YEARBOOK
ON
HUMAN RIGHTS
FOR 1973-1974

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CONTENTS

Page

Part III

INTERNATIONAL DEVELOPMENTS

YEARBOOK ON HUMAN RIGHTS FOR 1973–1974

INTRODUCTION

From 1946 to 1972 the *Yearbook on Human Rights* was prepared on an annual basis and presented in conformity with the guidance given over the years by the Economic and Social Council. In 1972, the Council decided to examine methods to improve the effectiveness of the current system of collecting and disseminating information about the realization of human rights, giving particular attention to the *Yearbook*. By its resolution 1793 (LIV) of 18 May 1973, the Council decided, *inter alia*, that the presentation of the *Yearbook* should be modified and that henceforth it should be issued every two years.

The present volume is the first to be prepared on a biennial basis and according to the directives laid down by the Council in resolution 1793 (LIV). Part I covers national developments; part II contains information relating to Trust and Non-Self-Governing Territories; part III concerns international developments.

Part I deals with national developments during the period 1973–1974 relating to human rights as defined in the Universal Declaration of Human Rights and contains concise accounts in narrative form of legislative and other national developments, arranged under subject headings.

The following 42 States contributed to the present *Yearbook*: Australia, Austria, Bahrain, Barbados, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Denmark, Ecuador, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, India, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Libyan Arab Republic, Luxembourg, Madagascar, Mexico, Netherlands, Norway, Philippines, Poland, San Marino, Senegal, Sudan, Sweden, Thailand, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia.

The Economic and Social Council has urged Governments to appoint correspondents to supply material for the *Yearbook*; 8 of the 42 contributions were prepared by the following government-appointed correspondents: Mr. Luben Penchev (Bulgaria), Mr. Niels Madsen (Denmark), Mr. Michel Jeol (France), Mr. Jalal Abdoh (Iran), Mr. Luigi Citarella (Italy), Mr. Naozo Hagiwara (Japan), Mr. Ferdinand Wirtgen (Luxembourg) and Mr. Budislav Vukas (Yugoslavia). The contribution from the Federal Republic of Germany was prepared by the Max Planck Institute of Foreign Public Law and International Law, Heidelberg (Mr. Torsten Stein).

The following six Governments reported that no new developments for treatment in the *Yearbook* had occurred during the period under review: Fiji, Ivory Coast, Malawi, Nauru, Niger and Qatar.

In accordance with paragraph 5 (*b*) of resolution 1793 (LIV), the Secretary-General consulted with a number of Governments which had not submitted contributions about the possibility of reproducing relevant material he had received from them in response to other requests for information on human rights topics. Such material has been included with regard to the following five States: Malaysia, New Zealand, Romania, Singapore and the Syrian Arab Republic.

Although it was not possible to achieve complete uniformity of presentation of the contributions submitted by different countries, the material has been arranged under subject headings relating to the pertinent articles of the Universal Declaration of Human Rights. In accordance with the Council's decision, texts of constitutions, laws or court decisions are not reproduced.

During the period 1973–1974, new Constitutions were adopted in Bahrain, the Sudan, Sweden, the Syrian Arab Republic, Thailand and Yugoslavia. Relevant provisions of these constitutions, which reiterate many of the rights contained in the Universal Declaration, are described briefly under headings related to specific articles of the Declaration, as are a number of constitutional amendments and revisions adopted in other countries during the period under review.

The entitlement to all the rights and freedoms set forth in the Universal Declaration, without distinction of any kind, appeared to be the basis for new legislative developments in a number of countries; among others, Canada, Finland, the Federal Republic of Germany, Ireland, Israel, Luxembourg, Mexico, the Netherlands, Norway, San Marino, the United Kingdom and the United States of America took steps towards the equality of men and women in such aspects as property relations, domicile, marriage and family rights, or access to employment. Special attention was given to the rights of minorities in Canada, Finland and Singapore. In the United States of America, the enforcement of civil rights legislation in the fields of employment, education, and housing continued to be a focal point of efforts by the Federal Government to promote human rights for all.

Regarding the right to life and security of person, certain countries adopted measures designed to help deal with crime and prevent terrorism; in others, the death penalty was abolished. In Norway, Act No. 6 of 9 February 1973 relating to transplantation of organs, hospital autopsies and surrender of corpses regulates the conditions governing transplantation from both living and deceased donors.

The administration of justice was the subject of new developments in many countries, including Australia, Austria, the Byelorussian SSR, Canada, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Hungary, Iran, Israel, Italy, Japan, Luxembourg, Madagascar, Mexico, the Netherlands, Norway, Poland, the Sudan, Sweden, Thailand, the USSR, the United Kingdom and the United States of America. Legislative measures were taken relating to the right to recognition as a person before the law, equality before the law and equal protection of the law without discrimination, the right to an effective remedy, the right not to be subjected to arbitrary arrest or detention, and the right to a fair trial and to all the guarantees necessary for defence, including legal aid.

Several countries, including Australia, Austria, Canada, Finland, the Federal Republic of Germany, Italy, Norway, Sweden, the United Kingdom and the United States of America, took steps to safeguard the right to privacy, by adopting measures to control telecommunications and regulate the use of computerized personal data.

The right to a nationality was the subject of legislation in Australia, Canada, France, the Federal Republic of Germany, Iraq and Mexico.

The measures taken with regard to freedom of religion, in particular the freedom of religious worship, included an amendment to the Constitution of Ireland which deletes *inter alia* a clause whereby the State recognized "the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith professed by the great majority of the citizens".

New legislative measures concerning the right to take part in government, regarding in particular the revision of electoral systems, have been adopted in a number of countries, including Australia, Bulgaria, Canada, France, the German Democratic Republic, Ireland, Norway, Romania, Thailand and the United Kingdom.

A great amount of labour legislation was adopted during 1973–1974. The measures cover all the provisions of article 23 of the Universal Declaration, in particular the right to work and to just and favourable remuneration and conditions of work. The Labour Code was the subject of amendments or recodification in a number of countries, including Austria, the Byelorussian SSR, Ecuador, France, Iraq and Mexico. New Labour Codes were adopted in the Philippines, Poland and Togo; the Industrial Relations Act, 1973, was adopted in New Zealand and the Trade Union and Labour Relations Act, in the United Kingdom.

The right to social security and to a standard of living adequate for health and well-being was the subject of legislative measures in nearly all the countries covered in the present *Yearbook*. These measures include improvements in housing, medical care and the necessary social services; increased pension rates, unemployment and sickness benefits; and public health. In a number of countries—including Bulgaria, Finland, the German Democratic Republic, India, Poland, Romania, Singapore and Sweden—crèches, kindergartens and day-care facilities have been established or expanded, thus providing special care for children and assistance for women who wish to work outside the home.

With respect to education, legislative and other measures were adopted in many countries. Among the most important is the Act of 19 July 1973 of the Union of Soviet

Socialist Republics approving the Basic Legislation of the USSR and the Union Republics concerning Public Education. The Act lays down the 12 basic principles of public education in the USSR, which include, in the first place, the equality of all citizens in obtaining education, regardless of racial or national origin, sex, religious views, property status or social position. In 1974, similar education acts were adopted in the Byelorussian SSR and in the Ukrainian SSR.

National policies for youth development were laid down in some countries, including the German Democratic Republic and Thailand.

Part II of the *Yearbook* contains information relating to the attainment of independence or self-government of certain Trust and Non-Self-Governing Territories.

Part III covers international developments and contains a brief account of United Nations activities in the field of human rights during the period under review and information, in tabular form, on the status of certain international agreements relating to 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, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

PART I

NATIONAL DEVELOPMENTS

AUSTRALIA

Introduction

The protection of human rights in Australia owes more to the inherited traditions of British liberalism, strengthened by Australia's own history and economic circumstances, than to any formal guarantees of these rights. The legal guarantees of human rights are to be found in the Australian Constitution, in the laws of the Australian and six State Parliaments, the ordinances of the Australian Territories, and in certain principles of common and equity law.

For example, section 41 of the Australian Constitution provides that no federal law shall prevent adult persons who have the right to vote at State elections from voting at elections for either House of the Australian Parliament. Section 51(31) of the Constitution requires that those acquisitions of property which are permissible be made on "just terms". Section 80 provides that the trial on indictment of any offence against a federal law shall be by jury. Section 116 of the Constitution provides that the Australian Parliament is not to make any law for establishing a religion or imposing religious observance or prohibiting the free exercise of any religion. That section also prohibits the imposition of any religious test as a qualification for holding any federal office. Section 117 prohibits discrimination on the basis of State residence. On the State level, freedom of conscience and freedom of religion are recognized in section 46 of Tasmania's Constitution Act, 1934. One of the best known examples of common law guarantees of human rights is the action of habeas corpus.

There is a growing awareness by the Australian Government as well as by the State governments and in the community at large, that the existing body of law does not give individuals full protection against arbitrary interferences with their fundamental rights and freedoms. Some provisions of the Universal Declaration of Human Rights, such as freedom of expression, are not protected as such by the law, while others, such as the right of privacy, are protected in a limited way only by Australian and State Acts of Parliament and by a number of common law torts such as trespass and nuisance. In the period under review, the Australian Government took a number of initiatives to protect the fundamental rights and freedoms of all individuals in Australia in a comprehensive manner.

In November 1973, the then Attorney-General introduced in the Australian Parliament the Human Rights Bill and the Racial Discrimination Bill. The purpose of the Human Rights Bill is to implement in a law of the Australian Parliament the standards of the International Covenant on Civil and Political Rights and to provide civil remedies to anyone who becomes the victim of an unlawful interference with the fundamental rights and freedoms provided for in the Bill. In addition, the Bill provides for the establishment of administrative machinery—the Australian Human Rights Commissioner and the Australian Human Rights Council—to perform functions that will strengthen the community's awareness of the standards of the International Covenant on Civil and Political Rights, which will be mirrored in the proposed legislation. The purpose of the Racial Discrimination Bill is to make unlawful distinctions, exclusions, restrictions or preferences based on race, colour, descent or national or ethnic origin which have the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life. The Bill recognizes rights to equality before the law and a number of specific rights recognized in the International Convention on the Elimination of All Forms of Racial Discrimination. As in the Human Rights Bill, remedies are provided for the infringement of the rights and freedoms recognized in the proposed legislation. Administrative machinery, similar to that envisaged in the Human Rights Bill, is also provided for in the Racial Discrimination Bill to complement the civil remedies and criminal sanctions foreshadowed by the Bill. The above bills were not passed during the period under consideration and, on that account, will not be examined further here.

There has been a great deal of legislation passed in the Australian States as well as

by federal Parliament during the period 1973–1974 to amend existing laws in matters affecting basic rights. The most significant provisions relating to fundamental rights and freedoms which have been enacted, and matters which have been the subject of court decisions, during the period under review, are discussed below under the corresponding standards of the Universal Declaration of Human Rights.

A. Right to life

(article 3 of the Universal Declaration)

The Death Penalty Abolition Act (No. 100 of 1974) abolished the death penalty in the mainland and external Territories of Australia and for offences against laws made by the Australian Parliament.

The death penalty was also abolished in the Northern Territory of Australia by the Criminal Law Consolidation Ordinance in 1973.

B. Right to recognition as a person before the law

(article 6 of the Universal Declaration)

During the years 1973 and 1974 the following Territories and States passed legislation to reduce the legal age of adulthood to 18 years: Australian Capital Territory (Age of Majority Ordinance 1974); Northern Territory (Age of Majority Ordinance 1974); Queensland (Age of Majority Act 1974); Tasmania (Age of Majority Act 1973); Western Australia (Age of Majority Acts 1972–1973). The other States (New South Wales, Victoria and South Australia) had previously passed similar legislation.

C. Equality before the law

(article 7 of the Universal Declaration)

The States of Victoria and Tasmania each passed a Status of Children Act in 1974 which removed the remaining legal disabilities of illegitimate children. These Acts have been assented to but have not yet been proclaimed.

The State of Queensland amended the Registration of Births, Deaths and Marriages Act in 1974 to ensure that all children born out of wedlock in that State received a surname.

In an effort to further reduce injustice resulting from inequality, in July 1973 the then Attorney-General of Australia established the Australian Legal Aid Office staffed by salaried lawyers. The Office provides "legal advice and assistance on all matters of federal law, including matrimonial law, to everyone in need and on matters of both Federal and State law to persons for whom the Australian Government has a special responsibility, for example, pensioners, aborigines, ex-servicemen and newcomers to Australia". The Australian Legal Aid Office is expanding rapidly with emphasis on "storefront" offices. The Government's aim is that eventually no person anywhere in Australia should suffer injustice because of the unavailability of legal advice or inability to afford the cost of representation in court proceedings.

D. Right to an effective remedy in law

(article 8 of the Universal Declaration)

The Small Claims Ordinance 1974 became effective in the Australian Capital Territory in 1974. The purpose of this Ordinance is to provide people with an effective legal remedy for civil complaints where the amount of money involved is so small, comparatively, that it would not be practicable to pursue the claim in higher courts.

A similar Ordinance came into force in the Northern Territory in 1974, and the States of Queensland and Victoria passed similar legislation in 1973.

E. Right not to be subjected to arbitrary arrest or detention

(article 9 of the Universal Declaration)

The Supreme Court of Victoria decided, *inter alia*, that there is an inherent power in the court to examine the basis upon which a warrant for the apprehension of a witness

(who was likely not to appear at a hearing) was issued and to have it withdrawn if it was issued without proper foundation. Furthermore, the court decided that in these circumstances the apprehended witness could not be committed to gaol and that the arresting officer must make interim custodial arrangements until the witness could give his evidence. The court indicated that arrangements should be made for the witness to give his evidence at the earliest possible opportunity as his detention ends when his evidence is given (*R* v *Raymer* re Papal 1973 V.R. 843).

On an application for bail by a person charged with possession of drugs while on bail on a similar charge, the Supreme Court of the Australian Capital Territory decided that:

(1) The principal consideration, and in many cases the sole consideration, when bail is in question is whether the accused person will attend at his trial;

(2) It is for the prosecution to make a clear and positive case for the refusal of bail;

(3) It is not normally a factor of any great weight that the accused person may possibly commit a crime while he is on bail, unless the consequences of any such crime might be so serious that the possibility becomes an important consideration.

In the present case the court decided that bail should be refused as the accused would probably continue dealings in drugs with very serious consequences (*Burton* v *The Queen* (1974) 3 A.C.T.R. 77).

F. Freedom from arbitrary interference with privacy

(article 12 of the Universal Declaration)

The Listening Devices Act 1972 of the State of South Australia, which came into operation in April 1973, regulates the use of listening devices for the purpose of eavesdropping.

G. Freedom of movement

(article 13 of the Universal Declaration)

The Australian Parliament amended the Crimes Act in 1973 by repealing the power to deport persons born outside Australia who had been convicted of certain offences or who were members of an unlawful association.

There were also amendments to the Migration Act in 1973 which removed the restrictions imposed by section 64 of that Act on the right of certain Aborigines to freely leave and return to Australia.

H. Right to a nationality

(article 15 of the Universal Declaration)

The law governing nationality and citizenship is the responsibility of the Australian Government.

Section 131 of the Australian Citizenship Act, which was inserted in 1973, provides that a migrant may make a declaration of intention to apply for citizenship one year after arrival in Australia. A much more important amendment to that Act was the insertion of section 23D in 1973. The purpose of this section is to prevent persons from becoming stateless wherever this is possible. Section 23D(1) enables the Minister to grant Australian citizenship to a person born in Australia who is not and never has been a citizen of any country. Section 23D(2) provides that a person born in Australia shall be an Australian citizen if at the time of his birth his mother was an Australian citizen and, but for this sub-section, he would not be a citizen of any country. Section 23D(4) states that the Minister shall not make an order in regard to the child of a person deprived of his Australian citizenship because of false representations if the effect of such an order would be to make the child stateless.

An amendment, made in 1973, to section 18 of the Act enables an Australian citizen who is a national or citizen of another country by birth to renounce his Australian citizenship upon reaching the age of majority or upon marriage.

I. Right to own property and freedom from arbitrary deprivation of property

(article 17 of the Universal Declaration)

Much legislation was enacted on this topic in 1973 and 1974, the more important of which is set out below.

The State of Victoria passed the Lands Compensation Act in 1973 providing for the payment of compensation to persons whose land has been compulsorily acquired. Such compensation is to consist of the market value of the property plus up to 10 per cent of such value as a means of consolation. Where the land taken was used for residential purposes the Minister may make an extra payment where the market value does not reflect some "special nature" of the improvements.

The State of South Australia enacted the Land Commission Act in 1973 which empowers the Commission to acquire land for present and future urban development. However, the Act prohibits the resumption of a dwelling house which is occupied by the owner as his principal place of residence. Compensation is to be paid pursuant to the Land Acquisition Act 1969–1972.

In 1974 the State of South Australia passed the Fruit Fly (Compensation) Act to bring up to date compensation payments to fruit growers whose crops had been compulsorily held or destroyed to combat the fruit fly pest.

The State of New South Wales, in the Mining Act 1973, provided for the assessment and payment of compensation to an owner of private land who suffers loss as a result of the registration of a mining claim over his land.

The State of Western Australia amended the Mining Act in 1973 by repealing the prohibition against Asians or Aborigines holding mining leases in that State. Western Australia amended the Fuel Energy and Power Resources Act in 1974 to allow compensation to be paid to any person who suffers loss as a result of his complying with any emergency regulation made under the Act.

In 1974 the State of Queensland amended its legislation governing Aborigines and Torres Strait Islanders to permit them to terminate departmental management of their property and affairs, should they wish to do so.

J. Freedom of belief

(article 18 of the Universal Declaration)

The State of Western Australia enacted the Scientology Act Repeal Act in 1973 to remove bans on the practice of scientology. The State of South Australia passed a similar Act which has received assent and which is expected to be proclaimed shortly.

K. Freedom to impart information and ideas

(article 19 of the Universal Declaration)

The Australian Broadcasting Commission in its administration of national radio and television has inaugurated "Access" programmes where interested persons, groups or societies are given time on the media and technical assistance to produce programmes to communicate their ideas and beliefs. Commercial radio and television stations have also introduced such programmes.

L. Right to take part in government

(article 21 of the Universal Declaration)

The Australian Parliament reduced the voting age for federal elections to 18 years in the Electoral Act 1973.

The Australian Capital Territory, by amendment of the Australian Capital Territory Electoral Regulations, and the Northern Territory, by amendment of the Northern Territory Electoral Regulations, both reduced the voting age to 18 years in 1973.

During 1973 and 1974 the following States of Australia passed legislation to reduce the voting age for elections in those States to 18 years: Queensland (Elections Act 1973 and Criminal Code Amendment Act 1973); Tasmania (Age of Majority Act 1973); New South

Wales (Parliamentary Electorates and Elections (Amendment) Act 1970); Victoria (Constitution Act Amendment (Qualifications) Act 1973). The States of Western Australia and South Australia had previously lowered the voting age for elections in those States to 18 years.

In 1973 the Australian Parliament passed the Senate (Representation of Territories) Act to give the Australian Capital Territory and the Northern Territory two representatives each in the Australian Senate. Such senators are to be chosen by the people of each Territory voting as one electorate.

M. Right to social security
(article 22 of the Universal Declaration)

The rights protected by this article are similar to those referred to in article 25 and reference should be made to the comments under that heading.

N. Right to just and favourable conditions of work
(article 23 of the Universal Declaration)

In 1973, the Australian Parliament passed the Maternity Leave (Australian Government Employees) Act, which entitles certain government employees to take leave for the birth of a child without affecting their right to work or to return to their work. Other sections in the Act provide that the fact, or the possibility, of pregnancy is not a ground for refusal or termination of employment.

The National Wage Case of 1972, which was decided in 1973, held that female wage earners would become progressively entitled to the same minimum wage as males, and that full equality must be reached by 30 June 1975; in August 1973, the Prime Minister instructed that all female employees of the Australian Government were to be given equal pay immediately instead of at the end of the phasing-in period.

O. Right to periodic holidays with pay
(article 24 of the Universal Declaration)

In 1973, the Australian Parliament passed the Public Service Act 1973 (No. 21) to increase the amount of recreation leave to four weeks per annum.

In 1974, the Northern Territory of Australia passed the Annual Holiday Ordinance giving employees on normal working hours four weeks annual holidays and shift-workers five weeks.

P. Right to an adequate standard of living
(article 25 of the Universal Declaration)

The comments under this article overlap to some extent with article 22 and should be read, where applicable, as referring to both articles.

The Australian Government has the responsibility for social service and social security legislation and benefits. The following are examples of the numerous Acts of Parliament passed in 1973 and 1974 in this area: the Social Services Act 1973 increased the rate of pensions; the Social Services Act (No. 3) 1973 instituted benefits for mother and child; the Social Services Act (No. 4) 1973 further increased pension rates and abolished the means test on pensions for persons permanently blind or who have reached the age of 75; the Health Insurance Act 1973 increased payments for medical benefits and hospital services. Benefits for nursing home care were also increased by regulation.

Two further Social Services Acts in 1974 increased pensions again and increased unemployment and sickness benefits. The Delivered Meals Subsidy Act 1973 increased financial assistance to charitable organizations supplying meals to the sick or the aged.

The State of Western Australia extended the age of a "student child" to 25 years by an amendment of its Superannuation and Family Benefits Act Amendment Act (No. 2) 1973.

Q. Right to education

(article 26 of the Universal Declaration)

Considerable progress was made during the period under consideration in the rights covered by article 26. A number of federal and State Acts of Parliament were passed and a cross-section of such legislation is set out hereunder.

The State of New South Wales established a new university by the University of Wollongong Act 1972. The State of Western Australia provided for a new university in that State by the Murdoch University Act 1973.

Amendments to the Education Regulations in the State of Tasmania increased the number of travelling scholarships, increased allowances to holders of teacher-training scholarships, and provided for a marriage allowance to be paid to married teacher-trainees. Tasmania also amended the Education Act in 1973 to make special grants to private schools in that State.

The State of Victoria passed the Education (Handicapped Children) Act in 1973 to set up free special schools and facilities for handicapped children. Victoria also passed the Teaching Service (Professional Appointees) Act in 1973 to provide for permanent or temporary employment in schools of psychologists, speech-therapists, welfare workers, librarians and audio-visual experts.

The Northern Territory established the Darwin Community College at Darwin in an Ordinance of 1973.

The Australian Parliament in a number of Acts of Parliament made grants to the States for assistance in funding education in the States and to train additional social workers. Another important enactment was the State Grants (Universities) Act (No. 3), which abolished student fees for all university courses. It also made grants to needy students, for recurrent and capital expenditure, for libraries and student residences, for pre-school teacher training, for science laboratories, to disadvantaged schools, to special schools for the handicapped, for teacher development and for many other purposes. It passed, also, the Immigration (Educational) Act 1973 to provide for the supply of capital equipment of an educational nature to be used in courses for migrants to Australia. The Australian Government was responsible for providing secondary and tertiary education scholarships and post-graduate awards.

R. Right to cultural life and the protection of material interests in literary production

(article 27 of the Universal Declaration)

In 1973, the State of Tasmania passed the Tasmanian Theatre and Performing Arts Council Act 1973 to establish the Council, which has, as some of its functions, the encouragement and promotion of the arts and culture.

The State of Western Australia passed in that year the Arts Council Act 1973 which has a purpose similar to that of the Tasmanian legislation.

The Australian Government introduced into Parliament in July 1974 the Australia Council Bill. The purpose of this Bill is to promote and provide for the arts in all forms throughout the nation. Emphasis is laid on encouraging a national identity in the arts. The aims are to enable all citizens to participate, if they so desire, in the arts and to this end support is also directed through the State and local community bodies. This Bill was passed by the Australian Parliament early in 1975.

AUSTRIA

A. Principle of equal treatment
(article 2 of the Universal Declaration)

1. Prohibition of discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination was ratified by Austria on 9 May 1972. It entered into force in relation to Austria on 8 June 1972.

Generally speaking, this Convention constitutes a further development, both in substance and in form, of the general principle of equality of treatment. It is true that equality before the law has been guaranteed by a number of constitutional rules under the Austrian legislation dealing with fundamental rights (art. 7 of the Federal Constitutional Law; art. 2 of the Basic State Act concerning the General Rights of Citizens and art. 66, para. 1, of the State Treaty of St. Germain), but for the time being this principle is applicable only to Austrian nationals.

In view of the fact that the Convention contains largely rules which are not immediately applicable, on the one hand, and that the great majority of its principles have already been translated into reality under the Austrian legislation, on the other, the National Council has made use of its right not to incorporate all the provisions of the Convention into domestic legislation.

This has made it necessary to extend the constitutionally guaranteed principle of equality to the treatment of aliens in their mutual relations. This need was met by adoption of the Federal Constitutional Act of 3 July 1973, for the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.[1]

Article 1 of this Act bans any and all forms of racial discrimination—even as otherwise provided in article 7 of the Federal Constitutional Law as amended in 1929 and article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the European Convention on Human Rights).[2] Both the Legislature and the Administration are bound to refrain from making any distinction on the sole grounds of race, colour, birth, or national or ethnic origin. This does not, however, prevent lawmakers from granting special rights to, or imposing special obligations on, Austrian citizens except as otherwise provided in article 14 of the European Convention on Human Rights.

To avoid misunderstanding, it is explicitly provided in article 2 of the Act that its provisions do not prejudice the validity of the "Habsburg Act", which Austria is bound to maintain by virtue of article 10, paragraph 2, of the State Treaty of 1955.

2. Equality of treatment

The Federal Constitution Amending Act of 1974[3] has rescinded the provision of article 133, paragraph 2, of the Federal Constitutional Act under which disciplinary matters concerning employees of the Federal State, Federal Provinces, or regional or local authorities were excluded from the jurisdiction of the Administrative Court. The latter is now also competent to review decisions of last instances disciplinary authorities, so that the system of the Administrative Court's review of the lawfulness of individual administrative acts has been considerably extended. This legislative measure, affecting as it does the sphere of public service, which is highly important for the organization of the State, is of outstanding significance in that it guarantees the greatest possible legal protection, as required under the Constitution and desirable under legal policy.

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1 *Bundesgesetzblatt*, No. 390/1973.

2 *Ibid.*, No. 210/1958.

3 *Ibid.*, No. 444/1974.

B. Right to life, liberty and security of person
(article 3 of the Universal Declaration)

DECISION OF THE CONSTITUTIONAL COURT CONCERNING TERMINATION OF PREGNANCY

Under its judgement, G 8/74, of 11 October 1974, the Constitutional Court took an important decision concerning essential rules of the European Convention on Human Rights and the range of fundamental rights in Austria. According to its findings, impunity of termination of a pregnancy within the first three months after its beginning, as provided in article 97, paragraph 1, subparagraph 1, of the Austrian Penal Code of 1974, is not contrary to either the right to life ensured under article 2 of the European Convention on Human Rights or the right to respect for a person's private life (article 8 of the Convention) or the right to found a family (article 12 of the Convention) or the principle of equality of treatment.

During the proceedings leading up to that decision it was argued, *inter alia*, that while it was true that the Austrian Federal Constitution did not explicitly provide for a constitutional right to life, that right was a presupposition for the other fundamental rights and freedoms expressly ensured by law. The Constitutional Court stated in this connexion that—irrespective of whether and under what circumstances, a fundamental freedom and right to life, though not expressly provided for by law, could be derived by interpretation of a right expressly laid down under the Basic State Act concerning the General Rights of Citizens—it was understood in the light of the system laid down in that Act and the corresponding objectives of protection of the rights contained therein, that such a right to life could only purport to protect the individual from interference with his life by the State. But this was not the subject of the provisions of articles 96 and 97 of the Penal Code. As regards the alleged violation by the cited provision of the Penal Code, of article 2, paragraph 1, first sentence, of the European Convention on Human Rights, which under Austrian law has the same authority as a constitutional act, the Constitutional Court stated that on the basis of a systematic interpretation there were no grounds for including "still unborn life" among the persons protected thereunder.

It was for the same reason that the Court considered that articles 96 and 97 of the Penal Code did not infringe article 63, paragraph 1, of the State Treaty of St. Germain[4]—which in respect of that article has also the authority of a constitutional act—under which Austria assumed the obligation "to grant full and comprehensive protection of life and freedom to all inhabitants of Austria without any discrimination on the grounds of birth, nationality, language, race or religion".

Similarly, the principle of equality of all citizens before the law, as set out in several constitutional provisions, which in particular authorizes the legislator to deal with like matters in a like manner and to accord an objectively differentiated treatment to unlike matters, was in the opinion of the Constitutional Court not violated by the provision of the Penal Code concerning the termination of pregnancy. Indeed, by virtue of the Constitution it was possible for the legislator, in the enactment of "simple laws" [i.e. other than constitutional laws] to treat under penal law the termination of pregnancy differently, depending on the state of development of the foetus, without prejudice to the requirement of equality of treatment.

Finally, the Constitutional Court was unable to find any violation of articles 8 (right to respect for private and family life) and 12 (right to marry and to found a family) of the European Convention on Human Rights, since those provisions neither exclude nor prescribe enactment of penal provisions for the protection of these rights.

C. Legal aid
(articles 10 and 11 of the Universal Declaration)

The Legal Aid Act, adopted on 8 November 1973,[5] is of outstanding importance. This law enables anyone (foreign nationals, however, only on the basis of reciprocity) to enforce his legal rights irrespective of his financial circumstances and helps to secure

[4] *Ibid.*, No. 303/1920.
[5] *Ibid.*, No. 569/1973.

equal opportunities in the pursuit and vindication of rights, as provided in article 7 of the Federal Constitutional Law and in article 6, paragraph 1, and article 14 of the European Convention on Human Rights.

The reform of the legal aid system—the discriminating word "*Armenrecht*" (poor law) has been replaced by a more up-to-date term—concerns proceedings before civil and criminal courts and before the Constitutional Court and the Administrative Court, as well as proceedings pending with administrative authorities.

Connected with the reform of the legal aid system is the legal regulation of the compensation of attorneys-at-law acting as counsel for legally aided persons. Such a regulation was laid down by the Federal Act of 8 November 1973 Amending the Act concerning Attorneys-at-Law.[6] It stipulates that the services of lawyers representing legally aided persons are to be compensated for by a lump-sum remuneration paid by the Federal Government to the Austrian Bar Association. That lump sum has to be used for lawyers' old age, invalidity and surviving dependents' pensions. This arrangement has, in particular, eliminated the objections from the constitutional point of view to the institution of the poor law and the current legal aid system, respectively. Such objections had led to the repeal by the Austrian Constitutional Court of a provision contained in the Act concerning Attorneys-at-Law,[7] on the grounds that it was contrary to the principle of equality (art. 7 of the Federal Constitutional Law) as well as to an application to the European Commission on Human Rights lodged by an Austrian attorney-at-law under article 4 of the European Convention on Human Rights, which bans forced or compulsory labour. Meanwhile, in the light of the change in the legal situation, that application has been disposed of by an amicable settlement between the parties to the dispute.

D. Right to privacy

(article 12 of the Universal Declaration)

1. Secrecy of telecommunications

Another step towards extending the list of fundamental rights in Austria has been the Federal Constitutional Act Amending the Basic State Act concerning the General Rights of Citizens by Insertion of a Rule to Protect Privacy of Telecommunications dated 29 November 1973.[8] It has introduced into the Basic State Act concerning the General Rights of Citizens a new article 10 (*a*), which prescribes that "privacy of telecommunications . . . must not be violated".

All communications or information transmitted through the telecommunications system, other than those destined for the public, are subject to privacy of telecommunications. The concept of privacy as understood and used for the purposes of this law is linked with the concept of privacy of letters. The decisive factor is therefore the destination of a communication rather than its contents. A communication which is destined only for a specific person comes within the protection provided for under the rule in question even if it does not constitute a "secret" in the technical sense.

Interference with this right is, without exception, permissible only under a judicial order, which can only be delivered under the conditions prescribed by law. Only if all legal requirements are fulfilled is the court authorized to order monitoring of telecommunications. The respective detailed rules are contained in article 149 a, paragraph 1, of the Act Adjusting the Code of Criminal Procedure.[9] Under that article, the monitoring of telecommunications, including the recording of their contents, is permissible only if such measure can be expected to facilitate elucidation of an offence committed intentionally and punishable with more than one year in prison and if the holder of the telecommunications equipment himself is under strong suspicion of having committed the offence or if it can be reasonably assumed that a person strongly suspected of having committed the offence is staying with the holder of the equipment or will contact the latter by using the equipment, or if the holder of the equipment expressly consents to the monitoring.

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[6] *Ibid.*, No. 570/1973.

[7] *Reichsgesetzblatt*, No. 96/1868.

[8] *Bundesgesetzblatt*, No. 8/1974.

[9] *Ibid.*, No. 423/1974.

It is noted however that measures for a purely technical control of telecommunications do not constitute interference with the privacy of telecommunications. Such technical control measures are provided for in the Telecommunications Act[10] and, indeed, by virtue of the International Convention on Telecommunications, they are required under international Law.

The punitive sanctions against violations of the privacy of telecommunications are contained in article 119 of the Penal Code.[11]

2. Control of the use of personal information

Another point to be mentioned in this connexion is the Government Bill of 18 December 1974 concerning a Federal Act on Protection of Person-Related Data. The aim of this bill is to protect by legislative measures personal freedom and privacy from abuse of "person-related data" in the light of the growing use made of computers for collecting data and information. As used in this context, the term "person-related data" should be understood to mean data containing information on a person who is identified or identifiable, including personal identity marks.

The main objective of the government bill is to regulate the processing of person-related data. The rules concern in particular the admissibility of the collection and processing of data, the impartment of data, the linking up of data; the right of the person concerned to give information, and the obligation of making corrections imposed on the institution ordering the processing of person-related data.

In addition to establishing data protection under a "simple" law which, by the way, would be supplemented in a constitutional respect by article 8 of the European Convention on Human Rights (right to respect for private life)—the government bill provides a draft constitutional rule on data protection, which will be the basis of the discussion. Pursuant to that draft, the fundamental rights enumerated under the Basic State Act on the General Rights of Citizens might be supplemented by the insertion of an article 10 (*b*) dealing with the observance of secrecy in respect of person-related data.

These and other questions relating to data protection as an aspect of the comprehensive protection of privacy will be discussed in great detail during the parliamentary deliberations on the government bill.

E. Freedom of information

(article 19 of the Universal Declaration)

In the context of the freedom to receive information and ideas as ensured by article 10 of the European Convention on Human Rights (hence, a constitutional right), special mention should be made of two Acts of 10 July 1974, viz. the Federal Constitutional Act Ensuring Independence of the Broadcasting System[12] and the Federal Act concerning the Functions and the Institution of the Austrian Broadcasting System (Broadcasting Act of 1974).[13]

The underlying idea was that radio and television, which are the most important media which the public can employ in exercising the freedom to receive and impart information and ideas, can only fulfil their prescribed functions in a satisfactory manner and in conformity with Austria's democratic policy if they do not abuse the power conferred on them by their virtual monopoly for the purpose of influencing the public by diffusing biased information.

Accordingly, article 1, paragraph 2, of the above-mentioned Federal Constitutional Act provides that the detailed rules on the broadcasting system and its organization to be laid down under a Federal Act shall ensure objectivity and impartiality of reporting; consideration of the multiplicity of opinions; balanced programmes, and independence of those entrusted with shaping the programmes.

This constitutional order is met in particular by the provisions of the Broadcasting

[10] *Ibid.*, No. 253/1962.

[11] *Ibid.*, No. 60/1974.

[12] *Ibid.*, No. 396/1974.

[13] *Ibid.*, No. 397/1974, as amended by *ibid.*, No. 80/1975.

Act of 1974 that deal with the principles underlying the programming of the Austrian broadcasting system (art. 2); the number and type of programmes (art. 3); restriction of the influence of political parties (e.g. art. 13, paras. 2 and 3); independence and sense of responsibility of those who prepare the programmes, including provisions relating to the enactment of regulations governing editors (art. 17 *et seq.*); the independent Committee for Supervising Compliance with the Broadcasting Act (art. 25 *et seq.*) and the right of the broadcasting and television audience to help determine the programming (art. 15 *et seq.*).

The programming principles (art. 2) contain in particular an obligation to furnish the public with comprehensive information on all important political, economic, cultural and sporting matters, especially by an objective selection and communication of news and reports as well as by the reproduction and communication of commentaries, opinions and critiques of importance for the public, having due regard to the multiplicity of opinions held in public life.

F. Right to information concerning the conduct of government
(article 21 of the Universal Declaration)

Under article 3, paragraph 5, of the Federal Act concerning the Number, the Competencies and the Institutions of the Federal Ministries (Federal Ministries Act of 1973) dated 11 July 1973,[14] the Federal Ministries are bound to give information on matters within their respective jurisdiction unless they are prevented from doing so by the obligation to observe official secrecy.

Furthermore, according to article 4, paragraph 3, of the Act the Federal Ministers must take appropriate measures to ensure that the federal administrative authorities, agencies and institutions subordinate to their Federal Ministries furnish information within their territorial and technical competence unless they are prevented from doing so by the obligation to observe official secrecy.

The objective of this regulation is to offer the population services in the form of information and to ensure a better control of the administrative activities of Federal Ministries. Every individual has a legal right to request and receive information from Federal Ministries. This right is not subject to any conditions. The individual's right to obtain information is complemented by the Federal Ministries' obligation to furnish the requested information. The obligation to give information applies both to matters coming within the purview of public administration and to those relating to the management of private enterprises. However, as stated above, this obligation to give information exists only in so far as it is not overridden by the obligation to observe official secrecy as set out in article 20 of the Federal Constitutional Act and various provisions of "simple" laws.

G. Right to just and favourable conditions of work
(article 23 of the Universal Declaration)

One of the most important laws enacted in the period under review is the Federal Act concerning the Labour Charter of 14 December 1973. This Act represents a codification of the legal rules concerning collective labour rights (chiefly the right of collective agreements), the constitution of enterprises, as well as arbitration and the procedure applicable under collective labour laws (rules for the enforcement of rights and the settlement of disputes). It should be noted that, in principle, such regulations were already contained in Austrian legislation in force before the passage of the Act concerning the Labour Charter, which responded primarily to the need for codification.

Of significance in the present context are above all the rules governing the constitution of enterprises (part 2 of the Act). These rules deal essentially with the organization of the representation of those employed in enterprises (staff councils); the functions to be performed by the staff councils (taking part in the discussion of social and economic matters and questions concerning the staff) and the legal status of the members of staff councils (exercise of mandate, release from work, protection against notice and dismissal).

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[14] *Ibid.*, No. 389/1973.

As regards the right "to just and favourable conditions of work and to protection against unemployment" set out in article 23, paragraph 1, of the Universal Declaration of Human Rights, mention should be made in particular of the numerous rights of participation conceded to employees under the Act concerning the Labour Charter.

H. Right to education

(article 26 of the Universal Declaration)

Attention should be drawn to legislative measures aimed at creating in practice equal opportunities in the field of education. One such measure was the Federal Act Amending the 1967 Family Burdens Equalization Act dated 9 July 1972.

This Federal Act has introduced the systems of "pupils' travel allowances and pupils' free fares" and "free textbooks".

A claim for a pupil's travel allowance is granted pursuant to article I, section I (*a*), of that Act if the shortest route between a pupil's dwelling and the school is not less than three kilometres in one direction (it may be even less for handicapped children). Free fares for pupils may be granted under similar circumstances.

Article I, section I (*b*) of the Act provides that in order to relieve the burden on parents of the education and training of their children, the textbooks required for instruction shall be made available free of charge to pupils attending a public primary school or an intermediate or secondary school in Austria.

I. Aid to developing countries

(article 28 of the Universal Declaration)

On 10 July 1974, the National Council adopted a Federal Act concerning Assistance to Developing Countries.

Article 2, paragraph 1, of that Act lays down that the Federal Government may grant development aid to developing countries, either directly or in co-operation with other countries, international organizations or institutions, provided that the developing country concerned undertakes to contribute toward the implementation of a specific project.

The United Nations or other international organizations and institutions whose tasks include the administration of such aid, may also receive development aid, provided that it is certain that the contributions made by Austria will be used for that specific purpose. In the interest of longer-term planning of development aid, the Federal Chancellor must under article 8 of the Act, draw up every year, in consultation with the Federal Ministers of Finance and Foreign Affairs, a three-year development aid programme indicating probable costs and the possible sources of finance. Thus the development aid programme constitutes the framework for the Government's development assistance.

BAHRAIN

Introduction

The State of Bahrain, in pursuance of the principles of the Islamic Shari's Law, which are based on universal justice and equality, is intent on granting the rights set out in the Universal Declaration of Human Rights that are in accord with the spirit and principles of the Islamic Shari's Law to individuals, even in the absence of a written law embodying those rights.

The Constitution of Bahrain promulgated on 6 December 1973[1] upholds these rights and makes explicit mention of them in part III (arts. 17–31), relating to the public rights and duties of individuals. Those rights, based on justice and equality, are a guarantee against any kind of discrimination or persecution constituting an infringement of the dignity and rights of man. Some of the provisions of the Constitution are briefly described below under the pertinent articles of the Universal Declaration.

The rights and public liberties provided for in the Constitution shall be regulated or limited only by a law or in accordance with one, and such regulation or limitation shall not affect the essence of the right or liberty (art. 31).

A. Non-discrimination and equality before the law

(articles 1 and 2 of the Universal Declaration)

As stipulated in article 18 of the Constitution, the State of Bahrain is opposed to racial discrimination, and the principle of equality that already existed as an integral part of the Bahrain social system is reaffirmed in a codified form by the provisions of that article, which reads as follows:

> "People are equal as concerns human dignity; and the citizens are all equal before the law as regards the rights and public duties with no discrimination between them on account of race, origin, language, religion, or belief."

B. Right to personal liberty and security of person

(articles 3 and 9 of the Universal Declaration)

Personal freedom is guaranteed according to the law. No person shall be arrested, detained, imprisoned or searched, nor shall his right to freedom of movement and residence be restricted, except as prescribed by law and under the supervision of the judiciary. No person shall be unlawfully detained or imprisoned in places other than those specified in the prison laws (Constitution, art. 19, paras. 1, 2 and 3).

C. Protection against torture and cruel or degrading treatment or punishment

(article 5 of the Universal Declaration)

No person shall be subjected to physical or moral torture or to degrading treatment. The law shall determine the punishment of those who contravene this provision. Any statement or confession proved to have been obtained by such treatment, or the threat of it, shall be void (Constitution, art. 19, para. 4).

D. Right of petition

(article 7 of the Universal Declaration)

Communications may be addressed to the public authorities by individuals, if signed, or by organized associations and corporate bodies (Constitution, art. 29).

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[1] *Official Gazette*, 26th year, Supplement to issue No. 1049, dated 6 December 1973.

E. Right to a fair trial

(articles 10 and 11 of the Universal Declaration)

There shall be no crime or punishment without a law providing for it, and no act shall be punishable except after the law has gone into effect. Punishment shall be personal. The accused shall be presumed innocent until proved guilty in a court of law that shall ensure him all the guarantees necessary for his defence, at all stages of examination and trial, in accordance with the law. Physical or moral injury of the accused shall be prohibited. Any person accused of a felony shall have a counsel to defend him with his agreement. The right to trial shall be guaranteed according to the law (Constitution, art. 20).

F. Right to privacy

(article 12 of the Universal Declaration)

Article 25 of the Constitution states that houses shall not be entered or searched without the consent of their owners, except in cases of great emergency as provided by law, and in a manner prescribed by it. In accordance with article 26, privacy of postal, telegraphic and telephonic communications shall be well protected; censorship of such communications and their divulgence shall be prohibited except in cases of emergency, as provided by law and according to the measures and guarantees prescribed by it.

G. Freedom of movement

(article 13 of the Universal Declaration)

No citizen of Bahrain shall be banished from the country or debarred from returning thereto (Constitution, art. 17, para. 3).

H. Right of asylum

(article 14 of the Universal Declaration)

Article 21 of the Constitution stipulates that extradition of political refugees shall be prohibited.

I. Right to a nationality

(article 15 of the Universal Declaration)

Citizenship shall not be withdrawn from a citizen of Bahrain by birth, except in cases of high treason or dual nationality, according to conditions prescribed by law. Citizenship shall not be withdrawn from a naturalized citizen except as prescribed by law (Constitution, art. 17, paras. 1 and 2).

J. Freedom of conscience and religion

(article 18 of the Universal Declaration)

Article 22 of the Constitution stipulates that: "Freedom of conscience is absolute". The State shall guarantee the sanctity of places of worship, the freedom of performing religious rites, and the freedom of religious processions and gatherings in accordance with the customs observed in the country.

K. Freedom of opinion and expression

(article 19 of the Universal Declaration)

In accordance with article 23 of the Constitution, freedom of opinion shall be guaranteed. Every person shall have the right to express his opinion and diffuse it orally, in writing or in any other way, according to the conditions and situations prescribed by law. Article 24 states that freedom of the press and publication shall be guaranteed according to the conditions prescribed by law.

L. Freedom of assembly and association

(article 20 of the Universal Declaration)

In accordance with article 27 of the Constitution, freedom to form associations on a national basis, for legal purposes, and by sound means, shall be guaranteed in accordance with the conditions and situations prescribed by law. No one shall be compelled to be a member of an association.

Article 28, paragraph 1, stipulates that individuals shall have the right of assembly, without the need to obtain permission or give notice thereof in advance; and no one from the security forces shall be allowed to attend these private meetings. Paragraph 2 of the same article stipulates that public meetings, processions and gatherings shall be allowed in accordance with the conditions and situations prescribed by law, and as long as the purposes and the nature of these meetings are peaceful and not contrary to public morality.

BARBADOS

Residence of aliens

(article 13 of the International Covenant on Civil and Political Rights)

Matters of far-reaching importance in connexion with the Immigration Act, 1952, were raised in the hearing of an appeal against a decision that the appellant, a United Kingdom citizen who had been in Barbados since 1964, was a prohibited immigrant. The Court of Appeal allowed the appeal by a judgement dated 18 May 1973.

The appellant had been employed since his arrival in Barbados in 1964 as a hotel manager. His permission to remain had been renewed a number of times, for varying periods, as witnessed by entries in his passport made by the immigration authorities, most of which bore the indication "Conditions—business". These permits to work had been granted on the application of his employers. The latest such entry was for a period that expired on 15 July 1972. On 25 January 1973 the appellant was notified that he was a prohibited immigrant on the grounds that he had failed to leave the island on 15 July 1972, date of expiry of that permit.

The main issue in the appeal was the true meaning of the term "ordinarily resident" used in section 5 (3) of the Act, which enumerates the categories of persons who shall not be prohibited immigrants for the purposes of the Act. The relevant portions of which section 5 (3) read:

> "The persons to whom this subsection applies are citizens of Barbados and any person, other than a citizen of Barbados, who is a Commonwealth citizen and . . .
>
> "(c) has been ordinarily resident in the Island continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident in any place outside the Island continuously for a period of seven years or more."

The Court held that section 15 of the Act, reading:

> "Except as otherwise provided by this Act, no person
>
> "(a) who is a prohibited immigrant; or
>
> "(b) who, being deemed under this Act to be a prohibited immigrant, is dealt with as such,
>
> shall enter or remain in the Island",

did not apply, since the appellant had not been dealt with as a prohibited immigrant during the seven years subsequent to his coming to the Island, and that therefore he came within the scope of section 5 (3) of the Act.

BULGARIA

A. Right to take part in government
(article 21 of the Universal Declaration)

The National Assembly of the People's Republic of Bulgaria adopted as its seventh session the Electoral Act of 29 June 1973.[1] The provisions of the Act put into practice the principles laid down in article 21 of the Universal Declaration of Human Rights.

Articles 2 to 5 of the act read as follows:

"*Art. 2.* All citizens of the People's Republic of Bulgaria who have reached 18 years of age, except those who are totally disqualified, are entitled to elect and be elected without distinction as to race, sex, nationality, social status, situation, wealth, education or religion.

"*Art. 3.* All electors participate in elections on an equal basis. Every elector has one vote. The vote of any elector is equal to that of any other elector.

"*Art. 4.* The electors elect deputies and councillors by direct suffrage.

"*Art. 5.* The electors express their wishes freely and personally by secret ballot."

The obligation of every deputy or councillor to be accountable to his electors and their right to revoke his mandate are another proof of the democratic nature of the new Electoral Act and represent a further application of the principles expressed in article 21 of the Universal Declaration of Human Rights:

"Every deputy or councillor is accountable to his electors for his activities as their political representative.

"The electors have the right to revoke the mandate of their representatives." (art. 11, paras. I and II).

The basic principle set forth in article 2 of the Electoral Act, including the statement that "all citizens of the People's Republic of Bulgaria have the right to elect and be elected . . ." is developed in the provisions of article 42, paragraph I, of the act and article 45.

Under article 42, any citizen entitled to vote may be nominated as a candidate for the office of deputy or councillor.

Article 45 reads as follows:

"Candidates for deputies' and councillors' seats are nominated at electors' meetings or by political or other social organizations.

