, but stipulates that female civil servants of the State, region, provinces or communes and other public bodies shall enjoy the economic treatment specified in the relevant regulations unless the present Act offers more favourable conditions. For women working under the *métayage* or profit-sharing system article 14 provides a daily benefit, payable by the National Sickness Insurance Institution, of 80 per cent of the average daily income for their category of employment during the entire period of compulsory leave before and after confinement. Article 15 confirms the entitlement of a female worker to a daily benefit of 80 per cent of her remuneration (already provided by the Act of 1950), for the entire period of her compulsory absence from work. It also provides that from 1 January 1973, female workers, with the exception of those working at home or in household employment, shall also be entitled to a daily benefit amounting to 30 per cent of their remuneration during the entire period of optional absence from work specified in article 7. Article 16 gives a full explanation of what is to be understood by "remuneration" when calculating these benefits; in particular, it improves, by comparison with article 22 of the Act of 1950, the position of the "female agricultural workers" who previously received only a fixed allowance and are now entitled to draw 80 per cent of their remuneration. Article 17 provides for the payment to working mothers of an additional sum over and above the unemployment benefit or what they would receive if they were covered by the Compensation Fund for Loss of Earnings scheme, if they fulfil the requisite conditions. The economic treatment of "female domestic workers" (article 19) is still that established under Title III of the Act of 1950, pending the promulgation of an order, for which provision has already been made.

Title III (articles 23 to 27) regulates the payment of a maternity benefit to women working in agriculture as owner-farmers, in crafts or in commerce. Under article 23, all these women must receive from the competent bodies concerned (mutual benefit funds) a lump sum of 50,000 lire in case of confinement, miscarriage or therapeutic abortion.

Title IV contains the regulations for enforcement of the Act, for the penalties to be applied to those who contravene it, and several other provisions.

A legislative measure of great scope and which is in complete harmony with one of the principles referred to in article 25 of the Universal Declaration of Human Rights (the right to hous-

1950, pp. 201-204, only the most important amendments provided by the Act of 30 December 1971 will be described. The regulations not referred to here are, in principle, identical with those in the Act of 1950.

[5] See *Yearbook on Human Rights for 1970*.

ing) has been adopted, at the initiative of the Government, in Act No. 865 of 22 October 1971 (*Gazzetta Ufficiale*, No. 276, 30 October 1971). The Act deals with programmes and co-ordination of public residential housing construction; regulations on expropriation in the public interest; amendments and addenda to Act No. 150 of 17 August 1942, No. 167 of 18 April 1962, No. 847 of 29 September 1964; and authorization of expenditure for special activities in the residential, assisted and contractual building sector.

This Act, which contains five titles and 67 articles, regulates this complex subject by a series of rules all of which are so detailed and basic that it is impossible to summarize its content without incurring the risk of giving a misleading idea of the principles on which it was based and its social objectives. It was therefore thought preferable to discuss the most important points underlying this new housing policy, as they appear in the Parliamentary records.

In the first place, the Act aims at bringing housing policy closely into line with development policy, in order to prevent the influx of people to production centres from being compounded by the inadequacy of social facilities. It then establishes control over the use of land by laying down new regulations on the expropriation of land in the public interest with a view to eliminating land speculation by establishing a distinction between the right to build and the right of property through a new urban development law. "Housing" is defined as a "social service"; consequently it must be integrated with all public facilities, urban development, employment centres and urban transport and it should be made available to the poorer sectors of the population at prices within their reach through rent control based on a fair rental agreement. The Act sets aside the principles of government intervention applied thus far, and is designed to develop and stabilize public activity in this sector. It deals with the reorganization and concentration of the planning and financing activities of the central and local bodies and agencies which have been operating in this field until the present time and the implementation of housing projects which allow for the direct participation of the users in managing the funds allocated to the sector and which confer a special role on the local authorities as regards their powers and responsibilities in urban development.

As far as expropriation in the public interest is concerned, the Act applies two principles: to provide compensation based on the agricultural value of the land and to encourage the formation of an inalienable "public domain" made up of the expropriated areas. The first principle is designed to eliminate ground rent and speculation in building. The second principle is designed mainly to enable the commune, the basic collective unit, to utilize, control and manage the expropriated land. However, this principle, which implies that title to the land can only be transferred in the form of concessions (even if financial payments are made in advance into a specially established fund), has been weakened by a number of exceptions. These allow the transfer of ownership of a certain percentage of the expropriated land provided there are suitable guarantees in order to prevent speculation.

The titles of the Act cover: I. Programmes and co-ordination of residential public housing; II. Rules for expropriation in the public interest; III. Amendments and addenda to previous legislation; IV. Public programmes of residential housing. Article 48 outlines the public programmes for the first three years. They include: the building of housing units for most workers and for those who are now living in unfit, insalubrious and dilapidated housing which is to be torn down; the building of housing units to meet the needs or regions struck by natural disasters; the construction of residences for students, workers, particularly immigrant workers and elderly persons, as well as housing for the poor, including co-operatives; the construction of houses for workers under contract who have left to work abroad and for refugees, including co-operatives; the realization of "primary" and "secondary" urban projects related to building activities; maintenance and sanitation projects for low-cost and workers' housing owned by the State and by low-cost people's building societies ... the provision of additional funds to subsidize independent workers' housing agencies for purposes of carrying out building programmes. Title V deals with assisted and contractual building, as well as tax abatements.

Subsequent to ruling No. 190 of 10 December 1970 by the Constitutional Court, which declared article 304 *bis*, first paragraph, of the Code of Criminal Procedure unconstitutional,[6] the legislators have amended the article in accordance with the ruling of the Court, as well as other articles of the Code of Criminal Procedure, with a view to adapting them to the principles embodied in the Court ruling.

Legislative Decree No. 2 of 23 January 1971 (*Gazzetta Ufficiale*, No. 18, 23 January 1971) amended article 304 *bis*, first paragraph, of the Code of Criminal Procedure, by establishing that the defence counsel has the right to be present "during the questioning of the accused". Subsequently, Act No. 62 of 18 March 1971 (published in the *Gazzetta Ufficiale*, No. 72, 23 March 1971) entitled "Conversion into Law, with amendments, of Legislative Decree No. 2 of 23 January 1971, concerning the amendment of article 304 *bis* of the Code of Criminal Procedure, and modifications of articles 124, 225, 304 *quater* and 317 of that Code" improved the wording of the first two paragraphs of article 304 *bis*, which read as follows: "304 *bis: (Proceedings at which defence counsel may be present)* Defence counsel have the right to be present during the questioning of the accused ... They also have the right to be present at court tests, consultations with experts, house searches and sworn statements of damaging facts, save for the exceptions prescribed by law. The judge may also authorize the accused and the victim of the offence to be present at the proceedings in question, if he deems it necessary or if the *Pubblico Ministero* or defence counsel so request".

[6] See *Yearbook on Human Rights for 1970.*

The same Act amends the first paragraph of article 124 of the Code of Criminal Procedure (concerning "Defence counsel during the preliminary investigation") by including "investigations by the judicial police" and fixing the number of defending lawyers of the accused at two. The new text of article 124, first paragraph, reads: "During investigations by the judicial police and the examining judge, when the presence of or representation by defence counsel is authorized, the accused may not be assisted or represented by more than two defending lawyers".

Furthermore, article 225 of the Code of Criminal Procedure has been replaced (the wording had been amended by Act No. 923 of 5 December 1969),[7] particularly with a view to drawing special attention, also during judicial police investigations, to observance of the rules of the formal preliminary investigation, including those specified in article 304 *bis*. The new text of article 225 reads as follows:

"Judicial police officers may, in the event it becomes urgent to collect evidence of the crime, proceed to hear the necessary reports, to hear witnesses, to interrogate the suspect and to resort to verification, inspection and confrontation procedures. The rules for the official preliminary examination, including those specified in article 304 *bis*, shall be observed in the course of such inquiries without administering the oath, unless otherwise provided by law.

"However, only the *Pubblico Ministero* or the *Pretore* (judge of the court of first instance) may undertake the interrogation of the detained or arrested person, and only after his transfer to a prison, as provided in article 238. Similarly, the *Pubblico Ministero* or the *Pretore* shall arrange for the identification parade and confrontations when the arrested or detained person is present at these proceedings.

"The judicial police officer shall be required to receive the statement designating the defence counsel selected by the accused or, failing that, to request the *Pubblico Ministero* to appoint a counsel *ex officio*.

"The judicial police officer shall be required to tell the defence counsel, in the manner laid down in article 304 *ter*, first paragraph, at which proceedings he is entitled to be present.

"Documents, reports of interrogation, seizures, inspections and personal searches, under article 304 *quater*, must be filed by the *Pubblico Ministero* or the *Pretore*, to whom these documents are to be transmitted immediately in accordance with article 227."

Article 304 *quater*, introduced by Act No. 517 of 18 June 1955, was amended by excluding from the reports to be filed those relating to the "interrogation of the detained person".

Finally, article 317 of the Code of Criminal Procedure (introduced by Act No. 517 of 18 June 1955) has been redrafted to bring it into line with the principles of the ruling by the Constitutional Court: at the end of the second paragraph, after the phrase specifying that the expert may carry out his work in a laboratory or a public or private institution, the words "even without the intervention of the defence lawyers and private parties, the *Pubblico Ministero* and the technical advisers retaining the right to intervene under article 324" have been deleted.

It has happened—although it is not very common—that discrimination on grounds of sex against men has had to be eliminated; it was also, of course, a violation of article 2 of the Universal Declaration of Human Rights. The situation was rectified by Act No. 124 of 25 February 1971 (*Gazzetta Ufficiale*, No. 83, 25 February 1971) relating to the extension to male staff of the exercise of the occupation of professional nurse, organization of nursing schools and transitional regulations for training direct nursing staff.

Under previous Italian legislation, only females were allowed to exercise the occupation of "auxiliary health worker" as professional nurses. Male students were thus denied access to the special schools which prepare them for diplomas in nursing. In the reports accompanying the bill, the legislator noted that in principle, as far as aptitude was concerned, there was no valid reason to justify the difference in legal treatment for the two sexes. Consequently, he pointed out that the legislation in force was in conflict with the constitutional provision of equal rights for both sexes in respect of access to different professions and careers (articles 3 and 51 of the Constitution).

Article 1 of this Act therefore extends the "auxilary health profession" to male citizens holding the required diploma and regulates the admission of students to the appropriate professional schools, with or without a residence requirement. Articles 2 and 3 refer respectively to the entry requirements and qualifications necessary for admission "to schools for general male and female nurses".

A series of transitional provisions follow regulating the establishment, attendance, curricula, etc. of the courses hospital staff must take in order to qualify for the diploma authorizing the practice of the nursing profession.

II. Agreements and conventions relating to human rights which became applicable in Italy in 1971

1. Convention between Italy and Tunisia relating to legal assistance in civil, commercial and criminal matters, recognition and execution of arbitral rulings and decisions, and extradition, concluded at Rome on 15 November 1967.

Approved and given effect in Italy by Act No. 267 of 28 January 1971 (*Gazzetta Ufficiale*, No. 128, 21 May 1971).

2. Emigration and settlement agreement between Italy and Australia, with exchange of notes and agreement concerning assisted emigration, concluded at Canberra on 26 September 1967.

[7] See *Yearbook on Human Rights for 1969*, page 126.

Approved and given effect in Italy by Presidential Decree No. 1430 of 9 December 1970 (*Gazzetta Ufficiale*, No. 92, 14 April 1971).

III. Judicial decisions

The application of the principle established by the Constitution and proclaimed by the Universal Declaration of Human Rights (article 8) that no one may be denied access to his "lawful judge" as provided by law, has been the subject of three decisions by the Italian Constitutional Court.

In an order dated 27 October 1969, the Court at Naples had declared the provision in article 389, second paragraph, of the Code of Criminal Procedure, which establishes the obligation of the *Pubblico Ministero* to proceed with the summary preliminary examination when the detained person has confessed and further investigation is not deemed necessary, to be a violation of the principle of freedom to designate the judge, referred to in article 25, first paragraph, of the Constitution.[8] If the *Pubblico Ministero* is allowed to make the final decision that a confession exists and that further judicial inquiry is unnecessary, it follows that he becomes the arbiter of the type of preliminary investigation to be chosen and later may just as arbitrarily prevent the examining judge from engaging in proceedings which would be within his competence under the law. The order had been issued after the completion of a summary preliminary investigation, before the entry into force of Act No. 780 of 7 November 1969 [9] which also amended, *inter alia*, the second paragraph of article 389 of the Code of Criminal Procedure, in accordance with the constitutional provision. The result is that the procedure laid down by the new Act is not applicable.

In 1968, decision No. 117 of the Constitutional Court had declared unconstitutional the third paragraph of article 389, which stated that the *Pubblico Ministero* must conduct a summary preliminary investigation whenever the evidence appeared incontrovertible. The reasons adduced at the time by the Court in support of its declaration of unconstitutionality were summarized as follows: the principle that the *Pubblico Ministero* may be allowed to choose the type of preliminary hearing to be held, implying a restriction of the examining judge's competence, by making a judgement which then becomes a final decision on the incontrovertibility of the evidence, is unacceptable.

Decision No. 40 of 25 February 1971 states that there is no doubt that the same considerations apply equally in the case of a judgement (opinion) on the existence of confessions and the absence of any need for further preliminary investigation which, in the original text of article 389, second paragraph, also could not be substantiated. Consequently, the Court finds article 389, second paragraph, of the Code of Criminal Procedure unconstitutional, in so far as the text prior to the amendment contained in Act No. 780 of 7 November 1969 provided that during the proceedings, the considered view of the *Pubblico Ministero* that the accused had confessed and that there was no need for further judicial investigation "could not be substantiated".

The other two decisions concern the illegality of two articles of the Criminal Code for Military Personnel in Peacetime.

Decision No. 82, issued on 21 April 1971, concerns article 285, first paragraph, of this Code, which authorizes the Supreme Military Tribunal to transfer a case, at any stage of the substantive proceedings, from one military tribunal to another, at the request of the Procurator-General, for "reasons of public order, service or discipline". This provision, and in particular the part concerning "reasons of service", was criticized by the military tribunal of Padua, which referred to article 25 of the Constitution.

In decision No. 119 of 1957, the Constitutional Court had already found a "violation of constitutional legality" in that part of the second paragraph of article 285 of the Criminal Code for Military Personnel in Peacetime which stated that the Supreme Military Tribunal need not state the reasons for its decisions. "In fact," states the current decision of the Court, "while the obligation to substantiate (a decision) concerning a judicial action established in article 111 of the Constitution is designed to ensure that a specific decision follows this ruling, article 25 (1) of the Constitution requires, in accordance with the principles upheld on numerous occasions by this Court, that the law shall determine in advance the criteria for identifying the lawful judge and shall lay down the appropriate limits for cases in which competence may be transferred from one judge to another if the *res judicanda* is already established".

"Since there can be no doubt of the general scope of the principle laid down by article 25 of the Constitution," the decision continues, "it follows that, even for the procedures envisaged, the power to transfer competence from one tribunal to another must be confined to cases specified in advance by the law, with sufficient limits to exclude the exercise of unlimited powers of discretion. These conditions are not met, in the part to which the Court objects, namely, the first paragraph of article 285 of the Criminal Code for Military Personnel in Peacetime, since the expression 'reasons of service' is very vague. It would allow the Procurator-General to require and the Supreme Tribunal to decide that the proceedings could be transferred (from one judge to another) in a practically infinite and indefinable number of cases. In other words, the law does not meet the obligation established by article 25 of the Constitution and invalidates 'the guarantee that the accused person should be judged by his lawful judge as provided by the law'." The Court therefore declared unconstitutional the part of the first paragraph of article 285 of the Criminal Code for Military Personnel in Peacetime containing the words "of service".

[8] Article 25 of the Constitution: No one may be denied access to his lawful judge as provided by law.

[9] *Yearbook on Human Rights for 1969*, p. 126.

Decision No. 83 of 21 April 1971 relates to article 350 of the Criminal Code for Military Personnel in Peacetime, the first paragraph of which provides that, except for the cases for which, under the terms of article 324, the formal preliminary investigation is mandatory (offences punishable by life imprisonment or proceedings during which political or military secrets must be protected) there shall be a summary preliminary investigation when the circumstances and conditions are those envisaged by article 389 of the Code of Criminal Procedure. The second paragraph of the same article provides that in all other cases, the Military Procurator may request a formal preliminary investigation or institute a summary preliminary investigation. The question of the constitutionality of article 350 of the Criminal Code for Military Personnel in Peacetime was raised by an order of the Court at Bari.

The Court refers to its decision No. 117 of 1968 in reaffirming that if the power of the *Pubblico Ministero* is not to violate the principle contained in article 25 of the Constitution, "the actual exercise of this power must be subject to judicial control so as to verify that the conditions which provided the legal justification for the exercise of power in fact exist". It therefore follows "that the law must circumscribe appropriately the cases which require only a summary preliminary investigation: it is obvious that if the reservation established by the law is to be observed, judicial control alone over the exercise of power will be inadequate if the law does not determine in advance the cases to which it shall apply". Consequently, the Court states that in the second paragraph of article 350 the only restriction on the power of the Military Procurator to choose the summary preliminary investigation is "a purely negative one, constituted by the cases for which article 324 specifies that the formal preliminary investigation is mandatory, so that it is even impossible, once the choice has been made, to ascertain . . . whether it is justified on the basis of the provisions contained in the first paragraph of the article or on the basis of the complete latitude which the second paragraph allows the Military Procurator in that respect." "It is therefore obvious", the decision continues, "that the final provision is incompatible with article 25 of the Constitution, not because of the absence of any possible subsequent judicial control, a defect which could be remedied by a declaration of partial unconstitutionality . . .; but because there is no positive and objective delimitation of the cases where a summary preliminary investigation must be undertaken and the cases where the formal preliminary investigation must be requested." Thus, no restriction whatever is placed upon the Military Procurator's power in this respect by prior legislative provisions as required by article 25 (1) of the Constitution.

After declaring the second paragraph of article 350 of the Criminal Code for Military Personnel in Peacetime to be unconstitutional, the Court declares unconstitutional the second paragraph of article 324 of the same Code, which establishes that the Military Procurator may request a formal preliminary investigation even when it is not "mandatory" under the second paragraph of article 350.

The principle of equal rights of the individual (article 2, Universal Declaration of Human Rights) and the right to security in the event of disability and old age (article 25 (1), Universal Declaration of Human Rights) has received further support in decision No. 160 of 28 June 1971, handed down by the Constitutional Court.

Two orders, from the Courts of Potenza and Pesaro respectively, raised the question of the constitutionality of article 10 of Legislative Decree No. 636 of 14 April 1939 on compulsory disability and old age insurance, which states: "An insured person whose earning power in a post suited to his ability is permanently reduced as the result of a disability or a mental or physical defect to less than one-third of his normal earnings in the case of a wage earner and to less than half in the case of a salaried employee shall be deemed to be disabled (handicapped)." The challenge to the constitutionality of this rule was made on the basis of a reference to articles 3 and 38 of the Constitution.[10] The orders pointed out that by differentiating between the decline in earning capacity of wage earners and salaried employees as a criterion for entitlement to disability the rule being contested violated the principle of equality because it established a different treatment for each group which was arbitrary and unjustified. The orders also stressed that the loss of earning capacity create the same problems and needs for wage earners as for salaried employees, which is why the rule is in conflict with article 3 of the Constitution. Furthermore, the provision establishes particularly harsh conditions which, in effect, invalidate the right to adequate means of existence and therefore violates article 38 of the Constitution.

The decision of the Constitutional Court asserts, first of all, that the principle established by the contested rule is incompatible with the constitutional "precept" that social security benefits should guarantee the worker "adequate means of support" because it establishes conditions entitling wage earners and salaried employees to a pension. It adds that the distinction between "wage earners" and "salaried employees", based on dubious and controversial criteria, in the form in which it was adopted by the 1924 Act on private employment "is no longer, at the present stage in the regulation of labour relations, a suitable instrument for strictly differentiating between earning capacities, in the light of the social security system."

After referring to the various classifications used in current legislation to adapt the regulation of labour relations to developments in economic life and the structure of enterprises, the decision

[10] Article 3 of the Constitution: "All citizens are of equal social dignity and are equal before the law, without distinction as to sex, race, language, religion, political opinions or personal and social status."

Article 38 of the Constitution: ". . . Workers are entitled to be provided with and assured of adequate means of existence in case of accident, sickness, disability, old age or involuntary unemployment . . .".

then quotes Act No. 903 of 21 July 1965, confirmed by Act No. 153 of 30 April 1969 [11] which not only instructs the Government to revise the existing regulations on pensionable disability by bringing them into greater harmony with the "requirements which have become apparent in the application of those regulations", but also to "abolish the difference in the criteria applied to salaried employees and wage earners". The Court also stresses that the task of abolishing the above-mentioned distinction is in line with the recommendation approved on 27 September 1966 by the Economic and Social Committee of the European Economic Community, which *inter alia*, abolishes the "provisions for differentiating in the application of disability status to wage earners and salaried employees". It concludes: "It follows from the above that the greater degree of disability required under the contested rule in order for the wage earner to qualify for a pension, does not guarantee him social security benefits commensurate with the 'adequate' means of existence required by article 38 of the Constitution".

The Court therefore recognizes that the disputed passage of article 10 conflicts with article 38 of the Constitution, which furthermore implies incompatibility with article 3 of the Constitution, since the different treatment envisaged in this provision does not guarantee equal protection against the risk of partial disability. The Court therefore declares unconstitutional that part of the first paragraph of article 10 of Legislative Decree No. 636 of 14 April 1939, which became Act No. 1272 of 6 July 1939, containing the words "to less than one-third of his normal earnings in the case of a wage earner" and the final words "in the case of a salaried employee".

In the area of freedom of opinion and expression (Universal Declaration of Human Rights article 19) and the protection of health and motherhood (Universal Declaration, article 25), it is appropriate to mention decision No. 49 of 10 March 1971 handed down by the Constitutional Court on propaganda favouring the use of contraceptive methods.

Two orders, from the Court at Viterbo and the *Pretore* of Rome respectively, raised the question of the constitutionality of article 553 of the Criminal Code concerning incitement to use contraceptive devices.[12] The first order also challenged the legality of article 112 of the Unified Text of the laws on public safety [13] by referring to articles 21, first paragraph, and 32 of the Constitution.[14]

In its decision, the Constitutional Court recognizes, first of all, that the rule referred to in article 553 of the Criminal Code was in line with the population policy of the time, which favoured an increase in population, regarded as a national asset, and was in keeping with the principles underlying that policy. At the present time, the Court continues, the problem of birth control has assumed "such social importance and prominence and has aroused such wide interest that today, in the light of contemporary thinking and with the spread of health education, it is impossible to consider public discussion of the various aspects of the problem, the dissemination of relevant information and propaganda for the practice of contraception, as an attack on morality". Thus, since there is no independent basis for the offence referred to in article 553 of the Criminal Code, the Court recognizes that the restriction it places upon free expression of ideas conflicts with the constitutional decision (article 21) which establishes this freedom: it therefore declares article 553 of the Criminal Code to be unconstitutional.

However, the Court stresses that, in consequence of this declaration of unconstitutionality, propaganda for the use of contraceptive methods and advocacy of such methods shall remain subject to compliance with the provisions of law concerning obscene acts, publications and performances,[15] the production and distribution of writings, drawings and objects contrary to public morality [16] and the provisions concerning incitement to commit an offence and justification of the offence [17] and, in particular, incitement to abortion.[18] With regard to the last subject, the Court "considers it necessary to stress that the protection of health and motherhood, which is guaranteed by the Constitution (articles 31 and 32), requires that when propaganda in favour of contraception is recognized as lawful, it shall be subject to appropriate regulation aimed at preventing incitement to use methods deemed harmful to health, either through direct use or because of their side-effects."

On the same grounds as those invoked to declare article 553 of the Criminal Code unconstitutional, the Court recognizes the unconstitutionality only of that part of article 112 of the Unified Text of the laws on public safety which prohibits the manufacture, sale, possession, importation, exportation, and distribution of writings, draw-

[11] See *Yearbook on Human Rights for 1969*, p. 128.

[12] Criminal Code, article 553: "Anyone who publicly advocates methods of contraception or engages in propaganda in behalf of their use shall be liable to a term of imprisonment of up to one year and a fine of up to L. 80,000."

[13] Unified text, article 112: "It shall be prohibited to manufacture, introduce into the territory of the State, purchase, possess, export for commercial purposes or distribute, as well as to circulate written material, drawings, representations or other objects of any kind whatsoever, contrary to the political, social and economic regulations in force in the State ... which give information, even in an indirect or disguised manner, or on the pretext that its purpose is therapeutic or scientific about contraceptive devices ... or which explain how such devices are to be used or in any way indicate how to obtain or use them. It shall also be prohibited to traffic, even in a clandestine manner, in the above-mentioned devices or to distribute or display them publicly."

[14] Constitution, article 32: "The Republic shall protect health as a fundamental right of the individual and an interest of the community, and shall guarantee free treatment for the poor."

[15] Criminal Code, articles 527, 528 and 529.

[16] *Ibid.*, articles 725 and 726.

[17] *Ibid.*, article 414.

[18] *Ibid.*, article 548.

ings and representations which give information about contraceptive methods or which contain instructions for their use.

As a logical consequence of these decisions, the Court also declares unconstitutional that part of article 114, first paragraph, of the Unified Text which prohibits the publication in daily newspapers or periodicals of advertisements or correspondence relating to methods designed "to prevent procreation"; and that part of article 2, first paragraph, of Legislative Decree No. 561 of 31 May 1946 which envisages the possibility of seizing newspapers or other publications or printed matter which give information about methods designed "to prevent procreation" or "explain their use or contain advertisements or correspondence relating thereto".

The decision handed down by the Court of Cassation on 6 November 1970 (but published only recently in *Giurisdizione Italiana*, part II, pp. 202-204) concerning the offence constituted by obscene publications and performances should be noted in particular for its affirmation of the principle of the protection of the "dignity" of all human beings proclaimed by article 1 of the Universal Declaration of Human Rights, on which several of its articles are based.

The following occurrence had given rise to the hearing. In the course of a search on the premises of a barber carried out by the *Pretore* of Piombino, the judicial police had found and seized an obscene film. After the police had notified the judicial authorities, three persons were brought to trial for the offence stipulated in article 528 of the Criminal Code.[19] Two of the accused were acquitted "on insufficient evidence"; the third, a Mr. B., who was found guilty of the offence as charted, was sentenced to three months' imprisonment and a fine of L. 40,000, and the seized film was confiscated. The Court of Livorno confirmed the verdict, following an appeal by Mr. B., and it was against that decision that Mr. B. appealed to the Court of Cassation.

From the point of view of the law, he considered that the findings of the Court with regard to his liability were wrong for the following reasons: (1) there was no sale by him to Mr. V., but at very most, negotiations which had been inconclusive; (2) what had been involved was, in any case a single act of delivery, or of sale, and Mr. B. alone could not be held guilty of the offence of which he was accused because the definition of the offence included intent to "traffic in and distribute", which would require more than one transaction involving traffic or distribution.

The Court of Cassation held the appeal to be without merit and gave the following ruling: "The offence involving obscene publications and performances, which applies to two quite separate situations, involves certain dangers because it does not require that the offence against morality which is the legal principle being protected in this case should actually be committed; it is quite sufficient if there is a possibility of an offence against morality. Consequently, the alleged offence in the case of obscene publications consists of the act committed by a person engaged in trafficking, even clandestinely, in obscene objects or distributing or displaying them publicly. The idea of 'trafficking', which covers any kind of commercial operation, also includes offer for sale without regard for the fact that the person offering the object for sale is not actually a salesman. Furthermore, the intent to engage in trafficking does not imply more than one commercial operation and the offence is deemed to have been committed even if it involves only one obscene object, since the plural used in article 528 of the Criminal Code, as it does not specify number, refers to an indeterminate quantity."

The Supreme Court then explained that, according to the evidence given, the material proof of the *de quo* offence in fact existed, since Mr. B. had purchased a pornographic film and had offered it for sale to Mr. V., who had agreed to pay for it after he had seen it.

Secondly, the plaintiff also maintained that there had been a violation of criminal law with regard to the psychological aspect of the offence with which he was charged. The Court had held that there had been wilful misrepresentation because, although Mr. B. had not seen the film, he was aware that its content was pornographic. However, the plaintiff maintained that the current expression "pornographic" was not the same as the legal definition of "obscene" and that no one could be held to be liable, under article 528, unless it could be proved that the alleged offender was aware that the object in question was obscene, and not merely pornographic.

The Supreme Court held the appeal to be without merit: "The misrepresentation which must be proved if an offence has been committed requires not only conscious intent but also awareness of the obscene nature of the object and Mr. B. possessed this awareness ... The content of the film was clearly pornographic and consequently, obscene, since pornography is a more restricted term than obscenity. Pornography means a description or illustration of erotic subjects by writings, drawings, statements, photographs, etc., which may break down sexual restraint or endanger morality because they are of a definitively licentious nature. The concept of pornography therefore comes within the broader concept of obscenity, which manifests itself in despicable and serious acts which undermine the sense of restraint which should characterize sexual behaviour."

The Court of Cassation consequently rejected the appeal.

[19] Criminal Code, article 528: "Any person who manufactures, introduces into the territory of the State, purchases, possesses, exports or distributes obscene writings, drawings, representations or other obscene objects of any kind whatsoever with intent to traffic in or distribute them or display them publicly shall be liable to imprisonment for a period of three months to three years and a fine of not less than L. 8,000. The same penalty shall be applicable to anyone who engages in trafficking even clandestinely, in the objects indicated in the preceding provision, or distributes or displays them publicly."

IVORY COAST

Act No. 71-334 of 12 July 1971 establishing a National Handicrafts Office in the Ivory Coast [1]

(Extracts)

Article 1. A public institution of an industrial and commercial nature possessing legal personality and financial autonomy, is hereby established; it shall be known as the National Handicrafts Office (ONA).

Article 2. The purpose of the National Handicrafts Office is to protect and develop arts and crafts in the Ivory Coast from the artistic, cultural and economic point of view.

To this end it shall be responsible, in co-ordination with the National Art Institute and Museum, for carrying out research concerning traditional art, taking censuses of existing craftsmen, classifying models and regional types and organizing production and marketing.

It may undertake any studies and any activities it deems appropriate for the achievement of its purpose.

Article 3. The financial resources of the Office shall consist of:

State grants;

Funds deriving from foreign aid;

Proceeds from sales of handicrafts;

Gifts, bequests and contribution of all kinds which it is authorized to accept.

Article 4. The expenditure of the Office shall consist of:

Investment and operating expenses necessary for the execution of its programme and for the provision of assistance to craftsmen;

All other expenses necessary for the performance of its functions.

...

[1] *Journal officiel de la République de Côte d'Ivoire*, No. 34, 5 August 1971.

Act No. 71-338 of 12 July 1971 concerning the rational use of rural freehold land [2]

Article 1. All owners of rural land shall be required to cultivate all the land they farm and to maintain it in a productive state, such development applying to the production of agricultural commodities, to stock-breeding or the industrial use of land.

Article 2. Rural land acquired freehold in any capacity and not developed in the manner prescribed in the following articles may revert wholly or in part to state ownership to be used for economic and social purposes.

Article 3. Non-development, as referred to in article 2, may be constituted by non-cultivation, by poor productivity or by neglect of an industrial undertaking installed on the land in question.

Article 4. Non-cultivation shall be defined as the lack of any upkeep or production, in the case of crops or livestock, over a period of ten years.

Non-cultivated land shall be deemed to comprise:

(*a*) Permanent concessions granted for the purpose of agricultural development, where the terms of the articles and conditions attached to the concession order have not been complied with;

(*b*) Individual plots which have lain fallow for ten consecutive years and whose total area exceeds the area customarily left fallow under the crop rotation system employed on the holding and in the district in question.

Article 5. Agricultural undertakings or individual lots sown with perennial crops which for ten consecutive years have not been treated in such a way as to ensure normal upkeep, and whose yield is lower than the yields customarily obtained in the district from land of the same degree of fertility which is farmed normally shall be deemed to be unproductive.

Article 6. The ten-year non-development period referred to in articles 4 and 5 above shall be calculated retroactively from the date of the initiation of expropriation proceedings.

Article 7. Failing the conclusion of an amicable settlement at any stage in the proceedings,

[2] *Ibid.*

transfer shall give entitlement only to reimbursement of the price paid at the time of acquisition of the land in question and of the registration costs.

If the land was acquired as a result of a free concession, transfer thereof shall give entitlement only to reimbursement of any registration cost shown to have been incurred.

If the land has subsequently been alienated, the purchaser shall receive the price he paid to purchase the land, plus the costs pertaining to acquisition, provided that the purchase agreement is legally dated prior to 28 February 1957.

However, in the case of essential improvements made and subsequently neglected for ten years, transfer shall give entitlement to additional compensation equal to the value of the improvements assessed on the date of transfer.

Article 8. A multiplier corresponding to the mean price variations noted by decree shall be applied to the reimbursements referred to in the first three paragraphs of the foregoing article.

Article 9. In the event that a person who is under a legal disability, is absent or is not resident in the Ivory Coast, and has there neither an agent nor a known representative, has a right over the land entitling him to compensation for expropriation on the grounds of non-development, an *ad hoc* trustee shall be appointed to protect his interests.

Article 10. The foregoing provisions shall apply forthwith to land that has not been developed for more than ten years on the date of publication of this Act.

Article 11. The procedures for the application of this Act, and particularly the manner in which property is to be transferred to state ownership, shall be determined by decree.

Article 12. Act No. 46-896 of 3 May 1946 and all provisions conflicting with this Act are hereby abrogated.

Article 13. This Act shall be published in the *Journal officiel* of the Republic of the Ivory Coast and implemented as a law of the State.

Act No. 71-340 of 12 July 1971 regulating the development of urban freehold land [3]

Article 1. All holders of titles to urban real estate shall be required to develop and maintain in good condition the holding to which the title pertains.

Article 2. Urban land acquired freehold in any capacity and not developed in the manner prescribed in the following articles shall revert wholly or in part to state ownership to be used for economic and social purposes.

Article 3. Non-development of urban land shall be deemed to have occurred five years after the issue of the title where there has been no investment in construction, or where such investment is inadequate having regard to the location of the land and its market value.

Urban land on which construction has been undertaken and neglected for five years on the date on which expropriation proceedings are initiated shall be deemed to be insufficiently developed.

Article 4. The value both of the investment in construction and of the land shall be assessed on the date on which expropriation proceedings are initiated.

Article 5. Failing the conclusion of an amicable settlement at any stage in the proceedings, transfer shall give entitlement only to reimbursement of the price paid at the time of acquisition of the land in question and of the registration costs, if any.

If the land was acquired as a result of a free concession, transfer thereof shall give entitlement only to reimbursement of any registration costs shown to have been incurred.

If the holding has subsequently been alienated, the purchaser shall receive the price he paid to purchase the land, plus the costs pertaining to acquisition, provided that the purchase agreement is legally dated prior to 28 February 1957.

However, in the case of construction carried out and essential improvements made and subsequently neglected for five years, transfer shall give entitlement to additional compensation equal to the value of the construction and the improvements assessed on the date of transfer.

Article 6. A multiplier corresponding to the mean price variations noted by decree shall be applied to the reimbursements referred to in the first three paragraphs of the foregoing article.

Article 7. In the event that a person who is under a legal disability, is absent or is not resident in the Ivory Coast, and has there neither an agent nor a known representative, has a right over the land entitling him to compensation for expropriation on the grounds of non-development, an *ad hoc* trustee shall be appointed to protect his interests.

Article 8. The foregoing provisions shall apply forthwith to land that has not been developed, or has been insufficiently developed, for more than five years on the date of publication of this Act.

Article 9. The procedure for the application of this Act, and particularly the manner in which property is to be transferred to state ownership, shall be determined by decree.

Article 10. Act No. 46-896 of 3 May 1946 and all provisions conflicting with this Act are hereby abrogated.

Article 11. This Act shall be published in the *Journal officiel* of the Republic of the Ivory Coast and implemented as a law of the State.

[3] *Ibid.*

JAPAN

NOTE *

I. Legislation

The laws relating to human rights which were enacted in 1971 are as follows:

1. LAW FOR PARTIAL AMENDMENTS TO THE AGRICULTURAL CHEMICALS CONTROL LAW (LAW NO. 1 OF 14 JANUARY 1971)

In view of the considerable extent of damage caused by the use of agricultural chemicals in recent years, this law is intended to raise the screening standards for the registration of agricultural chemicals and improve the registration system, including measures for the cancellation of registration, in order to ensure the good quality of these chemicals and their safe and proper use, and restrict or prohibit the sale by sales agents of those chemicals whose registration was cancelled, and also this amendment law has made it possible to control the use of certain chemicals which remain effective for a long time after their application.

2. LAW FOR PARTIAL AMENDMENTS TO THE NATIONAL ANNUITY LAW, ETC. (LAW NO. 13 OF 30 MARCH 1971)

The purpose of this amendment law is to increase the amount of welfare annuity, support allowances for children and special support allowances for children, lighten the restrictions on the payment of both welfare annuity and allowances to the bereaved families of those soldiers and others who died of injuries or diseases during the war, lower the age limits for giving old-age welfare annuity to the handicapped and also to alleviate, for the sake of very old people, the requirements for paying old-age annuity, based on the total years calculated under various types of annuity systems.

3. LAW FOR SPECIAL FINANCIAL MEASURES BY THE STATE RELATING TO THE PROJECTS FOR PREVENTION AND CONTROL OF POLLUTION (LAW NO. 70 OF 26 MAY 1971)

In order to facilitate the programmes for the prevention and control of pollution, this law provides for special financial measures, such as the establishment of special rules concerning the bearing by the State of the costs of the projects for prevention and control of pollution and also the ratio of State subsidies to such projects, special arrangements for the issuance of local bonds, and the inclusion in the basic amount of financial needs of a local public entity (which forms a basis for State subsidies to local bodies) of part of the amount of principals and interests redeemed of local bonds issued for prevention and control of pollution, and so forth.

4. LAW CONCERNING ALLOWANCE FOR CHILDREN (LAW NO. 73 OF 27 MAY 1971)

This law, which is designed to establish a new allowance system for children whereby to grant to those parents who support more than two children under 18 years of age a sum of 3000 yen per month per child who is the third or younger child and has not completed the compulsory education, provides for the conditions of grant, maximum income of families, bearing of costs, collection of contributions, and exceptional rules applicable to public servants.

5. THE ENVIRONMENT AGENCY ESTABLISHMENT LAW (LAW NO. 88 OF 31 MAY 1971)

The objective of this law is to establish the Environment Agency by merging several government organs which have the power to control air and water pollution, in order to deal, effectively and comprehensively, with matters relating to the prevention and control of pollution and the preservation of natural environments which require immediate attention at present for securing the healthy and cultural lives of the people.

6. THE OFFENSIVE ODOUR CONTROL LAW (LAW NO. 91 OF 1 JUNE 1971)

For the purpose of controlling the discharge of substances emitting offensive odours as a result of activities of factories or other work places, this law provides for measures to control such offensive odours by authorizing prefectural governors to designate controlled areas, set up controlling standards for different kinds of smelling substances and give to the violators of these standards a warning or order to rectify their practices.

* Note furnished by Mr. Isamu Kageyama, government-appointed correspondent of *Yearbook on Human Rights*.

7. LAW FOR ESTABLISHING THE STRUCTURE FOR CONTROL OF POLLUTION IN CERTAIN FACTORIES (LAW NO. 107 OF 10 JUNE 1971)

In view of the worsening situation of pollution in recent years, this law is intended to make certain factories which have facilities emitting smoke, filthy water, noise, etc, appoint special administrators and supervisors for control of pollution from among those legally qualified, and to make them perform certain duties relating to the control and prevention of pollution.

II. Judicial decisions

Among all the others in 1971, the following court decision is noteworthy from the standpoint of protecting human rights:

COURT DECISION IN THE MERCURY POISONING CASE ALONG THE RIVERSIDE OF THE AGANO RIVER, NIIGATA PREFECTURE KNOWN AS "NIIGATA MINAMATA DISEASE CASE"

On 29 September 1971, the Niigata District Court handed down the following decision in the above-mentioned case.

In this case, 77 surviving victims and bereaved families of those who died of mercury poisoning after eating fish from the Agano River during the period 1964-1965 filed a suit with the Niigata District Court against a certain pollution-causing chemical company, demanding a total sum of over 522 million yen as damages from the company, on the ground that the contamination of fish with organic mercury was due to the waste water discharged from a plant of that company along the upper reaches of the Agano River.

The gist of the court verdict in this case is:

(1) In pollution cases caused by chemical substances, it is not proper to demand full scientific proof from the victims because a very high level of knowledge of natural sciences is required to trace the cause and effect. Therefore, when the special features of the victims' disease, the substance causing it and also the route by which it reached their bodies can be identified by the circumstantial evidence accumulated, without contradiction to any scientific findings, and the source of pollution may be traced right to the suspected plant, it is to be considered that sufficient proof has been given so far as the legal causal relation is concerned, unless the pollution-causing factory can provide sufficient proof that their plant is not a source of pollution.

2. Since it is foreseeable that chemical industries generate harmful substances in their manufacturing process, they have the obligation always to be on the alert not to discharge such substances from their plants. In case they want to dispose of waste water by discharging it into a river, they have the responsibility for taking all possible steps not to give any harm to riverside residents by examining the presence of any harmful substance in the waste and the degree and nature of harm, with the aid of the best analytic techniques. In this particular case, the company was negligent, as it failed to examine the waste water discharged from its plants, even though they knew about the theory advanced in the "Minamata Disease Case" in Kumamoto Prefecture that organic mercury is a cause of disease, and discharged the waste water into the Agano River, without noticing that there was methyl mercury compound in it.

After considering these elements, the court ordered the company to pay a total sum of 270 million yen to the victims, setting a solatium for a dead victim at 10 million yen, as a general rule, and for a surviving victim at a sum ranging from 1 million to 10 million yen (classified into five categories) according to "the degree of their handicap in leading an everyday life" and also "what kind of work they are able to assume".

III. Main developments

1. SYSTEM OF CIVIL LIBERTIES COMMISSIONERS

The number of Civil Liberties Commissioners (volunteer workers appointed by the Minister of Justice to engage in activities for protecting the rights of citizens) as of 31 December 1971 was 9,441 (including 1,060 female Commissioners), representing an increase of 141 as compared with their number as of the corresponding date in the previous year.

The main activities of these Commissioners are represented by 5,661 cases of reports and investigations of human rights violations and 117,035 cases of counselling concerning human rights in 1971, which tend to increase year by year. Also, these Commissioners devote their efforts to encouraging and promoting universal respect for human rights in the respective communities.

2. SYSTEM OF LEGAL AID

For the benefit of those citizens who have almost no financial means to file a civil suit, even though they have a prospect of winning the case, the Legal Aid Association (a juridical foundation supervised by the Ministry of Justice) performs legal aid work, and the volume of its work is increasing steadily year by year. In 1971, decisions to provide legal aid were made in 3,104 cases (2,417 cases in 1970), of which cases demanding damages in traffic accidents comprised 24.4 per cent, and next came cases of divorce, recognition of child and disputes over immovables.

The Government subsidy for this work totalled 85 million yen (about 276,000 US dollars), just the same as in the previous year.

3. HUMAN RIGHTS WEEK

The week from 4 December to 10 December (Human Rights Day) was fixed as the twenty-third "Human Rights Week", and during the week various activities and campaigns for respecting human rights were carried out throughout the country.

Details on these activities have already been reported to the Human Rights Division of the United Nations, separately.

4. GENERAL TRENDS IN HUMAN RIGHTS PROBLEMS

In Japan, the people's sensibility for human rights problems has been developed in their minds to a considerable extent, but the patterns and modes of infringements upon their rights, in line with the growth of the national economy and the diversification of the society are becoming more and more complicated.

The total number of cases investigated by the Civil Liberties Bureau of the Ministry of Justice and Civil Liberties Commissioners in 1971 as they involved suspected violations of human rights reached 8,059, showing a slight decrease compared with the number in 1970, but the number of cases of counselling (number of cases in which citizens came to consult about their rights to lead a peaceful and happy life as well as other fundamental rights and freedoms) totalled 243,407, an increase of about 3,500 over the previous year.

JORDAN[1]

The Code of Criminal Procedure, Act No. 9 of 1961 [2]

(Extracts)

Article 63. (1) When the accused appears before the public prosecutor, the latter shall verify the identity of the accused, read out to him the charge brought against him and call upon him to answer it, notifying him that he has the right not to answer except in the presence of counsel. This notification shall be recorded in the record of the hearing. If the accused refuses counsel or his counsel fails to appear within 24 hours, the hearing shall proceed in the absence of counsel.

Article 81. No house may be entered and searched unless it is that of a person suspected of having committed an offence, of being an accomplice to an offence, of having in his possession objects relating to an offence or of harbouring an accused person.

Article 94. Save in the circumstances specified by law, no police officers, whether with or without a warrant, may enter any place and search it for any person or thing unless he is accompanied by the local mayor or by two local residents.

Article 107. Every detained person or prisoner shall have the right at any time to submit a complaint, in writing or orally, to the governor of the prison and to request him to transmit it to the office of the public prosecutor. The governor shall be obliged to receive it and to transmit it as soon as it has been recorded in a register kept for this purpose in the prison.

Article 105. No person shall be confined save in the prisons designated for this purpose, and no governor of any prison shall admit any person save pursuant to an order signed by the competent authority or detain any person after the expiry of the period specified in such order.

Article 112. (1) The public prosecutor shall interrogate immediately an accused person who is summoned by a writ to attend and shall interrogate an accused person who is taken into custody pursuant to an arrest order within 24 hours of his being taken into custody.

(2) Upon the expiry of the 24-hour period, the custodial officer shall on his own initiative bring the accused before the public prosecutor for interrogation.

Article 113. If the accused is arrested pursuant to an arrest order and remains in custody for more than 24 hours without being interrogated or brought before the public prosecutor in accordance with the provisions of the preceding article, his detention shall be deemed to be an arbitrary procedure and the official responsible shall be prosecuted for the offence of violation of personal freedom, as provided for in the Criminal Code.

Article 171. All trials shall take place in public unless the court decides that a trial shall be conducted *in camera* in order to preserve public order or morals. In all cases the presence of juveniles or of a specific category of persons may be barred.

Article 175. (1) After the evidence has been heard, the court shall ask the accused whether he wishes to give testimony in his own defence, and if he gives such testimony, the representative of the prosecution may reply.

(2) After the accused has given his testimony, the court shall ask him if he has any witnesses or other evidence for the defence. If he says that he has witnesses, the court shall summon them and hear their testimony.

Article 184. A person against whom judgement is rendered by default may enter an objection against the judgement within 20 days from the day following the date on which he is notified thereof by lodging an appeal, either directly or through the court of his place of residence, with the court which rendered the judgement.

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[1] Texts furnished by the Government of Jordan.

[2] Text not published before in the *Yearbook on Human Rights.*

The Criminal Code, Act No. 16 of 1960 [3]

(Extracts)

Article 3. No penalty shall be imposed which was not provided for by law at the time of the commission of the offence. An offence shall be deemed to be committed when the acts constituting it are committed, regardless of when such acts produce their effect.

Article 4. (1) Any law which modifies the conditions of incrimination in favour of the accused shall apply to acts committed before its entry into force, provided that no final judgement has been handed down in respect of such acts.

(2) Any law which modifies the right of prosecution shall apply to offences committed prior to its enactment if it is more favourable to the accused.

Article 5. Any new law which abolishes a penalty or imposes a lighter penalty shall apply in respect of offences committed before its enactment. If, after a final judgement has been handed down, a new law is enacted making the act for which the perpetrator thereof was sentenced no longer a penal offence, execution of the sentence shall be stayed and no crime shall be deemed to have been committed.

Article 6. No law which imposes more severe penalties shall apply in respect of offences committed before its enactment.

[3] *Ibid.*

The Press Act, No. 16 of 1955 [4]

(Extracts)

Article 2. The press shall be free, and everyone shall have the right freely to express his views and to impart opinions and accurate information through the various media. This freedom shall not be restricted save within the framework of the law.

Article 40. Lawsuits relating to press offences shall be governed by the rules of the ordinary courts, subject to the provisions of the following articles.

Article 41. If the case requires an investigation, the public prosecutor shall carry out such investigation and shall bring the case to court within a period not exceeding three days.

Article 42. When the case is brought before it, the court shall conduct a trial and shall render a decision within a period not exceeding three days. The time-limit for review, trial and the delivery of judgement shall be three days in the case of appeals courts and one week in the case of the Court of Cassation, where the judgement admits of cassation.

[4] *Ibid.*

Act on elections to the Chamber of Deputies, No. 24 of 1960 [5]

This Act lays down the right of Jordanians to elect the members of the Chamber of Deputies and their right to stand for election, in accordance with the provisions of the following two articles:

Article 3. (*a*) A Jordanian may vote in an election of members of the Chamber of Deputies if (1) he has completed 20 solar years of age; (2) his name is entered in a final electoral register.

(*Note*: This right is conferred on all persons who are not disqualified for any of the reasons set forth in the Act.)

Article 17. A candidate for election shall—

(*a*) Have been a Jordanian national for at least five years;

[5] Extracts from Act No. 24 of 1960 appear in the *Yearbook on Human Rights for 1961*, p. 205.

(*b*) Be a fully qualified elector registered in the electoral register;

(*c*) Have completed 30 years of age by 1 January of the year in which the election is held;

(*d*) Not have been convicted of an immoral crime or offence;

(*e*) Stand for election in one constituency only.

The Jordanian Nationality Act, No. 6 of 1954 [6] and Act No. 7 of 1963 [7]

This Act takes into account the factor of territoriality as well as that of blood for the determination of Jordanian nationality, in order to combat statelessness. This is provided for in article 3, paragraph 5, of the Jordanian Nationality Act, No. 6 of 1954, amended by Act. No. 7 of 1963, as follows:

Article 3. (5) Any person of unknown parentage born in the Hashemite Kingdom of Jordan shall be considered to be a Jordanian national. Any foundling discovered in the Kingdom shall be considered to have been born there, in the absence of proof to the contrary.

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[6] For a summary of the Nationality Act, see *Yearbook on Human Rights for 1954*, p. 179.

[7] Text of the amendment not published before in the *Yearbook on Human Rights*.

KUWAIT

NOTE *

Kuwait has ratified the following International Labour Organisation conventions:

1. Forced Labour Convention, 1930 (Convention No. 29);

2. Freedom of Association and Protection of the Right to Organise Convention, 1948 (Convention No. 87);

3. Abolition of Forced Labour Convention, 1957 (Convention No. 105);

4. Discrimination (Employment and Occupation) Convention, 1958 (Convention No. 111).

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* Note furnished by the Government of Kuwait.

LIBYAN ARAB REPUBLIC[1]

NOTE[2]

I. Legislation

1. ACT NO. 89 OF 1971, REGARDING THE ALMS-TAX (*zakah*), PUBLISHED IN THE *Official Gazette*, NO. 57, OF 23 NOVEMBER 1971

(Extracts)

Article 1. Charity is a religious observance and a requisite duty, and alms (*zakah*) is to be collected and expended by the State in accordance with Islamic *Sharia* and within the framework of the present Act or any explanatory or executory provisions promulgated under that Act.

Article 2. The alms-tax is an obligation on every Muslim adult who is sane in mind. As to the fully or partly incompetent, the alms-tax is obligatory on his wealth and shall be paid by the administrator of his wealth.

Article 3. The alms-tax becomes obligatory under the following conditions:

(1) The person should be in full possession of his wealth,

(2) He should be in possession of his wealth for a full year, with the exception of the alms-tax on harvest, fruits and precious metals.

(3) The wealth is not used for personal needs,

(4) The person should be free from any debt that equals the value of his wealth, or would reduce it below the maximum value of liability, exception being made for harvest, fruits and precious metals.

Article 22. The proceeds of the tax will be expended on the poor and the needy, and those who collect them, and those whose hearts are to be reconciled, and to free the captives and the debtors and for the cause of God, and for the wayfarers.

Article 30. The taxpayer has the right to contest the decision of the administration before the Committee of Complaints, referred to in the article below, within 30 days of the date of notification.

Article 31. Claims shall be adjudicated by Committees, each consisting of one member of the *Sharia* Court of first instance within the jurisdiction of which the Committee is located, serving as chairman, one religious scholar and one officer from the Ministry of Finance, serving as members. The Minister of Finance shall, by a decree, extend the mandate of the Committee, and determine its location and its composition.

The decree of the Minister may provide for a number of reserve members.

2. ACT NO. 44 OF 1971 REGARDING A FAMILY IDENTITY CARD SYSTEM, PROMULGATED ON 1 JULY 1971, PUBLISHED IN THE *Official Gazette*, NO. 42, OF 23 AUGUST 1971

(Extracts)

Article 1. Every citizen of the Libyan Arab Republic, upon becoming a head of a family shall, within 30 days, apply for a family identity card.

Application shall be submitted to the Office of Vital Statistics of the Municipality where the records of the applicant are kept. If the applicant resides outside the country, the application shall be submitted to the nearest Libyan consulate.

Article 2. For the purpose of this Act, a family consists of all individuals who are bound by kinship, and who are not included in the identity card of another family. The head of the family may be one of the following:

1. The hushand, who is considered the head of the family in relation to his wife or wives;

2. The father, who is considered the head of the family in relation to his children (male or female) who are unmarried and not heads of families;

3. The mother who, until she remarries, is considered the head of the family in relation to her children (male or female) who are unmarried and not heads of families;

4. A kinsman is considered the head of a family in relation to his relatives who depend on him or who after the death of their heads of families are under his guardianship.

The application for a family identity card shall be limited to the head of a family and his dependants as set forth above in this article.

[1] For the text of the Constitution of the Federation of Arab Republics, see under Syrian Arab Republic, pp. 229 below.

[2] Note furnished by the Government of the Libyan Arab Republic.

Article 4. A family identity card must include the following data:

1. Official excerpts from records of vital statistics containing civil status information pertaining to the head of the family, and his dependants;

2. The serial number of the identity card;

3. The page number of the family's sheet in the vital statistics records;

4. The entry date of the family in the vital statistics records.

5. The date of issue of the family identity card;

6. The place of issue of the identity card;

7. A personal photograph of the head of the family;

8. The signature of the registrar of the Vital Statistics Office or of the Consul-in-charge, as the situation may be, along with the seal of the Office or the Consulate.

Article 11. A family identity card shall be considered null and void in the following cases:

1. In case of death or of change of person of the head of the family. The new head of the family, when applying for a family identity card under the provisions of this Act shall return with his application the void identity card if it is in his possession;

2. If a new identity card is issued as a duplicate of a lost or perished card, in accordance with articles 9 and 10 of this Act;

3. If the head of the family loses his citizenship of the Libyan Arab Republic;

4. In case of indictment, according to article 16 of this Act.

Article 12. The data contained in the family identity card shall have the same legal authority accorded to the data contained in the records of the vital statistics by the pertinent Act.

Article 13. The head of the family or any of his dependants listed in the family identity card may extract certificates regarding his civil status from the data contained in the card at any office of vital statistics or any consulate.

Article 15. The family identity card may not be withdrawn or seized. This could be done only in accordance with the provisions of this Act.

Article 19. Family identity cards or duplicates thereof may be issued in return for a fee amounting to 500 *derham* per card. The fee shall be forfeited during the first year of the enactment of this Act.

Article 20. Statements on civil status may be extracted from data contained in the family identity card upon the payment of fees equal to those required for extracts from the vital statistics records.

3. ACT NO. 52 PROMULGATED ON 1 AUGUST 1971, REVISING ARTICLE 11 OF THE PENSION ACT OF 1957, PUBLISHED IN THE *Official Gazette*, NO. 50 OF 5 OCTOBER 1971

Article 1. Article 11 of the Pension Act shall be replaced by the following text:

1. The amount of a pension or an indemnity referred to in cases provided for in the present Act shall be calculated on the basis of the last monthly salary paid to the beneficiary before the end of his services.

2. The amount of an indemnity to be paid to persons who have previously served in public posts and have later been reinstated at lower salaries, and then retired, shall be calculated on the basis of the highest salary received during their services.

Article 2. This Act shall become effective on 17 September, 1969 and shall be published in the *Official Gazette.*

4. ACT NO. 62 OF 1971 CONCERNING EQUALITY OF LEAVE ENTITLEMENTS, PROMULGATED ON 23 AUGUST 1971 AND PUBLISHED IN THE *Official Gazette*, NO. 51 OF 24 OCTOBER 1971

Article 1. Leave is considered an inherent right of classified and unclassified employees and workers in the service of ministries, departments, local governments, public agencies and institutions. Leave shall be granted on the basis of equality, irrespective of employment status, under the terms and conditions established by law. A periodic leave shall be in the order of 30 days a year and shall increase to 45 days a year when the employee reaches 50 years of age or when his period of service exceeds 20 years.

Article 2. Employees or labourers shall not be deprived of their leave. Furthermore, leave shall not be cut off or postponed for reasons other than job requirements or for reasons pertaining to the employee's own interest.

Article 3. Laws concerning personnel and workers shall regulate the conditions of sick leave, emergency leave, study leave, leave for the purpose of pilgrimage and other types of leave on the basis of equality.

5. ACT NO. 82 OF 1971 REGARDING THE ESTABLISHMENT OF AN INSTITUTE OF LABOUR EDUCATION, PROMULGATED ON 20 OCTOBER 1971 AND PUBLISHED IN THE *Official Gazette*, NO. 63, OF 12 DECEMBER 1971

(Extracts)

Article 1. An Institute of Labour Education shall be hereby established and shall be considered a legal entity with a separate budget. It will be part of the Ministry of Labour and Social Affairs, and is to be located in Tripoli. By decision of its board of directors, other specialized branches may be established in provinces when the need arises.

Article 2. The Institute shall have the following objectives:

1. To develop the national economic and social awareness of workers who are the essential element for carrying out the country's economic and social development projects;

2. To make workers aware of their rights and obligations in accordance with labour laws as well as of their role in the field of work and productivity;

3. To open the mind of workers to the nature of social relationship binding the members of the society and the means to ensure its progress, development and the raising of its standards;

4. To familiarize the workers with the principles and objectives of trade unions and to train them in the organization and management of their unions so that they can understand their role in productivity;

5. To hold educational and training seminars for workers of all levels in order to reach the above-mentioned objectives;

6. To train trade union leaders so that they can represent their unions in inter-Arab and international meetings;

7. To prepare studies regarding labour and workers and to publish a labour cultural magazine and other publications to accelerate the progress of the labour movement in the country;

8. To allow union representatives from Arab and African countries to enroll in the Institute's programmes.

Article 12. Any worker enrolled in an educational and training session in the Institute or any of its branches, or any labour cultural centre, shall be paid a full salary by his employer for the duration of the training session. However, by departmental decree, upon the recommendation of the Ministry of Labour and Social Affairs and at the suggestion of the Board of Directors, the Institute may assume full or part of the worker's salary during the period of study leave, under the terms and conditions set by this Act.

Article 13. The employer is under obligation to grant the employee who agrees to enroll in the Institute or in one of its branches, a study leave for the duration of the training session, if the training requires the full time of the employee, within the rules to be established by the Minister of Labour and Social Affairs, and without any prejudice to the employee's other leave entitlements under the labour laws.

The employer shall be exempted from this obligation only upon the presentation of arguments which are accepted by the Board of Directors of the Institute. Any employer who refuses to grant a study leave to workers who agree to enroll in the Institute, shall be subject to a fine of 100 dinars. The same penalty shall apply to any employer who unduly refuses to pay salaries to workers while on study leave.

Article 14. Students who successfully complete their studies shall be granted a certificate attesting that fact.

6. DECREE OF THE COUNCIL OF MINISTERS REGARDING THE ALLOCATION OF STATE-OWNED HOUSES TO HUT DWELLERS, PROMULGATED ON 21 JUNE 1971 AND PUBLISHED IN THE *Official Gazette*, NO. 38, OF 9 AUGUST 1971

Article 1. State-owned houses shall be leased or sold to citizens who are hut or tent dwellers and who prove their material inability to lease other types of housing, without observing the rules and procedures pertinent to leasing or selling State-owned houses.

The president of the Council of Ministers may, by decree, establish the rules and procedures to be followed in those cases.

Article 2. 90 per cent shall be deducted from the total value of a state-owned house of any type, when it is sold to a citizen whose annual income does not exceed 600 dinars.

The rent of state-owned houses will be determined in accordance with the rules applied to public housing under articles 5 and 6 of the Act regulating the lease and protection of Government buildings.

7. DECREE OF THE COUNCIL OF MINISTERS GRANTING WORKERS ON LOCAL CONTRACTS AND DAY LABOURERS A FAMILY ALLOWANCE, AND AMENDING CERTAIN PROVISIONS CONCERNING THE FAMILY ALLOWANCE

(Extract)

Article 1. (a) Libyan citizens, working on local contracts and day labourers working with ministries, government agencies, organizations and public institutions, if married, will be granted in addition to their salaries, wages and subsidies, a family allowance of 4 dinars a month. In addition, he will be granted 2 dinars monthly for every newly born, provided that the total allowance accorded to him does not exceed 12 dinars a month.

II. Judicial decisions

THE SUPREME COURT OF LIBYA

1. *Administrative appeal No. 12/170—Session of 21 March 1971*

(*a*) The decision of 18 April 1968 concerning the remuneration to the chairman and members of the Board of Directors of the Petroleum Agency is devoid of any restriction or reservation, making it applicable to everyone who has acquired the capacity for member of the Board of Directors of the Agency, regardless of the fact whether he is a government employee or a specialist. There is therefore no ground for applying distinction among members of the Board since their membership qualification has already been established. Consequently, to limit membership or remuneration to some at the exclusion of others would be contrary to the above-mentioned decision and hence implies an unjustified exclusion.

(*b*) It is an established principle that a public function is rather a responsibility than an honorary task. However, this does not mean that government employees shall be deprived of remunerations resulting from additional work, provided that the deprivation has a sound and legal basis. Therefore, government employees who are members of the Board of Directors of the Agency may receive the remuneration established by law as long as other members receive the same remuneration. This can not be considered an illegal profit, but rather implies fairness and equality between government employees who are members of the Agency's Board of Directors and other members who are specialized experts and who, although they do not work exclusively for the Agency,

are entitled to a remuneration in addition to the revenues they derive from their own practices.

(*c*) If the appealed decision exclusively grants a remuneration to the expert-members of the Board, the other members who are government employees will be unduly deprived of that remuneration, and consequently the appealed decision will be contrary to the law and shall be abrogated with all its implications.

2. *Criminal Appeal No. 50/16—Session of 16 February 1971*

(*a*) Article 300 of Libya's Press Law has set its own terms to warrant exemption from the penalty imposed for slander committed against government employees or those holding a public office. The exoneration applies only when the claim is supported by evidence proving the good faith of the claimant, as well as his concern for public interest. However, if the appellant does not submit evidence in support of his claim, he shall be considered to be of bad faith and showing a lack of concern for public interest. Consequently, he shall not be exempted from penalty under the terms of Libya's Press Law.

(*b*) Since the difference of grounds used to justify exemption from penalty is clearly stated in the texts of both the Egyptian and the Libyan laws, there is no need to invoke the viewpoints and justifications contained in the Egyptian Law, as the latter, in its justification of that exemption, differs considerably from the terms contained in that connexion in the Egyptian Law.

(*c*) Criticism and commentaries are categorically banned except in specific cases and within certain limits where the disclosure of facts would be more useful than harmful. If criticism touched upon facts unknown to and not in the possession of the public, reference to those facts when they are not established shall not be considered a mere criticism, but a slander punishable by law. Furthermore, hearsay and rumours shall not be considered a sufficient evidence to establish facts and may not be considered a valid basis of criticism.

(*d*) If the appellant does not advance any evidence to prove the facts constituting the basis for slander, and if the facts relating to the slander are not substantiated or are taken for granted and are not known to the public and furthermore leave listeners or readers with a bad impression of the question they know nothing about, there is no validity to the claim of the appellant that his criticism is permissible, because it lacks the elements of constructive criticism. On the other hand, if a strong and violent criticism is based on unknown or unsubstantiated facts, the critic shall face criminal liability because criticism does not imply the use of vile language.

(*e*) It is established that criticism shall be based on good will and that the critic shall be convinced of the view he expresses regarding an established fact. Bad faith obtains when the critic is aware that the facts, on which he bases his criticism, are false or unsupported by evidence.

3. *Criminal Appeal No. 76/170—Session of 13 February 1971*

(*a*) In its last paragraph, article 424 of the Penal Code states that the suspension of a sentence can be removed within three years of the commission of the crime, if the husband (the perpetrator of the crime) for no sound reason divorces his wife, the victim of his crime or if the wife has been granted a divorce in court. By this provision, the legislator meant that when the divorce takes place within three years of the marriage of the perpetrator of the crime to his victim, his act bears the legal evidence that he was not serious in his marriage to the victim but rather sought to circumvent the law. Such circumstantial evidence, however, allows counter-evidence by the husband, on whom falls the burden of proof, that his divorce was for a sound reason or for a fault on the part of the wife.

(*b*) The father's guardianship of his daughter ceases when the latter becomes adult and reaches the established legal age of 18 years.

(*c*) The justification advanced by the appellant that it was the father who pressed for the divorce, does not validate the ground to divorce his wife without a sound reason. In this case, the appealed court decision indicting the appellant is devoid of deficiency or error and the appeal shall therefore be rejected.

LIECHTENSTEIN[1]

Act of 17 December 1970 concerning the granting of pensions to the blind [2]

(Extracts)

Article 1. Blind persons shall be granted pensions in order to offset the extra costs resulting from their blindness and in consideration of the special burden associated with their disability.

Article 2. For the purposes of this Act, the term "blind persons" means:

(*a*) Persons who cannot see or who see so little that they are unable to find their way alone in surroundings with which they are not entirely familiar (totally blind);

(*b*) Persons whose sight is so defective that, although they can find their way alone in unfamiliar surroundings, they see too little to be able, even with the usual aids, to use their remaining sight to their economic advantage (functionally blind).

Article 3. 1. Liechtenstein nationals resident in Liechtenstein who have attained the age of six years shall be entitled to blind persons' pensions.

2. Subject to the provisions of paragraph 3, aliens and stateless persons shall be entitled to blind persons' pensions only as long as they are legally resident in Liechtenstein and provided that they have maintained legal residence in Liechtenstein continuously for 15 years.

3. Aliens and stateless persons who are minors shall be entitled to blind persons' pensions when they have attained the age of six years as long as they are legally resident in Liechtenstein and provided that, at the time when they become blind, the father or mother has maintained legal residence in Liechtenstein continuously for 15 years.

Article 4. 1. The amount of the monthly pension shall be:

(*a*) For totally blind persons 200 francs;

(*b*) For functionally blind persons 110 francs.

2. Persons under the age of 18 years shall receive one half of the above amounts.

Article 5. 1. A blind person's pension shall be granted as from the month following the date of application and shall be paid monthly thereafter.

2. The payment of a blind person's pension shall be discontinued at the end of the month in which the entitlement to the pension ceases.

Articles 6. 1. The amount of a blind person's pension shall not be deducted from disability insurance benefits or public welfare payments.

2. The entitlement to a blind person's pension may not be transferred or pledged and shall not be subject to distraint.

3. Blind persons' pensions shall not be subject to taxation.

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[1] Texts furnished by the Government of Liechtenstein.

[2] *Liechtensteinisches Landesgesetzblatt*, No. 7, 7 January 1971.

Act of 24 November 1971 concerning sickness insurance [3]

(Extracts)

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PART II

Persons insured

Article 7. 1. The following shall be subject to compulsory insurance:

(*a*) For medical care: persons who are legally resident or employed in Liechtenstein, with the exception of frontier workers (*Grenzgänger*);

(*b*) For sickness allowance: employed persons over the age of 15 years who work for an employer having a head office or place of business in Liechtenstein.

2. The Government shall issue more detailed regulations concerning liability to compulsory

[3] *Ibid.*, No. 50, 29 December 1971.

insurance, especially with respect to persons employed on a short-term or casual basis.

Article 8. 1. Persons subject to compulsory insurance may obtain voluntary insurance for benefits beyond the scope of the compulsory insurance scheme.

2. Persons over the age of 15 years resident in Liechtenstein who are not subject to compulsory insurance for sickness allowance may obtain voluntary insurance therefor.

Article 9. 1. Persons as referred to in article 7 who satisfy the statutory conditions for membership shall be admitted to Insurance Funds as individual or group members, irrespective of age, state of health or the fact of their being pregnant, and shall be insured for the benefits prescribed in this Act. In the case of persons voluntarily insured in accordance with article 8, Insurance Funds may impose age limits or may exclude from coverage any diseases existing at the time of admission or contracted previously which are known to be likely to recur; however, no exclusion clause may be valid for more than three years.

2. Subject to labour-law regulations, the choice of an Insurance Fund shall be free.

3. Insurance coverage shall be granted to persons admitted to a Fund as from the first day of their membership. The foregoing shall apply subject to the provisions of article 15, paragraph 1.

Article 10. Each Insurance Fund shall be required:

(*a*) To admit for individual insurance persons compulsorily or voluntarily insured who withdraw from a group insurance scheme but remain within the scope of the Fund's activities and to provide them with the same benefit coverage as previously;

(*b*) To admit compulsorily and voluntarily insured persons who cease to be within the scope of another Fund's activities and to provide them, within the framework of its rules and regulations, with the same insurance coverage as previously.

. . .

PART III

Benefits

Article 12. 1. Benefits shall be granted to compulsorily and voluntarily insured persons in case of sickness and, provided that another insurance scheme is not liable for the provision of benefits, in case of accident. If the other insurance scheme denies its liability to provide benefits, the Insurance Fund shall grant its benefits. To the extent that benefits are provided, the Insurance Fund shall be subsumed by law to the claims of the insured person against the other insurance scheme.

2. Insurance Funds shall be empowered to exclude, under their rules, special risks and dangers within the meaning of the laws and regulations concerning compulsory accident insurance. The rules may provide for a reduction of benefits in case of an accident caused by gross negligence on the part of the insured person, and for denial of benefits in case of an accident deliberately caused.

3. Maternity shall be assimilated to sickness.

4. The Government shall regulate the relationship between sickness insurance, on the one hand, and disability insurance and compulsory accident insurance, on the other hand.

Article 13. 1. Medical care benefits shall include:

(*a*) Coverage of the standard fees (article 3) for out-of-hospital treatment by a physician or by a medical auxiliary on the instructions of a physician for an unlimited length of time, including medicines and tests ordered by the physician;

(*b*) Coverage of the standard charges for treatment, meals and accommodation in the public ward of a hospital for an unlimited length of time;

(*c*) A contribution to the cost of taking the cure at a spa on the orders of a physician.

2. The Government shall issue more detailed regulations concerning the conditions for and scope of benefits; it may require Insurance Funds to take certain prophylactic measures and may limit or exclude liability to provide benefits for insured persons abroad.

Article 14. 1. In case of total incapacity for work, persons subject to compulsory insurance shall be granted a sickness allowance as from the second day following the commencement of the illness until the person concerned recovers the capacity for work or begins to receive a disability pension. Old-age pensioners who are still gainfully employed at the commencement of the illness may receive sickness allowance for a maximum of 720 days in any consecutive period of 900 days. The commencement of benefits may be postponed if the employer undertakes, or is required by law, to make payment of wages or salary during the period of postponement and guarantees the continued payment thereof. The sickness allowance shall amount to at least 80 per cent of the insured person's loss of earnings including any normal perquisites. Earning in excess of 100 francs per day shall not be taken into account; the Government may be regulation adjust the ceiling on earnings to the general trend of wages and salaries. Sickness allowance shall be paid irrespective of the continuance of the insured person's employment.

2. In case of total incapacity for work, voluntarily insured persons shall be granted the sickness allowance for which they are insured under the rules and regulations for at least the period prescribed in paragraph 1.

3. Children may not be insured for sickness allowance until they have attained the age of 15 years.

Article 15. 1. In case of pregnancy, women shall be granted benefits in accordance with articles 13 and 14 if, immediately prior to the date of confinement, they have been members of an Insurance Fund for at least 270 days, without a break of more than three months.

2. Benefits shall be provided for a period of 10 weeks, which must include at least six weeks after confinement.

3. Obstetrical services by doctor and midwife, and necessary examinations during pregnancy and within 10 weeks after confinement, shall be treated as medical care.

4. The costs of care and treatment of the child in a hospital within 10 weeks after birth shall be assumed by the Insurance Fund on behalf of the mother under the terms of article 13.

5. Insured persons shall have the option of being confined at home or in a hospital.

6. The Government may issue regulations concerning the entitlement to sickness allowance of pregnant women who stop working earlier than the prescribed date.

Article 16. Insurance Funds shall have the option within the framework of the rules and regulations, of insuring their members for other benefits (dental care, ambulance services, spectacles, additional coverage of hospital costs and hospital treatment costs, death grants and the like).

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PART IV

Financing

Article 21. The costs of Insurance Funds shall be financed from:

(*a*) Contributions by insured persons and employers;

(*b*) Sharing of costs by insured persons;

(*c*) Contributions by the State.

Article 22. 1. The contributions of insured persons and employers respectively shall be so assessed as to enable the annual expenditure for insurance benefits and administrative costs to be covered and the necessary reserves to be constituted, account being taken of other sources of income. In the case of group insurance, the risk of each contract may be taken into account.

2. Contributions shall be levied either as a percentage of wages or salary or in fixed amounts.

3. The contributions of insured persons of full age shall not be graduated according to age but may be graduated according to sex; however, the contributions of women shall not exceed those of men by more than 10 per cent. The contributions of insured persons under the age of 15 years shall not exceed one half of the contributions of insured persons of full age.

4. One half of the cost of contributions to the compulsory medical care and sickness allowance insurance scheme for employed persons shall be paid by the employer. The employer shall deduct the employee's contributions when paying his wages or salary and shall remit them periodically to the Insurance Fund together with his own contributions.

Article 23. Insurance Funds may request insured persons to bear part of the costs of their medical care and may impose on them a deductible of not more than 10 per cent, subject to a maximum of 100 francs for each case of illness. No such deductible shall be imposed on benefits:

(*a*) For insured persons under the age of 15 years, persons in receipt of old-age and survivors' pensions or disability pensions and persons in receipt of full accident insurance pensions;

(*b*) In cases of hospitalization, spa cures ordered by a physician and maternity.

Article 24. 1. The State shall provide Insurance Funds with an annual contribution to the costs of the compulsory insurance scheme in the amount of:

60 per cent of the costs of medical care for insured persons over the age of 65 years;

30 per cent of the costs of medical care for insured persons under the age of 15 years and for female insured persons between the ages of 15 and 65 years;

20 per cent of the costs of medical care for other insured persons.

2. If the total contributions of the State under paragraph 1 amount to less than 22 per cent of the total contributions of insured persons and employers, the difference shall be reimbursed to Insurance Funds at the end of the financial year by means of an additional payment based on their membership figures.

3. Contributions by the State shall be provided from the general State revenue. The Government shall regulate the details.

PART V

Miscellaneous provisions

Article 25. 1. Employers who have failed to insure their employees for medical care and sickness allowance or have not insured them to the extent required by law shall be liable to the employees for at least the insurance benefits which have been lost.

2. If an employer continues to pay full wages or salary to an employee who is entitled to sickness allowance, the sickness allowance payments for the period during which wages or salary are paid shall be made to the employer.

3. Insurance Funds shall make sickness allowance payments at least once a month.

Article 26. Entitlements to insurance benefits may not be transferred or pledged and shall not be subject to distraint. Any transfer or pledge shall be void. Insurance Funds may make medical care payments direct to physicians, pharmacists, medical auxiliaries and hospitals.

...

LUXEMBOURG

NOTE [1]

1. GRAND DUCAL REGULATION OF 6 JANUARY 1971 APPROVING THE PROTOCOL RELATING TO THE STATUS OF REFUGEES, DONE AT NEW YORK ON 31 JANUARY 1967 (*Mémorial* A, No. 8, p. 66) [2]

The Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951,[3] covers only those persons who have become refugees as a result of events occurring before 1 January 1951, therefore, persons affected by new refugee situations arising since the Convention was adopted may not fall within the scope of the Convention. The purpose of the Protocol approved by the regulation of 6 January 1971 is to ensure that equal status is enjoyed by all refugees covered by the definition in the Convention, irrespective of the date-line of 1 January 1951.

2. ACT OF 18 FEBRUARY 1971 REPEALING ARTICLE 7 OF THE GRAND DUCAL ORDER OF 31 MAY 1945, THE PURPOSE OF WHICH WAS TO EXCLUDE FROM THE ELECTORATE AND FROM ELIGIBILITY FOR ELECTION PERSONS DISCREDITED BECAUSE OF THEIR UNPATRIOTIC ATTITUDE (*Mémorial* A, No. 15, p. 281)

The purpose of this Act is to restore the political rights referred to in article 7 of the Grand Ducal Order of 31 May 1945 to persons declared to have forfeited them because of their unpatriotic attitude during the Second World War.

3. ACT OF 27 JULY 1971 ESTABLISHING A HOUSING SAVINGS SYSTEM (*Mémorial* A, No. 49, p. 1234)

The purpose of this measure is to encourage savings for the financing of housing to be used as family dwellings.

4. ACT OF 12 NOVEMBER 1971 CONCERNING THE PROTECTION OF YOUTH (*Mémorial* A, No. 79, p. 2069)

This Act determines: (1) The conditions and consequences of the forfeiture of parental power; (2) measures to be taken with respect to minors and particularly the organization of a youth court to take measures for the custody and education of minors appearing before it and the protection of their interests in accordance with the procedure established by law.

5. GRAND DUCAL REGULATION OF 23 NOVEMBER 1971 ESTABLISHING THE PROCEDURE TO BE FOLLOWED IN ACTIONS FOR FORFEITURE OF PARENTAL POWER AS PROVIDED FOR IN ARTICLE 2, PARAGRAPH 2, OF THE ACT OF 12 NOVEMBER 1971 CONCERNING THE PROTECTION OF YOUTH (*Mémorial* A, No. 84, p. 2162)

The regulation lays down the rules of procedure to be followed in actions for forfeiture of parental power as provided for in the Act of 12 November 1971.

6. ACT OF 6 DECEMBER 1971 APPROVING THE CONVENTION CONCERNING THE AGENCY FOR CULTURAL AND TECHNICAL CO-OPERATION, SIGNED AT NIAMEY ON 20 MARCH 1970 (*Mémorial* A, No. 86, p. 2225)

See the Convention of 20 March 1970.

7. ACT OF 15 DECEMBER 1971 APPROVING TWO AMENDMENTS TO THE CONSTITUTION OF THE WORLD HEALTH ORGANIZATION, SIGNED AT NEW YORK ON 22 JULY 1946 (*Mémorial* A, No. 87, p. 2242)

The amendments adopted relate to articles 24 and 25 of the Constitution of the World Health Organization.

8. GRAND DUCAL REGULATION OF 15 DECEMBER 1971 EXTENDING THE APPLICATION OF THE CONVENTION RELATING TO THE STATUS OF REFUGEES, SIGNED AT GENEVA ON 28 JULY 1951, AND OF THE PROTOCOL RELATING TO THE STATUS OF REFUGEES, DONE AT NEW YORK ON 31 JANUARY 1967 (*Mémorial* No. 87, p. 2252)

The regulation makes the provisions of the Convention of 28 July 1951 and the Protocol of 31 January 1967 applicable to the Grand Duchy of Luxembourg without any geographical limitations.

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[1] Note furnished by Mr. Ferdinand Wirtgen, Government-appointed correspondent of the *Yearbook on Human Rights*.