"(2) A number amounting to not less than one fifth of the electors of a constituency is entitled to nominate candidates for the corresponding deputies' or councillors' seats.

"(3) The central and local bodies of the party organizations and other social organizations are entitled to nominate a candidate for the seat of deputy."

B. Right to medical care; right to security in the event of disability and old age
(article 25 (1) of the Universal Declaration)

1. Public health

The Public Health Act,[2] passed by the Sixth National Assembly at its seventh session on 31 October 1973, translates into practical legislation the principles concerning protection of the population and free general medical assistance laid down in the Constitution. In terms of the rights and guarantees which the act provides, the aspirations expressed in

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[1] *Official Gazette*, No. 54, 10 July 1973.

[2] *Ibid.*, No. 88, 6 November 1973.

article 25 of the Universal Declaration are far exceeded by this detailed embodiment in law of the principles underlying Bulgarian public health and by the assurance of a suitable living environment for the population, the organization of a State health service, medical facilities for the population, measures to protect the health of pregnant women and children, medicinal-bath treatment, the medical supervision of physical culture and of sport and tourism, provisions to combat alcoholism and drug and tobacco addiction, and the organization of pharmacies and other facilities.

The act is very long, as indicated by the titles of its various sections, which are mentioned above. The following are some of its main provisions relating to the basic principles of public health protection:

Medical assistance

Every citizen has the right to free medical assistance. The State shows concern for the universal preservation and restoration of citizens' health and provides qualified medical assistance accessible to all by setting up the necessary structure of State bodies and health establishments (art. 2, paras. I and II).

Ministries and other government departments, people's councils, other State bodies and economic and social organizations are required to take medical, sanitary and anti-epidemic measures to protect the environment from pollution, guarantee hygienic working, living and leisure conditions for the people and prevent disease (art. 9).

Medical assistance to the people is dispensed by State health establishments—surgeries, clinics, hospitals, medicinal-bath sanitoria, dispensaries, preventive centres, and so on (art. 25).

Medical staff are required to give speedy and qualified care to the sick. Medical examination and treatment is carried out with the consent of the patient except as provided by the act (art. 26, para. I).

Motherhood

Motherhood in Bulgaria is encouraged by the State. Mothers enjoy special protection and care from the State and from economic and social organizations (art. 42, para. I).

Health establishments must organize special observation facilities for pregnant women, medical assistance in hospitals during confinement and preventive and curative care for mothers and children (art. 43).

Within the combined frameworks of the national plan for socio-economic development and the plans of the economic organizations, the people's councils and economic organizations are required to supply the necessary financial means for extending the network of child health-cum-education establishments—nurseries, kindergartens, convalescent homes, summer camps and children's canteens (arts. 44 and 45).

The health authorities, in conjunction with the education authorities, must provide special care for protecting and improving the health of children at pre-school establishments and school pupils.

Mental illness

The provisions of the public health act relating to compulsory treatment of the mentally sick are a further guarantee of the living standards and safety of citizens and represent the specific embodiment in Bulgarian legislation of article 3 of the Universal Declaration.

In accordance with article 36, paragraphs III, IV and VI, a mentally sick person is committed to a health establishment for compulsory treatment by order of the local court under the relevant provisions of the act. If the patient is too ill to appear in court, the court will question him in the health establishment itself. Mentally sick persons in the categories mentioned in the implementing regulations to the act are required to undergo compulsory treatment after certification by a committee of specialists. Compulsory treatment in the health establishment is terminated when no longer necessary. In all cases where treatment continues, the court re-examines the position each year to decide whether treatment should be terminated or continued.

2. Pensions

The National Assembly passed a number of acts in 1973 and 1974 amending the retirement legislation relating to wage-earners, salaried employees and members of co-operative farms.

The act of 1 September 1973 provides for social pensions for certain categories of citizens who are not entitled to a pension because they have not worked the requisite number of years.

Since 1 June 1974, the retirement, old age and disability pensions which are within the framework of the pensions act and were granted up to 31 December 1970 have been increased so as to approach the level of earnings at present received by wage-earners and salaried employees. The rights in question were laid down in an act dealing with the revaluation of certain pensions and amending certain pension acts.[3]

C. Right of motherhood and childhood to special assistance

(article 25 (2) of the Universal Declaration)

During the period under consideration, considerable privileges were granted for female wage-earners, salaried employees and members of co-operative farms in regard to pregnancy leave, confinement leave and infant-rearing. Similar privileges were granted to student mothers with husbands doing military service.

Act amending the Labour Code[4]

A fourth paragraph, reading as follows, was added to article 60 of the Labour Code:

> "Immediately after the end of any leave which has been granted in accordance with the preceding paragraphs, if the child is not placed in a nursery or other establishment for children, at the request of a working mother, which expression includes adoptive mothers, supplementary leave is granted for rearing the child for a period of six months as regards the first child, seven months as regards the second, eight months as regards the third and six months as regards each subsequent child. If the child dies, is abandoned for adoption or is placed in a nursery, the leave in question is terminated. For the purposes of the present provisions, one month equals 30 calendar days."

Article 61 was amended as follows:

> "The firm, administrative department or organization is required to grant unpaid leave at the request of a working mother, which expression includes adoptive mothers, until the child is three years old. This leave counts towards years of service."

A new paragraph 2 was added to article 157 of the Labour Code:

> "The minimum allowance granted for temporary inability to work due to pregnancy and confinement should not in any event be less than the minimum national wage."

A new paragraph 2 was added to article 158:

> "For nursing a sick child less than 16 years old or taking it to another part of the country or abroad for medical examination or treatment, the parents—mother or father—receive a cash payment for a period of up to 60 days per annum. This period does not include leave granted for nursing children who are suffering from infectious diseases, infants in hospital, children in quarantine or a sick member of the family over 16 years old."

The above privileges granted under the Labour Code apply also to women members of co-operative farms (see paragraph 19, sub-paragraph II, and paragraph 24, sub-paragraphs VI, VII, VIII and X of the Social Security Regulations for Co-operative Farmers[5]).

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[3] *Ibid.*, No. 34, 30 April 1974.

[4] *Ibid.*, No. 53, 6 July 1973.

[5] *Ibid.*, No. 67, 1973.

Decree on the enhancement of the birth rate[6]

Under article 3 (*b*), women studying in advanced or higher educational establishments and in special secondary schools open only to holders of the school-leaving certificate receive a subsidy equal to their minimum earnings in respect of pregnancy, confinement and post-natal care for 10 months as regards the first child, 12 months as regards the second, 14 months as regards the third and 10 months as regards each subsequent child, including 45 days before confinement. The subsidy is paid in the respective educational institution.

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[6] *Ibid.*, No. 17, 1974.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

Introduction

During the period 1973–1974, the Byelorussian Soviet Socialist Republic made major new advances in all aspects of Communist construction. In the process of putting into effect the historic decisions taken by the Twenty-fourth Congress of the Communist Party of the Soviet Union and the Twenty-seventh Congress of the Communist Party of Byelorussia, workers in the Republic achieved important successes in economic, scientific and cultural development.

The standard of living of the population continued to rise as a result of unflagging economic growth. This is indicated by the following figures: in 1973, industrial output increased by 10 per cent and agricultural production by 8 per cent, while real income *per capita* rose by 5 per cent. In 1974, industrial output increased by a further 9·9 per cent, and in the same year the gross grain harvest reached a record total of 6·8 million tons, an increase of 19 per cent over 1973. Real income *per capita* rose by 4 per cent.

In the period under review, work continued in the Byelorussian SSR on the drafting and application of legislation designed to develop civil rights still further, great emphasis being laid on legislation for improving the education system, conservation of nature and rational use of natural resources, development of the health service, labour relations, etc.

In connexion with the ratification by the Byelorussian SSR of the International Covenants on Human Rights, in October 1973, it should be pointed out that the provisions relating to human rights contained in the Constitution of the Byelorussian SSR and in the legislation in force in the Republic go much further than those contained in the international legal instruments adopted by the United Nations. Moreover, socialism has not only proclaimed but has actually guaranteed all citizens of the Republic the fullest possible rights in all spheres of social life. The Byelorussian SSR consistently plays an active part in the preparation of effective international instruments intended to guarantee and safeguard fundamental human rights and is a party to many of them.[1]

Information on events in 1973–1974 relating to the implementation of civil rights in the Byelorussian SSR is given below.

A. Equitable judicial system

(articles 6–11 of the Universal Declaration)

Previous contributions by the Byelorussian SSR to the *Yearbook on Human Rights* have given detailed information on the legal system in force in the Republic regarding criminal and civil cases, the principle of equality of all citizens before the law and the courts, legal procedure, the system of procedural guarantees of the rights of the individual, etc.

During the past two years, several new pieces of legislation have been passed in the Byelorussian SSR to further strengthen legality and provide greater safeguards for civil rights and liberties.

On 10 September 1973 the Council of Ministers of the Byelorussian SSR ratified the Statute of the Department of Justice of the Executive Committee of the Regional Soviet of Workers' Deputies. This statute should be considered in conjunction with the Statute of the Ministry of Justice of the Byelorussian SSR, ratified by an order of the Council of Ministers of the Byelorussian SSR on 19 October 1972.

Under the terms of these statutes the Ministry of Justice and its local organs (departments of justice of the executive committees of regional soviets) have the following responsibilities: general strengthening of socialist legality; protection of the rights and legitimate interests of organizations and citizens; improved measures in conjunction with other State organs to combat crime and eliminate causes and conditions encouraging crime

[1] For information on the relevant international instruments to which the Byelorussian SSR is a party, see below, pp. 296–297 and 304.

and other violations of the law; organization of the courts and improvement of their work, general measures to promote the aims of the judicial system and assist the courts in their functions, in strict compliance with the principle that judges are independent and subject solely to the law; improvement of the work of the legal profession and notaries; improvement of legal activities in the economic sphere with the object of increasing the contribution of such activities to the economic efficiency of social production, protecting socialist property, further strengthening State and labour discipline and ensuring strict observance of the rights and legitimate interests of enterprises, organizations, institutions and citizens; information work to familiarize the public with the law and explain legislation; provision of qualified personnel for judicial institutions and organizations and for the courts, further training of such personnel, formation of teams of experienced senior officials and able staff of the young generation, and promotion to senior positions of young officials who have proved their worth.

The Ministry of Justice of the Byelorussian SSR is engaged in the task of systematizing legislation, drafting proposals for its codification, and generally promoting the adoption of improved legislation corresponding to the needs of Communist construction.

The work of State notaries represents one of the fundamental safeguards of the rights and legitimate interests of citizens. On 30 April 1974 the seventh session of the eighth convocation of the Supreme Soviet of the Byelorussian SSR adopted an Act on State Notaries which has now come into force and specifies the present responsibilities, functions, competence and organization of the organs of the notarial system.

The responsibilities of State notaries comprise protection of socialist property and the rights and legitimate interests of citizens and organizations, strengthening of legality and law and order, the prevention of violation of the law through the correct and timely certification of agreements and other transactions, the formalization of inheritance rights, the affixing of executive notations and other kinds of notarial operations.

An extensive network of notaries' offices exists in the different districts and towns of the Republic.

The Act provides an important safeguard for civil rights and interests by laying down regulations concerning observance of secrecy with regard to notarial acts. Information on notarial acts and documents pertaining thereto is only made available to citizens and organizations on whose instructions or in respect of whom such notarial acts were performed, or at the request of a court, the procurator's office, or the organs responsible for investigation and inquiry in connexion with criminal or civil cases handled by them. Information concerning wills is only made available after the death of the testator.

The law requires that State notaries and other officials performing notarial acts should give citizens all possible legal assistance by making clear their rights and obligations and drawing their attention to the consequences of notarial transactions so that ignorance of the law and other similar circumstances shall not be used to the citizen's disadvantage. On request from members of the public, State notaries are required to compile draft agreements and statements, prepare copies of documents and extracts from them, and also provide information on questions relating to notarial acts.

Under article 14 of the Act on State Notaries, certain notarial acts are also attended to by executive committees of town, settlement and rural soviets of workers' deputies in areas where no notary office exists. Investing the local State administrative organs with such powers enables citizens to carry out transactions requiring notarial attestation with minimum waste of time and money, in the town or village where they live. In order to suit the convenience of the population to the fullest extent and to ensure maximum safeguards for the rights and legitimate interests of citizens who are on board ship, participating in exploratory expeditions, engaged on military service, or undergoing treatment in clinics, hospitals, sanatoriums, etc., certain officials are invested with the right to act as witnesses to wills and powers of attorney.

If a person considers that a notarial act has been performed incorrectly or that there is no justification for a refusal to perform such an act, he is entitled to lodge a complaint with the district (town) people's court in the area where the State notary office or the executive committee of the local soviet of workers' deputies is situated.

These provisions of Soviet legislation guarantee effective State protection of the rights, freedoms and legitimate interests of citizens of the Byelorussian SSR.

B. Assistance to children and invalids

(articles 16 and 25 of the Universal Declaration)

In 1974, benefits were introduced for children of needy families, and pensions were raised for invalids and families who have lost the bread-winner.

C. Right to take part in government

(article 21 of the Universal Declaration)

The highest organ of State power in the Byelorussian SSR is the Supreme Soviet of the Republic and its Presidium. At present, the local organs of State power consist of six regional, 117 district, 96 town, 16 urban district, 1,522 rural and 109 settlement soviets of workers' deputies. Over 80,400 deputies were elected to all soviets in the Byelorussian SSR.

All citizens of the Republic who have attained the age of 18 are eligible to elect deputies without distinction as to race, nationality, sex, creed, educational level, way of life (settled or nomadic), social origin, property status, or past activity. Exceptions are persons legally certified insane and those detained in places of imprisonment.

Persons are eligible at the age of 21 for election to the Supreme Soviet of the Byelorussian SSR and at the age of 18 for election to local soviets.

Elections to local soviets of workers' deputies were held on 17 June 1973 and virtually the whole adult population of the Republic voted. A total of 5,303,327 persons were registered on the rolls for elections to regional soviets; 5,302,850 (99·99 per cent) actually cast their votes, of whom 5,299,945 (99·95 per cent) voted in favour of the candidates. The rolls for elections to district soviets contained the names of 3,709,234 persons; 3,709,065 (99·99 per cent) took part in the elections, and 3,706,886 (99·94 per cent) votes were cast for the candidates. Elections of deputies to town, urban district, rural and settlement soviets shows a similar pattern.

Elections of deputies to the soviets of the Byelorussian SSR are founded on genuinely democratic principles, i.e. on universal, equal and direct suffrage and a secret ballot. Candidates at elections are put forward by public organizations and workers' collectives, according to electoral districts.

The representative nature of the local soviets in the Byelorussian SSR which were elected in 1973 may be judged by their composition. Out of a total of more than 80,000 deputies elected, 46·2 per cent were women, 66 per cent were manual workers and collective farmers, and 34 per cent were non-manual workers. They include people representing all trades, professions and age groups: 28·2 per cent of the deputies are between 18 and 29 years of age, 70,465 are Byelorussian, 4,986 are Russian, 2,535 are Poles, 1,452 are Ukrainians, 250 are Jewish, etc.

There has been a considerable new intake of deputies, as is shown by the fact that 46·6 per cent were elected for the first time. This is a guarantee that broad sections of the population will acquire experience in administration, and it is noteworthy that during the period from 1939 to 1973, 1,029,593 citizens passed through the school of administration represented by the local soviets of the Byelorussian SSR.

During the elections, 1,870 territorial electoral commissions (regional, district, etc.) were formed, together with 79,114 area and 6,410 sectoral commissions employing 357,409 persons on a voluntary basis. Great interest was displayed in the work of the electoral commissions by trade unions, co-operative and youth organizations and cultural, technical, scientific and sport associations and societies, and it was representatives of these groups who made up the electoral commissions.

In their activities, the organs of State power and administration rely on numerous voluntary organizations, and in the Byelorussian SSR at the present time, the following are functioning; 6,000 street and house committees, 16,899 parents' committees, 14,399 rural committees, 2,970 women's councils, 7,912 comrades' courts and 7,086 voluntary people's militia detachments. In addition, there has been widespread development of such forms of direct democracy as citizens' gatherings at factories and in villages, meetings, congresses of public organizations, etc. in which millions of citizens take part. For example, as many as 70,000 general meetings of villagers (rural assemblies) take place every year in the Republic and discuss as many as 70,000–80,000 different matters.

In the sphere of public and political life, the trade unions play a major role in the Byelorussian SSR. At present, there are 24 industry trade unions in the Republic with a membership of 3·8 million, belonging to 27,000 local trade union organizations. Republican trade union organs are entitled to propose legislation, take part in economic development planning and represent the interests of manual and non-manual workers in dealings with state and economic organs. They also actively supervise safety arrangements at work places, administer state social insurance, establish rates for and grant benefits to manual and non-manual workers who are temporarily unfit for work, administer sanatoria and health resorts, etc.

The Young Communists' League of Byelorussia is concerned with preparing young people for adult life and political activity, and has 1·2 million boys and girls in its ranks.

All public organizations in the Republic are governed by the principle of voluntary membership and elected leadership, and there is now no sector or area of activity undertaken by the State organs of the Republic in which public organizations do not have a say, thereby ensuring that the whole lay population is drawn into active political work, as a natural feature of a State representing the whole people under Socialist democracy.

D. Right to work and to favourable conditions of work
(article 23 of the Universal Declaration)

Since the entry into force in October 1972 of the new Labour Code of the Byelorussian SSR,[2] State and trade union organizations in the Republic have devoted great attention to realization of the fundamental social and economic rights of manual and non-manual workers as set forth and guaranteed by the Code and have also concerned themselves with improving safeguards for these rights.

As previously, priority is given to establishment of conditions permitting all able-bodied citizens to benefit from the right to work laid down in article 93 of the Constitution of the Byelorussian SSR[3] and in article 2 of the Labour Code.

In 1974, the average number of manual and non-manual workers employed in the economy of the Republic was about 3·5 million, which represented a 2·6 per cent increase over the previous year. About 1 million persons were employed in the public sector on collective farms.

Economic planning and high growth rates have ensured full employment for the able-bodied members of the population; as in previous years, there is no unemployment in the Byelorussian SSR.

Realization of the right to work goes hand in hand with complete freedom for citizens to choose their type of work and occupation, with due regard for the interests of the individual and the community. This freedom of choice, which is a prerequisite for genuine personal freedom, is ensured by the extensive vocational guidance offered by the State to young people, by free specialist and vocational training, and also by the in-plant training and upgrading system. In 1974, 65,500 persons with higher and secondary specialized education entered the economy. Manual and non-manual workers and collective farmers also benefited on a large scale from basic and advanced training courses. A total of 67,700 young skilled workers passed out of vocational training establishments during the year, and 78,600 students entered them. About a million people learned new occupations and improved their qualifications through individual and group instruction and courses at works, offices and organizations, and also on collective farms.

Effective realization of the right of manual and non-manual workers to free vocational training and advanced training (Labour Code, art. 2) is being promoted in particular by the granting of extensive privileges to persons who undergo training while at work. These privileges include a shorter working day on regular salary, additional paid study leave, payment of cost of return travel to the training establishment, and a ban on overtime for manual and non-manual workers on days when they attend courses. It is laid down that

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[2] For extensive excerpts from the Labour Code, see *Yearbook on Human Rights for 1972*, pp. 34–48.

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

workers who are temporarily detached from their jobs in order to undergo further training shall also retain their employment (post) and entitlement to payments provided for by law.

The State organs concerned with the use of the labour resources of the Byelorussian SSR and for the employment and information offices which have been set up in the larger towns, offer citizens and enterprises considerable assistance in selecting employment and recruiting personnel. Thus, in Vitebsk, Brest, Grodno and other towns, one out of every two citizens entering employment at an enterprise has availed himself of the services of these offices. The majority of those who have applied to an employment offce were found new work without any gap in employment.

One of the legal safeguards of the right to work is the restriction by law of the grounds for cancellation of a work contract by management. Such dismissal may take place in a limited number of cases specifically provided for by the Labour Code (arts. 33, 254). If the regulations are violated, a dismissal is declared unlawful and the worker concerned is reinstated in his previous employment (Labour Code, art. 35).

The right to equal pay for equal work regardless of sex, as laid down in the Labour Code (art. 77), is ensured by giving women the same opportunities as men for acquiring general and specialist education, by offering them equal work with respect to qualifications and payment, and by establishing additional guarantees designed to create healthy and favourable work conditions for women, advantages in the selection of an occupation, and continued entitlement to full average earnings during periods in which women are occupied with duties imposed by maternity.

Growth in production of goods and national income has made it possible to put into effect in a consistent manner the extensive and large-scale programme for increasing real and money earnings laid down by the Twenty-fourth Congress of the Communist Party of the Soviet Union. For example, in 1974 average monthly earnings of manual and non-manual workers were almost 3 per cent higher than in 1973, and 15·1 per cent higher than in 1970. Payment for work by collective farmers was 4·6 per cent higher than in the previous year and one third higher than in 1970. Payments and benefits received by the population from social consumption funds amounted to 2,800 million roubles in 1974, which was a 6 per cent increase over 1973. Real income *per capita* was 4 per cent higher than in the previous year and 23 per cent higher than in 1970.

In addition to measures to realize and safeguard the civil rights established by the legislation at present in force, the years 1973–1974 witnessed a further extension of these rights, aimed at raising the level of social and economic welfare for working people and improving working and living conditions.

In this respect, reference should be made firstly to amendments to article 243 of the Labour Code of the Byelorussian SSR, made by a decree of the Presidium of the Supreme Soviet of the Byelorussian SSR dated 20 August 1973. Under this decree working women, including those who are not members of a trade union and those who are members of collective farms, have been entitled since 1 December 1973 to a pregnancy and childbirth allowance equal to their full earnings, regardless of the length of time they have been in employment. Since 1 December 1974, the period for which a medical certificate is issued to those unfit for work has been considerably extended, and an allowance is paid for temporary inability to work caused by the need to care for a sick child.

Secondly, in the interests of greater protection of the labour rights of manual and non-manual workers, a decree dated 5 September 1974 of the Presidium of the Supreme Soviet of the Byelorussian SSR introduced several other additions and amendments to the Labour Code of the Republic. These included expanded powers for agencies responsible for examination of labour conflicts, a simplified procedure for such examination, and extension up to one year of the period within which agencies investigating labour conflicts may meet financial claims submitted by a worker (Labour Code, arts. 207, 217, 224).

E. Right to education

(article 26 of the Universal Declaration)

The working people of the Byelorussian SSR have achieved outstanding success in developing the State education system. In the Republic, where before the Revolution 80 per cent of the population were illiterate, over three quarters of the employed urban

population and half the rural population now have higher or secondary (complete or incomplete) education. Every third inhabitant of Byelorussia is undergoing some form of training. At the present time, there are 8,992 general education schools with over 1·8 million students in the Republic, and 30 higher educational establishments, at which 153,000 students of both sexes are training to become top-grade specialists. The same number of young people are receiving training in secondary specialized educational establishments, and 171 vocational training colleges are training 110,000 graduates from the eighth to the tenth classes of secondary general education schools to become highly qualified workers.

During the first four years of the ninth five-year plan (1971–1974), higher educational establishments in the Byelorussian SSR trained 93,500 young specialists, and 159,000 graduated from technical colleges. In 1974, 759,000 specialists with top-grade and middle-grade qualifications were working in the economy of the Republic.

Continuous education has been introduced. Comprehensive and harmonious up-bringing of children and their preparation for school instruction begins in pre-school institutions; today, 35 per cent of children aged seven in rural areas and 65 per cent in towns pass into school from kindergartens. Considerable progress has been made in improving secondary schooling. In 1970, 76 per cent of children entering the first class received secondary education in general schools, vocational training colleges and specialized establishments, but in 1974 this had risen to 91 per cent, which means that the objective of universal secondary education is being attained.

The education system in the Byelorussian SSR is a social institution undergoing constant improvement which adapts all its elements to the requirements of society and to achievements in science and technology, in harmony with the laws of social progress and on the basis of intensive and all-embracing study of both present and future social aims.

On 27 December 1974, the ninth session of the eighth Convocation of the Supreme Soviet of the Byelorussian SSR adopted an act on education in the Republic. The following collaborated in drawing up this act: the Ministries of Education, Higher and Secondary Specialized Education and Justice; the State Committee on Vocational Training of the Council of Ministers of the Byelorussian SSR; the Permanent Commissions of the Supreme Soviet for Education, Legislative Proposals and Youth Affairs, and public organizations. The draft was examined by the Council of Ministers and the Presidium of the Supreme Soviet of the Byelorussian SSR.

The Byelorussian Education Act (which came into force on 1 April 1975) declared the following objectives to be of outstanding importance to the State: sustained measures for further improvement in general secondary, vocational and higher education, in keeping with requirements for development of the economy, science and cultural and social progress; completion during the present five-year plan (1971–1974) of the introduction of universal secondary education for young people, and improved training of skilled workers and specialists offered by vocational training, secondary specialized and higher educational establishments.

The Act states: "For the first time in man's history a truly democratic education system has been created in our country. In the USSR, to which the Byelorussian Soviet Socialist Republic belongs on the basis of voluntary union and equal rights with the other Union Republics, citizens enjoy a genuine opportunity to receive secondary and higher education and also to find work in accordance with their field of specialization and qualifications."

This law enumerated the following basic principles for education in the Byelorussian SSR:

(1) Equality of all citizens in obtaining education, regardless of racial or national origin, sex, religious views, property status or social position;

(2) Compulsory education for all children and adolescents;

(3) The status of all educational establishments as State and public institutions;

(4) Freedom to choose, as the language of instruction, the mother tongue or the language of another people of the USSR;

(5) The provision of all types of education free of charge, full maintenance of some pupils at the expense of the State, and the provision of grants and other material assistance to pupils and students;

(6) Unity of the system of national education and continuity of all types of educational establishments, permitting movement from the lower levels of education to the higher;

(7) Unity between schooling and Communist training; co-operation of school, family and the community in the training of children and young people;

(8) The linking of the education and training of the rising generation to life and to the practice of Communist construction;

(9) The scientific character of education, and its constant improvement in the light of the latest achievements in science, technology and culture;

(10) The humanistic and high moral character of education and training;

(11) Co-education;

(12) The secular nature of education, excluding the influence of religion.

The Byelorussian Education Act indicates that education in the Byelorussian SSR is of concern to the people as a whole and that its aim is to train highly educated, fully developed and active builders of a Communist society, capable of working successfully in the various spheres of economic, social and cultural construction, taking an active part in public and State affairs, and ready to increase the material and spiritual assets of the country, to preserve its culture and to protect and conserve nature. Education in the Byelorussian SSR is required to develop and satisfy the spiritual and intellectual needs of Soviet man.

The basic principle in this Act is the regulation of matters concerning practical implementation of the right of citizens to education, laid down by the Constitution of the Byelorussian SSR, which is firmly safeguarded by the requisite social economic, political and economic conditions.

CANADA

Introduction

This report on the most significant developments in Canada and its provinces that occurred in 1973 and 1974 is presented in the order followed by the Universal Declaration of Human Rights. Occasional cross-references are included, where items would seem to relate to more than one article of the Declaration. To meet the requirements of brevity, many interesting activities have had to be omitted.

During 1973 and 1974, it appears that the greatest progress in the protection of human rights in Canada related to recognition of the equal status of women in society. This was reflected in amendments to legislation and in the work of Human Rights Commissions and boards of inquiry. Of major significance also was the recognition by the federal government that, in areas where the native interest in land had not been extinguished by treaty or superseded by law, the native people should be compensated in return for their interest in the land and for the loss of a way of life where their traditional interest in land can be established. The federal government is seeking through negotiation to bring about settlements to native claims arising in various parts of Canada. Considerable change has also occurred in meeting the social and economic needs of the population during a period of inflationary prices.

A. Equality of all human beings

(article 1 of the Universal Declaration)

The concept that all human beings are born free and equal in dignity and rights and that they are endowed with reason and conscience and should act towards one another in a spirit of brotherhood, expressed in article 1 of the Universal Declaration, is embodied in the Human Rights Acts, Charters and Codes, and in additional legislation and administrative acts and forms in force in Canada, its provinces and territories. Amendments and new formulations that have been enacted during the period under review are discussed under succeeding articles.

B. Non-discrimination

(article 2 of the Universal Declaration)

Many developments have taken place in Canada during the period under review in regard to the rights and freedoms referred to in article 2 of the Universal Declaration. Particular attention was directed to recognition of the rights of women and to aboriginal land claims (see also section O below, p. 43), and there were changes affecting human rights in provincial legislation.

1. Status of women

The federal government appointed a council of citizens, the Advisory Council on the Status of Women, on 31 May 1973. It publishes recommendations and reports, and it reports to the Government through a minister designated as responsible for the status of women. Its purpose is: "to bring before the government and the public, matters of interest and concern to women; and to advise the government on actions that it deems necessary to improve the position of women in society".

In March 1974 the Advisory Council analyzed progress made by the federal government in implementing the recommendations of the Royal Commission on the Status of Women (1970). Of 122 recommendations pertaining to federal jurisdiction, 79 had been implemented or partially implemented. Action had been taken to improve the position of women in relation to the prison system, arrest for prostitution, immigration, pensions and allowances, family planning services, community child care services, programmes for native people, occupational training and job replacement, promotion and opportunity

programmes within the public service, maternity leave, wage parity in nursing services and the purchase of homes.

Some provinces have established similar councils. The provincial councils have functions similar to the federal council and, among other activities, they also study the recommendations of the Royal Commission on the Status of Women when they pertain to provincial jurisdiction.

The following provincial councils have been established:[1] Quebec Status of Women Council, July 1973; Ontario Status of Women Council, September 1973; Saskatchewan Advisory Council on Status of Women, April 1974.

In 1973–1974 plans were developed in Canada for International Women's Year. In the summer of 1974 the federal government established a Secretariat for International Women's Year, and all provincial governments appointed a representative to work with the Secretariat in the development of programmes. The Secretariat works also with other agencies interested in the status of women in the federal government, such as the Co-ordinator of the Status of Women and the Women's Program of the Department of the Secretary of State, and with federal and provincial councils as well as with the voluntary sector.

2. Aboriginal land claims

The federal government, in a declaration by the Minister of Indian Affairs and Northern Development on August 8 1973, announced its acceptance of the principles that the loss and relinquishment of the interest of native people in specific land areas not covered by formal treaties should be compensated. Funds had been provided to assist research by Indian and Inuit (Eskimo) groups, and settlements of land claims will depend on the outcome of negotiations between these groups, the federal government, and provincial governments.

3. Developments in provincial human rights legislation

British Columbia

The Human Rights Code of British Columbia received assent on 7 November 1973, replacing the Human Rights Act, 1969. It was further amended in 1974. The Code added sex and marital status to the causes of discrimination which are specifically prohibited in renting accommodation and in employment; neither can political beliefs be used as grounds for discrimination in employment. Further, an employer cannot discriminate against, and a trade union, employers' or occupational association cannot reject membership to a person because of a former conviction on a criminal or a summary conviction charge, unless the charge relates to the intended employment.

Under the new law, a director is appointed with the power to investigate and seek to effect a settlement in cases of alleged discrimination or contravention. If the director is unsuccessful in achieving a settlement, a board of inquiry from an appointed panel may be designated by the Minister of Labour to conduct an investigation and issue orders; an appeal from the decision of the board of inquiry can be made to the Supreme Court of British Columbia.

The act established a Human Rights Commission to promote understanding of and compliance with the provisions of the Code.

Alberta

Alberta brought into force the Alberta Bill of Rights and the Individual's Rights Protection Act, passed in 1972. The members of the Human Rights Commission were appointed in October 1973. The functions of the Commission are to investigate and settle complaints, and to promote and encourage public acceptance of human rights principles.

Alberta also undertook an extensive revision of statutes in 1973 to remove any discrepancies between those acts and its Bill of Rights and its Individual's Rights Protection

[1] Similar projects are being studied in other provinces, in particular in Prince Edward Island and Nova Scotia.

Act. Twenty-two statutes were amended. For example, the Communal Property Act, which had placed restrictions on the purchase of land by Hutterite colonies, was repealed. The Domestic Relations Act was extensively amended to give equal rights to husbands and wives. The Nursing Aids Act was amended to include the subsection: "In this Act, words importing female persons include male persons."

Manitoba

Manitoba proclaimed a new Human Rights Act in October 1974, replacing the former Act. Age and marital status are included in the list of prohibited causes of discrimination, as well as political belief (in regard to employment) and source of income (in regard to housing accommodation.) The source of income provision is intended to prohibit, for example, discrimination against persons who are maintained by public assistance or welfare. The Act now provides for the designation of Boards of Adjudication to investigate complaints.

Ontario

Ontario introduced minor amendments to its Human Rights Code in 1974. Considerations of age, sex or marital status will not be regarded as discriminatory where these factors are *bona fide* occupational qualifications and requirements. Employers must apply to the Ontario Human Rights Commission for exemption. The operations of the Women's Bureau, relating to career counselling of women and promoting affirmative action programs in the private sector, are transferred from the Human Rights Commission to the Women's Programs Division of the Government.

Saskatchewan

An amendment to the Saskatchewan Human Rights Commission Act was assented to on 4 May 1973 which binds the Crown and every servant and agent of the Crown.

Quebec

Quebec in 1975 amended a number of acts relating to the conduct and control of professional corporations, forbidding the refusal of professional status to persons because of race, colour, sex, age, religion, national extraction or social origin, and also forbidding any professional to refuse his services to a person because of race, colour, sex, age, religion, national extraction or social origin.

In 1974, Quebec introduced Bill No. 50, an Act Respecting Human Rights and Freedoms. The bill consists of two distinct parts, the first a Charter of Human Rights and Freedoms and the second providing for the establishing of a Human Rights Commission and outlining its functions.

The Charter describes as fundamental the right of the individual to life, personal security and freedom, assistance when in peril, freedom of conscience and expression, the safeguarding of personal dignity, respect for personal privacy, protection of private property and equality before the law. Specific provisions deal with discrimination based on race, colour, sex, religion, political convictions, language and ethnic, national or social origin. Discriminatory advertising is prohibited as is discrimination in the formulation or carrying out of a contract or any juridical act. Public places and public means of transport are available to everyone without distinction or preference. Discrimination is prohibited in every aspect of labour relations. Political rights are enumerated: the right to petition the National Assembly of Quebec for redress of grievances and the right to vote and to be a candidate at provincial, municipal and school elections. Every person has a right to a fair hearing at an impartial tribunal. No one may be deprived of his or her liberty except on grounds legally recognized. A person arrested has the right to be treated with humanity and respect, to be informed promptly of the grounds for the arrest, to advise his or her next of kin, have recourse to an advocate and be brought promptly before a tribunal. The presumption of innocence is recognized, as is the right to the services of an interpreter. Laws cannot be retroactive.

Judicial rights apply to every person or agency exercising quasi-judicial functions.

Economic rights are also set forth: the right to free public education or to choose private educational establishments; the right to religious education; the right of minorities to promote their cultural life; the right to measures of financial assistance when in need, equal pay for equal work, fair and reasonable conditions of employment. The child has the right to protection and security. The Charter binds the Government of Quebec and its agencies and employees.

The Human Rights Commission will make investigation in cases of alleged discrimination, inform and educate, and direct and encourage research. The Commission can investigate on its own initiative as well as in response to applications and complaints.

The Act would replace the Employment Discrimination Act and relevant sections of the Hotels Act and the Manpower Vocational Training and Qualification Act.

New Brunswick

New Brunswick amended its Human Rights Code in 1973 to insert age and marital status in the list of prohibited causes of discrimination. The provision concerning age referred to persons 19 years of age and over. In 1974 New Brunswick amended the Code to ensure that the prohibition against publishing discriminatory advertisements regarding employment was extended to include "causing to be published".

Nova Scotia

Nova Scotia amended its Human Rights Act in 1974 to include age (between 40 and 65 years) and "a physical handicap of the individual unless the nature and extent of the handicap reasonably precludes performance of the particular employment, activity or association," in the list of prohibited causes of discrimination in the field of employment.

Prince Edward Island

The Prince Edward Island government announced the acceptance of the recommendation of a Committee on the Status of Women to establish a Human Rights Commission to carry out the provisions of human rights legislation in that province.

Newfoundland

On 20 December 1974 Newfoundland enacted an "Act further to amend The Newfoundland Human Rights Code". The main amendments are: sex and marital status were included in the list of prohibited grounds for discrimination; the age provision has been changed from "45 years to 65 years" to "19 years to 65 years"; there is a new provision concerning equality for female employees to "opportunities for training and advancement", and "pension rights and insurance benefits"; there is also a new provision prohibiting "discrimination in employment arising out of attachment or assignment of pay"; many exceptions have been removed from the Code particularly with regard to employers in the area of education; the new Act provides for the establishment of a Human Rights Commission to administer the Act and the procedures for the administration of the Act have been enforced; the functions to be performed under the Act have also been expanded.

Yukon Territory

The Yukon Territory amended the Fair Practices Ordinance to include sex, marital status and ethnic or national origin in the list of prohibited causes of discrimination in employment, except where a preference as to sex is based on a *bona fide* occupational qualification. Discrimination on the same basis was also prohibited in the use of application forms, in the renting of accommodation, and in the publication of signs, notices and displays.

Northwest Territories

The Northwest Territories has amended its Fair Practices Ordinance, and has added sex and marital status to the grounds on which a complaint of discrimination may be filed.

C. Right to life

(article 3 of the Universal Declaration)

In October 1973, the House of Commons passed Bill C–2, the Criminal Law Amendment (Capital Punishment) Act, which extended earlier temporary legislation abolishing the death penalty in cases of murder except where the victim is a police officer or prison guard. The only other crimes in Canada subject to capital punishment are treason, and murder committed in the course of piracy. Most convictions of murder lead to sentencing to life imprisonment. The Cabinet is empowered to commute the death penalty to life imprisonment, and has employed this prerogative in all cases since 1962. No person under 18 years may be sentenced to death, and a pregnant woman may receive a stay of execution until after the birth of her child.

D. Treatment of offenders

(article 5 of the Universal Declaration)

On 1 June 1973 the Solicitor General of Canada announced the appointment of the first Correctional Investigator (Ombudsman) for penitentiary services. Duties of the office are to receive individual complaints from penitentiary inmates, to initiate investigations and to make recommendations on policy to the Solicitor General. The Investigator has the powers of a commissioner under part II of the Inquiries Act, which empowers her to examine books and records and summon persons to give evidence under oath. Following the first year of her term of office, the Investigator reported that 782 complaints had been received, 627 within her terms of reference. Her practice is to receive complaints during regular visits at each institution under federal jurisdiction, in addition to inviting correspondence. Of the 627 complaints, the largest number were general in nature or had to do with transfers to other institutions, medical care or temporary absence (short term periods of leave granted in special cases). Ninety-three had to do with matters of discipline or dissociation (solitary confinement). In some cases, particularly in convictions on sex offences, dissociation is not punitive but is regarded as a protective measure because of hostile attitudes shown by other inmates. The Investigator has made a number of recommendations, including a recommendation that inmates are entitled to a written statement of the calculation of their sentences, a recommendation to re-examine the practice of dissociation, and a recommendation that independent persons be appointed to preside over disciplinary hearings.

In *Ontario* a Royal Commission on Metropolitan Toronto Police Practices has been created to investigate alleged cases of police brutality. Public hearings started in December 1974.

E. Right to recognition as a person before the law; equality before the law

(articles 6 and 7 of the Universal Declaration)

Particular attention has been given to the need to overcome the handicaps of native people and of low-income people who come into conflict with the law. In June 1973, the Federal Cabinet approved an experimental programme for the hiring of special Indian constables to improve policing services on reserves and to orient such services toward prevention. Agreements have been entered into with the provinces of *Saskatchewan, Ontario* and *Prince Edward Island,* where the programmes are now under way. There has been augmentation of native court worker programmes and of incentive programmes to increase the number of Indian law students.

Legal aid systems to provide counsel to indigent people have been instituted in the provinces and Northwest Territories under a cost-sharing agreement with the federal government. In Saskatchewan the Community Legal Services Act was given assent on 10 May 1974. The Act establishes a Community Legal Services Commission to direct a programme of legal aid and co-ordinate the work of Community Legal Services Boards. The Commission includes a specified number of members of the Law Society of Saskatchewan as well as government appointees.

In 1973 the province-wide organization of community legal aid services in *Quebec* was established in accordance with regulations issued under the Legal Aid Act, 1972.

F. Right not to be subjected to arbitrary arrest or detention
(article 9 of the Universal Declaration)

Because the option of paying a fine as an alternative to incarceration for minor offences is less easily available to some people (people on low income, including many of native origin), the government of *Saskatchewan*, Corrections Division, Department of Social Services, established by regulation 314/74 on 18 December 1974 a fines option programme. The programme enlists the co-operation of community organizations and councils, including Indian band councils, to designate work of community value to be offered on a voluntary basis to convicted offenders in lieu of paying a fine or serving a gaol sentence. The work is evaluated at the prevailing minimum wage of the province.

G. Right to a fair trial
(articles 10 and 11 of the Universal Declaration)

In 1973 and 1974 the Law Reform Commission of Canada completed a study on strict liability, presented for public discussion and the consideration of governments. It explored questions of moral guilt and inadvertent offences. It is described as "a foundation in particular for work on other aspects of the mental element in criminal guilt—insanity, mistake of law and so on."

Another study related to sentencing, considering the alternatives to punishment, particularly imprisonment, in relation to criminal law. Considerations are the underlining of community interests and values; the interests of the victim; the need for restitution and the demand for compensation. An experimental project in diversionary processes was conducted and is being evaluated. The preliminary conclusion is "that settlement and conciliation procedures might well be used in a range of minor offences, many of them property offences, where neither justice nor utility warrant arrest, trial, conviction, sentence and imprisonment".

A third study related to the question of discovery in the matter of evidence produced in court. A recommendation was put forward to permit the accused certain rights in regard to the production of evidence.

H. Right to privacy
(article 12 of the Universal Declaration)

The federal Parliament on 4 December 1973 passed the Protection of Privacy Act, amending the Criminal Code, the Crown Liability Act and the Official Secrets Act. It deals with communications whose originators do not expect them to be intercepted by persons other than those intended. It controls the use of electronic devices to intercept private communications where such interception is believed justified in the course of criminal investigations.

In 1974 the Province of Saskatchewan passed the Privacy Act, which makes it an offence to violate the "reasonable" privacy of another person, whether by eavesdropping, spying, recording conversations, impersonation for profit, or the use of personal documents. Exceptions are made, under safeguards, in respect of law officers and persons engaged in news gathering. The Crown is bound by the Act.

I. Freedom of movement; right to a nationality
(articles 13 and 15 of the Universal Declaration)

Immigration procedures as they apply to women seeking entry to Canada were facilitated in 1973 with the issuing of operational instructions which make clear that the "head of a family" may be either the husband or the wife, depending on which person is the chief financial support of the family.

A Bill to establish a new Citizenship Act was introduced in the Parliament of Canada on 10 October 1974. It provides among other things that children may derive Canadian citizenship from either their mother or their father. The Bill has not yet been passed.

J. Equal rights during marriage and at its dissolution; family law
(article 16 of the Universal Declaration)

Equal rights of husband and wife during marriage and at its dissolution have been the subject of three significant court cases in Canada in 1973 and 1974.

On 27 August 1973 the Supreme Court of Canada pronounced judgement on the appeals heard in the cases of *The Attorney-General of Canada* v. *Jeannette Vivian Corbière Lavell* and *Richard Isaac and Others* v. *Yvonne Bédard.* Both cases involved the right of Indian women to retain Indian status, and hence a legitimate share in the assets of their bands, following marriage to non-Indians. Both respondents claimed that, since Indian men may retain Indian status on marriage to non-Indians, their own deprivation resulted from discrimination on the basis of sex under the Canadian Bill of Rights (1960). The decision of the court was to uphold section 12 (1) (b) of the Indian Act which removes from registration any Indian woman who marries a non-Indian. The decision of the judges was not unanimous: five judges concurred in the decision and four dissented. The case of the Indian woman was opposed by the National Indian Brotherhood and provincial Indian associations, who wished to delay a decision pending a complete revision of the Indian Act. Associations of native women and other organizations of women supported the respondents.

Two cases, *Irene Florence Murdoch* v *James Alexander Murdoch*, Supreme Court of Canada, 1973 and *Helen Marie Rathwell* v *Lloyd William Thomas Rathwell*, Court of the Queen's Bench for Saskatchewan, 1973, involved the right of wives to property acquired during marriage. In both these cases the courts found against the wives. Despite testimony that they had contributed substantially, if not equally, to the work of farm operations during the years of their marriage, claims to a share of the farm assets on dissolution of marriage were denied.

Widespread interest in both cases has prompted special studies of property rights in marriage by the Law Reform Commissions and legislation is pending in at least two provinces, Ontario and Saskatchewan. Saskatchewan in 1974 amended the Married Women's Property Act to allow judicial discretion in considering contributions other than financial on the part of either spouse, in determining the assets of each.

A study of the Law Reform Commission of Canada is focusing attention on the need for a unified family court system, and examining the philosophy, structure and operation of the courts in Canada presently exercising jurisdiction over family law matters. The Commission has conferred with provincial as well as federal authorities on the matter.

The Civil Code Revision Office of *Quebec* published a "Report on the Family, Part I" in December 1974.

Measures to improve the economic and social well being of the family are discussed under article 25.

K. Right to take part in government
(article 21 of the Universal Declaration)

1. Election expenses

On 14 January 1974 the Election Expenses Act, amending the Canada Elections Act, the Broadcasting Act and the Income Tax Act, received assent. The Act introduced five important changes in the conduct of elections:

(*a*) It limits the amounts to be spent by candidates and political parties.

(*b*) It encourages small political donations by individuals through tax deductions.

(*c*) It requires open disclosure of the names of large contributors to political parties and candidates.

(*d*) It limits to four weeks the period during which electoral propaganda can be made, i.e. between the twenty-ninth day and the second day preceding the election.

(*e*) It provides partial reimbursement to candidates and political parties from the public treasury.

Parties must register with the Chief Electoral Officer in order to obtain benefits. However in order to have the name of the party included in the ballot and receive those

benefits, it must have been represented by at least 12 members in the previous Parliament or have, at least 50 candidates officially nominated at the current election.

An individual taxpayer is entitled to a credit of up to $500 against his federal income tax otherwise payable for political donations.

Parties and their candidates must disclose the names of contributors to an election campaign in money, goods or services above a value of $100.

Parties must submit to the Chief Electoral Officer an audited report of their income and expenditures following each fiscal year.

A candidate who has received at least 15 per cent of the valid votes cast may be reimbursed to the extent of the costs of one first class mailing to each of his or her electors; plus eight cents for each elector up to 25,000 and six cents for each elector over 25,000. Candidates in extremely large electoral districts, as in the north of Canada, also receive assistance towards travelling expenses.

Candidates are required not to exceed an expenditure of one dollar for each of the first 15,000 electors; fifty cents for each elector in excess of 15,000 but not in excess of 25,000, and twenty-five cents for each elector in excess of 25,000.

Parties are required not to exceed an expenditure of thirty cents for each elector in the electoral districts in which they have endorsed candidates.

2. Local government

Local government in the *Northwest Territories* and the *Yukon* has been made more representative of the resident population. The Northwest Territorial Council is now fully elected instead of including persons appointed by the federal government. Recent elections have increased the number of native people serving on the Council. The Yukon Territorial Council has been enlarged to twelve members. The authority of the Territorial governments has been widened to include prison administration with other social programmes. Increased grants and loans to the Territorial governments have enabled them to promote the political development of municipalities. In northern *Saskatchewan* measures have been taken to establish local government. Following consultation with native groups, a Northern Municipal Council was established by the government of Saskatchewan in April 1973, and elections were held in October 1973. The area administered is an extensive tract reaching to the northern boundary of the province, and excluding only the Indian reserves and the incorporated centres of LaRonge, Creighton and Uranium City.

L. Right to social security and to the realization of economic, social and cultural rights

(article 22 of the Universal Declaration)

Progress has continued towards the realization of the goals enunciated in article 22 of the Universal Declaration. Legislation enacted and measures taken are reported under articles 23 to 27.

M. Right to work

(article 23 of the Universal Declaration)

1. Protection against unemployment; non-discrimination in employment

Employment programmes

Several programmes have continued and expanded under the Department of Manpower and Immigration to subsidize short-term employment for community improvement and particularly to provide jobs for young people. In addition the Department carries an extensive job training programme related to job needs: the programme is free and the trainee receives a living allowance. The Department has improved its job placement operations, working more closely with the Unemployment Insurance Commission. Moving grants are paid to workers who indicate a willingness to move to areas of greater job opportunity. The Department of Regional Economic Expansion assists industries to locate less-favoured areas of the country.

Special employment programmes have been operated by the *Alberta* government the

last several years; they are designated as STEP (Summer Temporary Employment Program) to provide employment for students in the summer work force, and PEP (Priority Employment Program) to ease the unemployment situation during the winter months.

In the federal public service, the work of the Anti-Discrimination Branch has increased during its first two years of operation. The Branch received 211 complaints in 1973 and 304 in 1974. The Branch employs a small staff of investigators who carry out both investigation and conciliation functions. Complaints are received both from employees and from applicants for employment.

Complaints received per allegation

	1973	*1974*
Sex	29	59
Race, colour and national origin	81	45
Age	16	20
Marital status	1	10
Religion	5	7
Physical disability	5	6
Criminal record	2	5
Other or undetermined	72	152
TOTAL	211	304

Employment of disadvantaged and minority groups

Several provinces have launched vigorous "affirmative action" programmes to promote the employment of disadvantaged or minority groups.

Manitoba stated in its new Human Rights Act (1974): "Every person has the right of equality of opportunity based upon *bona fide* qualifications in respect of his occupation or employment . . ." The government has implemented a programme called New Careers under the Department of Education and a programme called the Northern Manpower Corps under the Department of Northern Affairs. The New Careers programme opens up jobs in the public and private sectors and assists trainees of limited education and unstable work experience to enter these jobs.

The *Nova Scotia* government has initiated an "affirmative action" policy in recruitment and information programmes to assist members of minority groups to receive employment in the public service. The Human Rights Commission has been successful in arrangements with private industries, including utilities, retail trade and manufacturing industries, to sign Affirmative Action Agreements in Employment and to work out hiring and training projections to include persons from minority groups.

Labour ombudsman

In its Labour Code (1973), *British Columbia* provided for a labour ombudsman, with the power to investigate the actions of government labour boards, commissions, tribunals, branches and agencies, as well as the actions of trade unions and employers' associations.

Equal pay for men and women

Measures have been taken by the federal government, the provinces and the territories to increase the opportunities for employment and to rectify unequal rates of pay for women.

On 13 June 1973 the federal government by order-in-council amended its regulations regarding fair wages to add age, sex and marital status to prohibited grounds of discrimination in the practices of employers under contract with the government.

On 24 May 1974 the government announced that positions in the Royal Canadian Mounted Police would be open to women. In May 1974 a Cabinet Directive was issued to all Crown Corporations requesting them to undertake positive action to encourage the

assignment and advancement of more women into responsible positions and to inform the Minister of Labour of their progress in this regard. A government directive has also been issued to all Canada Manpower Centre counsellors forbidding them to practise discrimination on the grounds of sex when referring a worker to an employer. The counsellors are being trained to give greater assistance to women clients. In June 1973, programme guidelines for further action on equal opportunities for women were sent to all deputy ministers; this measure was part of the work of the Office of Equal Opportunities for Women, an office of the Public Service Commission.

The province of *Saskatchewan* in 1973 amended its Labour Standards Act to clarify its "equal pay" provision. The provision now requires an employer not to discriminate between male and female employees by paying to either a lesser rate of pay for similar work performed under similar working conditions. The only exception is where the unequal pay is based on a seniority or merit system, and not on sex.

In 1974 the province of *Alberta* amended its Individual Rights Protection Act to provide protection against discrimination to male employees as well as to female employees in regard to equal pay for "similar work or substantially similar work." Alberta has also issued specific guidelines to newspapers to regulate employment advertising in order to eliminate sex discrimination.

Examples of cases brought before boards of inquiry because of alleged sex discrimination include:

(*a*) In November 1974 two female employees of Bell Canada in Montreal, Quebec, were awarded retroactive pay in line with pay differentials of $110 a month between the female employees and men employed at the same job, following an investigation of their case by an arbitrator appointed by the Minister of Labour.

(*b*) In the Northwest Territories in 1974 a woman employee lodged a complaint because she did not receive a cost-of-living bonus and an allotment of fuel oil which were given as part of conditions of service to male employees. The fair practices officer on investigation decided in favour of her claim.

(*c*) In British Columbia in 1974 a female employee of a mining operation lodged a complaint because she did not receive equal benefits with male employees in regard to provision of room and board. The Human Rights Commission of the province ruled in her favour and ordered the mining company to reimburse the employee.

(*d*) In Ontario in 1973 a female applicant for a position with a vehicle-rental company complained that her application was dismissed because of her sex, despite previous experience and demonstrated ability to perform the work required. The Ontario Human Rights Commission conducted an investigation and found in her favour. Since she had in the interim found other employment the position was not reopened for her but the company was required to pay damages because the action had "imposed a feeling of inferiority and frustration", and the company was required to affirm in writing its intention to obey the Human Rights Code of Ontario.

(*e*) A report by the Alberta Human Rights Commission stated that in 1973 the large numbers of investigations resulted in an estimated 800 female employees receiving a total of $300,000 above what they had otherwise expected to earn.

Employment opportunities for native people

Employment opportunities for native people have increased in response to specific programmes by the federal government and the provinces and territories. These "affirmative action" programmes have been designed with special care to preclude reverse discrimination, that is, discrimination against white workers in favour of native workers. Usually they have been undertaken in northern and other areas where the population is predominantly native, and native language skills are legitimately included among qualifications for the job. One example of such action is Hire North, a project of the federal government and the government of the Northwest Territories which began right-of-way clearing for highway construction in the Mackenzie Valley in 1973. Over 90 per cent of the workers were native people. A rotational work system to allow workers to take periodic 10-day holidays with transportation to and from their homes, and the use of native foremen and the opportunity for promotion were features of the project.

The province of *Saskatchewan* has entered into an agreement with the federal Department of Regional Economic Expansion called Special ARDA (Agriculture and Rural Development Act) to provide increased employment opportunities for native people in the northern part of the province. The objectives of the programme are: to provide incentive grants (to industry) that will create employment opportunities for native people; to lessen isolation in remote rural communities to facilitate economic development; to assist marginal native primary producers to expand or diversify in order to improve their operations, and to help identify and prepare disadvantaged native people for employment.

The province of *Manitoba* has expanded the work of its Northern Manpower Corps to create job opportunities, upgrade the skills and overcome the disadvantages of native workers and ensure that opportunities for promotion on the job are open to native workers.

2. Right to just and favourable remuneration

Statutory minimum wage rates moved upward, as shown by the table below.

Many of these rates were included in schedules which also provided for an increase on 1 January 1975.

Effective 1 April 1974, a regulation under the *Saskatchewan* Labour Standards Act brought within the scope of the Minimum Wage Board those household workers placed in homes by agencies providing "visiting homemaker" services. These employees are now entitled to the provincial minimum wage and public holiday pay.

In most cases in Canada, public assistance is only available to those who are unemployed or not in the labour force. However, the family allowance programme, which pays taxable benefits in respect of all children under age 18, supplements the income of families with children. Because family allowance benefits are taxable, low-income families with children receive greater net benefits than higher income families with the same number of children.

It should also be mentioned that the federal government, together with provincial governments, began a comprehensive review of Canada's Social Security System in April 1973. This review is now nearing completion. The Social Security Review has focused attention on the income needs of the working poor. Both federal and provincial ministers of welfare have agreed in principle on a proposal that would supplement the incomes of those who are working but whose earnings are inadequate to meet their family needs. The income supplementation proposal would incorporate a work incentive measure that would ensure that families would always be better off to be working than to be receiving income support. Federal officials in the Department of National Health and Welfare have been working out the details of the income supplementation proposal and these will be discussed in 1975 by federal and provincial Ministers of Welfare.

A "Guaranteed Annual Income" pilot project has been undertaken in the province of Manitoba through federal-provincial co-operation. The primary objective of this experiment is to investigate the impact of various guaranteed income programmes on the behaviour of recipients.

Rates per hour, Canada and the Provinces and Territories

	Dec 1974	*Dec 1972*
	(*Dollars*)	
Federal	2.20	1.90
Alberta	2.00	1.55
British Columbia	2.50	2.00
Manitoba	2.15	1.75
New Brunswick	1.90	1.40
Newfoundland	2.00	1.40
Nova Scotia	2.00	1.55
Ontario	2.25	1.65
Prince Edward Island	1.75	1.25
Quebec	2.30	1.65
Saskatchewan	2.25	1.75
Northwest Territories	2.50	1.50
Yukon	2.30	1.75

3. Right to form and to join trade unions

Several provinces have amended the Labour Acts which govern collective bargaining and the other rights of trade unions.

In August 1973 the federal government passed an Act to provide for the Resumption and Continuance of the Operations of Railways and for the Settlement of the Disputes, following a suspension of railway services and the cessation of negotiating procedures between the railways and their employees. Settlement of pay and other matters in dispute was subsequently arrived at and contracts were signed.

Alberta passed a new Labour Act in 1973, covering all employees in the province except those employed in domestic work in a private dwelling, farm labourers and policemen of a municipal police force.

British Columbia extensively amended its Labour Code in 1973, giving all employees the right to be members of trade unions and redefining unfair labour practices, the work of the Labour Relations Board and other matters.

Newfoundland in 1973 passed a Department of Manpower and Industrial Disputes Act and an Act to Amend the Labour Relations Act. The province also passed an act to provide for collective bargaining respecting teachers' salaries and working conditions, and an act to govern collective bargaining respecting certain employees in the public service which, however, excluded certain categories designated as "essential employees" from the right to strike.

Quebec amended the Construction Industry Labour Relations Act to place flat glass installation workers under the Collective Agreement Decrees Act.

N. Right to rest and leisure

(article 24 of the Universal Declaration)

Ontario amended its Employment Standards Act to establish statutory holidays with pay. These would number four—Good Friday, Dominion Day, Labour Day and Christmas Day—in 1974, and three more—New Year's Day, Thanksgiving Day and Victoria Day—would be added in 1975. The Act was also amended, effective 1 January 1974, to provide all employees with two weeks annual vacation with pay after one year of employment.

Saskatchewan amended its Labour Standards Act in 1973 to provide employees with four weeks annual vacation with pay after 15 years of service. In 1974 it provided for three weeks annual vacation with pay after one year's service.

O. Right to a standard of living adequate for health and well-being; special assistance for motherhood and childhood

(article 25 of the Universal Declaration)

1. Living standards

During the current period of world-wide inflationary pressures, measures have been taken in Canada to protect the living standards of families and individuals. Most significantly, a cost-of-living adjustment has been made in pension schemes such as old-age pensions and supplements, adding a percentage increase quarterly to correspond with the increase in the consumer price index reported by Statistics Canada. In addition, the federal government has created a Food Prices Review Board to monitor retail prices and conduct research into production and marketing of food. A lower domestic price for fuel oil has been maintained by means of a federal subsidy to that area of the country dependent on imported oil, while oil produced in Canada has sold at a lower price on the domestic market than on the export market.

Housing

Several programmes have been developed to moderate the cost of housing. In 1973, several amendments were made to the National Housing Act. The Assisted Home Ownership Program adjusts the interest on government mortgage loans in relation to family income, assisting families in the income range of $6,000 to $11,000 a year.

Non-Profit Housing Assistance has been made easier. Charitable and community organizations are allowed "start-up funds" to undertake the construction of non-profit housing for the elderly or handicapped.

Co-operative Housing Assistance extends to co-operative groups the assistance available to individuals to obtain housing.

The Neighborhood Improvement Program (NIP) offers assistance to municipalities and neighborhood residents to improve designated residential areas.

The Residential Rehabilitation Assistance Program provides funds to assist owners or landlords in the repair and renovation of substandard housing within NIP areas.

Land Assembly Assistance is offered to provinces and municipalities wishing to acquire and service land for future residential development, with the objective of avoiding private speculation in land for housing.

The New Communities Program provides for federal-provincial cost sharing in planning and developing new communities.

A Developmental Program will study construction, design and planning in regard to housing and community needs.

The "Housing for Indians on Reserves" provides grants for the construction of new housing on reserves.

Nova Scotia has issued guidelines for the Real Estate Association and its member companies, to ensure that real estate is offered on an equal basis to all clients.

Health

Canada's health services continue to expand. In *Saskatchewan*, the Medical and Hospitalization Tax Repeal Act abolished insurance premiums for health care for all citizens. The medical and hospitalization services of the province are supported entirely from consolidated revenue. The province also introduced the Dental Care Act, 1974. The plan came into effect in September 1974, providing free dental services to young Saskatchewan children. Saskatchewan also passed a Hearing Aid Act, 1973, and a Prescription Drugs Act, 1974, reducing the cost of these health aids to purchasers.

Services for handicapped

Increased services for the handicapped included new building codes specifying design measures to make public buildings accessible to the physically disabled and, in Saskatchewan, providing free telephone service to such persons.

Old-age pensions

The Old Age Security Act was amended in 1973 to increase the basic pension and to provide for the quarterly escalation of both the basic pension and the Guaranteed Income Supplement for persons 65 years of age and over. Both the basic pension and Guaranteed Income supplement are now fully escalated every quarter by the percentage increase in the consumer price index in order to protect their purchasing power. The provinces of British Columbia, Alberta, Manitoba and Ontario supplement Old Age Security/Guaranteed Income Supplement benefits according to an income test.

Family allowances

New family allowance legislation was passed in 1973 to substantially increase the monthly allowance paid on behalf of each child in Canada. Under the new legislation, family allowance benefits became taxable. Because of the progressive nature of the income tax structure, this has the effect of paying higher net benefits to lower income families. Families with no taxable income receive the full benefit while net benefits decrease as families move higher up the income scale. Benefits are fully escalated annually by the percentage increase in the consumer price index. Provinces may vary benefit rates on the basis of age of the child or number of children in the family, but average benefits paid in each

province must equal the established national average of $22.08 per child per month in 1975.

The Province of *Quebec* established a new family allowance plan which augmented the federal programme, allotting higher benefits for the second, third and subsequent children in the family.

Pensions

Pensions for war veterans, industrial accident victims, the blind and the disabled were also increased. In 1974 the federal government made legislative changes to give male and female veterans equality of status and equal rights and obligations under the War Veterans Allowance Act and the Civilian War Pensions and Allowances Act. However the Acts still contain the provision that pensions are payable to females at age 55 and to males at age 60. An amendment to the Canada Pension Act provided survivors' benefits to widowers as well as to widows.

Child care

Child care services were extended. The costs of capital expenditure and operation of day care centres are shared by the federal and provincial governments under the Canada Assistance Plan.

Unemployment insurance

The Unemployment Insurance Act was amended in 1974 to increase benefits and adjust the requirements for the payment of unemployment benefits. The operations of the Unemployment Insurance Commission were also improved to facilitate job search by the unemployed.

Public assistance

In Canada appeal boards are provided for people in receipt of public assistance or welfare. Two examples of the operation of these boards are given below.

In *Manitoba* in May 1973 a board of appeal upheld the case of a woman who protested an order to repay welfare assistance when she became the recipient of part of the sale price of a house in lieu of unpaid maintenance from her former husband. The board ruled that only money that has been improperly paid is repayable. The provisions of other provinces differ in regard to recovering social assistance.

In another appeal case in *Saskatchewan* a woman student was granted welfare assistance to support her and her children through a final term of university training which would permit her to become financially independent, although the assistance regulations in general preclude assistance to university students.

Assistance to native people

Programmes of assistance to the native people of Canada have expanded, and decisions of the courts have been made in regard to native rights. In *British Columbia*, in August 1974 a county court judge granted the appeal of two Indians against convictions for unlawfully killing game out of season. The judge ruled that the right to hunt for food on their traditional hunting ground, unoccupied Crown land, was one of their aboriginal rights. In *Alberta*, in September 1974 a provincial court judge dismissed charges against an Indian accused of illegally killing game and transporting it across provincial borders. The judge ruled that Indian hunting rights take precedence over the right of provinces to administer wildlife resources.

The James Bay area of the province of Quebec, where an important power development project is under way, was the subject, in November 1974, of a preliminary agreement between the provincial government and the native population (Cree and Inuit) of the area who were asking the courts to halt the project. In return for extinguishing their rights to the territory the Cree and Inuit would receive certain tracts of land for their own use and a total of $150 million.

2. Motherhood and childhood

Maternity leave

Provisions for maternity leave for employed women were improved. In May 1974 the federal government began the policy of continuing the contributions made as employer to the Superannuation Plan while the employee is on maternity leave.

Benefits were also extended in some provinces. Amendments to the Labour Standards Act of *Saskatchewan* in 1973 provided that an employee who has been employed for a continuous period of 12 months is entitled to up to 18 weeks maternity leave and is guaranteed reinstatement in her employment with no loss of seniority, rate of wages or pension benefits.

Adoption

The federal government in 1974 undertook to establish in the Department of Health and Welfare an office dealing with adoptions, which are generally under provincial jurisdiction. Interprovincial adoptions will be facilitated. The office will also assist in cases of international adoptions. The Immigration Regulations were amended in February 1974 to facilitate the reception of children from other countries for adoption in Canada.

Special measures have been introduced by several provinces to recruit adoption homes for children with physical, mental and emotional handicaps. By newspaper and radio publicity a response has been achieved in finding homes for such children.

P. Right to education

(article 26 of the Universal Declaration)

Elementary and secondary (high school) education is free in Canada, and student loans and tax concessions are provided by the federal and provincial governments to assist students in universities and colleges.

Human rights information and special projects are introduced into the public school systems on the initiative of provincial Human Rights Commissions. There has also been an analysis of textbooks in several provinces to determine to what extent a true picture is presented of minority racial groups. For example, such studies have dealt with attitudes to black population of Nova Scotia as well as to native groups. In Nova Scotia some textbooks were condemned and the Human Rights Commission has requested the opportunity to review new texts. Similarly, there has been a review of textbooks in several provinces to determine to what extent women's role in society is stereotyped.

A 1974 amendment to the school act of *Saskatchewan* provides for the use of languages other than English or French as languages of instruction. The province also provides for membership on school boards of Indian parents living on reserves adjacent to school units.

In 1974 the province of *Quebec* passed Bill 22 which gives preference to the French language in school instruction as well as in commercial and general use in the province. Students generally are to attend French schools unless they demonstrate a knowledge of English, in which case they may attend English schools.

Q. Right to participate in cultural life

(article 27 of the Universal Declaration)

Cultural institutions such as the Canadian Broadcasting Corporation, the National Film Board, and the Museums Board continue to expand their regional programs through decentralized production, tours and travelling exhibitions. Technological innovations in the Canadian Broadcasting Corporation permit broadcast of programmes to remote northern regions.

The Canada Council continues to provide assistance, in the form of grants and bursaries, to the humanities and the arts. This cultural aid benefits students and research workers, professional artists and cultural institutions. Its new programme, "Exploration", provides funds to individuals or groups for original projects that attempt to develop neglected aspects of past or present Canadian culture. The Council also provides assist-

ance in the publication and translation of Canadian authors, and for film production, video tape recording, photography, cultural and university exchanges with other countries, and touring shows in the less favoured areas of the country (through its new Touring Office), and so on.

Several provinces also have Arts Councils which actively assist artists and arts associations.

The province of *Saskatchewan* in 1974 passed the Saskatchewan Multicultural Act, which declares Saskatchewan to be a multicultural province and provides for funds for education, research and programming to enhance the cultural rights of various ethnic groups.

R. Right to a social and international order in which rights and freedoms can be fully realized

(article 28 of the Universal Declaration)

Canada continues to support the United Nations, its conventions and instruments. Canada participates in the peace-keeping operations of the United Nations in Cyprus and the Middle East. It also served temporarily on peace-keeping operations in Viet-Nam following the peace agreement reached in that area.

S. Protection of the environment

(article 29 of the Universal Declaration)

In addition to the main body of Canadian law and the operation of the courts which seek to substantiate the principles enunciated in article 29 of the Universal Declaration, recent attention specifically to preservation of the environment has been demonstrated in measures to control pollution and to preserve natural resources such as agricultural land. In federal law, the following legislation and regulations were put in place during 1973 and 1974: Lead-free Gasoline Regulations (under the Clean Air Act); Petroleum Refinery Liquid Effluent Regulations (under the Fisheries Act); Ambient Air Quality Objectives (under the Clean Air Act).

Other projects are under consideration, for example the Proposed National Emission Standard Regulations for Sec. Lead Smelters, part I, 7 December 1974 (under the Clean Air Act).

Provincial legislation has also been augmented in Clean Air and Clean Water Acts. There have been environmental studies and river basin operation plans, as, for example, the Churchill River Study, and a public inquiry has been set up to examine the possible effects of construction of a Mackenzie Valley gas pipeline.

Legislation was passed in *Saskatchewan* in 1973 regarding the ownership of agricultural land. In *British Columbia* laws were passed to prohibit the sale for other purposes of prime agricultural land.

DENMARK

A. Right to work and to favourable conditions of work

(article 23 of the Universal Declaration)

1. Protection of migrant workers

Though nationals of the other Nordic countries and of the member States of the European Communities may take up employment in Denmark without any special permission, nationals of other countries are required to obtain a work permit under special rules (Rules of the Ministry of Labour of 29 June 1973).

The purpose of these rules, which have been worked out in close co-operation with the central organizations of the two sides of industry, is twofold: on the one hand, to regulate immigration according to the needs of the labour market and, on the other, to protect the interests of migrant workers.

The need for foreign workers is assessed by the local labour market boards. The maximum number of work permits that may be issued during the coming six months is fixed twice a year, and the work permits are allocated to the interested undertakings at the discretion of the boards.

A work permit is normally granted for a contract of employment of 12 months, and the first two years the permit is for employment with a particular employer, who must be affiliated with an employers' association or covered by a collective agreement. The permit is also subject to the condition that the person concerned is a member of an unemployment benefit fund and that the conditions of work, including wages, are the same as those applying to Danish workers.

The contract of employment must be made out in a language understood by the migrant worker. The employer must pay the travelling expenses out and back and provide for a suitable dwelling. The migrant worker shall have the opportunity to attend a 40-hour course in the Danish language and Danish social conditions.

Various efforts are made to facilitate the social assimilation of migrant workers in Denmark. By way of example, the Ministry of Social Affairs has organized a Telephonic Interpretation Service offering assistance to migrant workers, public offices, undertakings, trade unions, social institutions, etc.

It should be noted that, owing to the current employment situation in Denmark, the entry of migrant workers was stopped on 29 November 1973.

2. Occupational health and safety

During the period under review, the following statutes in the field of occupational safety, health and welfare, as well as other regulations with a view to industrial safety, have been introduced:

(*a*) Act No. 153 of 31 March 1973 requires the employer to pay the expenses involved in carrying out the office of safety representative and to compensate the representative for loss of earnings. Further, like shop stewards in the same or any similar occupational field, safety representatives have been protected against dismissal and any other reduction of their conditions.

(*b*) Act No. 153 of 31 March 1973 authorizes the Minister of Labour to make regulations as to the notification of industrial accidents, cases of poisoning, occupational diseases, etc. Such rules have been laid down in the Regulations No. 236 of 2 May 1973 on the notification of industrial accidents etc. to the Labour Inspection Service. This has provided a basis for general, countrywide statistics of industrial accidents, as well as a systematic basis for the inquiries into accidents made by the Labour Inspection Service.

(*c*) Act No. 330 of 19 June 1974, amending the Occupational Safety, Health and Welfare (General) Act, and the Regulations of 2 July 1974 provide for special rules as to the organization of internal safety work in the field of building and construction. Prob-

lems of safety and health at the workplace shall under those provisions be handled in co-operation between the employer, his substitute, any supervisors, and workers. In building and construction projects carried out by more than 10 persons, the builder shall be responsible for the co-ordination of internal safety work.

(*d*) Act No. 256 of 22 May 1974, amending the Occupational Safety, Health and Welfare (General) Act, provides for a number of amendments, authorizing the Minister of Labour to make regulations, as regards international road transport, on the manning of vehicles, the conditions to be satisfied by drivers, including minimum age, rules on daily rest period and maximum permissible driving periods, as well as on weekly rest for drivers and members of the crew of vehicles. Those amendments have been enacted in order to enable Denmark to ratify the European Agreement concerning International Road Transport. The provisions of that Agreement are, as far as Denmark is concerned, of particular importance in the international road transport taking place to and in countries which are not members of the European Economic Community, such transport within the Community area being covered by the special EEC Regulations on road transport.

In addition to the above-mentioned Acts of Parliament, several administrative regulations concerning improvement of the working environment have been issued during the period 1973–1974.

B. Right to the necessary social services

(article 25 of the Universal Declaration)

The Social Assistance Act No. 333 of 19 June 1974, which enters into force on 1 April 1976, introduces new provisions on national assistance, care for children and young persons, rehabilitation, maternity aid and other areas of social assistance. All types of assistance under the Act will as a principal rule be granted by a single authority, viz. the local social welfare committee (or municipal administration of social affairs) set up under the provisions of the Local Government Act. This administrative rearrangement will enable the competent authority to form a general estimate of the situation and work out a general solution for the applicant or his family as a whole. In addition, the Social Assistance Act will change the conditions under which assistance shall be granted. Especially, the causes of the applicant's need of assistance will be of no significance under the Act. The Act also extends the possibility of offering advice and guidance to citizens with or without their own previous initiative. Finally, the Social Assistance Act will change the rules of competence in regard to the establishment, operating and financing of social institutions.

ECUADOR

Introduction

In order to ensure the effective enjoyment of human rights, the Government has enacted laws, decrees and regulations with a view to promoting the welfare of all social groups comprising the national community. It has been able to ensure the exercise of such rights and has limited their enjoyment only to the extent compatible with public order and domestic peace, but has not thereby violated or failed to recognize them. In the period 1973–1974, the Government of Ecuador enacted a set of decrees to promote the enjoyment of human rights. These decrees are of a general, as well as of a specific, nature and are intended to be of direct benefit to workers, both in cities and in rural areas.

A. Right to just and favourable conditions of work; right to just and favourable remuneration

(article 23 of the Universal Declaration)

The following decrees amend the Labour Code to the advantage of the workers: No. 38,[1] which introduces amendments to the Labour Code; No. 1353,[2] which provides that the offence of extortion shall include the collection, by members of the courts, secretariats or expert bodies, of any fees not authorized by the Director or the Sub-Directors of Labour; and No. 1416,[3] which enables enterprises to establish commissaries.

The following decrees should also be mentioned: Decree No. 1413,[4] raising the minimum wage; the decree,[5] increasing the "fourteenth month" wage percentages; Decree No. 318,[6] raising salaries and wages by 250 sucres; and Decree No. 1338,[7] containing the law on the remuneration of civil servants.

B. Right to social services and to social security

(article 25 of the Universal Declaration)

Attention should also be drawn to another group of social welfare laws which have been enacted by the present Government and are directly based on the principles of law observed by Ecuador: Decree No. 340,[8] establishing the law relating to the registration of nurses; Decree No. 307,[9] extending the coverage of the social security pilot project to additional segments of the population in rural areas; Decree No. 954,[10] introducing a pension for the "fourteenth month"; Decree No. 1172,[11] containing the new Agrarian Reform Law; a decree (no number),[12] providing that reserve funds in respect of workers who are not members of the Ecuadorian Social Security Institute are to be paid directly to the worker upon completition of his service; and Decree No. 171, entitling workers who receive retirement benefits directly from their employers to receive a pension in respect of the "fourteenth month".

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1 *Registro Oficial*, No. 232, 25 January 1973.
2 *Ibid.*, No. 450, 11 December 1973.
3 *Ibid.*, No. 462, 28 December 1973.
4 *Ibid.*
5 *Ibid.*
6 *Ibid.*, No. 522, 28 March 1974.
7 *Ibid.*, No. 714, 3 January 1975.
8 *Ibid.*, No. 292, 24 April 1973.
9 *Ibid.*, No. 279, 4 April 1973.
10 *Ibid.*, No. 380, 30 August 1973.
11 *Ibid.*, No. 410, 15 October 1973.
12 *Ibid.*, No. 443, 29 November 1973.

FINLAND

Introduction

During the period 1973–1974 particular attention has been paid to developing, by legislative and administrative measures, economic, social and cultural rights. In such fields as child welfare, protection of motherhood, improvement of labour conditions, employment policy, health insurance, protection of the environment, pension system, housing assistance for invalids, price control and study assistance system, the existing legislation has been further developed by amendments taking into account the experience so far gained. The implementation of this legislation has been effectuated by numerous administrative measures.

A. Non-discrimination

(article 2 of the Universal Declaration)

1. Equal rights of men and women

Women's access to government offices and positions was extended by the Decree issued on 14 June 1974. It is now equivalent to that of men, with the exceptions due to the special character of certain offices and positions.[1]

2. Protection of minorities

In recent years particular attention has been paid to the improvement of the position of certain minority groups, such as the Lapp population. Although the Lapps, as Finnish citizens, are equal before the law as provided for by the Constitution, certain protective measures have been considered necessary to preserve their language and culture and to enable them, as much as possible, to carry on their traditional means of livelihood, namely, fishing, hunting and reindeer breeding. In order to co-ordinate the efforts made so far in this respect, a new official body, the Lapp Delegation, was established by Decree No. 824 of 9 November 1973.[2] The task of this body is to attend to the rights of the Lapp population and to promote their economic, social and cultural conditions. For this purpose, it can take initiatives, make proposals and give its opinion to the appropriate authorities on matters concerning: (*a*) the protection of the environment and the establishment of conservation areas in the Lappish region; (*b*) the initiation of mining enterprises, the establishment of tourist and camping centres, the construction of hydro-electric power plants and regulating reservoirs and the operations of logging and ploughing and draining of swamps, as well as other such measures in the Lappish region; (*c*) the use and care of waters, the establishment of areas for fishing as a sport and arrangements for fishing and hunting in the Lappish region; (*d*) the reindeer economy; (*e*) the preliminary, fundamental, secondary and adult education of the Lapps; and on other matters whenever necessary for the achievement of the purposes of this Decree.

The Lapp Delegation consists of 20 members, and its term of office is four years. The members are appointed by the Council of State from among those persons who in the election organized among the Lapp population have received the most votes, with however, the proviso that there shall be at least two members from each of the four rural communes of the Lappish region.

B. Right to life, liberty and security of person

(article 3 of the Universal Declaration)

The antiquated and defective rules concerning war crimes that were included in the

[1] *Suomen asetuskokoelma*, hereinafter referred to as *AsK* (Official Statute Gazette of Finland), No. 471/74.

[2] *AsK* No. 824/73.

Penal Code of the Military Forces have been revised. The new rules, which have been inserted in chapter 13 of the general Penal Code, are now in every detail in conformity with the rules of the four Conventions concluded in Geneva on 12 April 1949. At the same time, a revision took place with regard to those rules that are based on The Hague Convention concerning the Laws and Customs of War on Land, concluded in 1907.[3] Also, the previous, partly defective rules concerning crimes of genocide were brought in all respects into conformity with the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948.

Because of the connexion, the previous rules relating to punishment for racial discrimination were transferred into the same chapter 13 of the Penal Code, which includes the remaining rules of penalty concerning crimes against humanity. They are consistent with the International Convention on the Elimination of All Forms of Racial Discrimination concluded on 21 December 1965.

On 19 July 1974 a number of laws that will modernize the Finnish penal system were promulgated. The main principle observed in these laws is that the most important element of a sentence is the deprivation of liberty. This does not allow of any increases in the severity of a punishment. The prisoners have to be engaged in work which is beneficial to society, for which they receive compensation in money, which in principle corresponds to the wages paid on the free labour market for similar work. The prisoners are taught a trade if they do not have one.

The connexions of the prisoners with the outside world are facilitated in accordance with the recommendations contained in the Standard Minimum Rules for the Treatment of Prisoners, which have been confirmed by the Economic and Social Council. Visits to prisons can be allowed to take place without control, and letters are not examined unless there is reason to suspect a crime or a threat against the order of the prison. All the physical punishments that had been formally valid, although they had remained mostly unapplied in practice, such as decreased food rations, a hard berth, or solitary confinement, have been repealed. Similarly, it is prohibited to chain prisoners unless this is necessary during transportation or to control a sudden outbreak of violence until medical assistance can be obtained.

The present position of prisoners under remand is improved, *inter alia*, by facilitating their communication with their solicitors and by prohibiting all disciplinary punishments. The rights belonging to prisoners under remand are also given to persons who have been deprived of their liberty for a reason other than the commission of a crime.[4]

C. Protection of the law

(articles 7 and 8 of the Universal Declaration)

Along with the growing problem of crime all over the world, protection of the victims of crime has become an important consideration in the administration of justice today. The maintenance of an orderly society and the protection of its individual members presuppose, among other things, that a situation disturbed by crime can be restored as quickly as possible and that the victims of crime can be compensated irrespective of the financial resources of the offender. To this effect, legislative measures were considered necessary and, to fill the gap, Act No. 935 on the compensation from State funds of damages caused by crime was enacted on 21 December 1973.[5]

According to this Act, Finnish citizens and foreign nationals permanently residing in Finland are entitled to compensation from State funds for damages caused by crime in Finland. Any amount which the victim of crime has received or is entitled to receive by virtue of another law is deducted from the compensation. If the damage has affected property, the compensation is reduced by whatever amount is paid to the owner on the basis of insurance. The amount paid in compensation by the offender is also deducted. Compensation is not paid if the amount to be compensated would obviously be less than 200 marks.

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[3] *AsK* No. 987/74 and *AsK* No. 989/74.

[4] *AsK* Nos. 612/74, 613/74 and 615/74.

[5] *AsK* No. 935/73.

If the victim of injury or damage has suffered bodily harm, compensation is paid for medical treatment and other expenses as well as for lesion or other permanent harm. In addition, compensation is paid for the decrease of income and for subsistence. If the victim of crime has lost his life, compensation is paid to those who were maintained by the deceased and who, consequently, have been left without maintenance, until the time they can provide for themselves. A reasonable compensation for the burial expenses is also paid.

Compensation is granted and paid by the State Accident Office. The rights of the victim of crime against the offender are then transferred to the State, which will have a redress right against the offender.[6]

D. Right to a fair trial

(article 10 of the Universal Declaration)

Economic factors should not prevent anyone from resorting to available legal services in order to protect his rights before courts or administrative tribunals or to defend himself properly when accused of an offence. For the purpose of eliminating the economic obstacles in this respect, the system of free trial was first established by Act No. 212 of 6 May 1955.[7] Even before that Act, certain allowances could be made for the benefit of parties without means. In order to develop the system further and to extend its application to military and other special courts, the Act was replaced by Act No. 87 on free trial of 2 February 1973.[8] As before, the prerequisite for granting a free trial is that the person party to a lawsuit, taking into consideration his income and economic resources as well as his maintenance obligations and other circumstances, is not able, without difficulties, to pay the expenses of the trial. According to the new Act, free trial may also be granted, without the requirement of reciprocity, to foreign nationals or to stateless persons.

As before, free trial may be granted both before the trial and at each stage of it. According to the new Act, it may also be granted retroactively to cover steps already taken in the matter concerned.

If a person who has been granted free trial is not capable of attending to his own interests in the trial, the court may order a legal counsel for him. If the trial has not yet started, the counsel may be ordered by the presiding judge in advance. The counsel's fee is fixed by the court at the end of the trial and paid from State funds.[9]

Closely connected with the Act just mentioned is Act No. 88 on public legal aid of 2 February 1973.[10] This Act also has the aim of rendering justice to all, irrespective of the economic resources of the persons involved in a case. According to this Act, public legal aid activity may be carried on by each municipal and rural commune. However, two or more communes may agree among themselves about carrying on this function together. Such an agreement has to be approved by the Ministry of Justice.

The purpose of this function is to give the necessary legal aid to persons who, taking into consideration their income and economic resources as well as their maintenance obligations and other circumstances affecting their economic position, are not able, without difficulties, to acquire for themselves expert aid in their legal affairs. Legal aid is given free of charge or against partial compensation depending on the economic position of the individual. It may also be given to foreign nationals and stateless persons.

In each commune the public legal aid activity is directed by the Legal Aid Board, the members of which are elected by the Communal Council. The general supervision of this function in the whole country is vested in the Ministry of Justice. The expenses to the communes occasioned by this activity are partly compensated by the State according to a classification of the communes as regards their economic strength and other circum-

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[6] Provisions on the implementation of this Act are embodied in Decree No. 198 of 1 March 1974 (*AsK* No. 198/74).

[7] *AsK* No. 212/55. See *Yearbook on Human Rights for 1955*, p. 66.

[8] *AsK* No. 87/73.

[9] Provisions on the implementation of this Act are embodied in Decree No. 376 of 4 May 1973 (*AsK* No. 376/73).

[10] *AsK* No. 88/73.

stances. The State subsidy may accordingly vary from 50 to 95 per cent of the total expenses.[11]

It has been a recognized principle of Finnish law for a long time that a person who has been wrongfully arrested, detained or imprisoned is entitled to an indemnity from State funds. The relevant provisions are embodied in Act No. 142 on the Responsibility of the State for injury caused by a government authority, of 18 May 1927. This Act has been partly replaced and modernized by Act No. 422 on the indemnity to be paid from State funds to persons arrested or convicted without being guilty, of 31 May 1974.[12]

According to the new Act, a person arrested on suspicion of a crime is entitled to an indemnity from State funds for the loss of liberty if the preliminary investigation has been terminated without giving rise to prosecution, if the prosecution has been dropped without sentence, or if the accused has been acquitted. A similar right to an indemnity is conferred on a person arrested or detained for a crime if the legal prerequisites for the arrest or detention did not exist. If a person has been detained longer than the period provided for by law, he is entitled to an indemnity for the additional time.

No indemnity shall be paid if the person suspected of a crime has attempted to escape, otherwise to evade the preliminary investigation, to destroy evidence or otherwise to render it difficult to clear up the matter in question—unless such behaviour has been caused by mental shock, error or any other excusable reason—or if the suspect has caused his own arrest or detention by a false confession or otherwise intentionally.

A similar right to indemnity is conferred on a person sentenced for a crime for punishment which he has suffered totally or in part, if the sentence is cancelled later on or abolished on the ground of a fault in the trial and the person is either acquitted or sentenced to a lesser punishment.

The indemnity comprises compensation for expenses, decrease of income or subsistence and for suffering caused by the loss of liberty.

E. Right to privacy

(article 12 of the Universal Declaration)

The abuse of mass media resulting in the dissemination of intimate information concerning an individual without his permission or even against his will has given rise to a legislative measure by which a new article 3a was inserted in chapter 27 of the Penal Code, dealing with libel in its various forms.[13]

According to the new article, anyone who, without being legally entitled to do so, uses mass media or other such means to disseminate information, insinuations or pictures which may cause a person damage or distress shall be sentenced for violation of privacy to a maximum of two years' imprisonment or to a fine.

The publication of material concerning the activities of a person in public office, in business or political life or in any comparable capacity which is necessary for dealing with a matter of significance for the community shall not be considered as violation of privacy.

At the same time, the Act on the publicity of trials was amended to provide for cases concerning violation of privacy to be tried behind closed.doors if the plaintiff or the public prosecutor so requires.[14]

F. Right to just and favourable conditions of work; right to just and favourable remuneration

(article 23 of the Universal Declaration)

1. Protection of workers

In order to secure the full implementation of the provisions concerning the protection

[11] Provisions on the implementation of this Act are embodied in Decree No. 651 of 10 August 1973 (*AsK* No. 651/73).

[12] *AsK* No. 422/74.

[13] Act No. 908 amending chapter 27 of the Penal Code, of 13 December 1974 (*AsK* No. 908/74).

[14] Act No. 910, of 13 December 1974, amending Act No. 26 on the publicity of trials, of 5 February 1926 (*AsK* No. 910/74).

of workers, the general supervision in this field was reorganized by Act No. 131 on the supervision of the protection of workers, of 16 February 1973.[15]

The appropriate authorities charged with this supervisory task are given wide powers to carry out inspections in places of work and, if needed, to use various experts for investigation. Inspections and investigations shall be carried out as often and as effectively as necessary. They may take place without prior notice to the employer or his representative. The said authorities are entitled to get access to any place where work is done and to all documents relating to the protection of workers as well as to construction or alteration plans, if any. Moreover, they are entitled to interview the workers either with or without witnesses, to obtain samples from products and raw materials, to take photographs of machines and technical installations in order to find out the need for protection or the reason for an accident and to require necessary information from the employer.

The inspecting or investigating authority may not reveal to outsiders what he has learned about a person's health or economic position or about a business or trade secret. Nor may he reveal to the employer the name of the person who has asked for the inspection or investigation or informed him of a defect in the working place.

The employer and the employees are required to co-operate in matters concerning the protection of workers. For this purpose, the employer shall nominate a person to act as chief of protection, who is responsible for the co-operation. The employees for their part, provided that there are at least 10 workers in a place of work, shall elect from among themselves a protection delegate for a term of two years at a time to represent them in the co-operation and before the protection authorities. The delegate is also entitled to see all documents relating to the protection of workers. In a working place having at least 20 workers there shall be a protection commission composed of representatives of the employer, the employees and the administrative staff. The commission shall be established for a term of two years at a time. If an agreement cannot be reached about its establishment, the number of its members or the representation of different groups, the matter shall be submitted to the appropriate district authority for his decision.

If, by an inspection or otherwise, defects or bad conditions are discovered in the buildings, installations or other circumstances, the inspector shall give the employer, after hearing his or his representative's views, appropriate instructions for repairing the defects or eliminating the bad conditions. A time-limit may be fixed for taking these measures. The protecting authority may also, if necessary, oblige the employer to take these measures under penalty of fine or by threatening that the measure will have to be taken at the expense of the employer or that work in such a place or by such an installation will be suspended. If an attempt is made to prevent or disturb an inspection or investigation, police authorities shall give their assistance.[16]

2. Right to remuneration in case of employer's bankruptcy

In case of bankruptcy or insolvency of the employer, the workers run the risk of being left without payment of their wages. In order to eliminate this risk, the State assumed, under Act No. 649 on the security of wages, of 10 August 1973,[17] the obligation to guarantee the payment of wages in such cases. An application to this effect shall be filed with the Ministry of Labour which, when the insolvency of the employer has been properly established, pays the wages due for the three last months before the application. The maximum amount to be paid to one employee shall be fixed by decree. After this arrangement, the claim of the employees against the employer for the payment of wages is transferred to the State.[18]

G. Right to rest and leisure and periodic holidays with pay

(article 24 of the Universal Declaration)

The right to annual holidays with pay has been regulated by law since 1920. Gradually

[15] *AsK* No. 131/73.

[16] Provisions on the implementation of this Act are embodied in Decree No. 954 of 12 December 1973 (*AsK* No. 954/73).

[17] *AsK* No. 649/73.

[18] Provisions on the implementation of this Act are embodied in Decree No. 883 of 5 December 1973 (*AsK* No. 883/73).

this right has been improved, and the relevant legislation has been revised several times.[19] Once again this right has been further developed by Act No. 272 on annual holidays, of 30 March 1973,[20] which replaces the previous Act No. 199, of 30 April 1960, on the same subject. According to the new Act, which partly reaffirms, partly amends the previous Act, workers are entitled to annual holidays at the rate of two working days for each month of employment to be taken into account in this respect. Workers whose employment has continued, at the end of the year preceding the period for holidays, without interruption for at least 10 years are entitled to an annual holiday period consisting of 26 working days for the 12 full months which are to be taken into account in determining the length of the holidays. In this respect, every calendar month of the year preceding the period for holidays, and expiring at the end of March, during which the worker has been employed by the same employer for at least 14 days is considered as a full month. Days when the worker was on vacation or was prevented from working because of sickness (up to a maximum of 75 days during a year), pregnancy and childbirth, or for other reasons enumerated in the Act are also counted as working days.

The period for holidays is between 2 May and 30 September, but in exceptional cases, because of the nature of the work or with the consent of the worker, annual holidays may be given at another time of the year. In all cases the workers shall be paid in advance for the time spent on holidays.[21]

From the point of view of leisure time, various forms of outdoor life play an important role. It has been the rule of customary law in Finland from ancient times that people may freely move in woods and other land not under cultivation without having ownership to such areas, provided that no harm is done and that the local population is not disturbed in the immediate vicinity of their homes.

In order to encourage outdoor activities, such as hiking and camping and, on the other hand, to make it possible for landowners to get compensation for the use of their land for these purposes, new legislation was adopted (Act No. 606 on outdoor life, of 13 July 1973).[22]

According to this Act, hiking routes may be established by an appropriate land-division act, provided that their establishment does not cause appreciable harm to the landowner. For the establishment of such a hiking route, a plan has to be prepared by the communal authorities and approved by the County Government. After the necessary land area has been legally separated for this purpose, the commune shall take care of the preparation and upkeep of the route. Compensation shall be paid to the landowner for the use of his land, either once and for all or at fixed intervals. Similar routes in areas owned by the State may be established by the appropriate State authorities.

If a hiking route is no longer needed, the County Government shall, at the request of the commune or the landowner, suspend its use, and the area shall be turned back to the landowner without compensation.

A camping area may be established with the permission of the County Government. Before making its decision, the County Government shall consult the appropriate Communal Council and local police authorities. As a prerequisite for the permission, the area to be used for camping shall be exactly defined and equipped with the necessary buildings and installations. Furthermore, camping must not be detrimental to those living in the neighbourhood or obvious damage to the natural and other environment.

Camping areas shall have a manager and, if necessary, a person to keep order in the area. If a camping area no longer fulfils the requirements, the County Government may order its closure for a fixed period or cancel the permission given for its establishment.

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19 On this development see *Yearbook on Human Rights for 1960*, pp. 127, 128.

20 *AsK* No. 272/73.

21 At the same time new provisions along the same lines were given on annual holidays for persons in Government service by Decree No. 692 on annual holidays of government officials, of 31 August 1973 (*AsK* No. 692/73) and by Decree No. 693 on annual holidays of persons employed by the state to public service and on compensation to them for annual holidays, of 31 August 1973 (*AsK* No. 693/73).

22 *AsK* No. 606/73.

H. Protection of the environment

(article 25 (1) of the Universal Declaration)

A new body, the Council for Environment Protection, was established by Decree No. 237 of 16 March 1973[23] for the promotion and co-ordination of the protection of the environment in the whole country. It is functioning under the Ministry of the Interior. The task of the Council is to:

(*a*) Take initiatives on the development and co-ordination of legislation and administration concerning the protection of the environment;

(*b*) Take initiatives on the development of research, training and information concerning the protection of the environment;

(*c*) At the request of the Council of State, Ministry, Central Office or Court of Law, give opinions on far-reaching and important matters involving a principle from the point of view of the protection of the environment;

(*d*) Follow up and promote the implementation of the goals of the protection of the environment in community planning and community politics;

(*e*) Promote the aspects of the protection of the environment to be taken into consideration in the planning and realization of schemes which would significantly change the environment;

(*f*) Promote both national and international co-operation in matters concerning the protection of the environment;

(*g*) Perform other tasks under its competence which may be referred to it by the Ministry of the Interior.

The Council consists of a president, a vice-president and a maximum of 23 members who are all appointed by the Council of State for a term of at most three years at a time. Different groups of society, experts in this field and the main authorities charged with tasks concerning the protection of the environment shall be represented in the Council.

I. Right of children to special care

(article 25 (2) of the Universal Declaration)

One of the practical problems for families having children under school age when both parents are employed outside the home has been the lack of any organized system for taking care of the children while the parents are working. This has led to various kinds of provisional solutions without sufficient supervision by the appropriate authorities. By Act No. 36 on the day care of children, of 19 January 1973,[24] this field has been regulated to some extent in order to improve the situation.

The day care of children is defined by this Act to mean:

(*a*) The care of children in an institute particularly established for this purpose and called "day home";

(*b*) The care of children in private homes or in other family-like circumstances, which is called in this Act "family day care", the homes being called "family day homes";

(*c*) The guidance and supervision of games and other activities of children in places or areas particularly reserved for this purpose, either indoors or outdoors.

Day care may be arranged for children under school age and even for older children if particular circumstances so require.

In a "day-home" there may be places for 100 children at the most. There shall be space and apparatuses suitable for the care and education of children, as well as a sufficient number of competent personnel. If a "family day home" takes more than four children, it is governed by the same regulations as those applied to "day-homes". Even if they take fewer than four children, "family day homes" shall be suitable for the care and education of children, and the persons responsible for them shall be capable of taking care of children.

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[23] *AsK* No. 237/73.

[24] *AsK* No. 36/73.

The general direction, instruction and supervision of the scheme of the day care of children is vested in the National Board for Social Affairs. Every year it has to draw up a plan covering the whole country for the next five years. The plan has to be submitted to the Ministry for Social Affairs and Public Health for approval. In each county the day care of children is guided and supervised by the County Government under the direction of the National Board for Social Affairs.

Each municipal and rural commune shall see to it that day care of children is available, arranged or supervised by the commune, on the required scale and in the appropriate form. For this purpose, each commune shall every year draw up a plan for the next five years, which has to be submitted to the National Board for Social Affairs for approval.

The expenses caused by this obligation for the communes are partly compensated by the State according to a classification of the communes as regards their economic strength and other circumstances. The State subsidy may accordingly vary from 35 to 80 per cent of the total expenses.[25]

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[25] Provisions on the implementation of this Act are embodied in Decree No. 239 of 16 March 1973 (*AsK* No. 239/73).

FRANCE

Introduction

The principal laws and regulations affecting human rights published during 1973–1974 are described briefly below, under headings related to the appropriate articles of the Universal Declaration of Human Rights.