[2] For the text of the Protocol, see the *Yearbook on Human Rights for 1966*, pp. 452-454.

[3] The text of the Convention appears in the *Yearbook on Human Rights for 1951*, pp. 581-588.

MADAGASCAR

NOTE *

In 1971, four Acts concerning human rights were promulgated.

1. *Act No. 71-034 of 16 December 1971* establishing the Development Charter.

This Act provides for a series of actions to be undertaken or continued with a view to ensuring a wider enjoyment of human rights: better living and working conditions, social advancement, vocational training, employment, housing, health and medical care.

It also recommends the means by which these aims are to be attained.

In article 2, it sets out the principles and objectives of economic and social development as follows:

"*Article 2.* The Charter defines the over-all framework for the development plans.

The successive plans are intended to ensure the economic, cultural and social development of the nation through a socialist approach.

The plans shall accordingly seek:

— To improve the human condition of the citizen and particularly to raise the level of living of the peasant and achieve full employment;

— To secure economic independence.

The pursuit of these basic objectives involves:

— Intensification of internal and national accumulation of capital;

— Control by the State of the economic machinery and of the key producing and marketing sectors;

— Rapid promotion of nationals to positions of economic decision-making and of control of the means of production;

— Assignment, as a matter of priority, of available means to the production of capital goods required for the attainment of economic independence, and consumer goods and essential services;

— Adaptation of the fiscal system with a view to promoting growth and development in an ever more democratic manner."

2. *Act No. 71-027 of 23 November 1971* approving accession by the Malagasy Republic to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, signed at Geneva on 7 September 1956.

3. *Acts Nos. 71-024 and 71-025 of 23 November 1971* ratifying Conventions Nos. 81, 129 and 132 of the International Labour Organisation.

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* Note furnished by the Government of the Malagasy Republic.

MALAYSIA

NOTE[1]

I. Legislation

1. Legal Aid Act, 1971

Pursuant to emergency powers His Majesty the Yang di-Pertuan Agong promulgated Ordinance No. 39, 1970, to establish a Legal Aid Bureau and to make provisions relating to the granting of legal aid to certain needy persons. As a pilot scheme, the provisions of the Ordinance came into force in the State of Selangor with effect from 1 September 1970 and with regard to maintenance matters and oral advice on the Padi Cultivators (Control of Rent and Security of Tenure) Act, 1967. The limitation is necessary due to shortage of personnel and of experience in this new field. The Legal Aid Act, 1971 which came into force on 30 April 1971, made permanent the provisions under the Ordinance.

Under the Act the administration of the law is carried out by the Director of Legal Aid appointed from amongst members of the Judicial and Legal Service and who is under the direct supervision of the Attorney-General. The Attorney-General may appoint persons to assist the Director in his functions.

The Act also provides for the establishment of the Legal Aid Board to assist the Director and the Legal Aid Council to advise the Attorney-General on the administration of the Act. Members of the Board and Council are to be appointed by the Attorney-General.

The Act provides that legal aid may be granted in criminal cases listed in the Second Schedule; as yet none has been so listed. Civil cases in respect of which legal aid may be granted are those described in the Third Schedule. They are:

(i) Proceedings under the Married Women and Children (Maintenance) Ordinance, 1950.

(ii) Proceedings under the Maintenance Orders (Facilities for Enforcement) Ordinance, 1949, for a provisional order.

(iii) Proceedings under the Married Women and Children (Enforcement of Maintenance) Act, 1968.

In criminal cases, the person desiring legal aid applies to the Judge, President or Magistrate before whom he was charged or by whom the order was made. The Court shall refer the application to the Director of Social Welfare to determine the means of the applicant. If the Court is satisfied that the applicant is without adequate means and that it is desirable in the interests of justice that legal aid should be given, the Court shall certify this fact to the Director of Legal Aid who shall make the necessary arrangements for the granting of legal aid. In civil proceedings the applicant applies to the Director of Legal Aid who shall refer the application to the Legal Aid Board. After such enquiries as the Director may make and if the Board is of the opinion that the applicant has reasonable grounds for taking, defending, continuing or being a party to the proceedings and if the Director is satisfied that the applicant is not possessed of a disposable capital of a total value of more than five hundred dollars and that the disposable income of the applicant does not exceed one thousand dollars per annum, the Director may grant the applicant a certificate entitling him to legal aid.

2. Constitution (Amendment) Act, 1971

This Act which came into force on 9 March 1971, *inter alia*, affects freedom of speech and expression and parliamentary privilege. It provides that Parliament may in the interest of security or public order in the Federation or any part therof pass law prohibiting the questioning of the same "sensitive issues" questioning of which would constitute the new offence under the Sedition Act, 1948,[2] as amended, but that such law may authorize the questioning of the implementation of the matters concerned thereof. The Act further provides that the immunity of members of either House of Parliament or any committee thereof and of members of the Legislative Assembly of any State or any committee thereof from liability to any proceedings in any Court in respect of anything said or any vote given by them when participating in any Parliamentary or Legislative Assembly proceedings shall not apply to any person who is charged with an offence under any law passed by Parliament

[1] Note based upon information furnished by the Government of Malaysia under Economic and Social Council resolution 1074C (XXXIX) to be published in the Secretary-General's *Periodic Reports on Human Rights*. (See E/CN.4/1098/Add.1 of 14 April 1972.)

[2] For extracts from the Sedition Act, 1948, see *Yearbook on Human Rights for 1970*, pp. 148.

as is provided above or with the new offence under the Sedition Act, 1948, as amended. It was felt that the diminution in the area of freedom of speech and expression and in the area of parliamentary privilege is necessary to create a climate conducive to the restructuring of the Malaysian society and the eradication of poverty regardless of racial origins, goals which must be achieved if the disturbances of 1969 are to be avoided in the future.

II. Judicial decisions

PROTECTION OF THE LAW

Mahadevan v. *Anandarajan and Others (1970-1 Malayan Law Journal, 50)*

In this case, the plaintiff applied for:

(i) A declaration that the order of expulsion of the plaintiff as a pupil in a school in Seremban made by the first defendant and the decision of the Board of Governors of the school confirming the expulsion were null and void;

(ii) An order that he be reinstated as a pupil of the school;

(iii) Claimed damages and costs.

The plaintiff had been dismissed by the first defendant because of alleged misconduct on several occasions. Regulation 8 of the Education (School Discipline) Regulations, 1959, provides that whenever "It appears to the satisfaction of the head teacher of any school—(a) to be necessary or desirable for the purpose of maintaining discipline or order in any school that any pupil should be suspended or expelled ... he may by order expel him from such school". It appeared that the first defendant had called the plaintiff to his office to investigate into the allegations against him and had warned him that probably he would expel him or take some action against him.

The Court held that Regulation 8 of the Education (School Discipline) Regulations, 1959, requires the head teacher to make a decision before making an expulsion order. Further, the function of the head teacher under Regulation 8 is a quasi-judicial function; hence before he arrives at the decision to expel a pupil the head teacher should comply with some form of procedure in compliance with the rules of natural justice. The Court held that in the circumstances of the present case a mere warning by the first defendant that the plaintiff may probably be expelled fell short of the requirements of natural justice. The first defendant omitted to provide adequate notice to the plaintiff to enable him to truly appreciate the exact nature and purpose of the proceedings when he interviewed the plaintiff. Such an omission deprived the plaintiff of a fair opportunity of being heard. Accordingly, the learned judge declared the order of expulsion to be null and void, but that since the first defendant had not acted maliciously, dishonestly or in bad faith, the plaintiff had failed to establish the defendant's liability in damages.

This decision of the High Court was appealed against before the Federal Court consisting of the Acting Lord President and two Federal Judges, on 12 February 1971. The Federal Court allowed the appeal. In setting aside the order made in the court below, the Federal Court held that since Regulation 8 which invested the first appellant with a quasi-judicial function, prescribed no special form of procedure, it was for him to determine the procedure as he thought best, subject to the implication that a form of inquiry was to be held in accordance with the rules of natural justice. The form of inquiry need not be elaborate. In this case the Federal Court decided that the first appellant had abided by the principle *audi alteram partem*, and acted justly and reached just ends by just means in making the order of expulsion against the respondent.

On 7 July 1971, the Federal Court granted leave to the respondent to appeal to the Privy Council.

Inheritance (Family Provision) Act, 1971 — Act No. 39 of 1971, assented to on 30 August 1971

An Act to amend the law relating to the dispositions of estates of deceased persons and for other purposes connected therewith

(Extracts)[3]

PART 1
Preliminary

1. (1) This act may be cited as the Inheritance (Family Provision) Act, 1971 and shall come into force on such date as the Minister may by notification in the *Gazette* appoint, such date not being earlier than the date on which the notification is published.

(2) This act shall apply throughout Malaysia but shall not apply to the estates of deceased Muslims or natives of any of the States in East Malaysia.

2. In this act, unless the context otherwise requires:

"Annual income" means in relation to the net estate of a deceased person, the income that the net estate might be expected at the date of the order, when realised, to yield in a year;

"Court" means the High Court;

[3] *Warta Keradjaan*, No. 18, 2 September 1971, Supplement No. 8.

"Death duties" means estate duty and every other duty leviable or payable on death;

"Minister" means the Minister charged with responsibility for the administration of estates;

"Net estate" means all the property of which a deceased person had power to dispose by his will (otherwise than by virtue of a special power of appointment) less the amount of his funeral, testamentary and administration expenses, debts and liabilities and estate duties payable out of his estate on his death;

"Will" includes codicil;

"Son" and "daughter" respectively, include a male or female child adopted by the deceased under the provisions of any written law relating to the adoption of children for the time being in force and also the son or daughter of the deceased *en ventre sa mère* at the date of the decease.

3. (1) Where, after the commencement of this Act, a person dies domiciled in Malaysia leaving:

(*a*) A wife or husband;

(*b*) A daughter who has not been married, or who is, by reason of some mental or physical disability, incapable of maintaining herself;

(*c*) An infant son; or

(*d*) A son who is, by reason of some mental or physical disability, incapable of maintaining himself;

then, if the court on application by or on behalf of any such wife, husband, daughter or son as aforesaid (in this act referred to as a "dependant" of the deceased) is of opinion that the disposition of the deceased's estate effected by his will, or the law relating to intestacy, or the combination of his will and that law, is not such as to make reasonable provision for the maintenance of that dependant, the court may order that such reasonable provision as the court thinks fit shall, subject to such conditions or restrictions, if any, as the court may impose, be made out of the deceased's net estate for the maintenance of that dependant:

Provided that no application shall be made to the court by or on behalf of any person in any case where the disposition of the deceased's estate as aforesaid is such that the surviving spouse is entitled to not less than two-thirds of the income of the net estate and where the only other dependant or dependants, if any, is or are a child or children of the surviving spouse.

(2) The provision for maintenance to be made by an order shall, subject to the provisions of subsection (4), be by way of periodical payments of income and the order shall provide for their termination not later than:

(*a*) In the case of a wife or husband, her or his re-marriage;

(*b*) In the case of a daughter who has not been married, or who is under disability, her marriage or the cesser of her disability, whichever is the later;

(*c*) In the case of an infant son, his attaining the age of 21 years;

(*d*) In the case of a son under disability, the cesser of his disability,

or, in any case, his or her earlier death.

(3) The amount of the annual income which may be made applicable for the maintenance of a deceased's dependants by an order or orders to be in force at any one time shall in no case be such as to render them entitled under the deceased's will or under the law relating to intestacy, or the combination of his will and that law as varied by the order or orders to more than the following fraction of the annual income of his net estate, that is to say:

(*a*) If the deceased leaves both a wife or husband and one or more other dependants, two-thirds, or

(*b*) If the deceased does not leave a wife or husband, or leaves a wife or husband and no other dependant, one-half.

(4) Where the value of a deceased's net estate does not exceed 40,000 dollars, the court shall have power to make an order providing for maintenance, in whole or in part, by way of a lump sum payment.

(5) In determining whether, and in what way, and as from what date, provision for maintenance ought to be made by an order, the court shall have regard to the nature of the property representing the deceased's net estate and shall not order any such provision to be made as would necessitate a realisation that would be improvident having regard to the interests of the deceased's dependants and of the person who, apart from the order, would be entitled to that property.

(6) The court shall, on any application made under this Act, have regard to any past, present or future capital or income from any source of the dependant of the deceased to whom the application relates, to the conduct of that dependant in relation to the deceased and otherwise, and to any other matter or thing which in the circumstances of the case the court may consider relevant or material in relation to that dependant, to the persons interested in the estate of the deceased, or otherwise.

(7) The court shall also, on any such application, have regard to the deceased's reasons, so far as ascertainable, for making the dispositions made by his will (if any), or for not making any provision or any further provision, as the case may be, for a dependant, and the court may accept such evidence of those reasons as it considers sufficient, including any statement in writing signed by the deceased and dated, so, however, that in estimating the weight, if any, to be attached to any such statement the court shall have regard to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement.

(8) The court in considering for the purposes of subsection (1) whether the disposition of the deceased's estate effected by the law relating to intestacy, or by the combination of the deceased's will and that law, makes reasonable provision for the maintenance of a dependant shall not be bound to assume that the law relating to intestacy makes reasonable provision in all cases.

...

MALTA

NOTE *

During 1971, the following developments relating to human rights occurred:

(*a*) On 27 May 1971 Malta deposited with the Secretary-General of the United Nations its instrument of ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, which Convention entered into force for Malta on 26 June 1971.

(*b*) On 4 October 1971, Act No. XXI of 1971, by which capital punishment was abolished in Malta, became law. Extracts from the act appear below.

* Note furnished by the Government of Malta.

Act No. XXI of 1971 assented to on 4 October 1971

An Act further to amend the Criminal Code, Cap. 12

(Extracts)

1. (1) This act may be cited as the Criminal Code (Amendment) (No. 2) Act, 1971, and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the principal law".

(2) This act shall come into force on the day of its publication in the *Malta Government Gazette* except section 27 which shall come into force on such date as the Minister responsible for Justice may appoint by notice in the said *Gazette*.

...

4. In section 23A of the principal law, for the words "Except in the case of offences liable to the punishment of death but without prejudice to the provisions of article 504" there shall be substituted the words "Saving the provisions of section 504 of this Code".

5. In section 26 of the principal law, for the words "out of the punishment of death or any other punishment, are abolished" there shall be substituted the words "out of any punishment are abolished".

6. In subsection (1) of section 32 of the principal law, for paragraph (*a*) there shall be substituted the following:

"(*a*) subject to any special provision contained in this Code, from the punishment of hard labour for life the descent shall be in accordance with the scale of punishments of hard labour or imprissonment as specified in paragraph (*b*) of this subsection;".

7. For sub-paragraph (i) of paragraph (*b*) of section 41 of the principal law, there shall be substituted the following sub-paragraph:

(i) In the case of a crime liable to the punishment of hard labour for life, they shall be liable to imprisonment or hard labour for a term not exceeding 20 years;".

8. Section 55 of the principal law shall be amended by the substitution of the words "the punishment of hard labour for life" for the words "the punishment of death".

9. For section 56 of the principal law there shall be substituted the following:

56. (1) Whosoever shall subvert or attempt to subvert the Government of Malta by committing any of the acts hereunder mentioned, shall, on conviction, be liable to the punishment of hard labour for life:

(*a*) Taking up arms against the Government of Malta for the purpose of subverting it;

(*b*) Bearing arms in the service of any foreign Power against the State of Malta;

(*c*) Aiding the enemies of the State of Malta in any other manner whatsoever against the said State;

(*d*) Usurping or unlawfully assuming any of the executive powers of the Government of Malta, for the purpose of subverting it;

(*e*) Taking up arms for the purpose of compelling the Government of Malta to change its measures or counsels, or of obstructing the exercise of its lawful authority.

(2) The punishment, however, shall be diminished by one or two degrees, where the crime is not carried into effect, in consequence of the voluntary determination of the offender not to complete the crime."

. . .

12. Section 102 of the principal law shall be amended by the addition of the following proviso at the end of subsection (2) thereof:

"Provided that if such higher punishment is death, the person accused shall be liable to hard labour for life."

13. Immediately after section 110 of the principal law there shall be inserted the following new section:

110A. In this subtitle "criminal proceedings" includes any proceedings under the Malta Armed Forces Act, 1970."

14. Section 115 of the principal law shall be amended by the substitution of the proviso to subsection (2) thereof by the following:

"Provided that if such higher punishment is death awarded under the Malta Armed Forces Act, 1970, and the execution has taken place, the person accused shall be liable to hard labour for life. Where the execution has not taken place, the ordinary punishment for attempted homicide shall apply."

15. Section 151 of the principal law shall be amended by:

(i) The deletion of the words "but not liable to the punishment of death" in paragraph (*c*) thereof, and

(ii) The deletion of paragraph (*d*) thereof.

. . .

17. Section 155 of the principal law shall be amended by:

(i) The deletion of the words "but not to the punishment of death" in paragraph (*c*) thereof, and

(ii) The deletion of paragraph (*d*) thereof.

. . .

19. In subsection (1) of section 225 of the principal law, for the words "shall be punished with death" there shall be substituted the words "shall be punished with hard labour for life".

20. In section 285 of the principal law, for the words "shall be liable to the punishment of death" there shall be substituted the words "shall be liable to the punishment of hard labour for life".

21. In subsection (1) of section 326 of the principal law, for the words "the offender shall be liable to the punishment of death" there shall be substituted the words "the offender shall be liable to the punishment of hard labour for life".

22. In section 329 of the principal law, for the words "shall, on conviction, be liable to the punishment of death" there shall be substituted the words "shall, on conviction, be liable to the punishment of hard labour for life".

23. In section 330 of the principal law, for the words "shall, on conviction, be liable to the punishment of death" there shall be substituted the words "shall, on conviction, be liable to the punishment of hard labour for life".

24. In paragraph (*a*) of section 331 of the principal law, for the words "where the fire had actually communicated, to the punishment of death" there shall be substituted the words "where the fire had actually communicated, to the punishment of hard labour for life".

25. For paragraph (*c*) of subsection (2) of section 335 of the principal law there shall be substituted the following:

"(*c*) if any person shall perish, to the punishment of hard labour for life."

26. In section 359 of the principal law, the word "death" shall be deleted.

. . .

28. For section 504 of the principal law there shall be substituted the following:

" 504. It shall be lawful for the Court to award a sentence of hard labour for a term not less than 12 years in lieu of the punishment of hard labour for life if, in establishing a fact involving the latter punishment, the jury shall not have been unanimous."

29. Immediately after section 504 of the principal law, there shall be added the following new section 505:

" 505. After sentencing any person to hard labour for life, the Court may recommend in writing to the Prime Minister within 24 hours the minimum period which in its view should elapse before the prisoner is released from prison. Such recommendation shall be made available to the person sentenced, and a copy thereof shall be kept by the Registrar."

. . .

32. In paragraph (*b*) of subsection (1) of section 569 of the principal law, for the words "to the punishment of death" there shall be substituted the words "to the punishment of hard labour for life".

. . .

MAURITANIA

Act No. 71-057 of 25 February 1971 amending Articles 18 and 36 of Act No. 61,112 of 20 June 1961 establishing the Mauritanian Nationality Code [1]

Article 1. Articles 18 and 36 of Act No. 61,112 of 20 June 1961, establishing the Mauritanian Nationality Code shall be amended as follows:

"*Article 18.* No person shall be naturalized who has not been habitually resident in Mauritania for at least 10 years at the time of submission of his application.

Nevertheless, that period of time may be reduced to five years in the case of a person who was born in Mauritania, or is married to a Mauritanian woman or has rendered exceptional services to Mauritania."

"*Article 36.* The decree granting naturalization or recovery of nationality shall be issued in the year following such application; if it is not, the application shall be deemed to have been rejected.

There shall be no appeal from the formal or implicit rejection of an application for naturalization or recovery of nationality."

Article 2. The present Act shall be given effect as a law of the State and shall be published in accordance with the emergency procedure.

[1] *Journal officiel de la République islamique de Mauritanie*, No. 298-299, 24 March 1971. For extracts from the Mauritanian Nationality Code, see *Yearbook on Human Rights for 1961*, pp. 231-233.

Act No. 71-059 of 24 February 1971 concerning the general organization of civil defence [2]

(Extracts)

SECTION I

General principles

Article 1. The purpose of civil defence, in peacetime, is to put into effect and to co-ordinate relief measures in the event of major disaster and, in wartime, to protect the territory as far as possible against all risks and dangers due to the hostilities without, however, participating in the military operations.

Article 2. In peacetime, civil defence action shall be carried out with a view to preventing, protecting against and providing assistance in case of fire and other disasters, catastrophes or calamities which endanger public safety.

Article 3. The measures designed to change from a peacetime to a wartime organization of civil defence shall be taken during peacetime.

SECTION II

Civil defence measures

Article 4. The organization of civil defence, whether during wartime, in a state of emergency or a state of siege, shall, if the situation warrants, include:

1. General and local security measures such as the sounding of the alert and the extinguishing of lights;

2. Protective measures such as providing shelter for persons and property, clearing the streets, distributing civil defence equipment and materials;

[2] *Journal officiel de la République islamique de Mauritanie*, No. 298-299, 24 March 1971.

3. Relief measures such as fire fighting, clearing away debris, rescue, health protection, decontamination and supplying food to disaster victims.

Article 5. For the purpose of civil defence an inventory may be taken of people, animals, equipment, materials or objects, products, food-stuffs, machinery, buildings or installations.

Anyone who uses or divulges, attempts to use or divulge the information obtained in pursuance of this article shall be liable to the penalties provided in paragraphs 3 and 4 of article 12 of this Act.

Article 6. Measures designed to regulate the production and mobilization of resources or of a specific type of resources, raw materials, agricultural or industrial products required to meet the needs of the country may be taken during peacetime.

Similarly, the export, circulation, utilization, possession, marketing, taxing and rationing of certain resources, materials, objects, products or commodities required to meet the needs of the country may be regulated.

Article 7. The measures to be taken for purposes of preparing, directing and controlling the organization and implementation of the civil defence system shall be subject to regulation.

The regulations may designate the communities, establishments and enterprises which must, at all times, be responsible for civil defence within the framework of the protective measures laid down in this Act.

SECTION III

Requisitioning

Article 8. The right of requisition shall apply to all services necessary to ensure the maintenance of public safety, order and health in exceptional circumstances such as accidents, public disturbances, shipwrecks, floods, fires, epidemics or other calamities.

This right shall be vested in the administrative authorities specified in the regulations.

Article 9. The services of public agencies and of the armed forces, the personal services of private individuals and public employees and the use of movable property belonging to them or in their possession may be requisitioned.

Personnel and equipment needed to establish relief teams may be individually or collectively requisitioned. Such requisitioning shall be temporary and shall be discontinued when the situation has returned to normal.

Article 10. Requisitioning shall be by written and signed order; however, in case of emergency, notice of it may be given verbally or even by an executing official. However, in such cases, the individual or service requisitioned, shall, without prejudice to the immediate execution of the requisition, have the right to request written confirmation of the verbal order from the competent requisitioning authority.

Article 11. Compensation shall be paid for any service requisitioned according to its value; the method of calculation, application and payment of the compensation shall be fixed by decree.

In the event that he should refuse the compensation offered, the person furnishing the service shall have the right to appeal to the competent administrative authority.

Public agencies and the armed forces shall be reimbursed for the expenses incurred and the costs of depreciation of the requisitioned property.

SECTION IV

Penalties

Article 12. In peacetime, anyone who fails to comply with the measures legally prescribed by the public authorities for the implementation of this Act, shall be liable to imprisonment of six days to two months or a fine of 5,000 to 50,000 francs or both.

In the event of a second offence, the fine shall be doubled.

Anyone who knowingly supplies false information or makes false statements, or anyone who fraudulently conceals or attempts to conceal property subject to inventory, shall be liable to imprisonment of one month to one year and to a fine of 15,000 to 150,000 francs.

In the event of a second offence the penalties may be doubled.

Anyone who refuses to comply with a requisition order shall be liable to imprisonment of one month to two years or a fine of 20,000 to 200,000 francs or both.

Furthermore, the goods or objects which the offender conceals, attempts to conceal or refuses to produce or hand over in execution of a requisition order, may be confiscated.

Anyone who, through bribery, verbal or written threats, promises, exhortations, speeches, or any other means, impedes or attempts to impede requisitioning, whether or not those manoeuvres are successful, shall be liable to imprisonment of two months to five years or a fine of 50,000 to 500,000 francs or both.

...

MEXICO

NOTE *

I. Rules concerning nationality and naturalization

1. Amendment to article 1, section II, of the Nationality and Naturalization Act of 20 February 1971 (*Diario Oficial*, volume CCCIV, No. 42, 20 February 1971). The sole article of the amendment states the following:

"Article 1, section II, of the Nationality and Naturalization Act in force is hereby amended to read as follows:

"Article 1. . .

"II. Persons born abroad of Mexican parents; of a Mexican father and a Mexican mother."

2. Amendment to article 35 and supplement to article 39 of the Nationality and Naturalization Act of 20 February 1971 (*ibid.*). The first and second articles of the amendment state the following:

"Article 1. Article 35 of the Nationality and Naturalization Act is hereby amended to read as follows:

"Article 35. Foreigners, without losing their nationality, may reside in the Republic for all legal purposes, in accordance with the following rules:

"I. The acquisition, change or loss of domicile by foreigners shall be governed solely by the provisions of the Civil Code for the Federal District and Territories, in matters of the common order, and for all the Republic in Federal matters.

"II. Competence, based on territory, shall in no case be extended to proceedings for the divorce or the annulment of the marriage of foreigners.

"No legal or administrative authority may decree the divorce or the annulment of the marriage of foreigners, except on production of a certificate, issued by the Ministry of the Interior, attesting to their legal residence in the country and stating that their condition and quality of migrants allows them to perform such an act.

"Article 2. Article 39 of the Nationality and Naturalization Act is supplemented by a second paragraph, reading as follows:

"Article 39 . . .

"Any legal or administrative official who proceeds with the divorce or the annulment of the marriage of foreigners except on production of a certificate, issued by the Ministry of the Interior, attesting to their legal residence in the country and stating that their condition and quality of migrants allows them to perform such an act, or by applying laws different from those referred to in article 50, shall be dismissed from his post and sentenced to up to six months' imprisonment or to a fine up to 10,000 pesos, or both at the judge's discretion; he shall cease his functions forthwith, as soon as a writ for his prosecution is issued."

II. Rules on the right to vote

1. Municipal Electoral Act Territory of Southern Lower California (Baja California Sur) of 12 February 1971 (*Diario Oficial*, volume CCCIV, No. 42, 20 February 1971). Extracts from the Act appear below.

2. Organic Law, Territory of Southern Lower California (Baja California Sur), establishing regulations for the application of section VI (2) of article 73 of the Constitution of 8 February 1971 (*ibid.*). Extracts from the Act appear below.

III. Rules on the treatment of convicted prisoners

Act establishing Standard Minimum Rules for the Social Rehabilitation of Convicted Prisoners of 8 February 1971 (*Diario Oficial*, volume CCCVI, No. 14, 19 May 1971). Extracts from the Act appear below.

IV. Rules on working conditions

1. Decision bringing the employees of the Mexican Institute of Foreign Trade under the Act relating to the State Employees' Social Security and Social Services Institution, of 5 October 1971 (*ibid.*, No. 33, 9 December 1971).

2. Decision extending the benefits of the Act relating to the State Employees' Social Security and Social Services Institution to the personnel of

* Note furnished by the Government of Mexico.

the Papaloapan Commission of 9 June 1971 (*ibid.*, volume CCCIX, No. 21, 25 November 1971).

3. Decision extending the benefits of the Act relating to the State Employees' Social Security and Social Services to the employees of the Pánuco Valley Study Commission of 7 January 1971 (*ibid.*).

4. Decisions Nos. 321-472, 321-473 and 322-944 authorizing the Board of Directors of the Mexican Social Insurance Institute to take the necessary steps to introduce the compulsory Urban Social Insurance scheme in Cozumel, Quintana Roo, Ocoyoacac, Mexico and Juan Galindo, Puebla (*Diario Oficial*, volume CCCIX, No. 20, 24 November 1971).

V. Rules on the health and safety of citizens

1. Decree amending and supplementing articles 193, 217 and 296 of the Health Code of the United Mexican States, of 24 February 1971 (*Diario Oficial*, volume CCCV, No. 18 of 20 March 1971).

2. Regulations for the Prevention and Control of Atmospheric Pollution caused by the emission of smoke and dust, of 8 September 1971 (*ibid.*, volume CCCVIII, No. 14 of 17 September 1971).

VI. Rules on agriculture

1. Federal Agrarian Reform Act of 16 March 1971 (*ibid.*, volume CCCV, No. 41, 16 April 1971).

2. Decree amending various articles of the Forestry Act of 12 March 1971 (*ibid.*, volume CCCV, No. 20, 23 March 1971).

3. Decree supplementing the decree establishing the National Arid Zones Commission of 15 November 1971 (*ibid.*, volume CCCIX, No. 26, 1 December 1971).

VII. Rules on international co-operation

1. Decree approving in its entirety and without any reservations the Protocol of Caracas modifying the Treaty of Montevideo, done in that city and signed by the Government of the United Mexican States on 12 December 1969 (*ibid.*, volume CCIV, No. 6, 8 January 1971).

2. Decree approving the Cultural Exchange Agreement between the Government of the United Mexican States and the Government of the Dominican Republic, signed at Santo Domingo on 12 August 1970 (*ibid.*).

3. Decree promulgating the Convention on Privileges and Immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL) signed at Mexico City on 23 December 1969 (*Diario Oficial*, volume CCCV, No. 8, 9 March 1971).

4. Decree promulgating the Cultural Exchange Agreement signed between the United Mexican States and the Socialist Czechoslovak Republic, on 9 August 1968 (*ibid.*).

5. Decree promulgating the Treaty of Co-operation between the United Mexican States and the United States of America, providing for the recovery and return of stolen archaeological, historical and cultural properties, of 17 July 1970 (*Diario Oficial*, volume CCCVI, No. 32, 9 June 1971).

VII-A. Rules on tourism

Decree stating that touristic, housing, recreational planning and development and related activities in Cancun Island are in the public interest, of 6 August 1971 (*ibid.*, volume CCCVII, No. 35, 10 August 1971).

VIII. Rules on citizenship and prevention of delinquency

1. Act on the Federal District Court dealing with actions under administrative law of 25 February 1971 (*ibid.*, volume CCCV, No. 15, 17 March 1971).

2. Organic Law of the Attorney-General's Office of the Federal District and Territories of 2 December 1971 (*ibid.*, volume CCCIX, No. 51 of 31 December 1971).

IX. Rules on community development and improvement

1. Decision to promote the administrative and professional training of State employees, of 25 June 1971 (*ibid.*, volume CCVI, No. 747, 26 June 1971).

2. Decree establishing the Indian Co-ordinating Centre for the Maya Region, with jurisdiction in the State of Yucatan, of 21 September 1971 (*ibid.*, volume CCCVIII, No. 23, 28 September 1971).

3. Decree establishing the Indian Co-ordinating Centre of the Tzeltal, Tzotzil, Tojolobal and Lacandona Regions, Chiapas, of 21 September 1971 (*ibid.*).

4. Decree establishing the Indian Co-ordinating Centre of the Mixe Region, State of Oaxaca, of 21 September 1971 (*ibid.*).

5. Decree establishing the Centre for the Study of Advanced Teaching Methods and Procedures of 30 August 1971 (*Diario Oficial*, volume CCCVII, No. 53, 31 August 1971).

6. Decree establishing the decentralized public agency entitled "National Council for Educational Development", of 9 September 1971 (*ibid.*, volume CCCVIII, No. 9, 10 September 1971).

7. Decision establishing the National Commission for Access Roads and Runways, and laying down the basis for its operation, of 7 October 1971 (*ibid.*, volume CCCIX, No. 18, 22 November 1971).

Municipal Electoral Act for the Territory of Southern Lower California (Baja California Sur)

(Extracts)

Chapter I

ELECTION OF TOWN COUNCILS

Article 1. This Act shall govern the preparation, conduct and supervision of the electoral process in regular and special town council elections in the Territory of Southern Lower California.

Article 2. Regular elections shall be held every three years, on the second Sunday in the month of November of the year concerned.

Article 3. Special elections shall also be governed by this Act, except as otherwise provided in the relevant election order, which, in the event of any elections being declared null and void by the Chamber of Deputies of the Congress of the Union, shall be issued within 45 days following such a declaration. The election order shall not restrict the rights of political parties or affect the procedures and formalities prescribed by this Act.

...

Chapter II

ELECTORAL BODIES

Article 6. The bodies responsible for the preparation, conduct, and supervision of the electoral proceedings shall be the following:

I. The Electoral Commission of the Territory;

II. The Municipal Electoral Committees;

III. The Municipal Electoral Delegates;

IV. The Office of the National Electoral Register in the Territory;

V. The Boards of Polling Officers.

Article 7. The Electoral Commission of the Territory shall be appointed every three years, shall be located in the city of La Paz and shall consist of the following members: the chairman, who shall be the Secretary-General of the Government of the Territory of Southern Lower California, the federal deputy elected by the Territory, the officer of the National Electoral Register and two persons designated by agreement among the national political parties referred to in article 25 of this Act. In the absence of any agreement among the political parties concerning these two representatives, the chairman, the federal deputy and the officer of the National Electoral Register shall appoint them from among the parties which are most important in terms of sound policies and number of members. For each regular member of the Commission there shall be an alternate. Decisions shall be taken by majority vote and, in the event of a tie, the chairman shall have the casting vote.

A notary public shall act as Secretary of the Commission.

Political parties which take part in the elections and have no representatives on the Commission shall each appoint a representative who shall take part in the deliberations of the Commission without the right to vote.

Article 8. The Commission, thus constituted, shall commence its work on 1 July of the election year.

Article 9. A member of the Electoral Commission of the Territory must fulfil the following requirements; he

I. Must be a Mexican by birth and a citizen in full enjoyment of his rights;

II. Must have attained 25 years of age at the time of his nomination;

III. Must possess sufficient knowledge for the proper performance of his duties;

IV. Must be of recognized honesty; and he

V. Must not belong to any ecclesiastical order or be a minister of any religion.

Article 10. The Municipal Electoral Committees shall be appointed every three years, and shall take office on 1 August of the election year; they shall be located in the chief towns of the *municipios* and shall consist of the following members: a Chairman, a Secretary and a voting member appointed by the Electoral Commission of the Territory. Each of the political parties referred to in article 25 may accredit a representative and an alternate to the Municipal Electoral Committees. These representatives may participate in the deliberations of the Committees without the right to vote.

Article 11. A member of a Municipal Electoral Committee:

I. Must be a Mexican by birth and a citizen in full enjoyment of his rights;

II. Must be from Southern Lower California and have lived in the Territory for six months prior to the date of his nomination;

III. Must have attained 25 years of age at the time of his nomination;

IV. Must not, unless he is a teacher, occupy any public office or position in the public service;

V. Must possess sufficient knowledge for the proper performance of his duties;

VI. Must be of recognized honesty; and he

VII. Must not belong to any ecclesiastical order or be a minister of any religion.

Chapter IV

THE RIGHT TO VOTE

Article 20. Electors are required to be Mexicans over 18 years of age, resident in the Territory for not less than six months, who enjoy their political rights, and are entered in the National Electoral Register.

Article 21. It shall be the duty of every elector:

I. To cast his vote at the polling station for his place of domicile, the vote being valid only at that station, save as otherwise provided by law, and

II. To perform his duties as an electoral official and ensure that the franchise is properly exercised.

No one may refuse to act as an electoral official and exemption may be granted only for serious reasons certified by the bodies appointing the person in question.

Article 22. The following may not vote:

I. Persons without their election credentials;

II. Citizens legally disqualified from exercising their rights;

III. Persons committed to an institution for drug addiction or mental disease;

IV. Persons against whom criminal proceedings are pending for an offence punishable by imprisonment, as from the date of the order of committal to prison;

V. Persons serving a sentence of imprisonment in pursuance of a judicial decision;

VI. Fugitives from justice, as from the date of issue of the warrant for their arrest until prosecution is barred by statutory limitations; and

VII. Persons sentenced by a final judicial decision to suspension of the right to vote.

Chapter V

CANDIDATES AND REGISTRATION

Article 23. Citizens meeting the requirements laid down in the Organic Law of the Territory of Southern Lower California shall be eligible for election as Mayor, Treasurer and Aldermen, as regular holders of the office or as alternates.

Article 24. On 1 October of the election year the Municipal Electoral Committee shall post on notice boards in the chief towns of the municipalities and in government offices and shall publish in the official newspaper of the Territory notices that the register of lists of municipal candidates is open. The register shall be open up to and including 7 October.

Within the aforesaid period, the parties may replace one or more of the candidates they have registered on the list. On expiry of that period, the parties may request the Electoral Commission of the Territory to cancel the registration of one or more candidates on the list, but may only replace them with others for reasons of death, disqualification or disability.

Article 25. The lists of candidates shall be registered with the Municipal Electoral Committees. Lists of candidates may be registered only by national political parties which have already been registered with the Ministry of the Interior and which have established Local Committees in the Territory. The registration shall record in the following order: given names and surnames, age, civil status, domicile and place of birth, the post for which he appears as candidate on the list, the political party supporting him, and the colour or colours, plus the emblem, if they have one, that the party or parties submitting the list will use in the elections. For each candidate for Mayor, Treasurer or alderman there shall be an alternate candidate. Copies of applications for registration shall be sent to the Electoral Commission of the Territory.

Each party shall indicate the colour or colours it will use on the ballot papers.

If the Municipal Electoral Committee refuses to register a list of candidates, the party requesting registration shall, within 24 hours following notification of such a refusal, give the Committee concerned notice of its disagreement and shall forward a stamped copy of the receipt thereof to the Electoral Commission of the Territory, so that the application for registration may be regarded as having been submitted in time and the Commission may give its final ruling.

...

Organic law of the Territory of Southern Lower California (Baja California Sur) establishing regulations for the application of section VII (2) of article 73 of the Constitution

(Extracts)

TITLE II

Inhabitants of the Territory of Southern Lower California

Chapter I

THE INHABITANTS

Article 5. The inhabitants of the Territory are:

I. Southern Californians;

II. Southern Californian citizens;

III. Mexicans who are not Southern Californians; and

IV. Aliens.

Article 6. Southern Californians are:

I. Persons born within the Territory;

II. Mexicans who have resided in the Territory for two consecutive years and have an honest means of livelihood;

III. Mexicans who marry Southern Californians and have resided or been residing in the Territory for at least one year;

IV. Children of a Southern Californian mother or father, irrespective of their place of birth within the National Territory, who have resided in the Entity for at least one year.

Southern Californians over 18 years of age who lead honest lives shall have the status of citizens.

Article 7. For the purposes of this law, persons in the Territory who do not possess the qualifications specified in the foregoing article shall be considered non-Southern-Californian Mexicans.

Article 8. Persons who do not have the status of Mexicans under the Political Constitution of the United Mexican States shall be considered aliens.

Article 9. The status of Southern Californian referred to in sections II, III and IV of article 6 shall be forfeited through absence from the Entity for more than two consecutive years unless it is for the purpose of:

I. Holding an elective public office;

II. Holding a public or private office, appointment or commission, as long as the local administrative authority is informed each year that the person concerned does not intend to lose that status; and

III. Undertaking scientific, technical or artistic studies, as long as the local administrative authority is informed each year that the person concerned does not intend to lose that status.

Article 10. The status of Southern Californian referred to in sections II, III and IV of article 6 shall be forfeited by persons who intentionally acquire another status.

Chapter II

RIGHTS AND OBLIGATIONS OF THE INHABITANTS

Article 11. All the inhabitants of the Territory of Southern Lower California shall enjoy the guarantees provided by the Political Constitution of the United Mexican States.

Article 12. It shall be the duty of the inhabitants to:

I. Comply with the Political Constitution of the United Mexican States and the laws, regulations and other provisions issued by the United Mexican States;

II. To respect and obey the legally constituted authorities;

III. To contribute towards public expenditure in accordance with the relevant laws;

IV. To enter their names in the municipal registers.

TITLE III

Government of the Territory

...

Chapter II

THE GOVERNOR

Article 15. The Governor of the Territory shall deal with the President of the Republic directly or through the Secretary of the Interior, but he shall consult with other departments of the Federal Executive concerning matters within their competence.

Article 16. The Governor of the Territory:

I. Must be a Mexican by birth and a citizen in full enjoyment of his rights;

II. Must have attained 30 years of age at the time of the nomination;

III. Must be known to be of good conduct; and

IV. Must not belong to any ecclesiastical order or be a minister of any religion.

...

Act establishing standard minimum rules for the social rehabilitation of convicted prisoners

(Extracts)

Chapter I

PURPOSES

Article 1. The purpose of these rules is to organize the penal system of the Republic on the basis of the provisions of the following articles.

Article 2. The penal system shall be organized on the basis of work, training for work, and education as means to promote the social rehabilitation of the offender.

Article 3. The General Directorate of the Co-ordinated Crime Prevention and Social Rehabilitation Services of the Ministry of the Interior shall be responsible for applying these rules in the Federal District and the Territories and in prisons under Federal authority. Similarly, the rules shall apply, as appropriate, to persons convicted of federal offences throughout the Republic, and States shall be encouraged to adopt them. To this end and in order to orient social work relating to crime prevention, the Federal Executive may conclude co-ordination agreements with the State Governments.

Such agreements shall provide for the establishment and administration of penal institutions of all kinds, including those for the treatment of adult offenders, mentally disturbed persons whose behaviour is antisocial and juvenile offenders, specifying in each case the role to be played by the Federal and local Governments.

Agreements may be concluded between the Federal Executive and a single State or between the former and various Federal entities at the same time for the purpose of establishing regional systems, should the circumstances so warrant.

The aforegoing shall be without prejudice to the provisions of article 18 of the Political Constitution concerning agreements enabling offenders

convicted of offences under general law to serve their sentences in establishments coming under the authority of the Federal Executive.

Chapter II

PERSONNEL

Article 4. In order to ensure that the penal system operates properly, in the appointment of managerial, administrative, technical and custodial personnel for institutions of detention, consideration shall be given to the vocation, aptitude, academic training and personal history of the candidates.

Article 5. Members of prison staffs shall, before entering on duty and during their career, be required to follow such training and in-service courses as are provided and to pass the selection tests set. To that end, the role to be played by the personnel selection and training service of the General Directorate of the Co-ordinated Crime Prevention and Social Rehabilitation Services shall be determined in the agreements.

Chapter III

RÉGIME

Article 6. Treatment shall be individualized and shall make use of such sciences and other subjects as are considered appropriate for the prisoner's reintegration into society in view of his personal circumstances.

In order to make the treatment more individualized and taking into account conditions in the various environments and budgetary possibilities, the different categories of convicted prisoners shall be assigned to specialized institutions, which may include maximum, medium and minimum security establishments, penal colonies and camps, psychiatric and isolation hospitals and open institutions.

Places of precautionary custody shall be distinct from those where sentences are served and shall be entirely separate. Women shall be detained in separate places from those assigned to men. For their part, juvenile offenders shall be kept in institutions distinct from those for adults.

When new custodial establishments and establishments where sentences are served are being built and when existing establishments are being renovated or altered, the General Directorate for the Co-ordinated Crime Prevention and Social Rehabilitation Services shall provide technical guidance and shall have authority to approve projects mentioned in the agreements.

Article 7. The prison régime shall be progressive and technical in nature and shall include, as a minimum, periods of study, diagnosis and treatment, the latter being divided into the treatment phase according to their classification and the pre-release treatment phase. Treatment shall be based on the results of personality tests carried out on the prisoner, and such tests shall be updated periodically.

Efforts should be made to commence personality tests on the detainee while he is under trial, in which case a copy of the said study shall be transmitted to the authority having jurisdiction over him.

Article 8. Pre-release treatment may include:

I. Special information and guidance and discussions with the prisoner and his family concerning the personal and practical aspects of his life after release;

II. Collective methods;

III. Greater freedom within the establishment;

IV. Transfer to an open institution; and

V. Week-end or day release permits with detention at night, or permits for release during working days, with detention at the week-end.

...

Chapter IV

ASSISTANCE TO RELEASED PRISONERS

Article 15. Efforts shall be made to establish in each Federal entity an After-Care Agency which shall be responsible for providing moral and material assistance to former prisoners on completion of their sentence and in the event of release pending trial, pardon, suspended sentence and release on parole.

The Agency shall be under the obligation to assist prisoners on parole and persons with suspended sentences.

The Board of Governors of the After-Care Agency shall be composed of Government representatives and local employers and workers from the industrial, trade and agricultural sectors, as appropriate. The Bar and the local Press shall also be represented.

In order to achieve its objectives, the Agency shall have branches in the judicial districts and *municipios* of the entity.

Agencies shall assist released persons from other Federal entities who settle in the entity where the Agency is based. Co-ordination machinery shall be established between the Agencies, which, in order better to achieve their aims, shall belong to the Association of After-Care Agencies established by the General Directorate of the Co-ordinated Services and under its administrative and technical control.

Chapter V

PARTIAL REMISSION OF SENTENCE

Article 16. For every two days they work, prisoners shall be granted one day's remission of their sentence provided that they are of good conduct, participate regularly in the educational activities organized in the institution and give other signs of effective social rehabilitation. Such rehabilitation shall, in any event, be the determining factor in the granting or refusal of partial remission of sentence, which cannot be based exclusively on the number of days worked, participation in educational activities or the good conduct of the prisoner.

Remission shall be distinct from release on parole, the timing of which shall be governed exclusively by the relevant special rules.

...

MONACO

Act No. 907 of 17 March 1971 concerning the protection of interests situated in Monaco[1]

SOLE ARTICLE

Where a person who is neither domiciled nor resident in Monaco has ceased to manage the interests which he owns in Monaco and his failure to do so jeopardizes the interests of others, the court of first instance, sitting *in camera* upon the application of any interested party and on the recommendation of the *Ministère public*, may, in the interests of such party, appoint a temporary administrator to manage the said interests on such terms and within such limits as may be determined by the court.

In case of urgency, the decision shall be taken by the president of the court of first instance upon the application of a party.

This Act is hereby promulgated and shall be enforced as the law of the land.

[1] *Journal de Monaco*, No. 5,921, 19 March 1971.

Act No. 908 of 23 March 1971 concerning the régime of absence and disappearance [2]

(Extracts)

Article 1. Book I, title IV, of the Civil Code shall be replaced by the following provisions.

TITLE IV

Absent persons

Chapter I

PRESUMPTION OF ABSENCE

Article 84. Any person who, without having appointed an authorized proxy, has ceased to appear at his domicile or residence in Monaco and is no longer heard from may be presumed absent.

At the request of any interested party, the court of first instance, sitting *in camera*, may rule that there is a presumption of absence.

The court shall appoint, for such person, one or more curators whose duties and, as appropriate, remuneration it shall establish and whom it may dismiss or replace in accordance with the same procedures. It shall determine the sureties which the curator may be required to provide as a guarantee for his administration.

...

Article 89. If the person who is presumed absent reappears or is heard from, the duties of the curator shall automatically cease as a result of the said person's return or the appointment of an authorized proxy.

...

Chapter II

DECLARATION OF ABSENCE

Article 92. Two years after a person domiciled or resident in Monaco has ceased to appear at his domicile or residence or to be heard from, any interested party may request the court of first instance, sitting *in camera*, to declare such person absent.

The request shall be advertised twice in the *Journal de Monaco*, the second such notice appearing not less than 30 and not more than 45 days after the first.

...

[2] Text of the Act published in the *Journal de Monaco* and transmitted by the Government of the Principality of Monaco.

Article 102. Should the absent person reappear or his death be established, the declaration of absence shall automatically cease to have effect.

The absent person or his heirs shall recover his property, as it stands, or the value of such property if it has been alienated, and any property acquired through the use of his capital or of income which had accrued to him before the vesting order (*envoi en possession*) was issued.

...

Chapter III

DECLARATION OF DEATH AFTER ABSENCE

Article 104. When, over a period of five years, a person has not been heard from and has not reappeared at his domicile or residence in Monaco, the court, sitting *in camera,* may, at the request of any interested party, declare such person dead. The court shall establish the date of death.

Death shall be presumed to have occurred at the end of that day.

...

Article 110. If the person who has been legally declared dead reappears or is proved to be alive, any interested party or the *ministère public* may initiate proceedings for the annulment of the judgement declaratory of death.

...

Article 111. The person reappearing shall recover all his rights.

...

Article 112. If the date of death proves to differ from the date established by judicial decision, the rights referred to in the foregoing article shall pass to those who, on that date, would have been the heirs or legatees of the missing person.

TITLE V

Missing persons

Article 113. On the application of any interested party or of the *ministère public* a person of Monegasque nationality or a person domiciled or resident in Monaco may be legally declared dead, where such person has disappeared in circumstances which point to the likelihood of his death.

The foregoing provision shall apply to the disappearance of any person occurring in Monaco in similar circumstances.

The court shall hear the proceedings *in camera.*

...

TITLE VI

General provisions

Article 115-5. The *ministère public* shall attend to the interests of persons presumed absent, and of absent or missing persons; it may officially request the application, modification or abolition of measures affecting them.

It shall ensure the publication, under conditions laid down by order of the judge, of all decisions taken in that regard.

Article 2. This Act shall enter into force on 1 April 1971.

This Act is promulgated and shall be executed as a Law of the State.

Act No. 911 of 18 June 1971 amending article 3, paragraph 2, of the Code of Civil Procedure with respect to judicial relations between Monegasques and aliens, introducing an article 5 *bis* into the Code and abrogating articles 14 to 16 of the Civil Code [3]

Article 1. Article 3, paragraph 2, of the Code of Civil Procedure shall be amended as follows:

"2. Actions based on obligations arising in or to be discharged in the Principality, and actions based on obligations arising abroad with respect to an individual or body corporate of Monegasque nationality."

Article 2. An article 5 *bis,* reading as follows, shall be added to the Code of Civil Procedure:

"*Article 5* bis. Individuals or bodies corporate of Monegasque nationality may be summoned before the courts of Monaco in connexion with obligations which they have assumed in a foreign country."

Article 3. Articles 14, 15 and 16 of the Civil Code shall be abrogated.

This Act is promulgated and shall be executed as a Law of the State.

[3] Text of the Act published in the *Journal de Monaco,* No. 5935, of 25 June 1971 and transmitted by the Government of the Principality of Monaco.

Act No. 917 of 27 December 1971 modifying the rights of the surviving spouse to an intestate estate and the portion disposable between spouses [4]

Article 1

Articles 606, 607, 614 and 637 of the Civil Code shall be amended to read as follows:

Article 606. The order of succession among legitimate heirs, natural heirs and the surviving spouse, shall be regulated by law.

In the absence of an heir, the property of the deceased shall pass to the private domain of the State.

Article 607. Legitimate heirs, natural heirs and the surviving spouse shall be seized of the property of the deceased under obligation to defray all the expenses of the succession.

Article 614. The inheritance shall be distributed among the descendants of the deceased, his spouse, his ascendants and his collaterals, in the order and according to the rules specified hereafter.

Article 637. Collaterals beyond the sixth degree other than descendants of the brothers and sisters of the deceased shall not be entitled to inherit.

Nevertheless, if the deceased was not competent to make a will, collaterals up to the twelfth degree shall be entitled to inherit.

In the absence of a relative of the degree entitled to inherit in one line and of a surviving spouse entitled to inherit, the relatives of the other line shall succeed to the entire estate.

Article 2

A section VII and a section VIII shall be added to book III, title I, chapter III, of the Civil Code and shall read as follows:

Section VII

Rights of brothers and sisters to the property of natural children

Article 648. In the event of the predecease of the parents of a natural child deceased without issue, property which the child had received from them shall pass to the legitimate brothers and sisters if it remains intact in the estate; actions for recovery, if any, or the price for alienated property, if any such price is still payable, shall likewise revert to the legitimate brothers and sisters. All other property shall pass to the natural brothers and sisters or their descendants.

Section VIII

Rights of the surviving spouse

Article 649. A surviving spouse against whom no final decree of judicial separation has been made shall inherit from his spouse as specified in the following articles.

Article 650. Where the rights of the surviving spouse are equal to those of the legitimate descendants, he shall receive the same share as a legitimate child, provided, however, that his share shall be not less than one quarter of the inheritance.

Article 651. Where the rights of the surviving spouse are equal to those of one or both of the legitimate parents of the deceased, each parent shall receive one quarter of the inheritance and the remainder shall pass to the surviving spouse.

Article 652. Where the rights of the surviving spouse are equal to those of the other ascendants of the deceased, he shall have the full ownership of one half of the inheritance and the naked ownership of the other half; the usufruct of the latter half shall pass to the ascendants.

Article 653. Where the rights of the surviving spouse are equal to those of the brothers and sisters of the deceased or their descendants, he shall receive one half of the inheritance.

He shall exclude the other collaterals.

Article 654. Where the rights of the surviving spouse are equal to those of one or more natural children, he shall receive one half of the inheritance.

Article 654-1. Where the rights of the surviving spouse are equal to those of the legitimate descendants and one or more natural children of the deceased, he shall receive a share equal to that of the legitimate child who receives the smallest share, provided, however, that the said share shall be not less than one quarter.

Article 654-2. Where the rights of a surviving spouse are equal to those of a natural child or natural children of the deceased and one or both parents of the deceased, he shall receive one half of the inheritance. The remainder shall be divided equally between the other two orders, even if there are privileged collaterals.

Article 654-3. Where the rights of the surviving spouse are equal to those of a natural child or natural children of the deceased and privileged collaterals of the deceased, he shall receive one half of the inheritance.

The remainder shall pass to the natural children and the privileged collaterals in the proportions prescribed in article 640.

Article 3

Book III, title I, chapter IV, of the Civil Code shall be amended to read as follows:

Chapter IV

RIGHTS OF THE STATE

Article 654-4. Where the State Property Department (*Administration des Domaines*) claims the property of the deceased, it shall affix the seals and draw up the inventory in the manner prescribed for the acceptance of successions with benefit of inventory.

[4] *Ibid.*, No. 5,962, 31 December 1971.

It shall seek a writ of possession from the court of first instance.

Failure to comply with the foregoing shall render it liable to damages in favour of the heirs, if any should come forward.

Article 4

Article 234 of the Civil Code is hereby abrogated.

Article 5

Article 949 of the Civil Code shall be amended to read as follows:

Article 949. A spouse may, by marriage settlement or otherwise, dispose to his spouse, in the event of his leaving no descendant, of the full ownership of any property of which he could dispose to a stranger and, in addition, the naked ownership of the portion reserved to the ascendants under article 781 of this Code.

A spouse who leaves common descendants may dispose to his spouse of any property of which he could dispose to a stranger, or the entire inheritance in usufruct. Unless otherwise provided, the amount of the gift shall be deducted from the spouse's share of the intestate estate.

Where the gifts were made to the surviving spouse in usufruct, any of the descendants may have them totally or partially converted into life annuities. If the court orders the conversion, it shall value the securities pledged and satisfy itself that the equivalence between the usufruct and the life annuity is maintained.

Article 6

This Act shall apply to estates of persons deceased subsequent to its entry into force.

Nevertheless, in the case of estates of persons deceased prior to that time, proceedings for obtaining a writ of possession shall not be instituted or continued where they involve the surviving spouse or the brothers and sisters of a natural child; costs relating to proceedings or formalities already completed shall continue to be payable.

This act is hereby promulgated and shall be enforced as the law of the land.

NEPAL

NOTE [1]

I. Legislation

1. THE TRIBHUBAN UNIVERSITY ACT, 1971

Section 8. *No discrimination on the grounds of religion, tribe, caste, race, sex or creed*

No person shall be debarred from holding any office or degree, diploma, certificate or other educational degree of the University or having any facilities thereof on the grounds of religion, tribe, caste, race, sex or any creed.

2. THE EDUCATION RULES, 1970

Rule 34. *Introduction of free and compulsory primary education*

The District Panchayat, the Village Panchayat and the Town Panchayat may, with the prior approval of His Majesty's Government, the Ministry of Education and the Department of Education, introduce free and compulsory primary education within its whole area or some part thereof.

Rule 35. *Children to be sent to school*

It shall be obligatory for the guardian of the area, where free and compulsory primary education has been introduced in accordance with Rule 34, to send each and every child between the age of 6 and 10 years to the school of such area.

3. THE MARRIAGE REGISTRATION ACT, 1971

Section 11. *Registration of other marriages*

(1) Any marriage solemnized or any matrimonial relation established after the commencement of this act in accordance with the existing religion, customs, traditions or practices, may unless it is contrary to this act be registered thereunder.

(2) A couple who intend to register their marriage in accordance with subsection (1), shall submit a written application in the prescribed form to the Marriage Officer of the area, where they have been residing for the last 15 days before the date of the submission of the said application.

(3) In respect of the application submitted under subsection (2), the provisions of sections 6 and 7 shall apply.

(4) After complying with the provisions of subsection (3) the Marriage Officer, if he deems it proper to register such marriage or matrimonial relation, shall register it with details in the marriage register in the prescribed form and the couple, the witnesses and the Marriage Officer shall put their signature therein.

(5) When registering a marriage under subsection (4), the date of the marriage or the matrimonial relation shall be mentioned and the name, age and sex of the issues born after such date shall also be recorded in the register.

(6) Registration under subsection (4) shall be conclusive evidence of the fact of the marriage.

(7) After such registration, the Marriage Officer shall issue the marriage certificate to the couple in the prescribed form.

II. Court decisions

THE SUPREME COURT, DIVISION BENCH

Judgement given by:

Honourable Justice Jhapat Singha Rawal; Honourable Justice Chandra Prasad Pradhan

Criminal Appeal Number of the year 1970-679

Case: *Concerning State Offence*

Mahendra Narayan Nidhi resident of Manje, Praganna Janakpurdham District, Dhanusa, at present detained in the Central Jail, Kathmandu—Appelant/Defendant v. *His Majesty's Government—Respondent/Plaintiff*

An article of Mahendra Narayan Nidhi entitled "Democratic Day and National Interest" mentioning the date 18 February 1970, appeared on page 5 of the *Himalaysia* of 2 March 1970, a weekly magazine published from Patna, India. The said article reads that the Commoner, the maker of history, knows how to take strong steps towards an efficient and permanent administration; the manner in which the enemies of democracy are playing today will not be played tomorrow; the absolute monarchy and the monarchial panchayat have since long ago been unsuitable.

[1] Note furnished by the Government of Nepal.

In the police report it was stated that the said article made a nefarious attempt to create hatred against His Majesty's Government, showed disrespect by mentioning the enemy of democracy thereby damaging the feelings of respect and loyalty to the Crown and attempted to violate peace and order in the country. It was further mentioned in the report that Mahendra Narayan Nidhi should be punished under section 6 (1) and (2) of the State (Offence and Punishment) Act, 1963.[2]

The defendant, *inter alia,* stated:

"The said article was sent by me for publication. My article has not at all created hatred against the Crown."

The Office of the Zonal Commissioner of Janakpur decided that the accused had not only challenged the basic principles of the Panchayat System but also had attempted to create hatred against the Crown. Thus he was liable to be punished by imprisonment for a period of one year and six months under section 6 (1) and also to a fine of Rs 1,500.00 under section 6 (2) of the State (Offence and Punishment) Act, 1963.

The appeal filed by the appellant, *inter alia,* reads as follows:

"In my article, the System has been criticized and since the present Constitution has provided an opportunity and encouragement to the citizen to express his opinion regarding the System, I have expressed my opinion accordingly. His Majesty and the System of the country cannot be construed as one thing. The criticism of the System cannot be regarded as creating hatred against His Majesty. Therefore, the said decision should be quashed."

The Supreme Court in quashing the decision of the Office of the Zonal Commissioner, *inter alia,* stated:

"While deducing the meaning of an article, it is difficult to deduce the real meaning by any single word or words unless one goes through the whole context. The perusal, reading of the whole text of the said article does not give any such meaning as inculcating any political consciousness among the people and thereby creating an unpeaceful environment or violating the peace and tranquility. No mention has been made of His Majesty in the said article. Even though it has mentioned something concerning the System, no mention has been made of the affairs of His Majesty's Government. Therefore it cannot be said that the appelant/defendant has created hatred against His Majesty or His Majesty's Government or has acted anything against the peace and tranquillity as stated by the plaintiff and decided by the Office of the Zonal Commissioner of Janakpur."

[2] The State (Offence and Punishment) Act, 1963, section 6, *Sedition:*

"(1) If any person creates or causes to create or attempts to create hatred, malice or contempt directly or indirectly towards His Majesty or the Royal Family by writing or uttering or by any signs, figures or any other ways, he shall be punished with imprisonment which may extent up to three years or with a fine which may extend up to 3,000 rupees or with both.

"(2) If any person creates or causes to create or attempts to create hatred, malice or contempt towards His Majesty's Government by indicating any unfounded and unauthentic matters mentioning the affairs of His Majesty's Government by writing or by any signs, figures or any other ways, he shall be punished with imprisonment which may extend up to two years or with a fine which may extend up to 2,000 rupees or with both.

"Provided that nothing shall be deemed to be an offence under this subsection if a person, without creating, causing to create or attempting to create hatred, malice or contempt towards His Majesty's Government, criticizes in healthy and moderate languages with a view to bringing about changes in any government policies or the administrative affairs by legal means."

NETHERLANDS

NOTE [1]

I. Legislation

1. Constitution

The general review of constitutional provisions concerning fundamental rights referred to in the report for 1970 has not been completed. However, amendments will be introduced in 1972 [2] in the matter of freedom of education and the right to vote.

2. Electoral law

An amendment to the electoral law has broadened the right to vote by proxy. Previously the proxy had to bear a specified degree of relationship to the elector or share his residence. The new regulations permit more distant relatives to act as proxies. They also provide that any elector who is prevented from voting may, up to the fifth day prior to the elections, present himself at the Town Hall accompanied by a proxy, who does not necessarily have to be related to him or share his residence, and file an application to vote by proxy; the proxy must at the same time state that he agrees to serve as such.

3. In 1971, the Government and the Second Chamber of the States-General exchanged views on the possibility of establishing the position of *ombudsman* to provide added protection for citizens against unjust actions of the public authorities. A bill establishing the post is being prepared.

4. Law on compulsory schooling

An Act of 6 May 1971 increased the period of compulsory schooling from eight to nine years, thus fixing the legal working age at 15 years. For purposes of compulsory schooling, the Act requires the minor to attend school one day a week for a further year ("part-time compulsory schooling"). Employers are required to give young workers the necessary time off.

5. Equal pay for men and women

In June 1971, the Netherlands ratified the International Labour Organisation Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (No. 100).

6. Elimination of racial discrimination

An Act was promulgated on 18 February 1971 to give effect to the International Convention on the Elimination of All Forms of Racial Discrimination.

7. Social development

On 28 April 1971, the Minister for Cultural Affairs, Leisure and Social Action signed a Decree concerning the entry into force of new regulations governing State subsidies for community organization. The Decree supersedes a number of individual regulations which have been made obsolete by developments in the various areas of community organization. These different areas are now treated as an interdependent whole, thus promoting better co-ordination of the various forms of activity and sounder utilization of available resources.

The objective is to encourage, with popular participation, the social and cultural activities of the community by creating the appropriate conditions, institutions and relationships. Popular participation in decisions as well as activities is of prime importance, as can be seen from the various kinds of activities and services maintained by non-professionals.

Various methods are being used to achieve the aims of community organization, such as public information, development of social awareness, promotion of self-help, support of initiatives by the people and encouragement of co-operation between the public authorities and citizens. The proper material conditions must also be created, and particular consideration is being given to the construction of multi-purpose equipment. The regulations give particular attention to rehabilitation of urban housing, programmes for the benefit of ethnic minorities and the development of socially and culturally backward areas.

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[1] Note furnished by the Netherlands Government.

[2] The text of the amendments will appear in the *Yearbook on Human Rights for 1972*.

II. Judicial decisions

1. Right to privacy

Mention should be made of a 1970 ruling by the Crown which was published only in 1971 as the Royal Decree of 14 August 1970, AB 1971, 73.

A private person had contested the decision of the authorities to authorize a water company to add fluoride to drinking water. The plaintiff invoked articles 3 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which have the direct force of law in the Netherlands. Article 3 provides that no one is to be subjected to torture and article 8 that everyone has the right to respect for his private life. According to paragraph (2) of the latter article, the exercise of this right may be restricted only for certain specific reasons, an exhaustive list of which is given.

The Crown ruled that the contested decision did not contravene article 3 of the European Convention. It held that the question of whether the fluoridation of drinking water was to be regarded as interference with the exercise of the right referred to in article 8 of the European Convention could be left aside, since, even if it was to be so regarded, there would still be no conflict with article 8, inasmuch as the contested decision was based on law. The Crown felt that a legal provision within the meaning of paragraph (2) of the article in fact existed. It clearly believed, without so stating expressly, that the provision in question could be considered as covered by the comprehensive list of grounds for restriction given in the paragraph.

2. Freedom to teach

The report for 1970 referred to a Supreme Court decision of 31 October 1969 (*Nederlandse Jurisprudentie 1970,* 57) concerning the case of a woman who had broken off her training to teach a special form of physical culture and had started to teach it even though she had previously signed a declaration undertaking, in particular, not to give such courses if her training was discontinued.

The Supreme Court considered that in order to judge whether such a clause was contrary to public order and morality—in which case, under Netherlands civil law, the contract would be null and void—it was necessary to consider the interests that the contract was to serve and to ask whether those interests were so important as to justify a restriction at that point of the liberty to provide instruction, which was guaranteed by the Constitution. The case was referred to a Court of Appeal for review and decision in the light of the Supreme Court's ruling.

In a decision of 18 June 1971 (*Nederlandse Jurisprudentie 1971,* 407), the Supreme Court took the case up again and ruled on the appeal by the woman teacher, who cited article 2 of the First Protocol to the European Convention in an effort to show that the clause in question was inadmissable. The provisions of article 2 of the Convention have the direct force of law in the Netherlands. The Supreme Court ruled that the contract did not infringe the right guaranteed in article 2.

3. Freedom of religion

In the Netherlands, marriages must be solemnized first by the civil authorities; a religious marriage is permitted only after the civil marriage. Article 449 of the Criminal Code provides penalties for members of the clergy who conduct a religious ceremony before the civil marriage has taken place.

The Supreme Court was called upon to decide whether this provision could be reconciled with article 9 of the European Convention, which guarantees freedom of religion and has the direct force of law in the Netherlands.

In its decision of 22 June 1971 (*Nederlandse Jurisprudentie 1972,* 31), the Supreme Court ruled that the limitation imposed on members of the clergy by article 449 of the Criminal Code could be regarded as a measure which was necessary in a democratic society in the interests of public order. Since the limitation was provided for by law, recourse to article 9 of the European Convention was precluded by the provisions of paragraph (2) of that article, which contained an exhaustive list of the possible limitations and the grounds therefor.

4. Right to liberty and security of the person, to a fair hearing and to freedom of expression

In 1971, the Military High Court of appeal handed down a number of decisions in cases in which articles 5, 6 and 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms had been invoked. The view taken by the Military High Court of Appeals regarding the effect of these articles emerges most clearly in a decision of 17 November 1971, portions of which follow:

Considering that an appeal has been made on behalf of the plaintiff under articles 5, 6 and 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

Considering that the plaintiff's appeal is without foundation; that in support of the appeal under article 5 it was alleged that the disciplinary penalty of assignment to a disciplinary company was a measure involving deprivation of liberty which the plaintiff's commanding officer was not empowered to take and which could be applied only by the competent judge; that, however, the penalty of assignment to a disciplinary company imposed on the plaintiff cannot be regarded as deprivation of liberty, arrest or detention within the meaning of the said article of the Convention; that, in actual fact, the disciplinary penalty of subjecting a member of the armed forces to more stringent discipline is in practice a modified form of military service which is designed to instil and develop military discipline—to mould the char-

acter of the person who is punished while at the same time developing and improving his military skills—in order to help him to adapt to military life; that the disciplinary company is thus a military unit in which military service is performed and in which the military regulations governing ordinary service are fully applied, subject to the restrictions required by more stringent discipline; that it can be seen from the foregoing that assignment to a disciplinary company is by its nature a disciplinary measure involving greater restrictions of liberty only in so far as the above-mentioned purpose requires it; that, even if that was not deemed to be the case, recourse to article 5 of the Convention would necessarily come in conflict with the provisions of paragraph (1) and sub-paragraph (*b*) of the said article, under which the rule that no one shall be deprived of his liberty does not apply in the case of lawful arrest or detention, in accordance with a procedure prescribed by law, in order to secure the fulfilment of any obligation prescribed by law; that, in any case, the law pertaining to military discipline imposes on every member of the armed forces the obligation to conduct himself in accordance with the requirements of military discipline, as is stated explicitly in the Regulations on Military Discipline, which, according to article 14, paragraph 2, are designed, *inter alia*, to define the basis of military discipline, and, more specifically, in article 27, paragraph 1, of the said regulations, which provides that every member of the armed forces is required to assist in maintaining proper military discipline; whereas that the said law also provides for the possibility of enforcing compliance with this obligation *inter alia* by imposing and executing disciplinary penalties—a matter concerning which the above-mentioned Regulations provide in article 27, paragraph 1, that any person invested with authority in the armed forces shall be responsible for the maintenance of military discipline and, in article 28, that military discipline shall be maintained with dignity, rigorously and in a forceful but equitable manner and that the superior officer..., when necessary, shall be strict with members of the armed forces under his command... and impose, if he is competent to do so, disciplinary penalties; that, accordingly, the disciplinary penalty of assignment to a disciplinary company imposed on the plaintiff in accordance with the procedure prescribed by the law pertaining to military discipline is designed to secure compliance with the obligation imposed on him by the said law; that in support of the appeal under article 6 of the Convention it was first argued that, since contemporary disciplinary law is essentially criminal law, it is necessary to satisfy the conditions laid down in the Convention with regard to criminal procedure, i.e. trial by an independent and impartial judge, a public hearing, legal assistance and the examination of witnesses and experts, and that the said conditions were not satisfied in the present instance; that, however, although article 6 provides that everyone has certain rights in proceedings for the determination of criminal charges against him or in proceedings instituted against him for any offence, as is apparent from the language used ("any criminal charge against him", "charged with a criminal offence"), the article is clearly not applicable in cases where an individual is called upon to defend himself under disciplinary law for an act which is not defined in the criminal statutes for so minor an offence that it does not give rise to criminal proceedings; that such is the case of the plaintiff, who, by reason of his behaviour as viewed in the light of the rules of military discipline, must answer, under the law on military discipline, for an offence against military discipline provided for therein, offences against military discipline being defined by the said law as follows:

"1. All acts not defined by a criminal statute which are contrary to a military order or regulation or incompatible with military discipline or order;

"2. Offences in respect of which military courts have jurisdiction inasmuch as they are incompatible with military discipline or order but are of such a minor character that the case can be settled without the necessity of criminal proceedings";

that, in view of this interpretation of article 6, the arguments put forward by the plaintiff in support of his appeal under article 6 are without merit;

That, in support of his appeal under the said article 6, the plaintiff further held that the matter also involved the civil right of freedom of expression within the meaning of paragraph (1) of the article; that the Court considers, however, that on the basis of the examination of the plaintiff's behaviour—preparation of an article and a publication for distribution among conscripts—in the light of the rules of military discipline, which was undertaken in accordance with the provisions of the law pertaining to military discipline by the person competent to impose punishment and by the superior officer, it cannot rule on "the determination of his civil rights" within the meaning of article 6, paragraph (1), of the Convention;

That the appeal under article 10 of the Convention is also not warranted; that, in any case, the right to freedom of expression recognized in paragraph (1) of the said article may, in accordance with paragraph (2), be subject to such restrictions or penalties as are prescribed by law and are necessary in a democratic society for the prevention of disorder or crime; that the expression "prevention of disorder" refers to the measures required to prevent a state of disorder such as that which might result from an impairment of military discipline, which is essential to the armed forces for the purpose of defending the interests of the State; that, accordingly, article 147 of the Military Penal Code should be regarded as a factor in the prevention of disorder and that the said article does not exceed the limits of what may be deemed necessary for the prevention of disorder in a democratic society; that the act committed by the plaintiff as described hereinafter by the Court contains all the elements of

participation in the offence referred to in article 147 of the Military Penal Code; [2] that, accordingly, a disciplinary penalty imposed on the plaintiff for the said act—which, in the circumstances, is to be regarded as an offence against military discipline within the meaning of article 2, paragraph 2, of the law pertaining to military discipline—is not incompatible with article 10 of the Convention.

[2] Article 147, paragraph 1, of the Military Penal Code reads as follows:

"Anyone who by a signal, sign, representation, words, song, writing or illustration seeks to impair the discipline of the armed forces or who, knowing the import of such writing or illustration, distributes, displays or posts such a document or stocks the same for purposes of distribution shall be punished by imprisonment for not more than three years."

Netherlands Antilles

LEGISLATION

1. For the purpose of implementing the Convention of 7 March 1966 on the Elimination of All Forms of Racial Discrimination, appropriate provisions were added, by a national ordinance of 9 December 1971, to the Penal Code of the Netherlands Antilles and the National Ordinance concerning Collective Labour Agreements.

2. By a national decree of 19 October 1971, the National Decree concerning Free Legal Assistance was amended to provide that *any* lawyer exercising his profession in the Netherlands Antilles may now, if he so wishes, conclude an agreement with the body corporate "Netherlands Antilles" by which he undertakes to provide legal assistance to indigents and persons of insufficient means against payment of remuneration by the Netherlands Antilles. This makes it possible to give far greater weight than in the past to the preferences of needy persons as regards their lawyer.

Surinam

LEGISLATION

For the purpose of implementing the Convention of 7 March 1966 on the Elimination of All Forms of Racial Discrimination, an appropriate amendment to the Penal Code of Surinam entered into force on 9 September 1971.

NEW ZEALAND

NOTE *

I. Legislation

1. Consular Privileges and Immunities Act

This Act replaces earlier provisions dealing with consular privileges and immunities and also gives effect as necessary to the requirements of the Vienna Convention on Consular Relations.

2. Department of Social Welfare Act

A Department of Social Welfare is established for the development and administration of effective social welfare policies and services in New Zealand. The functions of the Social Security Department and the Child Welfare Division of the Education Department now come within the scope of activity of the new department. Further, the department is required to promote co-operation in and co-ordination of social welfare activities undertaken by other organizations and individuals.

3. Domestic Proceedings Amendment Act

Among other things, the act makes provision for the registration of an agreement made between the mother of a child born out of wedlock and the man acknowledging himself to be the child's father, providing for the maintenance of the mother. However, the enforcement procedures of the act cannot be invoked to require payments to be made under the agreement in respect of a period later than 5 years from the birth of the child.

The time limits within which an application for a paternity order must be made are also extended. Moreover, if the defendant has admitted paternity, expressly or by implication, there is no time limit on application.

4. Electoral Amendment Act

Among other things, this act limits the scope of an earlier provision under which persons subject to reception orders under the mental health legislation and persons detained, pursuant to convictions, in any penal institution, were disqualified from registering as electors.

5. Factories Amendment Act

The amendment introduces protection measures to counteract any process which is likely to cause impairment to the hearing. If it is not practicable to prevent exposure to noise, a personal ear protection device must be supplied.

6. Guardianship Amendment Act

The act raises to 18 the age at which a court will enforce the right to custody of a child, against the child's wishes. Previously a court could not enforce a right to custody of a child of 16 or more against the child's wishes unless it was satisfied that his moral welfare so required. Conversely, the act lowers from 18 to 16 the age at which a child may apply to a magistrate for a review of a decision or refusal of consent by a parent or guardian on an important matter affecting the child.

7. Hire Purchase Act

The act specifies the formal requirements of a hire purchase agreement and the matters which must be disclosed by the vendor the principal item to be disclosed is the cost of credit which is in general the extra amount payable by the purchaser above what would have been payable had the goods been bought by way of cash sale. The principal statutory right of the purchaser is to repay the balance of moneys under the agreement at any time before the due date and to receive certain rebates for so doing. The respective rights of the parties in the event of default by the purchaser and repossession by the vendor are also defined. The Court may take an account between the parties and vary or discharge the agreement if it is satisfied that any charges or conditions imposed on the purchaser are excessive or unconscionable.

8. Layby Sales Act

The act defines the rights of the parties to a layby sale and sets out the circumstances in which a buyer may complete his purchase despite the intervening liquidation or bankruptcy of the seller.

* Note furnished by the Government of New Zealand.

9. Legal Aid Amendment Act

The act allows a non-resident to submit an application for legal aid but may be granted in such cases only with the approval of the Minister of Justice. Aid to a non-resident does not extend to his travelling expenses or those of his witnesses, except in exceptional circumstances.

10. Marine Reserves Act

The act establishes a scheme for the proclamation and management of areas of the sea and foreshore as marine reserves, for the purpose of preserving them in their natural state as the habitat of marine life. When an area is declared to be a marine reserve, the public have freedom of access and entry so that they may enjoy the opportunity to study, observe and record marine life. Extensive powers are conferred on rangers to ensure the preservation of the reserve.

11. Minors' Contracts Amendment Act

The act clarifies and broadens the powers of the Court in relation to contracts entered into by minors below the age of 18.

12. Race Relations Act

The aim of the act is to affirm and promote racial equality in New Zealand and to implement the International Convention on the Elimination of All Forms of Racial Discrimination.

The act makes it unlawful to discriminate against any person on the ground of the race, colour or ethnic or national origins of that person (or of any relative or associate of that person) in four areas. These are (*a*) access to public places, vehicles and facilities, (*b*) the provision of goods, facilities and services, (*c*) employment, and (*d*) housing and accommodation. It is also unlawful to advertise in a manner which indicates, or could reasonably be understood as indicating, an intention to discriminate unlawfully. However, anything done or omitted which would otherwise constitute unlawful discrimination is not unlawful if done or omitted in good faith for the purposes of assisting particular groups of persons, or persons of a particular colour, race or ethnic or national origin, who need or may reasonably be supposed to need assistance or advancement so as to achieve an equal place with other members of the community.

The Race Relations Conciliator appointed under the act has the function of investigating, on complaint made to him or of his own motion, any conduct which appears to constitute unlawful discrimination, and, where appropriate, to act as conciliator in such cases. where the Conciliator is of opinion that discrimination has occurred, he must attempt to obtain a settlement between the parties or, in the case of a discriminatory practice, an assurance against repetition. If he fails, he must report to the Attorney-General and may recommend that civil proceedings be instituted by the Attorney-General against the alleged offender. If, however, the alleged offender is the Crown and the Conciliator feels the proceedings should be brought, he must give a certificate to that effect to the aggrieved person, who may then commence proceedings himself. The aggrieved person's reasonable costs and expenses are to be taxed by the court and paid by the Crown unless the court otherwise orders. The court hearing proceedings under the act may grant a wide range of remedies.

The act also makes it a criminal offence to deny access to public places, vehicles, and facilities, and to incite racial disharmony. The Attorney-General's consent to a prosecution is required.

13. Shipping and Seamen Amendment Act

This act provides for seamen to become "suspended persons" in certain circumstances, as where three or more bad conduct reports have been awarded during a period of 36 consecutive months. While a person is temporarily suspended, the act prohibits his engagement on board any New Zealand or Commonwealth ship or any foreign ship engaged in the home trade. An appeal against suspension lies to the Maritime Appeal Authority.

14. Stabilisation of Remuneration Act

The act establishes a Remuneration Authority which, in the discharge of its functions and responsibilities, is required to place paramount importance on the need to achieve and maintain stability in the levels of remuneration. The general aim of the act is to ensure that, after an initial period of adjustment, any increases in rates of remuneration are not to exceed 7 per cent unless a case is made out before the Authority and its approval obtained. The act is stipulated to prevail over all other acts in the event of conflict.

15. Transport Amendment Act No. 2

The act empowers the making of regulations requiring persons 15 years of age or over occupying a seat in a motor vehicle for which a seat-belt is provided to wear that seat-belt while the motor vehicle is moving forward.

The act also lays down the conditions under which blood specimens may be taken from persons in hospital or under medical treatment, for the purpose of testing alcohol levels.

II. Judicial decisions

1. *Auckland Broadcasting Company Ltd* v. *N.Z.B.C. and Others* [1971] N.Z.L.R. 125.

It was held that an unsuccessful applicant for a radio warrant had a full right of appeal to the Supreme Court against a successful applicant whose warrant had been granted by the Broadcasting Authority at a joint hearing. If the relevant words of the statute were construed to mean that the unsuccessful applicant could appeal only against the refusal of a warrant in its own case, the appeal right would be nugatory because the appellant would have to show that a warrant should have been granted to it as well as

to the others. As there were always likely to be more applicants than warrants could be granted for, the legislature could not have this result.

2. *Re B* [1971] N.Z.L.R. 143

Upon the breakdown of the marriage, the mother left the marital home in Australia and brought the two children to New Zealand with her. The husband obtained an *interim* order for custody of the children in the New South Wales Court and sought to enforce the order in New Zealand without any examination of the merits by a New Zealand Court. The Guardianship Act 1968 directs that in any proceedings relating to the custody or guardianship of a child, the court shall have regard to the welfare of the child as the first and paramount consideration. Therefore the only instance in which a New Zealand court will give effect to such a foreign judgement without inquiry is where it is in the best interest of the child that the court should not look beyond the circumstances in which the jurisdiction is invoked. The refusal of the trial judge to make an order granting leave to the father to remove the children from New Zealand was accordingly upheld by the Court of Appeal.

3. *Duffield* v. *The Police* [1971] N.Z.L.R. 381

The appellant had sought to demonstrate his opposition to South African racial policy in sport during a golf match between a South African and a New Zealand representative and had been convicted on three charges. On appeal, the Court said that upon purchasing a ticket to watch the match, the appellant became a licensee and as such was subject to the implied conditions of his contract. The carrying of placards was held to be calculated to annoy spectators and distract their attention from the match. The appellant's conduct was not therefore that of a well-behaved licensee but was of such a nature as to be contrary to the implied conditions of his licence. He therefore became a wilful trespasser after notice to leave had been given and ignored and was rightly convicted under the Trespass Act 1968.

4. *Duffield* v. *The Police (2)* [1971] N.Z.L.R. 710

The appellant appealed from a decision of the Supreme Court allowing an appeal against the dismissal of an information alleging that, while in custody, the appellant failed to comply with a direction for the taking of his finger prints. The appellant was well known to the police. Pursuant to the Police Act 1958, the police have power to take such particulars as may be deemed necessary for the identification of a person in lawful custody at a police station on a charge of having committed an offence. The Court held that at the time when this identification occurs the police would be unable to forecast what particulars might ultimately be needed at the trial to identify the offender and that the propriety of taking such particulars "as may be deemed necessary" would be examined only in the rarest instances.

5. *Harema and Others* v. *The Queen* [1971] N.Z.L.R. 147

The three appellants were jointly tried and convicted of gang rape. At the trial the appellants were arraigned on three counts, the jury was empanelled and the appellants were given into its charge. After an adjournment, the trial judge allowed an amendment to the indictment splitting the three counts into six and introducing an extra count in respect of Harema only. The appellants were re-arraigned and given into the charge of the jury on the new indictment. Quashing Harema's conviction and sentence on the extra count, the Court of Appeal held that he had had no opportunity to exercise his challenges having regard to the new charge, in which a different locality was involved. Further, after arraignment and after the jury has been empanelled no new count may be added, except possibly by consent.

6. *Hope* v. *Transport Department* [1971] N.Z.L.R. 449

The appellant was stopped by a traffic officer for driving a motor car at an excessive speed. Having obtained a breath test which was positive, the officer escorted the appellant to the police station where the latter agreed to provide a specimen of his blood without undergoing a further breath test. The appellant appealed against his conviction for driving with an excessive amount of alcohol in his blood. The Court held that as a positive blood test gives rise to an irrebuttable presumption that at the earlier relevant time the combination of blood alcohol was the same, the legislature intended strict observance of each screening test leading up to it. The statutory provisions relating to the mechanics of breath and blood testing were construed to be mandatory, not merely directory. Further, the consent which is relevant in a criminal matter must be real consent and not one based upon a misunderstanding of specific rights. The appeal was allowed.

7. *Levin Borough and Others* v. *Horowhenua County* [1971] N.Z.L.R. 427

The Borough and four landowners sought a writ of *certiorari* against the Horowhenua County to quash the grant of an application for permission to use certain farmland for the purposes of a quarry business. The writ sought was ordered to be issued; the Court must inquire into jurisdictional facts relating to a hearing before an inferior tribunal and a review of the County Council's decision was justified because a preliminary point which was basic to the exercise of jurisdiction was not decided or even considered by the County.

8. *Parsons* v. *Burk and Others* [1971] N.Z.L.R. 244.

The applicant in his capacity as a private citizen applied to the Court for the issue of a prerogative writ, *ne exeat regno*, to prevent the "All Blacks" rugby football team from leaving New Zealand to play in South Africa, Southern Rhodesia and the former mandated territory of South West Africa, on the grounds that the proposed tour would be prejudicial to the interests of New Zealand. The applicant believed that the tour would bring this country into disrepute and would induce African and Asian nations to boycott the

1974 Commonwealth Games which are to be held in new Zealand. The Court held that the writ did not issue on the application of a private citizen. To allow the writ to issue would be to usurp the functions of the Queen's Ministers in New Zealand.

9. *The Police* v. *Digby (2)* [1971] N.Z.L.R. 1134

The question for the Court was the extent of the burden which lies on a prosecutor in any appeal against acquittal by way of case stated. It was held that where there has been an acquittal it is incumbent upon the appellant to show that it was a necessary inference from the proved facts that the charge had been established. Where a *prima facie* case for the prosecution is made out and no answer is made, the Court is entitled to draw that inference.

10. *Thompson* v. *Duck Bros. Ltd.* [1971] N.Z.L.R. 368

The Court held that in assessing damages in favour of an infant plaintiff, a judge should not award a low figure on the ground that the amount would have increased considerably through accumulation of interest by the time the infant came of age and received it.

11. *Transport Department* v. *Taylor* [1971] N.Z.L.R. 622

The defendant was charged with refusing to permit a specimen of his blood to be taken in relation to a charge of driving with an excessive blood alcohol concentration. The case turned on whether the defendant had "failed" to provide a specimen of breath when he was unable to inflate the bag properly because of a lung condition. On appeal by the Crown against dismissal of the charge, the Court affirmed the presumption that *mens rea* is an essential ingredient of every offence and that Parliament must express itself clearly in legislation if it intends to impose strict liability. However, "fail" in this context meant a simple omission. The Court therefore directed a rehearing of the information.

12. *Whangarei High School Board* v. *Furnell* [1971] N.Z.L.R. 782

The respondent was a teacher whom the School Board had suspended from duty pending the determination by the Teacher's Disciplinary Board of complaints made against him. The school subcommitteee investigating the complaints at the initial stage failed to interview the respondent. The respondent was successful in proceedings alleging denial of natural justice by the subcommittee and unlawful suspension by the School Board, and claiming against the Teachers' Disciplinary Board a writ to prohibit the Board from proceeding with the hearing. On appeal by the Board, the Court held that where governing regulations provide an extensive code of disciplinary procedure, this constitutes a strong indication that the rules of natural justice do not apply. Further, as the sanction of suspension was only a temporary measure pending a final determination, rules of natural justice did not apply. The appeal was allowed.

13. *Yelash* v. *The Queen* [1971] N.Z.L.R. 447

The appellant had reluctantly entered into a bail bond as a surety in respect of her son, who disappeared while on bail. The bond was estreated by a magistrate who had a discretion as to the quantum of payment to be fixed. On appeal from the decision of the Magistrate, the Supreme Court held that in exercising his discretion a magistrate must give consideration to equity and good conscience and the real merits and justice of the case. After a careful consideration of the mitigating factors, the Court ordered the bond to be estreated for one fifth of the amount previously ordered.

NIGER

Act No. 71-8 of 29 January 1971 determining the composition and operational rules of the Economic and Social Council *

(Extracts)

Article 1. The Economic and Social Council shall constitute a consultative assembly within the Government.

It shall represent the main economic and social activities, promote collaboration between the various occupational categories and ensure that they participate in the Government's economic and social policy.

Article 2. Request for advice or studies shall be referred to the Economic and Social Council by the President of the Republic.

Bills relating to economic or social programmes must be referred to it. It may, beforehand, take part in their preparation.

Bills, ordinances or decrees and proposals for bills on matters within its sphere of competence may be referred to it.

It may also be consulted on any economic or social question.

Article 3. The Economic and Social Council may, on its own initiative, draw the attention of the President of the Republic to reforms which it considers likely to promote the economic and social development of the nation.

Article 4. The Economic and Social Council may appoint one of its members to explain to National Assembly committees its opinion on projects or proposals submitted to it.

* *Journal officiel de la République du Niger*, No. 31, 1 February 1971.

Article 5. The matters before the Economic and Social Council shall be examined either in plenary meeting or in committee. Only the Council in plenary assembly shall be competent to express the Council's opinion.

The Council's opinions shall be given within 15 days of the receipt of a request for an opinion. The time-limit may be reduced to five days in the event of an urgent request for an opinion.

...

Article 6. The Economic and Social Council is composed of 20 members appointed by the President of the Republic, namely:

Six representatives of workers, salaried employees, technical officials, engineers and supervisors;

Six representatives of industrial, commercial and craft enterprises including two representatives of mixed enterprises;

Four representatives of co-operative organizations and of the rural population;

Two representatives of social activities;

Two personalities qualified by their knowledge of economic and social problems.

The conditions for the appointment of the members of the Economic and Social Council will be determined by decree adopted by the Council of Ministers.

...

Article 16. The opinions and reports of the Council are transmitted to the President of the Republic, who sees to their publication in the *Journal officiel* of the Republic.

NORWAY

NOTE *

A. Statutes

1. *Act of 21 May 1971 (No. 48) amending the Act of 17 December 1920 relating to parliamentary elections and the Act of 10 July 1925 relating to municipal elections etc.*

The aim of these statutory amendments is, *inter alia*, to make it easier for the sick and the disabled, etc., to vote in elections.

2. *Act of 18 June 1971 (No. 82) making certain amendments to the Legislation on Judicial Procedure, etc.*

By these amendments, statutory authority is given for more specific rules concerning the cost of necessary legal interpreters being met to a certain extent from public funds, in civil actions too. The amendment is connected with the projected institution of a panel of legal interpreters for speakers of the Lapp language.

By the same amendment, a provision is incorporated into the Act of 1 July 1887, relating to judicial procedure in penal cases, concerning the right of the police, in certain situations, to bring a person or persons to the police station for checking and similar procedures, without this action being in the nature of an arrest. This applies, among others, to anyone who disturbs the general law and order in a public place, anyone who fails to comply with orders from the police to leave a public place if there is reason to fear disturbance of general law and order or lawful traffic and anyone who is found at or near a place where it is presumed that a felony has just previously been committed. According to the provision, no one may be held by the police for more than 4 hours.

3. *Act of 18 June 1971 (No. 83) amending the Act of 27 June 1947 relating to measures to promote employment.*

According to the Employment Act of 1947, it is prohibited to operate private employment agencies, although certain exceptions authorized by statute are permitted. By the amendments enacted in 1971, a dispensable prohibition against the practice of hiring out labour has also been introduced. This prohibition applies to "activities which entail placing one's own employees at the disposal of a client who assigns work to them, when these employees are subject to the client's management and instruction and when the client himself has employees performing work of the same nature or runs an operation where such work represents a normal stage in the process".

4. *Act of 18 June 1971 (No. 90) relating to enrolment of ships' crews, etc.*

The Act contains rules concerning the obligation to enroll and the procedure at enrolment. The enrolment consists in supervision by a public authority of the contract of engagement and of the set terms of employment, etc., for service on board Norwegian vessels.

5. *Act of 10 December 1971 (No. 103) relating to planning in shore areas.*

The purpose of the Act "is to promote a co-ordinated utilization of the land in the shore areas, with a view to preserving as far as possible the existing natural advantages and the access of the public thereto, as well as to ensuring that development in the interests of recreation and the tourist industry is seen as an integral part of the community interest as a whole, for the good of both the users and the landowners" (cf. Section 1). Certain factual and legal dispositions involving a shore area may only be made in conformity with an approved shore area plan. A shore-area plan is a detailed plan with appurtenant provisions for the utilization of land for the purposes of recreation and tourism. A shore-area plan may be drafted by the landowners or by the municipality. To draft and implement a shore-area plan the landowners in the area may organize a shore-area planning group. The Act also contains rules concerning the allocation among the landowners of development rights and of joint expenses caused by the shore-area plan.

* Note furnished by the Government or Norway.

6. *Act of 17 December 1971 (No. 119) relating to benefit assistance for divorced and separated persons with dependant children.*

The Act gives persons who, owing to separation or divorce, are the sole supporters of children under 18 years of age the right, conditional upon a means test, to benefit assistance. The background to the Act is that many divorced and separated persons with dependant children find themselves in a difficult position and require benefit assistance on a par with unmarried mothers and widows.

B. Case Law

No court judgements of particular interest for human rights have been made in 1971.

C. International agreements

In 1971 outside the United Nations, the specialized agencies and the Council of Europe, Norway has not entered into any international agreements of importance to human rights.

PAKISTAN

NOTE *

Interim Constitution

The Martial Law, which was promulgated in Pakistan on 25 March 1969, has been withdrawn and the Interim Constitution of the Islamic Republic of Pakistan, embodying various fundamental rights and principles of policy, has come into force with effect from 21 April 1972. Extracts from the Interim Constitution will appear in the *Yearbook on Human Rights for 1972.*

Legislation

The West Pakistan Criminal Law (Amendment) Act, 1963, which made special provision for the trial of certain offences and which was considered to be in conflict with article 7 of the Universal Declaration of Human Rights relating to equality before the law, was repealed by West Pakistan Ordinance No. XLII of 1969.

Difficulties encountered in regard to the development of human rights

Although often the difficulties in the implementation and development of human rights in a given society are generally political rather than legal or judicial, it ought to be noted that the protection of fundamental human rights should be regarded as part of a dynamic social and political process. The machinery and rules for effective implementation of human rights cannot be taken in isolation in a given society which is never static.

The effect of a number of guaranteed human rights in the Constitution is often reduced to a nullity by wide qualifications. Guarantees regarding rights sometimes constitute a clog in the wheel of progress and circumscribe an elected Government's freedom of action. There is also the danger that some people, induced erroneously by the guaranteed fundamental rights, may think that the Constitution guarantees them the right to do whatever they like.

Another difficulty in guaranteeing the fundamental rights in the Constitution is that these rights and freedoms have to be suspended in time of war and other serious emergencies when they are, in fact, most needed.

* Note based upon text furnished by the Government of Pakistan.

PANAMA

Cabinet Decree No. 414 of 30 December 1970 declaring 1971 to be Panamanian Education Year *

Article 1. The year 1971 is hereby declared to be Panamanian Education Year.

Article 2. Panamanian Education Year shall have as its purposes the following:

(*a*) To establish a Centre for Educational Research, Experimentation and Reform which will investigate practical problems and propose appropriate solutions.

(*b*) To sound out public opinion and the various sectors of the country concerning the necessary goals, requirements and guidelines of the Panamanian educational system.

(*c*) To obtain the widest possible participation and collaboration from all educational institutions and from groups representative of all national sectors in the task of studying and settling the problems and needs of the system.

(*d*) To develop activities which will contribute towards an improvement in the quality of instruction at the various levels of Panamanian education.

(*e*) To stimulate the education service in regions where conditions have made school needs most urgent.

(*f*) To propose changes which will contribute towards educational improvement and will provide the type of education which Panamanians require in view of the current world, human and technological situation, including:

Expansion and organization of projects and activities which will reduce the illiteracy rate to 16 per cent as soon as possible.

Implementation of a dynamic policy designed to bring about within a short time the integration of 96 per cent of the school-age population into the school system.

Development of programmes and activities which, through improved conditions, will encourage students to enter the teaching profession, with a view to obtaining the more highly skilled personnel required as a result of the increase in the school population in all areas of the country.

Provision of basic equipment and supplies in order better to develop the teaching and learning process at all levels.

(*g*) To publish a Panamanian pedagogical review which will be the faithful expression of the views of outstanding intellectual and academic figures in the field of national education.

(*h*) To produce a Statistical Yearbook containing basic information for assessing the educational situation and for forecasting and planning education in coming years.

(*i*) To make known the current educational situation in Panama through various means and to bring to the attention of the nation the problems of education and the specific plans for development.

Article 3. This Cabinet Decree shall enter into force on 1 January 1971.

* *Gaceta Oficial,* No. 16,800, 27 February 1971.

POLAND

NOTE *

I. Legislation

1. *Universal Declaration of Human Rights, articles 3, 7, 8 and 9*

Act of 20 May 1971. Code of Misdemeanours (*Law Gazette*, No. 12, item 114).

Act of 20 May 1971. Regulations introducing the Code of Misdemeanours (*Law Gazette*, No. 12, item 115).

Act of 20 May 1971. Code of Procedure in Cases of Misdemeanours (*Law Gazette*, No. 12, item 116).

Act of 20 May 1971. Regulations introducing the Code of Procedure in Cases of Misdemeanours (*Law Gazette*, No. 12 item 117).

Act of 20 May 1971. The Constitution of Panels for Cases of Misdemeanours (*Law Gazette* No. 12, item 118).

These acts have been accommodated to the design of the new criminal legislation and reflect the further democratization of the administration of justice. Misdemeanours are dealt with by panels of elected lay judges and penalties are imposed only if and when measures of an educative nature are inadequate. The range of offences classified as misdemeanours and subject to the jurisdiction of these panels has been extended by including acts which were previously recognized as felonies.

2. *Universal Declaration, article 23*

In the course of 1971, no major changes took place in Poland in either the legislation governing this field or its administration.

As in previous years the national economic plan made provision for the employment of the whole increment in the work force, which is confirmed by the continued general stability of the situation on the labour market.

In order to balance the supply of and demand for labour on a geographical and sexual basis the Government took a number of measures in 1971:

(*a*) Council of Ministers resolution No. 52 of 5 March 1971 concerning the formation of a local economic invigoration fund for 1971-1975 (*Monitor Polski*, No. 25, of 1971, item 156).

The object of this measure is to stimulate the development in 1971-75 of towns with surpluses of labour, especially female, and to create new jobs for women and, if necessary, disabled persons. The Government has allocated a fund of 1,500 million zlotys in the current Five-Year Plan for this purpose.

(*b*) Council of Ministers resolution No. 68 of 2 April 1971 concerning growth of the part-time employment of women (*Monitor Polski*, No. 23, of 1971, item 151).

This resolution extends to women working a minimum of half the statutory hours all the employment benefits to which they had previously not been entitled and has thus removed a fundamental minimum of half the statutory hours all the employment.

In 1971 part-time employment of women increased by over 17,000 in comparison with 1970.

3. *Universal Declaration, articles 22 and 25*

(*a*) Previous legislation entitled the members of farming co-operatives and their families only to superannuation benefits. Under an Act on the insurance of members of farming co-operatives and their families passed on 26 October 1971 (*Law Gazette*, No. 27, of 1971, item 255, entering into force on 1 January 1972), employment in these co-operatives qualifies them for the following social security benefits: sickness and maternity benefit, family allowance, superannuation benefit.

(*b*) Council of Ministers Order of 12 November 1971 concerning the superannuation rights of journalists (*Law Gazette*, No. 30 of 1971, item 271)

The Order lowers the retirement age, qualifying for superannuation benefit, from 65 to 60 in the case of men and from 60 to 55 in the case of women. It applies to all journalists employed in newspapers, journals, radio and television, and press, information, features and photographic agencies and embraced by the journalists' collective agreement.

(*c*) Order of the Minister of Health and Social Welfare of 14 December 1971 concerning the provision of medical care by the public health service

* Note furnished by the Government of Poland.

for persons farming their own holdings (*Law Gazette*, No. 37, of 1971, item 345)

Under the Order the facilities of the public health service have been made available to private farmers and their dependants on the same basis as employees and their families. The services provided for this group of the population, which numbers some 6.5 million, cover free medical care, including sanatorium treatment, and drugs at 30 per cent of cost.

(*d*) Council of Ministers resolution No. 254 of 22 November 1971 (*Monitor Polski*, No. 56, item 364) concerning material assistance for children and young people in adopted homes.

To improve the conditions of upbringing of children and young people placed with families which have taken the place of their parents, the State provides benefits in cash and kind as defined in the resolution.

II. Judgements of the Supreme Court

Guarantees of the rights of the defendant in criminal justice

Judgement of 10 March 1971 (III KR 7/71)

It is the obligation of the court to clarify circumstances which shed light on the character of the defendant and the conditions in which his personality was formed. This obligation follows explicitly from article 50, paragraph 2, of the Penal Code and article 8, paragraph 1, of the Code of Criminal procedure.

The proper discharge of this obligation is all the more important the graver the offence and the severer the possible penalty. In cases where the court is faced with the possibility of imposing a penalty of an exceptional nature, such as the death sentence, meticulous collection and searching study of information about the defendant's personality are essential to determining the chances of his resocialization.

Resolution of the combined Criminal and Military Chambers of 18 June 1971 (VI KZP 28/70)

1. A suspect is entitled to appeal to the courts against any order of remand in custody for up to three months issued by a prosecutor in the course of an investigation or inquiries (article 212, paragraph 2, in conjunction with article 222, paragraph 1, of the Code of Criminal Procedure) and against any order extending remand for a period of from three to six months issued by a voivodship prosecutor (article 222, paragraph 3.1, in conjunction with article 222, paragraph 2.1, of the Code of Criminal Procedure).

2. After hearing the appeal of the suspect, the Court, under article 386, paragraphs 1 and 2, of the Code of Criminal Procedure, may either uphold the prosecutor's order to impose or prolong remand in custody or revise it. This may take the form of setting aside the order, shortening the period of remand or replacing it with one of the more moderate forms of prevention envisaged by the law.

III. International agreements

On 16 March 1971 the Polish People's Republic became a party to the Convention on offences and certain other acts committed on board aircraft drawn up in Tokyo on 14 September 1963.

PORTUGAL

NOTE *

By virtue of its section 56, Legislative Decree No. 409 of 27 September 1971, to establish new statutory provisions respecting hours of work, entered into force on the mainland and the adjacent islands 90 days after the date of its publication: It may be summarized as follows:

The legislative Decree is divided into 11 chapters and consists of 57 sections.

Section 1 provides that hours of work performed under a contract of employment shall be subject to the provision of this legislative decree; that the provisions of the legislative decree shall apply to employment in licensed or concessionary public utility undertakings and publicly-owned undertakings, subject to such adjustments therein as may be made by regulations issued by decree approved by the Minister of Corporations and Social Insurance and by the appropriate ministers, but shall not cover any publicly-owned undertakings the employees of which, under the relevant statutory instrument, are subject to special legal provisions; and that in applying the provisions of this legislative decree to contracts of employment in dock work, such adaptations shall be made as are required by the arrangements incorporated in the said contracts by the collective labour agreement.

Under section 2, the provisions of this legislative decree respecting hours of work may be extended by regulations issued by decree, either in whole or in part, and subject to such adaptations as may be required by its nature, to rural employment.

With regard to hours of work on board ship and those under contracts of employment concluded between social insurance institutions or corporative bodies and their employees, section 3 indicates that they shall be governed by special legislation.

Section 4 specifies that the provisions of the legislative decree shall not apply to work performed under a contract of domestic service.

Other provisions of the legislative decree deal with maximum normal hours of work, which shall not exceed 8 a day and a 48 a week (section 5); exceptions to maximum normal hours of work (section 6); reduction of the maximum normal hours of work (section 7); rest periods which shall be of not less than one hour or greater than two hours, in such a way that workers do not work for more than five consecutive hours (section 10); the establishment of working schedules (section 11); overtime (sections 16-22); night work, which is any work performed between 8 p.m. on one day and 7 a.m. on the next day (section 29); remuneration for night work (section 30); night work by women (section 31); night work by young persons (section 33); medical examination of workers on night shift (section 34); weekly closing and rest (sections 35-42); part-time work (section 43); and penal provisions (sections 48-52).

In order to make known more precisely the legal principles embodied in the legislative decree, the Government of Portugal has proposed the addition to the summary of the following explanatory text:

In relation to section 3(1) of the legislative decree, the régime of duration of work on board ship is to be found defined already by Decree Law No. 45 969 of 15 October 1964; institutions of welfare and corporative organisms, at the time when the legislative decree was enacted, already had their own statutes, which had been approved respectively by notifications Nos. 235/71 of 4 May and 253/71 of 13 May 1971; and on 31 December 1971, the Statute of the Employees of Corporative Farming Organizations was approved by notification No. 768.

In relation to section 4, persons employed as domestic workers were excluded from the juridical régime contained in the legislative decree because of the obvious difficulty of adapting the said régime to the nature of that service.

In relation to section 5, 48 hours a week and 8 hours a day constitute normal periods of work as fixed by Convention No. 1, normally known as the Convention of Washington; in the meantime these periods of work, which are the maximum allowed by law, no longer correspond with the existing levels of time in Portugal; and actually these maximum levels already have been reduced

* Note based upon the English translation of Legislative Decree No. 409 of 27 September 1971, published by the International Labour Office as *Legislative Series* 1971-Por.1 and upon an explanatory text concerning the legislative decree furnished by the Government of Portugal.

by various instruments before the publication of the legislative decree.

In relation to section 6, exceptions to the maximum of normal working hours can be enforced only by means of a regulatory decree or by a collective regulation of work and the number of working hours may not exceed the weekly average of 48 hours.

In relation to sections 16-22, overtime is all work done outside normal working hours (section 16(1)); as a rule, no worker shall perform more than two hours' overtime a day up to a maximum of 240 hours a year (section 19); the first hour of overtime worked per day shall be remunerated at a rate 25 per cent higher than the normal rate and any subsequent hours at a rate 50 per cent higher, and collective industrial agreements may specify higher overtime rates depending on the number of hours of overtime worked (section 22).

In relation to section 30, remuneration for night work shall be at a rate 25 per cent higher than the rate for equivalent work performed by day.

In relation to section 31, night work by women in an industrial plant can be authorized only in the unavoidable conditions mentioned in this section, and the authorization shall not apply to women during pregnancy and for three months after confinement.

In relation to sections 35-42, weekly rest is of one whole day which shall normally be taken on a Sunday (section 35) and besides the weekly day of rest, a half day or full day of rest may be granted by collective labour agreements (section 38).

REPUBLIC OF VIET-NAM

NOTE *

Principal Laws and Judicial Decisions relating to Individual Freedoms, Human Rights and the Rights of the Citizen, Recognized and Guaranteed by the Constitution of 1 April 1967 of the Republic of Viet-Nam

I

In the legal field, important laws have been promulgated since the Constitution of 1 April 1967, either to provide the country with new institutions prescribed by the Constitution (Supreme Court of Justice, Judicial Council), to abolish certain courts whose existence was deemed to be incompatible with the principles proclaimed in the Constitution (the Special Court, civil courts with extended jurisdiction) or to change, in accordance with those principles, the composition and operation of other courts (Armed Services Military Tribunal).

Although they are dissimilar and uneven in their scope, all those laws are a considerable improvement on the previous legislation and have a simple aim: the establishment of an independent and impartial system of justice and the securing of respect for the rights and liberties recognized by the Constitution and the law.

Act No. 007/68 of 3 September 1968 concerning the organization and operation of the Supreme Court of Justice

Based on articles 72 (2) and 80 of the Constitution, the Act contains 89 articles divided into six titles.

Article 1 of the Act takes up the principle set forth in article 76 (1) of the Constitution: "Independent judicial power shall be vested in the Supreme Court and shall be exercised by Judges".

Article 3 reproduces the terms of article 83 of the Constitution: "The Supreme Court of Justice shall have a separate budget and shall be empowered to lay down rules for the administration of the department of justice".

The Supreme Court of Justice comprises between nine and fifteen judges, chosen by Parliament and appointed by the President of the Republic from a list of 30 candidates (judges or barristers who have served at least 10 years in the profession) elected by an electoral college composed of equal numbers of judges, public prosecutors and barristers.

The present Supreme Court of Justice, which is also the first since the Constitution, has nine judges.

The term of office of judges of the Supreme Court is six years. It may be renewed (article 56).

Apart from its functions of administering the department of justice, the Supreme Court of Justice is empowered, principally, to:

Interpret the Constitution;

Decide on the constitutionality of laws and legislative decrees; decide on the constitutionality and legality of decrees, orders and administrative decisions;

Give final rulings on appeals on points of law against judicial decisions handed down by the courts of all kinds (article 2).

The Supreme Court of Justice must meet as a plenary body to decide on the constitutionality of laws and legislative decrees.

An order declaring a law or legislative decree to be unconstitutional must be supported by a majority of three-quarters of the judges of the Supreme Court.

The judges in the minority are entitled to have their dissenting opinions recorded at the end of the order.

Of the orders made by the Supreme Court of Justice which relate to the general principles and fundamental rights guaranteed to citizens by the Constitution, the following should be mentioned:

Order of 13 July 1971. This order rejects as unfounded an appeal against article 10 (7) of Act No. 9/71 of 23 June 1971 concerning the election of the President and Vice-President of the Republic on the ground that the said article, by establishing as a condition of eligibility for the Presidency or Vice-Presidency of the Republic,

* Note transmitted by the Government of the Republic of Viet-Nam.

the requirement of presentation by at least 40 Members of Parliament (senators or deputies) or by 100 elected representatives of provincial or municipal councils, violates the Constitution, in particular article 2 (2) and 13 (2) thereof.

Articles 2 and 13 read as follows:

Article 2. (1) The State recognizes and guarantees the basic rights of all citizens.

(2) The State advocates equality of all citizens without discrimination as to sex, religion, race or political party. Ethnic minorities will receive special support so that they can keep up with the rate of progress of the nation as a whole.

Article 13. (1) Every citizen has the right to meet and form associations in accordance with the conditions and procedures prescribed by law.

(2) Every citizen has the right to vote, to stand for office and to participate in public affairs on an equal basis and in accordance with the conditions and procedures prescribed by law.

(3) The State recognizes the political rights of every citizen including the right to petition freely and engage in overt, non-violent and legal opposition.

In its order of 13 July 1971, the Supreme Court of Justice (by a majority of eight out of nine) declared that article 2 (2) of the Constitution merely states a general principle of the equality of all citizens; that article 13 (2) of the Constitution, by applying that principle to the right to vote and stand for office states that every citizen has the right to vote and stand for office on an equal basis; however, the aforesaid article 13 (2) goes on to say that every citizen has the right to vote and to stand for office in accordance with the conditions and procedures prescribed by law; that article 53 of the Constitution, after enumerating a number of requirements which must be filled by the candidate for the Presidency or the Vice-Presidency of the Republic (requirements of nationality, age ...) stipulates that the candidate must also comply with the other requirements laid down by law concerning the election of the President and Vice-President of the Republic; and that, in consequence, any act which lays down, in addition to the conditions listed in article 53 of the Constitution, certain other requirements including that of being presented by at least 40 Members of Parliament or 100 elected representatives of provincial or municipal councils, does not violate article 13 (2) of the Constitution; moreover, that article 10 (7) of Act No. 9/71 of 23 June 1971 does not violate the spirit of the Constitution and the will of the members of the Constituent Assembly in the year 1967; indeed, the parliamentary debates which took place when the act relating to the election of the President and the Vice-President was under consideration in 1967 show that the principle of presentation was accepted, on two occasions, by the majority of the Assembly ...

Order of 26 June 1971. The order rejects as unfounded an appeal against article 5 of Act No. 007/71 of 5 June 1971 concerning the election of deputies to the National Assembly on the ground that the article, which allocates the number of seats reserved for ethnic minorities in the National Assembly, restricted the right of citizens belonging to ethnic minorities to stand for the National Assembly and was incompatible with articles 2 (2) and 13 (2) of the Constitution, which recognize the equality of citizens and the right of every citizen to vote and stand for office.

The order States that the terms used in article 5 of Act No. 007/71 of 5 June 1971 may easily be misinterpreted and that, in fact, the article means that in constituencies where certain seats are reserved for the ethnic minorities, citizens from those ethnic minorities may stand for those seats only and not for the seats reserved for citizens of Viet-Namese origin, but that in the other constituencies, citizens from ethnic minorities have the right to stand for office in the same way as any other Viet-Namese citizen, and that consequently article 5 of Act No. 007/71 of 5 June 1971 does not restrict the right of citizens from ethnic minorities to stand for office ...

Act No. 016/69 of 20 October 1969 relating to the organization and operation of the Judicial Council

Based on article 84 of the Constitution, article 1 of the Act enumerates the functions of the Judicial Council as laid down in the Constitution:

To make proposals (to the Supreme Court of Justice) concerning appointments, promotions, transfers and disciplinary measures for judges;

To advise the Supreme Court of Justice on matters relating to the judiciary.

The Judicial Council consists of eight members:

Four judges elected by judges serving on the Supreme Court of Justice, the Council of State and the Court of Appeal; and

Four judges elected by judges serving in other courts.

The most senior member serves as President of the Judicial Council.

Act No. 008/69 of 26 May 1969 abolishing the Special Court

Established by legislative decree No. 003/66 of 15 February 1966, the Special Court, consisting of three members chosen and appointed by the Government, used to act as a court both of first and of final instance. There was no appeal against its decisions.

Act No. 008/71 of 15 June 1971 abolishing civil courts with extended jurisdiction

In the civil courts with extended jurisdiction the same judge discharged the duties of prosecutor and judge, which is contrary to the principles of the new judicial organization laid down by the Constitution. The Constitution stipulates that every court must have a certain number of judges and prosecutors (article 77) and that a clear distinction must be drawn between the functions of judges and those of prosecutors (article 78).

The Act prescribes that the existing civil courts with extended jurisdiction are to be replaced by courts of first instance in which the functions of judge and those of prosecutor must be clearly

separated, and that this must be done within a year of the date of the promulgation of the Act.

Act No. 006/70 of 23 June 1970 amending administrative decree No. II/62 of 21 May 1962 and subsequent instruments relating to the Armed Forces Military Tribunal

The former Armed Forces Military Tribunal was made up of five members appointed by the Government: the President (an officer) and four advisers (officers or non-commissioned-officers, depending upon the circumstances). There was no appeal against its decisions.

The new Act stipulates that the President of the Armed Forces Military Tribunal may be a civilian judge or a professional military judge and the four advisers may be professional military judges, all appointed by the Supreme Court of Justice. Furthermore, appeals may be made against its decisions to the Supreme Court of Justice, whose decision shall be final.

II

With regard to the economic and social rights (right to work, fair remuneration, reasonable standard of living. . .) recognized by the Constitution of 1967 in the following terms:

Article 15. (1) Every citizen has the right and duty to work and receive fair remuneration enabling him and his family to live in dignity.

(2) The State will endeavour to provide employment for all citizens, mention should be made of Act No. 009/70 of 18 July 1970, which ratifies Conventions Nos. 116, 117, 118, 120, 122, 123 and 124 adopted by the International Labour Conference.

Article 2 of the Act specifies that Convention No. 118 (concerning equal treatment for nationals and non-nationals as regards social security) applies only to those branches of social security coming under the legislation of the Republic of Viet-Nam.

ROMANIA

NOTE [1]

Decree No. 62/1971 concerning the Establishment, Organization and Functioning of the National Council for Romanian Radio and Television [2]

This new body was established to meet the need to strengthen the role of radio and television in informing and forming public opinion and in the communist education of the masses and in view of the complex and varied activities they perform in all areas of social, political, economic and cultural life.

The National Council for Romanian Radio and Television is a broadly representative citizens' organ, and is responsible for the general orientation of activities and for laying down guidelines for radio and television programming. To this end, the Council periodically reviews plans of activity regarding radio and television programmes, directs the preparation of broadcasts, considers and approves quarterly and long-term broadcasting plans, repertoires for radio and television plays, the production plan for motion pictures and television films, the repertoire of radio music groups and the plan for propaganda directed abroad. The Decree provides that, for the performance of these tasks, the National Council for Romanian Radio and Television shall set up standing commissions and also *ad hoc* work collectives.

The Council is headed by a chairman, who is assisted by vice-chairmen. The Chairman of the Committee for Romanian Radio and Television, a State administrative body responsible for the operational direction of activities in this field, is a vice-chairman of the Council.

[1] Note transmitted by the Government of the Socialist Republic of Romania.

[2] *Bulletin officiel de la République socialiste de Roumanie*, No. 28, part I, 9 March 1971.

Act No. 2/1971 on Further Vocational Training for Workers in Socialist Units [3]

In the context of the technological and scientific revolution taking place today, the development of the forces of production, the expansion of automation in production, the growing complexity of economic processes and the need for scientific management and organization of production and labour call for continual improvement in the level of training for workers, foremen, technical personnel, engineers, managerial staff and other specialists in the economic, research, teaching and other fields.

The Act provides the legal framework for the establishment of a national system of further vocational training for workers in socialist units, also specifying the rights and obligations of the socialist units and the workers, as well as the role of the ministries, educational establishments, scientific institutions, professional associations and public organizations.

Accordingly, work on the organization of a national system for the further training of all workers was begun in 1971 with a view to improving and systematically updating technical knowledge, promoting more thorough mastery of a basic field of specialization and a knowledge of new achievements in science, technology and culture in the field of specialization or in related fields (refresher training), providing opportunities for acquiring an additional job skill in fields other than the main occupation (multi-skill training) changing job skills in cases where the main occupation no longer meets the demands of modern technology of the structure of the economy, or if that occupation can no longer be practised as a result of changes in working capacity (requalification), promoting knowledge of modern methods and procedures in the field of scientific management and organization of production and labour and in economics, which are necessary for the performance of service duties.

[3] *Ibid.*, No. 34, 18 March 1971.

Further training for workers is being undertaken in enterprises, central departments, ministries, training centres, research and planning institutes, higher educational establishments and units of higher education and general culture, and of secondary, technical and vocational education. It takes various forms, such as on-the-job training under the supervision of the worker's immediate superior, courses organized in the unit itself, in other units, or in centres for the further training of cadres, professional training programmes, including periodic reviews of progress, practical experience in the unit itself or in other units within the country or abroad and securing a degree, after being recruited for a job, from an institute of higher education, including postgraduate studies and the doctorate.

All activities connected with the further training of workers are carried out on the basis of annual and long-term plans which come under the over-all plans of the socialist organizations.

The Act sets up bodies responsible for the further training of workers in all spheres of activity, according to field of specialization and occupation. These bodies decide on the forms and length of the training, and the frequency of refresher courses by category of workers, foremen, technical personnel, officials, specialized personnel and managerial staff.

Activities relating to further training are organized separately, according to level of training and field of specialization, taking into account the needs of the units, the basic qualifications of the workers, the requirements of the post they hold and their prospects for advancement.

Programmes for the further training of workers which are organized in enterprises and institutions are carried out in principle, in the course of the work process itself.

The Act specifies the obligations of ministries and other central organs so as to guarantee, within the limits of the funds available, the material resources necessary for further training activities; it also specifies the obligations of the collective leadership of socialist organizations as regards the provision of teaching staff.

The Act enumerates the duties of workers with regard to their further training, as well as their rights and the incentives to encourage them to undertake such training.

Moreover, the Act recommends that co-operative organizations and other public organizations should establish, in line with their objectives and expectations, appropriate regulations concerning the further training of workers in their units.

Act No. 4/1971 concerning Extradition [4]

The new Criminal Code and the new Code of Criminal Procedure lay down no rules governing extradition, since it was considered that extradition should be regulated by a special Act which would contain the rules specifying the conditions and the procedure for extradition.

This law takes account of the principles of international law, and is in conformity with the rules contained in the new Penal Code and the new Code of Criminal Procedure, and also with the present system for the organization of judicial organs and of the Procurator's Office.

When the Act was being drafted, account was also taken of the international conventions concluded by Romania with other States.

The Act consists of three chapters. The first contains introductory provisions, the second contains provisions concerning the conditions for extradition and the third contains rules regarding the procedure for extradition.

In the introductory provisions in chapter I, it is stated that extradition shall apply only where no provision to the contrary is made in international conventions, or on a basis of reciprocity. These regulations correspond to the provision contained in article 9 of the Criminal Code, whereby extradition may be allowed or may be requested on the basis of an international convention, on a basis of reciprocity or, in the absence of those two factors, on the basis of the law.

Chapter II establishes the rules governing the extradition of persons who are on Romanian territory, the effects of extradition and requests for extradition addressed by the Romanian State to a foreign State. The Act requires that the offence constituting grounds for the extradition request must be covered both by the criminal law of the Socialist Republic of Romania and by the criminal law of the foreign State. This requirement ensures respect for the legal system of the requesting and the requested State.

The Act further provides that extradition requested with a view to criminal prosecution proceedings or a trial shall be granted only where, under the law of both States, the offence is punishable by a penalty involving deprivation of liberty for more than two years, or an even heavier penalty; in cases where extradition is requested so that a sentence may be served, the request may be granted only if the sentence is for a period of more than one year, or is even more severe.

With regard to persons whose extradition has been requested, the Act provides that Romanian citizens may not be extradited, nor may stateless persons resident in Romania and persons who have been granted asylum. This provision is based on application of the principle of the sovereignty of the Romanian State.

[4] *Ibid.*, No. 35, part I, 18 March 1971.

Where the person whose extradition is requested is considered guilty or has been charged in criminal proceedings before a criminal court or judicial organ of the Socialist Republic of Romania or where such a person is due to serve a sentence, the Act provides that extradition may be postponed in order not to obstruct the normal progress of the criminal proceedings or the serving of a sentence. In the event of such postponement, extradition may take place only after the conclusion of the criminal proceedings, or after the sentence has been served or is considered to have been served.

Under the Act, the extradited person cannot be required to appear for proceedings or a trial in connexion with another offence, or to serve a sentence other than the one for which extradition was requested.

Requests for extradition are made through the diplomatic channel.

Chapter III of the Act provides that a request for extradition addressed to the Romanian State and received by the Ministry of Foreign Affairs is to be referred to the Office of the Procurator General, which must take steps to ensure that the necessary investigations are made by the departmental procurator's office. The procurator may order the arrest of the person whose extradition is requested.

If the procurator finds that the documents necessary for action on the request for extradition have not been received in time, or that the documents that have been received show beyond any doubt that the person whose extradition has been requested has not been found, he is to terminate the extradition proceedings and arrange for the release of the person arrested, where an arrest has already been made.

The order relating to the termination of such proceedings must be submitted to the Procurator General for confirmation.

In other cases, the procurator, on completion of the preparatory procedure for action on the request for extradition, notifies the departmental court, which verifies that the conditions for extradition have been met.

Where, after deliberating, the court finds that the conditions for extradition have not been met, it orders the release of the arrested person. The decision is submitted to the Ministry of Justice for referral to the Ministry of Foreign Affairs, which informs the requesting State of the reasons for not granting the request for extradition.

If the court considers that the conditions for extradition have been met, it orders the arrest of the person concerned, if such a step has not already been taken, and renders a decision in the nature of an advisory opinion. The decision is submitted to the Council of Ministers, which decides whether the request for extradition is to be granted or denied.

The decision of the court determining whether or not the conditions for extradition have been met may not be appealed.

The requesting State is notified by the Ministry for Foreign Affairs of the approval or denial of the request for extradition.

Act No. 5 concerning Identity Documents of Romanian Citizens and the Procedure for Changes of Domicile and Residence [5]

The issue of identity documents to Romanian citizens, entries in such documents concerning changes of domicile and of residence, local registration and centralized registration at the national level, of persons who have been issued identity documents—all these procedures are carried out in the interest of citizens and of the State.

The purpose of identity documents is to provide evidence of the identity of the individual, his Romanian citizenship and his domicile.

The registration records are kept up to date as a means of determining which citizens have been issued identity documents, and how they are distributed throughout the country. They also serve for the compilation of records with a view to the conscription of young people for military service, and for identifying the domicile of wanted persons.

The Act provides that organs of the militia shall be responsible for the issue of identity documents for Romanian citizens, for entries concerning changes of domicile and residence and for the registration of persons who have been issued identity documents.

The Act also provides that identity documents shall be issued to citizens who have reached the age of 14 years, since from that age, under the law, partial legal capacity is acquired. The principal identity document for individuals is the identity card.

In certain situations provided for in the Act, where it is not possible to issue identity cards, identity certificates are issued for a specific period.

To permit prompt action to save the lives of persons injured in accidents, etc., the Act requires the blood group of each identity card holder to be noted on the card. On request, the blood group of children under 14 is noted on the parents' identity cards.

[5] *Ibid.*, No. 36, part I, 18 March 1971.

Act No. 9 concerning Staff Canteen-Restaurants [6]

The Act concerning staff canteen-restaurants is one of a broad series of measures taken by the Romanian Government to raise the standard of living of workers and to fully satisfy their material needs.

The Act makes provision for a number of measures designed to help improve services for employees and retired persons and to expand the activities of canteens by converting them into canteen-restaurants and operating them on an efficient economic basis.

The canteen-restaurants are managed by committees made up of representatives of employees, ticket-holders, trade union bodies, youth and womens' organizations, the managerial staff of the enterprises whose employees use the canteen and the head of the canteen. These committees have extensive functions in the management and operation of the unit.

These units obtain their supplies at prices fixed by the State, directly from wholesale supply stores or from local suppliers. The canteen-restaurants are entitled to the commercial discount set for the retail trade.

The canteen-restaurants are open to employees, retired persons and members of their families, employees travelling on business and other persons.

Under the Act, the canteen-restaurants are exempt from sales taxes and do not pay into the budget any profits deriving from their functions as restaurants or from their subsidiary units. The profits are used to reduce prices and to improve the menus offered to employees and to retired persons on the basis of ticket-books, and to expand their plant and technical facilities.

[6] *Ibid.*, No. 52, part I, 29 April 1971.

Decree No. 253/1971 concerning contributions towards maintenance in certain institutions providing care [7]

Elderly persons and persons unable to care for themselves owing to chronic illness or handicaps, may be accommodated in old-age homes, pensioners' homes, workshop-homes or nursing homes.

This category of persons includes:

Elderly persons with no material resources and no one to support them;

Chronically ill persons who are unable to look after themselves and require permanent care;

Elderly persons with a pension or other source of income, or with someone to support them, but who are not being cared for by the family.

For the maintenance of persons in this category, the Decree makes provision for:

Free accommodation and care in such institutions for those without material means;

Payment of certain contributions where such persons or other persons, such as spouses, children or parents, are in a position to defray the costs of accommodation in these institutions.

[7] *Ibid.*, No. 90, part I, 30 July 1971.

Decree No. 275/1971 amending Decree No. 285/1960 concerning the State Children's Allowance [8]

The decree provides for an increase in the amount of the State children's allowance as follows:

(*a*) In the case of beneficiaries living in towns, the previous allowance of 100 lei (130 for persons receiving a wage of less than 1,300 lei) is increased to as much as 180 lei per month per child, the amount varying in accordance with wage level and number of children;

(*b*) In the case of beneficiaries living in rural areas, the previous allowance of 50 lei (80 lei for persons receiving a wage less than 1,300 lei) is increased to as much as 130 lei per month per child, the amount varying in accordance with wage level and number of children;

(*c*) The ceiling on monthly earnings entitling to the allowance is raised by 500 lei.

Similarly, the age limit for the grant of the State allowance has been raised from 14 to 16 years.

In contrast to the previous regulations, the children of military personnel serving for fixed periods, of retired persons in receipt of invalidity, orphans' or war widows' pensions in rural areas and other persons with taxable earnings shall henceforth also be entitled to these allowances.

As a result of these measures, approximately 470,000 children will be added to the 3.1 million

[8] *Ibid.*, No. 100, part I, 21 August 1971.

already entitled to the allowance. In the period under review, 1971-1975, children's allowance funds will be increased to more than 31,000 million lei, approximately 9,000 million of which represent additional funds for increasing the allowance and improving the system for allocating those funds. This has just been supplemented by State funds to assist families with children by increasing the number of places in crèches, kindergartens and other child care facilities.

Decree No. 302/1971 concerning the Organization and Functioning of the State Committee for Romanian Radio and Television [9]

The decree establishes new regulations concerning the organization and functioning of the State Committee for Romanian Radio and Television, due account being taken of the increased importance being attached to the activities of this central State organ. As provided for in the decree, the State Committee for Romanian Radio and Television is responsible for implementing Party and State policy in radio and television programmes while actively helping to keep the public fully informed about domestic and foreign affairs, to educate the entire population in communism and patriotism, to shape the progressive, revolutionary traits of the new socialist man and to mobilize the masses for the task of building the multifaceted socialist society.

To this end Romanian radio and television is responsible for working aggressively and relentlessly to develop the socialist conscience of the masses and raise the cultural level of the people, to promote national and universal cultural values and to publicize Romanian political, economic, social and cultural and artistic achievements both within the country and abroad.

The powers, organization and functioning of the Committee as well as other matters relating to radio and television activities are regulated by the decree.

[9] *Ibid.*, No. 108, part I, 21 September 1971.

Decree No. 301/1971 concerning the Establishment and Functioning of the Council for Culture and Socialist Education [10]

The decree establishes the Council for Culture and Socialist Education and confers upon it, under the provisions of article 2, the task of striving to develop in the Romanian people an attachment to high spiritual values, one of the principal objectives in building the multifaceted socialist society. The Council endeavours continuously to enrich ideological and cultural life, to widen the cultural horizons of workers in towns and villages so that they may all derive the greatest benefits that universal knowledge and mankind's highest achievements in science, culture and art have to offer.

The aim of the Council for Culture and Socialist Education is to imbue citizens with a high sense of social and moral responsibility with respect to the general interests of socialist society, to educate the population in the spirit of progressive traditions and fraternity between workers of Romanian, Magyar, German and other nationalities with a view to developing feelings of socialist patriotism among workers, irrespective of nationality.

The Council for Culture and Socialist Education uses all the cultural and educational means at its disposal in order that the revolutionary, materialist, dialectal and historical approach to the world and life may be increasingly manifested in our society and that workers may acquire a correct understanding of the social realities and profound socio-political processes of our time.

Another of the tasks of the Council for Culture and Socialist Education is the education of workers in the spirit of international solidarity with all peoples engaged in building the new system, with progressive militants everywhere, with peoples struggling for their country's liberation from foreign domination, for independence and independent development and with all revolutionary and democratic forces opposing imperialism and fighting for social progress and peace and co-operation among nations.

The Council for Culture and Socialist Education also endeavours to expand and intensify Romania's international cultural relations and to increase its contribution to the spread of spiritual values throughout the world and to the enrichment of the universal cultural heritage and the development of contemporary civilization.

[10] *Ibid.*

Act No. 10/1971 concerning Adoption of the Five-Year Economic and Social Development Plan of the Socialist Republic of Romania for the period 1971-1975 [11]

In dealing scientifically with the requirements of the current phase of Romania's development, namely, the building of the well-rounded socialist society, the Tenth Congress of the Romanian Communist Party established the basic guidelines for Romania's economic and socio-cultural development for the years 1971-1975 with indicative planning figures up to 1980.

The plan provides for an intense growth in the forces of production, the building of an advanced economy, modern industry and agriculture, the sustained development of science, education and culture, improvement of the material and spiritual well-being of all workers and a continuous improvement in the terms of production and the entire social organization.

It is on the basis of these objectives that the five-year plan for the period 1971-1975 stipulates the level and rate of growth and the quantitative changes which will occur in this new period of the country's economic and social development for the period as a whole and for each individual year.

The main feature of the five-year plan is the provision for sustained dynamic growth in material production, the modernization of the structure of the economy and the acceleration of the qualitative processes of development, increased efficiency in all sectors of activity and, hence, a steady rise in the living standards of the entire population.

As a result of multilateral studies and analyses it has been possible to identify additional opportunities for increasing material production, economizing and getting the most out of resources and increasing economic efficiency. Accordingly, average annual growth rates for the economy as a whole and its decisive sectors are higher in the five-year plan than those laid down in the Congress guidelines.

An average growth rate of 11 to 12 per cent for the period 1971-1975 is envisaged for industry as a whole, the increase in production resulting from intensive use of existing capacity and of new units which will be brought into service.

During the period significant changes will occur in industrial production, the emphasis being placed on the modernization of its structure, the application of more branches of advanced technology which ensure better utilization of resources, the updating of production and substantial improvement in product quality.

Industry is expected to contribute at a steadily increasing rate both to the equipment and modernization of the economy as a whole and to the creation of financial resources by producing more highly sophisticated industrial products which are competitive on external markets.

With regard to agricultural development, provision is made under the five-year plan for significant allocations of materials and funds to ensure intensified development of the sectors great resources. A considerable effort will be made to increase mechanization to an even greater degree, extend water supply, particularly irrigation, schemes and introduce on a wider scale industrial-type processes capable of producing a significant increase in plant and animal agricultural production. As a result of all these measures, agricultural production is expected to increase by 36 to 49 per cent in the period 1971-1975 as compared with average agricultural production in the years 1966-1970.

On the basis of the rise in material production and greater efficiency in economic activity as a whole, national income will increase at an annual rate of 11-12 per cent.

The country's economic and social development for the period 1971-1975 is based on a huge investment programme for which funds in an amount of 470,000 million lei have been earmarked in the five-year plan.

The largest allocation, namely, about 60 per cent of the total volume of investments to be made during the period, goes to material production sectors, with priority being given to industry.

The five-year plan guarantees continuous implementation of the policy aimed at a judicious distribution of the labour force throughout the territory with a view to the economic betterment of the least developed departments of the country and the general improvement of all areas.

In the process of the development and modernization of all sectors of activity, as in that of the structural improvement of all its branches, the Romanian economy will have to play an increasingly active part in world currency exchanges. Hence, the five-year plan provides for an increase of 61-72 per cent in the volume of foreign trade over the previous five years as a result of a high rate of foreign trade activity and increased economic co-operation with other States.

Under the five-year plan, particular attention will be paid to scientific research and action to promote technological progress throughout the economy. Research work will be concentrated mainly on technological sciences, particularly in sectors decisive for the economy, so that science and planning may be of greater assistance in overcoming problems arising in the implementation of the plan.

The plan will lead to a more rational use of manpower; the number of wage earners will grow by one million during the period covered by the plan, and productivity will increase. At the same time, the plan reflects continuing concern with the training of key personnel possessing the qualities and skills required to meet the new demands arising from the development and technological up-

[11] *Ibid.*, No. 129, 21 October 1971.

dating of the economy. Increased economic efficiency in all sectors of activity is a basic objective of the five-year plan, the emphasis being placed on increasing productivity, improving product quality, reducing production costs, particularly material costs, and enhancing the effectiveness of investments, fixed capital and foreign trade.

The steady increase in national income provides a basis for the continuing rise in workers' standards of living. The five-year plan provides for increased earnings for all categories of the population, qualitative and quantitative improvement in consumption, expansion and diversification of services, development of social and cultural activities and so forth. In the period covered by the plan, the population's total real income will increase by 40 to 46 per cent as a result of the growth in earned income and the real wages of peasants for work done in farm co-operatives and on individual farms, and the increase in social insurance pensions, children's allowances and other socio-cultural benefits.

In order that the objective of raising the standard of living may be translated into action, provision has been made for the volume of sales to increase by 40 to 47 per cent during the period and for the volume of services to increase by 55 to 61 per cent. At the same time, significant material and monetary resources will be allocated for the development of infrastructures for education, production, health, culture, art, sports and for the construction of 522,000 apartments in rural areas.

Act No. 11/1971 concerning the Organization and Management of State Socialist Units [12]

The main feature of this Act is the new regulations it introduces governing the system of organization and management of State socialist units. On the basis of other unified legal provisions already in existence, the Act regulates how State socialist units should be managed. It stipulates, for example, that the labour collectives of all State socialist units are responsible for the administration of the State funds allocated to them and for the economic performance of those units. As a participant in the administration of the nation's wealth, every worker is answerable to his collective for the performance of the tasks entrusted to him and, together with the collective as a whole, for the effective execution of the unit's general activities.

State socialist units operate on the basis of the principle of collective management through the direct participation of workers in the study and solution of problems arising in connexion with the unit's economic and social activities, the preparation and implementation of measures necessary to carry out the national plan and to improve the working and living conditions of the entire community.

The following organs are responsible for the collective management of the socialist units: committees of workers for the management of social and economic activities, workers' councils for the management of economic and social activities, and general assemblies of workers.

The workers' committees and councils are composed of personnel holding responsible positions, experienced experts and elected workers' representatives. In units containing workers belonging to non-Romanian ethnic groups, the committees and councils also include workers from those groups.

Workers' committees are set up in enterprises and certain plants of the central industry designated by the latter. Workers' councils are set up in central industries. A workers' committee is presided over by the manager or director of the plant concerned and the Director-General of the central industry is a member of the workers' council.

In order to exercise operational control over the activities of the socialist units, the workers' committees in the major plants and complexes may establish operational management collectives, while the workers' councils may establish executive bureaux.

The workers' general assemblies are set up in enterprises and in plants of central industries, as well as in those industries themselves.

The workers' committees and councils are obliged to give the workers' general assembly an account of the unit's activities, its financial position, the work to be carried out in the forthcoming period and organizational and technical measures to facilitate the performance of such work. The workers' committees and councils are answerable to the general assembly for the performance of the tasks defined in the plan and for measures designed to provide good working conditions.

[12] *Ibid.*, No. 130, part I, 21 October 1971.

Act No. 12/1971 concerning Recruitment and Promotion of Personnel in State Socialist Units [13]

Among the measures designed to improve the management and organization of the national economy, the Romanian State pays special attention to the continuous improvement of activities related to the recruitment and promotion of personnel in the State socialist units.

The new Act regulates—the first time that this has been done in an integrated manner—the recruitment and promotion system for all categories of personnel, the organization and holding of examinations and compositions, methods of assessing staff performance and study conditions and seniority.

In their dual capacity as owners and producers, workers have both a right and an obligation to participate directly in the management and organization of production and work and are responsible for the most efficient utilization of the material and financial resources of the units in which they work, resources which society has authorized them to administer. To that end, the workers of each unit are entitled, under the provisions of the Act, to have a say in the promotion of the best staff to managerial positions. The collective in which they work is the body most familiar with the capabilities, qualities and work performance of the staff to be promoted and is able to evaluate those factors objectively.

The Act is an effective instrument for strengthening the implementation of the principles of socialist democracy in economic, socio-cultural and administrative units. To that end, the Act provides that the collective in which a new recruit is to work shall be informed that a new person has been hired.

The collective is entitled to express its views on the work done by staff proposed for promotion. Any person who fails to receive a favourable recommendation from the collective cannot be promoted.

The Act lays down the criteria which must be borne in mind, both with regard to recruitment and promotion to managerial positions; these criteria vary according to whether the persons concerned are workers, technical, economic or administrative personnel or staff with other specializations. This procedure ensures a more satisfactory distribution of staff in places of work according to individual skills and training, while giving everybody a chance of promotion.

The Act provides that the following conditions, among others, must be met for staff to be eligible for promotion to managerial positions: sound professional knowledge, experience in the work to be performed in the post, aptitude for managerial and organizational work and activity indicating understanding of, and consistent service to, the general interests of society.

One new feature introduced by the Act is the system of annual appraisal and grading of technical, economic and administrative personnel and staff with other specializations. Appraisal and grading is carried out by collectives designated by the manager of the unit, on the basis of criteria laid down in the Act, such as: work performance, level of professional knowledge and general culture, personal qualities, initiative, work discipline, conscientiousness and perseverance, professional standing, concern for the interests of the unit, concern to protect socialist property and to implement laws, and so forth. Another novel feature of this Act are the provisions under which recruitment and promotion in State socialist units is effected on the basis of examinations or competitions. The purpose of this measure is to ensure a wise and discerning choice of staff in all State socialist units which is necessitated by the requirements of technological progress and the improved organization of production and work.

In order to ensure that the examinations and competitions are open and democratic, vacancy notices are posted or published. The Act contains clear provisions regarding the conditions for participation in the examinations and competitions and how they are to be organized and held. After the examination or competition successful candidates who have favourable recommendations from the collective in which they have been working and who have received excellent progress reports and grades for the previous two years are hired or promoted.

The provisions for the promotion of staff to managerial functions—Director-General and equivalent positions—are stricter, in view of the very special qualities which unit managers must possess as organizers responsible for production and work. Specialists may be promoted to such functions provided that they have the academic qualifications and seniority, that they have held various responsible posts, acquired wide experience in this field, given proof of a high level of professional knowledge, have an exemplary record of social behaviour and have completed the courses at the central institute for advanced training of management personnel for state economy and administration, or some other advanced training course.

It is also provided that managers who are in service should complete an advanced training course in the management and organization of production and work before the end of 1976.

[13] *Ibid.*, No. 131, part I, 21 October 1971.

Act No. 20/1971 concerning the Organization of Contributions in Money and Work for Projects in the Public Interest [14]

This law is part of the series of measures taken in Romania to encourage the public to take a growing interest in economic and socio-cultural activities and to make full use of the material and human resources of the country, with a view to improving the facilities and equipment of communities and satisfying the socio-cultural needs of the residents.

The Act was drawn up on the basis of proposals and suggestions from local authorities and the State administration for departments, municipalities, towns and communes and from many deputies and citizens.

In drafting the Act, due attention was also given to experience already acquired in organizing voluntary contributions of citizens. This experience shows that new rules are needed to ensure that initiatives are taken by more citizens and that an appropriate legal and organizational framework is established to promote projects in the public interest at the local level in order to respond more fully to the needs of the population.

The Act implements the proposals made and also enables citizens to participate in the modernization, planning and development of communities, through their financial contribution and labour, in co-operation with the inhabitants of villages. It also envisages the possibility of creating a wider range of social and cultural facilities such as clubs, children's homes, workshop schools, cultural centres, sports, tourist and leisure centres, etc. A public fund for monumental art has been established from moneys contributed so that decorative monumental works of art can be executed in the communes, towns, municipalities and sectors which constitute the Bucharest greater municipality.

The salient feature of the Act is that citizens are completely free to decide how to organize the fund-raising and contributions in labour, how funds should be used and for what purposes.

To promote social democracy, the Act provides that in each electoral district the residents shall examine the proposals made by deputies, standing committees or groups of residents for the construction of facilities in the public interest.

The Act governs the modalities organizing citizens' assemblies to decide the amount of money to be raised and the number of work days to be contributed as well as the objectives and the time-limits for carrying them out. In justified cases, the assemblies have the right to grant certain families of inhabitants total or partial exemption from contributing money or labour.

Furthermore, the Act regulates the supervision of implementation of the objectives selected, use of the funds raised as well as the regular reports by the assemblies on the funds contributed, the progress of the work and the quality of performance.

In communities with more limited economic resources, the State allocates funds to assist in carrying out the work. The State may also grant reimbursable credit and provide the material needed for the work.

The executive committees of the peoples' councils of departments and the Bucharest municipality are responsible for granting the technical assistance required for organizing and applying the system of financial and labour contributions. It is their duty to provide the municipal executive committees in towns and communes with guidance and assistance in implementing the objectives referred to.

The executive committees of the peoples' councils are obligated to give particular attention to the siting of these facilities, so that they help to raise the level of urbanization in the communes and towns.

The State committee for the local economy and administration, together with the State committee for planning, the Ministry for technical and material supplies and supervision of the use of fixed assets and the executive committees of the departmental people's councils are responsible for analysing the material requirements to be provided from the centralized stock for communities where local resources are insufficient. Provision is made in the State plan for the materials required by each department on the basis of these analyses.

[14] *Ibid.*, No. 155, part I, 16 December 1971.

Act No. 24/1971 concerning Romanian Citizenship [15]

The general provisions of this Act state that in the independent and unitary sovereign State of the Socialist Republic of Romania, Romanian citizenship is a manifestation of the social, economic, political and legal relationships between individuals and the Romanian Socialist State. At the same time, it is a badge of honour and of great civic responsibility. Romanian citizenship proves that the citizen belongs to the Romanian Socialist State.

All citizens of the country are Romanian citizens and have equal rights and duties, without restriction or distinction as to nationality, race,

[15] *Ibid.*, No. 157, part I, 17 December 1971.

sex or religion, or to the way in which citizenship was acquired.

Romanian citizens enjoy political, economic and social rights as well as the other rights and freedoms embodied in the Constitution and the laws of the country. The State ensures the freedom and dignity of its citizens and the multifaceted affirmation of their personality; furthermore, it protects Romanian citizens who are temporarily outside the country or living abroad.

It is the duty of Romanian citizens to be dedicated to their country and to defend it, if need be—even at the cost of their lives, to work to enhance its prestige in the world, to place all their energies and abilities at the service of the general interests of the people, to contribute to the defence and increase of the national wealth, the strengthening and development of the socialist régime, to respect the rules for social coexistence, not to divulge State secrets and to fulfil all other obligations provided in the Constitution and laws of the country.

Furthermore, it is the duty of citizens to participate in public activities of common interest for the purposes of beautifying, arranging and developing the places where they live and work.

The Romanian State is exclusively responsible for establishing the rights and duties of Romanian citizens and the way in which Romanian citizenships can be acquired and lost.

In cases where a Romanian citizen is considered, under the law of a foreign State, to be a citizen of that State, the provisions of Romanian law take precedence over the provisions of the foreign law.

The Act also governs the procedures for acquiring Romanian citizenship—by birth repatriation, adoption, or granting on request, and the way in which citizenship is forfeited—by withdrawal, approved renunciation and other means.

The Act also contains provisions on proof of citizenship.

Decree No. 468/1971 concerning Measures to Improve Activities for Planning and Publicizing Legislation [16]

The laws of the Romanian State express the will and interests of the people; they serve to strengthen the socialist régime and develop the country, to improve the well-being of workers steadily and to ensure that all citizens are free to express their aptitudes and abilities in political, economic, social and cultural life. This explains the new attitude of citizens to the laws, their awareness of their great responsibilities and duties towards the socialist society.

Despite significant achievements to date, there are still cases of violations of laws, of failure to comply with the rules of social coexistence and the socialist principles of ethics and equity, of damage done in public places and other negative behaviour.

Among the causes which have led to such behaviour, it is appropriate to mention cases where central and local organs and certain socialist units did not pay sufficient attention to the adoption of the measures needed to implement laws and other regulations in their field of competence and to ensuring that those who are responsible for enforcing the laws are thoroughly familiar with them and where not enough was done to publicize legislation.

In establishing the tasks incumbent upon socialist organs and organizations in the implementation of legislation, the decree provides that, following publication of any act or regulation concerning a specific branch of activity, the governing bodies of ministries and other central or local organs shall take the following measures:

Organize a systematic study of the legal provisions by all those who are responsible for their implementation.

Ensure the material conditions and take all the necessary technical and organizational measures for the immediate implementation of the legal provisions;

Ensure permanent supervision of the way in which the legal provisions are applied;

Take any other measures to ensure that the legislation is correctly applied in areas of activity within their competence.

In so far as work concerning the publicizing of legislation is concerned, the decree gives special attention to meetings between deputies and members of the electorate, to increasing the role of the standing commissions of the people's councils with a view to intensifying their supervisory activities and to the more effective utilization of public meetings, meetings of citizens' committees, of tenants' associations and other similar organizational methods whereby the people's councils encourage citizens to carry out public tasks at the local level.

In departments where other nationalities coexist with the Romanian population, special attention will be given to activities designed to publicize legislation in each administrative unit and measures will be taken to improve activities in this field.

The workers' councils and committees, in their capacity as management bodies of socialist State units, and collective management bodies of cooperative organizations and other public organizations, while demanding support from party organizations, trade unions, youth and women,

[16] *Ibid.*, No. 165, 30 December 1971.

organize activities to circulate legislation among workers in these units in order to inform them of all the rights and duties incumbent upon them.

Tasks are also assigned to the Ministry of Justice, the Ministry of the Interior, the Procurator-General and the Supreme Court. They are called upon to take steps to improve activities intended to publicize legislation among citizens in their own fields of competence.

The Ministry of Justice shall take measures to increase the number of trials held *in situ* and judgements rendered—in socialist organizations, communes and districts.

The Ministry of Education, higher education establishments and teaching institutions of all kinds shall take the necessary steps to improve the process of educating young people to respect legal measures and provisions.

SENEGAL

Act No. 71-10 of 25 January 1971 concerning Conditions Governing the Entry, Residence and Establishment of Aliens [1]

Article 1. For the purposes of this Act, any person not of Senegalese nationality shall be deemed to be an alien whether he is of foreign nationality or has no nationality.

Without prejudice to international conventions, the admission, residence and establishment of aliens in Senegal shall be governed by the provisions of this Act and the decrees for implementing it.

Article 2. No alien shall be admitted to Senegal unless he has obtained either a residence permit or an establishment permit.

Article 3. Non-immigrant aliens shall be admitted after they have obtained a resident permit.

Only travellers in transit, crews of vessels and aircraft making stopovers, tourists, officials on mission and their families, persons not engaged in a gainful occupation or temporarily engaged in literary or artistic pursuits or in journalistic, research, control, prospecting or representation activities shall be deemed non-immigrants.

The implementation decrees may prescribe simplified forms of admission or exemptions for certain of the categories listed above.

The permit may be granted for a maximum period of four months.

Article 4. Immigrants are aliens who come to Senegal with the intention of establishing their residence, engaging permanently in a gainful occupation or practising a profession there.

They shall be admitted after they have obtained an establishment permit.

The establishment permit shall be issued before the country is entered. It may be issued subsequently to persons already holding a residence permit.

The permit may also be granted to the spouse of an immigrant, to his ascendants and to his minor or unmarried descendants dependent on him and living under his roof.

If an alien wishes to engage in a salaried occupation in Senegal, the establishment permit shall be subject to certification by the competent authority, in accordance with such modalities as it may establish, that he has complied with the legal or statutory obligations imposed on alien workers.

The work contract of any person whose permit is rescinded shall, *ipso jure,* be annulled.

Article 5. The practice of certain gainful professions or occupations may be denied to aliens or be the subject of limitation by decree.

Article 6. The permits shall fix the length of residence or establishment.

They may be conditional.

They may be rescinded or renewed.

They shall be subject to the payment of fees fixed by law and to the constitution of repatriation guarantees.

Article 7. An alien holding a residence or establishment permit may move freely within Senegal, subject to the requirements of public policy (*ordre public*). He shall be free to choose his place of residence. Nevertheless, the approval of the competent administrative authority shall be mandatory in the event of a change of residence or occupation.

Article 8. The validity of the residence or establishment permit shall expire:

(1) Upon expiry of the period for which it was granted, unless it is extended;

(2) In consequence of the expulsion or definitive departure of the person concerned;

(3) In consequence of an uninterrupted period of residence, unless authorized, of more than one year outside the territory by the person concerned.

Article 9. The residence or establishment permit may be rescinded at any time, particularly in the following circumstances:

In case of non-compliance with the conditions on which it was issued;

If it was obtained by means of false statements or concealment of essential facts;

If the alien fails to obtain approval of the administration in the event of a change of residence or occupation.

Article 10. An alien may be expelled for one of the following reasons, *inter alia*:

[1] *Journal officiel de la République du Sénégal,* No. 4148, 20 February 1971.

If he has been convicted of a crime or correctional offence;

If his general conduct and actions justify the conclusion that he is unwilling to adapt to the established order;

In the event of serious and manifest interference in the internal affairs of Senegal;

If he can no longer provide for his needs and those of his family.

An alien against whom an expulsion order is issued must leave the territory within the period specified by the expulsion order. If he fails to do so, he shall be forcibly expelled, without prejudice to the penalties prescribed in article 11 of this Act.

Article 11. The following shall be liable to imprisonment for a term of two months to two years or a fine of 20,000 to 100,000 francs or both:

Any alien who enters or returns to Senegal despite a prohibition of which he has been notified;

Any alien who resides or is established in Senegal without having received the appropriate permit or after the period fixed by the permit has expired;

Any alien who obtains a residence or establishment permit by means of fraudulent guarantees of repatriation or concealment of essential facts, without prejudice to the penalties prescribed in articles 137 and 138 of the Penal Code.

Article 12. The following shall be liable to imprisonment for a period of one month to three months or a fine of 20,000 to 50,000 francs or both:

Any alien who without an establishment permit engages in a gainful occupation, whether salaried or not, other than those mentioned in article 3;

Any alien holding an establishment permit who engages in a gainful occupation, whether salaried or not, despite a prohibition or a prescribed limitation;

Any alien who continues to engage in a gainful occupation, whether salaried or not, after the establishment permit has been rescinded. Where the alien engages in a salaried occupation, proceedings shall be instituted against his employer as an accomplice if he has been advised of the notice of rescission served on his employee.

Article 13. Any infringement of the other provisions of this Act shall be punishable by the penalties prescribed in article 12 above.

Article 14. Any unauthorized time spent in Senegal shall be discounted in calculating the period of residence required of candidates for naturalization by article 12 of Act No. 61-10 of 7 March 1971 determining Senegalese nationality.

Article 15. All provisions contrary to this Act, in particular the decree of 12 January 1932 governing conditions for the entry of French nationals and aliens into French West Africa, are hereby repealed.

This Act shall be enforced as the law of the land.

Act No. 71-12 of 25 January 1971 establishing the Régime for Historic Monuments and that for Excavations and Discoveries [2]

TITLE I

Historic Monuments

Article 1. Movable or immovable property, public or private, including natural monuments and sites, as also ancient stations or deposits, the preservation or conservation of which is of interest from the standpoint of history, art, science, legend or scenic beauty shall be scheduled as historic monuments.

Historic monuments shall be registered in a list prepared, kept up to date and published in the *Journal officiel* by the competent administrative authority.

Owners, holders or occupiers shall be notified of registration in the list. Registration shall place them under obligation of giving the competent administrative authority two months' notice before proceeding to alter the places or objects or undertake any work other than normal maintenance and everyday management.

Registration shall, in addition, enable the administrative authority to oppose operations involving the fragmentation or dismemberment of registered monuments and the export of movable objects registered in the conditions prescribed in articles 6 and 10.

Registration shall lapse unless followed within six months of its notification by a proposal for scheduling.

Article 2. Historic monuments may be proposed for scheduling, then scheduled. The same procedure shall be followed in the case of property which it is necessary to schedule in order to isolate, expose or clean a monument which has been scheduled or proposed for scheduling.

Article 3. The proposal for scheduling shall be brought to the attention of owners, occupiers or holders by the administrative authority of the place in which the historic monument is situated or held.

The proposal shall lapse if the persons concerned are not notified of scheduling within the following 12 months.

[2] *Ibid.*

The effects of scheduling shall apply *ipso jure* from the date of notification of the proposal for scheduling.

The administrative instruments ordering the proposal for scheduling and the scheduling of immovable property shall be registered in the land conservancy registers. Such instruments, like those relating to movable property, shall be published in the *Journal officiel.* Proof that the formalities have been complied with shall be provided by means of notifications and advertisements.

Article 4. The effects of scheduling shall follow the property irrespective of the hands into which it may pass. No person may acquire rights to a scheduled property by prescription.

Any person transferring a scheduled property shall be obliged to inform the purchaser, before completion of the sale, that the property has been scheduled, on pain of nullification of the sale if the purchaser so requests. He shall notify the competent administrative authority of the sale within 15 days thereof.

A scheduled property belonging to a body corporate in public law may not be transferred without the express authorization of the competent administrative authority.

Article 5. Monuments which have been proposed for scheduling or scheduled may not be destroyed, either wholly or partially, or subjected to restoration or repair work or modified without the authorization of the administrative authority, which shall establish the conditions for such work and supervise its execution.

The State may cause work essential to the preservation of scheduled monuments not belonging to it to be carried out at its expense. To that end, it may, *ex officio,* take possession of sites or objects for a period not exceeding six months.

The owners, occupiers or holders may, if necessary, claim compensation for loss of possession, such compensation being determined in accordance with the rules laid down in Act No. 66-01 or 18 January 1966 (Title IV—Temporary occupation).

In consideration of the costs thus borne by the State and when the scheduled monument is fit to be opened to the public or exposed to its view, an entrance fee, the amount of which shall be fixed by the competent administrative authority, may be established in aid of the State's budget.

National Education Guidance Act No. 71-36 of 3 June 1971 [3]

(Extracts)

TITLE I

General provisions

Article 1. The purpose of national education, as envisaged in this Act shall be:

(1) To raise the cultural level of the population;

(2) To train free men and women capable of creating the conditions for their development at all levels, contributing to the development of science and technology and devising effective solutions for the problems of national development.

It shall aim at preparing the conditions for total development, responsibility for which is assumed by the entire nation. Its continuing task shall be to maintain the nation as a whole within the mainstream of contemporary progress.

Article 2. Senegalese national education shall be democratic. Its underlying principle shall be the acknowledged right of all human beings to receive the instruction and training appropriate to their aptitudes and its objective shall be to enable everyone to participate in production, in all its forms, in accordance with his abilities.

Private effort, individual or collective, may, in the conditions prescribed by law, contribute to the accomplishment of this task.

The equality of citizens of diverse origins and beliefs makes liberty and tolerance the main features of national education. It is also the basis for its secularism.

Article 3. Senegalese national education shall be an African education springing from African realities and aiming at the development of African cultural values. Basing itself on these realities, it shall dominate and transcend them with a view to transforming them. It shall incorporate the values of universal civilization and take its place in the mainstream of the modern world. It shall thus develop the spirit of co-operation and peace among human beings.

Article 4. Senegalese national education shall be lifelong. It shall provide all citizens with an opportunity to instruct and train themselves in all sectors of active life in order to improve their knowledge with a view to social advancement.

Article 5. The objectives defined above proceed from a twofold decision in favour of both mass education and the training of qualified producers and key personnel. At all levels, the purpose shall be to instill the capacity to transform the environment and society.

TITLE II

Content and forms of education

Article 6. The general content of national education shall be such as to promote, on the one hand, knowledge of the environment and the

[3] *Journal officiel de la République du Sénégal,* No. 4169, 19 June 1971.

development of the faculty of judgement, and on the other hand, assimilation of the universal aspects of science and technology.

Irrespective of its forms and structures, national education must, in its content, reflect this modern view of the world, that is to say, science and technology rooted in both the natural and the human environment and based on knowledge of the past.

National languages, classical languages, languages which are widely used and modern educational techniques shall be its instruments.

Article 7. Depending on the persons to whom it is directed and on its objectives, national education shall assume three main forms:

(1) The education given to young persons of school and university age within the framework of school and university structures: general education, technical education or vocational training, the aim of which shall be to enable them to reach a certain level of theoretical and practical knowledge or vocational aptitude;

(2) The education given to young persons and adults already engaged in an occupation after having attended school, whether for a short or long period of time: education designed to consolidate knowledge, perfect vocational qualifications and enhance productive capacity with a view to socio-cultural development;

(3) The education given to young persons and adults who have not attended school, the purpose of which shall be, by means of functional literacy cources and other promotional activities, to increase work productivity and introduce people to different ways of thinking.

By means of diversified forms and structures, the unity of education must be ensured on the basis of the content and objectives defined in this Act. Progress from one form of education to another must be a constant aim.

TITLE III

Educational levels and structures

Article 8. Education shall be provided at different levels, established, as indicated below, in accordance with age and the level of knowledge sought:

Pre-school education;
Elementary education;
Intermediate education;
Secondary education;
Higher education.