In addition, several legislative bills were still pending before the Parliament on 31 December 1974. These included the following: (*a*) a government bill to amend title IX of the Civil Code (dealing with partnership deeds); (*b*) a government bill relating to the transmission from one creditor to another of claims under civil law secured by a lien on real estate; (*c*) a private member's bill to amend the provisions of the Civil Code on undivided estates; and (*d*) several government bills concerning companies and partnerships governed by commercial law, designed to improve the provisions of the Act of 24 July 1966 as regards information to be supplied to shareholders, publicity in advance of security issues, supervision of companies etc.

Preparatory work was proceeding on other drafts, relating to such subjects as: (*a*) reforms of civil procedure; (*b*) civil liability for traffic accidents and for pollution by hydrocarbons from ships; (*c*) revision of the Bankruptcy Act of 13 July 1967 in the light of experience; (*d*) reform of the law on the administration of estates; (*e*) divorce law reform; (*f*) reform of the legislation on rural leases, the management of large real-estate complexes, and multiple ownership and regulation of the advertising of immovable property for sale or lease; (*g*) protection of the consumer; (*h*) protection of inventions by wage-earners; and (*i*) the influence of modern techniques of data processing on the law of evidence etc. A draft Environment Code was also being prepared, which would group together a number of other drafts, including those relating to the protection of nature, the establishment of a national authority on waste disposal, dumping at sea and the protection of the marine environment.

Reference should also be made to the setting up under the auspices of the Ministry of Justice of a number of commissions to consider problems arising for that Ministry and to suggest solutions. These commissions consist of senior judges, professors of law, lawyers, jurists etc., and their role is purely advisory. The more important of them deal with the following questions: financial offences; corruption; mentally abnormal offenders; downgrading of certain offences and removal of others from the list of punishable offences; criminal record and disqualification from the exercise of certain professions; substitute penalties to replace short prison terms; and fines. There is also a commission to revise the Penal Code.

A. Right to security of person

(article 3 of the Universal Declaration)

Act No. 73–10 of 4 January 1973 concerning the policing of airports[1]

In view of the increasing complexity of the problems raised by the policing of airports, it has proved essential to adopt new legislative provisions defining the scope of such policing, the regulations to be observed and penalties for the prevention and punishment of the offences discovered.

The following forms of policing are covered:

(*a*) General policing, which applies at airports as in the rest of the territory and does not call for any special provisions;

(*b*) Prevention of airport crimes and offences for which there have to be severe penalties owing to the vulnerability of installations designed to ensure the safety of aerial navigation and the serious consequences that may result from the destruction, even partial, of large-capacity aircraft;

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[1] *Journal officiel*, 5 January 1973, p. 230.

(*c*) Policing to protect airport property, the aim being to prevent and punish offences against such property committed without intent to prejudice the safety of aerial navigation, and to enable the administration to restore the premises to their original condition rapidly and at the offender's expense;

(*d*) Operational policing to prevent violations of regulations laid down to permit the normal exercise of airport activities, without prejudice to any provisions that may be taken in application of air traffic regulations.

The provisions of the Act apply at airports open to public air traffic; at airports reserved for the use of State services; at airports for limited use; and at all points where there are installations for air traffic control, aeronautical telecommunications, assistance to air navigation and meteorological assistance.

Special provisions have been laid down to allow for the rapid removal of aircraft liable to hinder aeronautical operations by blocking the runways, airstrips and traffic lanes of airports or their legally required approaches and exits.

B. Right to due process

(articles 10 and 11 of the Universal Declaration)

Decree No. 73-281 of 7 March 1973 amending the Code of Criminal Procedure, part III[2]

Amendments and additions relating, *inter alia*, to the appointment of one or more penalty-enforcement judges at every *tribunal de grande instance* and at every penitentiary institution, to communication between sentenced persons and their defending counsel, to the terms of and procedure for conditional release and to the establishment and organization of probation committees and committees for assistance to released persons.

Decree No. 73-682 of 13 July 1973 to codify legislative texts applying to administrative tribunals[3]

In application of an Act of 18 December 1968 authorizing the codification of texts concerning administrative tribunals, this Decree establishes a first, legislative, part of the Administrative Tribunals Code, containing all provisions relating to the organization and operation of administrative tribunals and to their jurisdictional and administrative competence.

Decree No. 73-683 of 13 July 1973 to codify regulations applicable to administrative tribunals[4]

This Decree establishes part 2 of the Administrative Tribunals Code (public administrative regulations and decrees of the Conseil d'Etat), relating to the organization and operation of administrative tribunals and to their jurisdictional and administrative competence.

Decree No. 73-112 of 17 December 1973 establishing a fourth series of provisions to be incorporated in the new Code of Civil Procedure[5]

In pursuance of the earlier decrees of 9 September 1971 and 20 July and 28 August 1972, this Decree completes the institution of the new Code of Civil Procedure. It is mainly concerned with the judicial administration of evidence: (*a*) preliminary investigation (points checked by the judge himself, personal appearance of the parties, depositions and hearing of witnesses, consultations and expert opinions); and (*b*) questioning of written evidence (verification of handwriting and forgeries).

Among the corollary and miscellaneous provisions, it should be noted that provisional enforcement may henceforth be ordered by the judge *ex officio*.

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[2] *Ibid.*, 10 March 1973, p. 2835.

[3] *Ibid.*, 18 July 1973.

[4] *Ibid.*

[5] *Ibid.*, 22 December 1973.

Decree No. 74–41 of 18 January 1974 concerning collection of fines and pecuniary penalties by Treasury officials[6]

Under article 7 of Act No. 72–650 of 11 July 1972 containing various economic and financial provisions, a simplified procedure of "administrative attachment" (*opposition administrative*) was established for the collection of fines and pecuniary penalties imposed for police-court offences of the first, second and third categories.

The purpose of the Decree of 18 January 1974, issued in application of article 7 of the above-mentioned Act, is to lay down the modalities for applying the new procedure: the form (ordinary letter) of notification of administrative attachment, addressed both to the person liable for payment of the fine or pecuniary penalty and to the third-party holder; the particulars to be included in the notification; and the method of calculating the time-limit on the expiry of which the attachment, counting from the time of its receipt by the person liable, will take effect as regards the third-party holder.

These modalities of application have the same objectives as the general provisions of the Act of 11 July 1972, namely, simplicity, speed, efficiency, elimination of costs and information of the parties concerned.

Decree No. 74–88 of 4 February 1974 amending part 2 of the Code of Criminal Procedure and relating to criminal, correctional and police-court costs[7]

This Decree radically amends book V, title X, of the Code of Criminal Procedure (part 2), as follows:

(*a*) It introduces the adjustments necessitated by recent laws and regulations;

(*b*) It completes the revision of the penal tariff undertaken in Decree No. 72–436 of 29 May 1972 and facilitates the calculation of court costs, particularly as regards the fees payable to motor-vehicle experts, interpreter-translators and court officials (*huissiers*);

(*c*) It considerably simplifies the procedure for payment of court costs, by reducing the number of verifications in the procedure, accentuating the jurisdictional nature of the payment of costs and extending the scope of the simplified procedure for payment of the commoner and less expensive items.

Act No. 70–643 of 16 July 1974 proclaiming an amnesty[8]

In observance of the tradition marking the beginning of the seven-year term of office of a President of the Republic, and motivated by the political wish for pacification, the Government submitted and Parliament enacted the Act of 16 July 1974 proclaiming an amnesty for certain offences committed before 27 May 1974, the date of entry into office of the President of the Republic.

Like earlier amnesty laws, this one contains provisions for amnesty *ipso jure* and for amnesty by decision in individual cases.

As usual, amnesty *ipso jure* extends in the first place to all police-court offences committed before 27 May 1974 (article 1), except for those excluded under article 23.

It then covers (articles 2 to 5), whatever the sentence involved, certain offences committed in connexion with movements in support of political, social or university demands, and other offences which seem specially deserving of clemency because of their trivial nature or of the offenders' motives (*amnistie de droit réel*).

Lastly, it covers (article 6), subject to the exceptions in article 23, all offences committed by persons who have been or are to be sentenced in the final instance either to a fine or to a term of imprisonment, whether or not accompanied by a fine, not exceeding three months, in the case of an unconditional sentence or a suspended sentence with probation, or one year, in the case of an ordinary suspended sentence or of a "mixed"

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[6] *Ibid.*, 20 February 1974, p. 789.

[7] *Ibid.*, 6 February 1974, p. 1395.

[8] *Ibid.*, 17 July 1974, p. 7443.

sentence the unconditional part of which does not exceed three months ("quantum" amnesty).

Amnesty in individual cases (article 9) enables the President of the Republic, in cases where the offences committed do not qualify for amnesty *ipso jure*, to grant amnesty by decree to first offenders for offences committed by them before the age of 21 years or to persons belonging to particularly deserving categories.

So far as its effects are concerned (articles 15 to 20), amnesty does not give entitlement to restitution or reinstatement; but it entails the remission of all main, accessory and additional penalties and exemption from payment of fines and court costs.

Nevertheless, article 23 of the Act excludes from amnesty a certain number of offences which the Government and Parliament deemed to be especially prejudicial to the collective interest, such as fiscal and Customs offences, violations of economic legislation, violations of labour laws and regulations, town-planning offences, offences connected with pollution and a series of other offences of a particularly serious or heinous nature.

The Finance Act for 1975 (No. 74–1129 of 30 December 1974)[9]

Article 20 of the Finance Act for 1975 amends Act No. 72–11 of 3 January 1972 establishing legal aid. The monthly income ceilings of eligibility for legal aid have been raised as follows: for comprehensive legal aid, 1,350 francs instead of 900 francs; for partial legal aid, 2,250 francs instead of 1,500 francs.

Similarly, the indemnity paid by the State to the lawyer appointed to render legal aid has been raised from 600 francs to 800 francs.

In addition, aid can be obtained for any proceedings before the courts concerning a person who has incurred civil liability.

Decree No. 72–1184 of 31 December 1974 concerning judicial experts[10]

This Decree, issued in application of Act No. 71–498 of 29 June 1971, lays down the conditions which physical or legal persons must satisfy in order to be entered on a list of experts (lists drawn up by courts of appeal or the national list), and specifies the authorities competent to examine applications and to decide on entries (general assemblies of the appeals courts expanded to include representatives of the courts of first instance in their judicial area, and the *bureau* of the Court of Cassation, respectively, according to the nature of the list). The same authorities supervise the experts' work. A procedure has been laid down for cases in which entry on the lists is refused.

C. Right to a nationality
(article 15 of the Universal Declaration)

Decree No. 73–643 of 10 July 1973[11]

This Decree concerns the formalities to be observed in the examination of declarations of nationality, applications for naturalization or reinstatement and requests for authorization to renounce the status of French citizen, and also decisions on loss and forfeiture of French nationality.

The text supplements the reform of the nationality law initiated by the Act of 9 January 1973.

Decree No. 74–796 of 23 September 1974 concerning the procedure for disputes concerning the nationality of physical persons[12]

This text completes the reform of the nationality law initiated by the Act of 9 January 1973.

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[9] *Ibid.*, 30-31 December 1974.

[10] *Ibid.*, 5 January 1975.

[11] *Ibid.*, 13 July 1973.

[12] *Ibid.*, 25 September 1974.

D. Property rights

(article 17 of the Universal Declaration)

Decree No. 73–389 of 27 March 1973 relating to the application of article 418–I of the Penal Code[13]

In accordance with this new provision of the Penal Code, the Decree determines the manner in which the land [constituting a military prohibited area] is delimited, and the conditions under which authorization of access to it may be issued.

E. Right to take part in government

(article 21 of the Universal Declaration)

Act No. 74–631 of 5 July 1974 establishing 18 years as the age of majority[14]

The primary purpose of the Act of 5 July 1974 is to lower the age of civil and electoral majority, by substituting the age of 18 years for 21 years in articles 388 and 488 of the Civil Code and in article L.2 of the Electoral Code.

It also draws the principal civil and penal consequences of the lowering of the age of majority and amends certain provisions of the relevant instruments accordingly:

(*a*) Civil Code: provisions concerning emancipation (reduction of the age of emancipation to 16 years), delegation of parental authority and the guardianship system;

(*b*) Nationality Code: provisions concerning the capacity to renounce French nationality, relinquishment of that capacity, residential qualification for acquiring French nationality, naturalization;

(*c*) Commercial Code: new article 2, excluding minors from acting in a commercial capacity;

(*d*) Code of Civil Procedure: abolition of the age limit for testifying in civil cases;

(*e*) Code of Criminal Procedure: various provisions concerning age limits for interpreting, the competence of the Court of State Security with respect to minors, probation procedures decided upon by special juvenile courts, exemption of minors from imprisonment for debt;

(*f*) Ordinance of 2 February 1945 concerning juvenile delinquents: harmonization of various articles with the new provisions, entailing consequentially a restriction of the competence of the juvenile-court judge as regards the execution of measures of supervised education and as regards the area of application of measures decided upon by the juvenile court;

(*g*) Penal Code: articles concerning homosexual acts committed with a minor and procurement of minors;

(*h*) Alcoholic Beverages Retail Shops Code: articles concerning the advertising of alcoholic beverages, employment of female minors in shops selling alcoholic beverages, sale of alcoholic beverages to minors in public places, incitement of minors to drunkenness;

(*i*) Code of Military Justice (amendments for co-ordination only);

(*j*) National Service Code: provisions concerning possible call-up for active service at the age of 18, and capacity of young people to renounce or decline French nationality.

Lastly, the Act of 5 July 1974 contains a certain number of transitional provisions intended, in particular, to protect young people newly come of age from an unduly abrupt transition from a protected situation to one of responsibility.

It should be noted, however, that certain legislative provisions which now refer to the age of 21 years, such as the social and fiscal provisions, have not been changed and that their adjustment has been deferred.

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[13] *Ibid.*, 4 April 1973, p. 3774.

[14] *Ibid.*, 7 July 1974, p. 7099.

Constitutional Act No. 74–904 of 29 October 1974 to revise article 61 of the Constitution,[15] *and Organic Act No. 74–1101 of 26 December 1974*[16]

Deputies and senators may now, if they are 60 in number, require the Constitutional Council to make sure, before a legislative instrument is promulgated, that it is in accordance with the Constitution.

F. Economic, social and cultural rights

(article 22 of the Universal Declaration)

Act No. 73–1193 of 27 December 1973 on guiding principles for trade and crafts[17]

The objectives of this Act are:

(*a*) To define guiding principles for trade and crafts in the areas of the economy, vocational guidance, taxation and social security;

(*b*) To lay down social provisions for special compensatory assistance, sickness and maternity insurance, old age insurance and family allowances;

(*c*) To lay down economic provisions on the role of the chambers of commerce and industry and the craft guilds, on commercial installations and the commercial equipment aspect of town planning, and on improvement of the conditions of competition. Special attention is drawn to the provisions which strengthen the sanctions against mendacious advertising, particularly through the immediate cessation of such advertising, and which now enable consumer protection associations to engage in civil proceedings in all courts of law, if they have been approved for that purpose;

(*d*) To lay down regulations governing the education and vocational training of tradesmen and craftsmen.

Decree No. 74–410 of 9 May 1974 concerning sales of goods or services with bonus[18]

The issue of regulations concerning bonuses, originally introduced to protect tradesmen against certain abuses by dubious concerns, now pursues the more fundamental objectives of fairness of competition, protection of the consumer and the struggle against inflation.

The earlier legislative provisions in force, set out in the Act of 29 March 1951, had the serious shortcoming that they did not cover bonuses offered in connexion with the rendering of services, or bonuses actually consisting of services.

Since then, the situation has been remedied by an amending Act of 29 December 1972, which gives a definition of "bonus" that includes the rendering of services and bonuses offered in connexion with the rendering of services.

The Decree of 9 May 1974 was issued in application of this new Act and merely replaces the former statutory text, namely, the Decree of 7 April 1971.

Decree No. 74–491 of 17 May 1974 applying article 46 of Act No. 73–1193 of 27 December 1973 concerning the approval of consumer protection organizations[19]

Article 46 of the Act of 27 December 1973 on guiding principles for trade and crafts lays down the right of approved consumer associations to engage in civil proceedings in all courts of law with respect to acts directly or indirectly prejudicial to the collective interests of the consumers.

Decree No. 74–491 of 17 May 1974, issued in application of article 46 of the above-mentioned law, lays down the conditions for approval of consumer protection associations.

A distinction is made between national associations, for which approval is granted by joint order of the Garde des Sceaux and the Minister of the Economy and Finance, and

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[15] *Ibid.*, 30 October 1974.

[16] *Ibid.*, 27 December 1974.

[17] *Ibid.*, 30 December 1973.

[18] *Ibid.*, 15 March 1974, p. 5171.

[19] *Ibid.*, 21 May 1974, p. 5482.

local, departmental or regional associations, for which approval is granted by order of the prefect of the *département* in which the association has its head office.

The opinion of the representative of the office of the Procureur Général attached to the appeals court in whose jurisdiction the association has its headquarters must be obtained in all cases.

All approved associations have the same powers.

The criteria laid down for recognition are length of service, nature of activity and representative character.

G. Right to work

(article 23 of the Universal Declaration)

Act No. 73–4 of 2 January 1973 concerning the Labour Code,[20] *amended by Act No. 73–623 of 10 July 1973;*[21] *Decree No. 73–1046 of 15 November 1973 concerning the Labour Code;*[22] *Decree No. 73–1047 of 15 November 1973 introducing into the Labour Code legislative provisions relating to penalties for violations of the Code;*[23] *Decree No. 73–1048 of 15 November 1973 establishing the statutory part of the Labour Code*[24]

All these texts constitute a formal recodification of the Labour Code and of the many laws and decrees which had not been incorporated in it.

Act No. 73–608 of 6 July 1973 relating to the prevention and punishment of traffic in manpower[25]

The requirements of industrial development have led to the proliferation of enterprises specializing exclusively in the supply of manpower. By drawing on workers, mostly immigrants, who are in a precarious situation and are unaware of their social rights, they can easily evade their obligations as employers and thus make substantial profits. Although "trafficking" practices are prohibited under book I, article 306, of the Labour Code, the particularly restrictive way in which the Court of Cassation has interpreted this article has in fact completely vitiated its effects: under this interpretation, three requirements have to be met for the article to have punitive force—a material act, damage caused to the worker and intent to harm. The new Act lays down a broader area of incrimination, on the basis of two concepts: damage caused to the worker and *de facto* non-observance of laws, regulations and collective conventions, which is easy to prove.

Finally, it was observed that certain employers reimbursed to the worker the fee that they should have paid to the National Immigration Office in return for the services rendered by that office at the time of the worker's entry or of the regularization of his situation. While such reimbursement was not prohibited by law, the authorities were deprived of the means of ensuring the workers' protection. Article 4 of the new Act therefore prohibits this practice. The prohibition also extends to the reimbursement of any travel costs that may be claimed by the administration.

Act No. 73–680 of 13 July 1973 amending the Labour Code with respect to the termination of indefinite labour contracts[26] *and Decree of Application of 10 August 1973*[27]

These texts introduce three innovations: (i) institution of a dismissal procedure designed to compel the employer to reflect on each case and to oblige him officially to reveal the reason for dismissal; (ii) affirmation of the need for a valid and serious reason

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[20] *Ibid.*, 3 January 1973.

[21] *Ibid.*, 11 July 1973.

[22] *Ibid.*, 21 November 1973.

[23] *Ibid.*

[24] *Ibid.*

[25] *Ibid.*, 7 July 1973, p. 7340.

[26] *Ibid.*, 18 July 1973.

[27] *Ibid.*, 15 August 1973.

to justify dismissal and for more flexible rules of evidence; and (iii) organization of penalties for unjustified dismissal, with the introduction of reinstatement, optional in all cases, and, as an alternative to reinstatement, a larger indemnity than that generally allocated before.

These provisions also apply to employees who have been seconded by their firms to a foreign branch.

Act No. 73–1194 of 27 December 1973 to ensure payment of debts under labour contracts in the event of a judicial settlement or liquidation[28]

Every commercial employer must insure the wage-earners he employs against the risk of non-payment of their wages and of the benefits due to them in the event of a judicial settlement or liquidation.

This insurance is financed by employers' contributions paid to an association which is to be established by national professional employers' organizations, like the one already set up for unemployment insurance.

In the case of bankruptcy, if the receiver cannot pay the employees all or part of their "superpreferential" debts within 10 days, or other debts due under the labour contract or under a profit-sharing scheme within three months, the outstanding amounts will be paid, within the limits of a ceiling, by the aforesaid association, which will thus enter into the rights of the beneficiaries.

Act No. 73–1195 of 27 December 1973 concerning the improvement of working conditions[29]

This Act relates to:

(*a*) Provisions applicable to bodies responsible for the improvement of working conditions; it expands the role of the works council and provides for the establishment within the council, in the case of concerns employing more than 300 workers, of a special commission and an agency for the improvement of working conditions;

(*b*) Health and safety at work;

(*c*) The planning of working time at all enterprises, particularly through the introduction of individualized time-tables or reduced working hours by way of exception from the collective time plan.

This text will be codified in the new Labour Code.

Act No. 73–1197 of 27 December 1973[30]

This Act amends Ordinance No. 59–126 of 7 January 1959 to promote profit-sharing in enterprises, Ordinance No. 67–693 of 17 August 1967, as amended, concerning the participation of wage-earners in profits from the expansion of enterprises, and Ordinance No. 67–694 of 17 August 1967 concerning enterprise savings plans.

Act No. 73–1196 of 27 December 1973 concerning subscription for or acquisition of shares in companies by their employees[31]

This Act governs capital increases through the issue of shares reserved for company employees, and market purchases of company shares by employees.

Decree No. 74–783 of 12 September 1974 amending the regulation contained in book 5, title I, of the Labour Code, concerning conciliation (prud'homme) procedures[32]

The reform of civil procedure begun in 1971 has given rise to the publication of four decrees (No. 71–740 of 9 September 1971, No. 72–684 of 20 July 1972, No. 72–788 of 28 August 1972 and No. 73–1122 of 17 December 1973), most of whose provisions are

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[28] *Ibid.*, 30 December 1973.

[29] *Ibid.*, 30 December 1973.

[30] *Ibid.*

[31] *Ibid.*

[32] *Ibid.*, 15 September 1975.

common to all civil jurisdictions of the judiciary. The purpose of the decree of 12 September 1974 is to bring up to date the specific rules of procedure for the Conseil de prud'-hommes.

The main innovations of this Decree, which has been inserted in the new Labour Code, are as follows:

(1) *Institution of emergency arrangements.* The conciliation board henceforth has the power to take provisional action even if the defendant does not appear (article R 516–18 of the Labour Code). The Conseil de prud'hommes may establish a system of summary procedure (article R 514–4), which will be useful mainly when there is a fairly long interval between two meetings of the conciliation board.

(2) *Acceleration of procedures.* The practice, followed in Paris, of appointing a person to conduct the inquiry has been made official. The person in charge of the inquiry has more extensive duties than before and can now appoint one or two experts.

(3) *Submission of new claims.* Even at the appeal stage, the plaintiff may for the first time submit new claims directly connected to the labour contract without their having to pass through the conciliation procedure (article R 516–2). The judges can thus obtain an all-round knowledge of a dispute arising from the breach of a labour contract, and the employee is not enmeshed in procedural tangles as was the case under the old legislation.

(4) *Simplification of formalities.* The parties are convened by the secretariat and no longer through the agency of a process-server. The judgement is notified in the same way. Appeal formalities have been simplified. The number of cases in which an employee can apply to the Conseil de prud'hommes in whose area of jurisdiction his place of domicile falls has been increased.

H. Right to an adequate standard of living; social protection
(article 25 of the Universal Declaration)

1. Environment

Decrees Nos. 73–218 and 73–219 of 23 February 1973 concerning the application of articles 2, 6, 40 and 57 of Act No. 64–1245 of 16 December 1964 relating to water regulations and water supply and to pollution control[33]

The first of these decrees concerns the issuing, amendment and withdrawal of permits for the direct or indirect discharge, release, pouring out or deposit of water or other substances and more generally for any act capable of affecting the quality of surface or ground waters or of the waters of the territorial sea.

The second decree requires a declaration to be filed for any installation which includes facilities for drawing off ground water to supply one or more establishments for non-domestic users.

Act No. 73–477 of 16 May 1973 relating to the pollution of the sea by hydrocarbons[34]

The purpose of this Act is to impose penalties heavier than those specified in the Act of 26 December 1964 and also to give effect to the amendments to the London Convention of 12 May 1954 adopted on 21 October 1969. Breaches of article 3 of the Convention are henceforth punishable with a fine of 10,000 to 100,000 francs and imprisonment for a period of not less than 3 months and not more than 2 years; if the offence is repeated, the penalties are doubled.

Lighter penalties are laid down for vessels with an engine power of 200 h.p. or more but a displacement of not more than 500 tons (or 150 tons for tankers). This amendment seems logical, because the consequences of the offence on the marine environment are less serious.

The new Act gives general scope to the provisions which make the owner or operator of a vessel punishable when the offence has been committed on his orders.

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[33] *Ibid.*, 2 March 1973.

[34] *Ibid.*, 17 May 1973, p. 5927.

Decree No. 74–415 of 13 May 1974 relating to air pollution control and to certain uses of thermal energy[35]

Two basic items of legislation govern the regulation and control of the emission of pollutants and odours into the atmosphere: the Act of 10 March 1948 on the uses of energy and the Act of 2 August 1961 relating to the control of air pollution and odours.

A great many implementing regulations have been issued since 1967 pursuant to these two Acts, and a decree was accordingly issued on 13 May 1974 to assemble, recast and simplify these scattered provisions, and to introduce a less cumbersome procedure involving the more frequent use of ministerial orders to regulate the subject in detail.

The main provisions of the Decree concern, in particular: the setting aside of special protection zones in the areas most exposed to air pollution; the requirements imposed upon operators of polluting establishments; the technical standards laid down for the manufacture, importation or offering for sale of equipment for combustion or heating; the periodic inspection of combustion or heating installations by approved experts or bodies.

Breaches of the provisions of this Decree constitutes police-court offences of the fifth category and are punishable with a fine of between 600 and 2,000 francs.

Decree No. 74–494 of 17 May 1974 to publish the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, signed at Oslo on 15 February 1972[36]

The purpose of this Decree is to publish the Oslo Convention of 15 February 1972 approval of which by France was authorized by Act No. 73–1198 of 27 December 1973.

The Oslo Convention, which marks a step forward in the struggle for the control of marine pollution, supplements the London Convention of 12 May 1954, which was aimed only at the prevention of oil dumping. It aims, for the first time at the international level, at preventing the dumping of toxic products of all kinds.

This Convention, however, is of a regional character since it relates only to the Baltic, the North Sea and the North Atlantic.

2. Maintenance

Decree No. 73–216 of 1 March 1973 concerning the application of Act No. 73–5 of 2 January 1973 relating to the direct payment of maintenance awards[37]

This Decree specifies in detail the procedure to be observed for obtaining direct payment of maintenance awards.

3. Affiliation

Circular of 2 March 1973 relating to the application of the Act of 3 January 1972 amending the law on affiliation[38]

This circular follows and supplements two earlier circulars of 17 July 1972 (*Journal officiel* of 20 July 1972) dealing with declarations of birth, the names of illegitimate children, the legitimation of illegitimate children by subsequent marriage, the scope of the legal provisions on adoption and on affiliation, and certificates of identity.

4. Collective lodgings

Act No. 73–548 of 27 June 1973 relating to collective lodging[39]

It was essential that the abuses committed in the clandestine exploitation of premises used mainly as collective lodgings should become a distinct legal offence to which specific penalties are attached, an offence which can be easily prosecuted and punished on the

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[35] *Ibid.*, 15 May 1974.

[36] *Ibid.*, 21 May 1974, p. 5493.

[37] *Ibid.*, 2 March 1973.

[38] *Ibid.*, 28 June 1973.

[39] *Ibid.*, 28 June 1973.

initiative of a private individual or an administrative service, bringing successively into action the *Ministère public* and the courts.

The Act accordingly specifies that every operator of premises used mainly as collective lodgings must make a declaration to the *Préfecture* authorities, but that a person making such a declaration cannot thereby claim to have been authorized to carry out this activity. The activity remains entirely free, but it will now be easier for the authorities to see that the laws and regulations are observed.

The Act provides that an operator convicted and sentenced for failure to make a declaration may be forbidden to operate premises of any kind for the same purpose for a maximum period of three years.

Any decision to close the premises must specify the steps taken to rehouse the occupants in accordance with their circumstances.

The penalties laid down are sufficiently heavy to act as a deterrent, since they can be as high as three years' imprisonment.

5. Insurance

Decree No. 73–587 of 29 June 1973 concerning the application of Act 72–1130 of 21 December 1972 on insurance of civil liability risks in connexion with the movement in traffic of certain types of land motor vehicles[40]

This Decree supplements the provisions of EEC directive No. 72/166 of 24 April 1972 abolishing the frontier inspection of international insurance cards.

The Decree contains, *inter alia*, provisions on compensation for damages arising from accidents caused in the territory of the six original EEC member countries.

Decree No. 73–611 of 29 June 1973 determining the conditions of application of the new article 5b is added by the Act of 11 July 1972 to the Act of 13 July 1930 relating to insurance contracts[41]

This Decree specifies the circumstances in which an insurance contract may be terminated.

6. Town planning

Decrees Nos. 73–1022 and 73–1023 codifying the laws and regulations on town planning and revising the Housing and Town Planning Code[42]

These two decrees together constitute the new French Town Planning Code, enacted pursuant to an Act of 30 June 1972 relating to the codification of the legislation on town planning, building and housing, expropriation on grounds of public utility, the highway system, publicly owned watercourses and inland navigation.

7. Birth control

Act No. 74–1026 of 4 December 1974 containing a number of provisions on birth control[43]

This Act amends Act No. 67–1176 of 28 December 1967 relating to birth control, with the aim of facilitating the use of contraceptives and encouraging the future development of family planning and guidance centres.

The main changes made to the Act of 28 December 1967 relate to the following points:

(*a*) Abolition of the restrictions placed by the 1967 legislation on the issuing of contraceptives: the entry on a special register, the use of a counterfoil book, and the written consent of a parent for minors, are no longer required. The only requirement which remains, for it is essential, is possession of a medical prescription;

(*b*) Introduction of more flexible rules to govern publications on and advertising of contraceptives: advertising is no longer expressly forbidden, so that the appropriate

[40] *Ibid.*, 1 July 1973.

[41] *Ibid.*, 7 July 1973.

[42] *Ibid.*, 13 November 1973.

[43] *Ibid.*, 5 December 1974, p. 12,123.

institutions and centres will now be able to provide the public with the necessary information on contraceptives. Propaganda against births, however, remains forbidden and commercial advertising is strictly controlled;

(*c*) Broadening of the functions of maternal and child protection centres to include family planning problems;

(*d*) Reimbursement of the cost of contraceptives by the social insurance scheme.

8. Civil liability

Act No. 74–1118 of 27 December 1974 relating to the revaluation of certain annuities payable as compensation for damages caused by land motor vehicles and containing a number of provisions on civil liability[44]

The above-mentioned annuities may be revalued upwards where the beneficiary is the victim of a traffic accident suffering from an invalidity of 75 per cent or more, or where the beneficiaries are the former dependants of the deceased victim. The increase, however, is applied to that part of the annuity which is less than eight times the mean wage determined by ministerial order.

These increases will be financed through annual contributions proportional to the amount of the insurance premium.

The provisions of this Act replace those of Act No. 51–695 of 24 May 1951, for which they preclude any other form of indexation.

I. International agreements

(article 28 of the Universal Declaration)

Decree No. 74–360 of 3 May 1974 to publish the European Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4 November 1950 and its Additional Protocols Nos. 1, 3, 4 and 5 signed on 20 March 1952, 6 May and 16 September 1963 and 20 January 1966, and the declarations and reservations made by the Government of the French Republic upon ratification[45]

The purpose of this Decree is to publish the European Convention for the Protection of Human Rights and Fundamental Freedoms, the ratification of which by France was authorized by Act No. 73–1227 of 31 December 1973.[46]

It should be noted that, upon ratifying the Convention, the French Government, following in this respect the example of many other signatory States, formulated a number of reservations or interpretative declarations on certain points in the Convention: compatibility of the rules of military discipline with articles 5 and 6 of the Convention; compatibility of the statute of the French broadcasting authority (ORTF) with article 10 of the Convention; compatibility of emergency legislation and of article 16 of the French Constitution with article 15 of the Convention.

Moreover, although the French Government has made a declaration accepting the compulsory jurisdiction of the European Commission on Human Rights, it has only done so in respect of complaints entered by States, and has specifically ruled out the Commission's jurisdiction in respect of petitions by individuals.

Act No. 74–1078 of 21 December 1974 relating to the operations of insurance companies governed by the laws of States members of the European Economic Community, and introducing simplifications into the law of insurance[47]

The purpose of this Act is to incorporate into French internal law the provisions of Directives Nos. 73/239 and 73/240 of the Council of the European Communities of 24 July 1973 by amending the Act of 15 February 1917 and the Decree of 14 June 1938 relating to insurance firms.

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[44] *Ibid.*, 28 December 1974.

[45] *Ibid.*, 4 May 1974, p. 4750.

[46] *Ibid.*, 3 January 1974, p. 67.

[47] *Ibid.*, 22 December 1974.

GERMAN DEMOCRATIC REPUBLIC

Introduction

In the years 1973 and 1974, in line with the continuous development of the socialist society in the German Democratic Republic, government policy was geared to further elaborating citizens' fundamental rights.

The decisions of the Eighth Congress of the Socialist Unity Party of Germany in 1971 provided the guidelines for the further development and improvement of legal provisions concerning fundamental rights. Special mention should be made of the social policy programme as a result of which living standards are being substantially improved. This purpose is also served by the laws and decrees enacted during the period under review. They focus on the implementation of those fundamental rights which benefit material and social living conditions.

On 23 September 1973, the announcement of the coming into force of the Charter of the United Nations for the German Democratic Republic was published.[1]

Moreover, on 8 November 1973 the German Democratic Republic ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.[2]

In the light of the advancement and further development of socialist society, the Law Amending the Constitution of the German Democratic Republic was enacted on 7 October 1974. The Constitution as amended provides for and guarantees the fundamental rights of citizens in a comprehensive manner.

The Constitution, in article 2, paragraph 1, provides that the decisive task of the advanced socialist society is the further raising of the living and cultural standards of the people on the basis of a high growth rate of socialist production, increased efficiency, scientific and technological advance and growing labour productivity.

Article 8, paragraph 1, provides that the generally accepted rules of international law serving peace and peaceful international co-operation are binding upon the State and every citizen.

Under article 19 of the Constitution the German Democratic Republic guarantees to all citizens the exercise of their rights and their participation in the guidance of social development. It guarantees socialist legality and legal security. Respect for and protection of the dignity and freedom of the personality are mandatory for all State organs, all social forces and each individual citizen.

Article 20 provides that every citizen has the same rights and duties, irrespective of nationality, race, philosophy or religious confession, social origin or position. Freedom of conscience and freedom of belief are guaranteed. All citizens are equal before the law. Men and women have equal rights and have the same legal status in all spheres of social, State and personal life. The promotion of women, particularly with regard to vocational qualification, is a task of society and the State. The social and vocational development of young people is especially promoted. They have every opportunity for responsible participation in the development of the socialist order of society.

Other provisions of the new Constitution that concern human rights and fundamental freedoms are referred to below under headings related to specific articles of the Universal Declaration of Human Rights.

The basic rights and duties enshrined in the Constitution and defined in greater detail in many laws give all citizens the opportunity to take an active part in organizing social relations and in exercising State power. Basic rights and duties cannot be separated from

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[1] *Gesetzblatt II*, 1973, No. 14, p. 145.

[2] *Gesetzblatt II*, 1974, No. 6, p. 57; and No. 7, p. 105.

For information on the ratification of, or accession to, other international agreements by the German Democratic Republic, see p. 298–299, 304–311 below.

each other. They are guaranteed politically by working-class power, materially by public ownership, rising labour productivity and national income and juridically by comprehensive legislation defining individual basic rights and duties (e.g., the Labour Code and the Socialist Education Act). The Constitution stipulates that all basic rights are direct and binding law. Provisions on State and public control and appellate procedures guarantee the respect of basic rights.

In the German Democratic Republic there is no discrimination against any section of the population. Every citizen has the same rights and duties irrespective of his sex, nationality, race, opinions, faith, social background or status.

A. Right to protection of the law

(articles 3–12 of the Universal Declaration)

Constitutional provisions

Part IV of the new Constitution is entitled "Socialist legality and the administration of justice".

Articles 90 and 91 provide that it is the joint concern of socialist society, its State and all citizens to combat and prevent crime and other violations of law: Citizens' participation in the administration of justice is guaranteed. The generally accepted norms of international law relating to the punishment of crime against peace and humanity and of war crimes are directly valid law. Crimes of this kind do not fall under the statute of limitations.

According to articles 95 and 96, all judges, lay judges and members of social courts are elected either by popular representative bodies or directly by the citizens. The judges, lay judges and members of social courts are independent in their administration of justice. They are bound only by the Constitution, laws and statutory regulations of the German Democratic Republic.

Articles 99 to 102 contain the following provisions: Legal responsibility is determined by the laws of the German Democratic Republic. An act is punishable only if it was defined in law at the time of its commission, if the offender has acted in a culpable way, and if his guilt is proved beyond doubt. Penal laws have no retroactive effect. Every prosecution must be in accordance with the penal laws. The rights of citizens may be limited in connexion with a criminal proceeding only to such an extent as is legally permissible and indispensable. Detention on remand may only be authorized by a judge. Persons under arrest must be brought before a judge not later than one day after their arrest. Within the framework of their responsibility the judge or the public procurator have to examine at any time whether the conditions for detention on remand still prevail. The public procurator must inform the next of kin of the arrested person within 24 hours after the first judicial interrogation. Exceptions to this rule are permissible only if by such notification the purpose of the investigation is jeopardized. In this case notification takes place after the reasons for the jeopardy have ceased to exist. No one shall be deprived of his lawful judge. Special courts are inadmissible. Every citizen has the right to be heard in court. The right to defence is guaranteed throughout the whole criminal procedure.

Under article 103 every citizen may submit petitions (proposals, suggestions, applications or grievances) to the popular elected bodies and their deputies, or to State and economic organs. This right also applies to social organizations and collectives of citizens. They may be exposed to no disadvantage as a result of exercising this right. The organs responsible for a decision must deal with such proposals, suggestions or grievances of citizens or collectives within the legally prescribed time and notify the applicants of the results.

Article 104 states that in the case of damage inflicted on a citizen or his personal property as the result of unlawful actions of employees of State organs, liability lies with the State organ whose employee caused the damage.

In part II, chapter 1, of the Constitution, entitled "Basic rights and duties of citizens", article 30 provides that the person and liberty of every citizen are inviolable. Limitations are permissible only in connexion with punishable acts or curative treatment and must be legally based. In this respect the rights of such citizens may be limited only insofar as is legally permissible and unavoidable. Every citizen has the right to the assistance of State and social organs for the protection of his liberty and the inviolability of his person.

Article 31 provides that postal and telecommunication secrecy is inviolable. It may be limited only on a legal basis if it is necessary for the security of the socialist State or for criminal prosecution.

Act on the constitution of the courts (Court Constitution Act) of 27 September 1974[3]

This act regulates the fundamentals of the jurisdiction of district courts, county courts, military courts, superior military courts and the Supreme Court, as well as the tasks, competence and organization of district courts, county courts and the Supreme Court and the election of the professional and lay judges of these courts.

Section 3 provides that jurisdiction and the activities of the courts connected therewith have to contribute toward solving the tasks of the socialist State power in shaping the advanced socialist society, above all: to protect the socialist State and social order, the socialist economy and socialist property from attacks and infringements; to protect, preserve and enforce the legally guaranteed rights and interests of the citizens; to promote socialist relations between the citizens, between them and society and between them and their State; to strengthen the socialist political and legal consciousness of citizens and to increase their social activity, vigilance and intolerance of all breaches of the law; to protect, preserve and enforce the legally guaranteed rights and interests of the State authorities, the leading economic bodies, combined works, enterprises, co-operatives, institutions and mass organizations; to assist the leaders of the State and economic authorities, combined works, enterprises, institutions and co-operatives and the executives of the mass organizations in the fulfilment of their responsibilities for the safeguarding of legality, public order, security and discipline, as well as to work for the consistent fulfilment of the duties connected with this responsibility.

Section 8 stipulates that all citizens are equal before the law and in court, irrespective of their nationality, race, ideological or religious belief, and social position.

Section 9 states that by making use of their fundamental democratic right to participate in shaping political and social matters, the citizens take part in jurisdiction, especially as lay judges and representatives of collectives of working people and mass organizations.

Under sections 10 and 11, court trials are public and anyone taking part in court proceedings whose rights and interests are affected by them is entitled to participate in the trial, to make statements and to submit petitions. Courts are bound to discuss at the trial any facts relevant to their decision and to base their decision upon them.

As regards the court language, section 12 provides that persons who cannot speak German may use their native tongue or, with the court's consent, any other language if this facilitates communication. The court shall supply an interpreter free of charge. This also applies to deaf and dumb persons. In the home districts of the Sorbian people, Sorbs are entitled to use their native tongue in court.

With reference to the right to representation and defence, the Court Constitution Act states in its section 13 that every citizen has the right to be represented in court in order to safeguard his legally guaranteed rights and interests in litigation or other legal matters in the fields of civil, family and labour law. Working people may, in matters of labour law, be represented by representatives of the Confederation of Free German Trade Unions (FDGB). Every person accused and every defendant has the right to be defended in criminal proceedings. He may be represented or defended by a lawyer who is registered in the German Democratic Republic.

Law amending the Code of Criminal Procedure of 19 December 1974[4]

Excerpts from the provisions of this law relating to custody are given below.

Section 122, concerning prerequisites for ordering custody, provides as follows:

"(1) An accused person or defendant may be taken into custody only if there are cogent grounds for suspicion and if:

...

[3] *Gesetzblatt I*, 1974, No. 48, p. 457.

[4] *Gesetzblatt I*, 1974, No. 64, p. 597.

"3. the conduct of the accused or defendant shows a repeated, reiterated and considerable disrespect towards criminal law, and, consequently, involves the risk of repetition;

"4. the offence which is the subject of the proceedings is to be punished with detention or as a military offence with penal confinement, and if punishment involving detention is to be expected."

Section 123, as amended, reads as follows:

"Custody may be ordered or maintained only to the extent that this is inevitable for carrying out court proceedings. In deciding on the necessity of ordering or maintaining custody, account shall be taken of the nature and gravity of the charge, the personality of the accused or defendant, his state of health, his age and domestic conditions."

Paragraph 2 of section 132, relating to revocation of a warrant of arrest, now reads as follows, the former paragraph 2 becoming paragraph 3:

"(2) It can be decided not to revoke a warrant of arrest based on the grounds given in section 122, paragraph 1, subparagraph 2, even if the defendant has been sentenced to imprisonment of less than two years, insofar as this is justifiable under section 123."

B. Freedom of movement

(article 13 (1) of the Universal Declaration)

Under article 32 of the Constitution, every citizen has the right to move freely within the State territory of the German Democratic Republic within the framework of the laws.

C. Protection of marriage and the family

(article 16 of the Universal Declaration)

Article 38 of the Constitution provides that marriage, the family and motherhood are under the special protection of the State. Every citizen of the Republic has the right to respect for, protection and promotion of his marriage and family. This right is guaranteed by the equality of man and wife in marriage and in the family, and by social and State assistance to citizens in promoting and encouraging their marriage and family. Large families, and mothers or fathers living alone and caring for children receive the support of the socialist State through special measures.

Mother and child enjoy the special protection of the socialist State. Maternity leave, special medical care, material and financial support during childbirth, and children's allowances are granted. It is the right and the supreme duty of parents to educate their children to become healthy, happy, competent, universally educated and patriotic citizens. Parents have a right to a close and trustful co-operation with the social and State educational institutions.

D. Right to own property; rights of authors and inventors

(articles 17 and 27 (2) of the Universal Declaration)

Article 11, paragraphs 1 and 2, of the Constitution provides that the personal property of citizens and the right of inheritance are guaranteed and that the rights of authors and inventors are protected by the socialist State.

Under article 16 of the Constitution, expropriation is permissible only for the public weal, on the basis of law and against appropriate compensation.

E. Freedom of conscience and religion

(article 18 of the Universal Declaration)

As regards the right to freedom of conscience and religion, article 39 of the Constitution provides that every citizen has the right to profess a religious creed and to carry out religious activities. The churches and other religious communities conduct their affairs and carry out their activities in conformity with the Constitution and the legal regulations of the Republic. Details can be settled by agreement.

F. Freedom of opinion and expression
(article 19 of the Universal Declaration)

Under article 27 of the Constitution, every citizen has the right, in accordance with the spirit and aims of the Constitution, to express his opinion freely and publicly. Freedom of the press, radio and television is guaranteed.

G. Right of peaceful assembly and association
(article 20 of the Universal Declaration)

According to article 28 of the Constitution, all citizens have the right to assemble peacefully within the framework of the principles and aims of the Constitution.

Article 29 provides that citizens have the right of association in order to defend their interests, in accordance with the principles and aims of the Constitution, by joint action in political parties, social organizations, associations and collectives.

H. Right to take part in government
(article 21 of the Universal Declaration)

According to article 21 of the Constitution, every citizen of the German Democratic Republic is entitled to participate fully in shaping the political, economic, social and cultural life of the socialist community and the socialist State.

As regards the right to vote, article 22 provides that every citizen of the German Democratic Republic who is 18 years of age or more on election day has the right to vote. Every citizen can be elected to the People's Chamber and the local popular representative bodies if he has reached the age of 18 on election day. The management of the elections by democratically formed electoral commissions, popular discussion on basic questions of policy, and the nomination and examination of candidates by the voters are inalienable socialist electoral principles.

Law on the local popular representative bodies and their organs of 12 July 1973[5]

This law was enacted to further the right of every citizen to take part in the government of the country, directly or through freely chosen representatives. The main purposes of the law are as follows: to increase the responsibility and role of the popular representative bodies as organs of the socialist State power of workers and farmers in the counties, districts, municipalities, municipal boroughs and communities; to strengthen the authority of the deputies; and to further develop and perfect socialist democracy.

The new law is directly connected with the Law on the Council of Ministers of the German Democratic Republic adopted by the People's Chamber on 16 October 1972. The two laws lay down the responsibilities and rights of the Council and Ministers and of the local organs of State power so that, on the basis of the laws of the People's Chamber, the socialist State policy may be more effectively implemented by all elected bodies for the well-being of all citizens.

The new law also represents an important step towards the implementation of the decisions taken in 1972 by the Eighth Congress of the Socialist Unity Party of Germany (SED). The general spirit of those decisions was to provide a healthy, happy and cultural life for all people.

Proceeding from the basic tasks to be fulfilled, the concrete tasks, rights and duties of the local popular representative bodies and their organs are set forth in three chapters, which contain a basic orientation on the tasks connected with the determination of rights and duties for the individual spheres of direction. These provisions are not non-binding programme norms but generally binding legal provisions. At the same time they impart a picture of the breadth and responsibility of the tasks to be solved by the local popular representative bodies concerned. The tasks of the popular representative bodies and their councils, including competence in the field of management and planning, and in budget and financial policy, the planning of labour power, security, order and civil defence, are set forth and provided with concrete rights required for a real exercise of power.

[5] *Gesetzblatt I*, 1973, No. 32, p. 313.

The new law promotes the purposeful co-operation of the people by further perfecting and making precise the basic right of the people contained in the Constitution to share in the comprehensive organization of social life. It is a characteristic feature of socialist democracy to discuss the decisive problems of social development with all strata of the people and derive the necessary steps to their solution from the sum total of ideas and suggestions. In this the town or community is indisputably the place in which the citizen can make direct use of his basic right to co-operate in shaping social life. Out of this arises the duty of the local popular representative bodies and their organs to inform the people in good time and thoroughly, to consult with them regularly, above all on problems of the further improvement of working and living conditions, and to involve them in the preparation of decisions, in enforcing them and also in following them up.

Decree of the Council of State on the elections to the People's Chamber and the local popular representative bodies (Rules of Election Procedure) of 31 July 1963, as amended in February 1974

During the period under review this decree came into force. Some of its most important provisions are given below.

For the purpose of conducting the elections to the People's Chamber and to local popular representative bodies, the following returning commissions are formed (sect. 1):

(*a*) The returning commission of the Republic;

(*b*) One returning commission for every county, district, city, urban district and village;

(*c*) One returning commission each for every constituency.

The duties of the returning commission of the Republic are set out in section 3. It is responsible for the conduct of the elections on the whole of the territory of the German Democratic Republic. It gives guidance to the returning commissions of the countries, districts, cities, urban districts and villages and to the constituency returning commissions, besides supervising the observance of legal provisions in regard to the elections to the People's Chamber and to local popular representative bodies. It issues directives in accordance with the Election Law and the Rules of Election Procedure and arranges for the printing of the necessary forms to ensure an orderly progress of the elections.