. . .

Article 13. The task of higher education is to formulate and impart knowledge at a high level and to develop research with a view to training technically qualified intermediate and senior key personnel adapted to the African context, aware of their responsibilities to their people and capable of rendering them dedicated service.

Alongside this task, higher educational establishments shall, like other educational structures, participate in lifelong educational activities.

The scientific and technological research work devolving upon higher education shall be applied to both the exact and natural sciences and to study of the African historical and psycho-sociological context. It must form part of an over-all development strategy and aim in particular at the achievement of national and regional objectives.

. . .

Act No. 71-37 of 3 June 1971 relating to Radio or Television Advertising broadcast outside National Territory on behalf of Persons or Enterprises established in Senegal [4]

Article 1. For the purposes of application of this Act:

(*a*) *Foreign organization* means any radio or television broadcasting organization located outside national territory either within a foreign territory, on the high seas or in space;

(*b*) *Message* means any message in the official language or in one of the national languages listed by decree in use in Senegal;

(*c*) *Common language* means any language in use, as the official or national language, in both Senegal and the foreign country in question.

Article 2. No person or enterprise established in Senegal, whether or not having activities abroad, may, without prior administrative authorization, cause a foreign organization to broadcast an advertising message within the meaning of article 1, intended for Senegal or clearly picked up there by ordinary receiving sets.

Unless there is proof to the contrary, any advertising on behalf of a person or enterprise shall be deemed to have been broadcast at his or its request.

The competent administrative authorities designated by decree may always refuse an authorization.

The authorization may be granted, however, when the competent authorities consider that the two following conditions have been met:

(*a*) The message is in a common language;

(*b*) By its nature or by force of circumstances, the message is intended exclusively for users or consumers residing abroad.

Article 3. Any person or any enterprise causing an advertising message to be broadcast in the conditions established in article 2 without having

[4] *Ibid.*

obtained administrative authorization shall be liable to a fine of 50,000 to 2 million francs.

The courts may in addition order the closure of the establishment for a period of one day to three months; in such case, the members of the staff shall continue to receive the salaries, allowances and payments of any kind to which they had been entitled until then.

Article 4. Proof of reception in Senegal of an advertising message broadcast by a foreign organization shall consist exclusively of either:

Production of a recording of it by the competent public monitoring services or the national broadcasting service;

A certificate written and signed by a sworn official of the said public services or establishments reporting the words or imaged broadcast;

A report prepared by an officer of the criminal police;

An admission by the offender.

Article 5. Any act of canvassing, even isolated, proposing that an advertising message subject to authorization in the conditions established in article 2 should be broadcast by a foreign organization shall be prohibited in the homes, offices, workyards, shops or professional premises of persons or enterprises established in Senegal.

Any infringement of the prohibition set forth in the preceding paragraph shall be punishable by a fine of 20,000 to 500,000 francs or imprisonment for a term of two months to two years or both.

Article 6. Proceedings in respect of infringements of the provisions of the present Act may be instituted only at the request of the *Ministère public.*

The recordings of broadcasts, monitors' reports and police officers' reports of infringements, which shall constitute proof until there is evidence to the contrary, shall be transmitted directly to the *Procureur de la République.*

SIERRA LEONE

The Public Emergency (No. 2) Regulations, 1971

Public Notice No. 38 of 1971, made by the President in exercise of the powers conferred upon him by section 38 of the Public Order Act, 1965, which was brought into operation by a Resolution of the House of Representatives, declaring the existence of a State of Emergency on 19 October 1970 [1]

(Extracts)

1. These Regulations shall be deemed to have come into force on the 16th day of June, 1971.

2. In these Regulations unless the context otherwise requires:

(*a*) "Essential services" means such service as may for the time being be declared, by Order of the Minister to be of public utility or to be essential to the life of the community;

(*b*) "Minister" means the Minister for the time being charged with responsibility for matters relating to defence;

(*c*) "Police officer" has the same meaning as in section 2 of the Police Act, 1964;

(*d*) "Vehicle" has the same meaning as in section 2 of the Road Traffic Act, 1964.

3. (1) (*a*) The Minister may appoint a censor of postal matter and telegrams and such number of assistant censors as he shall think fit and the word "censor" in these Regulations includes any assistant censor so appointed, and for the purpose of this Regulation:

"Postal matter" has the same meaning as in the Post Office Act;

"Telegrams" has the same meaning as in the Telegraphs Act.

(*b*) The Minister may by warrant under his hand authorize the Director of Posts and Telecommunications, any Postmaster, the General Manager of the Sierra Leone Railway and any person in charge of cable and radio stations to detain and produce to the censor all postal matter and telegrams coming into their possession either for transmission or delivery.

(*c*) The censor, or any person authorized by him, may open, examine, censor or detain either permanently or for so long a period as he may deem necessary any postal matter or telegram of any description whatsoever which may be in course of or intended for transmission to, from or through any territory that the Minister may direct.

(*d*) Any person who without lawful authority transmits any telegram at any place in Sierra Leone or on any vessel or aircraft within the territorial waters thereof, unless such telegram has first been passed for transmission by the censor, shall be guilty of an offence against these Regulations.

(2) (*a*) The Minister may make provision by Order for securing that postal matter shall not be despatched from Sierra Leone to destinations outside Sierra Leone, except in accordance with the Order, and such Order may, without prejudice to the generality of the foregoing, direct that any postal matter specified in the Order may only be so despatched under a permit granted by a person named in the Order.

(*b*) The Minister may make provision by Order for securing that, subject to any exemptions for which provision may be made by the Order, and except in accordance with such conditions as may be contained therein, no document, pictorial representation or photograph, or other article whatsoever recording information, shall be sent or conveyed from Sierra Leone to any destination outside Sierra Leone otherwise than by post. No person shall have any article in his possession for the purpose of sending or conveying it in contravention of an Order made under this paragraph.

(*c*) Any person who is about to embark on any vessel or aircraft at any place in Sierra Leone for the purpose of leaving Sierra Leone or lands from any vessel or aircraft at any place on coming to Sierra Leone (which person is hereafter in this paragraph referred to as "the traveller") shall, if requested so to do by an authorized officer:

[1] *Supplement to the Sierra Leone Gazette*, Vol. CII, No. 44, 17 June 1971.

(i) Declare whether or not the traveller has with him any such article as is mentioned in paragraph (2) (*a*) of this Regulation;

(ii) Produce any such article as aforesaid which he has with him;

and an authorized officer, and any person acting under his directions, may examine or search any article which the traveller has with him, for the purpose of ascertaining whether he is conveying or has in his possession any article in contravention of paragraph (2) (*b*) of this Regulation, and if the authorized officer has reasonable ground for suspecting that the traveller has any article about his person in contravention of that paragraph, search him, and may seize any article produced as aforesaid or found upon such examination or search as aforesaid being an article as to which the authorized officer has reasonable ground for suspecting that it is being sent or conveyed in contravention of the said paragraph or is in the traveller's possession in contravention of that paragraph:

Provided that no woman shall be searched in pursuance of this paragraph except by a woman. For the purpose of this subparagraph "an authorized officer" means any police officer of or above the rank of Sergeant, any Administrative Officer and any Officer of the Customs.

4. (1) No person shall:

(*a*) Endeavour, whether orally or otherwise, to influence public opinion (whether in Sierra Leone or elsewhere) in a manner likely to be prejudicial to the public safety, the public tranquillity, the maintenance of public order or the maintenance of supplies or services essential to the life of the community; or

(*b*) Do any act, or have any articles in his possession with a view to making or facilitating the making of any such endeavour.

(2) The Minister may make provision by Order for preventing or restricting the publication in Sierra Leone of matters as to which he is satisfied that the publication, or as the case may be, the unrestricted publication, thereof would or might be prejudicial to the public safety, or to the maintenance of public order or to the maintenance of supplies essential to the life of the community, and an Order under this paragraph may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the Order (and in particular may include provisions for securing that any newspapers, documents, pictorial representations or photographs shall before publication be submitted and approved by such authority or persons as may be specified in the Order).

(3) In this Regulation:

(*a*) The expression "public opinion" includes the opinion of any member of the public; and

(*b*) The expression "newspaper" has the same meanings as in the Newspaper Act.

5. (1) The Minister may by Order, prohibit the publication of any newspaper or publication of any kind published in Sierra Leone, for such time as may be specified in the Order, and may, in addition to any penalty for which the publisher may be liable, if such Order be not complied with, forthwith seize any type-printing press and any other material or equipment used in the printing of any such publication or newspaper.

(2) The Minister may also, by Order, prohibit the importation into Sierra Leone of such newspaper or publication of any kind as may be specified in the Order.

6. Any person who publishes any report or statement which is likely to cause alarm or despondency or be prejudicial to the public safety, the public tranquillity or the maintenance of public order shall be liable on summary conviction to imprisonment for a period not exceeding 12 months or to a fine not exceeding 200 leones or to both such imprisonment and fine.

7. The Minister may, if satisfied with respect to any particular person that, with a view to preventing him from acting in any manner prejudicial to public safety, it is necessary so to do, make an Order:

(*a*) Prohibiting or restricting the possession or use by that person of any specified articles;

(*b*) Imposing upon him such restrictions as may be specified in the Order in respect of his employment or business, in respect of his association or communication with other persons and in respect of his activities in relation to the dissemination of news or the propagation of opinion;

(*c*) Directing that he be detained; and, so long as there is in force in respect of any person such an Order as aforesaid directing that he be detained, he shall be liable to be detained in such place and under such conditions as the Minister may from time to time determine and shall, while so detained, be deemed to be in legal custody.

8. (1) The Minister may by Order direct that the person named in such Order shall leave Sierra Leone within a time to be specified in the Order, and such person shall leave Sierra Leone accordingly and remain out of Sierra Leone for such period as may be specified in the Order, except that this subparagraph shall not apply to a citizen of Sierra Leone.

(2) The Minister may by Order direct that the person or persons named in such Order shall be prohibited from entering Sierra Leone.

9. (1) The Minister may, if satisfied with respect to any area in Sierra Leone that the holding of public processions or of any class of such processions in that area would be likely to cause a disturbance of public order or to promote disaffection, by Order prohibit, for such period as may be specified in the Order, the holding in that area of public processions or of any class of such processions as the case may be.

(2) The Minister may give directions prohibiting the holding of any meeting as to which he is satisfied that the holding thereof would be likely to cause a disturbance of public order or to promote disaffection.

(3) Any police officer may take such steps, and use such force as may be reasonably necessary for securing compliance with any Order or directions made or given under this Regulation.

...

14. The Minister may give directions, by writing under his hand, to the Director of Posts and Telecommunications requiring him to disconnect any public service operated by him, or any part of such service, without any reason being assigned by the Director of Posts and Telecommunications.

15. (1) The Minister may, if satisfied that it is in the interests of public safety or the maintenance of supplies and services essential to the life of the community so to do, by Order do all or any of the following things:

(*a*) Requisition any article or articles of food;

(*b*) Distribute, or direct the distribution of, any food so requisitioned;

(*c*) Require persons and business firms to provide storage for any food requisitioned or which may be in the possession of Government;

(*d*) Require persons to transport any food specified in the Order to such place as shall be named in the Order;

(*e*) Declare the maximum price at which any article of food shall be sold.

(2) Any person whose food has been requisitioned as aforesaid shall receive compensation in accordance with rules to be made by the Minister, and any person required to store or transport food as aforesaid shall receive such remuneration therefor as the Minister may prescribe.

16. (1) If with respect to any premises any Superior Police Officer or any person authorized by the Minister to act under this Regulation has reasonable ground for suspecting that an offence connected with any mutiny, rebellion or riot has been or is being committed, and that evidence of the commission of the offence is to be found at those premises, and is satisfied:

(*a*) That it is essential in the interest of public safety that the premises should be searched for the purpose of obtaining that evidence, and

(*b*) That the evidence is not likely to be found at the premises unless they are searched forthwith, the said officer or person may grant a search warrant authorizing any police officer or member of the Sierra Leone Military Forces, together with any other persons named in the warrant to enter the premises at any time within one month from the date of the warrant, by force, if necessary, and to search the premises and every person found therein and to seize any article found in the premises or on any such person which the officer has reasonable grounds for believing to be evidence of the commission of the offence as aforesaid:

Provided that a female may only be searched by a female.

(2) (*a*) The person driving or in control of any vehicle in motion shall stop the vehicle on being required so to do by any police officer in uniform or by any member of the Sierra Leone Military Forces, being in uniform and on duty.

(*b*) If:

(i) As respects any vehicle being on a public highway or in a place to which the public have access, or

(ii) Upon the overtaking of a vehicle on any occasion on which the person driving or in control of the vehicle has been lawfully required to stop it but has failed to do so,

any police officer or member of the Sierra Leone Military Forces has reasonable ground for suspecting that there is to be found in the vehicle evidence of the commission of an offence connected with any mutiny, rebellion or riot, he may search the vehicle and seize any article found therein which he has reasonable ground for believing to be evidence of commission of such an offence.

(3) Any police officer or any member of the Sierra Leone Military Forces may without warrant and using such force as may be reasonably necessary:

(*a*) Enter and search any premises, or

(*b*) Stop and search any vessel, vehicle or aircraft, if he suspects:

(i) That any such premises, vessel, vehicle or aircraft was being used, or had recently been used or was about to be used for any purpose prejudicial to public safety or to public order; or

(ii) That evidence of any offence against these Regulations or any law is likely to be found on any such premises, vessel, vehicle or aircraft.

(4) Any such evidence found together with any such vessel, vehicle or aircraft may be seized by any police officer or any member of the Sierra Leone Military Forces.

17. Any police officer or any member of the Sierra Leone Military Forces:

(*a*) May at any time of day or night in any public or private place stop and detain and search any person whatsoever and may seize anything found upon such person which such police officer or such member of the Sierra Leone Military Forces has reason to suspect was being used or was intended to be used in any way prejudicial to public safety or to public order;

(*b*) May require any person to stop and answer any question which might reasonably be addressed to him in the interests of public safety or of public order;

(*c*) May require any person:

(i) To furnish him, either in writing or verbally with any information that such police officer or such member of the Sierra Leone Military Forces might desire; and

(ii) To attend at a time and place specified by such police officer or such member of the Sierra Leone Military Forces in order to furnish such information;

(*d*) May take such steps and may use such force as may be reasonably necessary for stopping, detaining or searching any person for any purpose under this Regulation;

(*e*) May arrest without warrant any person:

(i) Contravening or about to contravene any of the provisions of these Regulations;

(ii) Whom he has reasonable ground for suspecting has acted or was about to act, in a manner prejudicial to public safety or to public order;

(*f*) May take such steps and use such force as may be reasonably necessary to effect the arrest;

(*g*) shall take such arrested person as soon as possible to a Police Station to be dealt with according to law.

18. (1) Notwithstanding anything contained in any of these Regulations, any police officer or any member of the Sierra Leone Military Forces may arrest without warrant any person whom he suspects has acted or was about to act in a manner prejudicial to public safety or to public order in any area or to have committed any offence against any of these Regulations.

(2) Any person arrested under the preceding paragraph shall be taken as soon as reasonably possible before a police officer of the rank of Senior Superintendent or of higher rank who may order the detention of the arrested person in a police cell or in a prison for a period not exceeding fourteen days and any such person while so arrested and detained shall be deemed to be in legal custody.

(3) No member of the public and no unauthorized person shall be permitted to visit or to communicate with any person so arrested or detained without the permission of a police officer of the rank of Assistant Superintendent or of a higher rank.

19. The Minister may, as respects any area in Sierra Leone, by Order direct that, subject to any exceptions for which provision may be made by the Order, no person in that area shall, between such hours as may be specified in the Order, be out of doors except under the authority of a written permit granted by the Minister or such person as may be specified in the Order.

20. (1) Without prejudice to the operation of any enactment any person who attempts to commit, conspires with any person to commit, incites, suborns or counsels any other person to commit or does any act preparatory to the commission of an offence against any of these Regulations shall be deemed to be guilty of an offence against that Regulation and shall be punishable in like manner as for the said offence.

(2) Any person who, knowing or having reasonable cause to believe that another person is guilty of an offence against any of these Regulations, gives that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for the said offence shall be guilty of an offence against that Regulation and punishable in like manner as for the said offence.

...

SINGAPORE

The Passports Regulations, 1971

Made by the Minister for Home Affairs in exercise of the powers conferred by section 3 of the Passports Act, 1971 [1]

(Extracts)

...

5. (1) Subject to these Regulations and any specific or general instruction issued by the Minister, an authorized officer may issue Singapore passports.

(2) Singapore passports shall be issued in the name of the President and shall be valid for a period not exceeding five years.

6. (1) An authorized officer may, from time to time, renew a Singapore passport for further consecutive periods not exceeding five years from the date of expiry:

Provided that the period of validity of the passport shall not in any case exceed ten years from the date of original issue.

(2) A Singapore passport shall not be renewable in any case where the space thereon for visas is exhausted.

7. Where, an applicant for a Singapore passport has previously been issued with a passport he shall, on demand by an authorized officer, produce that passport for cancellation before a new passport is issued.

8. Any person aggrieved by the refusal of the authorized officer to issue him a Singapore passport under paragraph (1) of regulation 5 of these Regulations may, within 30 days of the notification of such refusal, appeal by petition in writing to the Minister, whose decision thereon shall be final.

9. (1) The Controller [2] may cancel any Singapore passport if so instructed by the Minister and such passport shall thereupon become void, and the person having in his possession or under his control any such passport shall, on demand by an immigration officer or a police officer not below the rank of Inspector or an authorized officer, forthwith deliver it up to such officer.

(2) Any visa, renewal or endorsement of a Singapore passport granted or made in pursuance of or before the date of the coming into operation of these Regulations may be cancelled by an authorized officer and thereupon the visa, renewal or endorsement shall be void.

(3) Any person aggrieved by the decision of an authorized officer for the cancellation of his passport or of any visa, renewal or endorsement made therein may, within 30 days of the notification of such cancellation, appeal by petition in writing to the Minister, whose decision thereon shall be final.

10. (1) An authorized officer may issue a certificate of identity or other document of identity in the form approved by the Controller for travel purposes to any person who is stateless or unable to obtain a passport from a consular representative of the country of which he claims to be a national.

(2) Where a certificate of identity or other document of identity is issued under paragraph (1) of this regulation for a specified period, an authorized officer may renew that certificate or document of identity for such consecutive period as the authorized officer thinks fit.

11. (1) An authorized officer may issue a document of identity in the form approved by the Controller for travel purposes to a person who is a citizen of Singapore in any case where, in the opinion of the authorized officer, it is unnecessary or undesirable to issue a Singapore passport to that person.

(2) Where a document of identity is issued under paragraph (1) of this regulation for a specified period, an authorized officer may renew that document of identity for a further period as the authorized officer thinks fit.

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[1] *Republic of Singapore Government Gazette*, No. 10, 25 January 1971, Subsidiary Legislation Supplement.

[2] As stated in regulation 2, "Controller" means the Controller of Immigration appointed under section 3 of the Immigration Ordinance, 1959.

12. An authorized officer may endorse a Singapore passport, certificate of identity or document of identity after the issue of such passport, certificate or document:

(*a*) To make it valid for travel to countries for which it is not valid;

(*b*) To include particulars of the holder's children, if any, or such other particulars as the officer sees fit to insert.

13. Any immigration officer or police officer not below the rank of Inspector or overseas representative may take possession of any Singapore passport which has been cancelled or any passport bearing a visa, renewal or endorsement which has been cancelled, and any person having in his possession or under his control any such passport shall, on demand by such officer or representative, forthwith deliver up the passport to him.

14. (1) Any immigration officer or a police officer not below the rank of Inspector may without a warrant and with or without assistance:

(*a*) Enter and search any premises;

(*b*) Stop and search any vessel, vehicle, person or premises or search any aircraft whether in a public place or not, if he has reasonable grounds to believe that any cancelled Singapore passport or any passport bearing a visa, renewal or endorsement which has been cancelled may be found on such vessel, vehicle, person, premises or aircraft.

(2) No woman shall be searched under this regulation except by a woman.

15. (1) Any person who holds a Singapore passport or certificate of identity or document of identity which has been obtained or is reasonably suspected by an immigration officer or police officer not below the rank of Inspector or overseas representative of having been obtained by means of any false or misleading statement shall on demand by such officer or representative forthwith deliver it up to him.

(2) Any person entering or leaving Singapore who is in possession of a Singapore passport shall, if required by an immigration officer or police officer not below the rank of Inspector, deliver his passport up to such officer before he enters or leaves Singapore.

(3) If any person specified in paragraph (2) of this regulation is allowed to retain his passport on entering Singapore, he shall, if required by an immigration officer or police officer not below the rank of Inspector, at any time, deliver it up to such officer.

(4) A passport delivered up to an immigration officer or police officer not below the rank of Inspector or overseas representative in accordance with the provisions of this regulation may, subject to any direction by the Minister, be retained by such officer or returned to the issuing authority or be returned to the person who delivered it up, as such officer or representative thinks fit.

16. An authorized officer may, as a condition of the issue of a Singapore passport, certificate of identity or document of identity for travel purposes, require such security, whether by cash deposit or otherwise, as he may think fit, to be furnished by or on behalf of the applicant, as a guarantee that the person to whom such passport, certificate of identity or document of identity is issued shall return to Singapore on or before the expiry of such passport, certificate of identity or document of identity or shall comply with any other conditions subject to which it is issued.

17. (1) If an authorized officer is satisfied that the holder of any Singapore passport, certificate of identity or document of identity for travel purposes issued under the provisions of these Regulations has contravened or failed to comply with any condition subject to which the Singapore passport, certificate of identity or document of identity was issued, he may direct the forfeiture of such security or any part thereof.

. . .

18. Where an authorized officer requires security by bond under this regulation such bond shall be in a form approved by the Controller.

19. (1) Subject to the provisions of paragraph (2) of this regulation any person entering Singapore from a place outside Singapore and any person leaving Singapore for a place outside Singapore shall, if required to do so, produce to an immigration officer:

(*a*) A valid passport which has been issued or renewed to him by or on behalf of the Government of the country of which he is a subject or citizen; or

(*b*) A valid travel document recognized by the Government of Singapore and issued or renewed to him by a proper authority, and in the case of an alien who is not exempted under the provisions of regulation 21 of these Regulations, a visa for Singapore issued by a competent authority:

Provided that the immigration officer may, in the case of any person entering Singapore from a place outside Singapore and holding a valid Entry Permit, Re-entry Permit or Certificate of Status issued in accordance with any written law for the time being in force in Singapore relating to immigration, waive the requirements of a passport, travel document or visa.

(2) The provisions of this regulation shall not apply to:

(*a*) A member of the Singapore armed forces travelling on duty;

(*b*) A member of such visiting force as the Minister may determine;

(*c*) Any person under 15 years of age whose name is endorsed on and who is accompanying an adult in possession of a valid passport or a valid travel document recognized by the Government of Singapore and such endorsement has been authorized by the authority issuing such passport or travel document or by a proper authority;

(*d*) Any officer or seaman on the articles of any ship whilst such ship is in Singapore;

(*e*) The pilot or any member of the crew of any aircraft in transit whilst such aircraft is in Singapore;

(*f*) A *bona fide* Muslim pilgrim lawfully and permanently resident in Singapore returning from Saudi Arabia;

(*g*) Any person who is a member of the crew of any fishing vessel registered or licensed in Singapore and engaged exclusively in fishing who, having left the territorial waters of Singapore in such vessel, returns to Singapore in the course of the same voyage; or

(*h*) Any person entering Singapore on a direct journey from West Malaysia (other than a person whose presence in West Malaysia is unlawful under the provisions of any written law for the time being in force in West Malaysia relating to passports or immigration, or whose entry into Singapore has been prohibited by order made under the provisions of any written law for the time being in force in Singapore relating to immigration) who is:

(i) A member of the Singapore Police Force or of the Royal Malaysian Police in possession of a certificate of appointment or an identifying warrant card, travelling on duty;

(ii) A member of the Singapore Immigration Service or of the West Malaysian Immigration Service in possession of an identifying authority card, travelling on duty;

(iii) A member of the Singapore Customs Service or of the West Malaysian Royal Customs Service in possession of an identifying authority card, travelling on duty; or

(iv) In possession of a diplomatic identity card, a consular identity card or an international organization identity card issued by the Government of Singapore.

(3) The burden of proof that any person is a person to whom this regulation applies shall lie upon that person.

20. An authorized officer may endorse a visa on any passport requiring a Singapore visa.

21. Any alien who is a national of a country with which Singapore has entered into an agreement for the abolition or partial abolition of visas is hereby exempted from the requirement of a visa under paragraph (1) of regulation 19 of these Regulations.

22. The visa referred to in these Regulations shall, unless otherwise stated therein, be valid for a single journey within the period of its validity.

. . .

24. Any person who contravenes the provisions of regulation 9, 13 or 15 of these Regulations shall be guilty of an offence under these Regulations.

25. Any person who enters Singapore contrary to the provisions of these Regulations shall be guilty of an offence under these Regulations.

. . .

29. (1) Any immigration officer or a police officer not below the rank of Inspector may arrest without a warrant any person who he reasonably believes has committed an offence against these Regulations.

(2) Any person who enters or attempts to enter or is reasonably suspected of having entered Singapore in contravention of these Regulations may be taken into custody by an immigration officer or a police officer not below the rank of Inspector.

(3) Where any person is arrested by an immigration officer under the provisions of paragraph (1) or (2) of this regulation, the officer making the arrest shall comply with the provisions of sections 34 and 35 of the Criminal Procedure Code as if he were a police officer.

30. (1) Every immigration officer shall have the authority and powers of a police officer not below the rank of Inspector to enforce any of the provisions of these Regulations or any other regulations made under the Act relating to arrest and detention.

(2) Every immigration officer shall have the authority to appear in Court and conduct any prosecution in respect of any offence against these Regulations or any other regulations made under the Act.

31. Nothing in these regulations shall be construed in diminution of any powers conferred by any other written law affecting the entry and landing of any person in Singapore.

32. The Passport Regulations, 1966, are hereby revoked.

SPAIN

Decree No. 1144/1971 of 13 May approving the Regulations for the Application of Act No. 16/1970 of 4 August on Dangerousness and Social Rehabilitation [1]

(Extracts)

Regulations for the Application of Act No. 16/1970 of 4 August on Dangerousness and Social Rehabilitation

Chapter I

GENERAL PROVISIONS

Article 1. The purpose of these Regulations is to amplify the provisions of Act No. 16/1970 of 4 August on dangerousness and social rehabilitation, as laid down in additional provision 3 of the Act.

Article 2. 1. These Regulations shall apply to persons over 16 years of age coming under articles 2, 3 and 4 of the Act.

2. Persons under 16 years of age who come under the first two of the above-mentioned articles shall be placed under the care of the Courts for the Guardianship of Minors, which shall apply their own legislation.

Article 3. Persons over 16 years of age who are permanent wards of the Minors' Courts or are under the care of the Women's Protection Society or any other prisoners' aid society shall also be subject to these Regulations in so far as they are appropriate, but the proceedings or the review of their case shall include a report by the above-mentioned bodies on the personality of the individual concerned, his presumed social dangerousness and a forecast of the influence which the action taken may have upon it.

Article 4. 1. In accordance with article 2 of the Act, persons who are proved to come within any of the categories enumerated in that article and in articles 3 and 4 shall be declared dangerous, and the appropriate security and rehabilitation measures shall be applied to them, when it is determined in addition that they are socially dangerous.

2. The determination of whether a person comes within any of the categories to which the Act applies shall be made on the basis of the evidence taken in the course of the proceedings or of the review of his case, which shall be obtained in accordance with the procedure laid down in title II of the Act. In the determination of whether he is socially dangerous, there shall be taken into account the effect which his behaviour may have on the community, his personality, the environmental and family background and any other factors that should be weighed, all of which shall, however, be explicitly stated in the decision that is taken.

Article 5. 1. The declaration of social dangerousness and the security measures shall be entered in the appropriate register of the Ministry of Justice.

2. There shall also be entered any declarations of contempt of court in accordance with article 19 of the Act and any revocation of such declarations.

3. With the exception of declarations of contempt of court, which shall be disclosed in all cases until such time as they are revoked, entries relating to social dangerousness and to the security measures imposed shall appear only in such certificates issued by the registry as are intended for courts or official bodies in which they are to have effect in accordance with these Regulations.

Chapter II

EXECUTION OF SECURITY MEASURES

Article 6. 1. Security measures which so require shall be executed in special institutions assigned for the purpose by the Ministry of Justice through the General Directorate of the Prison Service.

[1] *Boletín Oficial del Estado*, No. 132, 3 June 1971.

2. Security measures affecting women under 25 years of age may be carried out in co-operation with the staff and institutions of the Women's Protection Society.

3. Where it is advisable that measures involving commitment to protective institutions, curative isolation in detoxification centres and compulsory acceptance of out-patient treatment should be carried out in co-operation with private centres or institutions or with centres or institutions of bodies other than those mentioned in the two preceding paragraphs, the judge may so decide, after establishing that the institutions are suitable and taking the necessary steps to ensure effective execution and to provide for the subsequent conduct of the case.

Article 7. 1. Where the judge decides that security measures as referred to in paragraph 3 of the preceding article shall be carried out, he shall appoint a representative who, under his direction and the supervision of the Court Medical Officer, shall be responsible for execution. In such cases, the person so appointed shall preferably be the director of the institution or the physician responsible for the treatment.

2. The representative shall keep the judge informed at all times of the execution of the measure, and the judge shall take the appropriate decisions with regard to the treatment of the person concerned. If necessary, the judge shall decide to remove the representative or replace the institution.

Article 8. Without prejudice to the provisions of the preceding articles, commitments to confinement institutions, work institutions, re-education institutions, protective institutions and detoxification centres, and compulsory acceptance of out-patient treatment, shall be governed by the provisions of chapters IV and V of these Regulations.

...

Chapter III

CENTRES FOR DETENTION PENDING INVESTIGATIONS

Article 19. Precautionary measures of detention and custody pending investigations shall be carried out in the centres referred to in this chapter.

Article 20. Where there are no special centres for dentention pending investigations concerning social dangerousness and no institutions for carrying out measures appropriate to the person concerned, precautionary measures of detention and custody pending investigations may be carried out in the available ordinary institutions, subject to complete separation from the other inmates and only for the minimum time required to arrange the transfer of the person concerned to the most appropriate institution or the replacement of the precautionary measure by another measure not involving deprivation of liberty, provided that the proceedings are not thereby impaired.

Article 21. 1. Judges conducting proceedings relating to dangerousness and social rehabilitation shall ensure that custody in centres for detention pending investigations is not extended beyond the time strictly necessary for carrying out the investigations prescribed in article 16 of the Act.

2. Once those investigations have been completed, an order shall be made, if this has not already been done, to transfer the person concerned to the institution appropriate to the category of dangerousness in respect of which the proceedings are being conducted.

Article 22. 1. In the centres for detention pending investigations, the liberty of the detainees shall be restricted only to the extent necessary to secure their persons, to prevent any impairment of the normal operation of the establishment and to preclude any danger of moral or physical contagion of the other prisoners.

2. Without prejudice to such special decisions as the judge may take with regard to each case of detention pending investigations, the centre shall ensure that the detainee is provided from the outset with the assistive treatment which his condition requires.

3. The detainees shall be subject to the internal rules of the establishment, including the provisions relating to order and discipline, health and hygiene, good behaviour and regular and orderly living.

4. They may engage in activities of their choice, for which they shall be given such facilities as may be possible, provided that they do not impair the order or security of the establishment.

5. Observation teams composed, so far as possible, in the same manner as the treatment teams provided for in these Regulations shall operate in the centres for detention pending investigations; they may be used by the judge for the anthropological, psychological and pathological tests provided for in article 16 of the Act.

6. Observation of the person detained or held in custody pending investigations shall be carried out with due respect for his personal dignity, provided that this shall not preclude or hinder the medical or psychiatric examination of the said person where necessary.

Chapter IV

INSTITUTIONS FOR CARRYING OUT SECURITY MEASURES

Section I

General rules

Article 23 1. Rehabilitation institutions specially assigned to carrying out security measures shall be organized and maintained in complete separation from the rest of the prison system and shall be under the authority of the General Directorate of the Prison Service.

2. Staff of these institutions performing technical functions shall be required to specialize with a view to the better performance of their duties.

Article 24. 1. By way of exception, where the rules and treatment of the inmates of any of the penal institutions are similar to those presented

in these Regulations, such institutions may be designated as institutions for carrying out security measures, provided that the necessary steps are taken to maintain due separation between persons subject to security measures and the other inmates.

2. The Ministerial Order designating the institution for carrying out security measures shall specifically indicate the categories of social dangerousness for which the appropriate measures may be carried out in the institution.

...

Article 26. Institutions for carrying out security measures, whether special or designated, shall be places of confinement, work, re-education, protection and detoxification, without prejudice to the assignment of any one of them to the treatment of specific categories of socially dangerous persons.

Article 27. The institutions referred to in the preceding article shall be for men and for women.

2. Where there are no separate institutions for men and for women, women may occupy specially appointed sections in men's institutions subject to complete separation and their own internal rules and supervisory and staffing system.

Section 2

Confinement institutions

Article 28. Confinement institutions for pimps, procurers, beggars and persons living from the begging of others, for persons displaying criminal tendencies as referred to in article 2 (15) of the Act and for habitual offenders as referred to in article 4 of the Act shall be governed by rules similar to those of a closed institution and shall pursue the social rehabilitation of the detainee through a system based on compulsory work, the development of personal aptitudes and vocational training.

Article 29. 1. Favourable progress on the part of persons detained in these institutions may lead to the measure's being replaced by commitment to a work institution or the enrolment of the detainee in an experimental phase of treatment, preparatory to placing him on probation.

2. Before taking such decisions, the judge shall hear the Treatment Board.

Section 3

Work institutions

Article 30. Work institutions for vagrants, pimps, procurers, beggars and persons living from the begging of others, prostitutes, traffickers in migration, pornography or drugs, anti-social individuals as referred to in article 2 (9), (10) and (11) of the Act, persons displaying criminal tendencies as referred to in article 2 (15) of the Act and habitual offenders as referred to in article 4 of the Act shall pursue their social rehabilitation through an orderly and laborious life.

Article 31. 1. Work appropriate to the circumstances of the detainee shall be the determining factor of detention in these institutions, which shall be governed by rules geared to the exigencies of the organization of work.

2. Work institutions shall be organised on the basis of separation between those for persons under 21 years of age and those for adults. In adult institutions, persons detained as being dangerous shall preferably be divided into the following three groups:

(*a*) Persons displaying criminal tendencies as referred to in article 2 (9), (10), (11) and (15) and in article 4 of the Act;

(*b*) Socially maladjusted persons as referred to in article 2 (1), (2) and (6);

(*c*) Socially dangerous persons as referred to in article 2 (4), being males, and in article 2 (5) and (12).

Article 32. 1. In work institutions, sections may be formed to operate or even the entire institution may operate, under the open system for carrying out measures. This circumstance shall be reflected in the table of classification of the institutions.

2. The assignment of a detainee to this measure of detention in a work establishment operating under the open system or to a section so operating, or the termination of such assignment, shall be decided upon by the judge, after consultation with or on the proposal of the Treatment Board.

Section 4

Re-education institutions, protective institutions and detoxification institutions

Article 33. Re-education institutions for dangerous homosexuals, women who habitually engage in prostitution, depraved persons under 21 years of age and, where appropriate, maladjusted persons as referred to in article 2 (9), (10) and (11) of the Act shall pursue their social rehabilitation by encouraging favourable tendencies in the detainees through teaching and training.

Article 34. 1. The general rules governing these institutions shall be equivalent to those of intermediate-type institutions, work being used as an auxiliary factor of the social rehabilitation of detainees, provided that this is compatible with the special exigencies of each case.

2. These institutions shall be so organized that separation is achieved between juveniles and adults.

3. The same rules concerning separation shall be adopted in the case of psychopathic or mentally deficient detainees.

Article 35. 1. Protective institutions shall receive mentally ill and mentally deficient persons who have been declared dangerous, but the mentally deficient shall be kept separate from the mentally ill.

2. Detoxification institutions shall receive alcoholics and drug addicts who have been declared dangerous in accordance with the Act.

Chapter V

TREATMENT OF PERSONS SUBJECT TO SECURITY MEASURES IN REHABILITATION INSTITUTIONS

Article 36. The treatment of persons subject to security measures involving detention in confinement institutions, work institutions and re-education institutions shall conform to the following principles:

1. Treatment shall be continuous and active and shall be constantly adapted to changes in the development of the detainee's personality.

2. It shall be based on scientific study of the constitution, temperament, character, tendencies and environmental conditioning of the detainee and shall include the variable use of appropriate psychiatric, psychological, pedagogic and social methods.

3. It shall be aimed at achieving the following objectives:

(*a*) Promoting a favourable attitude on the part of the dangerous person, as an indispensable basis for his re-education;

(*b*) Obtaining the greatest possible co-operation on his part with a view to improving his aptitudes and eliminating whatever symptoms of social maladjustment he may show; and

(*c*) Achieving his social integration and the eradication of the environment conducive to the circumstances responsible for the legally determined dangerousness.

Trade Union Act
Act No. 2 of 17 February 1971 [2]

Summary [3]

Section 1 of the Act, *inter alia*, states that the Trade Union Organisation shall be composed of all Spaniards who play a role in work and production, and that as part of the order of institutions in the Fundamental Laws,[4] it has the essential mission of contributing, in accordance with the Principles of the National Movement,[5] to the evolution and development of the social and economic system and the progress of the national community.

As provided for in section 2, the Spanish Trade Union Organisation shall comprise the trade unions, constituted according to the different branches of activity.

Under section 5, entrepreneurs, technicians and workers shall become members, with full rights and duties, of the appropriate branch, trade union or corresponding trade unionist entity, according to their activity or place of work. Section 5 further provides that in so far as they participate in work and production, self-employed workers, craftsmen, members of co-operatives and trade unionist groups representing land settlements, and all who are treated as such by law shall also become members.

Other provisions of the Act deal with the nature, the functions, the juridical status, the financial and administrative system, and the property as well as assets of the Trade Union Organisation.

[2] *Boletín Oficial del Estado*, No. 43, 19 February 1971.

[3] Summary based upon English text of the Trade Union Act, published by the International Labour Office—*Legislative Series*, 1971-Sp.1.

[4] Approved by Act No. 779 of 20 April 1967. For extracts from the Act, see *Yearbook on Human Rights for 1967*, p. 303, and for those from the Fundamental Laws, see *Yearbook on Human Rights for 1966*, pp. 343-347.

[5] For the text of these Principles, see *Boletín Oficial del Estado*, No. 779, 20 April 1967.

SUDAN

The Provisional Constitution of the Sudan

Promulgated by Republican Order No. 5 of 14 August 1971 [1]

(Extracts)

CHAPTER I

General provisions

Nature of the State

(3) The Democratic Republic of the Sudan is a sovereign, democratic socialist State, based on an alliance of the forces of the working people.

Sovereignty of the forces of the working people

(4) Sovereignty belongs to the forces of the working people and shall be exercised in the manner described in this Order.

The forces of the working people defined

(5) The forces of the working people are composed of farmers, workers, soldiers, the national intelligentsia and national capitalism.

Organization of the forces of the working people

(6) (i) The forces of the working people shall be organized in the Sudanese Socialist Union, which shall reflect their national unity, defend their revolutionary potential and safeguard their sound democratic values.

(ii) The Sudanese Socialist Union shall be the only political organization permitted in the Sudan.

(iii) The President of the Republic shall issue a decree concerning the organization of the Sudanese Socialist Union and the various people's organizations supporting it.

...

Economic system of the State

(8) The Democratic Republic of the Sudan shall have a socialist economic system, which shall aim at creating a society of self-sufficiency and justice and prevent any form of exploitation.

...

Inviolability of public funds

(10) Public funds shall be inviolable, and it shall be the duty of every national to safeguard them.

CHAPTER II

Fundamental rights

Equality of Sudanese nationals

(11) Sudanese nationals are equal before the law as to their public rights and obligations, and there shall be no discrimination among them in this regard on account of race, sex or religion.

Freedom of religion and belief

(12) Individuals shall enjoy freedom of belief and the right to practise their religious rites within the limits of the law, morality and public order.

Security of individuals and their property

(13) No one shall be arrested, detained or deprived of the use of his property except in accordance with the provisions of the law.

CHAPTER III

The President of the Republic

The Head of State: conditions of eligibility

(14) The President of the Republic shall be the Head of State. He must be a Sudanese born of Sudanese parents, in possession of his civil and political rights and not less than 35 years of age.

Nomination and referendum

(15) The Sudanese Socialist Union shall nominate the President of the Republic and submit the nomination to a referendum of the people, provided, however, that the Revolutionary Command Council shall make the first Presidential nomination for submission to a referendum of the people.

[1] *Special Legislative Supplement to the Democratic Republic of the Sudan Gazette*, No. 1119.

Term of the Presidency

(16) The term of office of the President of the Republic shall be six years, commencing on the date on which the results of the referendum are announced.

Constitutional oath

(17) The President of the Republic, before assuming the duties of his office, shall take an oath before the People's Council, provided, however, that the first President of the Republic shall take the oath before a body composed of the Revolutionary Command Council and the members of the secular and Sharia supreme courts. The oath shall be as follows:

"I swear by Almighty God faithfully to preserve the revolutionary socialist order, to comply with the law, to perform my duty as President of the Republic faithfully, diligently and loyally and to safeguard the independence and territorial integrity of the nation."

Vice-President of the Republic

(18) The President of the Republic shall appoint two or more Vice-Presidents and shall be empowered to remove them from office. A Vice-President of the Republic must be a Sudanese born of Sudanese parents, in possession of his civil and political rights and not less than 35 years of age. Vice-Presidents of the Republic shall, before assuming the duties of their office, take the following oath before the President of the Republic:

"I swear by Almighty God faithfully to preserve the revolutionary socialist order, to comply with the law and to safeguard the independence and territorial integrity of the nation."

Prohibition against private activities

(20) Neither the President nor any Vice-President of the Republic, during their terms of office, shall practise any profession, engage in any commercial activity or enter directly or indirectly into any commercial transaction with the State.

...

CHAPTER IV

The Council of Ministers

...

Prohibition against private activities

(32) Neither the Prime Minister nor any of the other Ministers, during their terms of office, shall perform any professional or commercial work or enter into any commercial transaction with the State. Any Minister having an interest in any commercial contractual agreement with the State shall so inform the President of the Republic.

...

CHAPTER V

The People's Council

...

Conditions of eligibility

(38) A person shall be eligible for membership in the People's Council if he is:

(i) Sudanese;

(ii) Not less than 25 years of age;

(iii) Of sound mind;

(iv) Able to read and write; and

(v) In possession of his political rights.

Representation of sectors and regions

(39) Provision shall be made in the formation of the People's Council for faithful representation of the various sectors of the forces of the working people and of the various geographical regions of the Democratic Republic of the Sudan.

Legislative authority

(40) Legislative authority shall be vested in the President of the Republic and the People's Council and shall be exercised in accordance with the provisions of this Order, provided, however, that the President of the Republic shall have sole legislative authority, except for the authority to alter this Order, pending the formation of the People's Council.

Preparation of the Permanent Constitution

(41) The People's Council shall prepare a draft Permanent Constitution, which shall be approved by a two-thirds majority of all members within a time-limit to be fixed for this purpose by the President of the Republic.

...

Termination of membership

(44) Membership in the People's Council may be terminated by:

(i) Death;

(ii) Loss of one of the conditions of eligibility;

(iii) Submission of a written resignation to the Chairman of the People's Council; or

(iv) The issuing of a decree by the President of the Republic removing the member from office.

Freedom of speech

(45) No member of the People's Council shall be censored for ideas or opinions expressed in the performance of his duties in the Council or in any of its committees, subject to the Council's rules of procedure.

CHAPTER VI

Legislation

...

Emergency legislation

(54) (i) The President of the Republic may, on his own initiative or at the request of the Council of Ministers, in circumstances which he deems to be urgent, issue provisional orders, which shall have the force of law.

(ii) The Council of Ministers shall submit any provisional order to the People's Council for approval or rejection as soon as practicable.

(iii) If approved by the People's Council, the provisional order shall become law; if not approved, it shall become immediately null and void,

provided, however, that the submission of a draft law designed to serve the same or a similar purpose shall be permitted.

(iv) Any law repealed or amended by a provisional order shall be reinstated as of the expiration date of the order and shall enter into effect again as if the order had not been issued.

(v) The repeal of such a provisional order shall not have retroactive effect.

CHAPTER VII

Finance

Levying of taxes

(55) Public taxes shall not be levied, modified or repealed except by law. No one shall be exempted from the payment of taxes except in the circumstances specified by law, nor shall anyone be required to pay additional taxes or other charges except within the limits of the law.

...

Promulgation of the budget

(56) The budget shall be promulgated in an act setting forth all classes of revenues and expenditures.

Effectiveness of earlier budget

(57) If a new budget has not yet been adopted at the beginning of a given year, the budget for the previous year shall remain in effect until the new one is adopted.

CHAPTER VIII

Amendment of this Order

Amendment of the Order

(58) This Order shall not be amended except with the approval of a two-thirds majority of all members of the People's Council and the approval of the President of the Republic and on the basis of a draft amendment submitted by one third of the members of the People's Council or by the President of the Republic.

CHAPTER IX

Transitional provisions

Carry-over of laws and individual posts

(59) Notwithstanding the provisions of article 2 of this Order and except as expressly provided in this Chapter:

(i) All laws and orders of the Republic in force at the time of the promulgation of this Order shall remain in force unless amended or repealed by a competent authority. All references in such laws and orders of the Republic to the Revolutionary Command Council shall be interpreted as references to the President of the Republic.

(ii) All individuals holding office in the Democratic Republic of the Sudan shall continue in the performance of their functions unless a decree is issued by a competent authority dismissing them or removing them from office.

Repeal of Republican Order No. 1

(60) Republican Order No. 1 shall be automatically repealed and shall cease to have effect immediately upon the taking of the constitutional oath by the President of the Republic. Until such repeal, the Revolutionary Command Council and the Council of Ministers shall exercise their powers under the Order, notwithstanding the provisions of the present Order.

Dissolution of the Revolutionary Command Council and the Council of Ministers

(61) The Revolutionary Command Council and the Council of Ministers shall both be automatically dissolved immediately upon the taking of the constitutional oath by the President of the Republic.

The Publicity Regulation Act, 1971

Act No. 33 of 1971, made by the Council of Ministers in accordance with the provisions of the Republican Order No. 1 [2]

(Extracts)

CHAPTER I

Preliminary

1. This Act may be cited as "The Publicity Regulation Act, 1971" and shall come into force on the date of signature by the Revolutionary Command Council.

2. In this Act the following words shall have the meanings hereby assigned to them respectively unless the context otherwise requires:

"Advertisement" means anything exhibited, posted or published with the purpose of publicity, propaganda, introduction or promotion of an industry, commodity, service, investment or the like.

[2] *Legislative Supplement to the Democratic Republic of the Sudan Gazette*, No. 118, 15 June 1971.

"Concerned authority" means the Local Government Council, the Minister of Transport and Communications, the Minister of National Guidance, the Minister of Defence or the Public Health Officer, each within his jurisdiction.

3. The provisions of this Act shall apply to all advertisements with the exception of:

(*a*) Advertisements for charitable purposes or public enlightenment;

(*b*) Advertisements inside private buildings not visible from outside;

(*c*) Advertisements beneficial to the public interest, provided that the concerned authority has issued a written order permitting the same;

(*d*) Advertisements of religious, cultural or health institutions;

(*e*) Advertisements on premises with the purpose of their sale or hiring;

(*f*) A notice of a place of business placed on its front part, provided that such notice shall not exceed the limits of such place by more than one metre and the height of its lower edge shall not be less than two metres above the ground level of the business place;

(*g*) Advertisements inside the show-rooms of commercial or industrial business places;

(*h*) Advertisements by an industrial or commercial institution on its means of transportation, of its name or the nature of its business,

(*i*) Trade marks affixed to tins, receptables, boxes or wrappers;

(*j*) Advertisements by cinemas on outer showspaces or during their programmes of the films they run.

CHAPTER 2

Written advertisements

4. (1) There shall be no advertisement except with the written permission of the concerned authority and after payment of the prescribed fees.

(2) The licence shall be issued on form "B" of the Schedule attached to this Act, and shall be in the name of the licensee himself for a period not exceeding three years, but the concerned authority may renew it for a similar period or periods and there shall be entered in it the specifications contained in the application for the licence which are approved by the concerned authority.

5. (1) When issuing a licence for advertisement, the concerned authority shall observe the following conditions:

(*a*) The advertisement is not contrary to public order or public morality:

(*b*) The preservation of public safety and the safety of the traffic on streets, railways, ports and airports;

(*c*) The consumer's confidence, ignorance, or lack of experience are not exploited in commercial advertisement;

(*d*) The notice boards placed on public roads shall not exceed two by four metres and their height shall not be less than two metres above the ground level unless exempted from this condition by the licensing authority.

(2) The licensee shall keep the notice boards clean.

(3) If the licensee contravenes any of the licence conditions, the licensing authority may cancel the licence immediately and order the removal of the advertisement or require the licensee to rectify the defect within 15 days of the date of issue of such an order to him.

6. Publicity is prohibited in the following places:

(*a*) Antique buildings specified by the Antiquities Department as such, their accessories, statues and fences enclosing them;

(*b*) Mosques, churches and their surrounding places;

(*c*) Public buildings including the Central Government buildings, local councils' buildings and public corporations' buildings except with the special permission of the authorities responsible for such buildings;

7. An application for a licence shall be presented to the concerned authority on form "A" of the Schedule attached to this Act.

8. In case of rejection of an application for a licence, the applicant may appeal to the Minister of Local Government within fifteen days of the date on which he is notified of such rejection and the Minister's decision shall be final.

9. The Licence shall be cancelled in the following cases:

(a) On the death of the licensee;

(b) On the dissolution of the institution, company or partnership where the licensee is an institution, company or partnership;

(c) On expiration of the term of the licence where it is not renewed;

(d) If an order is issued for the removal of the advertisement under section 5 (3) of this Act.

CHAPTER 3

Sound advertisement

10. (1) No advertisement shall be made by means of a loudspeaker in a public place unless a special permission is obtained from concerned authority after payment of the prescribed fees.

(2) The concerned authority shall specify in the licence its terms, the route to be taken and the times during which such advertisement is permitted.

11. Sound advertisements by loud speakers are prohibited between 1 p.m. and 5 p.m., and between 10 p.m. and 6 a.m.

CHAPTER 4

Publicity agencies

12. No person shall conduct publicity business as an agent in any part of the Sudan unless he

obtains a licence from the concerned authority to do so on payment of the prescribed fees.

13. Traders' licences granted before the commencement of this Act shall continue in force for a period not exceeding one month of the date of publication in the *Gazette* and shall be deemed as cancelled thereafter.

14. The following conditions shall be satisfied by an applicant for a licence to conduct a publicity business as an agent:

(*a*) He shall be a Sudanese of good conduct and shall not have committed an offence involving dishonesty;

(*b*) He shall maintain a permanent office for conducting his agency business;

(*c*) The agency shall pay to, the concerned authority a deposit of LS. 150 (one hundred and fifty pounds) refundable when it finally ceases to do business.

15. The licensed publicity agencies alone, shall be entitled to conduct publicity concerning Sudanese industries, commodities or services abroad.

CHAPTER 5

Publicity by press, television, radio, railways and airlines

Explanation

For the purposes of this chapter, the term "paper" shall include daily newspapers and specialized professional and technical magazines and commercial price lists or other circulars.

16. Each paper shall fix its fees for advertisement and shall present them to the Minister of National Guidance for approval. And no alteration shall be made in such fees except after obtaining the written consent of that Ministry.

17. Every paper shall, in dealing with all advertisements, adhere to its prescribed fees for advertisement but it may reduce such fees in the case of the Government and quasi-governmental institutions, local councils, independent corporations, co-operative societies and publicity agencies.

18. The manner and conditions of publicity by television and radio shall be organised by regulations to be issued by the Minister of National Guidance, which shall include the prescribed fees for advertisement and the authority responsible for licensing it.

19. The manner and conditions of publicity on the railway premises, airports, trains, Nile steamers and aeroplanes shall be organised by regulations to be issued by the Minister of Transport and Communications, which shall include the prescribed fees for advertisement and the authority responsible for the issue of licences in each case.

CHAPTER 6

The Publicity Council

20. (1) The Minister of Local Government shall establish a council which shall be named "The Publicity Council" and shall consist of the following members:

(*a*) Three members appointed by the Minister of Local Government to represent the three municipal councils of the capital;

(*b*) Two members to represent publicity agencies, appointed by the Minister of National Guidance;

(*c*) Two members to represent the press, appointed by the president of the Press Union Committee;

(*d*) One member to represent the television and radio, appointed by the Minister of National Guidance;

(*e*) Two members appointed by the Minister of local Government from among publicity specialists.

(2) The Minister of Local Government shall appoint a president of the Council from amongst its members.

...

22. The Publicity Council shall be responsible for the following:

(*a*) Promotion of the publicity profession in all its technical and economic aspects;

(*b*) Protection of the public from the danger of misleading advertisements;

(*c*) To solve the disputes arising between the advertisers and publicity agencies and the publicity authorities, through committees which shall work for conciliation, without affecting the parties' right to go to court;

(*d*) To present to the Minister of Local Government recommendations on the rates of licensing fees which the council fixes by agreement with the Local Government Councils.

23. Every person commits an offence who:

(*a*) Exhibits or publishes and advertisment without a licence, or

(*b*) Refuses to carry out the instruction to remove an advertisement, issued by the concerned authority, or

(*c*) Contravenes the conditions and specifications contained in the licence, or

(*d*) Contravenes any other provision of this Act, and he shall be punished with imprisonment for a term not exceeding three months or with fine or with both.

SWEDEN

NOTE *

Ratifications

1. On 6 December 1971, Sweden ratified the two International Covenants on human rights which were adopted by the General Assembly of the United Nations in December 1966, as well as the Optional Protocol to the International Covenant on Civil and Political Rights. Reservations were made with regard to article 7 (d) of the International Covenant on Economic, Social and Cultural Rights and to articles 10 (3), 14 (7) and 20 (1) of the International Covenant on Civil and Political Rights. A declaration was made under article 41 of the latter Covenant, recognizing the competence of the Human Rights Committee to receive and consider communications from a State Party with regard to Sweden. These Covenants have been ratified without changes in the national legislation. Swedish law corresponds in general with the provisions of the Covenants. In cases where legislative provision is lacking, established legal practice in Sweden is well in accord with the principles expressed in the Covenants.

2. On 6 December 1971, Sweden also ratified the International Convention on the Elimination of All Forms of Racial Discrimination which was adopted by the General Assembly of the United Nations in December 1965. A declaration was made in accordance with article 14 of the Convention with the reservation that the Committee on the Elimination of Racial Discrimination shall not be competent to examine a petition with regard to Sweden if it can be established that the same petition is or has been subject to international investigation or examination in other forms. Such legislative measures as were required for the implementation of the Convention have been effected during 1970 and 1971.

New Act on international sanctions

3. The Act of 29 May 1969, on certain sanctions against Southern Rhodesia, was repealed on 27 May 1971 and replaced by an Act on Certain International Sanctions. This Act, which is of a mandatory nature, gives the King-in-Council the authority to impose certain embargos in so far as required by a binding decision or a recommendation of the United Nations Security Council with regard to sanctions. Procedures which may be prohibited under the new Act are essentially of the same nature as those referred to in the repealed Act.

On the enactment of the new legislation the King-in-Council decreed that certain provisions of the Act would apply pursuant to the resolutions concerning Southern Rhodesia which the Security Council of the United Nations adopted on 12 and 20 November 1965, 9 April and 16 December 1966, 29 May 1968 and 18 March 1970.

4. In order to safeguard the integrity of the individual, the Act on the Limitation of Accessibilty to Public Documents (the Official Secrets Act) was amended as regards the data-processing of information on crime, etc. The amendment pertains to information on crime or regarding a person who is under suspicion of having committed a crime or has been charged with or convicted of a crime. If such information has been submitted to the National Police Board, it may not be surrendered by the Board in cases or according to procedures other than those laid down in the legislation governing general criminal registers and police registers or in other regulations issued by the King-in-Council. The necessary regulations have been issued.

Treatment of prisoners

5. In November 1971 the Government Committee on the Treatment of Prisoners in Correctional Institutions submitted a report containing draft laws on correctional treatment the calculation of terms of imprisonment, etc, as well as the treatment of persons detained or under arrest. The proposals deal with the distribution of prisoners among different institutions, work and remunerations for work, facilities for receiving visitors, the granting of furlough, disciplinary measures for misdemeanours, the means available to detainees for co-operating in and influencing their treatment, etc. The recommendations have been submitted to a parliamentary committee studying the need for reforms in correctional institutions.

Improving employment opportunities for manpower in the higher age groups

6. In 1971 the Swedish *Riksdag* decided to take action to improve the employment situation of

* Note furnished by the Government of Sweden.

manpower in the higher age groups. On the one hand, this action took the form of a law on job security for certain groups of employees, and, on the other hand, a law which gave labour market authorities and trade union organizations the right of insight into and power to influence the personnel policies of corporations.

According to the first-mentioned law, an employee is entitled to a period of notice of at least two months if he has reached the age of 45 years, at least four months at the age of 50 and at least six months if he is 55 years of age, on condition that he has been with the employer for at least 24 months during the three years immediately prior to notice being given. The employee is guaranteed wages during the period of notice and also during any period of lay-off exceeding 14 consecutive days or 30 days during one and the same calendar year. Should an employee, who is entitled to a period of notice in accordance with the new regulations, be given notice on account of shortage of work, he has the right of precedence to re-employment by the same employer during a period of six months from the date of the termination of employment. Any contract on the curtailment of these privileges is invalid.

Under the second law mentioned above, a county labour board can order an employer with at least five employees to supply the board with information on such matters as the age structure of his staff. The board can negotiate with the employer and the trade unions concerned on the employment of older workers and, on the basis of the result of negotiations, issue instructions on measures to be taken to improve employment opportunities for older workers. Such instructions may mean, for example, that the employer should have a certain proportion of older workers on his staff. If these instructions are not complied with, this fact should be reported to the Labour Market Board. If instructions issued by the Labour Market Board are not followed, and should it be considered manifest that the situation cannot be remedied in any other way, the Board can in the last resort order the employer to hire only such workers as those allotted or approved by the public employment exchange. Should the employer not comply with the order a penalty can be inflicted.

Fees chargeable at homes for the aged

7. A new system for fees chargeable at homes for the aged was introduced during 1971 and applies as from 1 January 1972. Through a warranty clause all pensioners in homes for the aged are assured the right to dispose of a certain portion of their pension and other incomes for personal use.

Changed regulations regarding travel in conjunction with medical treatment

8. As of 1 July 1971, new regulations are to apply to reimbursement from the social insurance office for transport expenses incurred in illness. The new regulations imply, *inter alia,* that a physician's referral is no longer required in order to obtain reimbursement for transport expenses to and from a physician at the nearest general hospital and that reimbursement is granted both for travelling expenses incurred in conjunction with physiotherapy, certain other medical treatment and convalescence, as well as for journeys to and from a district nurse and for additional expenses for journeys to the home after treatment if a more expensive means of transport is required than that normally used.

New law on working hours for domestic workers

9. A new law on working hours, etc., for domestic workers came into force on 1 July 1971. The new law replaces the Domestic Servants' Act.

The regulations on working hours contained in the new Act are closely allied to the Working Hours Restriction Act. This implies that domestic workers are in principle on an equal footing with other groups of employees as regards working hours. The law thus states—in contrast to the Domestic Servants' Act—a maximum number of working hours for a fixed period. Since employment contracts for domestic workers are not drawn up in co-operation with trade union organizations they have not been given the optional nature of provisions of the general Working Hours Restriction Act but have rather been made obligatory.

The regulations of the Act are based on the normal 40-hour week. In the case of gainfully employed parents who need assistance in looking after their children, the regular working hours may be prolonged to a certain extent and under certain conditions in excess of the limit indicated in the general Working Hours Restriction Act.

According to the Act, overtime may not be worked regularly. The maximum limit for overtime must not exceed 300 hours a year, which corresponds to the maximum amount of general and extra overtime allowed under the general Working Hours Restriction Act.

These regulations on working hours are supplemented by certain regulations of a welfare nature. Like the Domestic Servants' Act the new Act also contains several regulations which deal with the making and termination of contracts, compensation for overtime, testimonials, etc.

Revision of the Industrial Injury Insurance Act

10. In June 1971 the Government instructed a Committee to examine the Industrial Injury Insurance Act. The Committee is to draft a proposal on an entirely new law on industrial injury insurance.

Social research

11. In accordance with a decision made in January 1971 a special study group has been appointed within the Swedish Social Research Co-operation Committee with the task of investigating the needs, the distribution of resources and the objectives of research and development work in the social sector, as well as the role of research and development work in social planning.

SWITZERLAND

Note on constitutional provisions, legislation and Orders of the Swiss Federal Tribunal *

A. Federal law

I. Constitutional provisions

Article 74 (revised) of the Federal Constitution which introduces women's suffrage in federal matters.

Article 24 septies of the Federal Constitution which gives the Confederation the right to legislate on the protection of man and his environment from harmful or disagreeable influences.

II. Legislation

1. *Protection of life and health*

Federal Council Order of 10 February 1971 amending the regulations on dams. Federal Council Order of 28 April 1971 on medical requirements and the medical examination for drivers of vehicles.

Federal Council Ordinance of 28 April 1971 on the prevention of accidents at work and in the operation of machinery for working wood and other solid organic materials.

2. *Social welfare*

Federal Order of 11 March 1971 on new measures to encourage housing construction.

3. *Right to an adequate standard of living*

Federal Council Order of 28 October 1971 on cost-of-living allowances for federal civil servants in 1971 and 1972.

B. Cantonal law

I. Constitutional provisions

Political rights of women

Articles 27, 70, 71 and 72 (revised) of the Constitution of the Canton of Zug.

Article 25 (revised) of the Constitution of the Canton of Fribourg.

Article 2 (revised) of the Constitution of the Canton of Schaffhausen.

Article 11 (revised) of the Constitution of the Canton of Aargau.

Article 22 bis *(revised)* of the Constitution of the Canton of Glarus.

Article 8 (revised) and 10 bis *(new)* of the Constitution of the Canton of Solothurn.

Articles 3 and 13 (revised) of the Constitution of the Canton of Berne.

Article 7 (revised) of the Constitution of the Canton of Thurgau.

II. Legislation

1. *Protection of life and health*

Ordinance of the Council of State of the Canton of Aargau of 5 March 1971 concerning deputies and assistants of medical personnel.

Ordinance of the Executive Council of the Canton of Graubünden of 12 July 1971 concerning school medical service in primary and secondary schools in the Canton of Graubünden.

2. *Social welfare*

Neuchâtel Act of 15 December 1970 concerning supplementary assistance for the aged, for survivors and for the disabled.

Ordinance of the Council of State of the Canton of Basle-Town of 7 June 1971 giving effect to the Act concerning the promotion of housing construction.

Ordinance of the Council of State of the Canton of Basle-Town of 9 February 1971 giving effect to the Act relating to the granting of rent subsidies for aged residents of the Canton of 10 December 1970.

3. *Adequate standard of living*

Decree of the Grand Council of the Canton of Shaffhausen of 25 January 1971 concerning pay, allowances and holiday regulations for employees in the Canton of Schaffhausen covered by the Personnel Act.

Act of the Canton of Zug of 19 November 1970 amending the Act relating to conditions of service and pay for full-time officials and employees.

* Furnished by the Justice Division of the Federal Department of Justice and Police.

4. *Measures relating to education and culture*

Act of the Canton of Nidwalden of 25 April 1971 concerning the promotion of culture.

Order of the Council of State of the Canton of Schwyz of 10 August 1970 concerning school fees for attendance at extra-Cantonal vocational schools.

Act of the Canton of Glarus of 10 May 1970 concerning the school system.

5. *Rest and leisure*

Decree of the Grand Council of the Canton of Schaffhausen, chapter 3, article 9.

Act of the Canton of Basle-Town of 17 June 1971 concerning the granting of annual holidays.

6. *Legal protection*

Act of the Canton of Lucerne of 30 March 1971 amending the Act on the Code of Criminal Procedure.

Act of the Canton of Schaffhausen of 20 September 1971 concerning legal protection in administrative cases. Federal approval is required for certain provisions.

7. *Family welfare*

Order of the Council of State of the Canton of Zug of 31 December 1970 relating to assistance for family welfare in the Communes.

C. Orders of the Swiss Federal Tribunal

1. *Protection of personal freedom*

Federal Tribunal Order 97 I 45

Personal freedom; detention pending trial.

... A person who is charged with an offence and held in custody pending trial shall not suffer any restriction of his personal freedom save as required for the purposes of the preliminary criminal investigation and the maintenance of order in the place of detention; he shall not be required to work while in custody pending trial.

2. *Protection of privacy*

Federal Tribunal Order 97 II 97

Interference with personal interest (article 28 of the Civil Code).

1. ...

2. Membership in a private association which, by virtue of its aims, confines itself to the promotion of human relations, and whose activities do not therefore take place in public, is the private concern of members. The membership of such an association is the private concern of the association itself (cons. 3).

3. Unauthorized interference in the private affairs of members of the association by the publication of a list of members (cons. 4).

4. ...

3. *Right to a fair trial*

Federal Tribunal Order 97 I 217

Article 4 of the Constitution. Arbitrary application of the cantonal rules of criminal procedure.

When, without acting in an arbitrary manner, the judge considers the evidence given by certain witnesses heard during preliminary proceedings to be unimportant, he is not guilty of arbitrary action if he takes the view that article 247 of the Bernese code of criminal procedure does not oblige him, during the trial, to confront the accused with those witnesses, thereby giving the accused the opportunity to cross-examine them.

Federal Tribunal Order 97 I 320

Cantonal procedure. Disqualification of an expert. Arbitrariness.

An expert who has been in close contact with another expert who has been disqualified at the same trial on the grounds of apparent bias and who, on that occasion, discussed such matters as the subject of the expertise creates an appearance of bias which, according to the Bernese code of criminal procedure, constitutes grounds for disqualification which must be automatically taken into account by the court.

Federal Tribunal Order 97 I 616

Article 4 of the Constitution. Right of the accused to be heard in criminal proceedings resulting in a finding that, because of non-responsibility, there are no grounds for prosecution—the person concerned being subject, at the same time, to confinement.

4. *Guarantee of ownership*

Federal Tribunal Order 97 I 112

Compensation for expropriation of property.

The fact that a future building site, enclosed within a nature reserve, borders on a forest, so that the buildings must be constructed at some distance from the forest, may be considered a depreciation factor when estimating the market value of the land.

5. *Right to a nationality*

Federal Tribunal Order 97 I 689

Facilitated naturalization (art. 27 of the Nationality Act).

A child acquires the right to the cantonal and communal citizenship which his mother possesses or possessed last; if the mother possesses more than one right to cantonal and communal citizenship, the child acquires each of those rights.

6. *Equality before the law*

Federal Tribunal Order 97 I 629

Equality of treatment in matters of legislation (art. 4 of the Constitution). Cantonal law which exempts a plaintiff who is receiving legal aid from reimbursing the successful party the court costs paid by the latter, without providing for reimbursement by the State, violates article 4 of the Constitution.

SYRIAN ARAB REPUBLIC

Constitution of the Federation of Arab Republics [1]

Preamble

The Arab people in the Syrian Arab Republic, in the Libyan Arab Republic and in the Arab Republic of Egypt,[2]

Being firmly convinced that they are an integral part of the Arab nation, that the three Republics have absolute faith in the oneness of their destiny, that Arab nationalism is a call to construction, justice and peace and that it is the Arab road to complete unity and the construction of a democratic socialist system protecting the rights and fundamental freedoms of the citizen and guaranteeing the supremacy of law,

Responding to the call for Arab unity which is in the forefront of Arab consciousness and which is strengthened by the Arab common struggle against colonialism, zionism, regionalism and separatism and is confirmed by the contemporary Arab revolution against domination, exploitation and the violation of the political and social rights of man,

Believing that all past or future accomplishments by any land will be incapable, in conditions of fragmentation, of attaining their full dimensions and will be constantly liable to distortions and reverses so long as they are not consolidated and protected by Arab unity,

Strengthened by the stand of the Arab resistance movement in its decisive battle for liberation of the occupied Arab land, with its implications as a rallying-point for Arab potentialities to meet the challenge to Arab existence,

Having a profound belief in the civilizing role of the Arab nation in eliminating under-development and subordination and contributing positively to the advancement of human progress, the preservation of international peace and security and the placing of relations among States and peoples on a basis of justice and equality,

Pursuant to the Basic Charter of the Federation of Arab Republics, made public at Benghazi on 17 April 1971,

Have decided, trusting in God, to establish the State of the Federation of Arab Republics, on the basis of the following principles and provisions:

TITLE I

Basic principles of the Federation of Arab Republics

Article 1. The Arab people in the Syrian Arab Republic, in the Libyan Arab Republic and in the Arab Republic of Egypt have, on the basis of free choice and equal rights, established a State called "the Federation of Arab Republics".

Article 2. In the Federation, sovereignty shall belong to the people and the federal authorities shall exercise their functions in the name of the people, as specified in this Constitution.

Article 3. In the Federation of Arab Republics, the people shall form an integral part of the Arab nation.

Art. 4. The form of government in the Federation of Arab Republics shall be democratic and socialist.

Article 5. Arabic shall be the official language in the Federation.

Article 6. The State of the Federation shall emphasize spiritual values and shall consider Islamic law the principal source of legislation.

Article 7. The Federation and its constituent Republics shall have one flag, one anthem and one emblem, which shall be specified by federal statute.

Article 8. The Federation shall have one capital, which shall be specified by statute.

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[1] Signed at Tripoli on 1 September 1971. Text of the Constitution communicated by the Government of the Syrian Arab Republic.

[2] For extracts from the Provisional Constitution of the Syrian Arab Republic, see *Yearbook on Human Rights for 1969*, pp. 259-263; for those from the Constitution of the Libyan Arab Republic, see above, pp. 145-147; and for those from the Constitution of the Arab Republic of Egypt, see above, p. 82.

Article 9. All Arab Republics which believe in Arab unity, which strive for the attainment of a unified socialist Arab society and which accept the provisions set forth in this Constitution shall, by unanimous decision of the Presidential Council, be admitted to the Federation of Arab States.

Article 10. Pending the promulgation of a federal statute concerning unified nationality within the Federation, each of the Republics of the Federation shall continue to regulate questions of nationality for its own citizens, within the framework of the general principles to be proclaimed by federal statute.

Article 11. Each of the Republics of the Federation undertakes that its own Constitution shall not conflict with the provisions of this Constitution.

Article 12. The Constitutions and laws of the Republics of the Federation shall guarantee, as a minimum, the following principles and rights:

(1) Citizens shall be equal before the law and before the courts; no discrimination shall be established between citizens on grounds of sex, origin, language or religion.

(2) The inviolability of the home.

(3) There shall be no crime or penalty save in accordance with a statute; an accused person shall be innocent until he is proved guilty and a judicial sentence is passed on him.

(4) Citizens shall not be arrested save within the limits of the law.

(5) Penalties shall be personal.

(6) The right of recourse to the courts for all citizens.

(7) Freedom of movement and residence.

(8) Expatriation shall be prohibited.

(9) Freedom of belief and freedom of worship.

(10) Freedom to engage in research.

(11) Freedom of the press, freedom of thought and freedom to publish.

(12) Freedom of assembly.

(13) Secrecy of correspondence.

(14) Freedom of the citizens to choose their leaders and call them to account.

(15) The inviolability of private property within the limits of the law, without prejudice to the rights of society in public and co-operative property.

(16) The right to work.

(17) The right to education.

(18) The right to social security and social insurance.

(19) The right to medical care.

(20) Protection of childhood, motherhood and the family.

(21) Achievement of equality of opportunity among citizens, in all fields.

Article 13. The right of movement and residence and the right to work in the Republics of the Federation shall be guaranteed to all citizens of the Federations; the mode of exercise of these rights shall be specified by federal statute.

TITLE II

Functions, institutions and finances of the Federation

Chapter 1

FUNCTIONS OF THE FEDERATION

Article. 14. The Federation shall have the following functions:

1. *External affairs*

(*a*) Formulation of the bases of foreign policy. Action with a view to the unification of the policies pursued by the Republics in their international relations.

(*b*) Questions of war and peace, decisions on which shall be taken unanimously by the Council of the Federation.

(*c*) Co-ordination among the Republics members of the Federation in the field of diplomatic and consular representation with foreign States.

(*d*) Ratification of treaties and international agreements concluded with foreign States and international organizations on questions within the competence of the Federation.

2. *Defence*

(*a*) Organization and direction of the defence operations of the Federation of Arab Republics.

(*b*) Establishment of a military command responsible for training and operations.

(*c*) Movement of forces between the Republics by decision of the Presidential Council or, during operations, by any person authorized thereto by the Council.

(*d*) Co-ordination of military industries among the member Republics.

3. *National security*

Protection of national security and establishment of a plan for the security of the Federation in accordance with decisions of the Presidential Council.

4. *Economic affairs*

(*a*) Establishment of common plans of general development in such a way as to ensure the achievement of complementarity among the economies of the Republics members of the Federation. The said Republics undertake, when drawing up their respective national plans, to respect the structure and implementation needs of the general plans of the Federation.

(*b*) Organization of the movement of goods, capital and services between the member Republics, and arrangements for the residence and employment of citizens of one of the Republics in the other Republics members of the Federation.

(*c*) Action with a view to the unification of the economic and monetary regulations and policies of the member Republics, and provision of statistical and accounting services to deal with matters affecting all the said Republics.

(*d*) Establishment of co-ordination between the economy of the Federation and the economies of the other Arab States in such a way as to

achieve Arab economic complementarity, by such methods as shall be approved by the Presidential Council.

(*e*) Action with a view to the unification of the economic policies of the member Republics in their relations with other States, and co-ordination of co-operation with international economic and financial organizations.

(*f*) Establishment and control of the federal economic institutions.

5. *Education and culture*

(*a*) Formulation of an educational and cultural policy aimed at the creation of a devout socialist national Arab generation.

(*b*) Formulation of a unified scientific research policy which will ensure the pursuit of world scientific progress, and establishment of co-operation among scientific research institutions in the member Republics.

(*c*) Formulation of a federal information policy serving the objectives of the Federation.

6. *Co-ordination and unification of laws*

Action by the Federal authorities with a view to the co-ordination and unification of laws and regulations among the member Republics.

Chapter 2

INSTITUTIONS OF THE FEDERATION

Section 1

The executive of the Federation

1. *The Presidential Council of the Federation*

Article 15. The Presidential Council of the Federation shall be composed of the Presidents of the member Republics. It shall be the supreme authority for the exercise of the functions of the Federation specified in this Constitution.

Article 16. The Presidential Council shall elect its President from among its members for a term of two years, which shall be renewable. The Council shall establish rules of procedure to govern its work.

Article 17. Each member of the Presidential Council shall take the following oath before the Federal National Assembly:

"I swear by Almighty God that I will faithfully preserve the Federation of Arab Republics, will respect the Constitution and the law and will strive to promote the interest of the people and the achievement of the objectives of the Arab nation."

Article 18. Decisions of the Presidential Council shall be taken by a majority vote, save in the following cases:

(*a*) Where the Constitution and Basic Charter of the Federation of Arab Republics require unanimity.

(*b*) Where, in the case of other important questions, any member of the Presidential Council deems it necessary that the decision should be unanimous, within a period of two years from the date of entry into force of this Constitution.

Article. 19. If important events necessitating the adoption of urgent measures should occur while the Federal National Assembly is in recess or after it has been dissolved, the Presidential Council may adopt unanimous decisions thereon, which shall have the force of law.

Such decisions must be submitted to the Federal National Assembly for approval at its next session. If they are not so submitted, they shall cease to have effect as from the date on which the Assembly is convened. If, however, they are rejected by the Assembly, they shall cease to have effect as from the date of rejection.

Article 20. The Presidential Council of the Federation shall issue such schedules as are necessary for the implementation of federal statutes and for the organization of the institutions and services controlled by the Federation.

Article 21. Decisions of the Presidential Council of the Federation shall take effect only after they have been published in the federal Official Gazette, unless otherwise specified in the text of the decision itself.

Article 22. The Presidential Council of the Federation shall meet in the capital of the Federation. The Council may decide to meet at any other place within the Federation.

2. *The Federal Ministerial Council*

Article 23. The Presidential Council of the Federation shall appoint a number of ministers, who shall constitute a Federal Ministerial Council, the Chairman of which shall be appointed by the Presidential Council.

The Presidential Council shall specify the functions of each federal minister.

No person may hold the post of federal minister concurrently with a public post or public office in any of the Republics, save in certain exceptional cases with the prior approval of the Presidential Council.

Article 24. Federal ministers shall be responsible to the Presidential Council for the exercise of their functions. They shall take, before the Council, the oath specified in article 17 of this Constitution.

Article 25. The Federal Ministerial Council shall hold regular and special meetings to consider the executive affairs of the Federation and to co-ordinate the work of federal ministers. The Council shall, in particular, consider the following questions:

(*a*) Drafting of federal legislation and federal orders.

(*b*) Preparation of such studies as may be necessary for the accomplishment of the tasks of the Federation.

(*c*) Contacts with ministers competent in the member Republics for the exercise of the functions of the Federation, in accordance with rules approved by the Presidential Council.

(*d*) Surveillance of the implementation of federal statutes, and preparation of periodic reports for the Presidential Council.

(*e*) Preparation of the budget estimates of the Federation.

Article 26. The rules of procedure of the Federal Ministerial Council shall be specified by order of the Presidential Council.

3. *Councils, specialized agencies and functional commissions*

Article 27. The Presidential Council shall establish federal councils for the following questions:

Planning; Economic affairs; Social affairs; National security; Foreign policy; Education; Cultural affairs and scientific research; Information.

There shall be established such other specialized councils or agencies or functional commissions as may be necessary for the achievement of the objectives of the Federation.

The composition and functions of such councils, agencies and commissions and their relations with federal ministers shall be specified pursuant to orders of the Presidential Council.

4. *Federal officials*

Article 28. A federal statute shall be promulgated setting out the regulations governing federal officials, their terms of employment, their duties, the material and moral privileges to which they shall be entitled, and all such things as may ensure their independence with a view to the proper exercise of their functions.

Section 2

The legislature

Article 29. The Federal National Assembly shall be composed of 20 members for each Republic. They shall be elected by the People's Assembly from among the members of that Assembly in each of the three Republics.

The term of the Federal National Assembly shall be four years. Members of the Federal National Assembly shall take, before the Assembly, the oath prescribed in article 17 of this Constitution.

A member of the Federal National Assembly may not serve concurrently as a member of the People's Assembly. If there is no People's Assembly in one of the Republics, the political leadership in that Republic may, pending the constitution of a People's Assembly, decide what principles shall govern the selection of the representatives of its Republic in the Federal National Assembly.

Article 30. The Federal National Assembly shall elect a President and one or more Vice-Presidents from among its members.

Article 31. The Federal National Assembly shall hold two sessions a year on the convocation of the President of the Presidential Council of the Federation. The duration and opening date of each session shall be specified in the rules of procedure.

In case of need, the Assembly may hold a special session at the request of the Presidential Council of the Federation or of two thirds of the members of the Assembly.

Article 32. The Federal National Assembly shall meet at the place assigned to it in the capital of the Federation. The Assembly may meet elsewhere, within the Federation, with the prior approval of the Presidential Council of the Federation.

Article 33. The Federal National Assembly shall meet only if at least two of its members are present.

Article 34. Decisions of the Federal National Assembly shall be promulgated after adoption by an absolute majority of its members, unless otherwise stipulated in the Constitution.

Article 35. Bills may be introduced by the Presidential Council of the Federation or by members of the Federal National Assembly.

Article 36. The Federal National Assembly shall be competent:

(*a*) To discuss and approve federal laws;

(*b*) To discuss and approve the budget of the Federation;

(*c*) To discuss and ratify those treaties and international agreements concluded by the Federation which, in accordance with the provisions of the Constitution, require the approval of the Assembly;

(*d*) To discuss the general policies of the federal State and make any proposals calculated to strengthen the Federation and achieve its objectives;

(*e*) To question federal ministers and seek explanations from them.

Article 37. A bill shall become law after unanimous approval by the Presidential Council. It shall enter into force one month after the date of publication in the Official Gazette of the Federation, unless otherwise specified in the statute.

Federal laws shall prevail over the laws of the member Republics as regards the powers of the Federation.

Article 38. The competent authorities in the Republics shall implement federal laws in their respective regions. The Presidential Council of the Federation shall appoint such officials as are needed to supervise the proper implementation of federal laws in the member Republics and to submit periodic reports to the Presidential Council of the Federation and to the Federal National Assembly.

Article 39. Meetings of the Federal National Assembly shall be public. The Assembly may meet in private at the request of the Presidential Council or of two thirds of its members. Federal ministers shall be entitled to attend meetings of the Assembly.

Article 40. The Federal National Assembly shall promulgate its rules of procedure.

Article 41. The President of the Federal Assembly shall be responsible for the maintenance of order and security in the Assembly.

Article 42. Members of the Federal National Assembly shall not be questioned for any opinions they express in the Assembly. They shall not be arrested, save in case of *flagrante delicto* and with the consent of the Assembly.

Articles 43. A federal statute shall be promulgated specifying the material and moral privileges enjoyed by members of the Federal National Assembly. A member of the Assembly may not hold concurrently a public office in any of the member Republics or in the Federal Government. He may not obtain any privilege other than those specified in the aforementioned federal statute.

Article 44. If for any reason a member of the Federal National Assembly ceases to be a member, he shall resume his seat in the People's Asssembly which elected him, in accordance with the rules laid down in the Constitution of his Republic.

If a member of the Federal National Assembly ceases to be a member of the People's Assembly which elected him, as a result of the dissolution of the Assembly or the expiry of his term, he shall continue to serve in the Federal National Assembly pending the election of a replacement.

Article 45. The Presidential Council may decide to dissolve the Federal National Assembly, provided that the new Assembly is constituted within a period of not more than three months after the dissolution.

If for any reason the new Assembly has not been convened by that date, the old Assembly shall meet automatically until the new Assembly is convened.

If the Federal National Assembly is dissolved for any reason, it may not be dissolved a second time for the same reasons.

Section 3

The judiciary of the Federation

Article 46. The Presidential Council of the Federation shall establish a Constitutional Court having two members for each Republic. The Council shall appoint the President of the Court from among the members of the Court. He shall have a casting-vote in the event of an equality of votes.

The Presidential Council of the Federation may appoint additional members to the Court if the public interest so requires, provided that account is taken of the principle of equality among the Republics.

The term of a member of the Court shall be four years and shall be renewable.

Article 47. Members of the Court shall take the following oath:

"I swear by Almighty God that I will respect the Constitution and the law and will judge with justice."

Article 48. The Federal Constitutional Court shall be competent:

(*a*) To rule on any challenges which may be submitted to the constitutionality of federal laws;

(*b*) To ascertain whether laws of the Republics are in conformity with the Federal Constitution and federal laws;

(*c*) To rule on any legal conflicts which may arise between the federal authorities and the authorities of the Republics, or between a Republic and another member of the Federation;

(*d*) To give an advisory opinion on any constitutional or legal question, at the request of the Presidential Council of the Federation, a federal minister or one of the member Republics;

(*e*) To perform any other act provided for by federal statute.

Article 49. The Constitutional Court shall take its decisions by a majority vote and in the name of the people.

Article 50. Decisions taken by the Constitutional Court shall have effect throughout the territories of the Republics members of the Federation.

Article 51. The seat of the Constitutional Court shall be in the capital of the Federation. It may sit at any place within the Federation.

Article 52. The organization and procedure of the Court, the qualifications required of its members and the material and moral immunities and privileges enjoyed by members and employees of the Court shall be specified by federal statute.

Chapter 3

Finances of the Federation

Article 53. The Presidential Council shall prepare the federal budget estimates, which shall be submitted to the Federal National Assembly for discussion and approval under a federal statute.

Article 54. The annual budget of the Federation shall specify the contribution of each member Republic to the expenses of the Federation, in equal shares, and the other sources of revenue of the Federation, under a federal statute.

Article 55. The opening and closing dates of the financial year of the Federation and the procedure to be followed in preparing the federal budget shall be specified by federal statute.

The member Republics shall be required to bring the opening and close of the financial year in each of the said Republics into line with the opening and close of the financial year of the Federation.

Article 56. The final accounts shall be submitted to the Federal National Assembly for discussion and approval.

Article 57. The procedure for controlling and auditing the federal accounts shall be specified by federal statute.

Title III

General and transitional provisions

Article 58. The member Republics shall be competent in respect of all matters not within the competence of the Federation, in accordance with the provisions of this Constitution.

Each of the Republics members of the Federation shall authorize the federal authorities to

exercise any of its functions, with the prior approval of the Presidential Council of the Federation.

Article 59. Treaties and international agreements concluded by virtue of federal powers shall be signed by the Presidential Council in the name of the Federation. The Federal National Assembly shall be notified of such treaties and agreements. They shall take effect in the member Republics after ratification by the Presidential Council and publication in accordance with the provisions of this Constitution.

However, treaties and international agreements which pertain to sovereignty, which entail amendment of the provisions of federal statutes or which burden the budget of the Federation with expenditure not provided for in the said budget shall take effect only after ratification by the Federal National Assembly.

Article 60. Treaties and international agreements concluded by the member Republics prior to the establishment of the Federation shall remain in force in accordance with their provisions and within such limits as were specified at the time of their conclusion, in accordance with the principles of international law.

Article 61. Without prejudice to the powers of the Federation specified in this Constitution, each Republic shall be entitled to conclude treaties and international agreements in accordance with its constitutional status. The Presidential Council of the Federation shall be notified of such treaties and agreements.

Article 62. By unanimous decision of the Presidential Council of the Federation, there shall be established a political front comprising representatives of the leadership of the political organization in each member Republic.

The said front shall be governed by a charter for national action in the Federation of Arab Republics aimed at achieving interaction and cohesion between the masses of the people in the Republics members of the Federation, implanting the bases and the values of democracy, unifying the principles and methods of political action in the member Republics and creating a climate propitious to the establishment of the unified Arab movement.

Pending the establishment of the said front, the political leadership of each Republic shall be solely responsible for organizing the exercise of political activity in the Republic.

Article 63. The supreme command of the armed forces in each Republic member of the Federation shall be exercised by the President of the Republic or by any other person authorized to exercise such command in accordance with the provisions in force in each of the said Republics.

Article 64. In the event of disturbances inside or outside a member Republic which threaten the security of that Republic or of the Federation, the Government of that Republic shall immediately advise the federal authorities in order that they may take the necessary action, within the limits of their prerogatives, to restore order and security.

If the Government of a member Republic is in a situation which does not allow it to request assistance from the Federation, or if the security of the Federation is threatened, the competent federal authorities may take action to restore order even if no request is made to them.

Article 65. The Federation may take possession of such landed property in the capital or elsewhere within the territories of the member Republics as may be needed for the establishment of its institutions.

The properties and assets of the Federation shall not be subject to any taxes or duties provided for in the laws of the member Republics. This question shall be regulated by federal statute.

Article 66. The Presidential Council of the Federation shall establish a federal Official Gazette for the publication of federal statutes, orders and regulations.

Article 67. Pending the establishment of the federal institutions provided for in this Constitution, the Presidential Council shall set up a supervisory committee, in which each Republic shall have one representative. The purpose of the committee shall be to supervise the implementation of the Federal Constitution as speedily as possible.

Article 68. This Constitution may be amended only with the prior approval of two thirds of the members of the Federal National Assembly. Any amendment thereto must be approved unanimously by the Presidential Council.

If the amendment affects any provision of the Basic Charter of the Federation of Arab Republics, it shall take effect only after it has been submitted to a popular referendum and has obtained a majority of the votes in each member Republic.

Article 69. The preamble to this Constitution shall form an integral part thereof.

Article 70. The principles of this Constitution are derived from the Basic Charter of the Federation of Arab Republics. This Constitution shall be interpreted in the light of the said Basic Charter.

Article 71. This Constitution shall be submitted for approval to the competent constitutional institutions in each Republic member of the Federation. It shall also be submitted, together with the Basic Charter of the Federation of Arab Republics published at Benghazi on 17 April 1971, to a popular referendum.

The Basic Charter of the Federation and the provisions of this Constitution shall enter into effect upon obtaining a majority in each Republic member of the Federation.

Article 72. Immediately after its entry into force, this Constitution shall be communicated to all Arab States and to the General Secretariat of the League of Arab States, as an official document.

THAILAND

NOTE [1]

I. Constitution

1. *Royal Command of 25 May, B.E. 2514 (1971).*[2] In order to maintain law and order after the seizure of power from the Government, the Revolutionary Party put Thailand under Martial Law as from 2113 hours on 20 October, B.E. 2501 (1958) by its Announcement of 20 October, B.E. 2501 (1958).[3] This Royal Command lifted the enforcement of Martial Law as from 0600 hours on 25 May, B.E. 2514 (1971), in all except 36 *changwats*.

2. *Announcement of the NEC* [4] *No. 1, of* 17 November, B.E. 2514 (1971).[5] The NEC made an announcement that the NEC comprising military, naval, air force and police personnel as well as civilians had seized power from the Constitutional Government as from 1900 hours on 17 November, B.E. 2514 (1971), and that the country was under the complete control of the NEC.

3. *Announcement of the NEC No. 2, of 17 November, B.E. 2514 (1971).*[6] The NEC proclaimed the enforcement of Martial Law all over the country as from 2011 hours on 17 November, B.E. 2514 (1971), in order to maintain law and order after the seizure of power from the Constitutional Government.

4. *Announcement of the NEC No. 3 of 18 November, B.E. 2514 (1971).*[7] Under this Announcement, the NEC (1) abolished the Constitution of the Kingdom of Thailand, B.E. 2511; (2) dismissed all senators, members of the House of Representatives and the Council of Ministers; (3) allowed the Privy Councillors to be in office and perform their duties as usual; (4) allowed the Courts to retain the power to try and adjudicate cases under the laws and Announcements of the NEC; (5) set up the headquarters of the NEC under Field Marshal Thanom Kittikachorn, the Chairman of the NEC, who is the head of military and civil officials and peace-keeper of the country; and (6) assigned the powers and duties of the Ministers of State under the laws to the Under-Secretaries of State and instructed them to be responsible to the Chairman of the NEC or persons designated by him.

II. Civil and political rights

A. Life, liberty and security of persons

1. *Royal Decree on Pardon, B.E. 2514 (1971).*[8] This Royal Decree was made by virtue of section 151 of the Constitution of the Kingdom of Thailand [9] on the occasion of the royal ceremony celebrating the twenty-fifth anniversary of the coronation of the present King on 9 June, B.E. 2514 (1971). Persons who are entitled to receive royal grant of pardon under this Royal Decree are as follows:

(1) A person who is entitled to receive royal grant of pardon must be one held in official custody or confined in a place or residence determined by a court or authority on the date this Royal Decree comes into force (section 4).

(2) The following prisoners under final judgement or persons in confinement are entitled to be released:

(i) Persons in confinement;

(ii) Persons who have been imprisoned, whether for one offence or more, and whose remaining terms of imprisonment do not exceed 6 months from the date on which this Royal Decree comes into force;

(iii) Persons who:

(*a*) Are disabled by blindness in both eyes or amputation of both hands or feet or become evidently disabled, but in the last case not less than two official physicians must unanimously certify

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[1] Note furnished by the Government of Thailand.

[2] *Government Gazette*, Vol. 88, part 57, 1 June, B.E. 2514 (1971).

[3] *Ibid.*, Vol. 75, part 81, 20 October, B.E. 2501 (1958).

[4] National Executive Council.

[5] *Government Gazette*, Vol. 84, part 124, 18 November, B.E. 2514 (1971).

[6] *Ibid.*

[7] *Ibid.*

[8] *Ibid.*, Vol. 88, part 58, 2 June, B.E. 2514 (1971).

[9] *Ibid.*, Vol. 85, Special Issue, 20 June, B.E. 2511 (1968).

that the persons involved will never be able to earn their living for the rest of their lives;

(*b*) Are suffering from tuberculosis, leprosy, cancer or mental disease, have been treated by the penitentiary for not less than 3 months on the date on which this Royal Decree comes into force, have been unanimously certified by not less than two official physicians as being unable to be cured in prison and have been imprisoned, whether for one offence or more, not less than 5 years or not less than one half of their sentence on the date on which this Royal Decree comes into force;

(*c*) Are female, have been certified by an official physician as not pregnant and whose remaining terms of imprisonment under judgement, whether for one offence or more, do not exceed 1 year from the date on which this Royal Decree comes into force;

(*d*) Are female, have been imprisoned for the first time and, on the date on which this Royal Decree comes into force, have been imprisoned, whether for one offence or more, not less that one half of their sentence;

(*e*) Are listed in the prison register on the date on which this Royal Decree comes into force as being not less then 60 years of age and have been imprisoned, whether for one offence or more, not less than 5 years or not less than one half of their sentence on the date on which this Royal Decree comes into force;

(*f*) Have been imprisoned for the first time, are listed in the prison register on the date on which this Royal Decree comes into force as being less than 20 years of age and have been imprisoned, whether for one offence or more, not less than one half of their sentence;

(*g*) Have been imprisoned for the first time and whose terms of imprisonment, whether for one offence or more do not exceed 1 year;

(*h*) Are excellent class prisoners under final judgement and whose remaining terms of imprisonment, whether for one offence or more, do not exceed 2 years from the date on which this Royal Decree comes into force;

(iv) Persons whose sentence has been suspended under the penitentiary law or the military prison law and who have never violated the terms of suspension of their sentence (section 5).

(3) Prisoners under final judgement who are not released by the royal grant of pardon under (2) are entitled to receive royal grant of pardon under only one of the following:

(i) Prisoners sentenced to death shall have their sentence commuted to life imprisonment;

(ii) Prisoners sentenced to life imprisonment shall have their sentence reduced to 20 years . . .;

(iii) Prisoners sentenced to less than life imprisonment shall have their sentence reduced in accordance with their conduct rating under the penitentiary law, as follows:

Excellent	by 1/2
Very good	by 1/3
Good	by 1/4
Fair	by 1/5
Bad	by 1/6
Very bad	by 1/7

(iv) Persons who have been sentenced to imprisonment for an offence committed by negligence, have not caused death to any other person and, on the date on which this Royal Decree comes into force, have to serve no other term of imprisonment, whether for one offence or more shall have their sentence reduced by two thirds (section 6).

(4) Prisoners under final judgement who have been appointed assistants to prison officers not less than 6 months before the date on which this Royal Decree comes into force, whether or not their sentence has been reduced under (3), shall have their sentence specially reduced by 1 year (section 7).

(5) Persons sentenced for any of the following offences shall not receive the royal grant of pardon under this Royal Decree:

(i) Offences against the King, the Queen, the Heir Apparent and the Regent, offences against the internal security of the State and offences against the external security of the State, in accordance with the Penal Code;

(ii) Offences under sections 190, 217, 218, 220 (last paragraph), 222, 224, 277, 280, 282, 283 and 285 of the Penal Code;

(iii) Offences under the law on prevention of communist activities;

(iv) Offences under the opium law and narcotics law;

(v) Offences punishable by death in cases where the offender has received the royal grant of pardon commuting his sentence once before.

. . .

(6) The governor of a *changwat*, a judge or military judge and a public or military prosecutor of the locality shall constitute a committee of three to identify persons eligible to receive the royal grant of pardon and to submit their names to the local court within 60 days from the date on which this Royal Decree comes into force so as to assist the local court in issuing a writ of release or of reduction of sentence as the case may be.

In so far as persons sentenced to imprisonment under section 17 of the Interim Constitution of the Kingdom [10] who are eligible to receive the royal grant of pardon are concerned, the committee mentioned in the preceding paragraph shall be responsible for identifying them, checking and submitting their names to the Prime Minister within 60 days from the date on which this Royal Decree comes into force in order for the Prime Minister to consider the matter and issue the order of release or of reduction of sentence, as the case may be.

After the writs or orders of release or of reduction of sentence have been issued, the committee shall prepare lists of persons who have received the royal grant of pardon: one to be kept at the prison, one to be sent to the court, one to be sent to the Ministry of the Interior and one to be tendered to His Majesty the King.

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[10] *Ibid.*, Vol. 76, Part 17, 28 January, B.E. 2502 (1959).

If the appointment of any member of the committee is not convenient in practice, the Minister of the Interior shall have the power to appoint an official whom he thinks fit to take his place (section 9).

(7) In so far as prisoners under the military prison law are concerned, the Minister of Defence shall appoint officials whom he thinks fit to constitute a committee to identify persons eligible to receive the royal grant of pardon and to submit their names to Krungthep Military Court, military *monthon* court or military *changwat* court, as the case may be, within 60 days from the date on which this Royal Decree comes into force in order to assist the aforesaid military courts in considering and issuing writs of release or of reduction of sentence, as the case may be.

As for the reduction of sentences under (3) (iii), the conduct rating of prisoners under the military prison law shall be in comparative degree with that of prisoners under the penitentiary law, as follows:

Ordinary	equivalent to	Fair
Good	equivalent to	Very good
Very good	equivalent to	Excellent

...

2. *Announcement of the NEC No. 11, of 21 November, B.E. 2514 (1971).*[11] The purpose of this Announcement is to prevent and suppress crimes by increasing the punishments for offences under Penal Code sections 51-53, 91, 140, 190, 191, 218, 224, 276, 277, 278-281, 282-286, 313, 317-319 and 339-340 *bis* and adding sections 277 *bis* 277 *ter*, 336 *bis* and 340 *ter* to the Penal Code, as follows:

(1) Whenever any punishment is to be increased, it shall not be increased to the death penalty. In calculating the increase in the punishment of life imprisonment, the punishment of life imprisonment shall be replaced by imprisonment for 50 years (section 51).

(2) If the death penalty is to be reduced, whether in the scale of punishment or in the punishment to be imposed, it shall be reduced as follows:

(i) If it is reduced by one third, it shall be reduced to life imprisonment;

(ii) If it is reduced by one half, it shall be reduced to life imprisonment or imprisonment for 25-50 years (section 52).

(3) If the punishment of life imprisonment is to be reduced, whether in the scale of punishment or in the punishment to be imposed, the punishment of life imprisonment shall be replaced by imprisonment for 50 years (section 53).

(4) When it appears that a person has committed several distinct offences, the court shall punish him for each offence. If any offence is punishable by life imprisonment, the life imprisonment shall be replaced by imprisonment for 50 years (section 91).

(5) If the offence under section 138, second paragraph, or 139 of the Penal Code is committed by carrying or using any weapon or with the participation of three or more persons, the offender shall be punished by imprisonment not exceeding 5 years or a fine not exceeding 10,000 baht, or both.

If such offence is committed by alluding to the power of a secret society or criminal association, irrespective of the existence thereof, the offender shall be punished by imprisonment for 2-10 years and a fine of 4,000-20,000 baht.

If the offence under this section is committed by carrying or using fire-arms or explosives, the offender shall receive punishment graver by one half than that provided in the two preceding paragraphs (section 140).

(6) Whoever, being in lawful custody of the court, public prosecutor, inquiry official or official in charge of criminal investigation, escapes from such custody, shall be punished by imprisonment not exceeding 3 years or a fine not exceeding 6,000 baht or both.

If the offence mentioned in the preceding paragraph is committed by breaking the place of custody, by doing or threatening to do any act of violence or with the participation of three or more persons, the offender shall be punished by imprisonment not exceeding 5 years or a fine not exceeding 10,000 baht, or both.

If the offence under this section is commited by carrying or using fire-arms or explosives, the offender shall receive punishment graver by one half than that provided in the two preceding paragraphs (section 190).

(7) Whoever, by any means, rescues any person in lawful custody of the court, public prosecutor, inquiry official or official in charge of criminal investigation from such custody shall be punished by imprisonment not exceeding 5 years or a fine not exceeding 10,000 baht, or both.

If the person so rescued is one sentenced by any court to death, life imprisonment, or imprisonment for 15 years and upwards, or if three or more persons are rescued, the offender shall be punished by imprisonment for 6 months to 7 years and a fine of 1,000-14,000 baht.

If the offence under this section is committed by doing or threatening to do any act of violence or carrying or using fire-arms or explosives, the offender shall receive punishment graver by one half than that provided in the two preceding paragraphs (section 191).

(8) Whoever sets fire to:

(i) Any building, boat or floating house used as a human dwelling;

(ii) Any building, boat or floating house used for storage or manufacture of goods;

(iii) Any place of entertainment or meeting-place;

(iv) Any building which is State public domain, a public place or a place for performing religious ceremonies;

(v) Any railway station, airport or public parking or mooring place;

[11] *Ibid.*, Vol. 88, Part 127, 21 November, B.E. 2514 (1971).

(vi) Any steamboat or motor-boat of 5 tons and upwards, airplane or train used for public transportation;

shall be punished by death, life imprisonment or imprisonment for 5-20 years (section 218).

(9) If the commission of an offence mentioned in section 217, 218, 221 or 222 causes death to any other person, the offender shall be punished by death or life imprisonment.

If it causes grievous harm to any other person, the offender shall be punished by death, life imprisonment or imprisonment for 10-20 years (section 224).

(10) Whoever has sexual intercourse with any woman who is not his wife by threatening her in any way, doing any act of violence, taking advantage of her being a state of inability to resist or inducing her to mistake him for any person shall be punished by imprisonment for 1-10 years and a fine of 2,000-20,000 baht.

If the offence under the preceding paragraph is committed by carrying or using fire-arms or explosives or with the collaboration of several persons in ravishing a woman, the offender shall be punished by life imprisonment or imprisonment for 10-20 years (section 276).

(11) Whoever has sexual intercourse with any girl not over 13 years of age, with or without her consent, shall be punished by imprisonment of 2-12 years and a fine of 4,000-24,000 baht.

If the offence under the preceding paragraph is committed with the collaboration of persons in ravishing a girl without her consent or by carrying or using fire-arms or explosives, the offender shall be punished by life imprisonment or imprisonment for 15-20 years (section 277).

(12) If the commission of an offence under section 276, first paragraph, or 277, first paragraph:

(i) Causes grievous harm to the victim, the offender shall be punished by imprisonment for 10-20 years and a fine of 20,000-40,000 baht;

(ii) Causes death to the victim, the offender shall be punished by death or life imprisonment (section 277 *bis*).

(13) If the commission of an offence under section 276, second paragraph, or 277, second paragraph:

(i) Causes grievous harm to the victim, the offender shall be punished by life imprisonment;

(ii) Causes death to the victim, the offender shall be punished by death (section 277 *ter*).

(14) Whoever commits any indecent act on any person over 13 years of age by threatening him in any way, doing any act of violence, taking advantage of such person being in a state of inability to resist or inducing such person to mistake him for any other person, shall be punished by imprisonment not exceeding 7 years or a fine not exceeding 14,000 baht, or both (section 278).

(15) Whoever commits any indecent act on any child not over 13 years of age, with or without the consent of such child, shall be punished by imprisonment not exceeding 7 years or a fine not exceeding 14,000 baht, or both.

If the offence under the preceding paragraph is committed by threatening the child in any way, doing any act of violence, taking advantage of the child's being in a state of inability to resist or inducing the child to mistake him for any other person, the offender shall be punished by imprisonment not exceeding 10 years or a fine not exceeding 20,000 baht, or both (section 279).

(16) If the commission of an offence under section 278 or 279:

(i) Causes grievous harm to the victim, the offender shall be punished by imprisonment for 5-15 years and a fine of 10,000-30,000 baht;

(ii) Causes death to the victim, the offender shall be punished by life imprisonment (section 280).

(17) If the commission of an offence under section 276, first paragraph, and 278 is not public, does not cause grievous harm or death to the victim or the victim is not a person as specified in section 285, the offence shall be compoundable (section 281).

(18) Whoever, in order to satisfy the sexual desire of any other person, procures, seduces or induces any girl or woman not over 18 years of age for indecent purposes, with or without her consent, shall be punished by imprisonment for 6 months to 7 years and a fine of 1,000-14,000 baht, whether or not the acts constituting such offence have been committed in different countries.

If the offence under the preceding paragraph is committed on a girl not over 13 years of age, the offender shall be punished by imprisonment for 1-10 years and a fine of 2,000-20,000 baht.

Whoever, in order to satisfy the sexual desire of any other person, receives a girl or woman who has been procured, seduced or induced by another person as under the first or second paragraph or gives support to the said commission of offence, shall be punished as prescribed in the first or second paragraph, as the case may be (section 282).

(19) Whoever, in order to satisfy the sexual desire of any other person, procures, seduces or induces any woman for indecent purposes by any means of fraud or deceit, threat, violence, undue influence or coercion, shall be punished by imprisonment for 1-7 years and a fine of 2,000-14,000 baht, whether or not the acts constituing such offence have been committed in different countries.

If the offence under the first paragraph is committed on a girl or woman not over 18 years of age, the offender shall be punished by imprisonment for 2-7 years and a fine of 4,000-14,000 baht.

If the offence under the second paragraph is committed on a girl not over 13 years of age, the offender shall be punished by imprisonment for 2-10 years and a fine of 4,000-20,000 baht.

Whoever, in order to satisfy the sexual desire of any other person, receives a girl or woman who has been procured, seduced or induced by an-

other person as under the first, second or third paragraph or gives support to the said commission of offence, shall be punished as prescribed in the first, second or third paragraph as the case may be (section 283).

(20) Whoever takes away any woman for indecent purposes by any means of fraud or deceit, threat, violence, undue influence or coercion shall be punished by imprisonment for 1-7 years and a fine of 2,000-14,000 baht.

Whoever conceals a woman taken away as under the preceding paragraph shall be punished in the same way as the person taking her away.

The offence under this section is a compoundable one (section 284).

(21) If the offence under section 276, 277, 277 *bis*, 277 *ter*, 278, 279, 280, 282 or 283 is committed on the offender's descendant, a pupil under his care or a person under his official charge, tutorship, curatorship or guardianship, the offender shall receive punishment graver by one third than that provided in the relevant section (section 285).

(22) Any person over 16 years of age who lives even partly on the earnings of a prostitute shall be punished by imprisonment for 2-7 years and a fine of 4,000-14,000 baht.

Any person who has not other apparent or sufficient means of subsistence and:

(i) Is found living or habitually associating with one or more prostitutes;

(ii) Takes board and lodging or receives money or any other benefit provided by a prostitute; or

(iii) Takes part in order to help any prostitute in a quarrel with her customer;

shall be presumed to live on the earnings of a prostitute unless he can satisfactorily prove the contrary.

The provisions of this section shall not apply to any person who receives maintenance from a prostitute who is bound to give it under the law or morality (section 286).

(23) Whoever, in order to obtain a ransom:

(i) Takes away any child not over 13 years of age;

(ii) Abducts any person over 13 years of age by any means of fraud or deceit, threat, violence, undue influence or coercion; or

(iii) Restrains or confines any person;

shall be punished by life imprisonment or imprisonment for 15-20 years.

If the commission of an offence under the preceding paragraph causes grievous harm to the person under abduction, restraint or confinement or the offence is committed by torture or cruelty and causes bodily or mental harm to such person, the offender shall be punished by life imprisonment.

If the commission of such offence causes death to the person under abduction, restraint or confinement, the offender shall be punished by death (section 313).

(24) Whoever, without reasonable cause, takes any child not over 13 years of age away from his parents, guardian or the person in charge of such child shall be punished by imprisonment for 1-10 years and a fine of 2,000-20,000 baht.

Whoever dishonestly buys, sells or receives a child taken away as under the preceding paragraph shall be punished in the same way as the person taking the child away.

If an offence under this section is committed for profit or indecent purposes, the offender shall be punished by imprisonment for 2-12 years and a fine of 4,000-24,000 baht (section 317).

(25) Whoever, without his consent, takes a minor over 13 but not over 18 years of age away from his parents, guardian or the person in charge of such minor shall be punished by imprisonment for 6 months to 7 years and a fine of 1,000-14,000 baht.

Whoever dishonestly buys, sells or receives the minor taken away as under the preceding paragraph shall be punished in the same way as the person taking the minor away.

If an offence under this section is committed for profit or indecent purposes, the offender shall be punished by imprisonment for 1-10 years and a fine of 2,000-20,000 baht (section 318).

(26) Whoever, with his consent, takes a minor over 13 but not over 18 years of age for profit or indecent purposes away from his parents, guardian or the person in charge of such minor shall be punished by imprisonment for 6 months to 7 years and a fine of 1,000-14,000 baht.

Whoever dishonestly buys, sells or receives a minor taken away as under the preceding paragraph shall be punished in the same way as the person taking the minor away (section 319).

(27) Whoever commits an offence under section 334, 335, 335 *bis* or 336 by wearing a military or police uniform, dressing in such manner as to be taken for a soldier or policeman, carrying or using fire-arms or explosives or using a vehicle to facilitate the commission of the offence or take such an object away or evade arrest shall receive punishment graver by one half than that provided in the relevant section (section 336 *bis*).

(28) Whoever commits theft by means of violence or threat of immediate violence for the purpose of:

(i) Facilitating the theft or carrying away of any object;

(ii) Obtaining delivery of such object;

(iii) Holding such object;

(iv) Concealing the commisssion of the offence; or

(v) Escaping from arrest;

shall be held to commit robbery and shall be punished by imprisonment for 5-10 years and a fine of 10,000-20,000 baht.

If an offence is committed in such manner as provided in any subsection of section 335, the offender shall be punished by imprisonment for 10-15 years and a fine of 20,000-30,000 baht.

If the robbery causes bodily or mental harm to any other person the offender shall be pun-

ished by imprisonment for 10-20 years and a fine of 20,000-40,000 baht.

If the robbery causes grievous harm to any other person, the offender shall be punished by imprisonment for 15-20 years and a fine of 30,000-40,000 baht.

If the robbery causes death to any other person, the offender shall be punished by death or life imprisonment (section 339).

(29) If a robbery is committed on any thing under section 335 *bis*, first paragraph, the offender shall be punished by imprisonment for 7-15 years and a fine of 14,000-30,000 baht.

If the robbery is also committed in any place specified in section 335 *bis* second paragraph, the offender shall be punished by imprisonment for 10-20 years and a fine of 20,000-40,000 baht.

If a robbery under the first or second paragraph causes bodily or mental harm to any other person, the offender shall be punished by imprisonment for 15-20 years and a fine of 30,000-40,000 baht.

If a robbery under the first or second paragraph causes grievous harm to any other person, the offender shall be punished by life imprisonment or imprisonment for 15-20 years.

If a robbery under the first or second paragraph causes death to any other person, the offender shall be punished by death (section 339 *bis*).

(30) Whenever three or more persons participate in a robbery, every such person shall be held to commit gang robbery and shall be punished by imprisonment for 10-15 years and a fine of 20,000-30,000 baht.

If any of the offenders involved in a gang robbery carries any weapon, all offenders shall be punished by imprisonment for 12-20 years and a fine of 24,000-40,000 baht.

If the gang robbery causes grievous harm to any other person the offenders shall be punished by life imprisonment or imprisonment for 15-20 years.

If the gang robbery is committed by acts of cruelty which causes bodily or mental harm to any other person, by firing a gun, by using explosives or by acts of torture, the offenders shall be punished by life imprisonment or imprisonment for 15-20 years.

If the gang robbery causes death to any other person, the offenders shall be punished by death (section 340).

(31) If the gang robbery is committed on any thing under section 335 *bis*, first paragraph, the offenders shall be punished by imprisonment for 10-20 years and a fine of 20,000-40,000 baht.

If the gang robbery is also committed in any place specified in section 335 *bis*, second paragraph, the offenders shall be punished by imprisonment for 15-20 years and a fine of 30,000-40,000 baht.

If any of the offenders involved in a gang robbery under the first or second paragraph carries any weapon, all offenders shall be punished by life imprisonment or imprisonment for 15-20 years.

If a gang robbery under the first or second paragraph causes grievous harm to any other person, the offenders shall be punished by life imprisonment.

If a gang robbery under the first or second paragraph is committed by acts of cruelty which cause bodily or mental harm to any person by firing a gun, by using explosives of by acts of torture, the offender shall be punished by death or life imprisonment.

If a gang robbery under the first or second paragraph causes death to any other person, the offender shall be punished by death (section 340 *bis*).

(32) Whoever commits an offence under section 339, 339 *bis*, 340 or 340 *bis* by wearing a military or police uniform, dressing in such manner as to be taken for a soldier or policeman, carrying or using fire-arms or explosives or using a vehicle in order to commit the offence or take such an object away or evade arrest shall receive punishment graver by one half than that provided in the relevant section (section 340 *ter*).

B. Arrest, detention or exile

Ministerial Regulation (B.E. 2514 (1971)) issued under the Procedure concerning Relegation under the Penal Code, B.E. 2510 (1967).[12] The purpose of this Ministerial Regulation is to impose certain conditions for the suspension of relegation and to determine certain objects as prohibited objects under sections 12, 16 and 22 of the said Act.[13]

(1) The conditions for a person whose relegation is suspended are as follows:

(i) He must, within stipulated intervals, report to the relegation official, the probation officer of the Corrections Department or the administrative or police official of the locality where he is living as specified in the writ issued under (4);

(ii) He must not commit any criminal offence again;

(iii) He must not enter any prescribed area; unless he has received permission in writing from the competent official in (i) from time to time and in case of necessity;

(iv) He must not behave in a bad way;

(v) He must resume his occupation or must have an occupation which has been provided for him by another person with the approval of the competent official or by the competent official;

(vi) He must perform such activities of his religion as he should.

(2) The Director-General of the Corrections Department may impose on the person whose relegation is suspended only one or more of the conditions stipulated in (1), as may be suitable

[12] *Ibid.*, vol. 88, part 139, 14 December, B.E. 2514 (1971).

[13] *Ibid.*, vol. 84, part 127, 29 December, B.E. 2510 (1967).

to his character and conduct, and may amend or revoke any of them.

(3) There shall be a committee for considering suspension of relegation which shall comprise a chairman and other members totalling not less than three in number to be appointed by the Director-General of the Corrections Department from officials; the suspension of relegation for any person shall be made only with the approval of the aforesaid committee and the Director-General of the Corrections Department; in order for the committee to meet, the attendance of not less than one half of the total number of members is required and the approval of the committee shall require a majority of votes.

(4) When the Director-General of the Corrections Department approves suspension of relegation for any person, the competent official shall issue a writ to him and send a copy thereof to the administrative and police officials of the locality where he will be living for information.

(5) The conditions for suspension of relegation shall be stated in the writ issued under (4); and it shall be the duty of the person whose relegation is suspended to produce the writ to the relegation official, the probation officer of the Corrections Department or the administrative or police official when he is asked for it; if he has no writ to produce, the competent official may arrest him and send him to the relegation area; and, if his writ is lost or damaged, he shall, without delay, report and apply to Nai Amphoe of the locality for a copy thereof.

(6) The person whose relegation is suspended must strictly comply with the conditions stipulated; if he fails to do so, the Director-General of the Corrections Department may revoke suspension of relegation and inform the competent official or the administrative or police official to arrest him and send him to the relegation area.

(7) The following are prohibited under sections 13, 14 and 15:

(i) Opium, marijuana, rubiaceae, heroin, morphine or any similar harmful habit-forming thing;

(ii) Spirits;

(iii) Gambling equipment;

(iv) Escaping equipment;

(v) Tattooing equipment;

(vi) Weapons;

(vii) Explosives;

(viii) Living animals;

(ix) Documents which may cause any disturbance or be contrary to public order or good morals.

C. Fair trial

1. *Act repealing the Announcement of the Revolutionary Party No. 16, B.E. 2514 (1971).*[14] According to the Announcement of the Revolutionary Party No. 16 of 27 October, B.E. 2501 (1958),[15] all criminal offences under sections 107-135, 209-239, 282-285, 288-300, 334-340 and 357 of the Penal Code which have taken place as from 0600 hours on 28 October, B.E. 2501 (1958), have been placed under the jurisdiction of military courts, except cases to be tried by children's and juvenile courts (article 1); the Criminal Court and *changwat* courts shall be military courts (article 2); the Chief Judge of the Criminal Court, judges of the Criminal Court and judges of *changwat* courts shall be military judges (article 3); and the public prosecutors shall be military prosecutors (article 4). This Announcement was later amended by the Act amending the Announcement of the Revolutionary Party No. 16, B.E. 2504 (1961).[16] Under this Act, criminal offences under sections 291, 294-296, 299, 300, 334, 335 and 357 of the Penal Code were placed back under the jurisdiction of civilian courts. Then criminal offences under sections 209-216, 282-285, 288-290, 292, 293, 297, 298, 336-340 were placed back under the jurisdiction of civilian courts by the Act amending the Announcement of the Revolutionary Party No. 16 (No.2), B.E. 2507 (1964).[17] This Act repeals the aforesaid Announcement as amended by the two Acts referred to as from the day of its publication in the *Government Gazette* because it is no longer necessary to enforce it.

2. *Act repealing the Announcement of the Revolutionary Party No. 3, B.E. 2514 (1971)*[18] According to the Announcement of the Revolutionary Party No. 30 of 29 November, B.E. 2501 (1958),[19] the use of explosives for fishing, which is a violation of section 20 of the Fisheries Act, B.E. 2490 (1947),[20] and constitutes an offence punishable under section 62 *bis* of the Fisheries Act, B.E. 2490 (1947), as amended by the Fisheries Act (No. 2), B.E. 2496 (1953),[21] was placed under the jurisdiction of military courts; and the acquisition or possession of explosives for the aforesaid offence which constitutes an offence under any other Act was placed under the jurisdiction of military courts. The purpose of this Act is to place the said offences back under the jurisdiction of civilian courts because it is no longer necessary to have them tried and adjudicated by military courts.

3. *Act repealing the Royal Command empowering military courts to try and adjudicate more kinds of offences, B.E. 2514 (1971).*[22] The

[14] *Ibid.*, vol. 88, part 107, 8 October, B.E. 2514 (1971).

[15] *Ibid.*, vol. 75, part 85, 27 October, B.E. 2501 (1958).

[16] *Ibid.*, vol. 78, part 39, 2 May, B.E. 2504 (1961).

[17] *Ibid.*, vol. 81, part 20, 25 February, B.E. 2507 (1964).

[18] *Ibid.*, vol. 88, part 107, 8 October, B.E. 2514 (1971).

[19] *Ibid.*, vol. 75, part 101, 29 November, B.E. 2501 (1958).

[20] *Ibid.*, vol. 64, part 3, 14 January, B.E. 2490 (1947).

[21] *Ibid.*, vol. 70, part 61, 29 September, B.E. 2496 (1953).

[22] *Ibid.*, vol. 88, part 107, 8 October, B.E. 2514 (1971).

Royal Command empowering military courts to try and adjudicate more kinds of offences of 12 August, B.E. 2502 (1959),[23] was issued by virtue of section 7 of the Martial Law as amended by the Act amending the Martial Law (No. 5), B.E. 2502 (1959).[24] Under this Royal Command, offences under the opium and narcotics laws were placed under the jurisdiction of military courts as from 0600 hours on 13 August, B.E. 2502 (1959). The purpose of this Act was to place the said offences back under the jurisdiction of civilian courts as the situation becomes normal.

4. *Announcement of the NEC No. 2, of 17 November, B.E. 2514 (1971).*[25] The NEC proclaimed the enforcement of Martial Law all over the country as from 2011 hours on 17 November, B.E. 2514 (1971). Under this Announcement, all criminal offences under sections 107-135, 209-239, 282-285, 288-300, 334-340 *bis*, 357 and 360 *bis* of the Penal Code which have taken place as from 2011 hours on 17 November, B.E. 2514 (1971), are placed under the jurisdiction of military courts, except cases to be tried by the children's and juvenile courts (article 1); the Criminal Court and *changwat* courts shall be military courts (article 2); the Chief Judge and judges of the Criminal Court and the Chief Judges of the regions shall be military judges (article 3) and the public prosecutors shall be military prosecutors (article 4).

5. *Announcement of the NEC No. 12, of 22 November, B.E. 2514 (1971).*[26] The NEC places all cases involving offences under the laws on prevention of communist activities under the jurisdiction of military courts. The reason for this Announcement is that offences under the aforesaid laws are related to national security and public order.

6. *Announcement of the NEC No. 13, of 24 November, B.E. 2514 (1971).*[27] In cases involving offences which are placed under the jurisdiction of military courts by Announcements of the NEC, the NEC prohibits appeals against the judgements of military courts or the Military Court of Appeal.

D. Freedom of movement

Notification of the Ministry of the Interior No. 24/2514, of 7 December, B.E. 2514 (1971).[28] The Minister of the Interior, by Notification of the Ministry of the Interior No. 7/2512, of 19 December, B.E. 2512 (1969), determined areas in 36 *changwats* as communist subversive areas[29] for one year as from 26 December, B.E. 2512 (1969). The Minister later renewed the said Notification for another year as from 26 December, B.E. 2513 by the Notification of the Ministry of the Interior No. 10/2513, of 29 October, B.E. 2513 (1970). In addition, the Minister of the Interior, by Notification of the Ministry of the Interior No. 17/2514, of 8 February, B.E. 2514 (1971), determined the area of *Changwat* Kamphaeng Phet as a communist subversive area for one year as from 12 February, B.E. 2514 (1971). Now, the Under-Secretary of State for the Interior, exercising the authority of the Minister of the Interior issues, by virtue of section 14 of the Prevention of Communist Activities Act, B.E. 2495 (1952),[30] as amended by the Prevention of Communist Activities Act (No. 2), B.E. 2512 (1969),[31] extends the period of enforcement of the aforesaid Notifications for another year.

E. Right to own property

1. *Petroleum Act, B.E. 2514 (1971).*[32] Section 23 of the Act, which provides that "Petroleum belongs to the State; no person shall explore or produce petroleum in any area, whether such area is owned by him or by other persons, except by virtue of a concession", restricts the ownership of land. It is the exception to section 1335 of the Civil and Commercial Code, which provides that "Subject to the provisions of this Code or other laws, the ownership of land extends above and below the surface".

2. *Registration of Machinery Act, B.E. 2514 (1971).*[33] After registration under this Act, machinery shall be deemed movable property which is capable of being mortgaged under section 703 (4) of the Civil and Commercial Code, and the provisions of sections 1299, 1300 and 1301 of the Civil and Commercial Code shall apply *mutatis mutandis* (section 5).

3. *Announcement of the NEC No. 5 of 17 November, B.E. 2514 (1971).*[34] The NEC prohibits hoarding of or profiteering on merchandise. Any person who violates this Announcement shall be punished by as severe a penalty as the Chairman of the NEC may impose.

4. *Announcement of the NEC No. 16, of 9 December, B.E. 2514 (1971).*[35] The NEC pro-

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[23] *Ibid.*, vol. 76, part 79, 12 August, B.E. 2502 (1958).

[24] *Ibid.*, vol. 76, part 78, 11 August, B.E. 2502 (1958).

[25] *Ibid.*, vol. 88, part 124, 18 November, B.E. 2514 (1971).

[26] *Ibid.*, vol. 88, part 128, 22 November, B.E. 2514 (1971).

[27] *Ibid.*, vol. 88, part 130, 24 November, B.E. 2514 (1971).

[28] *Ibid.*, vol. 88, part 137, 9 December, B.E. 2514 (1971).

[29] A communist subversive area is a lacality in which the Director for the Prevention of Communist Activities may impose a curfew (section 15 (4)) under which no person shall enter nor resident thereof shall leave (section 17).

[30] *Government Gazette*, vol. 69, part 68, 13 November, B.E. 2495 (1952).

[31] *Ibid.*, vol. 86, part 14, 18 February, B.E. 2512 (1969).

[32] *Ibid.*, vol. 88, part 43, 23 April, B.E. 2514.

[33] *Ibid.*, vol. 88, part 44, 27 April, B.E. 2514.

[34] *Ibid.*, vol. 88, part 124, 18 November, B.E. 2514 (1971).

[35] *Ibid.*, vol. 88, part 137, 9 December, B.E. 2514 (1971).

hibits the use in any public thoroughfare, canal or river of any motor-car, motor bicycle or tricycle or motor boat, which emits so many fumes or makes so much noise that it is injurious to health or causes a nuisance to the public and exceeds the tolerable level allowed by the Traffic Officer or the Director-General of the Harbour Department (article 1). Any person who violates this Announcement shall be punished by a fine of 500 baht for a motor-car, 200 baht for a motor-boat or 100 baht for a motor-bicycle or tricycle and the Traffic Officer or the Director-General of the Harbour Department or a person designated by him may seize it or prohibit the use of it until the owner or the possessor has complied with this Announcement (article 3). Any person who, without a licence, uses a motor-car, motor-bicycle or tricycle or motor-boat the use of which has been prohibited shall be punished by a fine of 2,000 baht (article 4).

F. Freedom of opinion and expression

Announcement of the NEC No. 3, of 17 November, B.E. 2514 (1971).[36] In the last paragraph of this Announcement, the NEC stated that there would no press censorship, believing that the press would co-operate with the NEC by conscientiously giving to the public true and just information as well as creative and objective opinion. It further warned the press that it would be prevented from doing any thing which would have a bad effect and from giving false or unjust information to the public and that any newspaper which was the spokesman of any alien ideology which was dangerous to the country, religion or King or which tried to instigate national disunity, whether directly or indirectly, would be suppressed.

G. Right of association and assembly

Announcement of the NEC No. 4, of 17 November, B.E. 2514 (1971).[37] The NEC prohibits any political meeting of five or more persons everywhere, and any person who violates this Announcement shall be punished by imprisonment not exceeding 6 months or a fine not exceeding 1,000 baht, or both.

H. Right to take part in government and public service

1. *Royal Decree on the Election of a Member of the House of Representatives for the* Changwat *Phra Nakhon Constituency, B.E. 2514 (1971).*[38] As one member of the House of Representatives for *Changwat* Phra Nakhon died, an election of a member of the House of Representatives had to be held to fill the vacant seat within 90 days in accordance with sections 92 and 96 of the Constitution.

2. *Royal Decree on the Election of a Member of the House of Representatives for the* Changwat *Sukhothai Constituency, B.E. 2514 (1971).*[39] As one member of the House of Representatives for *Changwat* Sukhothai died, an election of a member of the House of Representatives had to be held to fill the vacant seat within 90 days in accordance with sections 92 and 96 of the Constitution.

III. Economic, social and cultural rights

A. Right to social security

Announcement of the NEC No. 15, of 2 December, B.E. 2514 (1971).[40] The purpose of this Announcement is to expedite relief service by amending sections 4, 5, 6, 7 and 8, adding section 6 *bis* and repealing sections 11 and 14 of the Act on Relief for Persons Suffering from the Performance of Service to the Government, to the Nation or for Humanity, B.E. 2497 (1954).[41] The amendments may be summarized as follows:

(1) Any person who has been injured and becomes either disabled through the amputation of arms or feet or deaf in both ears or blind or has been hurt so much that an officially certified physician who has examined him certifies that he is disabled so much that he cannot exert his physical or intellectual ability in his occupation as usual or has been hurt so much that he has become incapacitated or disabled on account of:

(i) Performing service to the Government;

(ii) Performing service to the nation as requested by the Government;

(iii) Helping other persons according to the duty imposed by law;

(iv) Performing service for humanity when such performance is not contrary to lawful orders by the competent officials;

shall receive relief payments unless the injury or harm has arisen from his gross negligence or his fault (section 4).

(2) There shall be a committee to be called the "Relief Committee" comprising the Under-Secretary of State for Finance as chairman, the Under-Secretaries of State for Defence, National Development and the Interior, the Secretary-General of the Office of the Prime Minister and the Comptroller-General as members and the Director of the Gratuities and Pensions Division of the Department of the Comptroller-General as member and secretary. The Committee shall have the power and duty:

(i) To consider the circumstances in which a person should be entitled to receive relief payments under the Act;

(ii) To determine the sum of relief payments as stipulated in (5);

[36] *Ibid.*, vol. 88, part 124, 18 November, B.E. 2514 (1971).

[37] *Ibid.*, vol. 88, part 124, 18 November, B.E. 2514 (1971).

[38] *Ibid.*, vol. 88, part 69, 29 June, B.E. 2514.

[39] *Ibid.*, vol. 88, part 75, 13 July, B.E. 2514 (1971).

[40] *Ibid.*, vol. 88, part 134, 2 December, B.E. 2514 (1971).

[41] *Ibid.*, vol. 71, part 16, 9 March, B.E. 2497 (1954).

(iii) To adopt such rules and other procedure as it deems proper.

In addition, the Committee shall have the power to appoint subcommittees to consider any matter which is within the scope of its power and duty as stipulated in (i) and (ii) (section 5).

(3) In order for the Committee to meet, the attendance of not less than one half of the total number of members is required so as to constitute a quorum. If the chairman is not present at any meeting or cannot perform his duty, the members who are present shall elect one of them to preside over such meeting. Decisions of the Committee shall be made by a majority of votes; each member shall have one vote; in case of an equality of votes, the chairman of the meeting shall cast another vote as a casting vote (section 6).

(4) Relief payments under this Act must be given within 90 days from the date on which an application is received, but the said period may be extended by 30 days each time. Consideration of applications for relief payments by the official agencies concerned and by the Committee, including the extension of the aforesaid period, shall be in accordance with the rules set forth by the Council of Ministers (section 6 *bis*).

(5) Relief payments under this Act shall be fixed by the Committee in view of the circumstances and the disability and shall be paid only once in a sum of money not less than 15,000 baht but not more than 50,000 baht for each case (section 7).

(6) In cases where the person who has been injured, has become sick or has been hurt as a result of the performance of the acts under (1) died on that account, the Committee shall consider and fix an appropriate sum of relief payments to be given to his heir or his dependant if he has no heir in accordance with the principles set forth in the law on gratuities and pensions for officials which is in force at the time, the sum being limited by (5) (section 8).

(7) A person who has been entitled to receive relief payments and other aids from the Government as a special pensioner before the date on which the Announcement of the NEC comes into force shall be entitled to receive monthly relief payments and other aids further, but he shall not be entitled thereto as from the date of final judgement when:

(i) He has been imprisoned by final judgement, except in cases where such punishment is for an offence committed through negligence or for a petty offence;

(ii) He has become a dishonest bankrupt under the law on bankruptcy.

A person who is entitled to receive monthly relief payments may apply to the Committee for a lump sum of relief payments. In such cases, the Committee shall fix a sum of relief payments under (5), deduct the total monthly relief payments received by him therefrom and then inform the applicant of the difference to be given to him. If he does not protest to the Committee within 30 days from the date on which he has been informed, it shall be deemed that his rights shall cease to exist. If he is not satisfied with the decision of the Committee, he may withdraw his application and apply for further monthly relief payments. The withdrawal of application shall be made within 30 days from the date on which he has received the decision of the Committee (article 8).

B. Right to work

Advocates Act (No. 2), B.E. 2514 (1971).[42] The purpose of this Act is to amend sections 4, 5, 6, 9, 10, 13 and 15 of the Advocates Act, B.E. 2508 (1965).[43] The amendment may be summarized as follows:

(1) Advocates are those who have been registered and licensed by the Bar Association to plead cases in courts and are divided into two classes: first-class and second-class advocates. A first-class advocate is entitled to plead cases in courts throughout the Kingdom. A second-class advocate is entitled to plead cases in courts of ten *changwats* as specified in his licence and to plead in the Appeal Court, and Dika Court[44] only those cases in which courts of first instance of the said *changwats* have given judgements or orders, as well as to plead in other courts where his case may be sent for the taking of testimony (section 4).

(2) A person who may be registered and licensed as a first-class advocate must have the following qualifications:

(i) Being of Thai nationality;

(ii) Being not less than 20 years of age;

(iii) Being an ordinary or extraordinary member of the Bar Association;

(iv) Being free from a socially objectionable contagious disease;

(v) Not being of bad conduct or lacking good morals and having no such record or not having committed such an act as to cast doubt on his integrity;

(vi) having no physical or mental defects which would impair his ability to practise law; and

(vii) Not being an official or local official who has a permanent salary and position or a political official (section 5).

(3) A person who may be registered and licensed as a second-class advocate must have the following qualifications:

(i) Being qualified under (i) (ii) (iv) (v) (vi) and (vii) of (2);

(ii) Having passed an examination arranged by the Bar Association or having a diploma or certificate of law from an educational institution in Thailand which, in the opinion of the Bar Association, has such standard of education as to warrant the holder of such diploma or certificate practising law; and

[42] *Ibid.*, vol. 88, part 44, 27 April, B.E. 2514 (1971).

[43] *Ibid.*, vol. 82, part 58, 24 July, B.E. 2508 (1965).

[44] Supreme Court.

(iii) Being an associate member of the Bar Association (section 6).

(4) A second-class advocate may, when a licence to plead a particular case in other areas has been obtained, plead in courts of *changwats* other than those specified in his licence and may plead in the Appeal Court and Dika Court as well as in other courts where his case may be sent for the taking of testimony. A second-class advocate may file an application for a licence to plead cases in any other area with the court under whose jurisdiction his office is located or with the Chief Judge of the court or Chief Judge of the Civil Court or Chief Judge of the Criminal Court under whose jurisdiction he intends to plead his cases. An application and a licence to plead cases in other areas shall be drawn up in accordance with the forms prescribed in a Ministerial Regulation (section 9).

(5) Subject to (1), a second-class advocate may apply for a change of one or more of such *changwats* (section 10).

(6) Fees for registration and licensing as advocates and fees for licence renewal and replacement shall be paid at the Bar Association by advocates with registered offices in *Changwat* Phra Nakhon and *Changwat* Thon Buri and at *changwat* courts by advocates with registered offices in the jurisdiction thereof; and fees for application and licence to plead cases in other areas shall be paid at the court with which the application is filed (section 13).

(7) An advocate shall have an office as specified in his application for registration and licensing as an advocate and the Bar Association shall have it recorded in the register of advocates. Only one office may be registered. The Bar Association may permit a second-class advocate to remove his registered office only to a new location in any of the *changwats* specified in his licence. A second-class advocate who has passed an examination arranged by the Bar Association may be permitted by the Bar Association to remove his registered office only where he has it registered for a period of not less than three years. Permission given by the Bar Association for an advocate to remove his registered office shall be recorded in the register of advocates and in his licence (section 15).

(8) The Minister of Justice shall take charge and control of the execution of the Act and shall have the power to issue Ministerial Regulations prescribing fees not exceeding the rates annexed to the Act and determining other activities for the execution of the Act. Such Ministerial Regulations shall come into force after their publication in the *Government Gazette* (section 43).

(9) Fees for application and licence to plead cases in other areas are prescribed in the schedule annexed to Advocates Act, B.E. 2508 (1965).

C. Standard of living adequate to health and well-being

Act repealing the Announcement of the Revolutionary Party No. 20, B.E. 2514 (1971).[45] The Announcement of the Revolutionary Party No. 20, of 31 October B.E. 2501 (1958),[46] prohibited any person who bought rice from the Ministry of Economic Affairs from selling it for a profit and prohibited any shop which was an agent of the Ministry or Economic Affairs from disposing of it other than by selling it to the public and from selling it at a higher price than that stipulated by the Ministry of Economic Affairs. Any person who violated this Announcement was deemed to have disobeyed a lawful order of the competent official under section 368 of the Penal Code and was subject to the jurisdiction of the military courts. This Act repeals the Announcement as from the day of its publication in the *Government Gazette* because it is no longer necessary to enforce it.

D. Right to education

1. *Ram Khamhaeng University Act, B.E. 2514 (1971).*[47] As a large number of students cannot enter universities because of inadequate facilities, the purpose of this Act is to establish a new liberal education and research institute to be called "Ram Khamhaeng University" (section 5). This university shall admit students without entrance examination; provided that they possess such qualifications as required by the University and (1) pass the senior secondary education examination or equivalent or (2) are third-grade civil officials or equivalent and upwards and pass the junior secondary education examination or equivalent or (3) are persons admitted by the University Board (section 11).

2. *King Mongkut Institute of Technology Act, B.E. 2514 (1971).*[48] As Thailand currently has a shortage of manpower in vocational training for economic development, it is necessary to expedite and promote vocational education by using qualified vocational teachers suitable for categories and levels of training. The purpose of this Act is to merge Northern Phra Naklon Technical College, Telecommunication College and Thon Buri Technical College, which are under the supervision of the Department of Vocational Education, Ministry of Education, and establish them as an institution of technology to be called "King Mongkut Institute of Technology", which shall be an educational and research institute for producing vocational teachers at the level of the bachelor degree and upwards, providing education in technology and sciences both below and at the level of the bachelor degree and upwards and doing research in technology and the sciences (section 5).

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[45] *Government Gazette,* vol. 88, part 86, 14 August, B.E. 2514 (1971).

[46] *Ibid.*, vol. 75, part 88, 1 November, B.E. 2501 (1958).

[47] *Ibid.*, vol. 88, part 24, 2 March, B.E. 2514 (1971).

[48] *Ibid.*, vol. 88, part 43, 23 April, B.E. 2514 (1971).

TRINIDAD AND TOBAGO

The Emergency Powers Act, 1971

Act No 29 of 1971, assented to on 29 October 1971 and to have effect only in the period of public emergency [1]

(Extracts)

...

3. (1) During the period of public emergency the Governor-General may, due regard being had to the circumstances of any situation arising or existing during such period, make regulations for the purpose of dealing with that situation, and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person by this act.

(2) Regulations made under subsection (1) may make provision with respect to all or any of the following matters that is to say—

(*a*) Censorship, and the control and suppression of publications, writings, maps, plans, photographs, communications and means of communications;

(*b*) Prohibiting or restricting the possession or use by any person or body of persons of any specified articles;

(*c*) Control of the harbours, ports and territorial waters of Trinidad and Tobago, and the movements of vessels;

(*d*) Transportation by land, air or water, and the control of the transport of persons and things;

(*e*) Trading, exportation, importation, production and manufacture;

(*f*) The taking, possession and disposal of any property which is in a dangerous state or injurious to the health of human beings, animals or plants;

(*g*) Amending any law, suspending the operation of any law, and applying with or without modification any law, other than the Trinidad and Tobago (Constitution) Order-in-Council, 1962;

(*h*) Authorising the search of persons and premises and the seizure of anything and its detention for so long as may be necessary for the purposes of any examination, investigation, trial or inquiry;

(*i*) Empowering such authorities or persons as may be specified in the regulations to make orders and rules and to make or issue notices, licences, permits, certificates or other documents for the purposes of the regulations;

(*j*) Charging, in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations such fees as may be prescribed by the regulations;

(*k*) The appropriation, or the taking of possession or control and the use of, or on behalf of the Government of any property or undertaking, save that any regulations made under this paragraph that make provision for the compulsory taking possession of, or the compulsory acquisition of any interest in or right over, property of any description shall require the payment of adequate compensation in that behalf;

(*l*) Requiring persons to do work or render services;

(*m*) The payment of remuneration to persons affected by the regulations and the determination of such remuneration;

(*n*) The apprehension, trial and punishment of persons offending against the regulations or against any law in force in Trinidad and Tobago, including the forfeiture of any property by way of penalty for such offence; and

(*o*) Prescribing anything by this Act required to be prescribed;

and any regulations made under the foregoing provisions of this section may contain such incidental and supplementary provisions as are regarded necessary or expedient for the purposes of the regulations.

(3) Such regulations may contain provisions for imposing on any person contravening the regulations, a fine recoverable on summary conviction of five thousand dollars or imprisonment for two years.

4. (1) Until regulations otherwise provide, the Commissioner of Police is hereby authorized to exercise the following powers—

[1] Text furnished by the Government of Trinidad and Tobago.

(*a*) To prohibit or restrict the possession or use by any person or body of persons of any specified articles;

(*b*) To impose on any person any restrictions in respect of his employment or business, in respect of his place of residence, and in respect of his association or communication with other persons;

(*c*) To prohibit any person from being out of doors between such hours as may be specified, except under the authority of a written permit granted by such authority or person as may be specified;

(*d*) To require any person to notify his movements in such manner, at such times, and to such authority or person as may be specified;

(*e*) To prohibit any person from travelling except in accordance with permission given to him by such authority or person as may be specified;

(*f*) To require any person to quit any place or area or not to visit any place or area.

(2) The powers conferred by subsection (1) may be exercised by Order, and except where the Order is directed to a particular person the Order shall be published in the *Gazette*.

5. If at any time it is impossible or impracticable to publish in the *Gazette* any regulation, notice or Order in pursuance of this act, the Governor-General or the Commissioner of Police may cause the same to be published by notices thereof affixed to public buildings or distributed amongst the public or by oral public announcements.

6. (1) No person shall be liable to any suit or action in respect of any act done under lawful direction and authority pursuant to the provisions of this act, but the Governor-General may in his discretion order that compensation shall be paid to any person upon being satisfied that such person has suffered loss or damage by reason of the exercise of any powers conferred by section 3 other than subsection (2) *k* thereof and section 4.

(2) Compensation ordered to be paid under subsection (1) is hereby charged upon and shall be paid out of the Consolidated Fund.

7. (1) Except with the prior permission in writing of the Commissioner of Police, the grant of which shall be in his discretion, no person shall hold or take part in any public march or in any public meeting.

(2) Nothing in this section shall apply to any meeting of a class or description referred to in the First Schedule.

(3) Notwithstanding any exception of marches and processions provided for in paragraphs *c* and *d* of the definition of "public march" in section 2 (1), the Commissioner of Police may prohibit any such march or procession in a public place if, having regard to the time at which and the circumstances in which the march or procession is held or is to be held, he has reasonable ground for apprehending that the holding of such march or procession may occasion a breach of the peace or public disorder.

(4) The grant of any permission under this section may be subject to such terms and conditions as the Commissioner of Police may think fit for giving effect to this act.

8. (1) No person shall enter any protected place unless he is authorized by the occupier thereof or by the Senior Police Officer of the Division in which that place is situate.

(2) Where in pursuance of this act any person is granted permission to be in a protected place that person shall, while acting under such permission, comply with such directions for regulating his conduct as may be given by the person granting the permission; and any police officer or any person authorized in that behalf by the occupier of the protected place may search any person entering or seeking to enter or being in or upon that place and may detain any such person for the purpose of searching him.

(3) If any person is in a protected place in contravention of this act, or while in such a place fails to comply with any direction given under this act, then, without prejudice to any other penalty, he may be removed from that place by any police officer or any person authorized in that behalf by the occupier of the premises.

(4) In this act "protected place" means a place specified by the Commissioner of Police as a protected place by a notice displayed at such place or by notice published in the *Gazette*.

9. (1) Subject to the provisions of section 12, any person who, without lawful authority, the burden of proof as to lawful authority lying upon him, purchases, acquires or has in his possession any firearm, ammunition or explosive is guilty of an offence.

(2) A person who consorts with or is found in the company of another person who, without lawful authority, has in his possession any fire-arm, ammunition or explosive in circumstances which raise a reasonable presumption that he intends or is about to act or has recently acted with such other person in a manner prejudicial to public order or public safety, is guilty of an offence and is liable on summary conviction to a fine of 1,000 dollars or to imprisonment for one year or to both such fine and imprisonment.

(3) In any prosecution for an offence under this section—

(*a*) A person who is proved to have had in his possession or under his control anything whatsoever in or on which is found any fire-arm, ammunition or explosive shall, until the contrary is proved, be deemed to have been in possession of such fire-arm, ammunition or explosive;

(*b*) Where it is established to the satisfaction of the magistrate that a person accused under subsection (2) was consorting with or in the company of any person who had in his possession any fire-arm, ammunition or explosive, it shall be presumed, until the contrary is proved, that such last-mentioned person had the same in his possession without lawful authority.

10. (1) Subject to the provisions of section 18, a police officer may stop and search any person whom he finds in any street or other public place and reasonably suspects of having any fire-arm, ammunition or explosive in his possession con-

trary to section 9 or of having committed or being about to commit any other offence prejudicial to public safety or order.

(2) A police officer acting under subsection (1) may seize and detain any fire-arm, ammunition, explosive or other article found in the person's possession, custody or control and in respect of which or in connection with which he has reasonable grounds for suspecting any offence referred to in that subsection has been or is about to be committed.

11. Any fire-arm, ammunition, explosive or other article seized and detained by a police officer as mentioned in the provisions of section 10(2) found by him without apparent owner, may be retained for as long as is necessary for the purpose of any examination, investigations, inquiries or legal proceedings; and a magistrate may, upon application made in such proceedings, direct such fire-arm, ammunition or explosive to be forfeited or otherwise disposed of as he considers just.

12. No person who surrenders any fire-arm, ammunition or explosive during any period that is prescribed, and otherwise in accordance with such regulations, shall be prosecuted under the Fire-arms Act, 1970 or section 9 for illegally purchasing, acquiring or possessing such fire-arm, ammunition or explosive prior to the time of such surrender or at the time.

13. No person shall have in his possession or under his control any document of such a nature that the dissemination of copies thereof is likely to lead to a breach of the peace or to cause disaffection or discontent among persons.

14. (1) No person shall—

(*a*) Endeavour, whether orally or otherwise, to influence public opinion in a manner likely to be prejudicial to public safety and order; or

(*b*) Do any act or have any article in his possession with a view to making or facilitating the making of any such endeavour.

(2) No person shall in any public place or in any vehicle make use of any instrument for the amplification of sound except with the permission of the Commissioner of Police.

(3) No person shall on any premises in his occupation or under his control make use of or cause or permit any person to make use of any instrument for the amplification of sound whereby reports or statements may be heard from or about such premises by members of the public except with the permission of the Commissioner of Police.

15. Notwithstanding any rule of law to the contrary, a police officer may without warrant and with or without assistance and with the use of force, if necessary—

(*a*) Enter and search any premises;

(*b*) Stop and search any vessel, vehicle or individual whether in a public place or not,

if he suspects that any evidence of the commission of an offence against sections 9, 13 and 14 is likely to be found on such premises, vessel, vehicle or individual and may seize any evidence so found.

16. (1) Notwithstanding any rule of law to the contrary a police officer may arrest without warrant any person who he suspects has acted or is acting or is about to act in a manner prejudicial to public safety or to public order or to have committed or is committing or is about to commit an offence against this act or the regulations; and such police officer may take such steps and use such force as may appear to him to be necessary for effecting the arrest or preventing the escape of such person.

(2) Subject to this act a person arrested by a police officer under subsection (1) may be detained in custody for the purposes of inquiries.

(3) No person shall be detained under the powers conferred by this section for a period exceeding 24 hours except with the authority of a magistrate or of a police officer not below the rank of Assistant Superintendent on either of whose direction such person may be detained for such further period not exceeding seven days as in the opinion of such magistrate or police officer, as the case may be, is required for the completion of the necessary inquiries, except that no such direction shall be given unless such magistrate or police officer, as the case may be, is satisfied that such inquiries cannot be completed within a period of 24 hours.

17. The provisions of the Second Schedule shall have effect for the purpose of the preventive detention of persons.

18. Whenever under this act a female is searched, the search shall be made by another female.

19. (1) Notwithstanding any rule of law to the contrary but subject to this act, no bail shall be allowed in the case of any person charged with an offence involving a breach of the peace or any offence against the person or property or against this act or any regulations, orders, instructions or directions made thereunder, if it is shown to the satisfaction of a magistrate or a justice of the peace that it is reasonably apprehended that the person charged is likely to engage or to incite persons to engage in the commission of an offence against public order, public safety or defence.

(2) The writ of *habeas corpus* shall not lie in the case of any person denied bail under subsection (1) or detained under section 16 or in respect of whom a detention order is in force under the provisions of the Second Schedule and no jurisdiction to grant bail in the case of such denial shall be exercised by any judge of the Supreme Court under any rule of law or other authority.

(3) Upon the cessation of this act nothing in this section shall be treated as continuing to have effect, in consequence of the continuance of any prosecution for an offence hereunder or for any other reason.

20. Notwithstanding any other law to the contrary any court exercising jurisdiction with respect to any offence may exclude the accused or

any other person from the said proceedings in the event of his misconducting himself by so interrupting the court as to render the continuance of the trial in his presence impracticable.

21. The person driving or in control of any vehicle in motion on a road shall stop that vehicle on being required so to do by a police officer in uniform.

22. Without prejudice to any liability to prosecution for an offence under any other law, a person who contravenes any of the provisions of this act is guilty of an offence and, except where the provision by or under which the offence is created provides the penalty to be imposed, is liable on summary conviction to a fine of 5,000 dollars or to imprisonment for three years or to both such fine and imprisonment.

23. (1) Notwithstanding any rule of law to the contrary, the Commander of the Defence Force established under the Defence Act, 1962, shall hold his forces in readiness to assist, and if called upon by the Commissioner of Police shall cooperate with and assist, the Commissioner of Police in the performance of his duties under this act and the regulations.

(2) A member of the Defence Force referred to in subsection (1) shall, for all the purposes of this act, have the powers of a police officer and shall, where acting in accordance with any general or special instructions of the Commander of the Defence Force or of any superior officer of that Force given in pursuance of subsection (1), be deemed to be acting in performance of the duties imposed on a police officer by this act or the regulations.

(3) A request of the Commissioner of Police for assistance under subsection (1) may be made generally or with reference to some particular occasion or for some specified purpose.

24. (1) Notwithstanding any rule of law to the contrary it is hereby declared—

(*a*) That all proclamations, regulations, orders, including detention orders, notices, permits, directions and instructions made or given by the Governor-General, the Minister or the Commissioner of Police during the period of public emergency, and

(*b*) That all acts and things done in pursuance thereof,

shall in all respects be deemed to have been lawfully, validly and properly made, given or done, as the case may be, and save as is provided for by this act with respect to compensation in certain cases, no action or other legal proceedings of any kind whatever, whether now pending or not, shall be entertained in respect of, or in consequence of, any such acts or things.

(2) All proclamations, orders, including detention orders, notices, permits, directions, instructions, authorities and other documents made, given or issued during the period of public emergency and before the commencement of this act shall, unless previously revoked, cancelled or rescinded, continue and be deemed to continue to have full force and effect as if made under or by virtue of this act.

25. This act shall cease to have effect on the expiration of the period of public emergency, unless sooner determined by Proclamation of the Governor-General in accordance with section 8 of the Constitution and published in the *Gazette*, and such Proclamation may relate to any particular section or part thereof.

First schedule

Section 7(2)

Meetings exempted from section 7(1)

1. Religious services or meetings held under the authority of the head of any religious denomination or of the Salvation Army.

2. Educational classes and recreation in schools or other educational institutions.

3. *Bona fide* cinematograph, musical and theatrical entertainments, dancing, beauty competitions or other similar cultural shows.

4. *Bona fide* horse racing, cricket, football, hockey, polo, water polo, basketball, netball, tennis, boxing, athletics, swimming and other *bona fide* sports.

5. Meetings organized by or on behalf of any *bona fide* youth organization which is not organized for any political purpose or is not connected with any political organization.

Second schedule

Section 17

Preventive detention

1. In this Schedule—

"Chairman" means the Chairman of the Tribunal;

"Detainee" means any person who is detained under paragraph 3;

"Detention order" means an order made under paragraph 2;

"Legal adviser" or "legal representative", in relation to any person, means and adviser or representative of that person, respectively, entitled to practise in Trinidad and Tobago as a barrister or solicitor;

"Minister" means the member of the Cabinet to whom responsibility for National Security is assigned;

"The Tribunal" means the Tribunal established by paragraph 5.

2. (1) Subject to the provisions of paragraph 4, the Minister may if satisfied with respect to any person that, with a view to preventing him acting in any manner prejudicial to public safety or public order or the defence of Trinidad and Tobago, it is necessary to provide for his preventive detention, make an order—

(*a*) Directing that he be detained; and

(*b*) Stating concisely the grounds for such detention, so, however, that no defect of any kind in such statement shall invalidate the order.

(2) Every order under subparagraph (1) shall come into force upon the making thereof, notice of which shall be published in the *Gazette* within seven days after its coming into force.

3. (1) Any person in respect of whom a detention order is in force may be arrested without warrant by any police officer and may be detained in such place and under such conditions as the Minister may from time to time direct, and shall, while so detained be deemed to be in lawful custody.

(2) A person who, being in lawful custody under this Schedule, escapes or attempts to escape from that custody, is guilty of an offence, and any person who aids, abets or assists a person being in lawful custody under this Schedule to escape from that custody, or who harbours, assists or comforts any person who has escaped such custody, is guilty of an offence.

(3) As soon as practicable after any person is arrested in pursuance of a detention order, a copy thereof certified under the hand of the Permanent Secretary to the Minister shall be served by a police officer on such person and the statement therein which is referred to in paragraph 2(1) (*b*) shall be communicated to him in a language that he understands and he shall, in such language, be informed of his right, at his own expense, to retain and instruct without delay a legal adviser of his own choice and to hold communication with such adviser without their being overheard by anyone else and, in due course, to present his case, in person or by his legal representative, before the Tribunal.

(4) The Minister may give directions—

(*a*) As to the internal management of and otherwise in connection with any such place as mentioned in subparagraph (1);

(*b*) As to the maintenance of detainees and, in writing, for regulating the discipline and punishment for breaches of discipline of detainees;

(*c*) In writing authorizing the taking of a detainee to any place where the Minister is satisfied his presence is required in the interests of justice, or for the purpose of any public or other inquiry or in the public interest, or in the interests of the detainee;

(*d*) As to the keeping of a detainee in custody (which shall be deemed lawful) during his absence pursuant to clause (*c*) of this subparagraph from the usual place of his detention;

(*e*) For the supply of money, food or clothing, or the means of travelling, to detainees on their release.

4. Where a person is detained by virtue of the provisions of this Schedule, his case shall be reviewed by the Tribunal established under paragraph 5 in accordance with the following provisions, if he so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period.

5. (1) For the purposes of paragraph 4 there shall be and there is hereby established a Tribunal.

...

The Sedition (Amendment) Act, 1971 to amend the Sedition Ordinance, Ch. 4. No. 6

Act No. 36 of 1971, assented to on 13 December 1971 and to have effect notwithstanding sections 1 and 2 of the Constitution [2]

(Extracts)

...

5. (1) Section 4 of the Ordinance is amended by repealing and replacing subsections (1) and (2) thereof as follows and by renumbering subsection (3) thereof as subsection (4):

4. (1) A person is guilty of an offence who—

(*a*) Does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention:

(*b*) Communicates any statement having a seditious intention;

(*c*) Publishes, sells, offers for sale or distributes any seditious publication;

(*d*) With a view to its being published prints, writes, composes, makes, reproduces, imports or has in his possession, custody, power, or control any seditious publication.

(2) Subject to subsection (3), a person guilty of an offence under this section is liable—

(*a*) On a summary conviction to a fine not exceeding 1,500 dollars or to imprisonment for two years or to both such fine and imprisonment; or

(*b*) On conviction on indictment to a fine not exceeding 10,000 dollars or to imprisonment for five years or to both such fine and imprisonment, and any seditious publication, the subject matter of the charge, shall be forfeited.

(3) Notwithstanding any other enactement to the contrary where a person is charged summarily with an offence under this section the magistrate shall—

(*a*) Inform him that he may, if he so requires, be tried indictably by a jury instead of being tried

[2] *Ibid.* For extracts from the Constitution of Trinidad and Tobago, see *Yearbook on Human Rights for 1962*, pp. 294-299.

summarily and explain to him what is meant by being tried summarily; and

(*b*) After so informing him ask him whether he wishes to be tried indictably by a jury or consents to be tried summarily, and if the person charged requests to be tried indictably, the magistrate shall proceed with the matter as if it was a preliminary enquiry.

(2) Section 4(4) of the Ordinance as renumbered is amended by inserting immediately before the words "importing or having a seditious publication" the word "communicating," and by inserting the words "or statement" immediately after the word "publication" wherever that word occurs in the subsection.

. . .

9. The Ordinance is amended by adding at the end thereof the following new sections:

"11. No prosecution for an offence under section 4 shall be begun except within 12 months after the offence is committed.

12. No person shall be convicted of an offence under section 4 on the uncorroborated testimony of one witness.

13. If a magistrate is satisfied by information on oath that there is reasonable cause to believe that an offence under this Ordinance has been or is about to be committed he may grant a search warrant authorizing any police officer to enter any premises or place named in the warrant, with such assistance as may be necessary, and if necessary by force, and to search the premises or place and every person found therein and to seize anything found on the premises or place which the officer has reasonable ground for suspecting to be evidence of an offence under this Ordinance."

. . .

TUNISIA

Act No. 71-12 of 9 March 1971 amending Articles 63 and 65 of the Tunisian Nationality Code *

Sole article. Articles 63 and 65 of the Tunisian Nationality Code shall be amended to read as follows:

Article 63 (amended). The Minister of Justice shall alone be qualified to issue a certificate of Tunisian nationality to any person proving his right to that nationality.

However, diplomatic and consular officials representing Tunisia abroad and district judges of the applicant's place of residence, with the exception of the district judge of Tunis, shall have authority to issue the said certificate when nationality is established under articles 6 to 10 of this Code.

Article 65 (amended). If the Minister of Justice, the diplomatic and consular officials representing Tunisia abroad or the district judges refuse to issue a certificate of nationality, the person concerned may appeal to the competent Court of First Instance, in accordance with art. 48 *et seq.* of this Code.

If the authorities mentioned in the preceding paragraph do not reply within a month of the request, this shall be taken to constitute a refusal.

This Act shall be published in the *Journal officiel de la République tunisienne* and executed as a law of the State.

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* *Journal officiel de la République tunisienne,* No. 11, 9 March 1971. For extracts from the Tunisian Nationality Code, see *Yearbook on Human Rights for 1963*, pp. 310-313.

TURKEY

Revision of the Constitution of the Republic of Turkey amending certain articles thereof and adding transitional provisions

Act No. 1488, date of adoption: 20 September 1971 *

ARTICLE 1

Articles 11, 15, 19, 22, 26, 29, 30, 32, 38, 46, 60, 61, 64, 89, 110, 111, 114, 119, 120, 121, 124, 127, 134, 137, 138, 139, 140, 141, 143, 144, 145, 147, 149, 151 and 152 of the Constitution of the Republic of Turkey are amended as follows:

II. *Essence of fundamental rights and freedoms, limitations on such rights and freedoms and provisions to prevent their abuse*

Article 11. Fundamental rights and freedoms may be restricted only by law in conformity with the letter and spirit of the Constitution for the purpose of protecting the integrity of the State as comprised by its territory and its people, the national security of the Republic, public order, the public interest, public morality and public health or for special reasons indicated in other articles of the Constitution.

The law shall not violate the essence of fundamental rights and freedoms.

None of the rights and freedoms set forth in this Constitution may be used for the purpose of abolishing human rights and freedoms or destroying the indivisible integrity of the Turkish State as comprised by its territory and its people or for the purpose of abolishing the Republic whose characteristics are described in the Constitution on the ground of discrimination in respect of language, race, class, religion or religious denomination.

The penalty for actions or conduct contrary to these provisions shall be specified by law.