In connexion with the elections to the People's Chamber the returning commission of the Republic has a number of special duties to attend to:

(*a*) It prepares the elections to the People's Chamber and is responsible for their conduct;

(*b*) It gives guidance to the constituency returning commissions for the elections to the People's Chamber and supervises their activities;

(*c*) It passes final decisions on complaints against the activities of returning commissions and of state authorities in connexion with the elections to the People's Chamber;

(*d*) It invites the submission of names of proposed candidates for election to the People's Chamber;

(*e*) It examines the names of candidates admitted by the constituency returning commissions for compliance with legal provisions, approves them and passes a final decision on the rejection of candidates proposed for election to the People's Chamber;

(*f*) It arranges for the printing of ballot papers for elections to the People's Chamber;

(*g*) It establishes the result of the poll and arranges for its publication;

(*h*) It delivers to the scrutiny committee of the People's Chamber the ballot papers and relevant documents for elections to the People's Chamber and it notifies the elected deputies and successor candidates.

Section 12 of the decree provides that for each polling district a polling station committee is formed by the village council, town council or urban district council at the latest 15 days before polling day.

Citizens nominated by the National Front of the German Democratic Republic are presented to the electorate of the particular constituency at electors' delegate conferences. The electors' delegates are to be elected at meetings of working persons. Electors' delegate

conferences or, in small localities, voters' meetings comment on the candidates and the order in which they appear on the nomination list, and adopt a relevant decision. Candidates are obliged to present themselves to the electorate at voters' meetings in their constituency, to answer questions on their previous public activities, their future work in the local popular representative body and on the way they intend to discharge their duties as deputies. The electors' delegates and the members of the electorate may propose the removal of candidates from the nomination list.

Section 33 provides that while polling is in progress the ballot papers are collected and kept in the ballot box. The ballot box must be so designed as to meet the required conditions and ensure the secrecy of the ballot.

Under section 34 of the decree, the polling station committee is responsible for the provision of one or more polling booths on the premises of the station. They must be screened to permit the marking of the ballot papers free from observation.

Polling takes place in public, as provided in section 35, as a rule between 7 a.m. and 8 p.m. An earlier start or an extension of polling hours until 10 p.m. at the latest may be arranged by the constituency returning commission or by the city returning commission of the urban district.

Candidates are elected if they receive a majority of valid votes (sect. 39).

I. Right to work; right to just and favourable remuneration

(article 23 of the Universal Declaration)

According to article 24 of the Constitution, every citizen has the right to work. He has the right to employment and its free selection in accordance with social requirements and personal qualifications. He has the right to pay accordingly to the quality and quantity of the work. Men and women, adults and young people have the right to equal pay for equal work output.

Decree on additional compensation for the staff of health and social services of 15 November 1973[6]

The above-mentioned decree was promulgated in agreement with the national executive of the Confederation of Free German Trade Unions in recognition of the dedication and performances displayed by the staff of the health and social services in protecting and preserving people's health and lives. It contains guidelines for additional annual compensation, the amount of which depends on the length of employment with the above-mentioned services and the gross income of the previous 12 months, and is paid each year on Public Health Service Day.

Decree on increased remuneration for apprentices of 31 January 1974[7]

This decree was enacted under the Youth Act of the German Democratic Republic of 28 January 1974 (see sect. L below) to recognize both financially and morally the performing of apprentices in practical and theoretical vocational training. The amount of such remuneration depends on the duration of apprenticeship.

Labour Protection Regulation No. 5 (Labour protection for women and youth) of 9 August 1973[8]

This regulations lists various kinds of work as inadmissible for women on account of their physical condition and for youths because of their stage of physical development.

Regulation No. 2 on the right to work for persons in the process of rehabilitation of 4 October 1973[9]

The purpose of this regulation is to give encouragement to persons undergoing re-

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[6] *Gesetzblatt I*, 1973, No. 53, p. 523.

[7] *Gesetzblatt I*, 1974, No. 10, p. 85.

[8] *Gesetzblatt I*, 1973, No. 44, p. 465.

[9] *Gesetzblatt I*, 1973, No. 48, p. 500.

habilitation, to provide them with social care, to attend to their cultural needs and, in particular, to make available additional bonus funds.

J. Right to rest and leisure

(article 24 of the Universal Declaration)

The Constitution, in article 34, states that every citizen has the right to leisure time and recreation.

The Decree on the increase of minimum annual leave of 12 September 1974,[10] was promulgated in implementation of a joint decision of the Politbureau of the Central Committee of the Socialist Unity Party of Germany, the Council of Ministers of the German Democratic Republic and the national executive of the Confederation of Free German Trade Unions of 29 April 1974 on further measures to implement the social-policy programme adopted at the Eighth Congress of the Socialist Unity Party of Germany.

This decree provides that gainfully employed persons shall be granted a minimum of 18 working days' leave as from 1975, that those working permanently in three-shift or extended working-week shift systems shall be granted at least 21 work-days' leave as from 1975, and that three days additional leave shall be granted for heavily disabled people. This annual leave is composed of 12 work-days of basic leave, as in the past, and various kinds of additional leave, in accordance with article 80, paragraph 1, of the Labour Code. At least 15 work-days shall be granted in succession; exceptions are only permissible for urgent reasons, personal or enterprise-related.

K. Right to a standard of living adequate for health and well-being

(article 25 of the Universal Declaration)

Articles 35, 36 and 37 of the Constitution provide that every citizen has the right to the protection of his health and working capacity, to social care in case of old age or invalidity, and to dwelling space for himself and his family in accordance with economic possibilities and local conditions.

The report of the Central Administration for Statistics on the realization of the national economic plan said that in 1974 the advances made since the Eighth Congress of the Socialist Unity Party of Germany in all spheres of social life and the successful implementation of the principal task set by that Congress have continued with great dynamic force.

The increase in national income was the biggest recorded since the foundation of the German Democratic Republic. This makes it possible to speedily implement the social-policy programme.

Thus 138,300 flats were constructed, reconstructed, enlarged or modernized in 1974, out of which 88,310 were newly built, i.e., 1,770 more than planned and 7,590 more than in 1973. Altogether, housing conditions for some 415,000 citizens improved.

Thanks to 12,260 new places in crèches, 42 per cent of children under three can be cared for there. Furthermore, in 1974, 21,370 new places in kindergartens were provided so that 80 per cent of the children of pre-school age can be admitted.

Pensions

In the German Democratic Republic, under the Decree on the granting and calculation of social insurance pensions (Pensions Decree) of 4 April 1974,[11] people of pension age, disabled persons and their surviving dependants receive material assistance in the form of pensions, nursing allowances, special allowances for the blind and other special nursing allowances under the social insurance scheme. The above-mentioned decree provides the legal basis for these benefits.

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[10] *Gesetzblatt I*, 1974, No. 51, p. 478.

[11] *Gesetzblatt I*, 1974, No. 22, p. 201.

Social welfare

The social-policy programme adopted by the Eighth Congress of the Socialist Unity Party of Germany also provides for increased welfare benefits. The Decree on social welfare benefits (Social Welfare Decree) of 4 April 1974[12] covers social welfare relief payments, the right to nursing allowances, allowances for the blind and special nursing allowances; the cost of housekeeping nurses; and the release of working people from obligations in respect of maintenance under the Family Code.

Accident insurance

The Decree on the extension of insurance coverage in case of accidents in the exercise of social, cultural and sports activities of 11 April 1973[13] and the Regulation on the extension of additional accident insurance coverage by the public insurance company of the German Democratic Republic in case of accidents in the exercise of social, cultural and sports activities of 6 August 1973[14] were enacted following a joint decision of the Central Committee of the Socialist Unity Party of Germany, the national executive of the Confederation of Free German Trade Unions and the Council of Ministers of the German Democratic Republic of 27 April 1972 on social policy measures to implement what the Eighth Party Congress defined as the principal task. They provide for the social and material security of citizens in case of accidents occurring during social, cultural and sports activities.

Crèches and residential nurseries

The Decree on the admission of infants to crèches and residential nurseries of 22 March 1973[15] was promulgated for the benefit of the children, their care and education and for the advancement of working mothers. It provides for priority in admission to crèches and residential nurseries to be given to children of mothers working full time and children of mothers enrolled for full-time studies or vocational training, particular attention being paid to, among others, children of single working parents and children of women working shifts.

The Regulation on the tasks and operations of crèches and residential nurseries for infants, of 25 July 1973[16] was issued under the Law on the integrated socialist educational system of 25 February 1965.

It provides that children of good health whose parents or guardians are gainfully employed or are undergoing training or advanced training are educated and cared for in crèches and nurseries until they complete their third year of age. Special attention is paid in crèches and nurseries to bringing the children up and educating them in accordance with social requirements and the objectives of socialist education, taking into account their special physical and psychical characteristics; to protecting and promoting their health; and to creating environmental conditions that meet the needs of children, as an important condition for their sound physical and intellectual development.

L. Right to education

(article 26 of the Universal Declaration)

In articles 25 and 26 of the Constitution it is stated that educational facilities are open to all.

The integrated socialist educational system guarantees every citizen a continuous socialist education, training, and higher training. In the German Democratic Republic general ten-year secondary schooling is compulsory; this is provided by the ten-year general polytechnical secondary school. The State ensures the possibility of transference

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[12] *Gesetzblatt I*, 1974, No. 22, p. 224.

[13] *Gesetzblatt I*, 1973, No. 22, p. 199.

[14] *Gesetzblatt I*, 1973, No. 38, p. 404.

[15] *Gesetzblatt I*, 1973, No. 20, p. 181.

[16] *Gesetzblatt I*, 1973, No. 36, p. 381.

to the next higher stage of education up to the highest educational institutions, the universities and colleges; this is done in accordance with the performance principle, social requirements, and taking into consideration the social structure of the population. There are no tuition fees. Training allowances and free study materials are granted according to social aspects. Full-time students at the universities, colleges and technical schools are exempted from tuition fees. Grants and allowances are given according to social aspects and performance.

Youth Act of 28 January 1974

The Law on the participation of young people in the organization of an advanced socialist society and on their all-round promotion in the German Democratic Republic[17] declares that youth in the German Democratic Republic enjoys the special protection and support of the socialist State and lays down the fundamental rights and duties of young people.

The preamble of the new Youth Act reads in part:

> "In line with the humanistic principles enunciated in the Socialist Constitution of the German Democratic Republic, every young person is given every opportunity to develop his talents and abilities freely and creatively, to realize his personality to the full and to lead a happy life. Young people's aim in life is to do everything in their power for the preservation of peace, for the well-being of man, for the happiness of the people, for the interests of the working class and of all working people.
>
> "Socialist society considers it its mission to enable all young people to accomplish this task, to place confidence in them and to assign a large measure of responsibility to them."

A first Youth Act adopted in February 1950, which gave legal force to the "Basic Rights of the Young Generation" proclaimed by the socialist youth organization in 1946, played a key role in enlisting the aid of young people in the solution of the tasks facing the community. A second Youth Act passed in May 1964 extended the rights of youth and provided them with more opportunities to take an active part in socialist construction. This is also the underlying idea of the new Youth Act, which was adopted in early 1974 after a nation-wide discussion in which all strata of the population, especially young people, participated. The new law defines the rights and duties of youth in all spheres of life. At the same time it lays down a variety of measures designed to guarantee the all-round development of the young generation. Responsibility for the education of young people to become young socialists and internationalists lies with the whole community, with all citizens, parents, public organizations—especially the Free German Youth—and the authorities and economic bodies.

A basic expression of socialist youth policy is the fact that young people are drawn into the running and planning of social affairs. They serve as deputies in all representative bodies, as members of commissions and many other honorary bodies as well as of trade union branches in enterprises, which enables them to take part in the discussion of the plan and in the preparation of other important decisions. Many young people hold posts carrying great responsibility in public and economic life. An increasing number of national key projects have been made "youth projects" to be solved by young people under their own authority but not without support from the elders. By the same token, the initiative of the up-and-coming generation is promoted by the establishment of what is known as youth brigades in all sectors of the national economy.

Close attention is devoted to young people's educational and cultural standards, physical culture and sport, their working and living conditions (including health protection) and holiday and hiking activities. The authorities are obligated to give material and financial support to whatever initiative may be taken by young people in this field and to co-operate closely with the Free German Youth. First and foremost, they encourage young people's efforts to engage in cultural activities in clubs, dancing groups and amateur art ensembles.

Socialist youth policy is an integral part of centralized management and planning by

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[17] *Gesetzblatt I*, 1974, No. 5, p. 45.

the State. All measures required to implement it are listed in the annual economic plans and in other documents.

All state and economic leaders are bound by the Constitution and the Youth Act to consult young people on youth problems and on more general questions. Firm managers, chairmen of co-operatives and burgomasters report to young people twice a year on what they have done to implement the tasks laid down in youth promotion plans for which they are responsible.

Law on the integrated socialist educational system

Under this law the following regulations were issued concerning evening, correspondence and post-graduate courses: Regulation on correspondence courses and evening classes at institutes of higher learning and technical schools of 1 July 1973;[18] Regulation on applications and selection for and admission to correspondence courses and evening classes at institutes of higher learning and technical schools, of 1 July 1973;[19] Regulations on release from work and on financial arrangements regarding correspondence courses and evening classes and measures of further education at institutes of higher learning and technical schools, of 1 July 1973;[20] and Regulation on post-graduate studies at institutes of higher learning and technical schools, of 1 July 1973.[21]

These regulations embody the principle of efficiency which is applied in connexion with applications for, and admission to, correspondence courses and evening classes, account being taken also of social requirements and the social structure of the population. They include financial arrangements so as to give every citizen the opportunity of receiving further education under these schemes.

M. Right of minorities to their language and culture

(article 27 (1) of the Universal Declaration)

With respect to the Sorb minority in the German Democratic Republic, article 40 of the Constitution states that citizens of the German Democratic Republic of Sorb nationality have the right to cultivate their mother tongue and culture. The exercise of this right is encouraged by the State.

N. Right to a social and international order in which the rights and freedoms set forth in the Universal Declaration can be fully realized

(article 28 of the Universal Declaration)

Article 23 of the Constitution states that no citizen shall participate in warlike actions which serve the oppression of a people, or in the preparation of such actions.

O. Rights and duties

(article 29 of the Universal Declaration)

The Constitution provides that the right to participation and co-management is at the same time a high moral obligation for each citizen (art. 21), that every citizen has the obligation to serve and to make a contribution to the defence of the German Democratic Republic in accordance with the laws (art. 23), and that socially useful activity is an honourable duty of every citizen able to work. The right to work is inseparable from the duty to work (art. 24).

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[18] *Gesetzblatt I*, 1973, No. 31, p. 301.

[19] *Ibid.*, p. 302.

[20] *Ibid.*, p. 305.

[21] *Ibid.*, p. 308.

FEDERAL REPUBLIC OF GERMANY

Introduction

For the past 25 years the Federal Republic of Germany has had one of the most liberal constitutions in the world. The many human rights guaranteed by it are binding on the legislature, the executive and the judiciary as directly applicable law (Basic Law) (art. 1 (1)). In view of this fact a report on the protection of human rights in 1973–1974 can hardly be expected to indicate any spectacular developments. Nevertheless, some modifying and supplemental court decisions—which will be the main area of concentration—have ensured better protection for individual basic rights. Moreover, court decisions protecting human rights have also been included where they project emerging legal opinion on the subject in question, confirm decisions made a good number of years previously, or examine certain matters for the first time from the point of view of human rights.

Considering the great number of such decisions, the report cannot be exhaustive, and in any case concise accounts are required. The various human rights are presented in the order followed in the Universal Declaration of Human Rights (hereinafter referred to as the Universal Declaration). References to the Universal Declaration and to the corresponding articles of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as the first Covenant) and the International Covenant on Civil and Political Rights (hereinafter referred to as the second Covenant) are given under the section headings. Decisions relating to several different human rights have been grouped under the right that is the main feature of the decision in question. Any pertinent court decisions rendered in the second half of 1974 which had not been published by the time this report was completed (January 1975) will be included in the next report, in the same way that several important decisions from the last review period are referred to in this report.

ABBREVIATIONS

BayVBl	*Bayerische Verwaltungsblätter* (Bavarian Journal of Administration)
BB	*Betriebsberater* (Industrial journal)
BGBl, I, II	*Bundesgesetzblatt, Teil I und II* (Federal Law Gazette, Parts I and II)
BFHE	Federal Fiscal Court decisions
BGHSt	*Entscheidungen des Bundesgerichtshofs in Strafsachen* (Law Reports, Federal Supreme Court in Criminal Matters)
BGHZ	*Entscheidungen des Bundesgerichtshofs in Zivilsachen* (Law Reports, Federal Supreme Court in Civil Matters)
BSOzGE	Law Reports, Federal Social Court
BVerfGE	*Entscheidungen des Bundesverfassungsgerichts* (Law Reports, Federal Constitutional Court)
BVerwGE	*Entscheidungen des Bundesverwaltungsgerichts* (Law Reports, Federal Administrative Court)
Die Justiz	Official Gazette of the Ministry of Justice in Baden-Württemberg
DÖD	*Der Öffentliche Dienst* (Public Service)
DÖV	*Die Öffentliche Verwaltung* (Public Administration)
DVBl	*Deutsches Verwaltungsblatt* (German Journal of Administration)
EEC	European Economic Community
EGBGB	*Einführungsgesetz zum Bürgerlichen Gesetzbuch* (Introductory Statute to the Civil Code)
FamRZ	*Zeitschrift für das gesamte Familienrecht* (Journal of Family Law)
GG	*Grundgesetz* (Basic Law)
JR	*Juristische Rundschau* (Law Review)

JZ	*Juristenzeitung* (Law Journal)
MDR	*Monatsschrift für Deutsches Recht* (Monthly Journal on German Law)
NJW	*Neue Juristische Wochenschrift* (New Weekly Law Journal)
VerwRspr	*Verwaltungsrechtsprechung* (Law Reports, Administrative Court)
ZBR	*Zeitschrift für Beamtenrecht* (Civil Service Law Periodical)

A. Protection of human dignity

(preamble and article 1 of the Universal Declaration; preambles of first and second Covenants)

Although violation of human dignity is seldom the underlying reason for a court decision, it forms the basis of a large number of lawsuits or complaints under the Constitution. The few cases mentioned here bring up some interesting points.

Of late there has been considerable discussion of the effects on human dignity of electronic data-processing, the use of personal identity codes, and central files. Legislation is currently being prepared in order to dispel fears that the use of such technical aids could give unauthorized persons access to information of a purely personal nature. In its decision of 5 June 1974,[1] the Federal Constitutional Court found that notices issued by public authorities by means of computers which bore neither a signature nor an official stamp did not constitute a violation of human dignity in terms of article 1 (1) of the Basic Law on the ground that what counted was the purpose for which the computer was used. As long as the decision had not been left to the machine but taken by the authority itself—as in this case—the computer was merely serving as a technical facility for the reproduction of a decision already taken. The court was of the opinion that human dignity had not been violated any more than if a typewriter had been used.

In its decision of 14 March 1973,[2] the Federal Constitutional Court rejected a complaint lodged by a man held in custody that he was not allowed to receive parcels unless they bore a label which the detainee had posted to the sender beforehand. The court found that no violation of human dignity as protected by article 1 (1) of the Basic Law of the Federal Republic of Germany could be established. It was not possible, the court said, for the person concerned to derive from that provision a right to expect the fact of his detention not to be disclosed. Respect for human dignity did, however, forbid the notification of third parties of his detention without adequate reason.

Authorities are often criticized for violating human dignity where they interfere with individual privacy. The Münster Higher Administrative Court, in its decision of 10 July 1974[3] for instance, concluded that in requiring a civil servant to undergo a psychiatric examination to ascertain his capacity for service the authority concerned had not violated that person's dignity. The reason it gave was that although the requirement affected the official's privacy it could not be regarded as an impairment of human dignity as protected by article 1 (1) of the Basic Law. The court held that a person voluntarily joining the civil service had also voluntarily to meet the special requirements of the service, one of which was to undergo a medical examination where serious doubts existed as to his physical capacity. It was in the interest of the employer and of the general public that duties of a public nature should not be performed by officials who, on account of their physical or mental infirmity, were not capable of performing them. This decision once more underlines the restriction of human rights in particular instances (e.g. teachers, civil servants, prison inmates), a question which has become more and more a point at issue in recent court decisions and in the literature on this subject.

B. Principle of equal treatment

(articles 2 and 7 of the Universal Declaration; articles 2 and 3 of the first Covenant; articles 2, 3 and 26 of the second Covenant)

In the period under review, a number of decisions relating more specifically to rights

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[1] *NJW* 1974, p. 2101.

[2] *BVerfGE* 34, p. 369; *NJW* 1973, p. 1451.

[3] *ZBR* 1974, p. 263.

covered under other articles of the Universal Declaration also concerned the question of equal treatment. A decision of the Federal Constitutional Court of 21 May 1974 regarding the right to a nationality, covered in section J below, also concerns the question of equal rights of men and women. The question of an individual's inadmissibility to the public service on grounds of his political views (Basic Law, art. 3 (3)) has featured prominently in numerous decisions on the question whether members of radical political parties should be admitted; these decisions, which centre on the right of association and the right to choose an occupation or profession, have been included in sections O and R below.

The Federal Labour Court, in its judgement of 11 January 1973,[4] found that for an employer recruiting foreign workers to pay all women lower wages than men was unlawful. There was *prima facie* evidence of unlawful discrimination and it was up to the employer to show that such unequal treatment was due to the different types of employment.

The Augsburg Administrative Court, in its judgement of 20 March 1973,[5] found that the practice of an aliens office of issuing residence permits to non-gainfully employed wives of foreigners working in the Federal Republic, but not to non-gainfully employed husbands of female foreign workers, constituted a violation of the principle of equal treatment as embodied in article 3 of the Basic Law. The court argued that there was no objective reason for assessing the stay of an unemployed man differently from that of an unemployed woman.

One decision on equality of opportunities in election campaigns is worth mentioning. In its judgement of 16 November 1973,[6] the Federal Administrative Court had to decide, *inter alia*, whether the fact that only parties within the meaning of section 18 of the Law on Parties in conjunction with article 21 of the Basic Law, but not non-party candidates, were reimbursed for their election campaign costs constituted a violation of the principle of equality. The court held that it did not, on the grounds that although party and non-party candidates in an election had equal opportunities in principle and therefore election campaign costs paid to party candidates should also be paid to independent candidates, the funds made available to the parties under section 18 of the Law on Parties were not, strictly speaking, intended for the election campaign but were provided in deference to their public function and to enable them to fulfil obligations which did not apply to independent candidates. The fact that these funds made available to the parties only covered election campaign costs made no difference. The court maintained that the restriction of funds to election campaign costs was merely a criterion for controlling and limiting the amount of public financial assistance. There were cogent reasons for treating parties and independent candidates differently. Public funds could only be granted if the purpose was in the public interest. The court held that there was no such public interest in financing independent candidates. A Parliament that was an assembly of independent deputies meeting on an *ad hoc* basis would not be able to perform the duties incumbent upon it. If, the court argued, Parliament was entitled to enact legislation to prevent votes from being spread too widely among different parties (10 per cent clause), it must also have the right to refuse support to independent candidates, who, if elected, would cause an even wider spread in Parliament. Accordingly, the independent candidates did not carry the degree of importance which justified adequately reimbursing the parties for their election campaign costs.

C. Protection against arbitrary deprivation of liberty

(articles 3, 4 and 9 of the Universal Declaration; articles 8, 9 and 11 of the second Covenant)

The question as to what restrictions may be placed on persons held in custody has been a source of difficulty for some considerable time. The pertinent provisions of section 119, paragraph 3, of the Penal Code, according to which the restrictions placed on detainees may only be such as the purpose of custody or prison discipline demand, has proved inadequate in practice. The Federal Government has, accordingly, introduced a bill on

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[4] *BB* 1973, p. 520.

[5] *NJW* 1974, p. 432.

[6] *BVerwGE* 44, p. 187; *NJW* 1974, p. 514; *DÖV* 1974, p. 271; *JR* 1974, p. 170.

criminal punishment which is currently in the Parliamentary stage.[7] This unclear situation has led to a number of decisions by the Federal Constitutional Court in the period under review. Having considered in its decision of 14 March 1972,[8] the general principle of the application of human rights to prisoners and persons held in custody, the Federal Constitutional Court has meanwhile pronounced on more detailed aspects.

In its decision of 27 March 1973,[9] the Federal Constitutional Court admitted a complaint by a person held in custody that he had been refused permission to use his own typewriter to participate in a course of further education on the ground that, owing to the gravity of the offence he had been accused of and the nature of his character, the possibility of his using the typewriter for other purposes—especially as a hiding place—could not be ruled out. The court decided that it was not permissible to impose a restriction which encroached upon the individual's right freely to develop his personality merely because the possibility of an abuse of that right could not be entirely ruled out. There had to be real grounds to support the assumption that a person held in custody would use an object placed at his disposal for other than its intended purpose and thus constitute a threat to prison discipline.

In a decision of 14 March 1973,[10] the court was required to examine whether regulations under which persons held in custody could only receive parcels in exceptional cases (Code of Criminal Procedure, sect. 119, para. 3; Regulations governing Custody, para. 39) violated the Constitution. The court held that the right to receive parcels was part of the general fundamental right ensuing from article 2 of the Basic Law and that that right could only be exercised where the constitutional order was not violated. The Regulations governing Custody (especially Code of Criminal Procedure, sect. 119, para. 3) were a part of that system. No objection on constitutional grounds could be raised against the restriction of the right of persons in custody to receive parcels if the purpose of detention or prison discipline could no longer be guaranteed, and allowance was made for the principle of relative importance by providing for exceptions to this rule. The court rejected the constitutional complaint, which was the basis of this decision, on the ground that in the case in question the restriction was permissible because prison staff, if required to be constantly inspecting parcels, would be overtaxed and the purpose of the prison impaired.

In its decision of 14 March 1973,[11] the court found that a general restriction of visiting times and correspondence for persons in custody, which had been imposed pursuant to section 119, paragraph 3, of the Code of Criminal Procedure, was compatible with the principle of relative importance and did not constitute a violation of basic rights if a real threat to the public, as specified in section 119, paragraph 3, of the Code, could not be adequately checked by means of individual measures. (In this case the right of members of the well-known Baader-Meinhof terrorist group who were being held in custody to have visitors and receive mail had been restricted to close relatives because it was feared they might otherwise establish contacts with other members of the group still at large.) The court also found, however, that the principle of relative importance required that exceptions be made if in a particular case the purpose of the prison was not likely to be jeopardized.

By its decision of 30 May 1973,[12] the Federal Constitutional Court found that it was compatible with the Basic Law to consider the risk of repetition of the offence as constituting grounds for detention. According to the law a person may only be held in custody if there is a strong possibility of his absconding, of collusion, or of repetition of the offence. Previously, the likelihood of a repetition of the offence was considered a ground for detention only in the case of sexual offences. Section 112 (A) of the Code of Criminal Procedure introduced by the law of 7 August 1972[13] added other categories of offences for which a person can be remanded in custody because of the risk of repetition. This law in-

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[7] Bundestag document 7/918.

[8] *BVerfGE* 33, p. 1; see *Yearbook on Human Right for 1972*, p. 133.

[9] *NJW* 1973, p. 1363.

[10] *Ibid.*, p. 1451.

[11] *JZ* 1974, p. 95.

[12] *NJW* 1973, p. 1363.

[13] *BGBl* I, p. 1361.

cludes certain grave offences against an individual's physical integrity and property if "certain facts suggest that the accused, before being finally sentenced, may commit further serious crimes or carry on the offence of which he is accused . . .". On submission of Lüneburg Local Court, which found that section 112 (A), paragraph 2, second sentence, of the Code of Criminal Procedure was unconstitutional in relation to serious cases of larceny, the Federal Constitutional Court held that individual liberty ranked high among the basic rights. Deprivation of liberty, it argued, was justifiable only if the overriding public interest demanded it. Such public interest included the adoption of preventive measures as a protection against further criminal offences. Consequently, the Federal Constitutional Court had in the case of sexual offences accepted the need for detention owing to the inherent risk of repetition. It also maintained, however, that detention was not from the outset ruled out in the case of other crimes if the "original crime" had been repeatedly committed and contained a grave unlawful element and by its very nature had seriously impaired law and order. Moreover, those offences which detention was intended to prevent had to be considerable, and the assumption that the accused might repeat the crime must be based not on conjecture but on concrete facts (as a rule it is sufficient if the suspected person has been convicted for a similar offence within the previous five years). The court held that section 112 (A), paragraph 2, Code of Criminal Procedure, met these requirements, at least with regard to serious larceny (Penal Code, sect. 243). These provisions established a fair balance between the accused person's interest in preserving his freedom as protected by article 2 (2), second sentence, of the Basic Law, and the imperative need for effective instruments to combat crime. The court also pointed out that lawful arrest and detention were also possible under article 5 (1) (*c*) of the European Convention for the Protection of Human Rights and Fundamental Freedoms if it was reasonably considered necessary to prevent the person concerned from committing a punishable offence.

Another important question which arose in connexion with the right to freedom as laid down in article 2 of the Basic Law was the interpretation of section 121, paragraph 1, of the Code of Criminal Procedure. This provision stipulates that in principle the period of detention while awaiting trial should not exceed six months and that only "important reasons" justify an extension. The question was whether the excessive workload of a court could be regarded as an "important reason" within the meaning of the above-mentioned section. The views of several higher criminal courts differed in this respect.[14] The Federal Constitutional Court decided on 12 December 1973[15] that the excessive workload of a regional court for longer than a brief period was, considering the fundamental right to personal liberty pursuant to article 2 (2), second sentence, of the Basic Law, not an "important reason" justifying the continuation of detention for a period over six months under section 121, paragraph 2, of the Code of Criminal Procedure, even if the workload, in spite of all organizational possibilities having been exhausted, could not be coped with in a reasonable period of time. The Court argued that it was only lawful to hold an accused person in custody if cogent reasons of public interest so required. The need for an effective system of criminal prosecution was one such reason. The conflict between that requirement and the individual's right of liberty could only be resolved by weighing up both legal criteria as to their relative importance, it being necessary to remember that, as the period of custody increased, the accused's right to liberty could weigh more heavily than the public interest in effective prosecution. Section 121, paragraph 1, of the Code of Criminal Procedure, took this into account by laying down a limit of six months for detention. The exceptions to this rule (the complex nature of investigations, their wide scope, other important reasons) had to be given a narrow interpretation. Therefore, the workload of the courts was not an important reason owing to the fact that, unlike cases of unforseeable circumstances and *force majeure*, this matter was the responsibility of the community. The State's inability to equip the courts with the facilities and personnel necessary to ensure the conduct of proceedings without delay did not justify a prolonged period of detention. The State's duty to remedy such a situation also ensued from article 20 (3) of the Basic Law, which established the principle of legality.

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[14] Hamm Higher Regional Court (*NJW* 1973, p. 720); Cologne Higher Regional Court (*NJW* 1973, p. 339); Hamburg Higher Regional Court (*NJW* 1973, p. 2040).

[15] *BVerfGE* 36, p. 264; *NJW* 1974, p. 307; *DÖV* 1974, p. 311.

In a decision of 9 January 1973,[16] the Federal Administrative Court answered in the affirmative, with certain reservations, the question whether a soldier could be placed under temporary arrest several times for having repeatedly refused to carry out the same order. In the case under consideration a member of the armed forces whose application for recognition as a conscientious objector had not yet been accepted persistently refused in the meantime to obey an order requiring him to render service. According to section 17, paragraph 1, of the Disciplinary Regulations for the Armed Services, superiors can have soldiers temporarily arrested for failure to carry out their duties (such as refusing to obey an order) if this is necessary on disciplinary grounds. The soldier must be released as soon as this condition no longer obtains but at the latest after 48 hours. In the court's opinion these provisions make allowance for the conflict between the right to personal freedom guaranteed in article 2 (2) and article 104 of the Basic Law and the effective functioning of the armed forces. The court argued that repeated refusals to comply with an order to wear uniform and render service constituted in each case a breach of service regulations and thus justified temporary arrest. The right to be recognized as a conscientious objector—deriving from article 4 (3) of the Basic Law—could not become effective before such an application had been accepted. In principle the soldier could, the court's argument ran, be arrested again even if he had previously been taken into custody for a similar breach of service regulations. But whether the principle of relative importance would still be respected could only be decided on an *ad hoc* basis. Not only the law (Service Disciplinary Regulations) but also the measures taken in an individual case had to be considered in the light of that principle. The principle of relative importance could be violated in particular if the repeated breach of service regulations rested on a decision taken once and for all, or if it was to be deduced from the soldier's conduct that he would refuse to carry out similar orders in the future. In such cases the nature of the temporary arrest as a preventive measure could be changed so that the arrest would then become a punitive measure, which could be imposed only with the prior consent of a judge (Service Disciplinary Regulations, sect. 36).

The following decisions also relate to the circumstances of temporary deprivation of liberty: According to article 2, paragraph 2, and article 104, paragraph 2, second sentence, of the Basic Law, a person can only be deprived of his liberty by a decision of a judge. The police may, however, detain a person until the end of the day following the arrest, i.e. for a maximum of 48 hours, without a decision of a judge. According to a judgement by the Berlin Higher Administrative Court of 27 July 1973[17] this is not permissible if the police are thus seeking to establish a *fait accompli* within that time-limit. The court found that the detention of an alien for the purpose of his deportation without a judicial order was not permissible where the police's aim was to deport that person the next day without first having put the matter before a judge. In the opinion of the Federal Administrative Court (judgement of 26 February 1974),[18] the requirement of a judicial decision in cases of temporary arrest (Basic Law, art. 104, para. 2, second sentence) does not mean that the judicial authorities have to have a judge available at all times of day and night so that the police can obtain a judicial decision immediately. In the same decision the court affirmed the authority of the police to hold a person in custody to prevent him from actually committing a crime, provided that his intention to do so was adequately established and the arrest was absolutely necessary to prevent the crime from being committed.

The Brunswick Higher Regional Court held on 28 August 1973[19] that it was not permissible to require an alien held in custody to conduct his correspondence with fellow-countrymen in German or to enclose a German translation with his letters to make it easier to check his mail. The court held that this would amount to a complete stoppage of his correspondence. In fact the judge must, where he deems it necessary, himself have a translation made at public expense on the ground that the State has a duty to take care of persons held in custody, who, according to article 6 (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, were innocent until proved guilty.

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16 *NJW* 1973, p. 339.

17 *Ibid.*, p. 2172; *DVBl* 1973, p. 701.

18 *NJW* 1974, p. 808.

19 *NJW* 1973, p. 2168.

In a decision of 9 July 1974[20] relating to the Baden-Württemberg law of 16 May 1955 on the accommodation of persons with mental disorders and drug addicts,[21] the Stuttgart Higher Regional Court expounded on the fundamental freedom embodied in article 2, paragraph 2, second sentence, of the Basic Law, and opposed the view that compulsory internment in an institution under the aforementioned law was only possible in cases where the person concerned constituted a danger to public safety and order, and held that such persons could be detained in this manner without violation of article 2, paragraph 2, second and third sentences, of the Basic Law, if they were a danger to themselves. The court said that under article 2, paragraph 1, of the Basic Law, every person had the right freely to develop his personality within the framework of the constitutional order, under which the State had certain social responsibilities (Basic Law, arts. 20 (1) and 28 (1)), including the responsibility to care for those citizens in need of help owing to their mental state or addiction and who on account of their condition are unable to appreciate the need for curative treatment or no longer have the willpower to undergo such treatment. Consequently, the right to individual freedom has to be considered as restricted where welfare measures are obviously necessary to prevent serious threats to the health of mentally sick persons or drug addicts.

D. Right to physical integrity

(articles 3 and 5 of the Universal Declaration; articles 6 and 7 of the second Covenant)

The Federal Constitutional Court is expected to survey the fundamental aspects of the right to life and physical integrity in its decision on the constitutionality of the fifth penal law reform law of 18 July 1974.[22] This law is intended to modify the Penal Code with regard to abortion (previously Penal Code, sect. 218). Its main provision (sect. 218 (*a*)) imposes no penalty on women who procure an abortion by a doctor within the first three months of pregnancy. By its decision of 21 June 1974,[23] which took the form of an injunction, the Federal Constitutional Court suspended the entry into force of this provision and only allowed the other provisions to enter into force in modified form. It held up the law's entry into force on the ground that, in view of the high value which the Constitution in several of its provisions attaches to human life, it would hardly be tenable to allow developing human life to be destroyed in an uncertain number of cases on the strength of a law which might turn out to be incompatible with article 2, paragraph 2, of the Basic Law.

A lawsuit for damages gave the Zweibrücken Higher Regional Court (decision of 12 March 1974)[24] occasion to deal after some considerable time with the right of teachers to inflict corporal punishment. The court held in its decision that, in spite of the tendency against corporal punishment for primary school pupils, there had not yet emerged any customary law which restricted the customary right to inflict corporal punishment or removed it altogether. However, the court pointed out that there were limits in customary law to the power to inflict such punishment. There must, for instance, be adequate reason for such punishment and the teacher must see a genuine educational purpose in such action. The punishment must be reasonable and not exceed a certain degree of intensity.

The right to physical integrity can be further limited in the course of criminal investigations where, pursuant to section 81 (*a*) of the Penal Code, an accused person must submit to physical examination to establish facts that are significant to the investigation. In a decision of 10 January 1974,[25] the Hamm Higher Regional Court reaffirmed existing case law to the effect that section 81 (*a*) of the Penal Code required the accused merely to tolerate physical examination but not to co-operate actively in it. Under no circumstances could the accused be required to render assistance. Any measure that could not be carried out without such participation required the consent of the accused and, in view of the fact that the accused can exercise his own free will, could never be forced upon him.

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[20] *NJW* 1974, p. 2052.

[21] *Baden Württembergisches Gesetzblatt*, p. 87.

[22] *BGBl* I, p. 1297.

[23] *BVerfGE* 37, p. 324,

[24] *NJW* 1974, p. 1772.

[25] *Ibid.*, p. 713.

E. Judicial and administrative guarantees of due process

(articles 8 and 10 of the Universal Declaration; articles 2 and 14 of the second Covenant)

By far the most important decision with regard to judicial guarantees of due process was that of the Federal Constitutional Court of 29 May 1974[26] relating to its competence to rule on a case concerning a possible conflict between secondary law of the European Economic Community and the fundamental rights embodied in the Constitution of the Federal Republic. Following a decision by the European Court of Justice that a regulation of the European Economic Community requiring the provision of surety for export and import licences was compatible with the EEC Treaty,[27] the Frankfurt Administrative Court submitted to the Federal Constitutional Court, pursuant to article 100 (1) of the Basic Law of the Federal Republic of Germany, the question of whether that regulation was compatible with the right to freely choose one's profession guaranteed in article 12 of the Basic Law and with the general right to freedom laid down in article 2 (1). A majority of the Constitutional Court came out in favour of the application of national fundamental rights within the sphere of European Community law and affirmed the Court's competence on the following grounds: European Community law and national laws are basically different and mutually independent legal systems, whereby the institution of the Community—in particular the European Court of Justice—had to decide whether secondary Community law (regulations, directives, etc.) is compatible with primary Community law, whereas the Federal Constitutional Court decides whether a Community regulation is compatible with the Basic Law of the Federal Republic of Germany. If the two systems conflict as regards the substance, the problem cannot simply be resolved by saying that Community law prevails over national law (which, however, was what the European Court of Justice had decided in another case when it held that national courts were not entitled to review Community law). Furthermore, the Constitutional Court decided that article 24 of the Basic Law, which speaks of the "transfer of sovereign rights to intergovernmental institutions", did not open the way to an alteration of the fundamental structure of the Constitution, upon which its identity is based, without a change in the Constitution. The section of the Basic Law on fundamental rights was an indispensable part of the Constitution. Article 24 of the Basic Law did not permit those basic rights to be diminished unconditionally. So long as Community integration had not progressed to such an extent that Community law embraced a catalogue of fundamental rights adopted by the European Parliament equal with those embodied in the Basic Law for the Federal Republic of Germany, the Federal Constitutional Court had jurisdiction. Otherwise a considerable gap would emerge in the legal protection of the citizen's most elementary rights. Citizens of the Federal Republic are entitled to protection of their fundamental rights and their status cannot be impaired by legal decisions of authorities or courts of the Federal Republic based on European Community law. However, the Federal Constitutional Court can never pronounce on the validity or otherwise of Community regulations—that is reserved to the European Court of Justice. The Federal Constitutional Court can only rule that a certain regulation may not be applied by authorities or courts in the Federal Republic of Germany if it clashes with provisions of the Basic Law relating to fundamental rights. In the above-mentioned case, however, the Federal Constitutional Court saw no conflict between Community law and national law on human rights.

During the period under review a number of court decisions defined the citizen's right to a fair hearing.[28]

An essential guarantee of judicial protection lies in the provision that extraordinary courts are inadmissible and that no person may be deprived of the jurisdiction of his lawful judge (Basic Law, art. 101 (1)). This guarantee of a lawful judge has featured prominently in a number of court decisions. In one case the presiding judge of a criminal court had forwarded the file of a case to his permanent deputy, pointing out that he was a distant relation of the plaintiff and therefore requesting that he be deemed disqualified from

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[26] *BVerfGE* 37, p. 271; *NJW* 1974, p. 1697.

[27] Cour de justice des Communautés européennes, *Recueil de la Jurisprudence de la Cour*, vol. XVII, 1971–1, arrêt de la Cour du 10 mars 1971, affaire 38–70.

[28] Bavarian Constitutional Court (*VerwRspr in Deutschland* 24, p. 769); Bavarian Supreme Court (*NJW* 1973, p. 2251); Federal Constitutional Court (*NJW* 1974, p. 133; *BVerfGE* 36, p. 298; *NJW* 1974, p. 847); Federal Fiscal Court (*BFHE* 113, p. 4).

handling the case. The deputy fixed the date for the hearing and presided over the case himself, in spite of the fact that the other members of the court had not taken a decision on the matter pursuant to section 30 of the Code of Criminal Procedure. The Federal Court held on 13 February 1973,[29] departing from previous decisions, that the court had not been constituted in accordance with the law. A judge did not cease to be the lawful judge in a particular case until a decision had been taken which sanctioned his self-disqualification. Such a decision, which was required under section 30 of the Code of Criminal Procedure, could not be superseded by a subsequent decision by the court of appeal upholding the judge's self-disqualification. The question as to the lawful judge had to be answered as soon as it arose. The Federal Administrative Court emphasized that the guarantee of a lawful judge was an assurance that the citizen's legal protection would not be intentionally impaired. In its decision of 26 April 1974,[30] in which it upheld previous decisions in spite of some academic criticism, it ruled that a person could be deemed to have been deprived of his lawful judge only if the judge had been arbitrarily replaced, but not merely where a mistake had been made in the distribution of cases on the docket.

Since 1969, when the Federal Constitutional Court decided, by 4 votes to 4, that decisions on petitions for pardon, which under the *Länder* constitutions is the prerogative of the Premier, are not subject to judicial review, the *Länder* constitutional courts have produced an increasing number of decisions to the effect that a refusal of a petition for pardon was subject to judicial review if the person concerned asserted that the decision against him was an arbitrary one or that his human dignity had been violated. The Hessian Court of Justice, too, in its judgement of 28 November 1973,[31] decided that the refusal to grant a pardon could constitute an encroachment upon the fundamental rights of the person concerned, that the right of pardon, like any other sovereign act, had to be exercised within the framework of the Basic Law. To that extent negative decisions were subject to judicial review as to their constitutionality.

The extensive guarantee of judicial protection for the individual must at times be limited by procedural provisions such as the regulations governing time-limits during proceedings. Such a conflict between guaranteed judicial protection and procedural regulations was the subject of a decision of the Federal Constitutional Court of 8 May 1973.[32] According to section 230 of the Code of Civil Procedure, any party who fails to attend a court session at which his presence is required is, as a general rule, excluded from the subsequent proceedings. By virtue of section 233 of the Code, the pre-session state of the proceedings may be restored if the party concerned was not to blame for his absence. Section 232, paragraph 2, of the Code prescribes that a party is at fault if his legal representative fails to attend. The Celle Higher Regional Court held the view that the application of this latter provision in affiliation or adoption proceedings was inconsistent with the principle of the rule of law (Basic Law, art. 20 (3)) and was therefore unconstitutional. The exclusion of the party concerned in such cases would not only have material consequences but could alter the personal status of the child without any further chance of remedy. The Federal Constitutional Court, which had been requested to review this provision, held that statutory provisions on time-limits were necessary so that judicial decisions could become effective finally after the expiry of the relevant period. Nor could any objections on constitutional grounds be derived from the nature of affiliation cases (proceedings relating to the child's status). The rule-of-law principle deriving from article 20 (3) of the Basic Law did not, the court held, contain unequivocal requirements and prohibitions with regard to constitutionality in individual cases; rather was it a principle of the Constitution which required substantive completion depending on the facts of the case. Compliance with the rule of law concerned not only substantive justice but also the assurance of legal certainty. In many cases the two were in conflict. It was up to the legislator to decide one way or the other without adopting an arbitrary approach. In the case of the provision of section 232, paragraph 2, of the Code of Civil Procedure, which was being contested, no arbitrary action was discernible. In proceedings to determine a child's status the interest of the winning party in seeing a final decision of the issue that could not be appealed against

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[29] *BGHSt* 25, p. 122.

[30] *DÖV* 1974, p. 534.

[31] *NJW* 1974, p. 791; *DÖV* 1974, p. 128.

[32] *FamRZ* 1973, p. 442.

after a certain time-limit had expired, for instance, was no less worthy of protection than in other cases. If, therefore, the legislator gave preference in the question of who was to blame for the failure of the attorney to attend the proceedings, to the concept of legal certainty, that was compatible with the rule-of-law principle.

Two other decisions which have enhanced the judicial protection of the individual should be mentioned. In its decision of 3 July 1973,[33] the Federal Constitutional Court held that it had jurisdiction to hear an appeal against a judgement if the plaintiff, having been affected by an unconstitutional court decision, had at least a chance, if that decision was quashed, of obtaining a more favourable decision, if the provisions of the Constitution were complied with. Jurisdiction was only denied if it was sufficiently clear from the contested decision itself that the court would have arrived at the same result on other grounds without violating the Constitution. According to a judgement by the Cologne Administrative Court of 9 January 1974,[34] a citizen whose personal honour has been violated has a right to expect a member of the Federal Government who has been named as witness to be exempted from his obligation not to disclose official information if the court considers the interrogation necessary and if a refusal is not justified on statutory grounds or by exceptional circumstances. The granting of permission to be interrogated by a court is, in the opinion of the Cologne Court, not a government act but is subject to certain legally defined conditions which can be examined.

The law on the citizen's representative (ombudsman) adopted in Rhineland–Palatinate on 3 May 1974[35] brought a major improvement in judicial protection in the administrative sphere. According to article 1 of that law, the ombudsman is required to strengthen the position of the individual in his dealings with the authorities within the framework of parliamentary control of the *Landtag* (state legislature). The ombudsman acts on information from individual citizens alleging that agencies subject to Parliamentary control have mishandled a case. The ombudsman can recommend to the agency concerned that it settle such matters by way of agreement. If the agency fails to follow his recommendation, the *Landtag* petitions committee will decide on the matter unless a court decision is called for.

On the ground that the right to a fair trial was an important element of the rule-of-law principle, the Federal Constitutional Court decided on 8 October 1974,[36] that witnesses, too, had a right to legal counsel. In the case in question the complainant, who was to have been questioned as a witness in disciplinary proceedings and was afraid he might be asked about his own lapses, had been refused permission to engage legal counsel on the ground that a witness did not require such counsel since he was merely asked to testify to what he had seen and heard, in other words to the facts. The court argued that legal problems could only arise in connexion with a witness's right to refuse to give evidence, and this the witness would be informed about by the court. The Federal Constitutional Court upheld the complaint on the ground that the requirement that both parties should be equally well equipped, which was the essence of a fair trail and had found expression in a number of court procedural rules, did not apply directly to witnesses. Although their right to call upon legal counsel had not been specifically stipulated in any procedural regulations, it was essential in view of the fact that a person drawn into legal proceedings was left to his own devices in exercising his procedural rights and possibilities and should in principle have the right to engage counsel of his confidence. The situation of a person who in performing his public duty as a witness may be exposing himself to prosecution was comparable to that of the defendant. Therefore, the principle of "equal opportunities" also applied to the witness. The information given by the judge could not be a substitute for legal advice since such information did not provide the witness with the legal and factual knowledge which he required to be able to distinguish between his obligation to give evidence and his right to refuse to disclose certain information owing to the risk of self-incrimination.

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[33] *DVBl* 1973, p. 955.

[34] *DÖD* 1974, p. 89.

[35] *Gesetzund Verordnungsblätt Rheinland-Pfalz* 1974, p. 187; *Sammelblatt für Rechtsvorschriften des Bundes und der Länder* 1974, p. 1230.