II. *Protection of privacy*

(*a*) Privacy of personal life

Article 15. The privacy of the individual's personal life is inviolable. Exceptions as necessitated by legal proceedings shall be allowed.

Save in cases specified by law and pursuant to a decision duly rendered by a court, or in cases where delay is deemed dangerous to national security or public order and pursuant to an order issued by an agency authorized by law, neither the individual nor his private papers or possessions may be searched or seized.

IV. *Right and freedom of thought and belief*

(*a*) Freedom of conscience and religion

Article 19. Everyone is entitled to freedom of conscience and of religious belief and opinion.

Freedom of religious worship, rites and ceremonies is ensured, provided they are not in conflict with public order or morality or with the laws enacted for the protection thereof.

No one shall be compelled to take part in religious worship, rites or ceremonies or to disclose his religious beliefs and opinions. No one shall be reproached for his religious beliefs or opinions.

Religious education and instruction shall be provided only if it is desired by the individuals concerned, or, in the case of children, by the persons who represent them before the law.

No one shall, in any manner whatsoever, exploit or abuse religion, religious sentiments or things sacred to religion for the purpose of basing the fundamental social, economic, political or legal order of the State, wholly or in part, on religious principles or of securing political or personal advantage or influence. Any individual who or body corporate which violates this prohibition or induces others to do so shall be subject to the provisions specified by law; in the case of political parties, they shall be dissolved by order of the Constitutional Court.

VI. *Provisions governing the press and broadcasting*

(*a*) Freedom of the press

Article 22. The press is free; it shall not be subject to censorship.

The State shall take measures to ensure freedom of the press and freedom of information.

Freedom of the press and of information may be restricted by law only in order to protect the

* Published and promulgated in the *Official Gazette*, No. 13964, 22 September 1971.

integrity of the State as comprised by its territory and its people, public order, national security and the secrecy required for the maintenance of national security, or public morality, to prevent attacks upon the dignity, honour and rights of individuals, to prevent instigation to criminal acts and to ensure the proper exercise of judicial functions.

With the exception of decisions rendered by a court, within the limits prescribed by law, for the purpose of ensuring the proper exercise of judicial functions, no ban shall be imposed on the publicizing of events.

Newspapers and periodicals published in Turkey may be confiscated by decision of a court in the case of the commission of offences specified by law and by order of an agency specifically authorized by law in cases where delay is deemed prejudicial to the protection of the integrity of the State as comprised by its territory and its people, national security, public order and public morality. The authorized agency issuing the confiscation order shall notify the appropriate court of such order within 24 hours. If the court does not approve the order within three days, the confiscation order shall be deemed null and void. Newspapers and periodicals published in Turkey may be banned by decision of a court in the event of a conviction for publishing material which is prejudicial to national security, public order, public morality and the human rights and freedoms constituting the foundations on which the national democratic, secular and social Republic rests or to the basic principle of the indivisibility of the State as comprised by its territory and its people.

(*e*) Right to make use of means of communication other than the press

Article 26. Individuals and political parties have the right to avail themselves of means of communication and of dissemination of information other than the press which are owned by public corporations. The conditions and procedures for the exercise of this right shall be regulated by law in conformity with democratic principles and standards of equity. The law shall impose no restrictions preventing such facilities from being used by the public to obtain information or form ideas and opinions or from being used freely to shape public opinion for any reason except the protection of the integrity of the State as comprised by its territory and its people, the national, democratic, secular and social Republic based on human rights, national security and public morality.

(*b*) Right to form associations

Article 29. All persons have the right to form associations without obtaining prior authorization. The methods and procedures to be applied in exercising this right shall be specified by law. The law may impose restrictions for the purpose of protecting the integrity of the State as comprised by its territory and its people, national security, public order and public morality.

No one shall be compelled to become or remain a member of an association.

Associations may be banned by decision of a court in circumstances specified by law. Pending such court decision, they may be restrained from carrying on their activities by order of an agency specifically authorized by law in cases where delay is deemed prejudicial to the protection of the integrity of the State as comprised by its territory and its people, national security, public order and public morality.

VIII. *Provisions relating to the protection of rights*

(*a*) Personal security

Article 30. If there are substantial grounds for believing that a person is guilty of a criminal offence, he may be arrested, by decision of a court, only in order to prevent escape or the destruction or alteration of evidence, or in other circumstances likewise necessitating arrest and specified by law. The same conditions shall apply in respect of a decision to prolong custody.

Arrest without warrant shall be permitted only *in flagrante delicto* or in urgent cases; the conditions governing such arrest shall be specified by law.

A person who has been arrested shall be notified immediately in writing of the reasons for his arrest and of the charges against him.

A person who has been arrested shall be brought before a judge within 48 hours or, in cases of collective crimes in circumstances clearly specified by law, seven days, exclusive of the time required to transport him to the court nearest the place of his arrest; in the absence of a court decision, he may not continue to be deprived of his freedom after this period has elapsed. When the arrested person is brought before the judge, his next-of-kin shall be notified immediately.

The State shall pay compensation for any damages sustained by persons subjected to treatment which is contrary to these principles.

(*c*) Court having jurisdiction

Article 32. No one shall be made to appear before a body other than the court to which the law assigns him.

Extraordinary authorities having judicial powers by virtue of which a person could be brought before a body other than the court to which the law assigns him shall not be established.

(*c*) Expropriation

Article 38. Where necessitated by the public interest, the State and public corporations shall be empowered to expropriate immovable property under private ownership, in whole or in part, in accordance with the principles and procedures specified by law, and to impose an administrative servitude thereon, provided that the equivalent value is paid in advance in cash.

Where the immovable property is expropriated in its entirety, the equivalent value to be paid shall not exceed the value as assessed for tax purposes which the owner of the property declares in the form and manner specified by law; where it is expropriated in part, the equivalent to be paid shall not exceed that part of such assessed value which corresponds to the part expropriated.

If the recompense fixed for the expropriated immovable property is lower than the assessed value thereof, the owner shall have the right to object and to sue.

The form of payment of the recompense for immovable property expropriated for the purpose of enabling farmers to own land, for the nationalization of forest, for reafforestation and for the implementation of settlement projects, and the form of payment for land expropriated for the purpose of protecting the coast and promoting tourism, shall be specified by law.

Where the law provides for payment by instalments, the payment period in respect of immovable property expropriated for the purpose of enabling farmers to own land, for the nationalization of forests, for reafforestation and for the implementation of settlement projects shall be 20 years; the payment period in respect of immovable property expropriated for the purpose of protecting the coasts and promoting tourism shall not exceed 10 years. In such cases, the instalments shall be paid in equal amounts and shall be subject to interest rates prescribed by law.

In the case of the expropriation of land worked by the proprietor himself, payment for that part of the land which he requires to enable him to make a living in accordance with standards of equity, such part to be specified by law, shall in all circumstances be made in advance in cash, as shall payment for land expropriated from small farmers.

(*e*) The right to establish trade unions and employers' associations

Article 46. Workers and employers have the right to establish trade unions and employers' associations and federations of such trade unions and employers' associations without prior authorization, and the right freely to become members thereof or to resign from membership therein. The methods and procedures to be applied in exercising this right shall be specified by law. The law may impose restrictions for the purpose of protecting the integrity of the State as comprised by its territory and its people, national security, public order and public morality.

The regulations, administration and operation of trade unions and employers' associations and federations thereof shall not be in conflict with democratic principles.

V. *Service to the fatherland*

Article 60. Service to the fatherland is the right and duty of every Turk. The manner in which this duty shall be performed, in the Armed Forces or in the public services, shall be regulated by law.

VI. *Tax obligation*

Article 61. Everyone shall have the obligation to pay taxes, in accordance with his financial capacity, for the purpose of defraying public expenses.

Taxes, dues, charges and similar financial obligations shall be imposed only by law.

The Council of Ministers may be empowered to amend the provisions concerning exemptions and exceptions in respect of taxes dues and charges and the amounts and limits of such taxes, dues and charges, provided such amendments are reasonable, conform to the relevant principles and do not exceed the upper and lower limits specified by law.

II. *Functions and powers of the Turkish Grand National Assembly*

(*a*) General provisions

Article 64. The Turkish Grand National Assembly is empowered to enact, amend and repeal laws, to consider and adopt draft legislation concerning the State budget and final accounts, to take decisions concerning the issuance of currency, the proclamation of amnesties and pardons and the execution of death sentences imposed and confirmed by the courts.

The Turkish Grand National Assembly may empower the Council of Ministers, by law, to issue legislative decrees with respect to certain matters. The act conferring such power must specify the purpose, scope and elements of the decrees to be issued, the period during which such power is to be exercised and the legal provisions which are to be invalidated, and each such legislative decree must specify the act by which such power has been conferred.

Such decrees shall enter into force on the day on which they are published in the *Official Gazette*. However, a later date may be specified in the decree as the date of its entry into force. Such decrees shall be submitted to the Turkish Grand National Assembly on the day on which they are published in the *Official Gazette*.

The acts conferring such power and the decrees submitted to the Turkish Grand National Assembly shall be debated and decided upon in accordance with the rules concerning debate on legislation set forth in the Constitution and in the regulations of the legislative chambers; however, both in committees and in plenary meetings they shall take precedence over other draft laws and proposals and shall be decided upon as a matter of urgency.

Decrees which are not submitted to the Turkish Grand National Assembly on the date on which they are published shall become null and void on that date. Decrees which are rejected by the Turkish Grand National Assembly shall become null and void on the date on which the decision rejecting them is published in the *Official Gazette*. Where decrees are amended and subsequently adopted, the amended provisions shall enter into force on the day on which such amendments are published in the *Official Gazette*.

The fundamental rights and freedoms set forth in Part Two, sections One and Two, of the Constitution and the political rights and obligations set forth in Section Four shall not be subject to regulation by legislation decrees. In addition, the Constitutional Court shall review the constitutionality of such decrees.

(*b*) Interpellation

Article 89. The power of interpellation shall be vested exclusively in the National Assembly. Motions for interpellation shall be submitted on

behalf of a political party group or with the signatures of at least 10 deputies.

The question whether a motion for interpellation is to be placed on the agenda shall be debated not later than the third meeting following its submission. In such debates, only one of the deputies submitting the motion, one deputy acting on behalf of each political party group, or the Prime Minister or another Minister acting on behalf of the Council of Ministers may speak.

The rules of procedure shall make provision for the prior printing and circulation, as appropriate, of motions for interpellation and for the orderly conduct of the activities of the Assembly.

The date on which the interpellation is to be conducted shall be announced together with the decision to place the item on the agenda.

The interpellation may not be conducted before the lapse of two days following the date of the decision to place it on the agenda and may not be delayed for more than seven days.

If during the interpellation motions of no confidence accompanied by statements of the reasons on which they are based are submitted by members or the Council of Ministers requests a vote of confidence, they shall be put to the vote after the lapse of one full day.

An absolute majority of the full membership shall have the power to require the resignation of the Council of Ministers or of a Minister.

VIII. *National defence*

(*a*) The office of Commander-in-Chief and the office of Chief of the General Staff

Article 110. The office of Commander-in-Chief is integrated in spirit with the Turkish Grand National Assembly and is represented by the President of the Republic.

The Council of Ministers shall be responsible to the Turkish Grand National Assembly for ensuring national security and preparing the armed forces for war.

The Chief of the General Staff is the Commander of the Armed Forces.

The Chief of the General Staff shall be appointed by the President of the Republic on the proposal of the Council of Ministers; his functions and powers shall be regulated by law. In the exercise of such functions and powers, the Chief of the General Staff shall be responsible to the Prime Minister.

The functions and powers of the Ministry of National Defence and its relations with the office of Chief of the General Staff and the offices of Commander of each of the Armed Forces shall be regulated by law.

(*b*) The National Security Council

Article 111. The National Security Council shall consist of the Prime Minister, the Chief of the General Staff, the ministers specified by law and the Commanders of the Armed Forces .

The President of the Republic shall preside over the National Security Council; in his absence, this function shall be discharged by the Prime Minister.

The National Security Council shall make the necessary basic recommendations to the Council of Ministers concerning the adoption of decisions and the ensuring of co-ordination with respect to national security.

(*c*) Legal remedies

Article 114. Legal remedies shall be available against any act or procedure of the Administration, of whatever kind.

Judicial power shall not be exercised in such a way as to restrict the carrying out of executive functions in the manner and in accordance with the principles specified by law. Judicial decisions which are in the nature of administrative acts and procedures shall not be taken.

In court actions instituted because of procedures of the Administration the period of limitation shall run from the date of written notification.

The Administration shall be liable for damages resulting from its acts or procedures.

(*c*) Provisions prohibiting civil servants from joining political parties and trade unions

Article 119. Civil servants, persons employed in an administrative or supervisory capacity in public economic enterprises, and members of the central boards of public welfare organizations which have special sources of income and special resources provided for by law, may not join political parties or trade unions. In the performance of their duties, civil servants and employees of public economic enterprises shall not discriminate between citizens on the basis of the latter's political views.

Any person found by a court to have violated these principles shall be permanently dismissed from the civil service.

Provisions governing associations whose purpose is to protect and further the occupational interests of employees of public services other than labourers shall be prescribed by law.

IV. *Autonomous universities, impartial radio and television administrations and news agencies*

(*a*) Universities

Article 120. Universities shall be established only by the State and by legislation. Universities are autonomous public corporations. The autonomy of the universities shall be exercised in accordance with the provisions set forth in this article and this autonomy shall not preclude entry into university buildings and annexes for the purpose of investigating crimes and prosecuting criminals.

Universities shall be administered under the supervision and control of the State by organs elected by them. This provision shall not apply in respect of State universities established pursuant to special legislation.

University organs and members of the teaching staff and their assistants may in no circumstances be dismissed by any authority other than the university itself. The provisions of the preceding paragraph shall be reserved.

Members of the teaching staffs of the universities and their assistants may freely engage in research and publish their findings.

The principles by which the following are to be governed shall be prescribed by law: the establishment and activities of universities, their organs, election to such organs and the functions and powers thereof; procedures for the exercise of the State's right of supervision and control over universities and the responsibility of university organs; measures to prevent actions limiting the freedoms of study and teaching; the assignment of teaching staff and their assistants to the various universities in accordance with the latter's requirements; studying and teaching in an atmosphere of freedom and security and in accordance with the requirements of modern science and technology and the fundamentals of the development plan.

University budgets shall be executed and supervised in conformity with the principles applicable to the general and annexed budgets.

If freedom of study and teaching in universities or in the faculties, organizations and institutions connected with them is threatened and the university organs do not remove this threat, the Council of Ministers shall take over the administration of the universities in question or the faculties, organizations and institutions connected with them and shall immediately submit the relevant decision to a joint session of the Turkish Grand National Assembly for its approval. The Nature of the circumstances necessitating the takeover, the procedures for the promulgation and application of the decision to take over the administration and the period during which it shall be in force, and the nature and scope of the powers of the Council of Ministers during such periods shall be prescribed by law.

(*b*) Radio and television administration; new agencies

Article 121. Radio and television stations shall be established only by the State and their administrations shall be regulated by law as impartial public corporations. The law shall lay down no provisions violating the principle of impartiality in their direction and supervision and in the organization of the organs directing them.

All radio and television broadcasts shall be conducted in conformity with the principles of impartiality.

The principle that in the selection, preparation and presentation of news and programmes and in the fulfilment of the obligation to promote culture and education the requirements of the integrity of the State as comprised by its territory and its people, of the national democratic, secular and social Republic based on human rights, and of national security and public morality will be respected, and the principle that the news must be accurate shall be regulated by law, as shall the selection, powers, functions and responsibilities of the organs in question.

Impartiality shall be a fundamental condition for the operation of news agencies established by the State or receiving financial assistance from the State.

(*b*) Martial law and war

Article 124. In the event of war, a situation likely to lead to war, a revolt or definite indications of a serious and active uprising against the fatherland and the Republic, or of widespread acts of violence constituting a threat, whether internal or external, to the integrity of the country and the nation or jeopardizing the free democratic order or the fundamental rights and freedoms recognized by the Constitution, the Council of Ministers may proclaim martial law in one or more regions of the country or throughout the country, for a period of time not exceeding two months and shall immediately submit the proclamation to the Turkish Grand National Assembly for its approval. The Assembly may, when it deems it appropriate, reduce the period of time during which martial law is to be in effect or terminate it entirely. If the legislative bodies are not in session, they shall be convened immediately.

Martial law may be extended, by not more than two months each time by decision of the Turkish Grand National Assembly. The relevant decisions shall be taken at joint sessions of the legislative bodies.

The provisions to be applied, the manner in which operations are to be carried out and the manner in which freedoms are to be restricted or suspended in the event of martial law or of war in general, and the obligations which may be imposed on citizens in the event of war or a situation likely to lead to war, shall be specified by law.

II. *Court of Accounts; auditing of accounts relating to property of the Armed Forces and accounts of public economic enterprises*

Article 127. The Court of Accounts shall audit on behalf of the Turkish Grand National Assembly all accounts of revenue and expenditure and of the property of Government departments financed from general and annexed budgets, shall take final decisions concerning the accounts and procedures of the persons responsible therefor and in general shall perform such functions of examination, auditing and decision as are prescribed by law.

The organization of the Court of Accounts, its functioning, its auditing procedures, the qualifications of its members, their appointment, their duties and powers, their rights and obligations and other personnel matters and the tenure of its Chairman and members shall be regulated by law.

The procedures for auditing on behalf of the Turkish Grand National Assembly accounts relating to State property which is under the control of the Armed Forces shall be prescribed by law, having regard to the secrecy requirements of the national defence services.

The auditing of the accounts of public economic enterprises by the Turkish Grand National Assembly shall be regulated by law.

III. *Provisions concerning the judicial profession*

Article 134. Such personnel matters as the qualifications of judges, their appointments, rights

and duties, salaries and allowances, promotion, any temporary or permanent changes in their duties or places of duty, initiation of disciplinary proceedings against them and application to them of disciplinary penalties, decisions to interrogate and to try them for offences connected with the discharge of their functions, and cases of guilt or incompetence necessitating dismissal from office, shall be regulated by law in accordance with the principle of independence of the courts.

Judges shall remain in office until they reach the age of 65. The age limit for judges of military courts and matters relating to their promotion and retirement shall be prescribed by law.

Judges shall undertake no public or private duties other than those prescribed by law.

VI. *Provisions concerning Public Prosecutors*

Article 137. In their administrative functions public prosecutors shall be subject to the jurisdiction of the Ministry of Justice.

The power to take decisions concerning all personnel matters, other than election to the Court of Cassation, in respect of public prosecutors, disciplinary penalties to be applied to them and dismissal from office shall lie with the Supreme Council of Public Prosecutors. The decisions of this council shall be final and may not be appealed to any other authority. However, the Minister of Justice and the public prosecutor concerned may request the re-examination of decisions entailing disciplinary penalties or dimissal from office.

The Supreme Council of Public Prosecutors shall consist of the Minister of Justice, who shall be its President, the Chief Public Prosecutor, three regular and two alternate members elected by the Criminal Departments of the Court of Cassation in plenary meeting, the Deputy Minister of Justice and the General Director of Personnel Matters in the Ministry of Justice. In the absence of the Minister of Justice, the Chief Public Prosecutor shall act as Chairman of the Council.

In urgent cases the Ministry of Justice may invest public prosecutors with temporary powers, submitting the relevant decision to the first subsequent meeting of the Council for its approval. The power to appoint public prosecutors, with their consent, to work either temporarily or permanently in the central organization of the Ministry shall lie with the Minister of Justice.

The supervision and investigation of public prosecutors shall be carried out by inspectors of the Ministry of Justice or by senior public prosecutors.

The organization and working procedures of the Supreme Council of Public Prosecutors, the number of members required to constitute a quorum for the holding of meetings and for the adoption of decisions, the procedures for the election of the regular and alternate members to be elected by the Criminal Departments of the Court of Cassation in plenary meeting and their terms of office shall be regulated by law.

The Chief Public Prosecutor shall be subject to the provisions governing judges of the higher courts.

VII. *Military trial*

Article 138. Military trials shall be conducted by military and disciplinary courts. These courts shall be empowered to try military offences committed by military personnel and offences committed by such personnel against military personnel or in military areas or in connexion with military service and duties.

Military courts shall me empowered to try civilians for military offences prescribed in special laws and for offences committed against military personnel while such civilians are carrying out their duties as specified by law or in military areas specified by law.

The offences in respect of which and persons over whom military courts shall have jurisdiction in time of war or during a period when martial law is in effect shall be specified by law.

A majority of the members of military courts must be judges.

The organization and functioning of military judicial organs, personnel matters relating to military judges and the relations of military judges serving as military prosecutors with the commanding officers to whose staffs they are attached shall be regulated by law in accordance with the requirements of independence of the Courts and security of tenure of judges and the requirements of the military services.

I. *The Court of Cassation*

Article 139. The Court of Cassation is a court of final instance which reviews decisions and rulings of ordinary courts. It also has original and final jurisdiction in certain cases specified by law.

The members of the Court of Cassation shall be elected by the Supreme Council of Judges, by an absolute majority of its full membership and by secret ballot, from among judges and public prosecutors of Class 1 and persons considered as belonging to equivalent professions.

The Court of Cassation shall elect its President and the Chief Public Prosecutor from among its own members by an absolute majority of its full membership and by secret ballot.

The term of office of the President and the Vice-Presidents of the Court of Cassation and of the Chief Public Prosecutor shall be four years. They may be re-elected upon completion of their terms.

The organization and functioning of the Court of Cassation, the qualifications of its President, members and other personnel and the procedures for electing the Vice-President shall be regulated by law.

II. *The Council of State*

Article 140. The Council of State is an administrative court of first instance dealing with matters not referred by law to other administrative courts, and an administrative court of final instance in general.

The Council of State shall hear and settle administrative disputes and claims, express its views

on draft legislation submitted by the Council of Ministers, examine draft regulations and the specifications and contracts of concessions, and perform such other functions as are prescribed by law.

The members of the Council of State shall be elected by a two-thirds majority of all the regular and alternate members of the Constitutional Court and by secret ballot from among candidates proposed by the Council of Ministers and by the plenary Council of State, each of which shall propose as many candidates as there are vacancies. If such majority is not obtained in two ballots, an absolute majority shall suffice.

The Council of State shall elect its President and the Chief Attorney of the Council of State from among its own members by an absolute majority of its full membership and by secret ballot. The terms of office of the President, the chairmen of the departments and the Chief Attorney of the Council of State shall be four years. They may be re-elected upon completion of their terms.

The organization, functioning and judicial procedures of the Council of State, the procedures for electing the chairmen of its departments, the qualifications, appointment, rights and duties, salaries and allowances, and promotion of its members, and the initiation of disciplinary proceedings against them and application to them of disciplinary penalties shall be regulated by law in accordance with the principles of independence of the courts and security of tenure of judges.

Judicial review of administrative acts and procedures in connexion with military personnel shall be carried out by the Military High Administrative Court. The organization, functioning and judicial procedures of the Military High Administrative Court, the qualifications and appointment of its President and members, and discipline and personnel matters shall be regulated by law in accordance with the requirements of security of tenure of judges and the requirements of the military services.

III. *The Military Court of Cassation*

Article 141. The Military Court of Cassation is a court of final instance which reviews decisions and rulings of military courts. In addition, it has original and final jurisdiction in certain cases specified by law concerning military personnel.

The members of the Military Court of Cassation shall be appointed by the President of the Republic from among three times as many candidates as there are vacancies, who shall have at least the rank of colonel and shall be military judges of Class 1 and who have been proposed by the plenary Military Court of Cassation by an absolute majority of the full membership.

The President, Chief Prosecutor, Vice-President and chairmen of departments of the Military Court of Cassation shall be appointed from among the members of the Military Court of Cassation in accordance with rank and seniority.

The organization, functioning and judicial procedures of the Military Court of Cassation and disciplinary measures and personnel matters affecting its members shall be regulated by law in accordance with the requirements of independence of the courts and security of tenure of judges and the requirements of the military services.

(C) Supreme Council of Judges

I. *Organization*

Article 143. The Supreme Council of Judges shall consist of 11 regular and three alternate members. The members shall be elected by the plenary Court of Cassation from among its own members by an absolute majority of the full membership and by secret ballot.

The Supreme Council of Judges shall elect its President and the chairmen of its divisions from among its own members by an absolute majority of its full membership.

The term of office of members of the Supreme Council of Judges shall be four years. They may be re-elected upon completion of their terms.

Members of the Supreme Council of Judges shall undertake no other functions or duties during their terms of office.

The organization and working procedures of the Supreme Council of Judges, its divisions and their functions, the number of members required to constitute a quorum for the holding of meetings and for the adoption of decisions, and salaries and allowances of the President and members shall be regulated by law.

The Minister of Justice shall preside over meetings of the Supreme Council of Judges when necessary.

II. *Functions and powers*

Article 144. The Supreme Council of Judges shall take final decisions concerning personnel matters affecting judges of the ordinary courts. Its decisions may not be appealed to any other court. However, the Minister of Justice and the judge concerned may request the re-examination of decisions entailing disciplinary penalties or dismissal from office.

Decisions concerning the dismissal of judges, for whatever reason shall be taken by an absolute majority of the Supreme Council of Judges in plenary meeting.

The Minister of Justice may, when he deems it necessary, request the Supreme Council of Judges to initiate disciplinary proceedings against a judge.

The abolition of a court or of a judgeship and changes in the areas of jurisdiction of courts shall be subject to approval by the Supreme Council of Judges.

The supervision and investigation of judges shall be carried out by permanently assigned judge-inspectors under the jurisdiction of the Supreme Council of Judges. The judge-inspectors shall be appointed by the Supreme Council of Judges from among judges and public prosecutors and persons considered as belonging to equivalent professions. The qualifications of judge-inspectors, procedures for their appointment, their rights and

duties, allowances and travel pay, their promotion and the initiation of disciplinary proceedings against them and application to them of disciplinary penalties shall be regulated by law in accordance with the principles of security of tenure of judges.

(D) The Constitutional Court

I. *Organization*

(*a*) Election of members

Article 145. The Constitutional Court shall consist of 15 regular and five alternate members. Four of the regular members shall be elected by the plenary Court of Cassation and three by the plenary Council of State from among their own Presidents and members, the Chief Public Prosecutor and the Chief Attorney of the Council of State, by an absolute majority of their full memberships and by secret ballot. One member shall be elected by the Court of Accounts from among its own President and members in accordance with the same procedure. The National Assembly shall elect three members and the Senate of the Republic two. The President of the Republic shall also select two members. One of these shall be selected by the President of the Republic from among three candidates nominated by the plenary Military Court of Cassation by an absolute majority of its full membership and by secret ballot. The members to be elected by the legislative bodies shall be elected from outside the Turkish Grand National Assembly, by an absolute majority of the full membership and by secret ballot. The rules and procedures to be followed in the nomination and election of the members to be elected by the legislative bodies shall be prescribed by law.

The Constitutional Court shall elect a President and a Vice-President from among its own members by an absolute majority and by secret ballot for a term of four years; re-election is permissible.

A regular or alternate member of the Constitutional Court must have completed his fortieth year and must have served as President, member, Chief Prosecutor of Chief Attorney of the Court of Cassation, the Council of State, the Military Court of Cassation of Accounts, or served on the teaching staff of a university in the field of law, economics or political science for at least five years, or have practised law for 15 years.

The Court of Cassation shall elect two and the Council of State and each of the legislative bodies one of the alternate members of the Constitutional Court. The procedure followed in the election of the alternate members shall be the same as in the case of the election of regular members.

The members of the Constitutional Court shall undertake no official or private function.

II. *Functions and powers*

Article 147. The Constitutional Court shall review the constitutionality of laws and of the rules of procedure of the Turkish Grand National Assembly and shall review amendments to the Constitution to ensure that they are in conformity with the procedural conditions set forth in the Constitution.

It shall, in its capacity as a supreme court, try the President of the Republic, members of the Council of Ministers, the President and members of the Court of Cassation, the Council of State, the Military Court of Cassation, the Supreme Council of Judges and the Court of Accounts, the Chief Public Prosecutor, the Chief Attorney of the Council of State, the Chief Prosecutor of the Military Court of Cassation and its own members for offences connected with their functions, and it shall discharge other functions prescribed by the Constitution.

When the Constitutional Court sits as a supreme court, the function of prosecutor shall be discharged by the Chief Public Prosecutor.

IV. *Annulment actions*

(*a*) Right to initiate action

Article 149. The President of the Republic, political party groups in the legislative bodies and political parties which have groups in the Turkish Grand National Assembly, political parties which have won at least 10 per cent of the total valid votes cast in the most recent general election of deputies, or at least one sixth of the total membership of one the legislative bodies, or in matters relating to them and their functions, the Supreme Council of Judges, the Court of Cassation, the Council of State, the Military Court of Cassation and the universities, may initiate directly in the Constitutional Court annulment actions in respect of the constitutionality of laws or of the rules of procedure of the Turkish Grand National Assembly, or of particular articles and provisions thereof.

(*c*) Claims of unconstitutionality put forward in other courts

Article 151. If a court which is trying a case considers that the provisions of the law to be applied are unconstitutional or is convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it shall defer action on the case until the Constitutional Court has handed down a ruling on this matter.

If the court is not convinced of the seriousness of the claim of unconstitutionality, the claim shall be decided upon by the appeal court together with the main issue.

The Constitutional Court shall rule on the matter and announce its ruling within six months from the date on which the matter is referred to it.

If no such ruling is handed down within that period, the court shall settle the claim of unconstitutionality in accordance with its own conviction and proceed with the case. However, if a ruling by the Constitutional Court is received before the decision on the main issue becomes final, the court must abide by such ruling.

V. *Rulings of the Constitutional Court*

Article 152. The rulings of the Constitutional Court are final. They shall not be announced with-

out a statement in writing of the reasons on which they are based.

Laws and rules of procedure or provisions thereof which have been ruled invalid by the Constitutional Court on the ground of unconstitutionality shall become null and void on the date on which the ruling, together with the requisite statement of reasons, is published in the *Official Gazette*. If necessary, the Constitutional Court may fix another date as the date on which the invalidation ruling is to take effect. Such date may not be later than one year from the date on which the ruling is published in the *Official Gazette*.

Invalidation rulings shall not be retroactive.

The Constitutional Court may decide that its rulings on claims of unconstitutionality submitted by other courts shall apply only to the case in question and also that such rulings shall be binding only on the parties thereto.

The rulings of the Constitutional Court shall be published immediately in the *Official Gazette* and shall be binding on the legislative, executive and judicial organs of the State, on the administrative authorities, and on individuals and bodies corporate.

Article 2. The following transitional articles are hereby added to the Constitution of the Republic of Turkey:

Transitional article 12. The elections scheduled for 10 October 1971 to renew one third of the membership of the Senate of the Republic and to fill vacancies in the Senate of the Republic and the National Assembly are hereby postponed in order that they may be held together with the general election of national deputies which must be held on 12 October 1973. Those members of the Senate of the Republic who complete their terms of office shall continue in their capacity as members until the elections are held.

In the case of members appointed by the President of the Republic whose terms are completed, the provisions of the fifth sentence of article 73 shall continue to be applied.

Transitional article 13. Within one month from the date on which these amendments to the Constitution enter into force, new elections shall be held to fill the posts of President of the Court of Cassation and Chief Public Prosecutor if the incumbents have completed four years of service in those capacities by that date.

The law concerning the organization and functioning of the Court of Cassation, the qualifications of its President, members and other personnel and the procedure for the election of its Vice-Presidents shall be enacted within six months from the date on which the amendments to the Constitution enter into force. Within one month from the date on which such law enters into force new elections shall be held to fill the posts of those of the Vice-Presidents of the Court of Cassation who have completed four years of service in that capacity by that date.

Transitional article 14. Within one month from the date on which these amendments to the Constitution enter into force, new elections shall be held to fill the posts of President of the Council of State and Chief Attorney of the Council of State if the incumbents have completed four years of service in those capacities by that date.

Pursuant to the amendments to articles 114 and 140 of the Constitution, Act No. 521 concerning the Council of State shall be amended within six months of the date on which the amendments to the Constitution enter into force. Within one month from the date on which this Act enters into force elections shall be held to fill the posts of those chairmen of departments of the Council of State who have completed four years of service in that capacity by that date.

Former incumbents who fail of re-election to the posts of President of the Council of State or Chief Attorney of the Council of State or to the posts of chairmen of the departments shall become members of the Council of State.

Transitional article 15. Those persons who hold the posts of Deputy Chief Public Prosecutor of the Court of Cassation and Public Prosecutor of the Court of Cassation on the date on which the amendments to this Constitution enter into force shall become members of the Court of Cassation.

Their staffs shall be incorporated into the staff of the Court of Cassation.

Pending the necessary amendments to Act No. 45 concerning the Supreme Council of Judges, the divisions of the Office of the Chief Public Prosecutor and the Supreme Council of Prosecutors and its divisions and the persons connected with them shall continue to perform their functions.

Transitional article 16. On the date on which the amendments to articles 46 and 119 of the Constitution enter into force, the activities of the public service unions established under Act No. 24 shall cease.

Provisions governing the organization of public service associations and the transfer to them of the property of the unions shall be prescribed by law. The requisite legislation shall be enacted within six months from the date on which the amendments to the Constitution enter into force.

Transitional article 17. Pursuant to articles 134, 138, 140 and 141 of the Constitution of the Republic of Turkey, the laws concerning military trial shall be amended within six months of the date on which this Act enters into force.

The elections and appointments called for under the new laws to be enacted pursuant to the foregoing paragraph shall be held within one month from the date on which those laws enter into force.

Transitional article 18. The law concerning the organization and working procedures of the Supreme Council of Prosecutors referred to in article 137 of the Constitution of the Republic of Turkey shall be enacted within six months from the date on which this revision of the Constitution enters into force.

Until the law referred to in the foregoing paragraph enters into force, Acts Nos. 2556 and 45, together with the amendments and additions thereto, shall continue to be applied.

Transitional article 19. Act No. 45 concerning the Supreme Council of Judges shall be amended

in accordance with the amendments to articles 143 and 144 of the Constitution of the Republic of Turkey within six months from the date on which this revision enters into force.

The terms of office of the present members of the Supreme Council of Judges shall continue until the results of the elections to be held pursuant to amended Act No. 45 concerning the Supreme Council of Judges have been confirmed.

Transitional article 20. The amendments to certain laws which are required pursuant to the amendments to the Constitution of the Republic of Turkey or the additional provisions of this Constitution, and other laws and amendments which are not covered by transitional articles 13, 14, 15, 16, 17, 18 and 19, shall be completed within one year from the date on which the amendments to this Constitution enter into force.

Article 3. These amendments to the Constitution and additional transitional articles shall enter into force on the date of their publication, 22 September 1971.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

NOTE *

Information on the implementation of the State plan for the development of the national economy in 1971 published by the Central Statistical Board of the Council of Ministers of the Ukrainian SSR reflects further improvements in the life of working people in the Republic, the ever more complete and comprehensive satisfaction of their material and spiritual needs and successes in the realization of vital economic, social and cultural rights.

Socialist production in the Soviet Ukraine continued to increase at a rapid and steady rate, productive efficiency continued to grow and scientific and technological progress was accelerated. There was a 5.5 per cent increase in the Republic's national income, more than 80 per cent of which was achieved through increases in labour productivity. Measures planned for the year 1971 to increase national prosperity were implemented.

The average annual number of manual and non-manual workers in the national economy of the Republic was 16.6 million, representing an increase of 450,000 over 1970.

In 1971, as in previous years, there was full employment in the Ukraine. In certain sectors of the economy and districts of the Republic, there was a shortage of manpower.

The past year saw the initiation of measures under the ninth five-year plan aimed at raising the earnings of manual and non-manual workers and improving the pension coverage of manual, non-manual and collective farm workers.

The minimum monthly earnings of manual and non-manual workers in rail transport and underground transport were raised to 70 roubles; at the same time, wage rates and salary scales for middle-bracket workers were raised.

The minimum levels of old-age pensions for manual, non-manual and collective farm workers were increased. At the same time, increases were introduced in the minimum levels of pensions awarded to collective farm workers in cases of disability or loss of the bread-winner. The conditions governing the award of pensions to manual and non-manual workers and their families were made applicable to collective farm workers. As a result of these measures, 4.6 million persons received increased earnings and pensions.

The average monthly cash wage for manual and non-manual workers was approximately 119 roubles, representing an increase of almost 3 per cent over the previous year. With the addition of payments and benefits from social consumption funds, the average monthly wage was 162 roubles, as against 157 roubles in 1970. The wages of collective farm workers rose by 3.1 per cent.

Payments and benefits received by the population from social consumption funds totalled 12,700 million roubles, representing an increase of 7 per cent over the previous year. These funds provided free education and medical care; pensions, allowances and other types of social welfare and social insurance; paid holidays; students' grants; free passes or reduced-price admission to sanatoria and rest homes; the upkeep of kindergartens and crèches, and other kinds of social and cultural services. Real *per capita* income rose 4 per cent during the year.

During 1971, 500,000 families, or approximately 1.8 million citizens, improved their housing conditions. In towns and rural localities in the Republic, new general education schools providing 257,000 places, children's pre-school establishments providing 72,000 places, and a large number of hospitals, clinics and other cultural and social facilities were brought into operation.

Further educational, scientific and cultural advances were achieved. In all, approximately 15 million persons received education of one kind or another; 8.4 million of them attended general education schools, 803,000 studied at higher educational establishments, 797,000 attended specialized secondary educational establishments, and 472,000 studied at vocational-technical colleges.

Eight hundred and twenty eight thousand persons graduated from eight-year schools last year, and 552,000 graduated from secondary general education shools. Of these totals, 213,000 pupils received complete or incomplete secondary education in evening general education schools and vocational-technical colleges. One million four hundred thousand pupils attended extended-day schools and groups.

* Note furnished by the Government of the Ukrainian Soviet Socialist Republic.

Attendance at full-time children's pre-school establishments exceeded 1.6 million. Seasonal children's establishments served more than a million children.

Three hundred and forty-one thousand specialists graduating from higher and secondary specialized educational establishments were absorbed into the national economy; they included 125,000 with higher education and 216,000 with secondary specialized education.

The number graduating from higher and secondary specialized educational establishments was 14,000 more than in 1970—an increase of 4 per cent.

The enrolment figures totalled 157,000 at higher educational establishments, and 239,000 at secondary specialized educational establishments. At the end of 1971, there were more than 21 million persons in the Republic with higher and complete or incomplete secondary education.

In the Ukrainian SSR, large-scale efforts are being made to improve the skills of manual, non-manual and collective farm workers. During the year, vocational-technical colleges trained more than 280,000 young skilled workers and enrolled a total of 316,000; of that number, colleges providing secondary as well as vocational education enrolled 30,000. More than 4 million persons improved their skills or learned new ones by means of individual or group apprenticeship or course instruction at enterprises, institutions, organizations and collective farms.

At the end of the year, scientific workers numbered almost 137,000, of whom some 40,000 held an academic degree.

There were approximately 29,000 cinema installations at the end of the year, and cinema attendances during the year totalled approximately 900 million.

Public medical services continued to improve. The total number of doctors practising in all branches of medicine increased during the year by 4,000. The number of places in sanatoria, rest homes and boarding establishments showed an increase. Approximately 4 million persons rested or were treated in sanatoria, spas and tourist centres or travelled on tours. More than 4 million children and young people spent the summer at Pioneer and school camps, children's sanatoria and holiday and tourist centres or stayed at country resorts in children's establishments.

On 1 January 1972, the population of the Republic was 47.9 million. (From the newspaper *Pravda Ukrainy* of 27 January 1972)

There were no essential changes in 1971 in Ukrainian legislation relating to the realization of economic, social and cultural rights. Of the small number of legislative measures aimed at furthering the protection and realization of human rights, the most important are the Labour Code of the Ukrainian SSR and the Health Act of the Ukrainian SSR.

Health Act of the Ukrainian SSR

Approved by the Supreme Soviet of the Ukrainian SSR on 15 July 1971

On 15 July 1971, the Supreme Soviet of the Ukrainian SSR approved the Health Act of the Ukrainian SSR, a primary purpose of which is the protection of the life and health of the population. The purposes of Ukrainian health legislation are the regulation of social relations in matters pertaining to the protection of the health of the population in order to ensure the harmonious development of citizens' physical and spiritual strength, their health, a high level of fitness for work and a long active life; the prevention and reduction of morbidity and further reduction in infirmities; and the removal of factors and conditions which have a harmful effect on the health of citizens.

The Act states that the protection of the health of the population is an obligation of all State agencies, enterprises, institutions and organizations. Under the Act, the population is guaranteed free, qualified medical care, provided by State health institutions and accessible to all.

The Act contains a number of articles regulating the provision of citizens with therapeutic and prophylactic care, the granting of medical care to persons who have been injured in an accident or who fall ill suddenly, the obligation of medical and pharmaceutical workers to give immediate first aid to citizens, procedures governing surgical intervention and the use of complex diagnostic methods, and so on.

The Health Act of the Ukrainian SSR contains a special section relating to the protection of motherhood and childhood. In particular, a number of articles in this section contain provisions aimed at encouraging motherhood and guaranteeing the health protection of the mother and her child, ensuring medical care for expectant mothers, the newborn, children and adolescents, improving and protecting the health of children and adolescents, ensuring supervision over the protection of children's health at children's establishments and schools, ensuring State assistance to citizens in the care of their children and benefits for mothers when their children are ill, ensuring supervision of works-based technical training for adolescents, etc. (*Gazette of the Supreme Soviet of the Ukrainian SSR*, 1971, No. 29, item 245)

Labour Code of the Ukrainian SSR

Approved by the Supreme Soviet of the Ukrainian SSR on 10 December 1971

On 10 December 1971, the Supreme Soviet of the Ukrainian SSR approved the Labour Code of the Ukrainian SSR. The purpose of the new Code is to regulate labour relations for all manual and non-manual workers and to promote the growth of labour productivity, increased efficiency in social production and the consequent raising of the material and cultural level of living of working people.

In particular, the Code states that the right of Soviet citizens to work is ensured by the socialist organization of the national economy and the steady growth of the productive forces of socialist society. Manual and non-manual workers have the right to earnings guaranteed by the State in proportion to the quantity and quality of labour contributed; the right to leisure and annual paid leave; the right to healthful and safe working conditions; the right to free vocational training and free advanced training; the right to participate in the management of production; and the right to be maintained at State expense under the State social insurance scheme in old age and also in case of illness or loss of ability to work.

The Labour Code of the Ukrainian SSR prohibits unjustified refusal to give employment and provides that any direct or indirect restriction of rights, or, conversely, the establishment of any direct or indirect privileges in the matter of employment, on account of sex, race, national origin or attitude towards religion is prohibited.

Among the basic labour rights of manual and non-manual workers the Code lays down the right to unite in trade unions and to take part in the management of production through trade unions and other public organizations, general meetings and so on (*Gazette of the Supreme Soviet of the Ukrainian SSR*, 1971, No. 50, item 375).

Decisions of the Council of Ministers

Among the enactments aimed at further developing the economic, social and cultural rights of the broad masses of the population which are embodied in the Constitution of the Ukrainian SSR, the following may be cited:

Decision of the Council of Ministers concerning payment for maintenance in children's homes of children whose parents are living

On 20 February 1971, the Council of Ministers of the Ukrainian SSR adopted a decision concerning Payment for Maintenance in children's homes of children whose parents are living. The Decision lays down that children with developmental defects of a physical or mental nature are to be maintained in children's homes at State expense. (*Collection of Decisions of the Ukrainian SSR, 1971*, No. 2, item 26)

Decision of the Council of Ministers concerning deductions to finance educational and physical training activities for children in residential building amenity areas

On 18 August 1971, the Council of Ministers of the Ukrainian SSR adopted a Decision concerning Deductions to Finance Educational and Physical Training Activities for Children in Residential Building Amenity Areas. The Decision authorizes the Executive Committees of local Soviets of Working People's Deputies and ministries and departments of the Ukrainian SSR which manage housing space to make deductions, for the purpose of educational and physical training activities for children and young people at their places of residence, of up to 2 per cent of the income of residential building management offices. (*Collection of Decisions of the Ukrainian SSR, 1971*, No. 9, item 83)

Decision of the Council of Ministers concerning certain measures to improve the provision of equipment and materials to general education schools in rural Areas

On 12 June 1971, the Council of Ministers of the Ukrainian SSR adopted a decision concerning Certain Measures to Improve the Provision of Equipment and Materials to General Education Schools in Rural Areas. The Decision is intended to improve the provision of equipment and materials to general education schools in every rural district, to extend the network of school boarding-houses and the system of transporting pupils to school from remote population centres, and to improve the provision of scholastic and writing materials to pupils. (*Collection of Decisions of the Ukrainian SSR, 1971*, No. 6, item 58)

UNION OF SOVIET SOCIALIST REPUBLICS

NOTE [1]

In 1971 the Supreme Soviet of the USSR and the Council of Ministers of the USSR adopted a number of legislative acts and decisions concerning human rights. Articles and extracts from these enactments are reproduced below.

[1] Note furnished by the Government of the Union of Soviet Socialist Republics.

Decree of 19 March 1971 of the Presidium of the Supreme Soviet of the USSR concerning the fundamental rights and obligations of district Soviets of Working People's Deputies [2]

Article 1. The district Soviet of Working People's Deputies, as the organ of State power in the district, shall decide within the limits of its legal authority all matters relating to the district and shall, in so doing, be guided by the general interests of the State and the interests of the working people of the district.

...

Article 6. The work of the district Soviet of Working People's Deputies shall be based on the principles of collective leadership, public conduct of business, regular accountability—to the electors in the case of deputies, to the Soviet and the people in the case of the executive committee and its sections and administrations—and broad participation by the working people in the work of the Soviet.

The district Soviet shall maintain close contact with the district organs of public organizations.

...

Article 14. The district Soviet of Working People's Deputies shall promote broad participation by citizens in the process of deciding matters of local and national significance.

The district Soviet shall ensure that the population is kept informed of its activities and of the work of the standing commissions and the executive committee and its sections and administrations by means of regular statements to the working people by deputies of the Soviet and members of the executive committee and its sections and administrations as well as through the press, radio and television.

The district Soviet shall submit the most important questions of State, economic, social and cultural construction in the district for discussion by the working people at meetings on collective farms, State farms, enterprises, institutions and other organizations as well as in the homes of citizens.

The district Soviet shall provide guidance for the activities of district voluntary societies and direct the work of agencies of popular initiative.

...

[2] *Vedomosti Verkhovnogo Soveta SSSR*, 1971, No. 12, item 132.

Decree of 19 March 1971 of the Presidium of the Supreme Soviet of the USSR concerning the fundamental rights and obligations of town and urban district Soviets of Working People's Deputies [3]

...

Article 17. The work of town and urban district Soviets of Working People's Deputies shall be based on the principles of collective leadership, public conduct of business, regular accountability—to the electors in the case of deputies, to the Soviet and the people in the case of the executive committee and its sections and administrations—and broad participation by the working people in the work of the Soviet.

Town and urban district Soviets shall maintain close contact with the town and urban district organs of public organizations.

...

[3] *Ibid.*, item 133.

Model rules for district Soviets of Working People's Deputies approved by decision of 19 March 1971 of the Presidium of the Supreme Soviet of the USSR [4]

...

Article 2. The district Soviet of Working People's Deputies shall be elected for a term of two years by the citizens residing in the district on the basis of universal, equal and direct suffrage by secret ballot.

The procedure for holding elections to the district Soviet shall be determined by the Rules concerning Elections to Local Soviets of Working People's Deputies of the Union or Autonomous Republic.

[4] *Ibid.*, item 134.

Statute concerning the rights of the factory, works or local trade-union committee, approved by Decree of 27 September 1971 of the Presidium of the Supreme Soviet of the USSR [5]

1. The factory, works or local trade-union committee, elected in accordance with the rules of the appropriate trade union, shall represent the interests of the manual and non-manual workers of the enterprise, institution or organization in the matter of production, work, general conditions of life, culture and recreation and shall have the rights of a corporate body having legal personality.

2. The factory, works or local trade-union committee shall ensure that manual and non-manual workers have the opportunity of participating in the management of production by means of general meetings, production conferences, organized discussions and various forms of popular initiative open to them.

The management of an enterprise, institution or organization shall be required to create the conditions for ensuring that manual and non-manual workers are able to participate in the management of production. The officials of enterprises, institutions and organizations shall in good time consider any critical observations and suggestions made by such workers and shall keep them informed of the action taken.

3. The factory, works or local trade-union committee shall participate in drawing up draft production plans, plans for the introduction of new techniques and for capital construction in the enterprise, institution or organization, draft plans for the building and restoration of living accommodation, cultural and recreational amenities and public utilities, and plans for the social development of the collective.

4. A collective agreement shall be concluded between the factory, works or local trade-union committee, acting on behalf of the collective of manual and non-manual workers, and the management of the enterprise or organization; the committee shall carry out systematic surveillance to ensure that the measures provided for in the collective agreement are carried out at the proper time, and it shall make joint arrangements with the management concerning the fulfilment of obligations under the collective agreement.

[5] *Ibid.*, No. 39, item 382.

...

13. The factory, works or local trade-union committee shall verify that the management of the enterprise, institution or organization observes the labour legislation and industrial safety and health regulations and standards and shall ensure the correct application of the regulations laid down for the remuneration of work and the deduction of taxes from the wages of manual and non-manual workers.

No newly built or reconstructed industrial unit shall be permitted to go into operation without the authorization of the bodies responsible for ensuring the application of State industrial safety and health regulations or of the trade-union industrial safety board and the factory, works or local trade-union committee of the enterprise, institution or organization which is putting the unit into operation.

...

30. Manual and non-manual workers who are elected to factory, works, local or shop trade-union committees without being released from their production work shall not be transferred to other work or subjected to disciplinary action without the prior consent of the factory, works or local trade-union committee; in the case of chairmen of these committees and trade-union organizers, the prior consent of a higher trade-union body shall be required.

Chairmen and members of factory, works or local trade-union committees who have not been released from production work may be dismissed by the management, the general rules concerning dismissal being observed, only with the consent of a higher trade-union body. The management may dismiss trade-union organizers only with the consent of a higher trade-union body.

...

Communications Code of the USSR, approved by Decision of 27 May 1971 of the Council of Ministers of the USSR [6]

...

12. The privacy of all forms of postal and telegraphic communication shall be protected by law.

Offices of the postal and telegraphic service may provide no information concerning postal and telegraphic communications except to the sender and addressee or to their legal representatives.

In the cases specified in the legislation of the USSR and the Union Republics, investigatory and judicial organs may detain, examine or seize postal and telegraphic communications and obtain any necessary information about them.

...

55. Offices of the postal and telegraphic service shall not be permitted to open items sent through the post. Such items may, by way of exception, be opened in the following cases:

(*a*) On the instructions of the addressee;

(*b*) On the authorization of the procurator or by order of a court;

(*c*) On the instructions of the manager of an office of the postal and telegraphic service when damage to the wrapping, binding or seal, or insufficient weight, or odour, leakage or any other external sign of damage to an item sent through the post (except letters) gives grounds for belief that all or part of the contents has been lost, damaged or spoiled or that the item contains prohibited material.

If the contents of an item sent through the post is wholly or partially spoiled, the contents, or the spoiled part thereof, shall be destroyed. The opening of items sent through the post and the destruction of their contents, or the spoiled part thereof, shall be carried out in accordance with the regulations approved by the Ministry of Communications of the USSR and the manager of the office concerned shall complete the official form.

...

[6] *Sbornik Postanovleny Pravitelstva SSSR*, 1971, No. 316, p. 137.

Act of 26 November 1971 of the Union of Soviet Socialist Republics concerning the State Five-year Plan for the development of the national economy of the USSR in 1972 [7]

...

Article 4. The Council of Ministers of the USSR shall be instructed to carry out in 1972 the following measures for the further improvement of the material and cultural standard of living of the Soviet people in accordance with the directives of the Twenty-fourth Congress of the CPSU and to implement the Act of the USSR concerning the State Five-year Plan for 1971-1975 for the Development of the National Economy of the USSR:

The minimum wage of manual and non-manual workers shall be increased to 70 roubles a month; at the same time, the basic wage and salary rates shall be increased for middle-bracket manual and

[7] *Vedomosti Verkhovnogo Soveta SSSR*, 1971, No. 48, item 464.

non-manual workers employed in production sectors in the regions of the Far North and in localities assimilated to such regions, the European North, the Far East, Eastern and Western Siberia and the Urals; in these regions, taxes on wages up to 70 roubles a month shall be abolished and taxes on wages up to 90 roubles a month shall be reduced;

The wage and salary rates for physicians, school-teachers and teachers in pre-school institutions shall be increased throughout the country;

Regional differentials shall be introduced in the pay of manual and non-manual workers in western Siberia and in certain regions of the Turkmen SSR in which such differentials do not at present apply;

Percentage supplements shall be introduced in the pay of manual and non-manual workers in certain regions of the European North;

Additional payment for night work shall be increased for manual and non-manual workers in industry;

Grants for persons studying in higher educational establishments and secondary specialized educational establishments shall be increased; the category of persons eligible for grants in higher and secondary specialized educational establishments shall be broadened;

The standard catering allowance for hospital patients shall be increased.

Decree of 21 December 1971 of the Presidium of the Supreme Soviet of the USSR concerning amendments and additions to the Act of the USSR on the agricultural tax [8]

1. The agricultural tax shall be waived in respect of households which include members of a collective farm classified as disabled persons in categories I or II, provided that no member of the family in such households is capable of work. If the households do include persons capable of work, the tax shall be reduced by half.

2. Where, in the course of a given year, war-disabled or industrially-disabled persons in categories I and II are transferred to disability category III, the exemption from the agricultural tax granted to households of which such persons are members, shall continue to apply until the end of the year.

3. The executive committees of village, settlement, town and urban district Soviets of Working People's Deputies shall be granted the right to waive, fully or in part, the payment of the agricultural tax by the households of war-disabled persons in category III who are the principal workers in the household and by households of citizens who are experiencing temporary financial difficulties, upon application by such citizens and an appropriate finding by the revenue service.

4. Households of manual and non-manual workers, including retired workers, shall pay the agricultural tax at the rates established for collective farm households, irrespective of the size of the private plots which they have the use of, the quantity of livestock and the number of hours of paid work performed by the principal able-bodied worker in the family.

5. Exemption from the 50-per-cent increase in the agricultural tax shall be granted to collective farm households if in the previous year some members of the family have failed, without valid reasons, to work the stipulated minimum number of days on the collective farm.

6. The agricultural tax shall be paid in equal instalments by 15 August and 15 October. The record of taxpayers and the assessment of the agricultural tax shall be prepared by the revenue service as at 1 June each year.

7. The following amendments and additions shall be made to the Act of 8 August 1953 of the USSR on the Agricultural Tax (*Vedomosti Verkhovnogo Soveta SSR*, 1953, No. 7; 1968, No. 6 item 41):

Article 6 shall cease to have effect;

Article 8 shall be amended to read as follows:

"*Article 8.* Households of manual and non-manual workers, including retired workers, which have the use of private plots, shall be liable for payment of the agricultural tax at the rates specified for collective farm households if all members of the family capable of work, except the housekeeper, school children and students, are gainfully employed on 1 June of the current year";

Article 9 shall cease to have effect;

The following words shall be deleted from article 10: "or are members of an industrial co-operative artel and the quantity of livestock and the size of the household's private plot do not exceed the norms specified in article 8 of this Act";

The words "of the members of collective farms" shall be inserted in the third part of article 14 after the words "gainfully employed and"; the fourth part shall be amended to read as follows:

"Where, in the course of a given year, a disabled person in category I or II is transferred to category III, or in the event of his death, the exemption granted to the household shall continue to apply until the end of the year";

The second part of article 16 shall be amended to read as follows:

[8] *Ibid.*, No. 51, item 500.

"The said exemption shall be granted if the citizens specified in this article of the Act are heads of families";

The words "and also (on the application of citizens) by the households of war-disabled persons in category III who are the principal workers in the household and by households which are experiencing temporary financial difficulties" shall be added to the second part of article 18 of the Decree of 19 November 1969 of the Presidium of the Supreme Soviet of the USSR (*Vedomosti Verkhovnogo Soveta SSR*, 1969, No. 48, item 431);

Article 21 shall be amended to read as follows:

"*Article 21.* The record of taxpayers and the assessment of the tax shall be prepared by the revenue service as at 1 June each year. The total tax levied on the household shall be paid in equal instalments by 15 August and 15 October."

8. This Decree shall enter into force on 1 January 1972.

Decree of 20 April 1971 of the Presidium of the Supreme Soviet of the USSR concerning changes in the procedure for the assessment of old-age pensions for tractor driver-mechanics employed on collective farms, on State farms and at other State agricultural enterprises, water and forestry enterprises and agricultural technology enterprises [9]

1. Old-age pensions shall be assessed for persons who have worked as tractor driver-mechanics on collective farms, on State farms and at other State agricultural enterprises, water and forestry enterprises and agricultural technology enterprises for not less than 20 years in the case of men and not less than 15 years in the case of women, at their request, on the basis of their actual average monthly wage for any period of five consecutive years of work as tractor driver-mechanics.

Accordingly, a third part, reading as follows shall be added to article 53 of the Act of 14 July 1956 of the USSR concerning State Pensions (*Vedomosti Verkhovnogo Soveta SSSR*, 1956, No. 15, item 313):

"Old-age pensions for persons who have worked as tractor driver-mechanics on collective farms, on State farms and at other State agricultural enterprises, water and forestry enterprises and agricultural technology enterprises for not less than 20 years in the case of men and not less than 15 years in the case of women may be assessed, at their request, on the basis of their average monthly wage for any period of five consecutive years of work as tractor driver-mechanics."

2. The Council of Ministers of the USSR shall incorporate in the Statute on the Procedure for the Award and Payment of State Pensions the changes arising from this Decree.

[9] *Ibid.*, 1971, No. 16, item 168.

Labour Code of the RSFSR adopted on 9 December 1971 at the second session of the eighth convocation of the Supreme Soviet of the RSFSR [10]

Article 1. Purposes of the Labour Code of the RSFSR

The Labour Code of the RSFSR shall govern the labour relations of all manual and non-manual workers with the object of promoting increased labour productivity and efficiency in social production and on that basis raising the material and cultural living standards of the working people, of strengthening labour discipline and of gradually transforming labour for the common weal into the primary life necessity of every able-bodied citizen.

The Labour Code of the RSFSR establishes a high standard in the labour conditions and the comprehensive protection of labour rights enjoyed by manual and non-manual workers.

Article 2. Fundamental labour rights and duties of manual and non-manual workers

The right of Soviet citizens to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces

[10] *The Labour Code of the RSFSR*, publishing house of *Izvestiya Sovetov Deputatov Trudyashschikhsya SSSR*, 1971, pp. 5, 6-10, 12-14, 17, 19, 63, 72.

of Soviet society, the elimination of the possibility of economic crises and the abolition of unemployment.

Manual and non-manual workers shall exercise their right to employment by signing a contract of employment at an enterprise, institution or organization. They shall have the right to a wage guaranteed by the State in proportion to the quantity and quality of labour contributed, the right to leisure and rest in conformity with the laws restricting the duration of the working day and working week and providing for annual paid leave, the right to healthy and safe working conditions, the right to free vocational training and training to improve their qualifications, the right to unite in trade unions, the rights to take part in the management of production and the right to material maintenance in old age and in the event of sickness or disability at the expense of the State through State social insurance.

It is the duty of all manual and non-manual workers to observe labour discipline, show concern for the welfare of the people and fulfil the production quotas established by the State in consultation with the trade unions.

...

Article 5. Nullity of terms of contracts of employment which are contrary to labour legislation

Terms of contracts of employment providing for conditions for manual and non-manual workers which are inferior to those provided for by the labour legislation of the USSR and the RSFSR or in any other way contrary to the said legislation shall be considered null and void.

...

Article 7. Signing of collective agreements

A collective agreement shall be signed by a factory, works or local trade-union committee on behalf of the manual and non-manual workers, on the one hand, and by the management of an enterprise or organization, on the other.

The signing of a collective agreement shall be preceded by discussion of the draft agreement and its approval by an organized meeting of the manual and non-manual workers.

The collective agreement shall be concluded annually and shall enter into force on the date of its signature.

The collective agreement shall be brought to the knowlegde of all the workers in the enterprise or organization.

Article 8. Contents of the collective agreement

The collective agreement shall contain the fundamental provisions concerning questions of labour and wages established for the given enterprise or organization in conformity with the legislation in force. It shall also contain provisions concerning hours of work, time of leisure and rest and remuneration of work which have been drafted by the management and the factory, works or local trade-union committee within the scope of their powers. These provisions shall be of a normative character.

The collective agreement shall establish the mutual obligations of the management, on the one hand, and the work force of manual and non-manual workers, on the other, in the execution of production plans, the improvement of the organization of production and labour, the introduction of new technology and raising of labour productivity, the improvement of quality standards and lowering of production costs, the promotion of socialist competition, the strengthening of production and labour discipline, raising of the level of workers' skills and on-the-job training of personnel.

The collective agreement shall lay down the obligations of the management and the factory, works or local trade-union committee with respect to the involvement of manual and non-manual workers in the management of production, improvements in the establishment of labour norms and forms of remuneration of work, the provision of incentives and privileges for advanced workers, the improvement of housing conditions, cultural and other services offered to the working people, and the promotion of educational and mass-culture work.

The provisions of the collective agreement shall not be at variance with the labour legislation.

Article 9. Application of the collective agreement

The collective agreements shall cover all the manual and non-manual workers of the enterprise or organization concerned, irrespective of whether they are trade-union members.

Article 10. Settlement of disputes arising in connexion with the conclusion of a collective agreement

Disputes between the management of the enterprise or organization and the factory, works or local trade-union committee arising in connexion with the conclusion of a collective agreement shall be settled by the higher economic and trade-union organs, with the participation of the parties.

Article 11. Amendments and additions to collective agreements

Amendments and additions may be made to collective agreements during their period of validity by the factory, works or local trade-union committee and the management of the enterprise or organization and shall be approved by an organized meeting of the manual and non-manual workers.

Article 12. Supervision of the observance of the collective agreement

The management of the enterprise or organization, the factory, works or local trade-union committee and their higher organs shall supervise the fulfilment of the obligations arising out of the collective agreement.

Article 13. Reports on observance of the collective agreement

The management of the enterprise or organization and the factory, works or local trade-union committee shall report to the manual and non-

manual workers on the fulfilment of the obligations arising out of the collective agreement.

Article 14. No financial liability of trade-unions under collective agreements

The trade unions shall have no financial liability under a collective agreement.

Article 15. Parties to and contents of the contract of employment

A contract of employment is an agreement between a worker, on the one hand, and an enterprise, institution or organization, on the other, under which the worker undertakes to work in a specified occupation, trade or post in conformity with the works rules, while the enterprise, institution or organization undertakes to pay the worker a wage and provide the conditions of work prescribed by labour legislation, a collective agreement and an agreement between the parties concerned.

Article 16. Guarantees on taking up employment

Unjustified refusal to give employment is illegal.

The Constitution of the USSR and the Constitution of the RSFSR prohibit any direct or indirect restriction of rights and the establishment of any direct or indirect privileges on account of sex, race, nationality or religion in connexion with the admission of a worker to employment.

. . .

Article 19. Unlawful to demand, on admission to employment documents other than those prescribed by legislation

It is unlawful to demand from a worker, on admission to employment, documents other than those prescribed by legislation.

. . .

Article 24. Unlawful to demand performance of work not stipulated in the contract of employment

The management of an enterprise, institution or organization shall not require a manual or non-manual worker to perform work which is not stipulated in the contract of employment.

Article 25. Transfer to another post

Transferring a manual or non-manual worker to another post at the same enterprise, institution or organization, to another enterprise, institution or organization or to a different locality, even within the enterprise, institution or organization, shall be permitted only with the consent of the person concerned save in the cases provided for in articles 26, 27 and 135 of this Code.

The transfer of a manual or non-manual worker to a different work place within the same enterprise, institution or organization, without any change of occupation, trade, duties, rate of remuneration, advantages, privileges and other essential conditions of work, shall not be deemed to be a transfer to another post.

Article 26. Temporary transfer to another post in cases of production need

In cases where the production needs of the enterprise, institution or organization so require, the management shall have the right to transfer a manual or non-manual worker for a period of up to one month to a post not stipulated in the contract of employment, either at the same enterprise, institution or organization or at another enterprise, institution or organization in the same locality. The person concerned shall be paid in accordance with work performed, but not less than his average earnings in the post formerly held. Such transfer shall be permitted in order to prevent natural disaster or control its consequences, in the event of an industrial breakdown or for the prompt elimination of its consequences, to prevent accidents, interruption of production, and destruction or damage of State or public property, and in other exceptional cases, or to replace an absent worker.

Transfer to another post in order to replace an absent worker shall not exceed one month in the course of any calendar year.

Article 27. Temporary transfer to another post in the case of interruption of production

In the case of interruption of production, manual and non-manual workers may be transferred to other posts at the same enterprise, institution or organization, account being taken of their occupation or trade, for the entire period of forced idleness, or to another enterprise, institution or organization in the same locality for a period of up to one month.

If a manual or non-manual worker is transferred to a lower-paid post owing to interruption of production, he shall be paid his average earnings from the previous post; however, if he has not been fulfilling the output quota or if he has been transferred to a post paid by the hour, he shall be paid at his former wage or salary rate.

Article 28. Transfer to unskilled posts unlawful

In the event of interruption of production or temporary replacement of an absent worker, it shall be unlawful to transfer a skilled manual or non-manual worker to an unskilled post.

Article 29. Grounds for cancelling a contract of employment

The following shall be considered valid grounds for cancelling a contract of employment:

(1) Consent of the parties concerned;

(2) Expiry of the term (article 17, paras. 2 and 3), except in cases where the employment relationship in fact continues to exist and neither of the parties has requested its discontinuance;

(3) Call-up or enlistment of a manual or non-manual worker for military service;

(4) Annulment of the contract of employment on the initiative of the manual or non-manual worker (articles 31 and 32), on the initiative of the management (article 33) or at the request of the trade-union body (article 37);

(5) Transfer of the worker to another post with his consent or his acceptance of an elective office. The contract of employment shall be cancelled on these grounds if the worker is transferred to another enterprise, institution or organization;

(6) Refusal of a manual or non-manual worker to accept a transfer to a post in another locality to which the enterprise, institution or organization is being moved;

(7) A final decision of a court of law (except in case of a suspended sentence) under which a manual or non-manual worker is sentenced to deprivation of liberty, corrective labour elsewhere than at his normal place of work or some other form of punishment which prevents him from working at his post.

The fact that an enterprise, institution or organization is transferred from the authority of one body to the authority of another shall not cancel the validity of a contract of employment. In the case of amalgamation, disaffiliation or association of enterprises, institutions or organizations, the employment relationship shall continue if the manual or non-manual worker concerned consents thereto; the management may cancel the contract of employment in such cases only in the event of staff reduction or lay-off of personnel.

...

Article 35. Annulment of a contract of employment on the initiative of the management is prohibited without the consent of the factory, works or local trade-union committee

The management of an enterprise, institution or organization may not annul a contract of employment on its own initiative without the prior consent of the factory, works or local trade-union committee save in the cases provided for by the legislation of the USSR.

The management shall be entitled to annul a contract of employment not later than one month following the date on which it obtains the consent of the factory, works or local trade-union committee; in the case of dismissal on the grounds referred to in article 33, paragraphs 3 and 4, of this Code, it must do so within one month following the date on which the offence is reported.

Annulment of a contract of employment in violation of the terms of the first paragraph of this article is unlawful, and the worker thus discharged shall be reinstated in the post previously held (article 213).

...

Article 41. Fixing of hours of work

The hours of work of all manual and non-manual workers shall be fixed by the State in consultation with the trade unions.

The standard hours of work may not be modified by agreement between the management of the enterprise, institution or organization and the factory, works or local trade-union committee or the manual and non-manual workers concerned if such modification is not provided for by law.

Article 42. Normal hours of work

The normal working week for manual and non-manual workers employed at an enterprise, institution or organization shall not exceed 41 hours. The duration of the working week shall be reduced as the necessary economic and other conditions are created.

...

Article 173. Statutory age for employment

It is unlawful to employ any person under 16 years of age.

In exceptional cases, it is permissible to employ persons who have reached their fifteenth birthday, subject to the consent of the factory, works or local trade-union committee.

Article 174. Rights of minors in the employment relationship

Minors (i.e. persons under 18 years of age) shall have the same rights in the employment relationship as persons of full age; with respect to industrial safety, hours of work, leave and certain other conditions of work, they shall enjoy the privileges laid down in the Principles Governing the Labour Legislation of the USSR and the Union Republics, this Code and the other statutory instruments concerning labour matters.

Article 175. Prohibited employment for persons under the age of 18

It is unlawful to employ persons under the age of 18 in arduous work, work under unhealthy or dangerous working conditions, or underground work.

A list of the arduous occupations and work under unhealthy or dangerous working conditions in which it is unlawful to employ persons under 18 years of age shall be approved in the manner prescribed by law.

It is unlawful to require any minor to transport or move any load the weight of which exceeds the limits prescribed for minors.

...

Article 203. Composition of labour disputes boards

The labour disputes boards set up at enterprises, institutions and organizations shall be composed of an equal number of representatives of the factory, works or local trade-union committee, on the one hand, and of the management of the enterprise, institution or organization, on the other.

The number of representatives on each side shall be determined by agreement between the factory, works or local trade-union committee and the management. Representatives shall be appointed to the board for the duration of the factory, works or local trade-union committee's term of office. The representatives of the trade-union on the labour disputes board shall be appointed from among the trade-union committee members.

At enterprises, institutions and organizations having no factory, works or local trade-union committee, the labour disputes board shall consist of the trade-union organizer and the director of the enterprise, institution or organization.

Article 204. Competence of labour disputes boards

The labour disputes board is the body which hears at first instance labour disputes arising at enterprises, institutions or organizations between a manual or non-manual worker and the management, with the exception of disputes which are required by law to be heard directly by the district or town People's Court or some other body.

...

UNITED ARAB EMIRATES

Provisional Constitution of the United Arab Emirates *

(Extracts)

We the rulers of the Emirates of Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al Quiwain and Fujairah,

Considering that it is our will and the will of the people of our Emirates to establish a union of these Emirates, in order to achieve a better life, greater stability and higher international status for the Emirates and all their people,

Desirous of establishing stronger ties among the Arab emirates, in the form of an independent sovereign federal State, capable of protecting itself and its members, and co-operating with its sister Arab States and with all other friendly States Members of the United Nations and of the international community in general on the basis of mutual respect and mutual benefit,

Desirous, furthermore, of laying the foundations of federal rule on solid ground in the years to come, in accordance with present realities and capabilities in the Emirates, by giving the greatest possible assistance to the Union in the achievement of its goals, preserving the individuality of its members in so far as this does not conflict with these goals and at the same time preparing the people of the Union for a free and honourable life under the Constitution, while progressing towards fully representative and democratic rule in an Arab Islamic society free of fear and unrest,

Considering that the foregoing are our most cherished goals, to which we aspire with the greatest determination, and that we desire to enable our country and its people to attain their proper status so that they may occupy their rightful place among civilized nations and peoples,

Hereby declare before Almighty God and all the people that, for these purposes, pending the preparation of the Permanent Constitution of the Union we have agreed upon and signed this Provisional Constitution, which shall be in effect during the transitional period referred to therein.

May God grant us success, for He is our protector and our ally.

* Text furnished by the Government of the United Arab Emirates.

CHAPTER I

Structure and basic goals of the Union

...

Article 7. Islam shall be the official religion of the Union, and the Islamic Sharia shall be a major source of its legislation. The official language of the Union shall be Arabic.

Article 8. Nationals of the Union shall have a single nationality as defined by law and shall, when abroad, enjoy the protection of the Government of the Union in accordance with accepted international procedures.

No national shall lose or be otherwise deprived of his nationality except in exceptional circumstances defined by law.

Article 9. (1) The capital of the Union shall be established in an area to be granted to the Union by the Emirates of Abu Dhabi and Dubai and situated on their common border; it shall be called "Al Karamah".

(2) Sufficient funds shall be allocated in the Union budget for the first year to cover the cost of technical studies and planning for the establishment of the capital, the construction of which shall begin as soon as possible and be completed within a period not to exceed seven years from the effective date of this Constitution.

(3) Until construction of the Union capital is completed, Abu Dhabi shall be the temporary seat of the Union.

Article 10. The aims of the Union shall be to preserve its independence, sovereignty, security and stability, to repel any aggression against itself or its member Emirates, to defend the rights and liberties of the people of the Union, to achieve firm co-operation among the Emirates, for their common benefit in order to attain these goals and prosperity and progress in all spheres and to bring about a better life for all nationals, with each member Emirate respecting the independence and sovereignty of the others, within the framework of this Constitution, in matters relating to their internal affairs.

Article 11. (1) The Emirates of the Union shall unify their customs and economic affairs. A

step-by-step timetable for the achievement of this unification shall be established by federal law.

(2) The freedom of movement of capital and of all goods among the Emirates of the Union shall be guaranteed and shall not be restricted except by federal law.

(3) All taxes, duties, fees and other charges levied on the transport of goods from any member Emirate to another shall be abolished.

Article 12. The goals of the foreign policy of the Union shall be to support Arab and Islamic causes and interests and to strengthen ties of friendship and co-operation with all nations and peoples, in accordance with the principles of the United Nations Charter and the highest international ethics.

CHAPTER II

Basic social and economic principles of the Union

Article 13. The Union and its member Emirates, each within the limits of its prerogatives and capabilities, shall co-operate in the implementation of the provisions of this Chapter.

Article 14. The foundations of society shall include equality, social justice, peace and security, and equal opportunity for all citizens, and citizens shall be bound together by the strongest ties of solidarity, mutual love and understanding.

Article 15. The family shall be the foundation of society and shall be sustained by religion, virtue and love of the homeland. The law shall guarantee the institution of the family and shall protect it and defend it against corruption.

Article 16. Society shall care for the mother and child and shall protect minors and others who are unable to care for themselves for such reasons as sickness, infirmity, old age or involuntary unemployment. It shall be responsible for training and otherwise helping these people, both for their own benefit and for that of society.

These matters shall be regulated by general assistance and social security legislation.

Article 17. Education is a fundamental element of the progress of society. It shall be compulsory at the primary level and free of charge at all levels within the Union. Plans for the expansion and universalization of education at all levels and for the eradication of illiteracy shall be established by law.

Article 18. Individuals and organisations may establish private schools in accordance with the provisions of the law but shall be subject to the supervision and directives of the competent public authorities.

Article 19. Society shall guarantee to all nationals health care and facilities for the prevention and treatment of disease and epidemics.

It shall encourage the establishment of hospitals, clinics and public and private treatment centres.

Article 20. Society considers work to be a corner-stone of its progress. It shall endeavour to provide work for its nationals and to train them for it and shall pave the way for this through legislation protecting the rights of workers and the interests of employers, taking into account world development in labour legislation.

Article 21. Private property shall be protected, and restrictions on its acquisition shall be prescribed by law. No one shall be deprived of his property except in the public interest, as determined by law, and in exchange for just compensation.

Article 22. Public funds are inviolate, and it shall be the duty of every national to safeguard them. The circumstances under which a breach of this duty shall be punishable shall be defined by law.

Article 23. The natural wealth and resources in each Emirate shall be considered the public property of that Emirate. Society shall ensure that they are protected and exploited for the benefit of the national economy.

Article 24. The national economy shall be based on social justice and sustained by loyal co-operation between the public and private sectors. Its aim shall be to achieve economic development, increased production, a higher standard of living, and prosperity for nationals, within the framework of the law.

The Union shall encourage co-operation and savings.

CHAPTER III

Public freedoms, rights and duties

Article 25. All individuals are equal before the law, and there shall be no discrimination among nationals of the Union on account of origin, place of residence, religious belief or social status.

Article 26. Personal freedom shall be guaranteed to all nationals. No one shall be arrested, searched, detained or imprisoned except in accordance with the provisions of the law.

No one shall be subjected to torture or degrading treatment.

Article 27. Crimes and penalties shall be defined by law. There shall be no punishment for any act or omission occurring prior to the promulgation of the law which makes it an offence.

Article 28. Punishment shall be personal, and the acccused shall be presumed innocent until proven guilty in a lawful and fair trial. The accused shall have the right to appoint a person capable of defending him during the trial. The law shall determine the circumstances in which the presence of an attorney for the accused is mandatory.

The infliction of physical or psychological injury on the accused shall be prohibited.

Article 29. Freedom of movement and of residence shall be guaranteed to nationals within the limits of the law.

Article 30. Freedom of opinion and of oral, written and all other forms of expression shall be guaranteed within the limits of the law.

Article 31. Freedom and privacy of postal, telegraphic and other forms of communication shall be guaranteed in accordance with the law.

Article 32. Freedom of performing religious rites in accordance with established custom shall be guaranteed, provided that they do not disturb public order or offend public morals.

Article 33. Freedom of assembly and association shall be guaranteed within the limits of the law.

Article 34. Every national shall be free to choose his work, trade or profession within the limits of the law and in accordance with legislation regulating the various trades and professions.

No work shall be imposed on anyone except under exceptional circumstances prescribed by law and in exchange for compensation.

No person shall be enslaved.

Article 35. Public office shall be open to all nationals on an equal basis, in accordance with the law.

Public office is a national duty entrusted to those holding it. In performing their functions, they shall aim solely at promoting the public interest.

Article 36. The home shall be inviolate and shall not be entered without the permission of its occupants except in accordance with the provisions of the law and under the circumstances prescribed therein.

Article 37. Nationals shall not be deported or exiled from the Union.

Article 38. The extradition of nationals and of political refugees shall be prohibited.

Article 39. Public confiscation of money shall be prohibited, and the penalty of private confiscation of money shall be imposed only on the basis of a judicial decision in the circumstances prescribed by law.

Article 40. Aliens residing in the Union shall enjoy the rights and freedoms established by existing international instruments or by treaties and agreements to which the Union is a party. They shall assume the obligations which correspond to such rights and freedoms.

Article 41. Everyone shall be entitled to file a complaint with the competent authorities, including the judiciary, alleging violation of the rights and freedoms prescribed in this Chapter.

Article 42. The payment of public taxes and other charges imposed by law is the duty of every national.

Article 43. Defence of the Union is the sacred duty of every national. Military service is an honour for nationals and shall be regulated by law.

Article 44. It shall be the duty of all inhabitants of the Union to comply with the Constitution and the laws, as well as with orders issued by public authorities pursuant thereto, and to preserve public order and public morals.

CHAPTER IV

Federal authorities

Article 45. ...

Part 3

THE FEDERAL COUNCIL OF MINISTERS

...

Article 63. Members of the Council of Ministers shall strive to act in the interests of the Union, to promote the public welfare and totally to renounce their personal interest. They shall not exploit their official positions in any way for their own benefit or for the benefit of persons to whom they bear a special relationship.

...

Part 4

THE FEDERAL NATIONAL COUNCIL

Section (i): *General provisions*

...

Article 70. A member of the Federal National Council must be:

(1) A national of one of the Emirates of the Union and a permanent resident of the Emirate which he represents in the Council;

(2) Not less than 25 years (Gregorian) of age when elected;

...

Article 71. ...

Article 72. Members of the Council shall serve for a term of two years (Gregorian) from the date of the Council's first meeting. Thereafter, and for the remainder of the transitional period referred to in article 144 of this Constitution, the Council shall establish the renewal period.

Members whose term has expired may be re-elected.

Article 73. Each member of the Federal National Council shall, before assuming his duties in the Council and its committees, take the following oath before a public session of the Council:

"I swear by Almighty God to be loyal to the United Arab Emirates, to respect its Constitution and its laws and to perform my duties in the Council and its committees honestly and faithfully."

...

Section (ii): *Organization of work of the Council*

...

Article 81. Members of the Council shall not be censured for ideas and opinions which they express in the course of their duties in the Council and its committees.

Article 82. No penal sanction shall be imposed on any Council member while the Council is in session except in the event of a serious offence, without the Council's permission. If such a sanction is imposed while the Council is not in session, the Council shall be informed.

...

Part 5

THE JUDICIAL SYSTEM IN THE UNION AND THE EMIRATES

Article 94. Justice is the basis of rule. Judges are independent and shall in the performance of their duties be subject to no authority except the law and their consciences.

Article 95. The Union shall have a Federal Supreme Court and a number of federal courts of first instance, as specified hereinafter.

Article 96. The Federal Supreme Court shall be composed of a President and a number of judges, the total membership not to exceed five. Its members shall be appointed by decree of the President of the Union, with the approval of the Supreme Council. A number of departments of the Court shall be established by law, and the law shall determine their sructure and procedures, and the conditions of service and retirement and the qualifications of their members.

Article 97. The President and associate judges of the Federal Supreme Court shall not be dismissed or deprived of their powers, except for one of the following reasons:

(1) Death;

(2) Resignation;

(3) Expiry of a contract term, where applicable, or of a term of secondment;

(4) Reaching retirement age;

(5) Proven inability to perform duties for reasons of health;

(6) Dismissal on disciplinary grounds, for reasons and in accordance with procedures defined by law;

(7) Appointment to other offices, with their consent.

Article 98. The President and associate judges of the Federal Supreme Court shall, prior to assuming their duties, take an oath before the President of the Union, in the presence of the Federal Minister of Justice, to the effect that they will perform their functions justly, fearlessly and impartially and that they will be loyal to the Constitution and laws of the Union.

Article 99. The Federal Supreme Court shall have jurisdiction over the following matters:

(1) Disputes between member Emirates of the Union of between one or more Emirates and the Federal Government, which are referred to the Court at the request of any of the parties concerned;

(2) Questions as to the constitutionality of federal laws where such laws are challenged on behalf of one or more Emirates as being in conflict with the Federal Constitution;

Questions as to the constitutionality of legislation enacted by an Emirate, if challenged on behalf of any federal authority as being in conflict with the Federal Constitution or federal laws.

(3) Questions as to the constitutionality of laws, legislation and regulations in general, where such questions are certified to the Court by any other court in the country in the course of pending litigation; the certifying court shall be bound by the ruling of the Federal Supreme Court on the matter;

(4) Interpretation of the provisions of the Constitution at the request of any federal authority or of the Government of an Emirate; the Court's interpretation shall be binding on all concerned;

(5) The interrogation of Ministers and senior federal officials appointed by decree concerning the performance of their official duties, at the request of the Supreme Council and in accordance with applicable law;

(6) Crimes directly affecting the interests of the Union, such as those relating to the Union's internal or external security, the forgery or falsification of the official documents or seals of any federal authority and the counterfeiting of currency;

(7) Jurisdictional disputes between the federal judiciary and local judicial bodies in the Emirates;

(8) Jurisdictional disputes between judicial bodies in one Emirate and those in another, in accordance with procedures prescribed by federal law;

(9) Any other matters specified in this Constitution or referable to the Court pursuant to a federal law.

Article 100. The Federal Supreme Court sit in the federal capital. As an exception, it may, where necessary sit in the capital of any of the Emirates.

Article 101. Decisions of the Federal Supreme Court shall be final and binding on all concerned.

Where the Court, in ruling on the constitutionality of laws, legislation and regulations, determines that any federal legislation is in conflict with the Federal Constitution or that local legislation or regulations contain a provision which conflicts with the Federal Constitution or federal law, it shall be incumbent upon the authority concerned, in the Union or Emirate Government as the case may be, promptly to take the measures necessary to remove or correct the unconstitutional provision.

Article 102. The Union shall have one or more federal courts of first instance which shall sit in the permanent federal capital or in the capitals of the various Emirates and which shall be empowered to exercise jurisdiction over the following matters:

(1) Civil, commercial and administrative disputes between the Union and individuals, whether the Union is the plaintiff or the defendant;

(2) Crimes committed within the boundaries of the permanent federal capital, with the exception of crimes over which the Federal Supreme Court has jurisdiction pursuant to article 99 of this Constitution.

(3) Cases concerning personal status, and civil, commercial and other litigation between individuals in the permanent federal capital.

. . .

Article 107. The President of the Union may pardon a person sentenced by the federal judicial authorities, before or during the carrying out of the sentence, or commute such sentence, upon a recommendation by the Federal Minister of

Justice and following approval by a committee presided over by the said Minister and composed of six members selected by the Federal Council of Ministers for a renewable term of three years from among experienced and competent nationals.

The members of the committee shall be paid no remuneration. Their deliberations shall be secret, and their decisions shall be taken by majority vote.

Article 108. No final sentence of death imposed by federal judicial authorities shall be carried out until after it has been approved by the President of the Union, who may substitute another, less severe penalty in accordance with the procedures described in the preceding article.

Article 109. No general amnesty covering a particular crime or crimes shall be granted except by specific legislation. Under such legislation, the crime or crimes in question would be deemed never to have been committed and any punishment therefor, or the remaining portion thereof, would be remitted.

. . .

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

NOTE *

Article 2 of the Universal Declaration of Human Rights

REPORT OF THE RACE RELATIONS BOARD

The annual report of the Race Relations Board was published in June. The Board, whose statutory function is to secure compliance with the Race Relations Act 1968 which makes it unlawful to discriminate on grounds of colour, race or ethnic or national origins in the provision of goods, facilities or services and in advertising, employment and housing, reported a decrease in the number of complaints received over the year ended March 1971. In the year under review 1,024 complaints were received compared with 1,549 in 1969/70. Of the 1,110 complaints disposed of by the Board during the year, the opinion was formed in 696 cases that discrimination had not occurred and in 172 cases that it had. The remaining 242 complaints proved to be outside the scope of the act, were withdrawn by the complainant or contact was lost with the complainant. The report said the Board considered that the law was making a positive contribution in eliminating racial discrimination and its effectiveness had been particularly marked in virtually eliminating discriminatory notices and advertisements from shop windows and newspapers. The act had also been successful in the insurance industry. On the other hand the act had been less successful in reducing discrimination by employment and accommodation agencies and both types of agency were investigated during the year.

REPORT OF THE COMMUNITY RELATIONS COMMISSION

The annual report of the Community Relations Commission published in June gave details of varied activities at national and local level to promote good community relations. A marked increase in the number of summer projects designed for children in the long school holidays was recorded and attention was drawn to encouraging developments in immigrant education. During the year, information pamphlets were translated into the four main Asian languages on such subjects as electoral registration, the population census, fire precautions and family planning. Expenditure of £450,000 for 1971/72 was approved compared with an original budget estimate of £395,000 for 1970/71 of which £362,000 was actually spent.

EXTENSION OF WORK OF THE COMMUNITY RELATIONS COMMISSION

It was announced in May that the work of the Community Relations Commission was to be extended to include the preparation of special reports to the Home Secretary on particular implications of public policy or administration concerning race relations and action was put in hand to set up the necessary machinery for this task.

COMMONWEALTH DECLARATION

The United Kingdom attended a meeting of Commonwealth heads of Government at Singapore in January, at which a Commonwealth declaration was agreed containing the following paragraphs:

"WE BELIEVE in the liberty of the individual, in equal rights for all citizens regardless of race, colour, creed or political belief, and in their inalienable right to participate by means of free and democratic political processes in framing the society in which they live. We therefore strive to promote in each of our countries those representative institutions and guarantees for personal freedom under the law that are our common heritage.

"WE RECOGNISE racial prejudice as a dangerous sickness threatening the healthy development of the human race and racial discrimination as an unmitigated evil of society. Each of us will vigorously combat this evil within our own nation. No country will afford to régimes which practise racial discrimination assistance which in its own judgement directly contributes to the pursuit or consolidation of this evil policy. We oppose all forms of colonial domination and racial oppression and are committed to the principles of human equality and dignity everywhere and to further the principles of self-determination and non-racialism."

* Note furnished by the Government of the United Kingdom of Great Britain and Northern Ireland.

NORTHERN IRELAND

The Housing Executive Act (Northern Ireland) 1971 provided for the setting up of a central housing authority—the Housing Executive—to be responsible for all public authority housebuilding and allocation. In the interim period, while the Housing Executive is becoming fully effective, all public authority housing is being allocated on points schemes based on need.

All statutory bodies and local authorities have made declarations of equality of employment opportunity. All statutory bodies have adopted acceptable codes of employment procedure and local authority associations have evolved model codes of employment procedure which are in the course of adoption by local authorities. In addition, all those tendering for government contracts are now required to complete an undertaking not to practise any form of religious discrimination in the performance of the contract.

The decision to appoint a Director of Public Prosecutions in Northern Ireland was announced in May 1971. This was designed to relieve the police of the responsibility for prosecuting in summary offences other than minor cases.

Reports of the Northern Ireland Parliamentary Commissioner for Administration and the Commissioner for Complaints, the two independant officials appointed to investigate citizen's complaints against government departments and against local authorities and other public bodies respectively, published reports during 1971. Both reports indicated that they found few instances of maladministration and discrimination was not found to have been a major factor in the complaints received.

Article 8 of the Universal Declaration

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (PCA)

In his annual report for 1970 (First Report, Session 1970/71, HMSO, 1971) the PCA noted that of a total of 651 cases of complaints about maladministration by government departments, 362 fell outside his jurisdiction, 30 were discontinued after partial investigation, and 259 were fully investigated. Elements of maladministration were found in 59 cases (23 per cent of those fully investigated). An estimated total of some £100,000 had been paid to over 60 complainants by government departments since the PCA took office in 1967.

COMPLAINTS SYSTEM FOR LOCAL GOVERNMENT

The Government announced in February 1971 that there should be improvements in the arrangements for investigating the complaints of citizens alleging maladministration in local government. It has begun discussions with local authorities with a view to introducing new arrangements.

NORTHERN IRELAND: PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION AND COMMISSIONER FOR COMPLAINTS

The reports of these two independant officials appointed to investigate citizen's grievances in Northern Ireland were published in January and May, respectively (see above under article 2).

COMPLAINTS AGAINST THE POLICE

Improvements in the handling of complaints against the police were announced by the Government in December 1971. Police authorities would be recommended to develop their supervisory role under the Police Acts; chief officers would be encouraged to borrow officers from other forces to conduct investigations of serious complaints, and they would be advised to take greater trouble in explaining to complainants what action had been taken on their complaints. There was already a statutory requirement that a complaint about any behaviour which involved a criminal offence had to be referred to the independent judgement of the Director of Public Prosecutions or, in Scotland, the Procurator-Fiscal. Where no possibility of a criminal charge was involved, the chief officer of police (who is responsible for discipline) was responsible for what was done about complaints, subject to the continuing supervision of the police authority.

Article 13 (2) of the Universal Declaration

IMMIGRATION ACT 1971

The Immigration Act 1971, which provided a single system of immigration control for Commonwealth citizens and aliens wishing to enter Britain for settlement, also creates a "right of abode", possessors of which will be entitled to freedom from immigration control. The right of abode is conferred on citizens of the United Kingdom and Colonies who themselves are connected with the United Kingdom by birth, adoption, naturalisation or registration, who have a parent or grandparent with such a connexion, or who have settled in the United Kingdom for a continuous period of five years or more, on Commonwealth citizens with a parent who is a citizen of the United Kingdom or Colonies born in the United Kingdom; and on Commonwealth citizens who are or have been the wives of persons having the right of abode. The act will be fully implemented in 1973.

Article 16 of the Universal Declaration

DIVORCE REFORM ACT 1969 AND MATRIMONIAL PROCEEDINGS AND PROPERTY ACT 1970

Both acts came into force on 1 January 1971. The Divorce Reform Act 1969 abolished the old grounds for divorce (adultery, cruelty, desertion or insanity for five years) and substituted a single ground, irretrievable breakdown of the marriage. Under the act, in addition to showing that the

marriage has broken down, the petitioner must prove either that the respondent has committed adultery and the petitioner finds it intolerable to live with the respondent, or that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent, or that the respondent has deserted the petitioner for a continuous period of a least two years immediately preceding the presentation of the petition, or that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent consents to a decree being granted, or that the parties to the marriage have lived apart for a continuous period of at least five years immediately preceding the presentation of the petition. The act contains provisions designed to encourage reconciliation and to give financial protection to the respondent in cases where one of the last two sets of facts set out above are relied on.

The Matrimonial Proceedings and Property Act 1970 provides safeguards against financial or other hardship for any members of a family following the irretrievable breakdown of a marriage. It gives the courts wider powers than before over the financial provisions for husbands, wives and children, and establishes for the first time the principle that financial remedies on the breakdown of a marriage are to operate in the interests of husbands and wives equally.

Increased expenditure on family planning

Greater expenditure on family planning was announced by the Government in February 1971: in England and Wales, expenditure on local authority family planning services—£800,000 in 1970/71— would be of the order of £2.25 million in 1972/73. Advice would remain free to all, and so would supplies to those receiving them on medical grounds. Local authorities were empowered to waive charges for supplies in other cases. Hospital authorities were being asked to increase provision for family planning, and general practitioners would continue to give advice.

Committee to review abortion legislation

The Government announced in February 1971 the appointment of a committee to review the working of the Abortion act 1967 on the basis that the main conditions for legal abortion remain unaltered. The review is concerned with the working of the act and not with the principles underlying it. (The 1967 act provides that a pregnancy may be legally terminated by a registered medical practitioner if two registered medical practitioners are of the opinion that (*a*) the continuance of the pregnancy would involve risk to the life of the pregnant woman or of injury to her physical or mental health or that of any existing children of her family greater than if the pregnancy were terminated, or (b) there is substantial risk that the child, if born, would suffer from such mental or physical deformities as to render him seriously handicapped.)

Article 19 of the Universal Declaration

Inquiry into the Law of Defamation

It was announced in August 1971 that an investigation into the law, practice, and procedure relating to defamation actions would be carried out by a committee appointed by the Lord Chancellor and the Lord Advocate.

Article 21 of the Universal Declaration

Local Authority (Qualification of Members) Act 1971

The act extended the right to stand as candidates for election to a local authority to persons who had worked, or occupied (as owner or tenant) land or premises, within that authority's area during the 12 months preceding nomination. The property qualification thus introduced involved the restoration of a previously existing qualification which had been abolished under the Representation of the People Act 1969.

Electoral Law Act (Northern Ireland) 1971

This legislation provided for all by-elections to local councils in Northern Ireland to be conducted on the basis of universal suffrage at the age of 18. This was an interim measure introduced until the provisions of the Electoral Law Act (Northern Ireland) 1969 could be implemented with the first full local government elections to be conducted under universal franchise towards the end of 1972.

Article 23 of the Universal Declaration

Industrial Relations Act 1971

The Industrial Relations Act whose main provisions had come into force by March 1972:

(1) Prevents any court from granting an order requiring any persons to do any work or to attend at any place for the purpose of doing work or compelling him to take part in a strike or in any industrial action short of a strike.

(2) Establishes the statutory right of an employee to belong to a registered trade union and also not to belong to a registered trade union or other organization of workers.

Consequently, pre-entry closed shop agreements, which may prevent an individual from taking a job unless he is already a member of a (particular) trade union, becomes void, although in certain closely defined circumstances, a post-entry closed shop agreement may be established. This provision is intended to help organizations with special problems, such as Equity (the actor's trade union), the Musicians' Union and the National Union of Seamen.

However, the Act provides for agency shop agreements, whereby an employee would, as a condition of employment, agree to join a union or else pay appropriate contributions in lieu of

membership (if he had a conscientious objection to this, the contribution could be made to an agreed charity instead); and lays down a procedure by which employees or an employer may seek to introduce, continue, or discontinue such an agreement.

Article 25 of the Universal Declaration

Developments in social security and health services

During 1971, a number of new social security benefits were introduced to assist those who, despite the comprehensive nature of the national insurance system, were in need because of special difficulties.

In April, pensions became payable for widows aged between 40 and 50 when widowed or when entitlement to widowed mothers' allowance ended. In August, a new benefit, Family Income Supplement, was introduced to help wage earners with small incomes and dependent children. From September, an old person's pension became payable to all other non-pensioners aged 80 and over; at the same time an invalidity pension was introduced for anyone who had received sickness benefit for six months, with an additional invalidity allowance for people becoming chronically sick more than five years before retirement age. An attendance allowance for severely disabled people needing attendance or supervision both night and day became payable in December. At the end of the year it was announced that the Government intended to carry out annual reviews of social security benefits.

A White Paper published in September set out new Government proposals for a radically new system of retirement pensions and for the finance of other social security benefits. Under the new system every employee would have two pensions—a basic pension from the Government and an occupational pension (meeting prescribed standards). After the proposals have been fully discussed, the Government propose to bring in legislation to introduce the new system in 1975.

In September, most of the main provisions of the Chronically Sick and Disabled Persons Act 1970 came into force.

In July, final proposals for the reorganization of National Health Service administration in Scotland were published (and have since been given legislative effect by the National Health Service (Scotland) Act 1972). Tentative proposals for discussion in England and Wales separately were published in May (and have been succeeded by final proposals in 1972). The main purpose of all the proposals has been to increase effectiveness and efficiency by co-ordinating the different parts of the health services under area and district health authorities.

Children in need of care and control

Two pieces of legislation designed to remove children from the ambit of the criminal court came into force during 1971: the Children and Young Persons Act 1969 in England and Wales, and the Social Work (Scotland) Act 1968 in Scotland. Under the Children and Young Persons Act, which came into effect from January, a child or young person under 17 who is in need of care and control may be liable to compulsory care proceedings on an number of grounds including physical neglect or ill-treatment, moral danger, lack of control of the child by his parent or guardian, truancy, or the commission of an offence. The orders open to juvenile courts include the care order which commits the child to the care of the local authority, and the supervision order (a non-custodial order similar to the probation order which it replaces), under which a child will normally remain at home under supervision of a local authority or probation officer. The act abolished the former approved school order, under which a juvenile court could send a young person to an approved school. Under the act, approved schools, remand homes and children's homes will be replaced by a system of community homes provided by local authorities or voluntary bodies.

Part III of the Social Work (Scotland) Act 1968 came into force in April. This part of the act is concerned with the treatment of children and young persons in need of care and control because they have committed offences; are beyond the control of their parents; are exposed to moral danger; or have failed to attend school regularly without reasonable excuse. Juvenile courts have been replaced by children's hearings, the members of which are chosen from a panel of lay persons selected by the local authority from a wide range of groups in the community. Procedure is informal, the aim being to encourage the child and his parents to discuss their problems with members of the panel. The hearing can only proceed if the facts are agreed by the parents and child or have been established by the sheriff. If a children's hearing decides that a child should be made subject to compulsory supervision it may make a supervision order requiring the child to live away from home at a residential establishment or be supervised at home. The oversight of a child who is the subject of a supervision order rests with the local authority social work department. In considering what action to take the children's hearing is required to proceed in the best interests of the child.

Article 26 of the Universal Declaration

The Open University

Britain's Open University began its first courses in January 1971 after several years of preparation and over 24,000 students began work. The aim of the university is to provide the opportunity of obtaining a degree comparable in standard to degrees awarded at other universities to students who can undertake systematic part-time study and who may have developed intellectual interests since leaving school or were unable to follow a further education course previously. Unlike other universities, no formal entrance qualifications are needed; the fees are moderate. The teaching me-

thod combines three main elements: broadcasts on television and radio (transmitted by the British Broadcasting Corporation), correspondance work and a summer school.

Education of severely mentally handicapped children

In 1971, responsibility for the education of severely mentally handicapped children in England and Wales was assumed by the local education authorities. Previously responsibility for these children rested with the local health authorities. Among advantages offered by the change are the availability of educational advice and fuller professional training for staff.

Article 27 of the Universal Declaration

Support for the Arts

Government support for the Arts is mainly channelled through the Arts Council of Great Britain. In 1971/1972 the annual government grant was £11.9 million, compared with £5.7 million in 1966/67. An increasing emphasis is being placed on bringing arts to the regions through the regional arts associations. These are independent non-profit making bodies which bring together all those interested in, or with responsibilities to, the arts in the region. There are 14 regional arts associations in England and Wales. Their income is derived from local authorities, industry and grants from the Arts Council. In 1971/72 the Arts Council's grants to the associations amounted to £558,740, compared with £147,738 in 1968/69.

The Government also supports the art of the film through an annual grant to the British Film Institute. In 1971/72 this amounted to £806,000. In order to encourage the training of young filmmakers, the National Film School was established in 1970/71. The school receives its income from the Government and the film industry. In 1971/72 the government grant amounted to £153,000.

In addition £18.5 million was allocated for the capital and running expenditure of the national museums and galleries including the purchase of objects to enhance their collections. The sum of £200,000 was distributed from central government sources to assist local museums through grants to the eight Area Museum Councils and through funds administered by the Victoria and Albert Museum and the Royal Scottish Museum to help towards the cost of approved acquisitions. Local authority expenditure on museums was estimated at £5.5 million.

Government support for the artist-craftsman

During 1971, responsibility for support of the artist-craftsman was added to the duties of the Paymaster General, the Minister with responsibility for the Arts, who established a Crafts Advisory Committee to advise him in this field. £50,000 was made available in 1971/72 for grants to bodies connected with the crafts to be spent in accordance with the recommendations of the Crafts Advisory Committee so far as England and Wales are concerned, and of the Scottish Joint Crafts Committee in Scotland.

Article 29 (2) of the Universal Declaration

Unfair industrial practices

To prevent the violation of the rights and freedoms of employers and workers by other employers or workers, the Industrial Relations Act 1971 introduced the concept of unfair industrial practices. Examples of such practices are when an employer seeks to prevent an employee from joining a registered trade union, or when a trade union seeks to put pressure on an employer to cause him to discriminate against an employee who exercises his right to belong or not to belong to a trade union. Another example is when anyone not acting in an official capacity on behalf of a trade union or an employers' association induces or threatens to induce another person, in furtherance of an industrial dispute, to break a contract to which he is party. Similarly, it is an unfair industrial practice to promote industrial action in support of an unfair industrial practice already occurring, or against a person not a party to the original dispute, or not supporting any party in the dispute.

A system of expert and informal industrial civil courts has been set up under the act in order to maintain standards and rights in industrial relations practice. At the highest level, there is a new National Industrial Relations Court (NIRC), while at the lower level the existing industrial tribunals have additional functions.

To protect the national economy against damaging industrial action, the act has strengthened the Government's emergency powers, enabling it to apply to the National Industrial Relations Court for a sixty-day cooling-off period, where industrial action is threatened, while negotiations continue; and for a secret ballot to be taken when the support of the workers for industrial action, which would have damaging consequences, is in doubt.

Northern Ireland: Special Powers Act

In view of the mounting violence and terrorism instigated in the province by the Irish Republican Army, the Northern Ireland Government felt obliged in August 1971 to invoke the powers of detention and internment available under the Special Powers Act. In this connexion, Her Majesty's Government invoked the right of derogation under the European Convention on Human Rights.

UNITED REPUBLIC OF TANZANIA

NOTE [1]

Calculated from the figures compiled by the Directorate of Planning and Development on the basis of the 1967 population census, the literacy rate in Tanzania in 1971 was 3.8 per cent.

The enrolment ratio in primary schools for the total population in the age group of 7 years in 1971 was 48 per cent while that for the female population in the same age group was 20 per cent.

With regard to secondary schools, the enrolment ratio in academies for the total population in the age group of 14 years in 1971 was 16.5 per cent; the enrolment in vocational schools was 1.5 per cent. In so far as the female population is concerned, the enrolment ratio in academies for the same age group was 4.8 per cent and that in vocational schools was 0.8 per cent.

Of the total population in the age group of 18 to 20 years, the enrolment ratio in 1971 in institutions of higher education was 0.8 per cent.

The public expenditure on education for the year 1970-1971 was 14.6 per cent of the total Government budget.

[1] Note based upon information furnished by the Government of the United Republic of Tanzania.

The Elections (Election Petitions) Rules, 1971

Government Notice No. 66, made under section 132 of the Elections Act, 1970 (No. 25 of 1970) [2]

(Extracts)

...

4. (1) In every petition, other than a petition presented by the Attorney-General, the Attorney-General shall be made a party thereto as the respondent.

(2) Where a petition alleges any misconduct or contravention of any provisions of any written law by the successful candidate or by any person acting for or on behalf of the successful candidate, the succesful candidate shall be made a party to the petition in addition to the Attorney-General:

Provided that an election officer shall not be made a party to a petition without the consent of the court.

presented by the Attorney-General, the Attorney-General, the Attorney-General may make all such persons parties to the petition as respondents who are likely to be adversely affected in the event of the relief sought by the Attorney-General being granted.

5. (1) Where the only person made a party to a petition is the Attorney-General and in the opinion of the court it is desirable or necessary for the purpose of determination of the issues involved that the unsuccessful candidate or any other person be made a party to the petition, the court may by order direct that the unsuccessful candidate or such other person be made a party, and upon such order being made the proceedings shall be adjourned until such time as the person who

[2] *Subsidiary legislation to the Gazette of the United Republic of Tanzania*, No. 14, vol. LII, 26 March 1971, Supplement No. 17. For extracts from the Elections Act, 1970, see *Yearbook on Human Rights for 1970*, pp. 252-254.

is to be made a party has been served with a copy of the petition.

(2) Where in any petition the Attorney-General has been joined as a party with the unsuccessful candidate and the Attorney-General advises the court in writing that he has no interest in the petition, the court may, if it is satisfied that no misconduct on the part of any election officer is alleged, direct that the Attorney-General shall cease to be a party and the petition shall be proceeded with between the petitioner and the remaining respondent or respondents as the case may be.

6. The petitioner shall not, save with the leave of the court, urge or be heard in support of any ground not set forth in the petition:

Provided that the court shall not, in determining a petition, be confined to the grounds set forth in the petition.

...

17. Every petition shall be tried in open court.

18. (1) Where, in the opinion of the Chief Justice, a petition is likely to raise complicated questions of law or of facts, he may direct that the petition shall be tried by three or by five judges.

(2) Where a petition is tried by three or by five judges, the petition shall be determined in accordance with the decision of the majority of the judges.

19. (1) The court may, from time to time, by order made on the application of a party to a petition and supported by an affidavit, and after notice to the other parties or of its own motion by notice in such form as the court may direct, postpone the beginning of the trial of the petition to such day as the court may specify.

...

20. (1) The court may in its discretion adjourn the trial of a petition from time to time.

(2) Subject to the provisions of paragraph (1) of this rule, the trial shall be continued until its conclusion.

21. Where the judge or a resident magistrate, who has begun the trial of a petition, is prevented by reason of illness or other reasonable cause from concluding the trial, the proceedings shall be commenced *de novo* before another judge or, as the case may be, resident magistrate:

Provided that where the judge or resident magistrate who first tried the petition concluded the hearing of the petition but was prevented from giving his decision by reason of illness or other cause, he may, and subject to such directions as the Chief Justice may give, write out his decision and it shall be lawful for another judge or, as the case may be, resident magistrate, to deliver the decision so written out.

22. (1) Where a petitioner fails to appear before the court on the day on which the petition is to be heard, the court may dismiss the petition.

(2) Where a petition has been dismissed under paragraph (1) of this rule the court may readmit the petition if the petitioner satisfies the court that his failure to appear on the day of the hearing was due to a reasonable cause.

23. Where a respondent fails to appear on the day on which the petition is to be heard, the court may proceed to try the petition, his absence notwithstanding, and the decision of the court in every such case shall be binding upon the respondent.

24. For the purposes of these Rules, where a party is represented by an advocate, appearance by the advocate shall be deemed to be appearance by the party whom he represents.

25. (1) The petitioner may at any stage after the petition has been lodged and before the decision has been delivered, by notice in writing addressed to the Registrar, withdraw the petition subject to such terms relating to costs as the court may deem fit to order.

(2) Where a petitioner withdraws a petition he shall not be entitled to file a fresh petition in respect of the same election:

Provided that where the court is satisfied that the petition was withdrawn for the reason that it would have been defeated on the ground of any procedural irregularity, the court may allow the petitioner to lodge a fresh petition in respect of the same election.

(3) Where there are two or more petitioners, the petition shall not be withdrawn save on application in writing by all the petitioners.

26. (1) Subject to the provisions of the act and of these rules, the practice and procedure in respect of a petition shall be regulated, as nearly as may be, by the rules regulating the practice and procedure in a civil suit.

...

27. (1) Save as is expressly provided to the contrary in these rules, no petition shall be dismissed for the reason only of non-compliance with any of the provisions of these rules or for the reason only of any other procedural irregularity unless the court is of the opinion that such non-compliance or irregularity has resulted or is likely to result in miscarriage of justice.

(2) Where there has been any non-compliance with any of the provisions of these rules or any other procedural irregularity, the court may require the petitioner, subject to such terms as to costs or otherwise as the court may direct, to rectify the non-compliance or the irregularity in such manner as the court may order.

(3) Where an order has been made under paragraph (2) of this rule, and the petitioner fails to comply with such order within such time as the court may specify, the court may dismiss the petition.

28. These rules shall apply to petitions lodged before the coming into operation of these rules in the same manner as they apply to petitions lodged after the coming into operation of these rules:

Provided that no petition lodged or partly heard before the coming into operation of these rules shall be dismissed by reason only of non-compliance with any of the provisions of these rules, but the court shall in any such case, make such order as it may consider necessary to rectify such non-compliance.

...

UNITED STATES OF AMERICA

A selective summary of principal developments relating to the protection and advancement of human rights

NOTE *

Introduction

The Government of the United States of America is one of laws of which the Constitution and its amendments are the fundamental law. The rule of law functions to preserve the freedom of the individual and assures the enjoyment of his basic rights. The Bill of Rights—the first 10 amendments to the Constitution—limits the power of government over the individual. The Federal Congress, in the exercise of its constitutional powers, has enacted extensive legislation to extend and strengthen the enjoyment of basic human rights within the United States. Added to the federal structure are the constitutional and legislative guarantees of the various states of the federal union. The executive and judicial authorities at the federal, state and local levels act to assure the enjoyment of basic human rights and to protect the individual citizens against abuses. During the year 1971, significant progress was made at all jurisdictional levels in achieving new gains in every aspect of human rights enjoyment. There are summarized below significant examples of developments on the federal level. Civil rights enforcement was vigorously pursued in the fields of employment, education, housing, public accommodations and voting.

The will of the people

Of particular significance during 1971 was the ratification of the twenty-sixth amendment to the Constitution of the United States. This amendment lowered the voting age from 21 to 18 years. Proposed by the Senate and the House of Representatives in March 1971, it quickly received ratification by the requisite number of states and on 5 July 1971 became a part of the supreme law of the land. The franchise has thereby been passed to a significant portion of the population which previously had many responsibilities of citizenship including that of bearing arms, but not the corollary right to vote. The text of the amendment is as follows:

ARTICLE XXVI

Section 1. The right of citizens of the United States who are 18 years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Voting rights

An important provision of the landmark Voting Rights Act adopted by the Congress in 1965 is section 5 which requires that certain designated jurisdictions, states or political subdivisions thereof, must submit for the consideration of the Attorney-General all changes in voting qualifications or prerequisites to voting or standards, practices or procedures with respect to voting. Under these provision the Attorney General received 333 submissions during the 1971 fiscal year. Of the 624 changes in election laws or procedures involved, objections were lodged against 14. In accordance with its responsibilities under the Voting Rights Act, the Civil Rights Division of the Department of Justice co-ordinated the activities of 408 federal personnel sent to observe three elections, ranging from municipal and local elections to general elections in three states.

During the year 1971, the Supreme Court decided a number of significant cases involving voting rights. The case *Connor* v. *Johnson* (402 US 690 (1971)) concerned the validity of a state reapportionment statute and in part dealt with the scope of section 5 of the Voting Rights Act. The Court decided that a decree of a district court involved in the case was exempt from the requirements of section 5. In its *per curiam* opinion the Court stated its view that when district courts are forced to fashion apportionment plans, single-member districts are preferable to large multi-member districts as a general matter. The case

* Note furnished by the Government of the United States of America.

Whitcomb v. *Chavis* (403 US 124 (1971)), decided by the Supreme Court on 7 June 1971, concerned the constitutionality of multimember districts. These are districts represented by two or more legislators elected at large by the voters of the district. The challenge posed by the plaintiffs against the multimember districts in question was pressed in the light of previous holdings of the Supreme Court in previous reapportionment cases. In these cases the Supreme Court has recognized that representative government requires the full and effective participation by all citizens. Apportionment schemes which give the same number of representatives to unequal numbers of constituents unconstitutionally dilute the vote of the larger districts. The Court noted that the validity of multimember districts must be judged according to the circumstances of the particular case and recalled its previous holdings to the effect that such districts were not *per se* illegal under the equal protection clause of the fourteenth amendment. It further noted that the challenger carried the burden of proving that multimember districts unconstitutionally operate to dilute or cancel the voting strength of particular groups in the district. In its opinion, the Court rejected the reasoning of the trial court which had tended to outlaw multimember district elections simply on the grounds that the supporters of losing candidates from a group with distinctive interests had no legislative seats assigned to them.

Equal protection of the law

A key provision of the United States Constitution in assuring non-discrimination in official action is that provision of the fourteenth amendment under which every state is forbidden "to deny to any person within its jurisdiction the equal protection of the laws". It has long been settled by interpretations delivered by the Supreme Court that the term "person" as used in this context encompasses lawfully admitted resident aliens as well as citizens of the United States and entitles both citizens and aliens to the equal protection of the laws of the state in which they reside. In the case *Graham* v. *Richardson* (403 US 365 (1971)), the Supreme Court dealt with two state statutes which contained provisions denying welfare benefits to aliens. The Supreme Court ruled that such state statutes which deny welfare benefits to resident aliens or to aliens who have not resided in the United States for a specified number of years violated the equal protection clause of the fourteenth amendment.

Freedom of religion

The first amendment to the Constitution forbids the Congress to make any law respecting an establishment of religion or prohibiting the free exercise thereof. This amendment has been held to apply to state as well as federal action. The case *Lemon* v. *Kurtzman* (403 US 602 (1971)) concerned the constitutionality of two state statutes under this first amendment provision. One of the state statutes provided for salary supplements to be paid to teachers in non-public schools. The sole beneficiaries of this provision were a number of teachers at Roman Catholic schools within the state. Another state statute authorized the state superintendent of public instruction to purchase certain "secular educational services" from non-public schools. In this case as well, most of the secular services purchased were from schools affiliated with the Roman Catholic Church. After having examined the two statutes in question, the Supreme Court concluded that they were unconstitutional under the first amendment. The Court found that the cumulative impact of the entire relationship arising under the statutes involved excessive entanglement between government and religion. Another case involving the religion clause of the first amendment was *Tilton* v. *Richardson* (403 US 672 (1971)). At issue here was the federal Higher Education Facilities Act of 1963. This act provides federal construction grants for college and university facilities, excluding certain described religious facilities. Four church related colleges and universities had received federal construction grants under the act. The Court noted that although the benefits of the act extended to colleges and universities with religious affiliations, it had the legitimate secular goal of providing more opportunity for college education. The Court noted that the grants in question had been for facilities which were not related to religious uses. Finding that the act had neither the purpose nor the effect of promoting religion, the Court upheld the constitutionality of its principal provisions. The Court did, however, declare unconstitutional that provision of the act which declared a 20-year prohibition for religious use of structures constructed with funds under the act. The Court noted that if, at the end of 20 years, the structure were converted into a chapel or otherwise used to promote religious interests, this would be an unconstitutional use of federal funds to advance religion.

Freedom of expression

The guarantees of the first amendment which protect the freedoms of speech and the press were amply demonstrated in a number of court decisions. In a case which attracted world-wide attention, *New York Times Co.* v. *United States* (403 US 713 (1971)), the Supreme Court passed upon the attempt by the United States Government to enjoin two newspapers from publishing the contents of a classified study. The Court recalled its position taken previously to the effect that "any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity". The Court agreed with the decisions made by lower courts in the case, holding that the Government had not met the heavy burden of showing justification for the enforcement of such a prior restraint. Consequently, the Goverment action to enjoin publication was dismissed.

In another case involving prior restraint, *Organization for a Better Austin* v. *Keefe* (402 US 415 (1971)), the Supreme Court ruled that the first amendment protected the right of individuals and groups to criticize publicly the business practices

of another individual. In this case, a real estate broker had sought a prior restraint in the form of an injuction against a group using pamphlets to criticize his "blockbusting" and "panic peddling" techniques. The Court held that the first amendment protected the right of peaceful distribution of informational literature even if critical of and possibly damaging to an individual's business.

Freedom of association

The case *Coates* v. *the City of Cincinnati* (402 US 611 (1971)) concerned the constitutionality of a city ordinance which made it a criminal offense for three or more persons to assemble on any of the city's sidewalks and there "conduct themselves in a manner annoying to persons passing by or occupants of adjacent buildings". The Court regarded this provision as being unconstitutionally vague because it subjected the exercise of the right of assembly to an unascertainable standard. The Court stated that the first and fourteenth amendments do not permit a state to make criminal the exercise of the right of assembly simply because its exercise may be "annoying" to some people. Such an ordinance would make a crime out of what under the Constitution cannot be a crime.

Equal employment opportunities

Title VII of the Civil Rights Act of 1964 contains extensive provisions designed to ensure equal employment opportunities. Employer practices which discriminate against individuals because of their race, colour, religion, sex or national origin are prohibited. Similar prohibitions also pertain to employment agency practices, labour organization practices and with regard to training programmes. Enforcement of title VII is the responsibility of the Employment Section of the Civil Rights Division of the Department of Justice. During 1971, the Supreme Court rendered its first decisions on the merits of cases interpreting title VII. In the case *Griggs* v. *Duke Power Company* (401 US 424 (1971)), the Supreme Court made it clear that title VII prohibits all practices, regardless of motivation, which perpetuate the effects of past discrimination, unless required by business necessity. The Supreme Court adopted the position which had been urged by the Department of Justice that the use of tests and general educational requirements as conditions for employment, promotion and transfer is unlawful under title VII when such devices disqualify a disproportionate number of blacks unless the employer can show that they are necessary or predictive of successful job performance. The case *Ida Phillips* v. *Martin Marietta Corporation* (400 US 542 (1971)) was the first decision of the Supreme Court under title VII involving sex discrimination. The Supreme Court reversed a lower court decision which had held lawful the practice of not hiring mothers of pre-school age children while hiring the fathers of such children. The Court held that such a practice constituted discrimination on the grounds of sex and was prohibited by title VII. A significant number of "pattern or practice suits" were brought during the year against various employers.

"Pattern or practice suits" are civil actions brought by the Attorney General under title VII. Such suits are instituted whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of their rights secured under Title VII and that the pattern or practice is of such a nature and is intended to deny the full exercise of those rights. In such actions the Attorney-General may request such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice as he deems necessary to assure the full enjoyment of the rights provided. Suits were filed against the nation's largest steel producer, state-wide suits were filed against a major power company, and against the locals representing the iron workers in a state, corporate-wide suits were filed against two major trucking concerns, a suit was brought against 17 hotels and 5 unions in the resort industry in Las Vegas, and area-wide suits were filed against building trade unions in Newark, New York and New Orleans. Also in 1971, the first "pattern or practice suit" specifically concerned with discrimination against Mexican-Americans was tried.

The lawfulness of the Philadelphia Plan was upheld by the Court of Appeals for the Third Circuit in the case *Contractors' Association of Eastern Pennsylvania* v. *Secretary of Labor* (442F 2d 159, (3d Cir. 1971)). That plan, which had been issued in 1969 pursuant to Executive Order 11246, requires contractors bidding on government contracts to set goals of minority participation with respect to each of the six affected trades in the Philadelphia area in which there was virtually no black participation

Education

In two key cases decided in 1971, the Supreme Court set out some new jurisdictional standards regarding the requirements for desegregating school districts which had formerly been segregated by official action. The case *Swann* v. *Charlotte-Mecklenburg Board of Education* (402 US (1971)) concerned the validity of a desegregation plan proposed for a school district having more than 84,000 students in 107 schools. Of this total, approximately 29 per cent of the pupils were Negro, about 14,000 of whom attended 21 schools that were at least 99 per cent Negro. In its opinion the Court discussed what it termed the central issue in the case, that of student assignment, and examined four problem areas. Concerning racial quotas, the Court noted that the constitutional command to desegregate schools does not mean that every school in the community must always reflect the racial composition of the system as a whole. The Court endorsed a very limited use of the racial ratio as a starting point for shaping a remedy. Concerning one-race schools, the Court observed that while their existence did not denote a system that still practised segregation by law, one-race schools should be

scrutinized to assure that racial composition does not result from discriminatory action. In this connexion, the Court found useful an optional majority-to-minority transfer arrangement. The Court also found it proper that the altering of attendance zones be used as a remedial measure. The pairing and grouping of non-contiguous zones was deemed to be a permissible tool. And, finally, the Court endorsed the remedial technique of requiring bus transportation as a tool of school desegregation. In determining the validity of a bussing scheme, the Court noted that the time or distance of travel which might be so great as to risk either the health of the children or significantly impinge on the educational process were factors to be taken into account. In a companion case, *Davis* v. *School Commissioners of Mobile County* (402 US 33 (1971)), the Court considered the adequacy of another school desegregation plan. The Court noted that the measure of any desegration plan is its effectiveness and stated that school authorities in seeking to achieve the greatest possible degree of actual desegregation should consider the use of all available techniques, including restructuring of attendance zones and contiguous and non-contiguous attendance zones. The Court also endorsed a plan for faculty and staff desegregation calling for substantially the same faculty and staff ratio in each school as that for the entire district.

While *dé jure* desegregation of public schools is an accomplished fact throughout the nation, the Justice Department continued its efforts to bring into compliance those remaining school districts not yet operating in accordance with judicial standards. Not all of this was done through the courts. State and local bi-racial committees have been formed to help the process of integration and solve problems before they become court issues. United States attorneys within their local jurisdictions have devoted considerable attention to the solving of a number of transitional problems which never reached the litigation stage. Nevertheless, at mid-year, the Justice Department still was pursuing in the courts some 250 desegregation cases.

Housing

During 1971, continued activity on the part of the Federal Government was carried on to enforce the fair housing provisions of Title VIII of the Civil Rights Act of 1968. In particular, the Justice Department took action in three fields: rental of apartments, purchase of houses and realty practices. A number of court orders were obtained which had far-reaching effects in not only preventing discriminatory practices in these three fields, but also in requiring action to correct the effects of past discrimination. For example, in the area of rental apartments, a favorable court decision was secured against a large corporation in New York City that controlled rentals of over 21,000 apartment units. (*United States* v. *Samuel J. Lefrak*, Civ. No. 70, Civ. No. 964, ED NY, consent decree entered 28 Jan. 1971.) The consent decree secured in this case included provisions assuring applicants equal treatment on a first-come, first-served basis and required that black tenants be given an opportunity to occupy vacancies in buildings predominantly occupied by whites. Suits to enforce non-discriminatory practices in showing apartment listings of rental apartments were brought against several large management companies in Washington, DC, Los Angeles and Boston. In the sale of houses, suits were brought to prevent real estate agents from engaging in discriminatory practices which were designed to discourage prospective black buyers from buying in certain areas. (*United States* v. *Homestead Realty, Inc.*, Civ. No. 71 C 205, ND Ill., filed 25 Jan. 1971.) Similarly, in St Louis and Atlanta suits were brought against a number of the largest realtors to stop the practice of steering whites to certain areas and blacks to other areas. The multiple-listing procedures in a number of communities, wherein black clients and brokers were excluded, were challenged in several cases. An important activity of the Federal Government involved investigation of incidents of alleged use of zoning and land-use planning by local governments to discriminate against minority groups. In 1971, the Justice Department brought the first case which charged that an exercise of zoning powers by a municipality was racially discriminatory. The municipality in question was alleged to have blocked the construction of federally approved housing for moderate income families by rezoning the land.

YUGOSLAVIA

NOTE [1]

The adoption of amendments XX-XLII to the Federal Constitution [2] was the major event of 1971 from the point of view both of the development of the law and of the social and political life of the Socialist Federal Republic of Yugoslavia in general. The adoption of these amendments is only part of the continuing work being done to improve the constitutional norms of the Socialist Federal Republic of Yugoslavia which was begun some years ago and is being continued by the Federal Constitutional Commission which is proposing further amendments to the Federal Constitution in 1972. The amendments promulgated on 30 June 1971 supplement the constitutional provisions governing the basic aspects of the social, economic and political life of the country, and improve and amend the provisions relating to the structure and functions of federal agencies. Since, however, the final form of organization of the socio-political communities and their agencies is not to be determined until the next phase of the constitutional amendments, an outline of the distribution of functions and responsibilities between federal agencies and other socio-political communities will be given in a future note. The present note will deal only with the provisions of the amendments adopted in 1971 that relate to human rights. Special attention is given to the question of human rights in production relations.

No other major legislation relating to human rights was adopted in 1971. Many regulations will be passed at the Federal and Republic levels by virtue of the entry into force of the amendments adopted in 1971. The Republics are now preparing amendments to their own constitutions. Apart from the amendments to the Constitution of the Socialist Federal Republic of Yugoslavia, this note will confine itself to mentioning some judgements relating to human rights (in particular, the right to work) handed down by the Constitutional Court of Yugoslavia and to a list of the international treaties relating to human rights that were ratified in 1971.

[1] Note prepared by Mr. Budislav Vukas, government-appointed corespondent for the *Yearbook on Human Rights*.

[2] For extracts from the Constitution of the Socialist Federal Republic of Yugoslavia, see *Yearbook on Human Rights for 1963*, pp. 369-377.

I. Constitutional amendments XX-XLII

(Extracts)

The amendments were promulgated on 30 June 1971. The constitutional Act passed on the same day provides that the amendments are to enter into force on the date of their promulgation. The same Act provides that federal laws and other legislation which, under the terms of the constitutional amendments, do not derive from the rights and obligations of the Federation, shall cease to have effect; it enumerates the laws, i.e. legal provisions, that will cease to have effect. It also specifies the federal laws and other regulations governing relations which, in accordance with the amendments lie within the competence of the Federation and which should be brought into line with the constitutional amendments, where this is not already done (article 4). The constitutional amendments replace a series of provisions of the Constitution of the Socialist Federal Republic of Yugoslavia and constitutional amendments that were adopted earlier.

Amendment XX

1. The workers, nations and nationalities shall exercise their sovereign rights in the socialist republics and autonomous socialist provinces in accordance with their constitutional rights, and in the Socialist Federal Republic of Yugoslavia where the Federal Constitution so provides in the common interest.

...

6. The self-management status and rights of workers and citizens in organizations of associated labour, communities of interest and local communities, the self-management system of citizens in communes, the freedom of association and activity and the freedom to create of workers and citizens within the self-management system, the equality before the law of nations and nationalities, and the fundamental human and civic freedoms and rights, as set forth in the Federal Constitution, shall constitute the basis, limits and guidelines for the rights and duties of socio-political communities in exercising their authority.

...

Amendment XXI

1. The basis of socialist self-management relations is the socio-economic status of the worker in social reproduction which gives him the right, when working with socially owned means of reproduction, to take decisions directly and on terms of equality with other workers, concerning associated labour affecting all aspects of social reproduction under conditions and in relations of mutual dependence, responsibility and solidarity, and also to act in his own personal material and moral interest; it also gives him the right to enjoy the fruits of his labour and the achievements of general material and social progress, to satisfy as fully as possible on this basis his personal and social needs, and to develop his skills and other creative abilities.

In order to ensure the socio-economic status of workers, they shall have the inalienable right to earn income for their work in the basic organizations of associated labour in which they are associated and work, and in all forms of commercial association and co-operation of these organizations, to administer the affairs and means of social reproduction, and to decide how to use that part of the total social income which they earn through the various forms of associated labour and the pooling of means and resources.

The total income earned by basic organizations of associated labour from any form of associated labour and pooling of means and resources shall belong to the basic organizations.

As regards the income which the basic organizations of associated labour earn jointly through association and commercial co-operation, each organization shall be entitled to that part which corresponds to its contribution to the earning of such income; it shall be an integral part of the income which the basic organization of associated labour earns by all its activities and whose distribution shall be directly determined by the workers on the basis of their work.

The total income earned by basic organizations of associated labour shall provide the material basis for the workers' right to determine their working conditions and the distribution of income, and to receive personal income in conformity with the principle of distribution of income according to work performed and with the increase in the productivity of their own work and of social labour as a whole.

2. Basic organizations of associated labour shall be the primary form of associated labour in which workers directly and on terms of equality shall, on the basis of their work, regulate their labour mutual relations, administer the affairs and means of social reproduction, and take decisions on income and other matters relating to their socio-economic status.

Workers shall have the right to convert into a basic organization of associated labour any part of a labour organization (enterprise, institution, etc.) constituting a whole in which the results of joint labour can be expressed in terms of value on the market or in the work organization and can be separately expressed in such terms.

Workers in a basic organization of associated labour forming part of a labour organization shall have the right to detach it and establish it as an autonomous organization in the manner prescribed by law.

The establishment of a basic organization of associated labour within a labour organization or its detachment from a labour organization shall not affect the rights of the workers in other parts of the labour organization or the interests or rights of the organization as a whole which derive from interdependence in labour or from joint labour with pooled resources, nor entail any unilateral change in mutual obligations.

3. Income shall be distributed by the workers of basic organizations of associated labour for their individual and collective needs, to expand the material basis of associated labour and to develop the workers' skills. Workers shall be entitled to a share of the income, resulting from their joint labour in the organization and from social labour as a whole, earned on the market and generally through mutual relations in the various forms of joint co-operation and joint activity, in proportion to their labour and their contribution to the success and development of the organization, in order to meet their individual and collective needs.

In accordance with the principle of distribution according to work performed, each worker in an organization of associated labour shall be entitled to personal income in proportion to the results of his work and to his personal contribution to the success and development of the organization through all his present and past labour.

The results of workers' labour and their personal contribution to the success and development of organizations of associated labour shall, in addition to the basic principles and criteria laid down in accordance with the principles of mutual assistance and solidarity, constitute the basic principle and criterion to be applied in reaching decisions concerning the allocation of the resources from the organizations of associated labour earmarked for collective needs.

4. Workers in basic organizations of associated labour shall determine the basic principles and criteria governing income distribution and the allocation of resources earmarked for personal income, in accordance with the basic principles and criteria determined under self-management agreements and social contracts.

If workers fail to comply with the basic principles and criteria laid down in self-management agreements or social contracts, if no such agreements or contracts have been signed, or if the distribution or allocation violates the principle of distribution according to work performed or interferes with the normal course of social reproduction, the measures to be taken in order to ensure that the relations are consistent with the agreements or contracts, or the measures to be taken in order to guarantee equal rights for workers in the application of the principle of distribution according to work performed, may be prescribed by law.

5. Every worker in associated labour which uses socially owned means shall be entitled, on the basis of his work, to personal income and rights, the amount and scope of which shall not be below the minimum required for his social security and stability. The amount of his personal income and the scope of his rights, and the ways and means of ensuring them, shall be set forth in a self-management agreement, a social contract or a law and shall be commensurate with the productivity of social labour as a whole and the general conditions of the environment in which he lives and works.

6. It is by freely exchanging their labour for that of workers in organizations operating in the fields of education, science, culture, public health and other social activities, which are part of the single process of social labour, that workers provide for their individual and collective needs in those fields. It is because of those relations that the workers in those sectors have the same socio-economic status as workers in other organizations of associated labour.

Workers employed in organizations of associated labour providing community services and the users of such services shall establish self-managing communities of interest and their relations and mutual rights and obligations shall be governed by self-management agreements and contracts.

...

Amendment XXII

1. Workers in basic organizations of associated labour shall freely pool their labour and the means of social reproduction in enterprises, institutions, labour organizations and other forms of associated labour, including those concerned with credit, banking and insurance, in order to increase the incomes of organizations of associated labour, to promote and develop their own labour and joint activities and to increase total labour productivity.

Workers in these organizations shall regulate their mutual relations by self-management association agreements, with due respect for the principle of equality of rights, guaranteeing the workers' inalienable right in all these relations to administer, on the basis of their labour, the affairs and means of social reproduction, and to take decisions concerning the income earned by the basic organization of associated labour to which they belong.

...

Amendment XXIII

1. Workers in basic organizations of associated labour, other organizations and communities of interest, shall through self-management agreements harmonize their mutual interests in the social division of labour and social reproduction, decide on the basic principles and criteria to be applied in reconciling their individual interests with the collective interests, define their mutual rights and responsibilities and decide on any measures required to implement them.

Self-management agreements shall be binding on the organizations of associated labour or communities of interest which conclude them or have acceded to them.

Basic organizations and other organizations of associated labour and communities of interest which consider that any self-management agreement concluded by other organizations of associated labour jeopardizes their interests may institute measures for reviewing such self-management agreement, in the manner prescribed by law.

2. Organizations of associated labour and their general organizations, communities of interest, socio-political communities, trade unions and other socio-political organizations, and other self-managing and social organizations shall, through social contracts and in accordance with the principles of self-management, ensure and provide for, the harmonization and regulation of socio-economic relations and other relations of common or general interest.

Social contracts shall be binding on the organizations and communities which have entered into them.

Socio-political communities may, within the limits of their rights and obligations, prescribe, by a law or any other general enactment, that social contracts are binding on all.

3. The procedure for concluding and implementing self-management agreements and social contracts shall be based on the principles of publicity and equality of the parties.

Self-management agreements and social contracts shall stipulate what measures are necessary for their implementation and shall specify the material and social responsibilities of the parties.

Amendment XXIV

1. Freedom to engage in individual work using means of production belonging to individuals is guaranteed where the activity being carried on is in keeping with the mode, material basis and possibilities of individual labour.

Workers who engage in such activities shall in principle have the same socio-economic status and essentially the same rights and obligations as workers in organizations of associated labour.

The conditions under which independent individual labour may be carried on with means of production belonging to individuals, and the rights of ownership over the means of production and

commercial premises required for independent individual labour activities shall be governed by law.

2. Workers who engage in independent activities using their own labour may, in accordance with agreements concluded for that purpose and with the law, pool their labour and their means of production in co-operatives or similar organizations and may jointly dispose of the income from their joint activities.

Workers who engage in independent activities using their own labour may, in accordance with agreements concluded for that purpose and with the law, pool their labour and their means of production with organizations of associated labour in various forms of co-operation and commercial collaboration, and within the context of this collaboration, participate in the administration of joint affairs and in the distribution of the income earned during their co-operation.

3. Workers who engage in independent activities using their own labour may, where the performance of such activities requires additional labour, recruit a limited number of other persons on a contractual basis.

Employment contracts shall be concluded between those who employ the workers and the latter, in accordance with the collective agreement signed between the trade union organization and the corresponding economic chamber or any other general association in which workers who engage in independent activities using their own labour are represented.

This collective agreement shall guarantee the workers in question the rights referred to in the provisions of amendment XXI, paragraph 3, subparagraphs 2 and 3, and paragraph 5.

...

Amendment XXIX

1. In the Socialist Republic of Yugoslavia, nations and nationalities, workers and citizens shall uphold and ensure: sovereignty, equality of rights, national freedom, independence, territorial integrity, security and social self-protection, defence and the international status and the relations of the country with other States and international organizations, the system of socialist socio-economic relations based on self-management, the basic unity of the political system, the foundations of democratic human and civic freedoms and rights, the solidarity and social security of the workers and citizens and the unity of the market, and they shall also promote harmony in economic and social development and in all their other common interests.

...

Amendment XXX

1. The Socialist Federal Republic of Yugoslavia shall be represented by the federal agencies established for the purpose by the federal Constitution.

2. The Federation shall, through the federal agencies and organizations:

...

(2) Regulate the basic rights of workers in associated labour which guarantee their status, as set forth in the federal Constitution, in self-management and socio-economic relations, and also the fundamental rights of organizations of associated labour, communities of interest, socio-political communities and other communities with respect to socially owned means and resources, regulate the basic rights of workers with a view to ensuring their solidarity and social security;

...

(5) Regulate the basic principles of the national defence system and supervise their implementation; regulate the fundamental rights and duties of citizens, organizations of associated labour and other organizations in the field of national defence:

...

(6) ... protect citizens of the Socialist Federal Republic of Yugoslavia and their interests, and the interests of national organizations abroad;

...

(8) Regulate citizenship of the Socialist Federal Republic of Yugoslavia; ...

(9) Regulate the régime for crossing State borders, the status, residence and protection of aliens in Yugoslavia, ..., regulate the legal status of foreign bodies corporate in Yugoslavia; regulate the protection of the human environment against threats to human life and health throughout the country; ... regulate the status of foreign information agencies and of representatives of foreign information media; impose restrictions on or prohibit the freedom to use the press and other information media when they are used for the purpose of destroying the bases of the democratic socialist system established under the federal Constitution, or endangering the country's independence, or jeopardizing peace and international co-operation on the basis of equality;

...

(11) Regulate the general conditions for imposing penalties for criminal and economic offences, and determine the categories of such penalties; define criminal offences against the people and the State, humanity and international law, the reputation of the Socialist Federal Republic of Yugoslavia, its agencies and representatives, the reputation of foreign States and organizations and that of their heads and representatives, the responsibilities of officials of federal organizations and agencies, and the armed forces, and criminal and economic offences undermining the unity of the Yugoslav market or violating federal laws; lay down general conditions for imposing penalties for violating federal regulations and define the categories of such penalties, and define correctional offences in respect of violations of federal regulations; regulate general administrative and judicial procedure;

...

Amendment XXXI

1. In exercising their rights and duties laid down in the federal Constitution, federal agencies shall formulate policy and adopt laws and other enactments.

2. Within the limits of their rights and duties, the republics and autonomous provinces may adopt laws in fields governed by federal laws.

If a federal law has not been promulgated in the fields regulated by federal laws, the republics or autonomous provinces may adopt their own laws if it is in the interest of the exercise of their rights and duties.

...

Amendment XXXV

...

3. The principle of the equality of rights of the languages of the peoples of Yugoslavia, and hence also the principle of the equality of rights of the languages of the nations and nationalities, shall be applied in international relations.

When international treaties and agreements are concluded in the languages of the contracting parties, the languages of the peoples of Yugoslavia shall be used on the basis of equality.

...

Amendment XLI

1. The nations and nationalities of Yugoslavia and the workers and citizens shall have the inalienable right and the duty to protect and defend the independence, sovereignty, territorial integrity and the social and political order of the Socialist Federal Republic of Yugoslavia, as established in the federal Constitution.

No person shall have the right to sign or accept the capitulation or occupation of the Socialist Federal Republic of Yugoslavia or of any part thereof. No person shall have the right to prevent citizens of the Socialist Federal Republic of Yugoslavia from fighting against any enemy that attacks the country. Such acts shall be unconstitutional and punishable under the law as acts of high treason and crimes against the people.

...

3. The armed forces of the Socialist Federal Republic of Yugoslavia shall constitute a single entity and shall consist of the Yugoslav People's Army, as the joint armed forces of all the peoples, nationalities, workers and citizens, and of territorial defence, as the most widespread form of organized and popular armed resistance.

The armed forces of the Socialist Federal Republic of Yugoslavia shall protect the independence, constitutional order, inviolability, integrity and unity of the territory of the Socialist Federal Republic of Yugoslavia.

Any citizen who, bearing arms or in any other way, participates in resistance against an aggressor shall belong to the armed forces of the Socialist Federal Republic of Yugoslavia.

4. In accordance with the federal Constitution, the equality of rights of the languages and alphabets of the peoples and nationalities of Yugoslavia shall be guaranteed in the armed forces of the Socialist Federal Republic of Yugoslavia. Commands and military training in the Yugoslav People's Army may be given, in accordance with federal law, in one of the languages of the peoples of Yugoslavia, and in its units in the languages of the peoples and nationalities.

5. In forming cadres and making appointments to senior posts of command and leadership in the Yugoslav People's Army, the principle of maximum proportional representation of the republics and autonomous provinces shall be applied (*Official Gazette of the SFRY*, No. 29/1971).

II. Decisions of the Constitutional Court of Yugoslavia

1. The regulations on the distribution of earnings of a department of an enterprise allocated for personal incomes, provided that violations of labour discipline would authorize the person in charge to reduce personal income. The Constitutional Court established that the provisions concerning such violations contained two clauses permitting a decrease in personal income: firstly, a violation of labour discipline resulting in a lack of discipline at work and, secondly, a violation of labour discipline resulting in material damage.

The regulations provide. however, that the reduction in personal income would be increased by 10 per cent if the worker objected to the decision concerning the reduction in income and if the competent commission did not accept that objection.

On the initiative of a group of workers, the Constitutional Court was requested to rule whether the above-mentioned provisions of the regulations were consistent with the Basic Law on Labour Relations. The Court decided to abrogate, i.e. to annul, all the disputed provisions of the regulations on the distribution of personal income, for the following reasons:

(*a*) As to violations of labour discipline resulting in a lack of discipline at work, "the work organization cannot prescribe a reduction in personal income, which would be the same as imposing a fine, since that would be contrary to the provisions of articles 89 to 91 of the Basic Law on Labour Relations".

(*b*) A reduction in personal income cannot be sanctioned for violations of labour discipline resulting in material damage. The question of reparation for damage thus caused by the worker must be settled separately (article 96 of the Basic Law).

(*c*) The imposing of penalties because an objection was raised against a decision concerning the reduction of personal income was designated by the Constitutional Court as a serious violation of the Constitution and legislation of the Socialist

Federal Republic of Yugoslavia (*Official Gazette of the SFRY*, No. 9/1971).

2. On 9 June 1971, the Constitutional Court of Yugoslavia gave a ruling on a case concerning the distribution of the income of a school of higher learning in which two constitutional principles were in conflict: the security of the worker and the guaranteeing of his personal rights, on the one hand, and on the other hand, distribution of income according to the work performed. According to the Constitutional Court, in that case the Basic Law on Labour Relations (article 102, paragraph 2) has a rule whereby the second principle is made subordinate to the first. The rule provides that the labour relations applied to workers whose jobs are abolished and who have worked for a given period (more than 30 years for men and more than 25 years for women) remain unchanged. While a specific personal income cannot be guaranteed to those workers, according to the position taken by the Constitutional Court "personal income ... cannot be essentially different from the personal income of the workers who remained on the job if they fulfil the conditions required to perform the work at that post". To support its decision, the Court also refers to the interpretation of the principle of distribution of income according to work performed "which must be understood so as not to exclude previous work in determining the amount of personal income" (*Official Gazette of the SFRY*, No. 31/1971).

3. The statute of a construction enterprise provided that the workers were required to do overtime, outside the normal hours of work "at all workplaces during the construction season and even outside the season if the work was being done in the warmer regions" and "if for any reason the dynamic and operational construction plan is not fulfilled".

The work inspector of the commune where the enterprise has its head office submitted to the Constitutional Court a request for a decision as to the constitutionality and legality of the above-mentioned provision of the statute, and considered that it was contrary to article 45 of the Basic Law on Labour Relations which permits overtime only in strictly specified cases (if a disaster has befallen the place of work or is likely to do so; if it is necessary to continue the work begun in order to finish the work process and prevent the deterioration of raw materials or equipment and to repair damage to instruments of labour). However, in cases indicated, overtime could only be introduced and could only continue until such time as it was no longer indispensable in order to save human lives, safeguard material goods and eliminate or prevent deleterious effects.

The Court repealed the disputed provisions of the statute of the enterprise by giving its interpretation of article 5 of the Basic Law on Labour Relations, namely: "the right of workers to a reduced work shift is the principle of labour relations to which exceptions can be authorized only in the common interest of all workers and only in special circumstances and according to the conditions clearly and specifically defined by law". The above-mentioned provisions of the enterprise's statute, on the contrary, are formulated so as to "offer the possibility of the unlimited and arbitrary introduction of overtime and hence, the possibility of violating the provisions of the law on the workers' right to a reduced work shift" (*Official Gazette of the SFRY*, No. 32/1971).

III. International agreements

These include the bilateral and multilateral agreements relating to human rights, whose ratifications by Yugoslavia were published in 1971 in the *Supplement to the Official Gazette of the SFRY: International Treaties and Other Agreements* (see below *International Agreements*).

(*a*) Bilateral agreements

1. Convention between the Socialist Federal Republic of Yugoslavia and the French Republic, concerning the issuance of civil status documents and the abolition of the legalization requirement, signed at Belgrade on 29 October 1969; ratified on 24 June 1970 (*International Agreements*, No. 3/1971).

2. Agreement between the Government of the Socialist Federal Republic of Yugoslavia and the Kingdom of the Netherlands concerning the regulation of the employment of Yugoslav workers in the Netherlands, signed at Belgrade on 9 March 1970 (*International Agreements*, No. 14/1971).

3. Agreement between the Government of the Socialist Federal Republic of Yugoslavia and the Government of the French Republic on the abolition of visitors' visas signed at Paris on 15 January 1969; ratified on 13 February 1969 (*International Agreements*, No. 16/1971).

4. Supplementary agreement between Yugoslavia and the United Kingdom of Great Britain and Northern Ireland concerning the abolition of visas, concluded by the exchange of letters of 19 February and 4 March 1970; ratified on 18 March 1970 (*International Agreements*, No. 16/1971).

5. Convention concerning mutual assistance in criminal matters between the Federal Socialist Republic of Yugoslavia and the French Republic, signed at Belgrade on 29 October 1969; ratified on 24 June 1970 (*International Agreements*, No. 16/1971).

6. Agreement concerning Yugoslav salaried seasonal workers employed in France and French seasonal workers employed in Yugoslavia, signed

at Paris on 5 March 1970; ratified on 8 July 1970 (*International Agreements*, No. 16/1971).

7. Agreement between the Socialist Federal Republic of Yugoslavia and the United States of America on the issue, on the basis of reciprocity, of visas valid for multiple entries, concluded through an exchange of letters on 29 April 1970; ratified on 29 October 1970 (*International Agreements*, No. 18/1971).

8. Agreement between the Socialist Federal Republic of Yugoslavia and the French Republic for facilitating the implementation of the Hague Convention of 1 March 1954 concerning civil procedure, signed at Belgrade on 29 October 1969; ratified on 17 May 1970 (*International Agreements*, No. 21/1971).

9. Record of the twenty-sixth regular session of the mixed Yugoslav-Italian committee provided for in article VIII of the special Statute (on minorities) of 5 October 1954, signed at Belgrade on 20 December 1969; ratified on 17 June 1970 (*International Agreements*, No. 22/1971).

10. Agreement between the Socialist Federal Republic of Yugoslavia and the Kingdom of Belgium concerning the employment and residence in Belgium of Yugoslav workers, signed at Belgrade on 2 June 1970; ratified on 20 December 1970 (*International Agreements*, No. 22/1971).

11. Agreement between the Socialist Federal Republic of Yugoslavia and the Grand Duchy of Luxembourg, signed at Belgrade on 28 May 1970; ratified on 7 October 1970 (*International Agreements*, No. 23/1971).

12. Convention on extradition between the Government of the Socialist Federal Republic of Yugoslavia and the Government of the French Republic, signed at Paris on 23 September 1970; ratified on 3 March 1971 (*International Agreements*, No. 43/1971).

13. Agreement on the mutual abolition of visas and visa fees between the Socialist Federal Republic of Yugoslavia and the Republic of Costa Rica, signed at Mexico City on 7 December 1970; ratified on 21 March 1971 (*International Agreements*, No. 46/1971).

14. Agreement between Yugoslavia and Italy on the mutual recognition of final certificates of secondary education for the purpose of admission to universities and institutes of higher learning, concluded by an exchange of notes at Belgrade, on 23 December 1970; ratified on 3 May 1971 (*International Agreements*, No. 58/1971).

15. Administrative Agreement for the implementation of the Agreement between Yugoslavia and the Federal Republic of Germany on unemployment insurance, of 12 October 1968, and the Protocol to the Administrative Agreement, signed at Munich on 16 May 1969; ratified on 12 August 1970 (*International Agreements*, No. 9/1971).

(*b*) Multilateral agreements

1. International Covenant on Civil and Political Rights, concluded at New York on 19 December 1966; ratified on 20 January 1971 (*Official Gazette of the SFRY*, No. 7/1971).

2. International Covenant on Economic, Social and Cultural Rights concluded at New York on 19 December 1966; ratified on 30 January 1971 (*Official Gazette of the SFRY*, No. 7/1971).

3. Second addendum to the plan of operations for a project to strengthen integrated maternal and child services in Yugoslavia, signed at Belgrade on 29 December 1966, ratified on 8 July 1970 (*International Agreements*, No. 3/1971).

4. Convention No. 122 of the International Labour Organisation concerning employment policy, signed at Geneva on 9 July 1964; ratified on 17 March 1971 (*International Agreements*, No. 34/1971).

ZAMBIA

The Industrial Relations Act, 1971

Act No. 36 of 1971, assented to on 20 December 1971 but not yet in operation pending notification by the President by statutory instrument [1]

(Extracts)

PART I

Preliminary

. . .

(2) Different dates may be appointed by the President for the coming into operation of different Parts or sections of this act.

2. (1) Subject to the provisions of subsection (2), the provisions of this act shall bind the Republic:

Provided that this subsection shall not apply to—

(i) The Zambia Defence Force;
(ii) The Zambia Police Force;
(iii) The Zambia Prison Service.

(2) The provisions of this act shall apply to any public or local authority only to such extent and in such manner and from such date or dates as the President may, by statutory instrument, prescribe for that purpose.

. . .

4. (1) Notwithstanding anything to the contrary contained in any written law, but subject to the provisions of this act, every employee shall, as between himself and his employer, have the following rights, that is to say—

(*a*) The right, if he so desires, to take part in the formation of a trade union;

(*b*) The right, if he so desires, to be a member of such trade union as he may choose;

(*c*) Where he is a member of a trade union, the right, at any appropriate time, to take part in the activities of the trade union (including any activities as, or with a view to becoming, an officer of the trade union) and the right to seek election or accept appointment, and (if elected or appointed) to hold office, as such officer.

(2) No employer, or any person acting on his behalf, shall—

(*a*) Prevent or deter an employee from exercising any of the rights conferred on him by subsection (1); or

(*b*) Dismiss, penalise or otherwise discriminate against any employee by reason of his exercising any such right; or

(*c*) Refuse to engage a person, or dismiss, penalise or otherwise discriminate against any employee on the ground that, at the time of applying for an engagement, he was or was not a member of a trade union or of a particular trade union or other organization of employees or of any two or more particular trade unions or other such organizations;

(*d*) Dismiss, penalise or otherwise discriminate against an employee on the grounds that such employee—

(i) Has been or is a complainant or a witness or has given evidence in any proceedings, whether instituted against the employer or otherwise, before any court;

(ii) Is or has become entitled to a reward, benefit or compensation against the employer or against the association or the class of employers to which such employer belongs or against any other person, in consequence of a decision pronounced by the Industrial Relations Court in his favour or in favour of a trade union or the class of employees to which such employee belongs;

(iii) Has absented himself from work without leave of the employer for the sole purpose of taking part, and has in fact taken part, in the activities of the trade union (including any activities as or with a view to becoming an officer of the trade union), and the leave of absence was (though applied for the above mentioned purpose) unreasonably refused or withheld by the employer.

(3) No employer or organization of or representing employers, or any person acting on his behalf, shall render financial or other assistance to any trade union or any officer thereof with the

[1] Text furnished by the Government of Zambia.

object of exercising any control over or influence in the activities of such trade union.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding 200 kwacha or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(5) In this section "appropriate time", in relation to an employee taking part in any activities of a trade union, means any time which either—

(*a*) Is outside his working hours; or

(*b*) Is a time within his working hours at which, in accordance with arrangements agreed with, or consent given by or on behalf of, his employer, it is permissible for him to take part in those activities; and in this subsection "working hours", in relation to an employee, means any time when in accordance with his contract of employment he is required to be at work.

. . .

PART V

Employers' associations

30. (1) In this act the expression "association" means a combination of employers registered as an association under section 32, and under the constitution of which the principal objects are the regulation of the collective relations beween employers and employees, or between employers and trade unions, or between employers and employers, which said objects are hereinafter referred to as the statutory objects:

Provided, however, that—

(i) For the purpose of this act, the fact that an association has objects other than statutory objects shall not prevent the combination from being an association and, subject to the provisions of this act, any such association shall have the power to apply its funds for any lawful objects for the time being authorized under its constitution;

(ii) The objects of an association shall not, by reason that they are in restraint of trade, be deemed to be unlawful so as to render any member or officer of the association liable to criminal prosecution for conspiracy or otherwise;

(iii) The objects of an association shall not, by reason that they are in restraint of trade, be deemed to be unlawful so as to render void or voidable any agreement or trust.

31. (1) Subject to the provisions of this act—

(*a*) Employers shall have the right to participate in the formation of, and to join, or not to join, an association and to participate in the lawful activities of such association;

(*b*) Nothing contained in any law shall prohibit any employer from being or becoming a member of any association lawfully in being or subject such employer to any penalty by reason of such employer's membership of any such association;

(*c*) No person shall impede, interfere with or coerce an employer in the exercise of his rights under this section;

(*d*) No person shall subject an employer to any form of discrimination on the ground that such an employer is or is not a member of any association;

(*e*) No person shall subject another person to any form of discrimination on the ground that such person holds office in an association;

(*f*) No person shall impede or interfere with the lawful establishment, administration or functioning of an association.

(2) No employee shall cease or suspend doing work for his employer on the ground that such employer—

(*a*) Is or is not a member of, or holds or does not hold office in, an association;

(*b*) Participates in the lawful activities of an association;

(*c*) Has appeared as a complainant or as a witness or has given evidence in any proceedings before the Industrial Relations Court or any other court; or

(*d*) Is or has become entitled to any advantage, award, benefit or compensation in consequence of a decision made by the Industrial Relations Court in favour of such employer, or in favour of an association or class or category of employers to which such employer belongs, either against such employee or against the trade union or class or category of employees to which such employee belongs or against any other person.

(3) Any person who contravenes any of the provisions of this section shall be liable on conviction to a fine not exceeding 200 kwacha or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

32. (1) Every association shall be registered in accordance with the provisions of this act within six months from the date of its formation.

. . .

PART VII

Works councils

54. The President may by statutory instrument exempt any undertaking or class or classes of undertaking from the operation of all or any of the provisions of this Part.

55. (1) Unless the President for good cause extends the period, not later than six months from the coming into operation of this section, a council shall be established in every undertaking employing not less then 100 eligible employees.

(2) The President may, from time to time after the establishment of councils under subsection (1), by statutory instrument, order that councils be established in all undertakings named in the order employing not less than such number of eligible employees as may be prescribed by such order, and such councils shall be established in such undertakings not later than six months from the publication of such order.

. . .

69. The principal objectives of every council shall be to promote and maintain the effective participation of workers in the affairs of the undertaking for which such council is established

CORRIGENDUM

Ref.: Sales No. E.74.XIV.1
December 1974
Geneva

UNITED NATIONS

YEARBOOK ON HUMAN RIGHTS FOR 1971

Corrigendum

Pages v and 106, Honduras

The date of Decree No. 110 *should read* 28 January 1971.

Page 21, lines 1-2

The heading should have appeared over the left-hand column.

Page 23

The table should have appeared at the bottom of the right-hand column.

Page 103

The heading that appears across the page, on lines 2-5, should appear in the left-hand column, below the heading "I. Legislation".

Page 128, foot-note 4

For Yearbook on Human Rights for 1950 *read* Yearbook on Human Rights for 1951.

Page 173

Between the second and third paragraphs, *insert heading* 3. Bill to establish position of Ombudsman.

Page 173, third paragraph, first line

Delete 3.

Page 225

Between paragraphs 3 and 4, *insert heading* Limitation of access to public documents.

Page 236, subparagraph (c), *line 2*

For not pregnant *read* pregnant.

Page 325, foot-note 1

The first sentence *should read* Concerning the status of these agreements at the end of 1970, see *Yearbook on Human Rights for 1970*, pp. 332-338.

Page 325, entry 2, line 15

For Republic of Kuwait *read* Republic of Korea.

Page 326, entry 4, last line

Delete Zaire.

Page 326, entry 6, last line

After "Yugoslavia" insert foot-note indicator [4a] and at the foot of the column insert the following foot-note:

[4a] In addition, the Convention was signed on behalf of the Republic of China on 14 December 1955. In this connexion, see foot-note 3 above.

Page 327, entry 9, line 12

Delete Fiji.
Insert Finland.

Page 327, entry 11, line 1

For Marriages *read* Marriage.

Page 327, entry 11, line 10

For Dominicain Republic *read* Dominican Republic.

Page 327, entry 12

The entry *should read*

12. *International Convention on the Elimination of All Forms of Racial Discrimination* (New York, 1965; entered into force on 4 January 1969) (see *Yearbook on Human Rights for 1965*, pp. 389-394).

During 1971, the following States became parties to the Convention by the instruments and on the dates indicated: Cameroon (ratification, 24 June), Central African Republic (ratification, 16 March), Chile (ratification, 20 October), Denmark (ratification, 9 December), France (accession, 28 July), Jamaica (ratification, 4 June), Lebanon (accession, 12 November), Lesotho (accession, 4 November), Malta (ratification, 27 May), Nepal (accession, 30 January), Netherlands (ratification, 10 December), Peru (ratification, 29 September) and Sweden (ratification, 6 December).

At the end of 1971, the following 58 States were parties to the Convention: Argentina, Bolivia, Brazil, Bulgaria, Byelorussian SSR, Cameroon, Canada, Central African Republic, Chile, Costa Rica, Cyprus, Czechoslovakia, Denmark, Ecuador, Egypt, Federal Republic of Germany, Finland, France, Ghana, Greece, Holy See, Hungary, Iceland, India, Iran, Iraq, Jamaica, Kuwait, Lebanon, Lesotho, Libyan Arab Republic, Madagascar, Malta, Mongolia, Morocco, Nepal, Netherlands, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Sierra Leone, Spain, Swaziland, Sweden, Syrian Arab Republic, Tunisia, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, Uruguay, Venezuela, Yugoslavia. [7]

[7] In addition, the Convention was ratified on behalf of the Republic of China on 10 December 1970. In this connexion, see foot-note 3 above.

Page 327, entry 13, lines 7-8

For Iraq (ratification, 25 February), Madagascar (ratification, 2 June) *read* Iraq (ratification, 25 January), Madagascar (ratification, 22 September).

Page 327, entry 14, line 8

For Madagascar (ratification, 2 June) *read* Madagascar (ratification, 21 June).

Page 327, entry 15

The entry *should read*

15. *Optional Protocol to the International Covenant on Civil and Political Rights* (New York, 1966; not yet in force) (see *Yearbook on Human Rights for 1966*, pp. 450-452).

During 1971, Madagascar and Sweden ratified the Protocol on 21 June and 6 December, respectively. At the end of 1971, the following 6 States were parties to the Protocol: Colombia, Costa Rica, Ecuador, Madagascar, Sweden, Uruguay.

Page 327, entry 16, line 5

For ratified *read* acceded to

Page 328, entry 17, right-hand column, line 3

For India (12 June) *read* India (12 January).

Page 329, entry III.2

For During 1971, Tunisia ratified the Agreement on 14 May *read* During 1971, Poland and Tunisia ratified the Agreement on 24 September and 14 May, respectively.

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Corr. to Sales No. E.74.XIV.1

and to secure the mutual co-operation of workers, management of the undertaking and the trade union in the interests of industrial peace, improved working conditions, greater efficiency and productivity.