[36] *NJW* 1975, p. 103.

F. Due process in criminal proceedings

(articles 10 and 11 of the Universal Declaration; articles 14 and 15 of the second Covenant)

Penal law and procedure in the Federal Republic of Germany were the subject of comprehensive reforms in the period under review which can only be outlined in this report. The greater part of the fourth penal law reform law,[37] for instance, came into effect on 24 November 1973. That law has considerably eased the provisions on the punishment of sexual offences in section 13 of the Penal Code. The introductory law of 2 March 1974 to the Penal Code was proclaimed on 9 March 1974.[38] It was to enter into force on 1 January 1975 together with the provisions of the second penal law reform law of 4 July 1969,[39] so that all the provisions of the general part as well as important provisions of the special part of the Penal Code of the Federal Republic of Germany will be based on modern concepts of criminal law. The first criminal procedure reform law of 9 December 1974 (proclaimed on 11 December 1974)[40] will likewise enter into force on 1 January 1975. Its main purpose is to streamline and speed up criminal proceedings.

The Stuttgart Higher Regional Court also dealt with the question of the duration of criminal proceedings in its decision of 20 November 1973.[41] Whilst it is still a point at issue what legal consequences can emerge from the violation of the right of an accused person to have his case handled within a reasonable period of time pursuant to article 6 (1), first sentence, of the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. procedural obstacles), the court decided in this case that if that right is violated it may at any rate be impermissible to take the accused into custody for the purpose of the delayed main proceedings. It held that the issue and the validity of a warrant for arrest always had to be commensurate with the crime. This not only meant that the period of custody had to be limited, for even if the accused held himself at the disposal of the court for the proceedings without being detained, the investigations had to be completed within a reasonable period of time. If that period expired without the completion of the necessary proceedings it was no longer justifiable to restrict the accused's liberty.

The right of an accused person to be represented by counsel of his choice and to be able to communicate with him without hindrance has been the subject of several court decisions. In its decision of 13 August 1973,[42] the Federal Supreme Court held that any person accused of an offence was in principle entitled to correspond in writing or orally with defence counsel without interference (Code of Criminal Procedure, sect. 148). That provision, the court maintained, did not exclude the possibility of correspondence between the accused and counsel being inspected or confiscated if there was good reason to assume that counsel was involved in the crime for which the accused was to be tried. The problem of the treatment of defence counsel suspected of complicity in the crimes of their clients has arisen repeatedly in connexion with the investigations into the activities of the Baader-Meinhof terrorist group and has led to a number of other decisions, which are discussed in section R below.

According to a judgment by the Federal High Court of 17 July 1973,[43] the decision of a court to appoint defence counsel *ex officio* under section 145 (1) of the Code of Criminal Procedure, where counsel chosen by the accused has been excluded, rather than suspend the proceedings on the application of the accused does not constitute an inadmissible restriction of that person's defence unless the substitute counsel appointed by the court himself applies for a postponement on the ground that he has had insufficient time to prepare the case. The court held that the law did not insist upon the same defence counsel being continually present during the trial.

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[37] *BGBl* I, p. 1725.
[38] *Ibid.*, p. 469.
[39] *Ibid.*, p. 717.
[40] *Ibid.*, p. 3391.
[41] *NJW* 1974, p. 284.
[42] *MDR* 1973, p. 945.
[43] *NJW* 1973, p. 1985.

Increasingly more courts are deciding that foreigners on trial who do not understand German are entitled to the services of an interpreter free of charge (e.g. Stuttgart Regional Court, judgement of 15 February 1973;[44] Heidelberg Regional Court, judgement of 8 August 1973;[45] Bonn Regional Court, decision of 21 May 1974[46]). "Engaging free of charge" meant that such services must not be made conditional upon advance payments by the accused. However, most of the courts did not see themselves prevented from imposing these costs, too, on the accused, in the event of his conviction.

An essential element in the accused's legal protection is that proceedings may only be conducted in his presence. The Federal Supreme Court, in its judgement of 27 March 1973,[47] made it clear that the accused could not exercise that right as he saw fit but was in principle obliged to be present at the trial (Code of Criminal Procedure, sect. 230). In minor criminal cases the court could conduct proceedings without the accused being present provided he had been told of this possibility beforehand (Code of Criminal Procedure, sect. 232, para. 1, first sentence). Without such notification, which lay at the discretion of the court, the accused was obliged to be present and his counsel could not replace him (Code of Criminal Procedure, sect. 234). Accordingly, the Federal Supreme Court deemed it justifiable to refuse permission to appeal in a minor case because the accused had been absent without good reason—though the court had ordered him to be present at the proceedings—irrespective of the fact that counsel of the accused had been present.

In its decision of 10 January 1973,[48] the Hamm Higher Regional Court expounded on the requirement that the accused person must be capable of attending proceedings. It held that fitness to participate in the trial meant that the accused had to have full civil and legal competence. That was the case if the accused showed a sufficient degree of maturity, was able to decide for himself, and was therefore capable of participating in his trial, following the proceedings, making himself understood and understanding what others said. Under these conditions the court held that the decision of a person deprived of his civil rights not to apply for legal remedy was effective in law.

The Düsseldorf Regional Court, in its decision of 8 December 1973,[49] gave a wide interpretation to the principle that an act can be punished only if it was an offence against the law before the act was committed (*nulla poena sine lege*: Basic Law, art. 103 (2); and Penal Code, sect. 2, para. 1). In the court's view this inadmissibility of the retroactive effect of the law still applies where case law has changed.

The admissibility of appeals against decisions of higher regional courts in criminal proceedings was the subject of a decision by the Federal Supreme Court of 25 January 1973.[50] According to section 304 (4) of the Code of Criminal Procedure, in the old version, such decisions by the higher regional courts were incontestable. However, after these courts had been assigned first instance competence (law of 8 September 1968),[51] section 304 of the Code of Criminal Procedure was amended to permit exceptions for decisions that had a particularly negative effect on the rights of the person concerned, terminated the proceedings, or had any other particular significance, such as a decision on whether a person should be arrested, owing to the great extent to which the personal liberty of the person concerned is affected. In this decision the Federal Supreme Court made it clear that the amended provision had, by way of exception, to be given a narrow interpretation. If, therefore, the higher Regional Court ordered exemption from arrest the conditions imposed could not in themselves be appealed against, as the decision was on the whole favourable to the accused.

The fact that the accused, whilst having rights in criminal proceedings, also has certain obligations, was emphasized by the Federal Supreme Court in a decision of 27 Feb-

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[44] *Die Justiz* 1973, p. 217.
[45] *Ibid.*, p. 444.
[46] *MDR* 1974, p. 776.
[47] *BGHSt* 25, p. 165.
[48] *NJW* 1973, p. 1894.
[49] *Ibid.*, p. 1054.
[50] *BGHSt* 25, p. 120.
[51] *BGBl*, p. 1582.

ruary 1973,[52] in connexion with the possibility of restoring the proceedings to their previous state after defence counsel had exceeded the time-limit for substantiating an application for permission to appeal. The Federal Supreme Court imposed extensive obligations on the accused. According to section 44 of the Code of Criminal Procedure, such restoration after the expiry of the time-limit is only possible where, owing to unavoidable circumstances, the time-limit could not be complied with. An error on the part of defence counsel can constitute "unavoidable circumstances", unless the accused himself is partly responsible for the failure to observe the time-limit. In the court's opinion the accused cannot confine himself to a purely passive role but must as far as possible help to ensure that the appeal is lodged within the time-limit. If he remained inactive and relied on his lawyer, in spite of the fact that it ought to have been obvious to him that the latter was not making any effort to substantiate the appeal within the time-limit, he was not relieved of his share of the responsibility. In this particular case the accused should not have relied on the information given by his lawyer: "Everything is all right".

As a reaction to the obvious attempt by several members of the Baader-Meinhof terrorist group held in custody to render proceedings against them impossible or delay them by going on a hunger strike and thereby inducing a condition which made them incapable of attending the proceedings, the provisions of the Code of Criminal Procedure relating to the presence of the accused at the trial have been supplemented by the law of 20 December 1974[53] amending the first criminal procedure reform law. Where the accused deliberately renders himself incapable of participating in criminal proceedings, the trial may be conducted in his absence after the court has heard a medical expert and in so far as the accused has already had an opportunity to state his case before a court or judge (Code of Criminal Procedure, sect. 231 (A)). The same applies where the accused has been removed from the court-room on account of his improper behaviour (Code of Criminal Procedure, sect. 231 (B)).

G. Protection against interference with privacy

(articles 6 and 12 of the Universal Declaration; articles 16 and 17 of the second Covenant)

Free correspondence by and with persons held in custody awaiting trial was the subject of two decisions by the Federal Constitutional Court. In that of 11 April 1973[54] the Court held that the judge responsible for the checking of a detained person's correspondence had to take into account the special importance attached to free written communication with the spouse of the detainee in view of the constitutional requirement of respect of personal privacy. With 4 votes in favour and 4 against, the Federal Constitutional Court, in its decision of 16 May 1973,[55] rejected a constitutional complaint lodged by a person held in custody on the ground that a letter to him from another person in custody had not been passed on because it contained grossly insulting remarks against the judiciary. Four judges were of the opinion that section 119 (3) of the Code of Criminal Procedure, which permits such restrictions when necessary to maintain prison order, should not be given a narrow interpretation. It was not the court's duty to impose its own opinion, which may be more generous, but to examine whether the extreme limit of the power of decision afforded by that general clause had, in the light of the fundamental rights limited by it, been exceeded. A letter containing such insulting remarks could become a source of tension between prison personnel and inmates and create situations of conflict and confrontation which were intolerable for prison discipline. It was therefore permissible to hold back such letters. This was not inconsistent with the basic assumption of the innocence of the accused pursuant to article 6 (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms since that assumption related exclusively to the act of which he had been accused but not to measures for the sake of maintaining prison order. The other four members of the panel, however, held that the actual threat to prison discipline had not been adequately considered and explained. The Celle Higher Regional Court emphasized in its decision of 15 January 1974[56] the private and personal character

[52] *MDR* 1973, p. 512.

[53] *BGBl* I, p. 3686.

[54] *MDR* 1974, p. 454; *FamRZ* 1973, p. 449; *BVerfGE* 35, p. 35.

[55] *BVerfGE* 35, p. 311; *NJW* 1974, p. 26.

[56] *NJW* 1974, p. 805.

of correspondence when it held that a letter from a person in custody, the contents of which were known to the judge responsible for mail checks, could not be confiscated on the ground that it might be of importance for investigation in other proceedings.

With regard to the question whether in disciplinary proceedings against a civil servant the divorce files of the person concerned may be made available to a medical expert by the court, the Federal Constitutional Court, in its decision of 18 January 1973,[57] found that files relating to divorce proceedings concerned the private life of the married couple, which fell under the basic right to free development of personality in connexion with the duty of the State to respect human dignity. The individual's right to privacy also applied in relations with the courts. Such files were not totally sacrosanct; the citizen had to accept certain measures by the State in the overriding interest of the general public, provided that such encroachments upon a person's privacy were strictly commensurate with the purpose. However, the revelation of matters discussed in divorce proceedings was compatible with the Constitution only if it served the purpose of the inquiries and was absolutely necessary, and if the intensity of the encroachment was not out of proportion to the importance of the matter and the degree to which the person concerned was suspected of having committed an offence. In assessing the situation all personal and actual circumstances had to be considered on the basis of strict criteria. In the case in question the circumstances did not, in the opinion of the Federal Constitutional Court, permit the contents of divorce files to be disclosed.

Extending case law on compensation for mental suffering, the Cologne Higher Regional Court, in its decision of 17 January 1973,[58] held that in the case of spectacular and sometimes untrue press reports on crimes and the victims of such crimes, the latter were entitled to compensation. The court's line of reasoning was that a person's private life was the area that required most protection. It was, therefore, in principle closed to public discussion. The public's need to be informed as widely as possible did not extend to spectacular reports which indisputably revealed the victim's private affairs. In the court's view the seriousness of the attack in the press and hence the claim for compensation was not offset by the fact that the person in question demanded that a rebuttal be printed in the paper concerned.

The use in criminal proceedings of secret tape recordings which the victim had made of a conversation with the accused was the subject of a decision of the Federal Constitutional Court of 31 March 1973.[59] In response to the constitutional complaint lodged by the accused, the court ruled as follows:

> "The general right to freedom as expressed in article 2 (1) of the Basic Law guarantees to every person the right to the free development of his personality in so far as he does not violate the rights of others or offend against the constitutional order or the moral code . . .".

The court stated that if a tape recording related to a person's private life, which was in any case inviolable and therefore an area in which public authority could not interfere, it could under no circumstances be used; the question whether this might be permissible in the public interest did not come into consideration. If that private sphere—after assessment in each case—was not affected, the interest of the individual in the non-use of secret tape recordings had to be overruled in cases where the public interest prevailed. This could be the case, for instance, where a grave criminal offence had been committed or where the foundations of the liberal democratic order were seriously affected. In such cases the principle of relative importance had to be taken into consideration, and in particular the question whether the use of such covert tape recordings was the only means of obtaining the required information and whether one could guarantee that knowledge of the contents of the recorded conversation could be limited to those directly involved in the proceedings. In the case under consideration the court upheld the complaint on the ground that in view of the offences involved (fraud and counterfeit documents) the fundamental

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[57] *BVerfGE* 34, p. 205.

[58] *NJW* 1973, p. 850.

[59] *BVerfGE* 34, p. 238; *NJW* 1973, p. 891.

right of the accused to protection of his personal freedom prevailed over the general public interest.

The production of identification data (photographs, fingerprints etc.) in the course of police investigations under section 81 (B) of the Code of Criminal Procedure may in certain circumstances constitute a serious intrusion into the private affairs of the accused or an infringement of his right to the free development of personality. Section 81 (B) of the Code says nothing about how long such data should be retained. The Baden–Württemberg Higher Administrative Court ruled on 13 February 1973[60] that the police could retain such data as an aid to the prevention of crime without violating the Constitution, notwithstanding an acquittal, if the judgement in question had established a considerable suspicion of the accused having committed the offence. The Federal Administrative Court upheld that decision on 18 May 1973[61] by rejecting the complaint against the refusal of permission to appeal.

Also worthy of note is a decision by the Federal Supreme Court of 16 February 1973[62] on the possibility of personal freedom being violated by commercial advertising. In this particular case a tradesman found advertisements addressed to him in the form of private letters troublesome. The Federal Supreme Court was of the opinion that this form of advertising was within tolerable limits and therefore did not in itself constitute a violation of that right. However, it ruled as follows: "If the receiver of a letter advertisement asks the firm concerned not to send any more such advertisements and that firm refuses to comply with his request such refusal may then constitute a violation of his personal freedom". The court qualified this by ruling that the request of the receiver of such advertising material would not have to be complied with if this brought upon the firm concerned expenditure out of proportion to the inconvenience.

Protection of privacy also includes inviolability of the home, principally protection against search. The Federal Constitutional Court has up to now explicitly left open the question how far the constitutional concept of "search" extends. Such searches have to be ordered by a judge in the case of dwellings and, by virtue of recent decisions by the constitutional courts, business premises, pursuant to article 13 (2) of the Basic Law. In its judgement of 6 Septmber 1974[63] relating to the legality of police action in entering a students' hostel in the course of an unruly demonstration, the Federal Constitutional Court has given a more specific definition of "search". In the case in question the police had been bombarded with bottles and stones from within the hostel. They forced their way in without a court order, entered unlocked rooms and required the inhabitants, in some cases by use of force, to leave the building and gather in the forecourt. The appellate administrative court had taken the view that any forceful entry of a dwelling by the organs of the State amounted to a search within the meaning of article 13 (2) of the Basic Law, since such action never stopped at mere entry but was taken in every case for a specific purpose, an inadmissible extension of the concept of search as embodied in the Constitution. The Federal Administrative Court did not agree with this view and held that the concept as expressed in article 13 (2) of the Basic Law had the same meaning as the search of a dwelling provided for in other laws, such as the Code of Criminal Procedure, the Code of Civil Procedure and the police law. The criterion to be applied was whether the police were searching for persons or objects or trying to establish certain facts. Entry for the latter purpose was, the court held, not necessarily associated with search. Noticing the presence of persons, objects and conditions in a dwelling, which was unavoidable even where the entry served a different purpose (for instance, inspection by the supervisory authority) did not constitute a "search". It only did so if the entry involved a systematic activity of discovering something which the occupant or owner of the dwelling did not wish to disclose voluntarily. Encroachments upon the privacy of a dwelling which did not constitute searches were permissible under article 13 (3) of the Basic Law in order to avert a serious danger to individual persons, and, pursuant to a law, to prevent serious danger to public safety and order. In view of the fact that stones had been thrown from the students' hostel, the court ruled that a serious danger to public safety and order

[60] *DÖV* 1973, p. 462.

[61] *Ibid.*, p. 752.

[62] *BGHZ* 60, p. 296.

[63] *DVBl* 1974, p. 846.

existed and saw in the general powers of entry provided by police law a sufficient legal basis for entry within the meaning of article 13 (3) of the Basic Law.[64]

In view of the increasing need for information in all spheres, which could also include facts relating to an individual's private life, and of the increasing extent to which such data are recorded by technical means, the scope for shaping one's life in freedom as afforded by the Basic Law threatens to become narrower. The Federal Government introduced a bill to afford protection against the use of recorded data[65] on 21 September 1973 in order to obviate any abuse of such data. The bill regulates the handling of personal data in the critical phases of processing, namely storage, forwarding, alteration and cancellation. In addition, the individual can demand information about data relating to him and can have incorrect data corrected and, under certain conditions, blocked or cancelled.

H. Freedom of movement

(article 13 of the Universal Declaration; article 12 of the second Covenant)

Pursuant to article 1 of the law of 22 July 1969 relating to the entry and sojourn of nationals of member States of the European Economic Community,[66] the members of the family of an alien from an EEC country enjoy extensive privileges with regard to freedom of movement and establishment in the Federal Republic of Germany, irrespective of whether they themselves are nationals of a State member of the EEC or not, which other aliens do not enjoy under the more stringent provisions of the aliens law. In its decision of 13 December 1972, the Koblenz Higher Administrative Court,[67] attempted to explain in detail that the principle of non-discrimination is not thereby violated, owing to the fact that the two laws serve different purposes. It held that the EEC treaty sought to establish freedom of movement within the Community on the basis of reciprocity. However, member States were not to be compelled to adapt their aliens legislation to EEC rules in cases where freedom of movement within the Community was not affected, but where the family interests of one of its own nationals were concerned.

By virtue of the law of 17 April 1974,[68] which entered into force on 1 May 1974, the law on the entry and sojourn of nationals of member States of the EEC was amended to the effect that freedom of movement is enjoyed not only by those relatives of EEC aliens or their spouses who receive full maintenance but also to those who receive any maintenance at all, even if it is only partial. This adjustment of the law was required by Directive No. 64/220/EEC of the Council of the European Communities, dated 25 February 1964.[69]

I. Right of asylum; deportation

(article 14 of the Universal Declaration; article 13 of the second Covenant)

In its judgement of 19 April 1974,[70] the Federal Administrative Court examined the conditions under which the relatives of a person entitled to asylum also have the right of asylum, on the ground that family unity should be preserved and the family protected, without themselves having been persecuted on political grounds. The case in question related to the application for asylum—which was refused—by an alien women who, though not herself persecuted on political grounds, had, after entering the Federal Republic of Germany, married a stateless person who had been enjoying political asylum in the Federal Republic for some time. The Federal Administrative Court, referring to the fact that recognition deriving from the husband's refugee status could in principle only establish the same status under the law of asylum as for the husband himself, ruled that there existed no statutory provision which extended the status of one spouse to the other. However, the special protection of marriage and the family (European Convention for

[64] On 12 April 1973, the Kassel Higher Administrative Court had rendered a similar decision (*NJW* 1973, p. 1855).

[65] *Bundestag* document 7/1027.

[66] *BGBl* I, p. 927.

[67] *NJW* 1973, p. 2174.

[68] *BGBl* I, p. 948.

[69] *Journal officiel des Communautés européennes* No. 56, 4 April 1964, p. 845.

[70] *DVBl* 1974, p. 852.

the Protection of Human Rights and Fundamental Freedoms, art. 8; Basic Law, art. 6), had also to be taken into account in the application of the right of asylum. That is why, the court argued, the relatives of a refugee in the Federal Republic of Germany were also granted his status in so far as the objectives of asylum would not otherwise be achieved because, as experience had shown, those who were dependent on the refugee were in many cases exposed to at least serious prejudice in the country where the person supporting them was being persecuted. The family unity criterion also obtained where, as in that particular case, the family had been established only after the refugee had left his native country. Here, however, the prerequisite that the protection which asylum was intended to afford could only be achieved by granting both spouses the same status was lacking. The aliens law did not prevent the plaintiff from continuing her marriage despite her not being recognized as a refugee; indeed she enjoyed the special protection afforded to marriage and the family by the Constitution of the Federal Republic of Germany (Basic Law, art. 6). She could appeal against any decision not to extend her residence permit or to expel her by invoking that protection and pointing out that her husband, recognized as having refugee status, could not follow her to her native country.

The right of asylum was the subject of several other court decisions during the period under review.[71]

The prerequisites for and the limited possibilities of expelling aliens were likewise the subject of a number of decisions in the period under review. The Federal Administrative Court, for instance, in its decision of 25 January 1973,[72] found that an alien who had entered the Federal Republic illegally to find work had no entitlement to the extension of his residence permit, nor any claim that his application should not be turned down.

In the period under review, the Federal Constitutional Court examined in detail the question of legal protection against expulsion orders in the light of the following. After the attack by terrorists at the 1972 summer Olympic Games, a number of aliens living in the Federal Republic were ordered to be expelled immediately. Having failed in their attempt to have the expulsion order delayed by the administrative courts, they lodged a complaint with the Federal Constitutional Court which, by its decision of 30 May 1973,[73] suspended the execution of the expulsion order and, by its decision of 18 July 1973,[74] allowed the constitutional complaints. The court gave as its reason that the guarantee of legal protection embodied in article 19 (4) of the Basic Law also applied to aliens. That provision would be illusory if the administrative authorities executed measures immediately, before the court had decided on whether or not they were lawful. The expulsion of an alien who had been resident in the Federal Republic of Germany for a considerable period of time had in itself serious consequences which, even if he later won his case on the merits, could not be reversed. The immediate execution of an expulsion order presupposed a special public interest over and above the interest justifying the order itself. In the cases in question immediate execution of the order could be justified only if there was good reason to fear that the danger associated with the person of the alien and which the expulsion order had been issued to avoid would actually materialize before a judicial decision as to the legality of the expulsion order had been made. The general suspicion that substantial interests of the Federal Republic of Germany might be seriously impaired, which was the reason given by the administrative authorities and the court in rejecting the application for a suspension of the order, was not, according to the Federal Constitutional Court, sufficient to justify immediate deportation. Finally, another point to be considered in respect of article 19 (4) of the Basic Law was that immediate deportation would considerably impair the alien's defence in the proceedings on the merits. The alien would not be in a position to confront witnesses and to question them personally, and in other countries it was extremely difficult to find counsel conversant with German law.

The Federal Constitutional Court affirmed this view in a similar decision on 16 July 1974.[75]

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[71] See, for instance, Frankfurt Higher Regional Court (*NJW* 1973, p. 1570); Bavarian Higher Administrative Court (*BayVBl* 1973, p. 439; and *Ibid.*, p. 440).

[72] *DVBI* 1973, p. 699.

[73] *NJW* 1973, p. 1454.

[74] *BVerfGE* 35, p. 382; *NJW* 1974, p. 227.

[75] *NJW* 1974, p. 1809.

J. Right to a nationality

(article 15 of the Universal Declaration; article 24 of the second Covenant)

The right to a nationality was considerably extended by the decision of the Federal Constitutional Court of 21 May 1974.[76] The court declared unconstitutional a provision of the Reich and State Nationality Law of 22 July 1913 (as amended by the law of 19 December 1963)[77] whereby the legitimate child of a German father acquired his nationality, whereas if the mother was a citizen and the father an alien the child acquired the nationality of the alien provided it was not thus rendered stateless. The court found that the legislature was obliged to enable all legitimate children born after 1 April 1953 whose mothers were German to acquire the mother's nationality, in so far as the child had hitherto been excluded therefrom, until new legislation was enacted. The court chose 1 April 1953 as the beginning of the transitional period because, under article 117 (1) of the Basic Law, all provisions conflicting with the principle of equal rights for men and women ceased to have effect on 31 March 1953. The court held that it could not anticipate the action of the legislature and itself adapt the provision in question to the constitutional requirements. Thereupon, on 20 December 1974, the Bundestag passed the law amending the Reich and State Nationality Law.[78] By virtue of its birth, a legitimate child will acquire German nationality where one of the parents is a national, and a child born out of wedlock where the mother is a national. A legitimate child born after 31 March 1953 but before the entry into force of the amended law on 1 January 1975 whose mother was a national at the time of its birth may acquire the mother's nationality by a declaration, if it has not acquired that nationality by birth. This right of declaration may also be exercised by a child born out of wedlock that had acquired German nationality by birth and subsequently lost it due to an act of legitimization by the father. The right of declaration may be exercised within a period of three years following the entry into force of the amended law.

Two new provisions have been included in the Reich and State Nationality Law: section 10 provides that illegitimate minor children of a national are to be naturalized if paternity has been effectively established pursuant to the law and the child has been resident in the Federal Republic for the past five years; section 26 makes it possible in cases of dual nationality, which have been on the increase since the law was amended, for the child to renounce German nationality provided the circumstances are such as would have permitted its release from that nationality under the law as it stood prior to the amendment, or if the child wishing to renounce nationality has been permanently resident outside the Federal Republic for at least 10 years or has completed military service in one of the countries whose nationality he possesses.

K. Protection of marriage and the family

(article 16 of the Universal Declaration; article 10 of the first Covenant; articles 23 and 24 of the second Covenant)

Pursuant to article 6 (1) of the Basic Law for the Federal Republic of Germany, marriage and the family are the subject of special protection by the State. In the period under review, as in previous years, the courts have frequently had to decide how far this guarantee can oblige the authorities to allow aliens married to nationals to reside in the Federal Republic or extend their residence permits. In a judgement of 3 May 1973,[79] the Federal Administrative Court held initially that a wife who was a national had the right to sue the authorities to prevent the expulsion of her alien husband. This followed, in the court's view, from the recognition of marriage as a partnership between persons with equal rights who, with due regard for one another's wishes, could choose for themselves where they wanted to spend their life together. Having established this principle, the court diverged sharply from case law on the question whether the expulsion of an alien married to a national constituted a threat to their marriage and family and hence violated article 6 (1) of the Basic Law. The principle that marriage to a national does not in every case

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[76] *BVerfGE* 37, p. 217; *NJW* 1974, p. 1609; *FamRZ* 1974, p. 579.

[77] *BGBl* I, p. 982.

[78] *Ibid.*, p. 3714.

[79] *NJW* 1973, p. 2077.

protect the foreign spouse from expulsion still applies. However, whereas it would formerly have been assumed that the married couple would transfer their residence abroad from the outset without such a step violating their fundamental right under article 6 (1) of the Basic Law, and whereas the usual practice was that the German wife was expected to go abroad with her alien husband, that is no longer the case in view of the equal rights of husband and wife. The Court interpreted article 6 (1) in such a way as to guarantee a married couple of mixed nationality not only a right to live together, but a right to live together within the territory of the Federal Republic of Germany, if one of them was a national. If the couple wish to remain in the country, any compulsion, even indirect, to leave is regarded by the court as a violation of the right to protection afforded by the Basic Law.

It is still not clear, even in the light of recent court decisions, when serious reasons for expulsion prevail over the protection afforded by article 6 (1) of the Basic Law. Whereas the Koblenz Higher Administrative Court found on 13 February 1973,[80] that a foreigner convicted for continuous drug trafficking could not invoke his marriage with a German to prevent his expulsion even if his wife could not reasonably be expected to go with him to his native country, the Federal Administrative Court, in a judgement pronounced on 3 May 1973,[81] refused to permit the expulsion of an alien who had been found guilty of manslaughter, on the grounds that such action would conflict with article 6 (1) of the Basic Law. According to another decision by the Federal Administrative Court of 21 May 1974,[82] the principle of family protection may require rights to be granted to aliens that extend beyond the mere right of residence. In regard to a question of registration for medical practice within the meaning of article 3 (3) of the Federal Code of Medical Practice, the court held that the fact that a foreign applicant was married to a national was a factor that had to be taken into account.

L. Protection of property

(article 17 of the Universal Declaration)

The guarantee of private property within the bounds of social obligations and of the law was the subject of numerous court decisions in the period under review. These, however, threw little light on any particular aspects of the protection of real property, though considerable importance may be attached to the decision of the Federal Constitutional Court of 12 November 1974[83] on the question of the right to repurchase. The court came to the conclusion that the guarantee of the right to property afforded by article 14 (1) of the Basic Law gave the former owner of land that had been the subject of a compulsory purchase order (Basic Law, art. 14 (3)) the right to repurchase it if the land had not been used for the purpose for which the expropriation had been intended. Previously the courts had always denied such a right (see in particular the decision of the Federal Administrative Court).[84] The Federal Constitutional Court emphasized that though the Basic Law does not explicitly confer such right of repurchase directly, it follows from the content and nature of the guarantee of property ownership embodied in article 14 (1) of the Basic Law, in conjunction with the provisions relating to expropriation in article 14 (3) of the Basic Law.

The extent of the social responsibilities attached to property[85] featured prominently in a decision of the Federal Supreme Court of 25 January 1973[86] concerning the question whether an owner was entitled to compensation when prohibited from building on land that had been declared a water protection area. The Federal Supreme Court held that the inclusion of plots of land in protected areas did not in itself constitute expropriation. The increase in the demand for drinking water, the court maintained, made it necessary to ex-

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[80] *Ibid.*, p. 2079.

[81] *JZ* 1973, p. 732.

[82] *DVBl* 1974, p. 849.

[83] *NJW* 1975, p. 37.

[84] *BVerwGE* 28, p. 184.

[85] Basic Law, article 14 (2): "Property imposes duties. Its use should also serve the public weal."

[86] *BGHZ* 60, p. 145.

tend the social responsibilities attached to water-carrying land, because this was an asset on which the general public was particularly dependent. In that sense, therefore, the prohibitions imposed on the plaintiff were merely an expression of that social responsibility and hence were to be seen as a restriction of ownership which did not qualify for compensation.

The limits which can be placed on the exercise by the owners of dwellings of their right of ownership because of the social obligations attached to it were the subject of a decision of the Federal Constitutional Court of 23 April 1974,[87] in which the court upheld the constitutional complaints of owners against the statute on the protection of tenants against unreasonable terms of notice of 25 November 1971[88] as well as its application by the courts. That statute, which was originally to have effect until 31 December 1974 but has since become permanent law owing to the fact that its provisions have been incorporated in the second statute on the protection of tenants of 18 December 1974,[89] prevents owners from serving notice on tenants in order to be able subsequently to increase the rent. Instead, the owner can require the tenant to accept an increase up to the "local comparable level" and must notify the tenant in writing of the reasons for the increase. If the tenant does not agree the owner can sue for consent. Section 3 (1) of the statute prescribes that increased rent must not exceed the rent for dwellings of a similar nature, size, fittings, location, etc. The Federal Constitutional Court held that the legislator, in enacting compelling statutory provisions on rents and tenancy, had to pay equal attention to the interests of the tenant and those of the owner. Different treatment was not compatible with the constitutional concept of private ownership imposing social obligations. It therefore found that the statutory prohibition of notice for the purpose of increasing the rent, and the restriction to "local comparable rents", did not conflict with the guarantee of ownership. On the other hand, the Federal Constitutional Court held that the practice of courts in requiring in every case detailed information on several comparable dwellings conflicted with the guarantee of ownership embodied in article 14 of the Basic Law. Section 3 (1) of the statute on the protection of tenants not only limited the rent that could be charged but also upheld the owner's right to a rent of a level customary in the area. The manner in which the courts had applied this provision altered its effect to the detriment of the owner. The formal application of section 3 (2) of the statute, without consideration of the substantive aspects, prevented the owner from obtaining with the aid of the court a rent which was permitted by the law. This was a violation of his fundamental right under article 14 (1), first sentence, of the Basic Law.

In its judgement of 14 May 1974,[90] the Federal Fiscal Court enlarged on the problems of the relationship between the guarantee of ownership, taxation, and currency depreciation, a matter which will no doubt keep the courts occupied for some time to come. The Court did not regard the taxation of capital income (interest) as encroachment upon a person's property, in spite of the currency depreciation (1971: 5.2 per cent), for as long as the return on the long-term invested capital was higher than the rate of inflation. The court held that the guarantee of ownership excluded only a tax which made it impossible to exercise the right of ownership or generally impaired the state of ownership ("strangulation tax"). It did not say whether a different view should be taken if the rate of depreciation is greater than the nominal return on long-term investments. The Federal Fiscal Court upholds the principle that it is the duty of the legislator, not the judge, to make allowance for currency depreciation in income tax law. Other federal courts have departed from this principle with regard to the adaptation of pension funds to the rate of inflation (see sect. s below).

The Hamburg Fiscal Court, on the other hand, expressed doubts in its decision of 10 May 1974[91] whether assessment in terms of the return on long-term investment was justified. This question will not be finally clarified until the Federal Constitutional Court has decided on constitutional complaints with regard to such matters.

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[87] *BVerfGE* 37, p. 132: *NJW* 1974, p. 1499.

[88] *BGBl* I, p. 1839.

[89] *Ibid.*, p. 3603.

[90] *NJW* 1974, p. 2330.

[91] *Ibid.*, p. 2236.

M. Freedom of conscience and religion

(article 18 of the Universal Declaration; article 18 of the second Covenant)

The use of religious symbols or oaths in ordinary court proceedings has been the subject of various decisions. The Federal Constitutional Court, for instance, in its decision of 17 July 1973,[92] held that the obligation to participate in proceedings in a court of law with a crucifix on the wall if this was not consistent with one's own religious beliefs or ideological convictions could constitute a violation of the fundamental freedom of religion ensuing from article 4 (1) of the Basic Law The court stated that there were no objections in terms of the Constitution to crucifixes being kept available for people who wish to take the oath on one. Where a crucifix was used for such a limited purpose it could give no cause for complaint to people with different beliefs. Although it could be assumed that large sections of the population would have no objection to a crucifix hanging in a law court, and that its mere presence did not in any way require participants in the proceedings to identify themselves with the ideas or institutions which it symbolized, allowance had to be made for the fact that a crucifix as a permanent fixture in the court-room could give the impression that it had a deeper significance. It was necessary to appreciate that individual participants in proceedings could regard the unavoidable obligation to conduct their cases "under the crucifix" against their own religious beliefs as an encroachment upon their basic right ensuing from article 4 (1) of the Basic Law, which had to be given a wide interpretation owing to its close connexion with human dignity. If the complainant could put forward serious and acceptable reasons, it had to be made possible for him to have his case heard in a court without a crucifix.

Following the decision of the Federal Constitutional Court in 1972 in which it recognized the right of witnesses to refuse to take the oath in judicial proceedings on religious grounds,[93] the Freiburg Administrative Court, in its decision of 21 April 1974,[94] expressed its opinion on the compatibility of the freedom of religious beliefs and the obligation of civil servants to take an official oath. In that particular case a teacher had been refused civil service status because she wished on religious grounds to have the words "I swear", prescribed by section 65 of the Baden-Württemberg Statute on Civil Servants, replaced by another wording, in spite of the fact that she was not a member of one of the religious communities which the law permitted to use a different formula (the "privilege of religious sects"). The Administrative Court found that the obligation of civil servants to take an official oath carried less weight than the freedom of conscience and religion of any civil servant to whom the taking of an oath was irreconcilable with his creed or conscience. This also applied where the civil servant was not a member of a religious community which the law permitted to use formulae that differed from those of the standard oath. With reference to the decision of the Federal Constitutional Court regarding the swearing of witnesses, the court held that the fundamental freedom of conscience and religion which, pursuant to article 1 (3) of the Basic Law, was directly binding on the legislature, the executive and the judiciary was not governed by a statutory reservation. That freedom could be qualified neither by general law nor by a loosely termed clause on the "balancing of rights". On the contrary, it could be limited only by the Constitution itself (interest of the community as protected by the Constitution or the basic rights of others). In contrast to this, the interpretation given by the public authority to section 65 (3) of the Baden-Württemberg Statute on Civil Servants that only members of religious communities explicitly recognized under a specific law were entitled to take a different form of oath was tantamount to a restriction of the freedom of religion, because of the resulting extensive obligation to take an oath. This did not ensue from the Basic Law and was therefore unconstitutional. This "privilege of the sects", by virtue of the fact that it was restricted to certain religious communities, violated the principle expressed in article 3 (3) of the Basic Law that no one may be prejudiced on account of his religious beliefs. The court found, however, that the prevalence of freedom of conscience and religion in individual cases did not prejudice the general validity and constitutionality of the statutory provision that persons entering the civil service had to take an official oath.

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92 *BVerfGE* 35, p. 366; *NJW* 1973, p. 2196.

93 *BVerfGE* 33, p. 23.

94 *ZBR* 1974, p. 360.

The statute supplementing the first penal law reform of 20 December 1974,[95] which entered into force on 1 January 1975, has altered the procedural rules (Code of Criminal Procedure, sect. 66 (*d*); Code of Civil Procedure, sect. 484) relating to the placing of witness under oath to the effect that a witness not wishing to take an oath on grounds of conscience or religious belief can instead affirm the truth of his statement. Such "affirmation" is equivalent to an oath—a fact which has to be brought to the attention of the witness—so that the affirmation of an untrue statement carries the same punishment as perjury (Penal Code, sect. 155).

By its decision of 30 November 1973,[96] the Federal Administrative Court overruled the decision of the Münster Higher Administrative Court of 28 April 1972.[97] The latter had ruled that common school prayers during school hours but outside religious instruction were not admissible because participation in such prayers was, owing to the fact that schooling was compulsory, binding and could therefore violate the "negative" freedom of religion of the pupils. The Federal Administrative Court held, however, that such school prayers were permissible and could not be excluded on account of, for instance, the ideological-religious neutrality of the State. Pupils were not obliged to join in the prayers since no one could be forced to participate in religious practices; that was a qualification of compulsory schooling. The freedom of religion of school children was not infringed if parents were informed about school prayers and of the fact that pupils did not have to participate, and if the duration and frequency of such prayers were kept within limits. The negative freedom of religion deriving from article 4 (1) of the Basic Law did not establish a right to prevent others from expressing their religious faith but merely permitted the individual to withdraw from such practices in a reasonable manner.

One of the most important rights embraced by the freedom of conscience and religion is that of conscientious objection (Basic Law, art. 4 (3)). The Federal Government intends to modify considerably the procedure for determining whether persons claiming to be conscientious objectors can be recognized as such.[98] It has been particularly difficult to establish whether the motives of conscientious objectors were genuine or just a pretext for avoiding military service. This has led to diverging court decisions.[99] According to the Federal Government's plans, the procedure will, in principle, be dispensed with in the case of persons liable to military service who have not yet been called up. Anyone who invokes the fundamental right of conscientious objection will be exempt from military service and—provided he is fit for service—assigned to a substitute civilian service. Only persons who having received their calling up papers or are already serving in the armed forces will have to go through a simplified and expedited examination procedure to determine whether or not they can be recognized as conscientious objectors.

N. Freedom of opinion and of information

(article 19 of the Universal Declaration; article 19 of the second Covenant)

In its decision of 15 March 1973,[100] the Federal Administrative Court surveyed the question of conflict between the freedom of opinion and the responsibilities of civil servants. A teacher had been refused permission to take a day off from school to participate in a demonstration against the then new emergency legislation. The court, referring to previous court decisions, held that the fundamental principles governing the civil service, which pursuant to article 33 (5) of the Basic Law had to be taken into account in all matters pertaining to the service, could restrict a civil servant's fundamental rights. Conflicts, the court argued, could only be resolved by establishing in a specific case which provision of the Constitution carried the greater weight. Of the fundamental principles of the civil service, the one requiring the civil servant to devote his full attention to his profession was of special significance. This included the duty to be present at his place of

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95 *BGBl* I, p. 3686.

96 *BVerwGE* 44, p. 196; *NJW* 1974, p. 574; *DVBl* 1974, p. 679; *DÖV* 1974, p. 278.

97 *DÖV* 1973, p. 65; see *Yearbook on Human Rights for 1972*, p. 141.

98 Bulletin of the Federal Government, No. 114, 2 October 1974, p. 1164.

99 See, for instance *NJW* 1973, p. 263 (see *Yearbook on Human Rights for 1972*, p. 142); *NJW* 1973, p. 635; *DVBl* 1974, p. 1467; *BVerwGE* 44, p. 313; *NJW* 1974, p. 1343.

100 *BVerwGE* 42, p. 79; *DVBl* 73, p. 570.

work during official working hours. To grant a civil servant the "right" to be released from duty on the strength of article 5 (1) of the Basic Law (free speech) every time he thought he should be making his opinions heard elsewhere would be to ignore the fundamental value of that civil service principle. The fact that the civil servant had, on a particular day during official working hours, been prevented from expressing his opinion by participating in a demonstration had not infringed the substance of his fundamental right of free speech. Regulations whereby the public employer was entitled to refuse leave because of exigencies of work were in principle reconcilable with article 5 (1) of the Basic Law. Indeed, to assume that such leave had to remain an exception was also compatible with the Constitution. The court rightly pointed out that refusal to grant such leave did not place the civil servant in a worse position than any other employees.

The conflict between the right of free speech for persons in custody and the dictate of a fair trial was a principal feature of a decision by the Karlsruhe Higher Regional Court of 28 February 1973[101] concerning a complaint by a man held in custody who had been convicted of murder by the court of first instance and had been refused permission to participate in a television broadcast on the subject of criminality. The basis of the court decision was that the press, radio and television, in exercising their freedom as embodied in article 5 (1), second sentence, of the Basic Law, were entitled to report on public trials and in particular on the proceedings in question. In this way the press was a kind of watch-dog on the administration of justice. The court saw possible restrictions of that right, however—apart from the statutory provisions to protect young people and also a person's personal honour—in the accused's right to a fair trial and the requirement of orderly criminal proceedings. In view of the danger that both witnesses and the jury might be influenced by newspaper reports on current proceedings, the requirement of a fair trial and the freedom of journalism had to be weighed up in each individual case. Within these limits for reporting it was also necessary to decide whether an accused person, taking into account the freedom of opinion, may be prevented from participating in news coverage of the trial before its termination. Such prevention was not feasible where the accused was not held in custody, but one who was had to accept restrictions which were necessary in connexion with detention, the purpose of which was to ensure the proper conduct of court proceedings without any outside influence. In view of the importance of free speech, a restriction of this kind was only permissible if there was concrete evidence that the participation of the accused in news coverage would have a detrimental effect on the conduct of proceedings. This did not automatically follow from the fact that the proceedings were still in progress, but in the case in question the danger did exist because inaccurate reports had already been made on the case with the participation of the accused.

The relationship between freedom of the press and the right to privacy and the protection of one's reputation, and the question of possible sanctions in case of infringement were the subject of a decision by the Federal Constitutional Court of 14 February 1973.[102] One of the popular papers had published a fictitious "exclusive interview" with a distinguished personality which contained comments on that person's private life. The Federal Supreme Court had seen this as an infringement of the right to privacy and sentenced the publishing company to DM 15,000 damages. The publishing company lodged a constitutional complaint on the ground that the decision constituted an infringement of the basic right of free reporting and asserted also that the Federal Supreme Court, in awarding damages, had exceeded the limit to which the Constitution permitted restrictions of freedom of the press because the law did not provide for pecuniary damages in the case of mental suffering. On the contrary, this was expressly prohibited in section 253 of the Civil Code. In its decision the Federal Constitutional Court expressed first of all the opinion that the protection of privacy as developed by case law was not incompatible with the Constitution but was in fact a dictate of the Constitution in view of the outstanding importance in law attached to the human personality and its dignity (Basic Law, arts. 1 and 2 (2)). However, in weighing up the freedom of the press and personal rights the latter could not automatically be given priority. In assessing freedom of the press as compared with the other liberties protected by the Constitution, consideration had to be given to the question whether the press in a particular case was seriously and objectively covering

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[101] *NJW* 1973, p. 1291.

[102] *BVerfGE* 34, p. 269; *NJW* 1973, p. 1221.

a matter of public interest and was hence satisfying a public demand for information and contributing to the formation of public opinion, or whether it was merely satisfying a superficial need for entertainment. Protection of a person's private life had absolute priority over the latter purpose. In the case in question concerning the "exclusive interview", the court gave priority to personal rights, which it deemed to have been infringed. With regard to the intensity of the restrictions upon the freedom of the press ensuing from the priority of those rights, the court maintained that only those sanctions authorized by the law could be imposed upon the press. Excessive sanctions, such as disproportionately high damages, would limit the freedom of the press in a manner incompatible with the Constitution. In the present case the award of pecuniary damages for mental suffering, which was not totally alien to the legal system, was by its nature and in view of the amount involved not a disproportionate sanction.

In a judgement by the Federal Constitutional Court of 5 June 1973,[103] the conflict between the freedom to broadcast and the protection of personal rights was examined in terms of the Constitution. A prison inmate who had been convicted years previously for his part in a serious crime which had attracted a great deal of public attention was about to be released. At the time of the trial the papers had covered the case extensively, printing the names of the offenders with photographs. Now a television corporation wanted to take up the story again in a documentary film and intended to produce photographs and the names of the offenders in the introductory part. One of the offenders who was just about to be released from prison sought, in several proceedings, ending with a constitutional complaint, to have the documentary play banned since he felt the mention of his name and publication of his photograph would prejudice his reintegration in society and thus constituted an infringement of his personal rights. The Federal Constitutional Court upheld his complaint. As in the above-mentioned decision, the Court held that in assessing the balance between freedom of broadcasting and protection of privacy there was no basic priority of one over the other. As regards current reporting on serious crimes, the public interest would generally prevail over the offender's right to privacy; however, the principle of relative importance had to be observed. It was not always permissible to give the identity of the authors of a crime, in particular when the matter was no longer of topical interest. Subsequent reporting was in any case inadmissible, over and above the need for current information, if it was likely to bring further impairment to the offender and especially if it jeopardized his rehabilitation. Such a danger could generally be assumed to exist if a programme on a serious crime which identified the offender were to be broadcast after or just before his release.

O. Freedom of assembly and association

(articles 20 and 23 of the Universal Declaration; article 8 of the first Covenant; articles 21 and 22 of the second Covenant)

According to article 9 of the Basic Law, all citizens of the Federal Republic of Germany have the right to form associations and societies in so far as their purposes and activities do not conflict with criminal law, the constitutional order, or the concept of international understanding. Political parties have the additional protection of article 21 of the Basic Law. In the period under review there has been considerable dispute as to whether a person's membership of a radical political party or association which either openly or covertly seeks to undermine the fundamental and democratic principles of the Constitution of the Federal Republic of Germany is compatible with his employment as a public servant. The issue flared up in particular when the Federal Chancellor and the premiers of the *Länder* decided on 28 January 1972[104] that membership of organizations pursuing anti-constitutional objectives was ground for doubting whether an applicant for a post in the public service would "support fundamental democratic principles at all times" as was required under all civil service laws. In the meantime both the Federal Government[105] and the states of Bavaria and Baden-Württemberg[106] have introduced bills

[103] *NJW* 1973, p. 1226.

[104] Bulletin of the Press and Information Office of the Federal Government, 3 February 1972, p. 142.

[105] Bundesrat document 208/74.

[106] Bundesrat document 125/74.

designed to incorporate, to a differing extent, the contents of that decision in their respective statutory provisions governing the public service. The indisputable principle that a State cannot have public servants who on political grounds are opposed to the Constitution raises legal problems where the doubt as to whether the civil servant or applicant for a post in the public service will remain faithful to the Constitution ensues from his membership of a radical party that has not been declared unconstitutional and banned. The problem ensues from the "privilege of the parties" clause in article 21 (2) of the Basic Law, which says that parties which, by reason of their aims or the behaviour of their adherents, seek to impair or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany are unconstitutional. Only the Federal Constitutional Court can decide on the unconstitutionality and hence on whether the party concerned should be banned. The "privilege of the parties" therefore implies that parties inimical to the Constitution are also lawful and may not be hampered in their activities so long as the Federal Constitutional Court has not declared them unconstitutional. Up to now the courts have been inconsistent in their judgements and the Federal Constitutional Court has not yet taken a position. The Higher Administrative Court of Rhineland-Palatinate found in its judgement of 29 August 1973[107] that the legality of party membership did not prevent the authorities from checking whether a civil servant or an applicant for a post in the public service upheld the democratic principles of the Constitution. The principle of political tolerance underlying the "privilege of the parties", to the extent that that privilege protected the activities of the party members, could conflict with the constitutional requirement that civil servants uphold the basic democratic order. In considering both constitutional principles, the privilege of the parties had to take second place. The State, the court argued, could only grant tolerance if it preserved its political unity of action, its continuation and power of resistance, by means of a well-functioning civil service that was faithful to the Constitution. The same applied where the problem concerned membership, not of a political party but of another kind of organization that had not been banned. The criterion was not the legality of membership but whether the person concerned was prepared at all times to uphold the principles of the liberal democratic order. The rejection of an applicant for a post in the public service did not violate article 9 of the Basic Law. Such action was also compatible with article 11 (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, under which freedom of association for members of public administrations may be restricted. The Bavarian Higher Administrative Court, on the other hand, in its decision of 15 May 1973,[108] upheld the opinion that so long as the political party had not been banned, mere membership could not lead to exclusion from the public service—which would ultimately affect the party itself. The Federal Administrative Court, in an *obiter dictum* to its judgement of 14 March 1973[109] seemed to hold the view that the fact that the Federal Constitutional Court alone decided on matters pertaining to the constitutionality or otherwise of a party prohibited any "administrative action against the existence of a political party". A different chamber of the Bavarian Higher Administrative Court, on the other hand, held on 7 December 1973[110] that a decision to exclude a party member from the public service on account of his lack of suitability (non-allegiance to the Constitution) was not directed against the party itself.