70. (1) Every council shall be entitled to be consulted upon and to participate fully and effectively in all the schemes and programmes relating to the health and welfare of eligible employees in the undertaking.

(2) Without prejudice to the generality of the matters set out in subsection (1), every council shall be consulted on every matter or scheme relating to medical facilities, housing and pension schemes, recreational facilities, canteens and all other amenities to be provided or already provided for the eligible employees in the undertaking.

71. Every council shall be entitled to be informed forthwith in writing of all decisions taken by the board of directors, the proprietors or the management of an undertaking, as the case may be, in relation to the investment policy, financial control, distribution of profits, economic planning, job evaluation, wages policy and the appointment of senior management executives in the undertaking.

72. (1) After the establishment of a council for an undertaking, a decision by the management on a matter of policy in the field of personnel management and industrial relations shall be of no effect unless it is approved by the council established in such undertaking, which approval shall not be unreasonably withheld.

(2) Without prejudice to the generality of the matters set out in subsection (1), the decision by he management of an undertaking in respect of any of the matters enumerated hereinbelow, shall be of no effect unless such decision is approved by the council; the said matters are—

(*a*) Recruitment of employees in the undertaking and assessment of their salaries;

(*b*) Transfer of employees from one undertaking to another owned by the same employers;

(*c*) Rules as to discipline applicable to the employees in the undertaking;

(*d*) Redundancy of the employees in the undertaking;

(*e*) Bonuses and incentives payable to the employees and the modes of payment thereof; and

(*f*) Safety of the employees subject to the provisions of any other written law.

(3) Where a council in inclined to refuse approval of any decision of the management on any of the matters set out in subsection (2), it shall, before so doing afford the management an opportunity of apprising the council of the reasons for their decision.

. . .

PART VIII

Joint councils and collective agreements

79 (1) Within a period of three months from the date of coming into operation of this section or the formation of an association, whichever is the later, every association shall cause to be established a joint council within and for the industry with which the association is concerned.

(2) If the association concerned fails or neglects, without reasonable cause or excuse (the onus of proof whereof shall lie on the association) to establish a joint council in the manner and within the period specified in subsection (1), every officer of such association shall be guilty of an offence and liable on conviction to a fine not exceeding 200 kwacha or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

. . .

81. Every collective agreement shall contain clauses, hereinafter referred to as the statutory clauses, stipulating—

(*a*) The period for which an agreement is to remain in force; and

(*b*) The method and procedure for amending, terminating or replacing such agreement.

82. (1) It shall be the duty of the bargaining unit—

(*a*) To commence negotiations with the management of the undertaking for the purpose of concluding a new collective agreement at least three months before the date of expiry of the existing collective agreement; and

(*b*) To notify the Commissioner [2] in writing within 15 days after the commencement of the negotiations of the date of commencement thereof.

(2) If the bargaining unit fails or neglects, without reasonable cause or excuse (the onus of proof whereof shall lie on the bargaining unit) to commence negotiations in the manner and within the period specified in paragraph *a* of subsection (1), or to notify the Commissioner in the manner and within the period specified in paragraph *b* of subsection (1) aforesaid, every member of the bargaining unit shall be guilty of an offence and liable on conviction to a fine not exceeding 20 kwacha or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

. . .

PART IX

Settlement of collective disputes

89. A collective dispute shall not be deemed to exist unless and until one party to such dispute presents in writing to the other party thereto all its claims and demands arising out of the dispute, and—

(*a*) Such other party has, within 14 days from the date of receipt of the claims or demands, failed to answer such claims or demands; or

(*b*) Such other party has formally rejected such claims or demands and has made no counter offer; or

---

[2] As stated in section 3 of this act, "Commissioner" means Labour Commissioner.

(*c*) Both the parties to the dispute have held at least one meeting with a view to negotiating a settlement of the dispute, but have failed to reach settlement on all or some of the matters in issue between them.

...

92. (1) Where the parties involved in a collective dispute reach a settlement of such dispute, such settlement shall be recorded in writing and signed by the parties.

...

93. (1) Where the parties involved in a collective dispute are unable to reach a settlement of such dispute, the proper officer shall forthwith inform the Commissioner accordingly and the Commissioner shall thereupon deliver to the Minister a detailed report as to why the parties were unable to reach a settlement of the dispute.

...

PART X

Industrial Relations Court

96. (1) There is hereby established for the Republic the Industrial Relations Court hereinafter in this Part referred to as the Court.

...

98. The Court shall have the power, authority and jurisdiction—

(*a*) To examine and approve collective agreements;

(*b*) To inquire into and make awards and decisions in collective disputes;

(*c*) To inquire into and make awards and decisions in any matters relating to industrial relations which may be referred to it;

(*d*) To interpret the terms of awards and agreements;

(*e*) To perform such acts and carry out such duties as may be prescribed under this act or any other written law;

(*f*) To commit and punish for contempt any person who disobeys or unlawfully refuses to carry out or to be bound by an order made against him by the Court under this act; and

(*g*) Generally to inquire into and adjudicate upon any matter affecting the rights, obligations and privileges of employees, employers and representative organizations thereof.

...

107. If any person wilfully insults the Court or any member thereof during any sitting of the Court, or wilfully interrupts the proceedings of the Court, or otherwise wilfully disturbs the peace or order of such proceedings, the Chairman may order that such person be removed and detained in custody until the rising of the Court and every such person shall be liable in addition to such removal and detention to such fine not exceeding 50 kwacha as the Chairman may determine.

...

109. In any proceedings before the Court, the Chairman may in his discretion admit to or exclude from the proceedings any member of the public or any representative of the Press.

...

The National Housing Authority Act, 1971

Act No. 16 of 1971, assented to on 29 March 1971 and enacted by the Parliament of Zambia on 2 April 1971 [3]

(Extracts)

...

PART IV

Functions of the authority

18. Subject to any direction given by the Minister, the Authority shall have the sole management and control of the property, income and funds of the Authority and of the affairs and business thereof.

19. (1) It shall, subject to the provisions of this act, be the object and general duty of the Authority to keep under continuous review housing conditions in the Republic and the needs of the Republic with respect to the provision of further housing accommodation and to provide, or to secure and promote the provision of, such housing accommodation for the Republic and to take all such steps as it may appear to the Authority requisite or expedient in those respects.

(2) Without prejudice to the generality of the provisions of subsection (1), the functions of the Authority shall be—

(*a*) To make recommendations and proposals to the Minister, from time to time, with regard to the formulation and implementation of Government policy on housing and matters incidental thereto, whether in respect of the whole of the Republic or any part thereof;

(*b*) To carry out surveys of housing requirements of any place, district or local authority area or of any part of such place, district or local authority area, and to advise the Minister or local authorities or persons thereon;

(*c*) To submit to the Minister before the thirtieth day of June in each year a report on current and future requirements of housing accom-

[3] *Supplement to the Republic of Zambia Government Gazette*, 2 April 1971.

modation throughout the Republic, the extent to which such requirements are being met, programmes of construction of houses and the estimated cost of such programmes;

(*d*) To clear squatter areas and to plan improvement and redevelopment of such areas;

(*e*) To advise the Minister as to any changes or amendments to the law relating to housing which the Authority considers to be appropriate or desirable;

(*f*) To undertake, support and encourage research, either by itself or in conjunction with a local authority or person, into all housing aspects including suitability, adaptability and methods of building and development with particular reference to the construction of low cost housing, and all matters connected therewith;

(*g*) To undertake and encourage the collation and dissemination of scientific, economic, social and other data concerning housing and matters connected therewith;

(*h*) To advise and make recommendations to the Minister, local authorities and persons on standards of construction of houses desirable and feasible in any place, district or local authority area;

(*i*) To advise and assist any local authority or person in the preparation of proposals and programmes for the construction of houses and to assist in the carrying out of such proposals and programmes;

(*j*) To provide, manage and control housing accommodation for public officers and employees of the Government and of prescribed organizations;

(*k*) To establish a national housing revolving fund to provide finance for housing throughout the Republic;

(*l*) To purchase, manufacture, process or otherwise acquire building materials on its own behalf or on behalf of a local authority or person and to sell at reasonable price such building materials; and to ensure that there is a sufficient supply of building materials available to meet the needs of the building industry in the Republic;

(*m*) To provide town planning, consultancy and other services in relation to housing programmes of a local authority, government or a person;

(*n*) To examine, approve, vary or disallow plans and designs of buildings intended to be used as houses or as a part of a housing estate or scheme and examine and approve existing buildings for such use;

(*o*) With the approval of the Minister, to acquire, take over, manage and control on efficient and economic bases houses belonging to the Government;

(*p*) With the consent of a prescribed organization, to acquire, take over, manage and control on efficient bases houses and other buildings belonging to it;

(*q*) To allocate houses referred to in paragraphs *o* and *p* to approved persons;

(*r*) To introduce a system of economic rentals in respect of houses under its control;

(*s*) To devise and promote home-ownership by the introduction of house-purchase schemes;

(*t*) To establish a national building organization capable of undertaking development of housing estates on efficient and economic bases;

(*u*) To form a company under the provisions of the Companies Ordinance for the purpose of carrying out any of its functions;

(*v*) To combine with, join in or participate in any other way in the business of any other person for the purpose of carrying out any of its functions;

(*w*) To undertake such other functions in connection with housing as the Minister may require.

(3) The Minister may, by writing under his hand, prescribe any company or association or body of persons, corporate or unincorporate in which the Government holds shares or any other interest as a "prescribed organization" for the purpose of this act.

20. The Authority shall, subject to the provisions of this act and to any general or special directions of the Minister, have power to—

(*a*) Examine and approve, disapprove or vary any schemes proposed to be carried out by any local authority or person;

(*b*) Prepare any scheme at the request and on behalf of, any local authority or person;

(*c*) Enter into a contract, at the request of, and on behalf of, a local authority or person to implement a scheme on its or his behalf and at its or his expense, as the case may be;

(*d*) Initiate a scheme:

Provided that, where the Authority decides to initiate a scheme in a local authority area, the local authority concerned may, within thirty days of such decision, appeal to the Minister whose decision in the matter shall be final;

(*e*) Execute a scheme.

21. (1) The Authority shall, subject to the provisions of this Act, have power to—

(*a*) Develop, build or manage and control housing estates, or undertake the development, building or management of a housing estate, whether already developed or in the course of development at the date of commencement of this act, whenever requested so to do by the person or local authority for the time being responsible for the development, building or management of such estate;

(*b*) Sell to any person a house or housing estate either upon terms of deferred payment of the whole or any part of the purchase price, within any period not exceeding 30 years, or otherwise, as the Minister may direct, or both sell or let a house on lease or otherwise; or to enter into any agreement for such purposes;

(*c*) Erect, or to permit or assist the erection, on any land owned, leased or controlled by the Authority, of buildings other than houses, where such buildings are considered by the Authority to be necessary to the development or improvement of a housing estate;

(d) Enter into contracts for the erection of buildings for the Authority on any housing estates

to be developed or managed by the Authority and to sell on terms of deferred payment or otherwise, or to let, any buildings so erected;

(*e*) Enter into contracts with contractors or agents for the maintenance or supervision of buildings on housing estates;

(*f*) Undertake the management and control of such Government-owned houses, classes of houses and housing estates as the Minister may, from time to time, prescribe;

(*g*) Undertake the management and control of such houses of a prescribed organization as may be agreed upon between it and such prescribed organization.

(2) The Authority may, subject to the prior approval of the Minister, delegate on such terms as may be mutually agreed, the management and control of a housing estate which has been developed and built by the Authority to a local authority which is willing to undertake such management and control.

22. A local authority or person shall not, within the area of a municipal council or township council, initiate detailed planning of any scheme until a preliminary plan of the site of the scheme, showing the proposed development, and a written memorandum explaining the nature of the proposed development have been submitted to and approved by the Authority.

23. The Authority may provide housing accommodation—

(*a*) By the erection of houses on any land acquired;

(*b*) By the conversion of any buildings into houses;

(*c*) By acquiring houses;

(*d*) By altering, enlarging, repairing or improving any houses or buildings which have, or an estate or interest in which has, been acquired by the Authority;

(*e*) By agreements providing for the management and control of houses owned by any person; or

(*f*) By clearing squatter areas and thereafter making necessary improvement and redevelopment of such areas.

24. (1) Whenever the Authority is of opinion that in any area of a local authority, or in any part of such area, the provision for the housing of persons employed within such area, or such part of such area, is inadequate or unsuitable, the Authority may after consultation with the Minister by notice in writing, require that the local authority concerned shall, within such time as may be specified in such notice, make such provision in respect of such housing as the Authority may specify.

(2) The Authority may, at any date prior to the expiry of the time specified pursuant to subsection (1), extend such time in such manner as it thinks fit.

25. (1) If any local authority fails to comply with any requirement notified pursuant to section 24, or fails to carry out within reasonable time a scheme approved by the Authority pursuant to section 20, the Authority may, after written notice of its intention to the local authority concerned, carry out such works and do all such things as may be necessary to give effect to such requirement, or to carry out such scheme, and for any such purpose the Authority is hereby authorized to exercise all such rights, powers and authorities as might have been exercised by the said local authority in that behalf.

(2) Any expenditure reasonably incurred by the Authority under the provisions of this section may be recovered from the local authority as a civil debt and shall be a charge on the general fund of the local authority.

26. (1) Any authorized person may at all reasonable times enter upon any land or building in respect of which approval has been applied for, or in respect of which a grant or loan has been, or is proposed to be, made pursuant to this act, to make any inspection or to perform any work or to do anything which he is required or empowered to do under this act.

(2) Any person who fails or refuses to give to any authorized person access to any such land or building or who obstructs or hinders such authorized person in the performance of his duties shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding 1,000 kwacha or to imprisonment for a term not exceeding two years or to both such fine and such term of imprisonment.

(3) For the purposes of this section the term "authorized person" means—

(*a*) Any employee of the Authority, or any employee of any local authority which is generally or specially authorized by the Authority to act on its behalf; or

(*b*) Any employee of any local authority when acting on behalf of such local authority in relation to any land or building in respect of which a loan has been made by such local authority pursuant to section 49.

27. (1) The Authority may, with the approval of the Minister, purchase or otherwise acquire, take on lease or in exchange or receive by way of gift any land in Zambia.

(2) When any land is acquired under the provisions of the Lands Acquisition Act, 1969, or any other written law, from time to time, amending or repealing and replacing the same, and transferred to the Authority, all expenses and compensation payable in respect of such acquisition shall be paid by the Authority into the general revenues of the Republic.

28. In addition to any other power otherwise expressly or impliedly conferred by this act the Authority shall, subject to the provisions of this act, have power to do either by itself or through or jointly with others all or any of the things specified in the Schedule.

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PART II

TRUST AND NON-SELF-GOVERNING TERRITORIES

A. Trust Territories

TRUST TERRITORY OF NEW GUINEA

Under the administration of Australia

NOTE *

I. Legislation

A. Right to take part in government

(Universal Declaration, Article 21)

The *Local Government (Authorities) Ordinance* 1971 (No. 25 of 1971) amends the *Local Government Ordinance* 1963-1970 and enables two new types of local governing bodies to be established. The existing local government councils which now cover most of the Territory are general purpose councils with a wide range of permissive functions. The new councils can be (*a*) district local governing bodies, or area authorities, which would be executive bodies exercising delegated or devolved functions from the central government and covering a wider area than the general purpose councils or (*b*) special purpose councils formed by two or more councils through which they could operate a common service more efficiently or economically by joining together.

The *Local Government Service Ordinance* 1971 (No. 95 of 1971) establishes and regulates a Local Government Service.

B. Conditions of work

(Universal Declaration, Articles 23, 25)

The *Native Employment (Minimum Wage) Ordinance 1970* (No. 5 of 1971) amends the *Native Employment Ordinance* 1958-1967 so as to increase minimum current wages by $26.00 per annum.

The *Workers' Compensation (Increased Benefits) Ordinance* 1970 (No. 10 of 1971) *increases compensation benefits payable to workers* to a level comparable with those existing in Australia. Amounts of compensation under the Ordinance are calculated proportionately to the amount of the worker's wages. If he is paid less than $800 per annum he receives 27 per cent of the benefit and if between $800 per annum and $1,336 per annum, 60 per cent.

The *Industrial Relations (Minimum Wages Board) Ordinance 1971* (No. 32 of 1971) amends the Industrial Relations Ordinance so as to provide for a Minimum Wages Board and establish a minimum cash wage which until now has been determined by legislation. The Board will be an independent body. It may determine varying minimum rates as between different areas or between industries or occupations. It will consider the amounts that may be deducted from wages, allowances that may be added to wages, leave conditions, hours of work and the like.

The *Native Employment (Minimum Conditions) Ordinance* 1971 (No. 33 of 1971) amends the *Native Employment Ordinance* 1958-1970 which deals with wages on a cash and kind basis, that is, the employee is paid a certain amount in cash and, in addition, given rations, clothing issues and accommodation. The effect of the 1971 Ordinance will be to convert this into an all cash, wage, with a deduction in case of the casual worker as a contribution towards the cost of his repatriation (agreement workers are entitled to repatriation free of charge).

The *Workers' Compensation (Amendment) Ordinance* 1971 (No. 84 of 1971) amends the *Workers' Compensation Ordinance* 1958-1970 so as to prescribe the powers and functions of the Commissioner for Workers' Compensation. It also provides for increased benefits for workers.

* Note furnished by Mr. J. O. Clark, government-appointed correspondent of the *Yearbook on Human Rights.*

The *Public Officers Superannuation Ordinance* 1971 (No. 94 of 1971) introduces a compulsory, contributory, superannuation scheme to provide a fortnightly pension on retirement for all local officers employed by the Administration, the Royal Papua and New Guinea Constabulary and employees of approved statutory authorities. It replaces the contributory lump sum benefit scheme for Administration employees and the non-contributory scheme for the police previously in operation. It provides the first retirement scheme for employees of public authorities in the Territory.

II. Court decisions

HUMANE PUNISHMENT

(Universal Declaration, Article 5)

A Children's Court in the Territory of New Guinea had sentenced the appellant to six months' imprisonment on one charge and six months on each of six subsequent charges, the periods to be cumulative. The charges related to breaking and entering and, in most cases, stealing.

Thus the appellant, who was then only 15 years old, was in effect sentenced to imprisonment for three and a half years. He had some prior convictions but they were for offences committed at about the same time as the offences out of which the seven charges referred to above were committed.

At the time of the appeal, he had already been in custody for two years and nearly four months.

The following observations were made by the Court on the appeal: (1) Maximum penalties should be reserved for only the worst sort of cases. (2) To the extent that it is possible, young first offenders should not be sent to gaol (the appellant was not a first offender but the prior offences were part and parcel of the later offences). (3) On the face of it, the imposition of seven cumulative sentences on a youthful offender was manifestly unjust.

The appeal was allowed and the appellant was released.

P. Passingan v. *Beaton*, Supreme Court of the Territory of Papua New Guinea, Raine, J.—not yet reported.

B. Non-Self-Governing Territories

TERRITORY OF PAPUA

Under the administration of Australia

NOTE [1]

The ordinances described above [2] in the notes relating to the Territory of New Guinea apply equally in the Territory of Papua, which is governed under an administrative union with the Territory of New Guinea under the name of the Territory of Papua New Guinea.

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[1] Note furnished by Mr. J. O. Clark, government-appointed correspondent of the *Yearbook on Human Rights.*

[2] See pp. 305-306.

PART III

INTERNATIONAL AGREEMENTS

UNITED NATIONS

Declaration on the rights of mentally retarded persons

Adopted by General Assembly resolution 2856 (XXVI) of 20 December 1971

The General Assembly,

Mindful of the pledge of the States Members of the United Nations under the Charter to take joint and separate action in co-operation with the Organization to promote higher standards of living, full employment and conditions of economic and social progress and development,

Reaffirming faith in human rights and fundamental freedoms and in the principles of peace, of the dignity and worth of the human person and of social justice proclaimed in the Charter,

Recalling the principles of the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Declaration of the Rights of the Child and the standards already set for social progress in the constitutions, conventions, recommendations and resolutions of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Children's Fund and other organizations concerned,

Emphasizing that the Declaration on Social Progress and Development has proclaimed the necessity of protecting the rights and assuring the welfare and rehabilitation of the physically and mentally disadvantaged,

Bearing in mind the necessity of assisting mentally retarded persons to develop their abilities in various fields of activities and of promoting their integration as far as possible in normal life,

Aware that certain countries, at their present stage of development, can devote only limited efforts to this end,

Proclaims this Declaration on the Rights of Mentally Retarded Persons and calls for national and international action to ensure that it will be used as a common basis and frame of reference for the protection of these rights:

1. The mentally retarded person has, to the maximum degree of feasibility, the same rights as other human beings.

2. The mentally retarded person has a right to proper medical care and physical therapy and to such education, training, rehabilitation and guidance as will enable him to develop his ability and maximum potential.

3. The mentally retarded person has a right to economic security and to a decent standard of living. He has a right to perform productive work or to engage in any other meaningful occupation to the fullest possible extent of his capabilities.

4. Whenever possible, the mentally retarded person should live with his own family or with foster parents and participate in different forms of community life. The family with which he lives should receive assistance. If care in an institution becomes necessary, it should be provided in surroundings and other circumstances as close as possible to those of normal life.

5. The mentally retarded person has a right to a qualified guardian when this is required to protect his personal well-being and interests.

6. The mentally retarded person has a right to protection from exploitation, abuse and degrading treatment. If prosecuted for any offence, he shall have a right to due process of law with full recognition being given to his degree of mental responsibility.

7. Whenever mentally retarded persons are unable, because of the severity of their handicap, to exercise all their rights in a meaningful way or it should become necessary to restrict or deny some or all of these rights, the procedure used for that restriction or denial of rights must contain proper legal safeguards against every form of abuse. This procedure must be based on an evaluation of the social capability of the mentally retarded person by qualified experts and must be subject to periodic review and to the right of appeal to higher authorities.

INTERNATIONAL LABOUR ORGANISATION

Convention concerning protection and facilities to be afforded to workers' representatives in the undertaking

Convention No. 135, adopted on 23 June 1971 by the International Labour Conference at its Fifty-sixth Session [1]

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Fifty-sixth Session on 2 June 1971, and

Noting the terms of the Right to Organise and Collective Bargaining Convention, 1949, which provides for protection of workers against acts of anti-union discrimination in respect of their employment, and

Considering that it is desirable to supplement these terms with respect to workers' representatives, and

Having decided upon the adoption of certain proposals with regard to protection and facilities afforded to workers' representatives in the undertaking, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-third day of June of the year one thousand nine hundred and seventy-one the following Convention, which may be cited as the Workers' Representatives Convention, 1971:

Article 1

Workers' representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

Article 2

1. Such facilities in the undertaking shall be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

2. In this connection account shall be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

3. The granting of such facilities shall not impair the efficient operation of the undertaking concerned.

Article 3

For the purpose of this Convention the term "workers' representatives" means persons who are recognised as such under national law or practice, whether they are:

(*a*) Trade union representatives, namely, representatives designated or elected by trade unions or by the members of such unions; or

(*b*) Elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned.

Article 4

National laws or regulations, collective agreements, arbitration awards or court decisions may determine the type or types of workers' representatives which shall be entitled to the protection and facilities provided for in this Convention.

Article 5

Where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures shall be taken, wherever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to encourage co-operation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.

Article 6

Effect may be given to this Convention through national laws or regulations or collective agree-

[1] Text furnished by the International Labour Office.

ments, or in any other manner consistent with national practice.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of 10 years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of 10 years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of 10 years and, thereafter, may denounce this Convention at the expiration of each period of 10 years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(*a*) The ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

(*b*) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

Recommendation concerning protection and facilities to be afforded to workers' representatives in the undertaking

Recommendation 143, adopted on 23 June 1971 by the International Labour Conference at its Fifty-sixth Session [2]

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-sixth Session on 2 June 1971, and

Having adopted the Workers' Representatives Convention, 1971, and

Having decided upon the adoption of certain proposals with regard to protection and facilities afforded to workers' representatives in the undertaking, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

[2] Text furnished by the International Labour Office.

adopts this twenty-third day of June of the year one thousand nine hundred and seventy-one the following Recommendation, which may be cited as the Workers' Representatives Recommendation, 1971:

I. Methods of implementation

1. Effect may be given to this Recommendation through national laws or regulations or collective agreements, or in any other manner consistent with national practice.

II. General provisions

2. For the purpose of this Recommendation the term "workers' representatives" means persons who are recognized as such under national law or practice, whether they are:

(*a*) Trade union representatives, namely representatives designated or elected by trade unions or by the members of such unions; or

(*b*) Elected representatives, namely representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.

3. National laws or regulations, collective agreements, arbitration awards or court decisions may determine the type or types of workers' representatives which should be entitled to the protection and facilities provided for in this Recommendation.

4. Where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures should be taken, wherever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to encourage co-operation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.

III. Protection of workers' representatives

5. Worker's representatives in the undertaking should enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

6. (1) Where there are not sufficient relevant protective measures applicable to workers in general, specific measures should be taken to ensure effective protection of workers' representatives.

(2) These might include such measures as the following:

(*a*) Detailed and precise definition of the reasons justifying termination of employment of workers' representatives;

(*b*) A requiremement of consultation with, an advisory opinion from, or agreement of an independent body, public or private, or a joint body, before the dismissal of a workers' representative becomes final;

(*c*) A special recourse procedure open to workers' representatives who consider that their employment has been unjustifiably terminated, or that they have been subjected to an unfavourable change in their conditions of employment or to unfair treatment;

(*d*) In respect of the unjustified termination of employment of workers' representatives, provision for an effective remedy which, unless this is contrary to basic principles of the law of the country concerned, should include the reinstatement of such representatives in their job, with payment of unpaid wages and with maintenance of their acquired rights;

(*e*) Provision for laying upon the employer, in the case of any alleged discriminatory dismissal or unfavourable change in the conditions of employment of a workers' representative, the burden of proving that such action was justified;

(*f*) Recognition of a priority to be given to workers' representatives with regard to their retention in employment in case of reduction of the work force.

7. (1) Protection afforded under paragraph 5 of this Recommendation should also apply to workers who are candidates, or have been nominated as candidates through such appropriate procedures as may exist, for election or appointment as workers' representatives.

(2) The same protection might also be afforded to workers who have ceased to be workers' representatives.

(3) The period during which such protection is enjoyed by the persons referred to in this paragraph may be determined by the methods of implementation referred to in paragraph 1 of this Recommendation.

8. (1) Persons who, upon termination of their mandate as workers' representatives in the undertaking in which they have been employed, resume work in that undertaking should retain, or have restored, all their rights, including those related to the nature of their job, to wagens and to seniority.

(2) The questions whether, and to what extent, the provisions of subparagraph (1) of this paragraph should apply to workers' representatives who have exercised their functions mainly outside the undertaking concerned should be left to national laws or regulations, collective agreements, arbitration awards or court decisions.

IV. Facilities to be afforded to workers' representatives

9. (1) Such facilities in the undertaking should be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

(2) In this connection account should be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

(3) The granting of such facilities should not impair the efficient operation of the undertaking concerned.

10. (1) Workers' representatives in the undertaking should be afforded the necessary time off from work, without loss of pay or social and fringe benefits, for carrying out their representation functions in the undertaking.

(2) In the absence of appropriate provisions, a workers' representative may be required to obtain permission from his immediate supervisor or another appropriate representative of management designated for this purpose before he takes time off from work, such permission not to be unreasonably withheld.

(3) Reasonable limits may be set on the amount of time off which is granted to workers' representatives under subparagraph (1) of this paragraph.

11. (1) In order to enable them to carry out their functions effectively, workers' representatives should be afforded the necessary time off for attending trade union meetings, training courses, seminars, congresses and conferences.

(2) Time off afforded under subparagraph (1) of this paragraph should be afforded without loss of pay or social and fringe benefits, it being understood that the question of who should bear the resulting costs may be determined by the methods of implementation referred to in paragraph 1 of this Recommendation.

12. Workers' representatives in the undertaking should be granted access to all workplaces in the undertaking, where such access is necessary to enable them to carry out their representation functions.

13. Workers' representatives should be granted without undue delay access to the management of the undertaking and to management representatives empowered to take decisions as may be necessary for the proper exercise of their functions.

14. In the absence of other arrangements for the collection of trade union dues, workers' representatives authorized to do so by the trade union should be permitted to collect such dues regularly on the premises of the undertaking.

15. (1) Workers' representatives acting on behalf of a trade union should be authorized to post trade union notices on the premises of the undertaking in a place or places agreed on with the management and to which the workers have easy access.

(2) The management should permit workers' representatives acting on behalf of a trade union to distribute news sheets, pamphlets, publications and other documents of the union among the workers of the undertaking.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Universal Copyright Convention as revised at Paris on 24 July 1971

Adopted by the Conference for Revision of the Universal Copyright Convention on 24 July 1971 [1]

The Contracting States,

Moved by the desire to ensure in all countries copyright protection of literary, scientific and artistic works,

Convinced that a system of copyright protection appropriate to all nations of the world and expressed in a universal convention, additional to, and without impairing international systems already in force, will ensure respect for the rights of the individual and encourage the development of literature, the sciences and the arts,

Persuaded that such a universal copyright system will facilitate a wider dissemination of works of the human mind and increase international understanding,

Have resolved to revise the Universal Copyright Convention as signed at Geneva on 6 September 1952 (hereinafter called "the 1952 Convention"), and consequently,

Have agreed as follows:

Article I

Each Contracting State undertakes to provide for the adequate and effective protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works, and paintings, engravings and sculpture.

Article II

1. Published works of nationals of any Contracting State and works first published in that State shall enjoy in each other Contracting State the same protection as that other State accords to works of its nationals first published in its own territory, as well as the protection specially granted by this Convention.

2. Unpublished works of nationals of each Contracting State shall enjoy in each other Contracting State the same protection as that other State accords to unpublished works of its own nationals, as well as the protection specially granted by this Convention.

3. For the purpose of this Convention any Contracting State may, by domestic legislation assimilate to its own nationals any person domiciled in that State.

Article III

1. Any Contracting State which, under its domestic law, requires as a condition of copyright, compliance with formalities such as deposit, registration, notice, notarial certificates, payment of fees or manufacture or publication in that Contracting State, shall regard these requirements as satisfied with respect to all works protected in accordance with this Convention and first published outside its territory and the author of which is not one of its nationals, if from the time of the first publication all the copies of the work published with the authority of the author or other copyright proprietor bear the symbol © accompanied by the name of the copyright proprietor and the year of first publication placed in such manner and location as to give reasonable notice of claim of copyright.

2. The provisions of paragraph 1 shall not preclude any Contractiong State from requiring formalities or other conditions for the acquisition and enjoyment of copyright in respect of works first published in its territory or works of its nationals wherever published.

3. The provisions of paragraph 1 shall not preclude any Contracting State from providing that a person seeking judicial relief must, in bringing the action, comply with procedural requirements, such as that the complainant must appear through domestic counsel or that the complainant must deposit with the court or an administrative office, or both, a copy of the work involved in the litigation; provided that failure to comply with such requirements shall not affect the validity of the copyright, nor shall any such requirement be imposed upon a national of another Con-

[1] Text published by UNESCO in *Copyright Bulletin*, vol. V, No. 3, 1971. For the text of the Convention of 1952, see *Yearbook on Human Rights for 1952*, pp. 398-403.

tracting State if such requirement is not imposed on nationals of the State in which protection is claimed.

4. In each Contracting State there shall be legal means of protecting without formalities the unpublished works of nationals of other Contracting States.

5. If a Contracting State grants protection for more than one term of copyright and the first term is for a period longer than one of the minimum periods prescribed in article IV, such State shall not be required to comply with the provisions of paragraph 1 of this article in respect of the second or any subsequent term of copyright.

Article IV

1. The duration of protection of a work shall be governed, in accordance with the provisions of article II and this article, by the law of the Contracting State in which protection is claimed.

2. (*a*) The term of protection for works protected under this Convention shall not be less than the life of the author and twenty-five years after his death. However, any Contracting State which, on the effective date of this Convention in that State, has limited this term for certain classes of works to a period computed from the first publication of the work, shall be entitled to maintain these exceptions and to extend them to other classes of works. For all these classes the term of protection shall not be less than twenty-five years from the date of first publication.

(*b*) Any Contracting State which, upon the effective date of this Convention in that State, does not compute the term of protection upon the basis of the life of the author, shall be entitled to compute the term of protection from the date of the first publication of the work or from its registration prior to publication, as the case may be, provided the term of protection shall not be less than 25 years from the date of first publication or from its registration prior to publication, as the case may be.

(*c*) If the legislation of a Contracting State grants two or more successive terms of protection, the duration of the first term shall not be less than one of the minimum periods specified in subparagraphs *a* and *b*.

3. The provisions of paragraph 2 shall not apply to photographic works or to works of applied art; provided, however, that the term of protection in those Contracting States which protect photographic works, or works of applied art in so far as they are protected as artistic works, shall not be less than ten years for each of said classes of works.

4. (*a*) No Contracting State shall be obliged to grant protection to a work for a period longer than that fixed for the class of works to which the work in question belongs, in the case of unpublished works by the law of the Contracting State of which the author is a national, and in the case of published works by the law of the Contracting State in which the work has been first published.

(*b*) For the purposes of the application of subparagraph *a*, if the law of any Contracting State grants two or more successive terms of protection, the period of protection of that state shall be considered to be the aggregate of those terms. However, if a specified work is not protected by such State during the second or any subsequent term for any reason, the other Contracting States shall not be obliged to protect it during the second or any subsequent term.

5. For the purposes of the application of paragraph 4, the work of a national of a Contracting State, first published in a non-Contracting State, shall be treated as though first published in the Contracting State of which the author is a national.

6. For the purposes of the application of paragraph 4 in case of simultaneous publication in two or more Contracting States, the work shall be treated as though first published in the State which affords the shortest term; any work published in two or more Contracting States within 30 days of its first publication shall be considered as having been published simultaneously in said Contracting States.

Article IV*bis*

1. The rights referred to in article I shall include the basic rights ensuring the author's economic interests, including the exclusive right to authorize reproduction by any means, public performance and broadcasting. The provisions of this article shall extend to works protected under this Convention either in their original form or in any form recognizably derived from the original.

2. However, any Contracting State may, by its domestic legislation, make exceptions that do not conflict with the spirit and provisions of this Convention, to the rights mentioned in paragraph 1 of this article. Any State whose legislation so provides, shall nevertheless accord a reasonable degree of effective protection to each of the rights to which exception has been made.

Article V

1. The rights referred to in article I shall include the exclusive right of the author to make, publish and authorize the making and publication of translations of works protected under this Convention.

2. However, any Contracting State may, by its domestic legislation, restrict the right of translation of writings, but only subject to the following provisions:

(*a*) If, after the expiration of a period of seven years from the date of the first publication of a writing, a translation of such writing has not been published in a language in general use in the Contracting State, by the owner of the right of translation or with his authorization, any national of such Contracting State may obtain a non-exclusive licence from the competent authority thereof to translate the work into that language and publish the work so translated.

(*b*) Such national shall in accordance with the procedure of the State concerned, establish either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A licence may also be granted on the same conditions if all previsious editions of a translation in a language in general use in the Contracting State are out of print.

(*c*) If the owner of the right of translation cannot be found, then the applicant for a licence shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the State of which such owner is a national, or to the organization which may have been designated by the government of that State. The licence shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application.

(*d*) Due provision shall be made by domestic legislation to ensure to the owner of the right of translation a compensation which is just and conforms to international standards, to ensure payment and transmittal of such compensation, and to ensure a correct translation of the work.

(*e*) The original title and the name of the author of the work shall be printed on all copies of the published translation. The licence shall be valid only for publication of the translation in the territory of the Contracting State where it has been applied for. Copies so published may be imported and sold in another Contracting State if a language in general use in such other State is the same language as that into which the work has been so translated, and if the domestic law in such other State makes provision for such licences and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a Contracting State shall be governed by its domestic law and its agreements. The licence shall not be transferred by the licensee.

(*f*) The licence shall not be granted when the author has withdrawn from circulation all copies of the work.

Article V*bis*

1. Any Contracting State regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations may, by a notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization (hereinafter called "The Director-General", at the time of its ratification, acceptance or accession or thereafter, avail itself of any or all of the exceptions provided for in articles V*ter* and V*quater*.

2. Any such notification shall be effective for 10 years from the date of coming into force of this Convention, or for such part of that 10 year period as remains at the date of deposit of the notification, and may be renewed in whole or in part for further periods of 10 years each if, not more than 15 or less than three months before the expiration of the relevant 10 year period, the Contracting State deposits a further notification with the Director-General. Initial notifications may also be made during these further periods of 10 years in accordance with the provisions of this article.

3. Notwithstanding the provisions of paragraph 2, a Contracting State that has ceased to be regarded as a developing country as referred to in paragraph 1 shall no longer be entitled to renew its notification made under the provisions of paragraph 1 or 2, and whether or not it formally withdraws the notification such State shall be precluded from availing itself of the exceptions provided for in articles V*ter* and V*quater* at the end of the current 10 year period, or at the end of three years after it has ceased to be regarded as a developing country, whichever period expires later.

4. Any copies of a work already made under the exceptions provided for in articles V*ter* and V*quater* may continue to be distributed after the expiration of the period for which notifications under this article were effective until their stock is exhausted.

5. Any Contracting State that has deposited a notification in accordance with article XIII with respect to the application of this Convention to a particular country or territory, the situation of which can be regarded as analogous to that of the States referred to in paragraph 1 of this article, may also deposit notifications and renew them in accordance with the provision of this article with respect to any such country or territory. During the effective period of such notifications, the provisions of articles V*ter* and V*quater* may be applied with respect to such country or territory. The sending of copies from the country or territory to the Contracting State shall be considered as export within the meaning of articles V*ter* and V*quater*.

Article V*ter*

1. (*a*) Any Contracting State to which article V*bis* (1) applies may substitute for the period of seven years provided for in article V (2) a period of three years or any longer period prescribed by its legislation. However, in the case of a translation into a language not in general use in one or more developed countries that are party to this Convention or only the 1952 Convention, the period shall be one year instead of three.

(*b*) A Contracting State to which article V*bis* (1) applies may, with the unanimous agreement of the developed countries party to this Convention or only the 1952 Convention and in which the same language is in general use, substitute, in the case of translation into that language, for the period of three years provided for in subparagraph *a* another period as determined by such agreement but not shorter than one year. However, this subparagraph shall not apply where the language in question is English, French or Spanish. Notification of any such agreement shall be made to the Director-General.

(*c*) The licence may only be granted if the applicant, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the owner of the right of translation, or that, after due diligence on his part, he was unable to find the owner of the right. At the same time as he makes his request he shall inform either the international copyright information centre established by the United Nations Educational, Scientific and Cultural Organization or any national or regional information centre which may have been designated in a notification to that effect deposited with the Director-General by the government of the State in which the publisher is believed to have his principal place of business.

(*d*) If the owner of the right of translation cannot be found, the applicant for a licence shall send, by registered air mail, copies of his application to the publisher whose name appears on the work and to any national or regional information centre as mentioned in sub-paragraph *c*. If no such centre is notified he shall also send a copy to the international copyright information centre established by the United Nations Educational, Scientific and Cultural Organization.

2. (*a*) Licences obtainable after three years shall not be granted under this article until a further period of six months has elapsed and licences obtainable after one year until a further period of nine months has elapsed. The further period shall begin either from the date of the request for permission to translate mentioned in paragraph 1 *c* or, if the identity or address of the owner of the right of translation is not known, from the date of dispatch of the copies of the application for a licence mentioned in paragraph 1 *d*.

(*b*) Licences shall not be granted if a translation has been published by the owner of the right of translation or with his authorization during the said period of six or nine months.

3. Any licence under this article shall be granted only for the purpose of teaching, scholarship or research.

4. (*a*) Any licence granted under this article shall not extend to the export of copies and shall be valid only for publication in the territory of the Contracting State where it has been applied for.

(*b*) Any copy published in accordance with a licence granted under this article shall bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State granting the licence. If the writing bears the notice specified in article III (1) the copies shall bear the same notice.

(*c*) The prohibition of export provided for in sub-paragraph (*a*) shall not apply where a governmental or other public entity of a State which has granted a licence under this Article to translate a work into a language other than English, French or Spanish sends copies of a translation prepared under such licence to another country if:

(i) The recipients are individuals who are nationals of the Contracting State granting the licence, or organizations grouping such individuals;

(ii) The copies are to be used only for the purpose of teaching, scholarship or research;

(iii) The sending of the copies and their subsequent distribution to recipients is without the object of commercial purpose; and

(iv) The country to which the copies have been sent has agreed with the Contracting State to allow the receipt, distribution or both and the Director-General has been notified of such agreement by any one of the Governments which have concluded it.

5. Due provision shall be made at the national level to ensure:

(*a*) That the licence provides for just compensation that is consistent with standards of royalties normally operating in the case of licences freely negotiated between persons in the two countries concerned; and

(*b*) Payment and transmittal of the compensation; however, should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

6. Any licence granted by a Contracting State under this article shall terminate if a translation of the work in the same language with substantially the same content as the edition in respect of which the licence was granted is published in the said State by the owner of the right of translation or with his authorization, at a price reasonably related to that normally charged in the same State for comparable works. Any copies already made before the licence is terminated may continue to be distributed until their stock is exhausted.

7. For works which are composed mainly of illustrations a licence to translate the text and to reproduce the illustrations may be granted only if the conditions of article V*quater* are also fulfilled.

8. (*a*) A licence to translate a work protected under this Convention, published in printed or analogous forms of reproduction, may also be granted to a broadcasting organization having its headquarters in a Contracting State to which Article V*bis* (1) applies, upon an application made in that State by the said organization under the following conditions:

(i) The translation is made from a copy made and acquired in accordance with the laws of the Contracting State;

(ii) The translation is for use only in broadcasts intended exclusively for teaching or for the dissemination of the results of specialized technical or scientific research to experts in a particular profession;

(iii) The translation is used exclusively for the purposes set out in condition (ii), through broadcasts lawfully made which are intended for recipients on the territory of the Contracting State, including broadcasts made through the medium of sound or visual recordings lawfully and exclusively made for the purpose of such broadcast;

(iv) Sound or visual recordings of the translation may be exchanged only between broadcasting organizations having their headquarters in the Contracting State granting the licence; and

(v) All uses made of the translation are without any commercial purpose.

(*b*) Provided all of the criteria and conditions set out in subparagraph *a* are met, a licence may also be granted to a broadcasting organization to translate any text incorporated in an audio-visual fixation which was itself prepared and published for the sole purpose of being used in connexion with systematic instructional activities.

(*c*) Subject to subparagraphs *a* and *b*, the other provisions of this article shall apply to the grant and exercise of the licence.

9. Subject to the provisions of this article, any licence granted under this article shall be governed by the provisions of article V, and shall continue to be governed by the provisions of article V and of this article, even after the seven-year period provided for in article V (2) has expired. However, after the said period has expired, the licensee shall be free to request that the said licence be replaced by a new licence governed exclusively by the provisions of article V.

Article V*quater*

1. Any Contracting State to which article V*bis* (1) applies may adopt the following provisions:

(*a*) If, after the expiration of

(i) The relevant period specified in subparagraph *c* commencing from the date of first publication of a particular edition of a literary, scientific or artistic work referred to in paragraph 3, or

(ii) Any longer period determined by the national legislation of the State,

copies of such edition have not been distributed in that State to the general public or in connexion with systematic instructional activities at a price reasonably related to that normally charged in the State for comparable works, by the owner of the right of reproduction or with his authorization, any national of such State may obtain a non-exclusive licence from the competent authority to publish such edition at that or a lower price for use in connexion with systematic instructional activities. The licence may only be granted if such national, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to publish such work, or that, after due diligence on his part, he was unable to find the owner of the right. At the same time as he makes his request he shall inform either the international copyright information centre established by the United Nations Educational, Scientific and Cultural Organization or any national or regional information centre referred to in subparagraph *d*.

(*b*) A licence may also be granted on the same conditions if, for a period of six months, no authorized copies of the edition in question have been on sale in the State concerned to the general public or in connexion with systematic instructional activities at a price reasonably related to that normally charged in the State for comparable works.

(*c*) The period referred to in subparagraph *a* shall be five years except that:

(i) For works of the natural and physical sciences, including mathematics, and of technology, the period shall be three years;

(ii) For works of fiction, poetry, drama and music, and for art books, the period shall be seven years.

(*d*) If the owner of the right of reproduction cannot be found, the applicant for a licence shall send, by registered air mail, copies of his application to the publisher whose name appears on the work and to any national or regional information centre identified as such in a notification deposited with the Director-General by the State in which the publisher is believed to have his principal place of business. In the absence of any such notification, he shall also send a copy to the international copyright information centre established by the United Nations Educational, Scientific and Cultural Organization. The licence shall not be granted before the expiration of a period of three months from the date of dispatch of the copies of the application.

(*e*) Licences obtainable after three years shall not be granted under this article,

(i) Until a period of six months has elapsed from the date of the request for permission referred to in subparagraph *a* or, if the identity or address of the owner of the right of production is unknown, from the date of the dispatch of the copies of the application for a licence referred to in subparagraph *d*;

(ii) If any such distribution of copies of the edition as is mentioned in subparagraph *a* has taken place during that period.

(*f*) The name of the author and the title of the particular edition of the work shall be printed on all copies of the published reproduction. The licence shall not extend to the export of copies and shall be valid only for publication in the territory of the Contracting State where it has been applied for. The licence shall not be transferable by the licensee.

(*g*) Due provision shall be made by domestic legislation to ensure an accurate reproduction of the particular edition in question.

(*h*) A licence to reproduce and publish a translation of a work shall not be granted under this article in the following cases:

(i) Where the translation was not published by the owner of the right of translation or with his authorization;

(ii) Where the translation is not in a language in general use in the State with power to grant the licence.

2. The exceptions provided for in paragraph 1 are subject to the following additional provisions:

(*a*) Any copy published in accordance with a licence granted under this article shall bear a notice

in the appropriate language stating that the copy is available for distribution only in the Contracting State to which the said licence applies. If the edition bears the notice specified in article III (1), the copies shall bear the same notice.

(*b*) Due provision shall be made at the national level to ensure:

(i) That the licence provides for just compensation that is consistent with standards of royalties normally operating in the case of licences freely negotiated between persons in the two countries concerned; and

(ii) Payment and transmittal of the compensation; however, should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(*c*) Whenever copies of an edition of a work are distributed in the Contracting State to the general public or in connexion with systematic instructional activities, by the owner of the right of reproduction or with his authorization, at a price reasonably related to that normally charged in the State for comparable works, any licence granted under this article shall terminate if such edition is in the same language and is substantially the same in content as the edition published under the licence. Any copies already made before the licence is terminated may continue to be distributed until their stock is exhausted.

(*d*) No licence shall be granted when the author has withdrawn from circulation all copies of the edition in question.

3. (a) Subject to subparagraph *b*, the literary, scientific or artistic works to which this article applies shall be limited to works published in printed or analogous forms of reproduction.

(*b*) The provisions of this article shall also apply to reproduction in audio-visual form of lawfully made audio-visual fixations including any protected works incorporated therein and to the translation of any incorporated text into a language in general use in the State with power to grant the licence; always provided that the audio-visual fixations in question were prepared and published for the sole purpose of being used in connexion with systematic instructional activities.

Article VI

"Publication", as used in this Convention, means the reproduction in tangible form and the general distribution to the public of copies of a work from which it can be read or otherwise visually perceived.

Article VII

This Convention shall not apply to works or rights in works which, at the effective date of this Convention in a Contracting State where protection is claimed, are permanently in the public domain in the said Contracting State.

Article VIII

1. This Convention, which shall bear the date of 24 July 1971, shall be deposited with the Director-General and shall remain open for signature by all States party to the 1952 Convention for a period of 120 days after the date of this Convention. It shall be subject to ratification or acceptance by the Signatory States.

2. Any State which has not signed this Convention may accede thereto.

3. Ratification, acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General.

Article IX

1. This Convention shall come into force three months after the deposit of 12 instruments of ratification, acceptance or accession.

2. Subsequently, this Convention shall come into force in respect of each State three months after that State has deposited its instrument of ratification, acceptance or accession.

3. Accession to this Convention by a State not party to the 1952 Convention shall also constitute accession to that Convention; however, if its instrument of accession is deposited before this Convention comes into force, such State may make its accession to the 1952 Convention conditional upon the coming into force of this Convention. After the coming into force of this Convention, no State may accede solely to the 1952 Convention.

4. Relations between States party to this Convention and States that are party only to the 1952 Convention, shall be governed by the 1952 Convention. However, any State party only to the 1952 Convention may, by a notification deposited with the Director-General, declare that it will admit the application of the 1971 Convention to works of its nationals or works first published in its territory by all States party to this Convention.

Article X

1. Each Contracting State undertakes to adopt, in accordance with its Constitution, such measures as are necessary to ensure the application of this Convention.

2. It is understood that at the date this Convention comes into force in respect of any State, that States must be in a position under its domestic law to give effect to the terms of this Convention.

Article XI

1. An Intergovernmental Committee is hereby established with the following duties:

(*a*) To study the problems concerning the application and operation of the Universal Copyright Convention;

(*b*) To make preparation for periodic revisions of this Convention;

(*c*) To study any other problems concerning the international protection of copyright, in cooperation with the various interested international organizations, such as the United Nations Educational, Scientific and Cultural Organization, the International Union for the Protection of Literary

and Artistic Works and the Organization of American States;

(*d*) To inform States party to the Universal Copyright Convention as to its activities.

2. The Committee shall consist of the representatives of eighteen States party to this Convention or only to the 1952 Convention.

3. The Committee shall be selected with due consideration to a fair balance of national interests on the basis of geographical location, population, languages and stage of development.

4. The Director-General of the United Nations Educational, Scientific and Cultural Organization, the Director-General of the World Intellectual Property Organization and the Secretary-General of the Organization of American States, or their representatives, may attend meetings of the Committee in an advisory capacity.

Article XII

The Intergovernmental Committee shall convene a conference for revision whenever it deems necessary, or at the request of at least ten States party to this Convention.

Article XIII

1. Any Contracting State may, at the time of deposit of its instrument of ratification, acceptance or accession, or at any time thereafter, declare by notification addressed to the Director-General that this Convention shall apply to all or any of the countries or territories for the international relations of which it is responsible and this Convention shall thereupon apply to the countries or territories named in such notification after the expiration of the term of three months provided for in article IX. In the absence of such notification, this Convention shall not apply to any such country or territory.

2. However, nothing in this article shall be understood as implying the recognition or tacit acceptance by a Contracting State of the factual situation concerning a country or territory to which this Convention is made applicable by another Contracting State in accordance with the provisions of this article.

Article XIV

1. Any Contracting State may denounce this Convention in its own name or on behalf of all or any of the countries or territories with respect to which a notification has been given under article XIII. The denunciation shall be made by notification addressed to the Director-General. Such denunciation shall also constitute denunciation of the 1952 Convention.

2. Such denunciation shall operate only in respect of the State or of the country or territory on whose behalf it was made and shall not take effect until twelve months after the date of receipt of the notification.

Article XV

A dispute between two or more Contracting States concerning the interpretation of application of this Convention, not settled by negotiation, shall, unless the States concerned agree on some other method of settlement, be brought before the International Court of Justice for determination by it.

Article XVI

1. This Convention shall be established in English, French and Spanish. The three texts shall be signed and shall be equally authoritative.

2. Official texts of this Convention shall be established by the Director-General, after consultation with the Governments concerned, in Arabic, German, Italian and Portuguese.

3. Any Contracting State or group of Contracting States shall be entitled to have established by the Director-General other texts in the language of its choice by arrangement with the Director-General.

4. All such texts shall be annexed to the signed texts of this Convention.

Article XVII

1. This Convention shall not in any way affect the provisions of the Berne Convention for the Protection of Literary and Artistic Works or membership in the Union created by that Convention.

2. In application of the foregoing paragraph, a declaration has been annexed to the present article. This declaration is an integral part of this Convention for the States bound by the Berne Convention on 1 January 1951, or which have or may become bound to it at a later date. The signature of this Convention by such States shall also constitute signature of the said declaration, and ratification, acceptance or accession by such States shall include the declaration, as well as this Convention.

Article XVIII

This Convention shall not abrogate multilateral or bilateral copyright conventions or arrangements that are or may be in effect exclusively between two or more American Republics. In the event of any difference either between the provisions of such existing conventions or arrangements and the provisions of this Convention, or between the provisions of this Convention and those of any new convention or arrangement which may be formulated between two or more American Republics after this Convention comes into force, the convention or arrangement most recently formulated shall prevail between the parties thereto. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date this Convention comes into force in such State shall not be affected.

Article XIX

This Convention shall not abrogate multilateral or bilateral conventions or arrangements in effect between two or more Contracting States. In the event of any difference between the provisions of such existing conventions or arrangements and the

provisions of this Convention, the provisions of this Convention shall prevail. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date on which this Convention comes into force in such State shall not be affected. Nothing in this article shall affect the provisions of articles XVII and XVIII.

Article XX

Reservations to this Convention shall not be permitted.

Article XXI

1. The Director-General shall send duly certified copies of this Convention to the States interested and to the Secretary-General of the United Nations for registration by him.

2. He shall also inform all interested States of the ratifications, acceptances and accessions which have been deposited, the date on which this Convention comes into force, the notifications under this Convention and denunciations under article XIV.

Appendix Declaration relating to Article XVII

The States which are members of the International Union for the Protection of Literary and Artistic Works (hereinafter called "the Berne Union") and which are signatories to this Convention,

Desiring to reinforce their mutual relations on the basis of the said Union and to avoid any conflict which might result from the co-existence of the Berne Convention and the Universal Copyright Convention,

Recognizing the temporary need of some States to adjust their level of copyright protection in accordance with their stage of cultural, social and economic development,

Have, by common agreement, accepted the terms of the following declaration:

(*a*) Except as provided by paragraph *b*, works which, according to the Berne Convention, have as their country of origin a country which has withdrawn from the Berne Union after 1 January 1951, shall not be protected by the Universal Copyright Convention in the countries of the Berne Union;

(*b*) Where a Contracting State is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, and has deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization, at the time of its withdrawal from the Berne Union, a notification to the effect that it regards itself as a developing country, the provisions of paragraph *a* shall not be applicable as long as such State may avail itself of the exceptions provided for by this Convention in accordance with article V*bis*;

(*c*) The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union in so far as it relates to the protection of works having as their country of origin, within the meaning of the Berne Convention, a country of the Berne Union.

Resolution concerning Article XI

The Conference for Revision of the Universal Copyright Convention,

Having considered the problems relating to the Intergovernmental Committee provided for in article XI of this Convention, to which this resolution is annexed,

Resolves that,

1. At its inception, the Committee shall include representatives of the 12 States members of the Intergovernmental Committee established under article XI of the 1952 Convention and the resolution annexed to it, and, in addition, representatives of the following States: Algeria, Australia, Japan, Mexico, Senegal and Yugoslavia.

2. Any States that are not party to the 1952 Convention and have not acceded to this Convention before the first ordinary session of the Committee following the entry into force of this Convention shall be replaced by other States to be selected by the Committee at its first ordinary session in conformity with the provisions of article XI (2) and (3).

3. As soon as this Convention comes into force the Committee as provided for in paragraph 1 shall be deemed to be constituted in accordance with article XI of this Convention.

4. A session of the Committee shall take place within one year after the coming into force of this Convention; thereafter the Committee shall meet in ordinary session at intervals of not more than two years.

5. The Committee shall elect its Chairman and two Vice-Chairmen. It shall establish its Rules of Procedure having regard to the following principles:

(*a*) The normal duration of the term of office of the members represented on the Committee shall be six years with one-third retiring every two years, it being however understood that, of the original terms of office, one-third shall expire

at the end of the Committee's second ordinary session which will follow the entry into force of this Convention, a further third at the end of its third ordinary session, and the remaining third at the end of its fourth ordinary session;

(*b*) The rules governing the procedure whereby the Committee shall fill vacancies, the order in which terms of membership expire, eligibility for re-election, and election procedures, shall be based upon a balancing of the needs for continuity of membership and rotation of representation, as well as the considerations set out in article XI (3).

Expresses the wish that the United Nations Educational, Scientific and Cultural Organization provided its Secretariat.

In faith whereof the undersigned, having deposited their respective full powers, have signed this Convention.

Done at Paris, this twenty-fourth day of July 1971, in a single copy.

Protocol 1

Annexed to the Universal Copyright Convention as revised at Paris on 24 July 1971 concerning the application of that Convention to works of Stateless persons and refugees

The States party hereto, being also party to the Universal Copyright Convention as revised at Paris on 24 July 1971 (hereinafter called "the 1971 Convention"),

Have accepted the following provisions:

1. Stateless persons and refugees who have their habitual residence in a State party to this Protocol shall, for the purposes of the 1971 Convention, be assimilated to the nationals of that State.

2. (*a*) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of article VIII of the 1971 Convention applied hereto,

(*b*) This Protocol shall enter into force in respect of each State, on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the 1971 Convention with respect to such State, whichever is the later.

(*c*) On the entry into force of this Protocol in respect of a State not party to Protocol 1 annexed to the 1952 Convention, the latter Protocol shall be deemed to enter into force in respect of such State.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Paris this twenty-fourth day of July 1971, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization. The Director-General shall send certified copies to the Signatory States, and to the Secretary-General of the United Nations for registration.

Protocol 2

Annexed to the Universal Copyright Convention as revised at Paris on 24 July 1971 concerning the application of that Convention to the works of certain international organizations

The States party hereto, being also party to the Universal Copyright Convention as revised at Paris on 24 July 1971 (hereinafter called "the 1971 Convention"),

Have accepted the following provisions:

1. (*a*) The protection provided for in article II (1) of the 1971 Convention shall apply to works published for the first time by the United Nations, by the Specialized Agencies in relationship therewith, or by the Organization of American States.

(*b*) Similarly, article II (2) of the 1971 Convention shall apply to the said organization or agencies.

2. (*a*) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of article VIII of the 1971 Convention applied hereto.

(*b*) This Protocol shall enter into force for each State on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the 1971 Convention with respect to such State, whichever is the later.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Paris, this twenty-fourth day of July 1971, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization. The Director-General shall send certified copies to the Signatory States, and to the Secretary-General of the United Nations for registration.

STATUS OF CERTAIN INTERNATIONAL AGREEMENTS RELATING TO HUMAN RIGHTS[1]

I. — UNITED NATIONS[2]

1. *Convention on the Prevention and Punishment of the Crime of Genocide* (Paris, 1948; entered into force on 12 January 1951) (see *Yearbook on Human Rights for 1948*, pp. 484-486).

During 1971, no States became parties to the Convention.

At the end of 1971, the following 74 States were parties to the Convention: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burma, Byelorussian SSR, Canada, Ceylon, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Federal Republic of Germany, Finland, France, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Israel, Italy, Jamaica, Jordan, Khmer Republic, Laos, Lebanon, Liberia, Mexico, Monaco, Mongolia, Morocco, Nepal, Netherlands, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Poland, Republic of Korea, Republic of Viet-Nam, Romania, Saudi Arabia, Spain, Sweden, Syrian Arab Republic, Tunisia, Turkey, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, Upper Volta, Uruguay, Venezuela, Yugoslavia, Zaire.[3]

2. *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (New York, 1949; entered into force on 25 July 1951) (see *Yearbook on Human Rights for 1949*, pp. 388-391)

During 1971, no States became parties to the Convention.

At the end of 1971, the following 39 States were parties to the Convention: Albania, Algeria, Argentina, Belgium, Brazil, Bulgaria, Byelorussian SSR, Ceylon, Cuba, Czechoslovakia, Egypt, France, Guinea, Haiti, Hungary, India, Iraq, Israel, Japan, Kuwait, Libyan Arab Republic, Malawi, Mali, Mexico, Norway, Pakistan, Philippines, Poland, Republic of Kuwait, Romania, Singapore, South Africa, Spain, Syrian Arab Re-

[1] Concerning the status of these agreements at the end of 1969, see *Yearbook on Human Rights for 1969*, pp. 401-405. The information contained in the present statement concerning international labour conventions and agreements adopted under the auspices of UNESCO, the Organization of American States and the Council of Europe was furnished by the International Labour Office, UNESCO, the Pan American Union and the Secretariat-General of the Council of Europe. The information concerning the Geneva Conventions of 12 August 1949 was taken from the *Annual Report 1971*, of the International Committee of the Red Cross.

[2] For more detailed information on the status of the instruments referred to, see *Multilateral Treaties in respect of which the Secretary-General Performs Depositary Functions: List of Signatures, Ratifications, Accessions, etc. as at 31 December 1971* (United Nations publication, Sales No. E.72.V.7).

[3] In addition, the Convention was ratified on behalf of the Republic of China on 19 July 1951.

It will be recalled that, by its resolution 2758 (XXVI) of 25 October 1971, the General Assembly decided:

"... to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it".

By a note dated 25 September 1972, addressed to the Secretary-General, the Minister for Foreign Affairs of the People's Republic of China, stated *inter alia*:

"As from 1 October 1949, the day of the founding of the People's Republic of China, the Chiang Kai-shek clique has no right at all to represent China. Its signature and ratification of, or accession to, any multilateral treaties by usurping the name 'China' are all illegal and null and void. My Government will study these multilateral treaties before making a decision in the light of the circumstances as to whether or not they should be acceded to."

public, Ukrainian SSR, Union of Soviet Socialist Republics, Upper Volta, Venezuela, Yugoslavia,

3. *Convention relating to the Status of Refugees* (Geneva, 1951; entered into force on 22 April 1954) (see *Yearbook on Human Rights for 1951*, pp. 581-588)

Malta acceded to the Convention on 17 June 1971.

At the end of 1971, the following 61 States were parties to the Convention: Algeria, Argentina, Australia, Austria, Belgium, Botswana, Brazil, Burundi, Cameroon, Canada, Central African Republic, Colombia, Congo, Cyprus, Dahomey, Denmark, Ecuador, Ethiopia, Federal Republic of Germany, Finland, France, Gabon, Gambia, Ghana, Greece, Guinea, Holy See, Iceland, Ireland, Israel, Italy, Ivory Coast, Jamaica, Kenya, Liberia, Liechtenstein, Luxembourg, Madagascar, Malta, Monaco, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Paraguay, Peru, Portugal, Senegal, Sweden, Switzerland, Togo, Tunisia, Turkey, United Kingdom, United Republic of Tanzania, Uruguay, Yugoslavia, Zaire, Zambia.

4. *Convention on the Political Rights of Women* (New York, 1953; entered into force on 7 July 1954) (see *Yearbook on Human Rights for 1953*, pp. 375-376)

The Netherlands ratified the Convention on 30 July 1971.

At the end of 1971, the following 69 States were parties to the Convention: Afghanistan, Albania, Argentina, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian SSR, Canada, Central African Republic, Chile, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Federal Republic of Germany, Finland, France, Gabon, Ghana, Greece, Guatemala, Haiti, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Laos, Lebanon, Madagascar, Malawi, Malta, Mauritius, Mongolia, Nepal, the Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Philippines, Poland, Republic of Korea, Romania, Senegal, Sierra Leone, Swaziland, Sweden, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, Yugoslavia, Zaire.[4]

5. *Convention on the International Right of Correction* (New York, 1952; entered into force on 24 August 1962) (see *Yearbook on Human Rights for 1952*, pp. 373-375).

During 1971, no States became parties to the Convention.

At the end of 1971, the following States were parties to the Convention: Cuba, Egypt, El Salvador, Ethiopia, France, Guatemala, Jamaica, Sierra Leone, Yugoslavia.

6. *Slavery Convention of 1926 as amended by the Protocol of December 1953* (signed in New York; as amended entered into force on 7 July 1955) (see *Yearbook on Human Rights for 1953*, pp. 345-346)

During 1971, no States became parties to the Convention.

At the end of 1971, the following 65 States were parties to the Convention: Afghanistan, Albania, Algeria, Australia, Austria, Belgium, Brazil, Burma, Byelorussian SSR, Canada, Ceylon, Cuba, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, Greece, Guinea, Hungary, India, Iraq, Ireland, Israel, Italy, Jamaica, Jordan, Kuwait, Liberia, Libyan Arab Republic, Madagascar, Malawi, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Philippines, Republic of Viet-Nam, Romania, Sierra Leone, South Africa, Sudan, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, United Republic of Tanzania, United States of America, Yugoslavia.

7. *Convention relating to the Status of Stateless Persons* (New York, 1954; entered into force on 6 June 1960) (see *Yearbook on Human Rights for 1954*, pp. 369-375)

During 1971, no States became parties to the Convention.

At the end of 1971, the following 22 States were parties to the Convention: Algeria, Belgium, Botswana, Denmark, Ecuador, Finland, France, Guinea, Ireland, Israel, Italy, Liberia, Luxembourg, Netherlands, Norway, Republic of Korea, Sweden, Trinidad and Tobago, Tunisia, Uganda, United Kingdom, Yugoslavia.

8. *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (Geneva, 1956; entered into force on 30 April 1957) (see *Yearbook on Human Rights for 1956*, pp. 289-291)

During 1971, no States became parties to the Convention.

At the end of 1971, the following 76 States were parties to the Convention: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Byelorussian SSR, Canada, Central African Republic, Ceylon, Cuba, Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, Federal Republic of Germany, Finland, France, Ghana, Haiti, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Jordan, Khmer Republic, Kuwait, Laos, Luxembourg, Malawi, Malaysia, Malta, Mauritius, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Philippines, Poland, Portugal, Romania, San Marino, Sierra Leone, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, United Republic of Tanzania, United States of America, Yugoslavia.[5]

[4] In addition, the Convention was ratified on behalf of the Republic of China on 21 December 1953. In this connexion, see foot-note 3 above.

[5] In addition, the Convention was ratified on behalf of the Republic of China on 28 May 1959. In this connexion, see foot-note 3 above.

9. *Convention on the Nationality of Married Women* (New York, 1957; entered into force on 11 August 1958) (see *Yearbook on Human Rights for 1957*, pp. 301-302)

Cyprus acceded to the Convention on 26 April 1971.

At the end of 1971, the following 43 States were parties to the Convention: Albania, Argentina, Australia, Austria, Brazil, Bulgaria, Byelorussian SSR, Canada, Ceylon, Cuba, Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Fiji, Ghana, Guatemala, Hungary, Ireland, Israel, Jamaica, Malawi, Malaysia, Malta, Mauritius, Netherlands, New Zealand, Norway, Poland, Romania, Sierra Leone, Singapore, Swaziland, Sweden, Trinidad and Tobago, Tunisia, Uganda, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, United Republic of Tanzania, Yugoslavia.[6]

10. *Convention on the Reduction of Statelessness* (New York, 1961; not yet in force) (see *Yearbook on Human Rights for 1961*, pp. 427-430)

Norway acceded to the Convention on 11 August 1971.

At the end of 1971, the following 3 States were parties to the Convention: Norway, Sweden, United Kingdom.

11. *Convention on Consent to Marriages, Minimum Age for Marriage and Registration of Marriages* (New York, 1962; entered into force on 9 December 1964) (see *Yearbook on Human Rights for 1962*, pp. 389-390)

Fiji ratified the Convention on 19 July 1971.

At the end of 1971, the following 26 States were parties to the Convention: Argentina, Austria, Brazil, Cuba, Czechoslovakia, Dahomey, Denmark, Dominicain Republic, Federal Republic of Germany, Fiji, Finland, Mali, Netherlands, New Zealand, Niger, Norway, Philippines, Poland, Spain, Sweden, Trinidad and Tobago, Tunisia, United Kingdom, Upper Volta, Western Samoa, Yugoslavia.

12. *International Convention on the Elimination of All Forms of Racial Discrimination* (New York, 1965; entered into force on 4 January 1969) (see *Yearbook on Human Rights for 1965*, pp. 389-394)

During 1971, the following States became parties to the Convention by the instruments and on the dates indicated: Central African Republic (accession, 16 March), Malta (ratification, 27 May), Nepal (accession, 30 January), Netherlands (ratification, 10 December), Peru (ratification, 29 September) and Sweden (ratification, 6 December).

At the end of 1971, the following 51 States were parties to the Convention: Argentina, Bolivia, Brazil, Bulgaria, Byelorussian SSR, Canada, Central African Republic, Costa Rica, Cyprus, Czechoslovakia, Ecuador, Egypt, Federal Republic of Germany, Finland, Ghana, Greece, Holy See, Hungary, Iceland, India, Iran, Iraq, Kuwait, Libyan Arab Republic, Madagascar, Malta, Mongolia, Morocco, Nepal, Netherlands, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Sierra Leone, Spain, Swaziland, Sweden, Syrian Arab Republic, Tunisia, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, Uruguay, Venezuela, Yugoslavia.

13. *International Covenant on Economic, Social and Cultural Rights* (New York, 1966; not yet in force) (see *Yearbook on Human Rights for 1966*, pp. 347-441)

During 1971, the following States became parties to the Covenant by the instruments and on the dates indicated: Iraq (ratification, 25 February), Madagascar (ratification, 2 June), Sweden (ratification, 6 December) and Yugoslavia (ratification, 2 June).

At the end of 1971, the following 13 States were parties to the Covenant: Bulgaria, Colombia, Costa Rica, Cyprus, Ecuador, Iraq, Libyan Arab Republic, Madagascar, Sweden, Syrian Arab Republic, Tunisia, Uruguay, Yugoslavia.

14. *International Covenant on Civil and Political Rights* (New York, 1966; not yet in force) (see *Yearbook on Human Rights for 1966*, pp. 442-450)

During 1971, the following States became parties to the Covenant by the instruments and on the dates indicated: Iraq (ratification, 25 January), Madagascar (ratification, 2 June), Sweden (ratification, 6 December) and Yugoslavia (ratification, 2 June).

At the end of 1971, the following 13 States were parties to the Covenant: Bulgaria, Colombia, Costa Rica, Cyprus, Ecuador, Iraq, Libyan Arab Republic, Madagascar, Sweden, Syrian Arab Republic, Tunisia, Uruguay, Yugoslavia.

15. *Optional Protocol to the International Covenant on Civil and Political Rights* (New York, 1966; not yet in force) (see *Yearbook on Human Rights for 1966*, pp. 450-452)

Sweden ratified the Protocol on 6 December 1971.

At the end of 1971, the following 5 States were parties to the Protocol: Colombia, Costa Rica, Ecuador, Sweden, Uruguay.

16. *Protocol relating to the Status of Refugees* (New York, 1966; entered into force on 4 October 1967) (see *Yearbook on Human Rights for 1966*, pp. 452-454)

During 1971, the following States ratified the Protocol on the dates indicated: Burundi (15 March), France (3 February), Luxembourg (22 April), Malta (15 September) and Morocco (20 April).

At the end of 1971, the following 48 States were parties to the Protocol: Algeria, Argentina, Belgium, Botswana, Burundi, Cameroon, Canada, Central African Republic, Congo, Cyprus, Dahomey, Denmark, Ecuador, Ethiopia, Federal Republic of Germany, Finland, France, Gambia, Ghana, Greece, Guinea, Holy See, Iceland, Ireland, Israel, Ivory Coast, Liechtenstein, Luxembourg, Malta, Morocco, Netherlands, Niger, Nigeria, Norway, Paraguay, Senegal, Swaziland,

[6] In addition, the Convention was ratified on behalf of the Republic of China on 22 September 1958. In this connexion see foot-note 3 above.

Sweden, Switzerland, Togo, Tunisia, Turkey, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Yugoslavia, Zambia.

17. *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* (New York, 1968; entered into force on 11 November 1970) (see *Yearbook on Human Rights for 1968*, pp. 459-460)

During 1971, the following States acceded to the Convention on the dates indicated: Albania (19 May), Guinea (7 June) and India (12 June).

At the end of 1971, the following 14 States were parties to the Convention: Albania, Bulgaria, Byelorussian SSR, Czechoslovakia, Guinea, Hungary, India, Mongolia, Nigeria, Poland, Romania, Ukrainian SSR, Union of Soviet Socialist Republics, Yugoslavia.

II. — INTERNATIONAL LABOUR ORGANISATION

1. *Forced Labour Convention,* 1930 (Convention No. 29; entered into force on 1 May 1932).

No ratifications were registered in 1971.

At the end of 1971, 105 States were parties to the Convention.

2. *Freedom of Association and Protection of the Right to Organize Convention, 1948* (Convention No. 87; entered into force on 4 July 1950) (see *Yearbook on Human Rights for 1948,* pp. 427-430)

No ratifications were registered in 1971.

At the end of 1971, 77 States were parties to the Convention.

3. *Right to Organize and Collective Bargaining Convention, 1949* (Convention No. 98; entered into force on 18 July 1951) (see *Yearbook on Human Rights for 1949*, pp. 291-292)

No ratifications were registered in 1971.

At the end of 1971, 90 States were parties to the Convention.

4. *Equal Remuneration Convention, 1951* (Convention No. 100; entered into force on 23 May 1953) (see *Yearbook on Human Rights for 1951,* pp. 469-470)

During 1971, Chile, the Netherlands and the United Kingdom ratified the Convention on 20 September, 16 June and 15 June respectively.

At the end of 1971, 74 States were parties to the Convention.

5. *Social Security (Minimum Standards) Convention, 1952* (Convention No. 102; entered into force on 27 April 1955) (see *Yearbook on Human Rights for 1952*, pp. 377-389)

No ratifications were registered in 1971.

At the end of 1971 20 States were parties to the Convention.

6. *Abolition of Forced Labour Convention, 1957* (Convention No. 105; entered into force on 17 January 1959) (see *Yearbook on Human Rights for 1957*, pp. 303-304)

No ratifications were registered in 1971.

At the end of 1971, 89 States were parties to the Convention.

7. *Discrimination (Employment and Occupation) Convention, 1958* (Convention No. 111; entered into force on 15 June 1960) (see *Yearbook on Human Rights for 1958,* pp. 307-308)

During 1971, Chile and Venezuela ratified the Convention on 20 September and 3 June respectively.

At the end of 1971, 77 States were parties to the Convention.

8. *Social Policy (Basic Aims and Standards) Convention, 1962* (Convention No. 117; entered into force on 23 April 1964) (see *Yearbook on Human Rights for 1962,* pp. 391-394)

Panama ratified the Convention on 4 June.

At the end of 1971, 23 States were parties to the Convention.

9. *Equality of Treatment (Social Security) Convention, 1962* (Convention No. 118; entered into force on 25 April 1964) (see *Yearbook on Human Rights for 1962,* pp. 394-397)

During 1971, the Federal Republic of Germany and Kenya ratified the Convention on 19 March and 9 February respectively.

At the end of 1971, 25 States were parties to the Convention.

10. *Employment Policy Convention, 1964* (Convention No. 122; entered into force on 15 September 1966) (see *Yearbook on Human Rights for 1964,* pp. 329-330)

During 1971, the following States ratified the Convention on the dates indicated: Cuba (5 February), France (5 August), Federal Republic of Germany (17 June), Italy (5 May), Khmer Republic (28 September), Libyan Arab Republic (27 May), Mauritania (30 July) and Yugoslavia (23 August).

At the end of 1971, 45 States were parties to the Convention.

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; entered into force on 12 August 1954) (see *Yearbook on Human Rights for 1948*, pp. 431-433)

During 1971, Costa Rica and Lebanon ratified the agreement on 9 June and 12 May, respectively.

At the end of 1971, 25 States were parties to the agreement.

2. *Agreement on the Importation of Educational, Scientific and Cultural Materials* (Lake Success, 1950; entered into force on 21 May 1952) (see *Yearbook on Human Rights for 1950*, pp. 411-415)

During 1971, Tunisia ratified the agreement on 14 May.

At the end of 1971, 62 States were parties to the agreement.

3. *Convention for the Protection of Cultural Property in the Event of Armed Conflict and Protocol thereto* (The Hague, 1954; entered into force on 7 August 1956) (see *Yearbook on Human Rights for 1954*, pp. 380-389)

During 1971, Saudi Arabia and the United Republic of Tanzania ratified the Convention on 20 January and 23 September, respectively.

At the end of 1971, 63 States were parties to the Convention.

4. *Convention against Discrimination in Education* (Paris, 1960; entered into force on 22 May 1962) (see *Yearbook on Human Rights for 1961*, pp. 437-439)

During 1971, Chile and Finland ratified the Convention on 26 and 18 October respectively.

At the end of 1971, 59 States were parties to the Convention.

5. *Protocol instituting a Conciliation and Good Offices Commission to be Responsible for Seeking the Settlement of Any Disputes which may Arise between States Parties to the Convention against Discrimination in Education* (Paris, 1962; entered into force on 25 October 1968) (see *Yearbook on Human Rights for 1962*, pp. 398-401)

During 1971, no States became parties to the Protocol.

6. *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* (Paris, 1970; not yet in force) (see *Yearbook on Human Rights for 1970*, pp. 322-326)

During 1971, Bulgaria and Ecuador ratified the Convention on 15 September and 24 March respectively.

At the end of 1971, 2 States were parties to the Convention.

7. *Universal Copyright Convention as revised at Paris on 24 July 1971* (Paris, 1971; not yet in force (see above pp. 316-324)

During 1971, no States became parties to the Convention.

IV. — ORGANIZATION OF AMERICAN STATES

Protocol of Amendment to the Charter of the Organization of American States (Buenos Aires, 1967; not yet in force) (see *Yearbook on Human Rights for 1967*, pp. 391-394)

Chile ratified the Protocol on 15 April 1971.

At the end of 1971, 9 States were parties to the Protocol.

V. — COUNCIL OF EUROPE

1. *European Convention on Establishment, 1955* (Paris, 1955; entered into force on 23 February 1965) (see *Yearbook on Human Rights for 1956*, pp. 292-297)

Sweden ratified the Convention on 24 June 1971.

2. *European Code of Social Security, 1964* (Strasbourg, 1964, entered into force on 17 March 1968) (see *Yearbook on Human Rights for 1964*, pp. 331-334)

The Federal Republic of Germany and Ireland ratified the code on 27 January and 16 February 1971, respectively.

3. *Protocol to the European Code of Social Security* (Strasbourg, 1964; entered into force on 17 March 1968) (see *Yearbook on Human Rights for 1964*, p. 335)

The Federal Republic of Germany ratified the Protocol on 27 January 1971.

4. *Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental*

Freedoms Amending Articles 22 and 40 of the Convention (Strasbourg, 1966; entered into force on 17 April 1971) (see *Yearbook on Human Rights for 1966*, pp. 462-463)

The Netherlands and Turkey ratified the Protocol on 19 May and 20 December 1971, respectively.

5. *European Agreement relating to Persons Participating in Proceedings of the European Commission and Court of Human Rights* (London, 1969; entered into force on 17 April 1971) (see *Yearbook on Human Rights for 1969*, pp. 383-385)

During 1971, the following States ratified the agreement on the dates indicated: Belgium (16 March), Ireland (9 November), Malta (30 April), Sweden (20 December) and the United Kingdom (24 February).

VI. — OTHER INSTRUMENTS

1. Geneva Conventions of 12 August 1949 (entered into force on 21 October 1950) (see *Yearbook on Human Rights for 1949*, pp. 299-309).

During 1971, the following States became parties to the Conventions by the instruments and on the dates indicated: Bahrein (accession, 30 November 1971, with effect from 30 May 1972), Burundi (declaration of continuity, 27 December 1971, with effect from 1 July 1962) and Fiji (declaration of continuity, 9 August 1971, with effect from 10 October 1970).

At the end of 1971, 130 States were parties to the Conventions.

2. *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations* (Rome, 1961; entered into force on 18 May 1964) (see *Yearbook on Human Rights for 1961*, pp. 452-454).

Costa Rica ratified the Convention on 9 June 1971.

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