In a decision of 17 May 1973,[111] the Saar-Louis Higher Administrative Court put an end to a practice that has been gaining currency with administrative authorities. Unpopular functions of radical parties (party conferences) which could not be prevented by invoking the provisions of the law of association or general police regulations because the meetings were non-public and "peaceful", have been banned on the ground that counter-demonstrations had been announced which threatened to result in violence. Commenting on this, the court held that the party organizing the meeting, which did not in itself disturb the peace, could only have restrictions placed upon it where an "emergency situation calling for police action" obtained. This presupposed such a danger to be imminent. In view of the constitutional status of a party that had not been banned and the fact that

[107] *ZBR* 1973, p. 338.
[108] *ZBR* 1973, p. 272.
[109] *Ibid.*, p. 276.
[110] *Ibid.*, p. 136.
[111] *DÖV* 1973, p. 863.

article 8 (1) of the Basic Law did not provide for restrictions on peaceful assemblies in closed premises, strict criteria had to be applied in determining whether the danger of violence was imminent. This could not be adequately determined simply by the announcement that counter-demonstrations were to be held. Furthermore, the police were required, where a counter-demonstration was not conducted peacefully, to take steps against the demonstrators first.

P. Suffrage and the right of self-determination

(article 21 of the Universal Declaration; article 1 of the first Covenant; articles 1 and 25 of the second Covenant)

All citizens of the Federal Republic of Germany have the right to elect deputies to the Bundestag in general, direct, free, equal and secret elections if they have reached the age of 18 and have been living or had their permanent residence in the electoral area for at least three months prior to the date of the election (section 12 (1) of the Federal Election Act of 7 July 1972,[112] in conjunction with article 38 of the Basic Law). According to a decision of the Federal Constitutional Court of 23 October 1973,[113] the requirement of "residence in the electoral area" is compatible with the Constitution and therefore does not encroach upon the right to vote of persons living abroad who have no residence in the territory of the Federal Republic. The court held that this requirement, like that of a certain minimum age, was one of the permissible customary limits of general suffrage. In this respect the principle of equality was not violated where a member of the public service, having been posted abroad by his employer and thus having his residence there, was entitled to vote (Federal Election Act, sect. 12 (2)). Such persons, who were living abroad not voluntarily but on the orders of their employers, had a fundamentally different relationship with the Federal Republic of Germany than people who of their own accord resided permanently abroad for commercial or other reasons.

An appeal against the decision of the German Bundestag of 23 July 1971 (cf. Basic Law, art. 41), which overruled objections to the results of the referendum in Baden-Württemberg on the restoration of the former *Land* Baden, gave the Federal Constitutional Court an opportunity to comment on the possible sources of error in voting procedures (decision of 2 April 1974).[114] The court thus found that it was a legitimate interest of the Government of Baden-Württemberg to set out in an appropriate manner the reasons why the existing *Land* (state) could not be split up into the original two *Länder*, and to explain its policy on this matter. However, the limit to the lawful activities of the state government, in view of the constitutional right of the people to express their opinions independently of any government influence during referenda, would be exceeded if the government joined in the referendum campaign alongside the groups directly concerned (in this case two associations) as if it were one of them. The court saw another possible error in the voting procedure in the fact that the broadcasting corporations, though they gave each group the same amount of broadcasting time, allowed other holders of public office and representatives of political parties to speak in favour of retaining the *Land* Baden-Württemberg in connexion with other matters. The court held that those who were against partition had a certain advantage ensuing from their superior numbers and the fact that the activities of the state government and other official matters were constantly reported on. That advantage should not, in the court's view, be unduly exploited to the detriment of the other side, which did not have such means of publicity at its disposal. The court rejected the appeal on the ground that such possible errors could not have had an effect on the unequivocal result of the referendum.

Q. State care for persons in need of assistance

(articles 22 and 23 of the Universal Declaration; articles 9 and 11 of the first Covenant)

As part of its general legislative programme towards a general Social Code, the

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[112] *BGBl* I, p. 1100.

[113] *BVerfGE* 36, p. 139; *NJW* 1974, p. 311.

[114] *BVerfGE* 37, p. 84.

Federal Government submitted to the Bundesrat on 13 April 1973 a draft of the general part of such a code.[115]

A few court decisions have been handed down on general aspects of the right to State welfare deriving from the "social State principle" embodied in article 20 (1) of the Basic Law. The Federal Administrative Court, in its decision of 3 May 1973,[116] ruled that the obligation of the Federal Republic of Germany to see to the welfare of foreign workers could qualify the otherwise considerable discretion of the aliens authority in issuing residence permits. The court thus held the aliens authority to be under obligation to issue a residence permit to a foreign grandmother who wished to enter the country in order to look after her grandchildren being brought up in a foreign worker's family. At the same time, however, the court held that in general a court's competence to interpret the State's welfare obligation in such a way was very limited. The criterion by which the nature of that obligation should be specified could not merely be that which appeared desirable in the interest of persons in need of care but merely that which was possible and tenable in the society which the State served. The equal promotion of the well-being of all citizens was the overriding political responsibility, and the legislative or ministerial discretion to be applied in fulfilling that task was in principle very wide. That discretion was qualified where the needs of a person requiring assistance could be met with comparatively little inconvenience to the public at large. And this discretion could be superseded by a legal obligation to provide such assistance where it could bring only advantages to the general public but no encumbrance. The court deemed this situation to obtain in the case upon which it had to decide.

R. Right to choose and exercise a profession

(article 23 of the Universal Declaration; article 6 of the first Covenant)

The right embodied in article 12 (1) of the Basic Law freely to choose one's place of work and place of training does not afford any protection against new competition. This was emphasized by the Federal Constitutional Court in its decision of 1 February 1973[117] on the second law amending the law on tax advisers of 11 August 1972.[118] The latter law had placed tax advisers and tax agents in one professional category. In future there will be only the profession of tax adviser with the corresponding training. Special transitional provisions were introduced to enable former tax agents to become tax advisers after being in business for a certain period of time and taking advanced training courses. Several tax advisers lodged a constitutional complaint against these provisions. The Federal Constitutional Court held that the scope which article 12 (1) of the Basic Law afforded the legislature in respect of regulations relating to trades and professions embraced the authority to standardize professions and also to enable people already practising certain professions to meet the requirements of new job descriptions as soon as possible by introducing appropriate provisions with lower requirements. Article 12 (1) of the Basic Law did not afford any protection to those already meeting the requirements of the new job description against new competition arising as a result of this redefinition.

The guarantee of a free choice of profession embodied in article 12 (1), first sentence, of the Basic Law does not rule out the possibility of making accession to a certain profession dependent on the fulfilment of certain subjective requirements (basic and advanced training). In its decision of 23 September 1974,[119] which was otherwise concerned with organizational questions relating to the new Bremen law on training for the legal profession of 1 July 1973,[120] the Bremen High Court made it clear that the imposition of subjective requirements restricting the fundamental freedom to choose one's profession presupposed the adequate definition of such requirements. The High Court consequently abrogated section 11 (2) of the Bremen law on legal training ("the compulsory subjects in the spheres of private, penal, public and procedural law must be covered by training . . .") on the

115 Bundesrat document 286/73.

116 *NJW* 1973, p. 2170.

117 *NJW* 1973, p. 499.

118 *BGBl* I, p. 1401.

119 *NJW* 1974, p. 2223.

120 *Bremisches Gesetzblatt*, p. 177.

ground that this told neither the student nor his teacher what knowledge had to be acquired in order to obtain a university degree and thus access to the legal profession.

In connexion with the exclusion from the public service of members of extremist organizations or parties that are inimical to the Constitution (see also sect. O above), the Baden-Württemberg Higher Administrative Court, in its decision of 19 March 1973,[121] found that a person who was considered unlikely to pursue his duties in a manner consistent with the Constitution was unsuitable for a public service appointment within the meaning of article 33 (3) of the Basic Law. This provision had special significance for the public service and consequently prevailed over the general guarantee of a free choice of profession as embodied in article 12 (1), first sentence, of the Basic Law.

The Bavarian High Court, however, in its judgement of 15 May 1973,[122] took the view that subjective requirements of reliability on the part of applicants should be less strict where the applicant was not being admitted to a profession as such but to the prescribed training.

In its decision of 7 September 1973,[123] the Federal Administrative Court found that no person who has not completed a course of academic study can derive from article 12 (1) of the Basic Law a right to be admitted to an academic examination. The court argued that although the right to admission to educational institutions provided by the State could be derived from the principle of equality and the social state concept in conjunction with the freedom to choose a profession, this only applied to participation in the courses of existing institutions. At existing institutions the course of study and the examinations belonged together; no provision was made for external examinations.

A statutory amendment concerning the powers of defence counsel in criminal proceedings became necessary following a decision by the Federal Constitutional Court on 14 February 1973.[124] The court held that if a court withdrew an attorney's right to defend his client on the ground that he was suspected of complicity in the crimes of which his client was accused, it was infringing the attorney's free exercise of profession under article 12 (1) of the Basic Law. Such an encroachment upon that right was at the time covered neither by statutory nor by customary law. The court also held that defence in criminal proceedings was one of the principal elements of the attorney's profession. An attorney admitted to a court of the Federal Republic of Germany was authorized to conduct the defence of his client before any court in the country. That right ensured that the attorney could carry on his profession and was covered by the protection afforded by article 12 (1) of the Basic Law. Any restrictions presupposed a clearly defined, unequivocal statutory authorization, which was lacking. Nor did there exist any pre-constitutional customary law according to which a judge was entitled to exclude an attorney who was not one of those accused, simply on the ground that he was strongly suspected of having been party to the alleged offence.

Since that decision, the law of 20 December 1974[125] supplementing the first criminal procedure reform law contains sections 138 *a* to 138 *d*, which provide for the exclusion of defence counsel from participation in proceedings where he is strongly suspected of participation in the act that is the subject of the proceedings or of abusing his right to communicate with a detained client in custody for the purpose of committing an offence or seriously threatening prison security. In order to prevent defence counsel from exchanging communications between several detainees, section 146 of the Code now prohibits one attorney from acting as counsel to several accused.

S. Protection of rights in labour legislation

(articles 23, 24 and 25 of the Universal Declaration; articles 6 and 7 of the first Covenant)

Legislation pertaining to works provident funds, under which employees are usually paid benefits by their employers in addition to their pension under the statutory pension

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121 *ZBR* 1973, p. 176.

122 *ZBR* 1973, p. 272.

123 *BVerwGE* 44, p. 70; *NJW* 1974, p. 573; *DÖV* 1974, p. 281.

124 *NJW* 1973, p. 696.

125 *BGBl* I, p. 3686.

system, has been the subject of a number of court decisions. According to a judgement of the Federal Labour Court of 25 May 1973[126] the employer must exercise great care in formulating commitments under provident funds. He must not carelessly inspire his employees with unjustified confidence but must inform them about the terms of such benefits if the commitment is not self-explanatory. If the employer fails to provide such information he may find that his commitment is interpreted to his detriment. In its decision of 17 May 1973[127] the Federal Labour Court held that the "exclusion of a claim at law", by which benefits under a works provident fund are usually promised, was a revocable right of the employer that was dependent on good faith. In other words it required the exercise of due discretion based on verifiable grounds. In the opinion of the Federal Labour Court (decision of 26 October 1973),[128] such provident funds, as a rule, are not the subject of negotiation between equal parties. Consequently, the agreements are subject to judicial control. The principle of employee protection, derived from the social-State concept, places limits on contractual freedom.

In a judgement of 30 March 1973[129] the Federal Labour Court expounded on the effects of price increases and depreciation of benefits payable under provident funds. The court found that where an employer has promised an employee a pension and the cost of living has gone up by 40 per cent since the amount of benefit was last fixed, the employer must negotiate an adjustment of the pension with the former employee in a manner commensurate with the situation. If they fail to agree the employer must decide, using due discretion, whether he will adjust the pension and if so to what extent. In doing so he may take his own due interests into account, but he must also make allowance for the plight of the pensioner. If the employer fails to make or delays such a decision, or if he fails to exercise due discretion, the court can make the adjustment at its own discretion. The court, however, did not yet wish to concede an automatic adjustment of benefits (income-related). In its view pensioners cannot insist on their benefits being increased to the same extent as the wages or statutory pensions. With this decision the Federal Labour Court departed from the principles previously established with regard to pension commitments, which had been developed, especially by the Federal Supreme Court, into a "disturbance of equivalence" in cases of long-term contractual relationships. According to that case law, a substantial increase in prices did not necessarily lead to a breach of the principle of *pacta sunt servanda* if the price increase was only a consequence of the general loss of purchasing power and hence did not express any increase in the inherent value of the *quid pro quo*. This was only the case if the payment could not be considered to be anywhere near equivalent recompense. The Federal Supreme Court has since given up that case law and now followed the view expressed by the Labour Court (judgement of 28 May 1973).[130]

The contentious question whether the employee retains his right to benefit under the works provident fund if he ceases to be an employee of the firm before benefit is due has been settled by the Law to Improve Old-Age Benefits from Provident Funds of 19 December 1974.[131] Under section 1 of that law, an employee who has been assured of old-age benefits retains his claim even upon premature termination of his employment contract, provided he is at that time at least 35 years old and has either had an assurance of benefits for the previous 10 years or has been working for his current employer for at least 12 years and assured of benefit for at least 3 of those 12 years. Other provisions ensure the continued payment of provident fund benefits where companies become insolvent (art. 7 *et seq.*).

The law on dismissals has also been the subject of several court decisions in the period under review. In its judgement of 7 June 1973,[132] the Federal Labour Court held that "notice of change" (i.e. where an employee is given notice and at the same time offered continued employment under changed conditions under article 2 of the Protection of

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126 *NJW* 1973, p. 1948.
127 *BB* 1973, p. 1308.
128 *BB* 1974, p. 696.
129 *NJW* 1973, p. 959.
130 *BB* 1973, p. 696.
131 *BGBl* I, p. 3610.
132 *BB* 1973, p. 1212.

Employees against Dismissal Act of 25 August 1969)[133] was only justified if an immediate change in the conditions of employment was absolutely essential and the new terms were acceptable to the employee. The new offer had to be fair to the employee.

No compelling rules of law, especially the provisions relating to protection against dismissal, may be circumvented by limiting contracts of employment in point of time. Proceeding on this basis, the Federal Labour Court insisted in its decision of 22 March 1973[134] that the limited term of employment had to be justifiable. The employee's own request to have a limited contract was in this respect regarded as a "justifiable reason". The court held, however, that this only applied where the employee's freedom of decision was not impaired upon signing the contract. The acceptance of an offer of a limited contract could not in itself be regarded as conclusive proof that it came about upon the request of the employee. The fact that term contracts were the usual practice in certain branches could only be taken into account if that practice could appreciably and responsibly be considered justified. Under article 1 (2) of the Protection of Employees against Dismissal Act, dismissals are unjustified on social grounds and therefore invalid if one of the conditions set out in that provision obtains and the works council objects to the dismissal on that ground (art. 102 (3), Works Constitution Act of 15 January 1972).[135] A dismissal will also be unjustified on social grounds where the employee could be given different employment with his approval elsewhere within the same firm with or without retraining or further training. In a case before the Federal Labour Court (13 September 1973),[136] a female employee had been dismissed in spite of the fact that she said she would do any other kind of work—which, as it turned out, would have been possible. The works council had not objected to the dismissal. The Regional Labour Court dismissed her action for wrongful dismissal, partly because, in its view, the fact that the works council had not contested the dismissal meant that it no longer mattered whether or not it would be possible for her to do some other kind of work. The Federal Labour Court, however, held that the right of objection invested in the works council had in no way detracted from the employee's right to protection against dismissal but that, on the contrary, the interest of the firm and the social interests of the employee must be sufficiently weighed against each other even if the works council had agreed to that employee's dismissal. The circumstances that had to be taken into account, even where the works council did not raise any objection, included in any case the possibility of continued employment with the same employer in a different capacity.

Article 78 (A) of the Works Constitution Act, added by virtue of the law of 18 January 1974,[137] provides that members of organs constituted under the Act (youth committee, works council) undergoing training must be notified in writing three months before the termination of training where the employer does not intend to convert the indenture into an employment contract of indefinite duration. Otherwise the trainee can within the last three months of training insist on continued employment for an indefinite period, which would be considered justified. The employer could for his part seek a declaratory judgement to the effect that for certain reasons he could not reasonably be expected to keep the trainee on.

The Grand Senate of the Federal Labour Court had, in its decision of 21 April 1971,[138] found that a lockout terminating, in contrast to suspending, employment in response to a strike was, as a rule, only admissible if the strike was illegal. The Court, in its decision of 19 June 1973,[139] expounded on the question of onus of proof where the legitimacy of the strike is disputed. In the decision—which still concerned the substance of the decision of the 21 April 1971—the main issue was whether the purposes for which the strike had been called could be the subject of a collective bargaining agreement. The court's main line of argument concerned the question whether the strike was led by the trade union, and it

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133 *BGBl* I, p. 1317.

134 *BB* 1973, p. 1029.

135 *BGBl* I, p. 13.

136 *BB* 1973, p. 1635.

137 *BGBl* I, p. 85.

138 *NJW* 171, p. 1668; see *Yearbook on Human Rights for 1972*, p. 148.

139 *BB* 1973, p. 1258.

decided that it was to be assumed that a strike conducted by a trade union for the purpose of regulating working conditions and pay was legitimate. It was also to be assumed that a strike conducted by a trade union concerned the settlement of conditions of work and pay. Only special circumstances, which had to be proved by the employer, could render such a strike illegal.

According to the judgement by the Baden-Württemberg Regional Labour Court of 8 August 1973,[140] injunctions may, in principle, also be granted with a view to preventing a strike. But as such an injunction may result in the definitive prevention of a strike if it cannot be conducted with the same effect at a later stage, an injunction is, in the court's view, only admissible if the employer concerned is threatened with disadvantages which go beyond the degree of impairment generally connected with strikes (e.g. where the firm's very existence is threatened) and which are not counterbalanced by trade union interests in conducting a strike. Such an injunction is also inadmissible if there exists no reasonable doubt that the strike is legal.

The law of 17 July 1974[141] prescribed that in the case of bankruptcy the company's employees were entitled to compensation equivalent to the last three months' wages still outstanding before bankruptcy proceedings opened. This compensation is paid by the labour offices, which reclaim it from employers at the end of each year.

The Law on Minimum Standards for Employee Accommodation of 23 July 1973[142] entered into force on 1 October 1973. It ensures that decent accommodation is provided, in particular for foreign workers.

T. Right to education

(article 26 of the Universal Declaration; article 13 of the first Covenant; article 18 of the second Covenant)

The Hamburg Administrative Court, in a decision dated 25 April 1972,[143] in response to an action brought by parents, declared the introduction of sex education in schools to be illegal because such measures, which considerably restricted the rights of parents, could not be sanctioned merely on the basis of a directive. The Hamburg Higher Administrative Court upheld an appeal against this decision (judgement of 3 January 1973).[144] The court found that the provisions of the Constitution did not require broad aspects of school education concerned with educational aims and curricula to be regulated by statute or legal provisions. Article 7 (1) of the Basic Law, which places school education under the authority of the State, at the same time restricted parents' rights under article 6 (2) of the Basic Law. In exercising the right to educate, the State, however, had to take into consideration parents' rights and was required to exercise restraint, especially where it was a question of imparting convictions which affected a pupil's personal outlook and attitude to life. The court, however, did not feel that the mere dissemination of information in the field of sex education was an infringement of parents' rights.

The Federal Administrative Court delivered two judgements on the question of religious instruction in schools. According to article 7 (3), first sentence, of the Basic Law, religious instruction in State and municipal schools, except secular schools, forms part of the ordinary curriculum. Parents have the right to determine whether or not their children should receive religious instruction (Basic Law, art. 7 (2)). In a decision of 30 May 1973,[145] the court first of all ruled that the *Länder*, within the framework of State supervision of schools (Basic Law, art. 7 (1)), are authorized to provide compulsory instruction in philosophy for those pupils who do not receive religious instruction. In another decision of 6 July 1973,[146] the court held that a provision of *Land* law stipulating that religious instruction was an academic subject and therefore had a bearing on a pupil's remove was

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140 *MDR* 1973, p. 1055.

141 *BGBl* I, p. 1481.

142 *Ibid.*, p. 905.

143 *DÖV* 1973, p. 54; see *Yearbook on Human Rights for 1972*, p. 148.

144 *DÖV* 1973, p. 575.

145 *NJW* 1973, p. 1815.

146 *BVerwGE* 42, p. 346; *NJW* 1973, p. 1815.

not incompatible with the Constitution. The principle of the State's neutrality in ideological and religious matters was broken to the extent that article 7 (3), first sentence, of the Basic Law declared religious instruction to be a responsibility of the State. The fact that religious instruction was considered under the Constitution as part of the ordinary school curriculum implied the possibility of performance in this subject affecting a pupil's prospects of remove. Neither the permissible confessional content of instruction, nor the possibility of pupils' being exempted from religious instruction pursuant to article 7 (2) of the Basic Law ruled out such gradings. In the court's view, taking into consideration religious instruction in deciding whether a child should move up to the next class did not conflict with the principle of equal opportunities anchored in article 3 (1) of the Basic Law. The pupils receiving religious instruction, it argued, could, by obtaining good marks in the subject, favourably influence their over-all performance. The fact that pupils with poor marks in religious instruction could, on religious grounds, be prevented from dropping this subject was not to be considered a violation of the principle of equal rights. Article 7 (3) of the Basic Law allowed for an additional burden on pupils taking religious instruction; the possibility of exemption as expressed in article 7 (2) of the Basic Law had not been created in order to avoid low grading in religious instruction.

Article 6 (2), first sentence, of the Basic Law affords parents the right in certain circumstances to influence school organization. On this ground the Darmstadt Administrative Court, in its judgement of 11 June 1974,[147] overruled a decision of the education department which had ordered the closure of a grammar school in favour of opening a new, integrated, comprehensive school against the wishes of parents, who successfully invoked a public need. The court emphasized that the right of parents and the government's supervisory role (Basic Law, art. 7 (1)) were of equal importance and required parents and schools to co-operate with each other in fulfilling their joint educational responsibilities.

U. International instruments for the protection of human rights[148]

(article 28 of the Universal Declaration)

The most outstanding event in the period under review was the accession of the Federal Republic of Germany to the United Nations. The Charter of the United Nations and the Statute of the International Court of Justice entered into force for the Federal Republic of Germany on 18 September 1973 (law of 6 June 1973;[149] notification of 27 November 1974).[150]

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147 *DVBl* 1974, p. 884.

148 See pp. 298–299, 304–312 below, with regard to information on the ratification of, or accession to, certain international agreements by the Federal Republic of Germany.

149 *BGBl* II, p. 430.

150 *Ibid.*, p. 1397.

GHANA

A. Right to social security

(article 22 of the Universal Declaration)

On 20 July 1973, the Government of Ghana extended the provisions of the Social Security Act, 1965 (Act 279), to persons in the public service by issuing the Social Security (Application to Public Servants) Decree, 1973 (NRCD. 190). Prior to the issue of this decree the right to pensions and gratuities of persons in the public service was governed, *inter alia*, by the Pensions Ordinance (Cap 30) and the Teachers' Pensions Ordinance, 1955 (No. 23). Under the decree the provisions of Act 279 will now apply to persons in the public service in respect of service rendered after 31 December 1971. Service of public servants prior to this date will be governed by the Pensions Ordinance (Cap 30) and the Teachers' Pensions Ordinance, 1955 (No. 23) as the case may be. The public service has been defined in the decree to include service in any civil capacity of the Government, the emoluments attaching to which are paid directly out of moneys provided by the National Redemption Council and service with any statutory corporation established entirely out of public funds or out of moneys provided by the National Redemption Council.

B. Right to a standard of living adequate for health and well-being

(article 25 of the Universal Declaration)

1. Housing development

In September 1973 the Government of Ghana issued a decree—the Bank for Housing and Construction (Amendment) Decree, 1973 (NRCD 211) which amended the Bank for Housing and Construction Decree, 1972 (NRCD 135) the principal decree on the subject. Under the principal decree, the objects of the bank were to carry on the business of financing and implementing housing and civil engineering schemes of all kinds. The Bank was also empowered to:

(*a*) Finance private housing schemes on a mortgage basis by building on its own account, selling or renting commercial or residential buildings on its own terms and conditions;

(*b*) Assist in the establishment, expansion and modernization of immovable property estates, commercial houses, office buildings, hotels, motels, and lodging houses;

(*c*) Finance and undertake urban redevelopment schemes;

(*d*) Finance roofing loans schemes, particularly in the rural areas.

The 1973 decree (NRCD 211), which amended the principal decree, enables the Social Security and National Insurance Trust to take shares in the authorized capital of the Bank in the same way as other financial institutions such as the Bank of Ghana, the National Investment Bank, the State Insurance Corporation and the Ghana Commercial Bank and other commercial banking or financial institutions as well as the general public. The amendment also increases the number of directors being shareholders nominated by the shareholders from two to five.

Dansoman Low Income Housing Project

The question of housing the people especially those in the low-income group, has been an almost intractable problem for succeeding Governments of Ghana. In recent years, however, the problem has become more pressing, aggravated by the rapid influx of people from the rural to the urban areas. The result is that there is considerable overcrowding in terms of average number of persons per room in the urban areas.

The National Redemption Council has made a concentrated effort to remedy the situation, in particular in Dansoman, a suburb of Accra. The Dansoman housing project was begun in the financial year 1968/69, when a total of ¢2·5 million was spent on 500 houses, including other houses all over the country. During the 1971/72 financial year,

there were houses for some 3,000 people in Dansoman. Since the National Redemption Council assumed power, the number of houses has increased considerably. In a three-month crash programme, 300 houses were constructed in a record time of three months, at a cost of ¢1·3 million. Dansoman now has 13,000 inhabitants, and when the project is completed in five years' time, there will be accommodation for 100,000 people.

2. Right to food

Price controls

As a means of combating inflation in the country, the Government of Ghana issued in December 1974 the Price Control Decree, 1974 (NRCD 305). This decree enables the Commissioner responsible for trade, acting on the advice of the Prices and Incomes Board, to issue by executive instruments "price control orders" prescribing the maximum prices at which goods specified in the order may be sold. Any person who contravenes the provisions of a price control order shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ¢1,000·00 or to imprisonment not exceeding five years or to both such fine and imprisonment.

The Dawhenya Irrigation Scheme

The Dawhenya irrigation scheme has been described as Ghana's waterway to self-reliance.

Dawhenya used to be a "wasteland". In human terms it was at best a small village whose inhabitants knew very little of the potential of the land from which they had scratched the barest subsistence over the years. In scientific terms, however, Dawhenya could support a vigorous agricultural activity but with one proviso—water. Unfortunately, this limitation had been constantly pushed into the background, principally because of the immense capital input that any irrigation project entails, especially in an area where annual rainfall rarely exceeds 30 inches. In 1960, there was a bold plan to irrigate that part of the vast Accra plains. But the hope that the plan engendered was short-lived. When the National Redemption Council came to power, that hope was rekindled, and even though the project is not yet completed, it stands as an important landmark in the present Government's leadership on the march to national self-reliance. The project seeks to irrigate 1,200 acres; this would be the beginning of the irrigation of large tracts of the Accra plains to facilitate mixed farming.

Dawhenya has been the beginning of the realization of the principle of self-reliance. It has provided visible evidence of the recognition of Ghanaians, for the first time in the history of the nation, that it is only through honest, hard and dedicated work on the part of every citizen that Ghana can develop and prosper. Indeed Ghanaians of all walks of life have contributed in diverse ways to make the scheme a success. Significant among them are the students who have spent their "holiday pastime" in giving service to this project.

"Operation Feed Yourself"

The "Operation Feed Yourself" campaign was conceived and launched on 17 February 1972. It was meant to be a national crash programme to expand food production and increase self-reliance. The launching of the programme became necessary because the country had been short of certain widely used imported food items. On the basis of past experience, production targets were set for each region for various crops. The Government also made available to agriculture for development projects in the country during 1972/73 an allocation of ¢34·3 million, representing 43 per cent of the national expenditure.

The second phase of the "Operation Feed Yourself" programme was launched on 12 February 1973. Hence, the main thrust is on intensive rather than expensive cultivation with a view to increasing productivity per acre. Attention is being directed to crop areas, i.e. areas under the various crops rather than areas cleared or ploughed and greater emphasis is being placed on livestock production. As a result of "Operation Feed Yourself", inputs in agriculture—machinery, tools and fertilizers—have received important attention. Many farmers are now familiar with the use of fertilizers.

Extension work in Ghana's agriculture has received special attention in order to bring to the doors of farmers all useful knowledge relating to agriculture. Now all the

professional staff of the Ministry of Agriculture are to do some extension work no matter their rank or specialization. Every agricultural officer considers himself as a focus or pivot of extension work and spends not more than two days in the office every week.

C. Right to education

(article 26 of the Universal Declaration)

In January 1973, the Government of Ghana issued the Students' Loans Scheme (Abolition) Decree, 1973 (NRCD 142) which abolished the Students' Loans Scheme, dissolved the Students' Loans Scheme Board and repealed the Students' Loans Scheme Act, 1971 (Act 371). Further, any loan agreement concluded under Act 371 was declared null and void *ab initio*, and any guarantee offered as security for any loan under such agreement was revoked. Any person who by virtue of Act 371 had obtained a loan was discharged and the loan ceased to be recoverable.

Prior to the enactment of the Students' Loans Scheme Act, 1971 (Act 371), university education was free in Ghana for all students who gained entry to the universities in the country.

However, in 1971, on account of rising costs, the Government decided that though tuition would be free for all university students, the cost of board and lodging, books, equipment and recreational facilities provided by the respective university institutions had to be met by the student himself. Act 371 was therefore enacted to grant loans to students whose parents or guardians were unable to meet the additional costs. The act also made provision for repayment of the loan, which was to commence 12 months after the student had left the university institution, or when he had started to earn income, whichever was the later.

D. Right to protection of an artistic production

(article 27 (2) of the Universal Declaration)

In September 1973, the Government of Ghana issued the Textiles Designs (Registration) Decree, 1973 (NRCD 213). This decree provided for the registration of textile designs for the protection of registered proprietors of such designs. Registration under the decree gives to the registered proprietor of such design, the copyright therein, that is to say, the exclusive right in Ghana to make or import for sale or for use for the purpose of any trade or business, or to sell, or offer for sale or hire, any textile article of which the textile design is registered, provided that the registration of a textile design which includes any indigenous traditional motifs shall not give rise to the exclusive use of those motifs.

HUNGARY

A. Right to all the guarantees necessary for defence
(articles 10 and 11 of the Universal Declaration)

The right of all nationalities living in the Republic to use their native tongue in proceedings before the courts is fully guaranteed by section 8 of the Code of Civil Procedure and section 8 of the Code of Criminal Procedure promulgated by Act I of 1973.

B. Right to equal pay for equal work
(article 23 (2) of the Universal Declaration)

The Hungarian People's Republic strives for the consistent realization of the socialist principles: "For each according to his/her ability, to each according to his/her work" (Constitution, art. 14, para. 4).

The Hungarian People's Republic guarantees its citizens the right to work and the respective remuneration according to the quantity and quality of the work performed (Constitution, art. 55, para. 1).

Further progress has been made by the Hungarian Government towards eliminating the temporary disparities between sexes in wages and earnings, which are mostly due to the differences in qualifications and to difficulties related to employment. Various steps have been taken by the Government in connexion with its wage policy, for instance, decision No. 1044/1973 for the enforcement of the principle of equal pay for men and women for equal work in the same employment. In order to contribute effectively to the gradual and rapid elimination of the disparities that still exist between the sexes in terms of wages, the Government adopted decision No. 1013/1974. In addition, decision No. 1020/1973, on the task of increasing the qualifications and higher training of women contains provisions regarding the improvement of the qualifications of women.

C. Special assistance for children and families
(article 25 of the Universal Declaration)

The child-care allowance was increased from 1 January 1974. After the birth of her first child, the mother gets 800 forints, after the second one 900 forints, and after the third and each subsequent child 1,000 forints. The total amount of the one-time maternity aid and infants' clothing allowance was increased from 1,100 forints to 2,500 forints. The mother or a single father is entitled to 60 days' sick pay if a child up to 3 years of age is ill, and to 30 days' sick pay in the case of a child from 3 to 6 years of age.

The family allowance for children was also increased with effect from 1 June 1974. By recent measures the Government has extended the family allowance to cover children whose parents are studying in universities or other institutions of higher education.

All these measures are supplemented by others, for instance, price control of articles necessary for children, additional leave, advantages with respect to recreation, etc.

INDIA

A. Economic and social rights; right of motherhood and childhood to special care and assistance

(article 22 and 25 of the Universal Declaration)

1. PROVIDENT FUNDS AND FAMILY PENSIONS

The Employees' Provident Funds and Family Pension Fund (Amendment) Act, 1973, further amends the original Act of 1952. It provides that if any amount is due from an employer in respect of the employee's contribution (deducted from the wages of the employee) for a period of more than six months, the amount so due shall be deemed to be the first charge on the assets of the establishment and shall be paid in priority over all other debts. The Act also provides for enhanced punishment in respect of certain offences. Dishonest use of contributions is also made punishable.

2. LEGISLATION ON THE PROTECTION OF CHILDREN

Several Central and State Acts have been enacted in pursuance of article 24 of the Constitution,[1] which provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. The employment of children below specified ages in shops and establishments has also been prohibited under different State legislation.

Legislation has been enacted in most of the States for taking charge of and providing the necessary services to children who have become delinquent or have been forced to take to begging.

Social and economic protection of children is provided for under various Central and State laws.

3. NATIONAL POLICY FOR CHILDREN

The Government of India has adopted a National Policy for Children as enunciated in Government resolution No. 1-14/74-CDO of 22 August 1974. A National Children's Board has been set up, under the Prime Minister's presidentship, by Government resolution No. 1-14/74-NCO dated 3 December 1974.

The goals of the National Policy for Children correspond to the provisions of the Constitution and the United Nations Declaration of the Rights of the Child. The policy envisages a 15-point programme for meeting the needs of the children of the country with respect to health and nutrition.

A National Institute of Public Co-operation and Child Development is being developed out of the erstwhile Central Institute of Research and Training in Public Co-operation. The Institute will translate research findings into policy analysis and programming recommendations in the fields of voluntary action and child development.

4. PROGRAMMES FOR WOMEN AND CHILDREN

Programmes for women and children in the following broad categories, among others, have been undertaken by the Government:

(*a*) Supplementary feeding for pre-school children, school children, pregnant women and nursing mothers;

(*b*) Integrated services for children in need of care and protection (orphans, destitute children etc.);

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[1] Excerpts from the Constitution appeared in the *Yearbook on Human Rights for 1949*; constitutional amendments were referred to in the 1951, 1952, 1955, 1956, 1960, 1962, 1963, 1964 and 1966 editions of the *Yearbook*.

(*c*) Assistance to voluntary organizations for crèches for infants of working mothers; and for working women's hostels;

(*d*) Integrated child development services, providing a package of services to pre-school children, pregnant women and nursing mothers (supplementary nutrition, immunization, health check-ups, referral services, non-formal education and health and nutrition education);

(*e*) Family and child welfare projects;

(*f*) Training programmes for social welfare workers;

(*g*) Programmes for the handicapped.

5. Maternity benefits

The Maternity Benefit (Amendment) Act, 1973, extends the applicability of the original Act of 1961 to mines and establishments wherein persons are employed for the exhibition of equestrian, acrobatic and other performances.

B. Right to education

(article 26 of the Universal Declaration)

Programmes have been undertaken by the Government in the field of functional literacy for women. Condensed courses of education for employment and of vocational training for adult women have also been initiated.

IRAN

Recent developments relating to human rights include the legislation described below.

A. Freedom from imprisonment for debt

(articles 5 and 9 of the Universal Declaration)

A law passed in October 1973 forbids detaining anyone in jail for not having paid a debt or not having executed any other financial obligation, and provides that those already in jail for such reason shall be released. This law does not apply, however, to those condemned to pay cash penalties.

B. Freedom of movement and right of asylum

(articles 13 and 14 of the Universal Declaration)

Seventy thousand Kurds and seventy thousand Iranians living in Iraq entered Iran as refugees from Iraq; all their lodging and living expenses are paid by Iran.

C. Right to social security and social services

(articles 22, 23, 24 and 25 of the Universal Declaration)

By a law approved in July 1974 a new ministry, the Ministry of Social Welfare, was created to expand social services and to co-ordinate the activities in this field. It has to provide:

(*a*) Health insurance for all;

(*b*) Social security in various forms;

(*c*) Social services, including care centres for children and clubs for young people and for old people;

(*d*) Rehabilitation centres;

(*e*) Supervision of the social services provided by non-governmental organizations;

(*f*) Rehabilitation services for those addicted to alcohol or narcotic drugs;

(*g*) Participation in international organizations dealing with the above matters;

(*h*) Other social services as approved by the High Council of Social Welfare.

The same concern for the public welfare and the betterment of over-all social conditions is shown by:

(*a*) The lowering of taxes for low-income groups;

(*b*) The government policy of bearing a part of the cost of items of general consumption such as wheat and sugar.

D. Right to education

(articles 26 and 27 of the Universal Declaration)

By a law approved in July 1974 every child or young person fit to study must do so without any hindrance; and no one, except by legal authority, can prevent him from studying. In addition, in the course of the year 1974 the following decisions were taken and put into execution:

(*a*) Studying at all schools up to the university level has been made free of charge;

(*b*) Financial assistance is provided for Iranians studying outside the country;

(*c*) Students are hired on a temporary basis during summer holidays to help in the development of rural areas;

(*d*) Studying at technical schools has been made gratis.

IRAQ

Introduction

1. The Interim Constitution of Iraq adopted by the Revolutionary Council on 16 July 1970[1] covers all the clauses of the Universal Declaration of Human Rights. As every statute is passed in virtue of the Constitution, all current statutes of Iraq can be said to derive from the Universal Declaration. One of the most important measures adopted during the period under review was the Kurdistan Territorial Autonomy Act, No. 33 of 11 March 1974.[2] Other important legislative measures on human rights taken during 1973 and 1974 have been set out below under the pertinent articles of the Universal Declaration.

2. In accordance with Revolutionary Council resolution No. 288 of 11 March 1970, granting national rights to the Kurds and autonomy within Kurdistan, an amendment to the Interim Constitution was adopted on 11 March 1974[3] adding the following words to article 8:

> "3. The zone inhabited by a majority of Kurds shall be autonomous in accordance with the provisions of the Act."

In accordance with the Constitutional amendment, the Kurdistan Territorial Autonomy Act, No. 33, was passed on 11 March 1974 conferring autonomy on the zone of Kurdistan. This Act reaffirmed the historical ties of kinship and brotherhood between the Arabs, the Kurds and the other minorities of Iraq in accordance with the democratic principles of the Revolution of 17 July, and granted within the territory inhabited by a Kurdish majority complete national rights to the Kurdish people united within a single homeland by ties of brotherhood, equality and shared responsibility. This Act has constitutional and statutory authority in accordance with article 19, paragraph *a*, of the Interim Constitution, which provides that all citizens are equal before the law without distinction as to sex, race, language, social status or religion. Article 5 of the Constitution recognizes the fact that the people of Iraq are principally composed of Arabs and Kurds, and that the national rights of the Kurds and the legitimate rights of all other minorities shall be fully guaranteed. Article 7 (2) of the Constitution provides that the Kurdish language shall be an official language, together with Arabic, in the Kurdish zone.

The Autonomy Act contains three main parts: the first concerns the basis of the autonomy; the second concerns its institutions; and the third states the connexion between the central government and the autonomous administration. The legal bases of the autonomy are general and financial. Article 1 of the Act lays down that the zone of Kurdistan shall enjoy autonomy. That zone is defined as one in which the majority of the inhabitants are Kurds and which is deemed to be an administrative unit having meaningful personality and autonomy within the framework of legal, political and economic unity with the Republic of Iraq. The zone is an undivided part of the territory of Iraq, and its population is an undivided part of Iraq's population. Under the same article the organs of the autonomous administration are considered part of the organs of the Republic of Iraq. Article 2 of the Act provides that the Kurdish language shall be, together with Arabic, the official language of the region and the language of instruction for the Kurds. The instruction in educational institutions for young Arab persons is to be given in Arabic, and the teaching of Kurdish in them is obligatory. All young persons in the region may choose the schools in which they shall be taught, irrespective of their native language. Articles 5 and 6 provide that the region is an independent financial unit within the monetary unit of the State, having its own budget showing its revenue and appurtenances. The Act divides the organs of government into two groups; the Legislative Council and the Executive Council. Their respective powers are laid down, together with their conditions of membership and the provisions governing their administration, organization

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[1] See *Yearbook on Human Rights for 1970*, p. 112.

[2] *Waqayi' al-Iraqiya*, No. 2327.

[3] *Ibid.*

and staff. Article 10 provides that the Legislative Council is the elected legislative organ for the region, and defines its constitution, organization and work. Article 12 defines its powers and internal organization, and gives it authority to enact the legislation necessary for the development of the region and of its social, cultural and economic qualities, and of the culture, characteristics and racial traditions of its inhabitants. The article also defines the boundary between the Legislative Council and the Executive Council in economic and social matters and in the development of education, training and other functions. Article 13 deals with the composition of an executive council to administer the autonomy of the region. The powers of this council are laid down by article 15; the most important of these relate to the execution of Acts and orders, the enforcement of decisions of the courts, the administration of justice, the maintenance of peace and public order, the defence of the national and local institutions, the finances of the State, and the enforcement of local legislation. The Act defines the relations between the central legislature and the autonomous administration, and the exercise of their respective powers.

3. The passage of the Autonomy Act was followed by that of the Kurdistan Regional Legislative Council Act, No. 36 of 1974,[4] which governs the conditions of membership of the Council, its members' terms of office, their meetings and the conduct of business.

A. Principle of equal treatment and freedom of religious practice

(articles 2 and 18 of the Universal Declaration)

By Act No. 49 of 1973[5] amending the Public Holidays Act, No. 1100 of 1972, members of the Sabian sect, in common with other sects, are entitled to celebrate their religious holidays and feasts. The amended Act is based on article 19 of the Interim Constitution, paragraph *a* of which stipulates that all citizens are equal before the law without distinction as to sex, race, language, social status or religion. Article 25 of the Act confers freedom of religious belief and practice that does not conflict with provisions of the Constitution or statutes, or violate morals or public order.

B. Right to life and security of person

(article 3 of the Universal Declaration)

The following legislation on the right to life and self-defence came into force: Act No. 116 of 1 October 1973, constituting an amendment to the Civil Actions Act; Act No. 9 of 23 February 1974, constituting the first amendment to the Civic Status Act; and the Civic Status Order, No. 32 of 20 August 1974.

C. Right to privacy

(article 12 of the Universal Declaration)

Freedom of correspondence is covered by the Act approving the documents of the Cairo Postal Conference, No. 131 of 2 October 1974.

D. Freedom of movement

(article 13 of the Universal Declaration)

The following legislation relating to change of domicile and travel came into force: Travel Passport Regulations, No. 18 of 5 August 1973; and Act No. 98 of 30 August 1974, constituting the eleventh amendment to the Passports Act.

E. Right to a nationality

(article 15 of the Universal Declaration)

With regard to the right of every person to a nationality, the legislature passed Act No. 131 of 3 February 1973, constituting the fourth amendment to the Nationality Act.

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[4] *Waqayi' al-Iraqiya*, No. 2332, 26 November 1974.

[5] *Ibid.*, No. 2244, 7 May 1973.

F. Right to own property

(article 17 of the Universal Declaration)

The following legislation on property rights came into force: Real Property Regulation Act, No. 67 of 1 July 1973; Agricultural Property Regulation and Unification Act, No. 152 of 25 December 1973; and Act No. 28 of 19 March 1974, constituting the fourth amendment to the Acquisition of Property Act.

G. Right to social security

(articles 22 and 25 of the Universal Declaration)

1. During 1973, the following acts relating to pensions and social insurance were adopted: the Act to assess the pensionable service of workers in national marine firms and agencies, No. 19 of 22 February 1973; the Compulsory River Shipping Insurance Act, No. 25 of 3 March 1973; Act No. 32 of 25 March 1973, constituting an amendment to the Workers' Retirement and Social Insurance Act; Act No. 60 of 28 May 1973, constituting the fourteenth amendment to the Military Retirement Act; Act No. 66 of 26 June 1973, constituting an amendment to the Workers' Retirement Act; Act No. 79 of 2 August 1973, constituting an amendment to the National School Teachers' Retirement Fund Act; the Journalists' Retirement Act, No. 81 of 5 August 1973; Act No. 90 of 25 August 1973, constituting the second amendment to the Pharmacists' Society Act; and the Rural Health Insurance Act, No. 129 of 15 November 1973.

2. During 1974, the following acts were adopted: Act No. 18 of 4 March 1974, constituting the second amendment to the Rural Health Insurance Act; Act No. 27 of 12 March 1974, constituting the third amendment to the Officials and Employees in Semi-Official Districts and Institutions Retirement Act; the Act to regulate computation of service for retirement of staff from the Iraq Petroleum Refining Company, No. 106 of 18 August 1974; and Act No. 156 of 9 November 1974, constituting the second amendment to the Employees' Insurance Act.

H. Right to work and to just and favourable conditions of work; right to form and to join trade unions

(article 23 of the Universal Declaration)

1. Labour Act No. 151 of 1970[6] is based on article 32 of the Interim Constitution of 1970, which provides, *inter alia*, that the State shall guarantee to provide every able citizen with work. During 1973–1974, the following three important amendments were made to Labour Act 151; the amendments also were based on article 32 of the Interim Constitution.

(*a*) Act No. 50 of 1973,[7] amending Labour Act No. 151 of 1970, repealed article 29 and replaced it by the following:

> "1. Neither the Administration nor an employer may be heard to apply for cancellation of the contract of a worker in either of the following cases:
>
> "(*a*) His absence during a period of statutory leave;
>
> "(*b*) His suspension during an investigation.
>
> "2. Neither the Administration nor an employer may be heard to apply for cancellation of the contract of a worker holding office in a trade union without that union's consent.
>
> "3. Neither the Administration nor an employer may transfer a worker holding office in a trade union without that union's consent."

The amending Act also repealed article 67 and replaced it by a new article permitting increase or decrease of the statutory working hours in certain specified cases, and entitling a worker who has been employed on a weekly rest-day to take leave on the whole of a working weekday. Article 68 was also repealed and replaced by a new article providing that

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[6] See *Yearbook on Human Rights for 1970*, p. 113.

[7] *Waqayi' al-Iraqiya*, No. 2244, 7 May 1973.

work done in daily or weekly off-time or in hours extra to those of the daily work shall be overtime work.

(*b*) Act No. 151 of 1970 (article 147 (1)) was further amended by Act No. 87 of 1973,[8] whereby 100 per cent instead of 50 per cent of travel expenses will be covered for workers who go abroad to improve their professional knowledge and technical skill.

(*c*) Another amendment was introduced in 1974 by Act No. 169 of 1974,[9] repealing article 79 (2) of the Labour Act of 1970, and replacing it by a new article giving working women a daily rest period of not less than 11 continuous hours, including not less than seven night hours between 10 p.m. and 7 a.m.

2. The following legislation on the right to work was also adopted during 1973–1974: the Practice of Trades and Professions by Aliens in Iraq Rules, No. 30 of 6 October 1973; the first amendment of the Care and Training of the Blind Regulations, No. 5 of 6 February 1974; and the Care of Aliens in Iraq Act, No. 177 of 18 December 1974.

I. Right to education

(article 26 of the Universal Declaration)

1. In accordance with article 27 of the Interim Constitution of 1970, the State is under the obligation to combat illiteracy and provide all citizens with free education at the primary, secondary and university levels. The State shall endeavour to expand vocational and technical education in both urban and rural areas. It shall also encourage the holding of evening classes in order to enable workers to be educated at the same time. In application of article 27 of the Interim Constitution, two important orders have been issued by the Revolutionary Council:

(*a*) The scheme for the abolition of illiteracy, introduced by Order No. 3 of 1973,[10] includes measures to facilitate the application of the Literacy Act in all literacy centres by preparing plans, budgets, procedures, books, etc., by constituting boards, establishing the number of illiterates, keeping records, providing places of instruction in municipalities, provinces and administrative centres, and taking other steps to spread instruction throughout the country.

(*b*) In 1974 the Revolutionary Council issued Order No. 102[11] which has statutory authority in virtue of article 42 (a) of the Interim Constitution. The Order stipulates that education shall be free at all levels. School books and all necessary equipment for instruction and sports shall also be provided free of charge. All provisions of statutes and regulations conflicting with the Order shall cease to have effect.

2. With regard to the right to education, during 1973 the legislature also passed the following new acts and issued the following instructions and order: the Agricultural Schools Act, No. 29 of 10 March 1973; Instructions under the Act relating to the return of scientifically-qualified persons to Iraq, No. 189 of 3 April 1973; Instructions giving effect to the Kurdish Education Order, No. 1 of 28 May 1973; and the Order instituting a scheme of scientific certificates and grades recognized by Arab and foreign universities, No. 1 of 24 July 1973.

3. New developments in the field of education in 1974 also included: Act No. 3 of 6 February 1974, constituting the first amendment to the Arab and Alien Cultural Centres and Institutions Act; Act No. 74 of 8 June 1974, constituting the third amendment to the Higher Education and Scientific Research Act; the Scientific Qualifications Act, No. 154 of 4 November 1974; and the General Offices Regulations, No. 40 of 21 October 1974.

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[8] *Ibid.*, No. 2271, 21 August 1973.

[9] *Ibid.*, No. 2421, 3 December 1974.

[10] *Ibid.*, No. 2219, 12 February 1973.

[11] *Ibid.*, No. 2320, 17 February 1974.

IRELAND

Introduction

Three amendments to the Constitution were approved at referenda and then enacted by the Oireachtas (Irish Parliament) in the period under review. The first amending Act added a new subsection to section 4 of article 29, enabling the State to become a member of the European Communities. The European Communities Act was passed to fulfil the obligations arising from membership of the Communities. Regulations made under this Act shall cease to have effect unless confirmed by Act of the Oireachtas within six months after they are made.

The other two constitutional amendments are referred to below (sections B and C).

A. Right to marry

(article 16 of the Universal Declaration)

The Marriages Act makes 16 years the minimum age for marriage. Marriages where either party is under that age are declared invalid unless exemption has been obtained before the marriage from the President of the High Court or a judge of that Court nominated by him. He is authorized to grant exemption where the applicant shows that it is justified for serious reasons and is in the interests of the intending spouses.

The Act also contains a number of other provisions amending the law relating to marriages one of which provides for the guardians' consent to the marriage of a person under the age of 21 years. A right of appeal to the President of the High Court against a refusal or withholding of such consent is given.

B. Freedom of conscience and religion

(article 18 of the Universal Declaration)

The third amendment to the Constitution, approved at a referendum and enacted by the Oireachtas, deleted the following subsections from section 1 of article 44:

"2° The State recognizes the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith professed by the great majority of the citizens.

"3° The State also recognizes the Church of Ireland, the Presbyterian Church in Ireland, the Methodist Church in Ireland, the Religious Society of Friends in Ireland, as well as the Jewish Congregations and the other religious denominations existing in Ireland at the date of the coming into operation of this Constitution."

Article 44 now provides as follows:

"1. The State acknowledges that the homage of public worship is due to Almighty God. It shall hold His Name in reverence, and shall respect and honour religion.

"2. 1° Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.

"2° The State guarantees not to endow any religion.

"3° The State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.

"4° Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

"5° Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, movable and immovable, and maintain institutions for religious or charitable purposes.

"6° The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation."

C. Right to vote

(article 21 of the Universal Declaration)

The second amendment to the Constitution approved during the period under review reduced the minimum voting age at Dail (House of Representatives) and Presidential elections and at referenda from 21 to 18 years.

Voting age

Following a referendum held on 7 December 1972, the voting age at Parliamentary elections was reduced from 21 to 18 years.

Local government elections

The voting age for local government elections and the minimum age for membership of local authorities were reduced from 21 to 18 years (Electoral (Amendment) Act, 1973). The provision under which a person could, in certain circumstances, be registered as a local government elector by virtue of occupation of land or premises was repealed. The disqualification for membership of local authorities on the grounds of bankruptcy or receipt of general assistance from a public assistance authority were removed (Local Elections Act, 1972).

D. Principle of non-discrimination; right to work and to protection against unemployment

(articles 2 and 23 of the Universal Declaration)

Removal of "marriage bar"

Legislation was enacted permitting women to retain their positions in the State service after marriage. Previously they were obliged to resign.

Minimum notice and terms of employment

The Minimum Notice and Terms of Employment Act, 1973, which came into force on 1 September 1973, requires a minimum period of notice to terminate the employment of those who have been working at least 21 hours a week with the same employer for 13 weeks or more. The period of notice required varies from one to eight weeks according to the length of service. An employer is entitled to at least one week's notice from an employee who has been employed by him for at least 13 weeks. The Act also requires employers to give written particulars of the terms of employment to their employees.

ISRAEL

Introduction

A Bill of Rights has been tabled and is under discussion by a Committee of the Knesset (Parliament) in the process of enactment. The bill is intended to be a Basic Law of the State, which together with others, some of them already enacted, will comprise the Constitution of the State.

The bill reaffirms to every individual in Israel, and not only to Israeli citizens (unless otherwise prescribed), the human rights and freedoms obtaining in western democracies and featured in the Universal Declaration of Human Rights. It is, however, to be noted that all these rights and freedoms are already assured in Israel either specifically by virtue of particular laws or implicitly in the course of general practice.

A. Equal rights

(article 2 of the Universal Declaration)

The Mandatory Bedouin Control Ordinance of 1942, which gave very general powers of control and supervision over nomadic and semi-nomadic tribes and their movement, including investigation of and sanctions and other measures against raids and breaches of the peace, committed or intended, has now been repealed. Since the Bedouin are and always have been Israeli citizens in all respects, and enjoy full equality of rights, the Ordinance has in fact very rarely been applied. Its abolition is a formal matter.

B. Right to a fair trial

(articles 10 and 11 of the Universal Declaration)

1. Criminal law

In order to contain the effects of increasing criminality, the Criminal Code Ordinance of 1936 has been amended by providing for the imposition of heavy penalties on persons guilty of giving material or financial aid or information, knowing that the same will directly or indirectly be used for committing a crime or enable its commission; using violence and menaces of all kinds; exercising undue influence upon witnesses or attempting to influence unduly witnesses both before and after they have given information to the police or evidence in court.

2. Criminal procedure

A number of modifications have been introduced into the Criminal Procedure Law of 1965.

Whilst upon a declaration under oath of a police officer that there is reasonable ground to think that a suspect has committed an offence, a warrant of arrest may now be issued, although no charge has been filed, the suspect must be brought before a judge within a maximum period of 48 hours. Likewise, where a court postpones, as it now may, the release on bail of an arrested person upon immediate notice by the prosecution of intention to appeal against the decision to grant bail, the postponement is valid only for a period of 48 hours.

In the case of contraventions and misdemeanours, trial may continue in the absence of the accused, provided he has been duly notified and informed that the hearings may proceed in his absence, unless, however, the court is satisfied that he was prevented from appearing for reasons beyond his control. Whilst the hearings still continue, he may ask for a new trial. In no event may he be sentenced without being present and without being given an opportunity to be heard as to sentence.

After preliminary pleadings by an accused, the court must explain that if an alibi is

to be pleaded, it must be done at once and all relevant details provided and that otherwise the alibi will not be admissible later in the trial. All this, however, without prejudice to an accused's right of withdrawing any admission as to his presence at the scene of the offence or to the burden upon the prosecution to prove its case.

C. Matrimonial property relations

(articles 16 and 17 of the Universal Declaration)

The principal aim of the Spouses Property Relations Law, 1973, is to introduce statutory equality between the spouses in their property relations, in the absence of any agreement to the contrary—a result which, however, had progressively been largely attained by court decisions under the Women's Equal Rights Law of 1951. The new law gives spouses the liberty to fix by contract their property relations, but the contract requires approval by a secular or religious court verifying that the parties have freely consented thereto and have understood its significance and consequences. Subject to such contract, the spouses are treated as having agreed to the following régime: upon termination of the marriage by death or divorce each spouse will be entitled to a half share in the value of all their net assets with the exception of assets they each possessed before marriage or acquired by gift or succession during the marriage, of rights which are non-transferable under law and of assets which they have agreed in writing not to include. Provisions are made enabling the court to avoid any arrangement or transfer of assets by one spouse with the intent to frustrate the statutory rights of the other. Where the circumstances justify it, the court also has the power to modify the statutory provisions to prevent any injustice which may result if it were strictly applied; similar power is given to modify an agreement between the spouses. The statutory rights are inalienable during the marriage. The religious courts which possess jurisdiction in matters of personal status must apply the provisions of the law unless the parties agree otherwise.

D. Right to social security

(article 22 of the Universal Declaration)

Health insurance covers almost the entire population through the medium of private and trade union sick-funds to which employers contribute under national collective agreements. A bill setting up a compulsory national health insurance scheme, utilizing the existing arrangements, has been submitted to the Knesset. In the meantime, the Parallel Tax Law of 1973 imposes on all employers a compulsory levy to workers' sick-funds, amounting to 2·7 per cent of salaries. The levy is payable to the National Insurance Institute, which, after deduction of expenses (the amount is controlled by regulation), allocates the money to the different recognized sick-funds in proportion to membership. The sick-funds must in return provide such medical services, undertake such preventive measures and conduct such research as may be determined by regulations made under the law. The rights of employees are not prejudiced by non-payment of the employers' contribution. A consultative council composed of representatives of the sick-funds, the workers, the employers, the Government and the public has been created. The council must be consulted before any regulations are made and it receives annual reports from the National Insurance Institute upon its administration of the scheme. The labour courts have exclusive jurisdiction over claims arising under the law.

E. Youth employment

(article 23 of the Universal Declaration)

Protection of juvenile workers, generally assured by the Youth Labour Law of 1953, is now extended by the Shipping (Seamen) Law, 1973, which prohibits the employment of children under 16 years as crew members. Adolescents between 16 and 18 years may only be engaged with the written consent of one of their parents. The captain and every member of the crew in charge of an adolescent must ensure that he is trained in his calling. When the vessel is in home port the adolescent is entitled to one day's shore leave for every week the vessel was at sea. On 48 days' prior notice, an adolescent must be released from service on the vessel reaching home port. An adolescent serving in a vessel which has not

touched home port for one year must, at his or his parent's request, be returned there at the expense of the owner. Complaints by an adolescent about working conditions or the conduct of a crew member must be duly investigated and dealt with by the captain or other senior officer and a report logged. An adolescent is not numbered among the minimum crew required under law for the safety of the vessel in which he is serving.

ITALY

Introduction

Among the most important events which marked Italy's position on human rights problems in 1973 and 1974, particularly significant are the declarations lodged with the Secretary-General of the Council of Europe on 28 June 1973. In making them, the Government of Italy accepts the jurisdiction of the European Court of Human Rights and the admissibility of individual appeals to the European Commission on Human Rights, in conformity with articles 45 and 26 respectively of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

It should also be noted that the procedures required for the ratification of the International Covenants on Human Rights and the International Convention on the Suppression and Punishment of the Crime of *Apartheid* are almost completed. The difficulties which have prevented them from being completed more rapidly have been due primarily to the concern, expressed by both branches of Parliament, that the international instruments should be accompanied by specific, definite guarantees concerning the effective implementation of the relevant provisions, once they have been introduced into Italian legislation, and in particular by penal sanctions which would make it possible to impose severe and adequate penalties for any violations of those provisions.

Many bilateral agreements came into force during the period under review, concerning such questions as social security, citizenship, enforcement of judicial decisions, and extradition.

During 1973 and 1974 the Constitutional Court was especially active. While keeping a close watch to ensure that the provisions of the law are in harmony with constitutional principles, it has built up a body of decisions that have radically changed some of the most important provisions of the Italian juridical system. Some of the relevant decisions are referred to below, under headings related to specific articles of the Universal Declaration.

A. Right to security of person

(article 3 of the Universal Declaration)

As a result of the increase in crimes which trespass in a particular manner either on the liberty of the person as such (kidnapping) or, through acts directed against the physical person, even on the property of the individual, new legislative provisions to combat criminality have been introduced in Act No. 497 of 10 October 1974.[1] Besides imposing heavier penalties on any person who commits the illegal acts covered by the new law, article 1 provides that "the Public Prosecutor shall in each case institute expedited proceedings, provided that no special inquiries are necessary, for the crimes of robbery, robbery with violence, extortion with violence or kidnapping with intent to extort or rob, for crimes involving weapons or explosives, and for any crimes that may be related to those mentioned above". In addition, article 5 amends article 530 of the Code of Criminal Procedure by providing that "any person who kidnaps another person for the purpose of obtaining unjust profit for himself or for others as a condition of liberation, shall be liable to a penalty of 10 to 20 years of imprisonment and a fine of not less than 400,000 lire. The penalty shall be increased to 12 to 25 years of imprisonment and a fine of not less than 1 million lire if the person committing an act of kidnapping achieves his purpose". In the case of kidnapping with intent to extort profit in the form of property, if the kidnapper or his abettor acts in such a way that the victim of the kidnapping regains his freedom otherwise than by payment of the ransom, the penalties established in article 605 shall be applied. Lastly, notwithstanding the provisions of the Act of 18 March 1971,[2] it is provided that "judicial police officers may also interrogate arrested persons, as well as persons

[1] *Gazzetta Ufficiale*, No. 275, 22 October 1974.

[2] See *Yearbook on Human Rights for 1971*, p. 130.

detained under article 238", provided that certain provisions guaranteeing the defence of such persons are nevertheless observed.

B. Equitable justice

(article 7 of the Universal Declaration)

For the purpose of ensuring maximum impartiality in judicial decisions and equal rights for the parties concerned, the Constitutional Court has declared unconstitutional that part of article 380 of the Code of Civil Procedure which permits the Procurator-General of the Court of Cassation to be present at deliberations of the Council involving decisions with respect to appeals in which the Procurator-General himself is actively or passively entitled to appear as a party (ruling No. 2 of 9 January 1974).

The operative part of article 247 of the Code of Civil Procedure has also been declared unconstitutional (ruling No. 248 of 10 July 1974). The article provides that "an action for disinheritance shall be brought against the son if he is of age or, if he is a minor or under an interdiction, against the guardian appointed by the court in which the suit is being tried. In the case of an emancipated minor or of an adult who is incapacitated, the action shall be brought against the son assisted by a guardian likewise appointed by the court".

In another ruling, No. 259 of 7 November 1974, the Constitutional Court declared "unconstitutional that part of article 11, paragraph 2, of Act No. 20 of 25 January 1962 which provides that the decision of the Court in disputes on impeachment proceedings between the Commission of Inquiry or Parliament in ordinary session and the judicial authorities must be taken by the Court made up as specified in the last paragraph of article 135 of the Constitution". It also decreed that part of article 11, paragraph 2, to be unconstitutional which stated that such decisions must be taken "after having heard a representative of the Commission of Inquiry" but not of the judicial authorities as well.

C. Administration of justice

(articles 9 and 10 of the Universal Declaration)

Amendments to the existing Code of Criminal Procedure

In order to bring Italian legislation more closely into line not only with the social need to regulate criminal procedure, but also with the principles established in the international instruments on the subject, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms, legislative decree No. 99 of 11 April 1974[3] contains urgent provisions concerning criminal justice, pending the definitive formulation of the new Code of Criminal Procedure. In the meantime it amends article 272 of the existing Code by limiting the duration of custody pending trial and making such custody subject to specific guarantees. Article 1 provides that:

> "The duration of custody pending trial, when the formal preliminary examination procedure is followed, may not exceed the following periods:
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> (1) In cases where the arrest warrant is discretionary, six months, if the law prescribes a penalty of a maximum term of imprisonment of more than four years for the crime in question; three months if the law prescribes a lesser penalty;
>
> (2) In cases where the arrest warrant is obligatory, two years if the law prescribes a maximum penalty of not less than 20 years or the penalty of rigorous imprisonment for life for the crime in question; one year if the law prescribes a lesser penalty".

Other articles of the legislative decree provide for more severe statutory penalties in the case of the commission of two or more offences, continuing offence or recidivism.

Articles 11, 12 and 13 modify substantially the system of conditional suspension of penalties already governed by articles 163, 164 and 168 of the Code of Criminal Procedure. The new provisions embody two features: firstly, a more relaxed discipline, undoubtedly more favourable to the person sentenced, particularly if he is a minor; and secondly, a certain hardening of the authorities' attitude towards those who appear to

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[3] *Gazzetta Ufficiale*, No. 97, 12 April 1974.

constitute a risk to society. In particular, article 11 (which replaces article 163 of the Code of Criminal Procedure) stipulates, *inter alia*, that: "In delivering a sentence of imprisonment or detention for a period not exceeding two years or a monetary fine which, alone or together with the penalty of imprisonment, or converted according to the law, would entail deprivation of personal freedom for a total period of not more than two years, the judge may order the enforcement of the penalty to be suspended for a period of five years if the sentence is imposed in respect of a crime, and for two years if the sentence is imposed in respect of a lesser offence".

A noteworthy measure is the amendment made by legislative decree No. 104 of 20 April 1974[4] to article 538 of the Code of Criminal Procedure. It provides that when it is found necessary to apply legal provisions more favourable to the accused, even after notice of appeal, and when no new evidence has to be taken apart from the production of documents, the court of cassation, instead of annulling the disputed sentence and referring the case to the trial judge for a new sentence, may itself decide on the substance of the case.

Criminal Code: decisions of the Constitutional Court

At the request of the Turin Juvenile Court, the Constitutional Court has declared unconstitutional that portion of article 169 of the Criminal Code which prohibits the extension of judicial pardon to other offences regarded as a continuation of the offence for which remission was originally granted (ruling No. 108 of 26 June 1973). By its ruling No. 110 of 5 April 1974, the Constitutional Court also declared unconstitutional that part of article 207, paragraph 3, of the Criminal Code which empowers the Ministry of Justice, rather than the enforcement judge, to revoke safety measures, and also, in accordance with article 27 of Act No. 87 of 1953, paragraph 2 of the same article whereby safety measures cannot be revoked until the minimum statutory time has elapsed.

Article 415 of the Criminal Code provides that any person "who publicly instigates disobedience against law and order or fosters hatred among social classes shall be punished by a term of imprisonment of six months to five years". The Constitutional Court, acting on a request by the Lucca Court, declared, in ruling No. 108 of 5 April 1974, that that part of article 415 which fails to specify that such incitement must be made in a manner endangering public order is unconstitutional.

Code of Criminal Procedure: decisions of the Constitutional Court

A number of decisions of the Constitutional Court guarantee an accused person the right to be defended at all stages of the judicial proceedings from the moment of his indictment and, more generally, protect the principle of the basic legality of each judicial act. Ruling No. 74 of 30 May 1973, in particular, declared that that part of article 301, second paragraph, of the Code of Criminal Procedure, which empowers the examining judge to order safety measures to be taken even before the accused has been questioned or a summons issued is unconstitutional.

Special circumstances deriving from the absence of an accused person from the country were taken into consideration in two other decisions of the Constitutional Court. The first (No. 177 of 12 June 1974) establishes the unconstitutionality of that part of article 177 *bis*, second paragraph, of the Code of Criminal Procedure which empowers the judge or the *pubblico ministero* to issue a statement that the accused cannot be traced abroad when the documentation gives no precise information as to his whereabouts, unless he has first ordered further inquiries to be made especially in the accused's birthplace or at his last known address. In the second decision (ruling No. 212 of 27 June 1974), the Court declares unconstitutional that part of article 497, first paragraph, of the Code of Criminal Procedure, which does not accept detention abroad as a lawful excuse for not being present at a court hearing.

Principles of undoubted general interest have been formulated in two other statements by the Constitutional Court. Its ruling No. 165 of 28 May 1974 declares unconstitutional those portions of articles 382 and 482 of the Code of Criminal Procedure which provide that if a complaint is dismissed the plaintiff must pay the costs of the proceedings

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[4] *Ibid.*, No. 103, 20 April 1974.

paid out by the State, even if the complaint is against an unknown party on the grounds of a verifiable offence. Similarly, in ruling No. 99 of 14 June 1973, acting on a request referred to it by the Court of Naples and the Appeals Court of Catania, the Constitutional Court declared unconstitutional that portion of article 27 of the Code of Criminal Procedure which establishes that, in civil and administrative proceedings, the judgement of the penal judge has the status of *res judicata* with respect to the facts of the case, its unlawful nature and the liability of the convicted person or the person granted a judicial pardon, even where such person is liable under civil law and does not come within the scope of the penal judgement because he was not in a position to participate.

D. Freedom and privacy of communications

(article 12 of the Universal Declaration)

Act No. 98 of 8 April 1974[5] safeguards privacy and the freedom and secrecy of communications. Its purpose is not so much to fill a gap in Italian legislation, since some of the points covered by the new Act were already the subject of numerous provisions, but rather to establish an organic régime taking account of developments, including technical developments, in the means of disseminating information and pictures relating to private affairs. The Act is also intended to ensure, in particular, by means of penal sanctions, punishment for acts which violate the freedom of communications and also to make it impossible to use information and pictures obtained illegally, even for the purposes of checking criminally relevant facts. In particular, article 1 of the new Act, which amends several provisions of the Code of Criminal Procedure, imposes a penalty of imprisonment for a period of six months to four years on "any person who, through the use of visual or audio recording devices, improperly obtains information or pictures relating to the private life of others" and adds that the same penalty shall be imposed, unless the act in question constitutes a more serious crime, on any person who communicates or disseminates to the public, by any of the communications media, the information or pictures obtained in such manner.

The punishment prescribed is also applicable, in accordance with article 2 (which replaces article 617 of the Code of Criminal Procedure), to "any person who fraudulently obtains knowledge of a telephone conversation or telegraphic communication between other persons or in any case not addressed to him, or interrupts or prevents such conversation or communication", or communicates to the public, by any of the communications media, all or part of the substance of such conversation or communication. Only in particularly serious cases, expressly indicated in the Act, and subject to the order, duly circumstantiated, of the Public Prosecutor or the examining judge of the district in which the relevant investigations are being carried out, and only when a genuine need is felt, may judicial police officers, as part of the responsibilities entrusted to them by article 219, prevent or interrupt telephone conversations or prevent or intercept telegraphic communications. This exceptional measure is permitted in the case of investigations relating to "offences committed with malicious intent and punishable by a maximum penalty of more than five years of imprisonment; crimes relating to drugs; crimes involving weapons and explosive substances; crimes relating to smuggling; and crimes involving threats to, or abuse, molestation or disturbance of, persons by means of the telephone".

E. Marriage and the family

(article 16 of the Universal Declaration)

Article 781 of the Civil Code prohibits bequests between a husband and wife. After a searching examination, the Constitutional Court declared this article unconstitutional as being manifestly incompatible with the principle of the equality of rights (ruling No. 91 of 14 June 1973). Citing historical precedents drawn from a detailed study of the norms of various legal systems, beginning with Roman law, the Court affirms that "there is a clear conflict between the provisions of article 781 of the Civil Code and article 3 of the Constitution. The impugned provision does indeed violate the principle of the equality of all citizens since it establishes that conjugal union with a given person constitutes a

[5] *Ibid.*, No. 97, 12 April 1974.

discriminatory element in relation to the right of an unmarried person, or of one of the spouses in respect of third parties, to make or receive a bequest. This provision, which limits the contractual capacity of married citizens vis-à-vis each other and reduces the economic freedom of action guaranteed by article 41 of the Constitution, has no reasonable justification on the grounds of social usefulness, security, liberty or human dignity, or on any other grounds identifiable with the principles and values which the Constitution protects or aims to enforce".

Again in relation to family rights, pending the reform to be introduced by the new legislative text that is to replace the corresponding title of the Civil Code, article 156, paragraph 1, of the Civil Code has been considerably narrowed in scope. It has been declared unconstitutional in as much as it stipulates that a husband or wife consensually separated are still required to be faithful to one another, without restricting this obligation to the duty of refraining from behaviour which in certain given circumstances would be likely to constitute serious affront to the other spouse (Constitutional Court ruling No. 99 of 4 April 1974). The explanatory memorandum states: "it is evident that once separation has put an end to cohabitation and the rights and duties that result therefrom, the maintenance of the obligation of absolute fidelity, which could reasonably be expected in the event of cohabitation, implies giving the same treatment in law to situations that are juridically different, and hence, according to the principles steadfastly upheld by the Constitutional Court, it violates article 3 of the Constitution."

Article 284, No. 2, of the Civil Code provides that the status of legitimacy may be conferred by decree in certain circumstances, namely, when the father who makes the request has no legitimate or legitimized children by a later marriage or issue from such offspring. The Constitutional Court has declared unconstitutional (ruling No. 237 of 9 July 1974) that part of the article which excludes legitimation by decree of the President of the Republic where such children exist, are of age and have given their consent.

Two rulings of the Constitutional Court are concerned with ensuring that natural children whose relationship is recognized or has been declared are provided for in the same way as legitimate children. Ruling No. 50 of 16 April 1973 declares unconstitutional that part of article 539 of the Civil Code which establishes that a natural child whose relationship has been recognized or declared, is entitled, in the absence of a legitimate child or spouse, to only one third of the possessions of the father if the father leaves only one natural child, or to half if there are more than one, while a legitimate child may receive half the possessions of the father if he leaves one such child only or two thirds if he leaves more than one. The Constitutional Court also found unconstitutional (ruling No. 82 of 21 March 1974) that part of article 575 of the Civil Code which stipulates that when there is no legitimate child or spouse, natural children who have been recognized or declared shall come to an understanding with the father's ascendants.

F. Conscientious objectors

(article 18 of the Universal Declaration)

Act No. 695 of 24 December 1974[6] amended in certain respects articles 2 and 8 of Act No. 772 of 15 December 1972,[7] laying down rules for the recognition of conscientious objectors.

G. Freedom of opinion and expression

(article 19 of the Universal Declaration)

Constitutional Court rulings No. 131 of 28 June 1973 and No. 11 of 11 January 1974 are especially important for the application of the principle of freedom of thought and expression. In the former, the Court declares unconstitutional that part of article 15 of Act No. 641 of 5 July 1961 that relates to article 2, paragraphs 1 and 2 of the same Act, whereby ideological propaganda, even when non-profit-making, is subject to tax payable by the parties concerned. The latter ruling also declares unconstitutional article 3 of Act No. 166 of 23 January 1941 (integrated rules governing posters exhibited in public). The

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[6] *Ibid.*, No. 340, 31 December 1974.

[7] See *Yearbook on Human Rights for 1972*, p. 168.

Court thereby formulated the principle underlying its decisions, namely, that "authorization by the Prefect to exhibit a poster in a public place . . . implies prior examination and checking by the authorities of the content of the text, and this is clearly incompatible with the constitutional principle of freedom to express one's views".

H. Right to work and to favourable conditions of work
(article 23 of the Universal Declaration)

With regard to the right to work, particularly significant during the years covered by this report is Act No. 533 of 11 August 1973,[8] which establishes new regulations governing individual labour disputes and disputes relating to social security and compulsory welfare. The new Act replaces the Code of Civil Procedure, book 2, title IV, which dates back to 1940. The guiding principle underlying the new provisions is that in view of the interests involved, which are particularly important for society and the individual, the judicial procedure followed in respect of labour disputes should be more rapid, prompt and effective than the procedure normally applicable to any other judicial disputes. In its approach on certain particular points the new Act seems truly revolutionary, and there is a possibility that it may lead to a successive extension of the principles adopted to all lawsuits when the new Code of Civil Procedure has been enacted. Above all, the new Act strengthens the provisions for settling disputes by means of conciliation. It is, in fact, stipulated that any person who intends to initiate legal proceedings in respect of the relationships envisaged in the Act and does not wish to avail himself of the conciliation procedures provided for in contracts or collective agreements may also, through a trade union, attempt to achieve reconciliation under the auspices of the conciliation commission of the district where the concern or any branch of the concern by which the worker is employed or was employed at the time of the termination of the relationship, is situated.

Labour proceedings are initiated by applying to the *pretore*, who has exclusive first instance competence as a judge in labour matters. The petition must include a specific indication of the evidence which the petitioner intends to use and, in particular, of the documents to be submitted. Within five days of the date of submission of the petition, the judge sets a date for the hearing of the dispute, which the parties are required to attend in person. Not more than 60 days must elapse between the date of the submission of the petition and the hearing.

Defence is constituted by the deposit with registry of a memorandum of defence, which must set forth, on pain of forfeiture of rights, any cross-claims and any procedural and substantive pleas that are not entered automatically.

If conciliation is not achieved and the judge considers that the case is ripe for a decision, or if questions of jurisdiction, competence or other interlocutory matters arise which if settled may throw light on the case, the judge invites the parties to a discussion and hands down a ruling, which may not be final, reading out the text thereof.

In addition to the powers conferred on the *pretore* to accelerate the proceedings, and to ensure that the parties are able to enter their respective pleas, it is provided that the *pretore* himself shall, at the first hearing or at a hearing immediately thereafter if such a hearing proves necessary for the taking of evidence and after conducting the oral discussion and hearing the pleas of the parties, hand down a ruling, thus concluding the proceedings by reading out the text of his decision.

Similarly at the appeal stage, when competence is entrusted to the courts, the procedure has been considerably accelerated in comparison with the routine proceedings, and the principle of the oral hearing of the case, which applies also to first instance proceedings, remains valid.

Act No. 36 of 15 February 1974[9] contains provisions benefiting employees whose employment has been terminated for political or trade union reasons. The purpose of the Act is to fill a gap in Italian legislation, which until August 1966 did not contain any provision prohibiting dismissal without just cause. Article 1 of the new Act provides that for "workers employed by a corporate body or enterprise whose private labour contract was

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[8] *Gazzetta Ufficiale*, No. 275, 22 October 1974.

[9] *Ibid.*, No. 60, 5 March 1974.

terminated, individually or collectively, between 1 January 1948 and 17 August 1966 for reasons which, irrespective of the outward form and the reasons stated, are attributable to political beliefs, religious faith, membership of a trade union or participation in trade union activities, the compulsory disability and old age insurance contract to which they were parties at the time of termination of the labour contract may be reinstated, for all legal purposes, for the period between the date of their dismissal and the date on which they fulfil or fulfilled the age and contribution requirements for entitlement to the old age pension".

Attention should also be drawn to the following legislative measures relating to labour questions: Act No. 252 of 11 June 1974[10] concerning the regularization of the insurance position of employees of political parties, trade union organizations and co-operative trustee and representation associations.

The ministerial decree of 7 October 1974[11] establishes a national commission on the problems of the worker's family. It makes specific reference to article 31 of the Constitution and to the European Social Charter, and mentions in the preamble the need to study those family policy aspects of labour, and the desirability of taking account of the movements which represent the family and the organizations which carry out activities and services in the interest of the family.

Before that the ministerial decree of 17 December 1973[12] had established a national commission on problems relating to female employment, its task being to undertake studies and submit proposals to the Ministry of Labour and Social Security for improving women's working conditions. In particular, it will study the following problems: the present situation and future trends in female employment; work opportunities, promotion, training, acquisition of skills and refresher courses; harmonization of family duties and work; and the development of legislation relating to social security and welfare.

The ministerial decree of 5 July 1973[13] provides for the modification, within the limits set by article 2 of ILO Convention No. 89 of 1948 concerning Night Work of Women Employed in Industry, of the hours during which women may not do night work. At the date of entry into force of the decree, these had been fixed at 10 p.m. to 5 a.m. by Act No. 653 of 26 April 1934. The decree is based on a consensus of the Council of State,[14] which held that the Convention in question should be considered as applicable to the internal legal system, and that consequently, article 2 should be regarded as superseding the rule laid down in article 13 of the Act of April 1934.

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[10] *Ibid.*, No. 177, 8 July 1974.

[11] *Ibid.*, No. 272, 18 October 1974.

[12] *Ibid.*, No. 28, 30 January, 1974.

[13] *Ibid.*, No. 192, 26 July 1973.

[14] Council of State, Second Section, No. 228/73 of 20 February 1973.

JAPAN

A. Legal aid

(articles 10 and 11 of the Universal Declaration)

The Legal Aid Association, a juridicial foundation supervised by the Ministry of Justice, continued its work in the period under review. In 1973 alone, legal aid was provided in 2,930 cases, 68·8 per cent of which concerned monetary claims, 18 per cent family affairs, and 7·1 per cent cases involving immovable property. The Government gave a subsidy of 85 million yen to the Association for the 1973 fiscal year.

B. Protection of the family

(article 16 of the Universal Declaration)

For the purpose of strengthening the conciliation system to cope with the increasing complication and diversification of conciliation cases related to civil and family affairs, the Law for partial amendment to the Law for conciliation of civil affairs and to the Law for court proceedings for family affairs[1] establishes a new system of civil affairs conciliation commissioners and family affairs conciliation commissioners. It provides for the status, duty, allowances etc. of the commissioners. Special rules governing the procedure for conciliation cases concerning the division of property left by a deceased person are also laid down in this law.

C. Right to a standard of living adequate for health and well-being; right to social security; special assistance for children

(article 25 of the Universal Declaration)

1. Control of prices of essential items

The Law for emergency measures concerning the stabilization of national life[2] was adopted for the purpose of stabilizing the cost of living and securing the smooth operation of the national economy to cope with the sky-rocketing of commodity prices and the abnormal economic conditions. It provides for the fixing of standard prices for commodities which are essential for the national life, for measures to ensure that such prices are adhered to, for the issuance of directives regarding production, importation and storage of such commodities, and for other emergency measures for the stabilization of prices and the adjustment of demand and supply.

2. Urban environment

The Law for the conservation of green belts in urban areas[3] provides for the conservation etc. of green belts in urban areas in order to create a good urban environment and thereby contribute to a healthy and cultural life for the inhabitants of cities.

3. Compensation for damage to health caused by pollution

In order to give speedy and fair protection to those whose health is damaged by conspicuous air pollution or large-scale water contamination caused by business or other human activities, the Law for compensation for damage caused to health by pollution[4] provides for the payment of the expenses of medical treatment and convalescence of victims and for compensation for physical defects caused by such pollution. The law provides for the setting up of the health and welfare services for victims of pollution, laying

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[1] Law No. 55 of 24 May 1974.

[2] Law No. 121 of 22 December 1973.

[3] Law No. 72 of 1 September 1973.

[4] Law No. 111 of 5 October 1973.

down the methods of collecting the funds for that purpose, and for the establishment of the Association for Compensation for Damage to Health Caused by Pollution as an organ for collecting the expenses.

The Law for partial amendments to that Law[5] provides, in connexion with the expenses referred to above, for the methods of collecting the expenses as regards moving sources of air pollution (automobiles).

Both of these laws came into force on 1 September 1974.

4. Compensation for traffic accidents

Though an increasing number of workers suffer injuries from traffic accidents on their way to or from the workplace, as a result of the changing traffic situation in recent years, the remedial measures have not always been adequate. The Law for partial amendments to the Workmen's Accident Compensation Insurance Law[6] has made it possible for insurance money to be paid to workers who suffer injury by such accidents or to the families of workers who are killed, in the same way as it is paid for work-related injury.

5. Special assistance for children

The Law for partial amendments to the Child-Rearing Allowance Law and to the Special Child-Rearing Allowance Law[7] is designed to increase the amount of the child-rearing allowance for children who are not supported by their fathers and of the special child-rearing allowance for children with serious mental or physical defects. It also relaxes restrictions on the payment of these allowances concurrently with official pensions and thus strengthens the measures for family and child welfare.

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[5] Law No. 85 of 11 June 1974.

[6] Law No. 85 of 21 September 1973.

[7] Law No. 93 of 26 September 1973.

JORDAN

Introduction

All Jordanians, regardless of race, language, religion, colour and sex, are equal before the law in their rights and obligations according to article 6 of the Constitution. The State promotes universal respect for all, without any distinction, and all citizens are entitled to the rights and freedoms set forth in the Universal Declaration of Human Rights.

A. Right to work

(article 23 of the Universal Declaration)

The Three-Year Development Plan 1973–1975 envisages more opportunities for employment. King Hussein stated in this connexion that "work is a human right and a national duty". He said that the Government sought to engage all unemployed and under-employed people, and those who suffered disguised unemployment, in productive activities.

The Government, with the co-operation of international organizations, is operating both on-the-job training projects and vocational training centres.

A committee headed by the Minister of Social Affairs and Labour, and made up of representatives of employers and employees, has been set up to prepare new legislation in harmony with the new socio-economic development of the country.

The Department of Labour is studying the possibility of establishing a social security fund for employees. Agreement has been reached with the different governments employing Jordanians, providing for improvement of their conditions of work and protection of their rights.

The Government has continued its efforts to render more financial assistance to trade unions. It is estimated that 7,000 Jordanian dinars have been allocated for trade unions, 6,000 to the ILO and 7,000 to the Arab Labour Organization.

The Department of Community Development has continued its efforts to preserve and develop the existing rural industries and handicrafts and to provide suitable support for those working in them.

B. Social welfare and community development

(article 25 of the Universal Declaration)

Social welfare

An increasing proportion of the budget was allocated in 1974 to all the social welfare institutions, to be used for recreation, education, rehabilitation and health services.

Legislation to guarantee the protection of children and juveniles is being prepared by the Supreme Council for the Care and Protection of Children and Juveniles, established in 1973,[1] which is headed by the Minister of Social Affairs and Labour and includes the following among its members: the Ministers of Education, Health, and Justice; the President of the Jordan University; the President of the National Planning Council; the Director-General of the Jordanian Youth and Sports Organization; the Director of the Jordan Institute for Social Work; and the President of the General Union of Voluntary Organizations.

As group feeding was stated by the seminar held in Vienna on 19 June 1972 to be a fundamental right for the people, the Ministry of Social Affairs and Labour has increased the number of group feeding centres. It also participated in the Group Feeding Seminar held at Cairo, from 15 March to 20 April 1974, sponsored jointly by the Food and Agriculture Organization of the United Nations, the World Health Organization, the United

[1] *Official Gazette*, No. 2437, 16 August 1973.

Nations Educational, Scientific and Cultural Organization and the United Nations Children's Fund.

Community development

Increased efforts were made during the period under review to implement new community development projects in needy areas with the co-operation of the citizens themselves, and in co-ordination with foreign voluntary organizations and the appropriate government agencies. Residential units with stone walls and concrete roofing and floors have been constructed in the south to accommodate 25 families who formerly lived in tents.

New roads, irrigation canals, reservoirs, potable water systems, schools and vocational centres have been constructed to raise the socio-economic standard of the people.

The Community Development Department has also trained people for local leadership and has established medical clinics and child health centres.

LIBYAN ARAB REPUBLIC

A. Right to social security

(articles 22 and 25 of the Universal Declaration)

In regard to the benefits which social security brings to the individual and the family by providing for the protection and stability of the community, the Social Order Act, No. 72 of 1973, declares that social security is a right which the State guarantees to all its citizens and to aliens working in its territory.

Social security includes every established system or action enacted in accordance with the law and intended to protect the individual in industrial disease or injury, in childbirth, death, unemployment, accident, family misfortune, crime, disability, infancy and old age.

The Act provides for benefits of two kinds: monetary benefits, including maintenance and short-term allowances, family allowances and lump-sum payments; and benefits in kind, including care of injured and sick persons, children, paralytics, disabled young persons, and the aged in institutions and at home.

An important function of the Act is the provision it makes for both nationals and alien workers through minimum incomes and compensation for illness, injury, pregnancy, childbirth, death, disablement, old age and unemployment.

B. Right to favourable conditions of work

(article 23 of the Universal Declaration)

The care of workers and the maintenance of their health is the subject of Order No. 8 of 1974 on their protection and safety, issued by the Minister of Labour on 5 February 1974. The Order obliges employers to take all possible measures to ensure that conditions in workplaces are compatible with the health of those working in them and to take suitable and scientific measures to prevent, lessen or abolish dangers to health in such places.

C. Right to an adequate standard of health

(article 25 of the Universal Declaration)

By Act No. 71 of 1973 the Libyan Arab Republic ratified the instrument establishing the Arab Health Organization, the purpose of which is to raise the standard of health among the people of the Arab States, especially by the prevention and cure of epidemic diseases, and under its article 2, to enact a medical policy.

The Public Health Act, No. 106 of 13 December 1973, declares by its article 1 that the provision of a health and medical service is a right to which the population is entitled and which the State must satisfy.

The Ministry of Health is bound to develop the health and medical services, to improve their quality and scope to meet the needs of the population, progressively to advance public health science, and to provide its health services with the necessary scientific basis. Section 3 of the Act obliges the Ministry to expand all the health, preventive and curative services for the physical, intellectual and spiritual benefit of the coming generation.

The most important provisions of the Act deal with protection of the sources of drinking water from pollution, with the purity of foodstuffs, especially of milk and milk products and of meat, and with the health of workers who handle, produce and sell food. Article 2 of the Act concerns prophylaxis, and article 3 regulates the medical profession and institutions of medical treatment.

D. Right to education

(article 26 of the Universal Declaration)

As regards the contents of article 26 of the Universal Declaration, the Libyan Arab

Republic has enacted several legal provisions, including the Elementary Education Order of the Council of Ministers of 2 October 1973, article 1 of which gives all nationals of either sex the right and imposes on them the duty to receive free education at the primary level in all governmental schools.

Another Order of the Council of Ministers of the same date relates to preparatory education and lays down that the course shall last three years and shall constitute the second stage of the compulsory education which the State provides for all citizens; section 2 of this order provides that preparatory education shall be free in all State schools. Orders issued by the Ministry of Education and Training make preparatory education compulsory.

The Secondary Education Order of the Council of Ministers lays down in article 1 (2), that secondary education in all State schools shall be free.

Concerning the care and upbringing of young persons and their protection from crime, Order No. 20 of 1973 of the Minister of Social Affairs on the education and training of young persons provides, in article 1, that the various phases of their training shall be national, patriotic, social and physical, and that care for their inclinations, their personality and its development and their leisure pursuits shall lead them to completeness of personality and service to the community.

LUXEMBOURG

Introduction

In 1973 and 1974, the Grand Duchy of Luxembourg adopted a series of laws, regulations and administrative provisions concerning human rights.

These measures were more particularly related to the rights set out in the Luxembourg Constitution of 17 October 1868, as subsequently amended. They especially concerned freedom of work, social security, the protection of workers' health and rest, freedom of trade and industry, the exercise of liberal professions and agricultural activities, the natural rights of the human being and the family, equality before the law, primary, secondary and higher education and vocational training. Among these measures, those concerning social matters, social security and education were the largest in number. Furthermore, special attention should be drawn to the Act of 4 February 1974 on the reform of marriage property systems, which followed the Act of 12 December 1972 on the rights and duties of spouses. The most important of these measures are referred to below.

A. Administration of justice

(articles 9, 10 and 11 of the Universal Declaration)

The Act of 28 July 1973 modifying the rules governing custody pending trial[1] amended or repealed some articles of the Code of Criminal Procedure (articles 91, 94, 116, 126, 127, para. 1) and of the Act of 19 November 1929 on judicial investigations. These new provisions are designed to give better protection to people held in custody pending trial.

The Act of 5 June 1973 on conditional sentencing and the probation system[2] laid down the rules for the suspension of all or part of a sentence rendered after trial and imposing a term of imprisonment or a fine, and established a probation system, for which it laid down the conditions and procedures.

By four Acts dated 10 July 1973,[3] Luxembourg approved the Treaty on the Establishment and the Statute of a Benelux Court of Justice, signed at Brussels on 31 March 1965, and three protocols thereto: the Additional Protocol signed at Brussels on 25 October 1966; the Protocol concluded in pursuance of article 1, paragraph 2, of the Treaty signed at The Hague on 29 April 1969; and the Additional Protocol concerning the jurisdictional protection of persons in the service of the Benelux Economic Union, signed at The Hague on 29 April 1969.

B. Marriage and the family

(articles 16 and 25 of the Universal Declaration)

An important reform was adopted in the Act of 4 February 1974, amending the legislation governing property in marriage.[4] The purpose of this Act, which is a logical and necessary follow-up to the reform introduced by the Act of 12 December 1972 on the rights and duties of spouses, is to abolish the incapacity of the married woman with regard to property rights and thus to establish equality between husband and wife with respect to such matters. These new legal rules include in particular the amendment of the provisions of Book III, Title V, of the Civil Code, which deal with marriage contracts and property in marriage, those of Book I, Title VIII, of the second part of the Code of Civil Procedure, which deal with the separate ownership of property after marriage, and other changes in the marriage property system.

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[1] *Mémorial A 1973*, No. 48, p. 1104.

[2] *Ibid.*, No. 35, p. 866.

[3] *Ibid.*, No. 42, p. 984, p. 989, p. 991 and p. 994.

[4] *Mémorial A 1974*, No. 10, p. 143.

The Act of 11 November 1974 repealing article 298 of the Civil Code[5] removes the clause prohibiting the "guilty" spouse from marrying the co-respondent when divorce has been granted on grounds of adultery.

Under the Act of 11 November 1974 repealing articles 387–390 of the Penal Code[6] adultery is no longer an offence.

By the provisions of the Act of 22 February 1974 amending the legislation governing adoption[7] the opportunities for adoption are increased, the conditions for adoption are made easier and much more flexible, and the formalities required are modified.

C. Right to social security

(article 22 of the Universal Declaration)

Under the provisions of the Act of 2 May 1974 amending Book I of the Social Insurance Code and the Amended Act of 29 August 1951 concerning the sickness insurance of civil servants and employees,[8] Book I of the Social Insurance Code is replaced by new provisions concerning:

(*a*) The extent and scope of insurance;

(*b*) The operation of insurance schemes by sickness funds, which are: (i) the National Sickness Insurance Fund for Workmen, (ii) company sickness funds for workmen in existence at the time of entry into force of the Act;

(*c*) The organs of the sickness funds;

(*d*) Ways and means (contributions and other resources) etc.

This Act also supplements and amends certain provisions of the Act of 29 August 1951 concerning the sickness insurance of civil servants and employees.

Other legislation concerning social security included the Act of 14 May 1974 to amend and harmonize the various legislative measures on contributory pension schemes[9] and the Act of 14 May 1974 on compulsory participation by some categories of workers in various social security systems for employees.[10]

During the period under review the following legislation was enacted with respect to bilateral agreements concerning matters of social security: (i) the Act of 13 November 1973 approving the Convention between the Grand Duchy of Luxembourg and the Republic of Austria on Social Security and the Final Protocol, signed at Luxembourg on 21 December 1971, and the Supplementary Convention to the Convention of 21 December 1971, signed at Luxembourg on 16 May 1973;[11] (ii) the Act of 26 March 1974 approving the Convention between the Grand Duchy of Luxembourg and the Kingdom of Belgium on Various Provisions relating to the Retirement Insurance of Frontier Workers, signed at Brussels on 10 July 1973.

D. Right to just and favourable conditions of work; equal pay for equal work

(article 23 of the Universal Declaration)

The Inspectorate of Labour and the Mines has been reorganized by the Act of 4 April 1974.[12] It is responsible for ensuring the application of the laws, regulations and administrative provisions concerning working conditions and the protection of employees in the exercise of their duties etc. and also for preventing labour disputes and settling all those that do not fall within the competence of the National Conciliation Office.

The Act of 6 May 1974 establishing joint management-labour committees in enterprises

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[5] *Ibid.*, No. 75, p. 1657.
[6] *Ibid.*, No. 70, p. 1658.
[7] *Ibid.*, No. 12, p. 186.
[8] *Ibid.*, No. 33, p. 584.
[9] *Ibid.*, No. 41, p. 798.
[10] *Ibid.*, p. 804.
[11] *Mémorial A 1973*, No. 66, p. 1440.
[12] *Mémorial A 1974*, No. 27, p. 486.

in the private sector and organizing the representation of employees in limited companies[13] has a twofold purpose:

(*a*) It establishes joint management-labour committees in all industrial, commercial and craft enterprises in the private sector on Luxembourg territory which have normally employed at least 150 persons in Luxembourg during the three preceding years. It determines the membership of these joint committees, made up of representatives of the employer and representatives of the staff appointed according to the rules laid down in articles 3 *et seq.* The functions of these committees are fixed by articles 7 to 11;

(*b*) It establishes and organizes the representation of employees in limited companies established on the territory of the Grand Duchy which have normally employed at least 1,000 persons in Luxembourg during the preceding three years.

The Grand Ducal Regulation of 10 July 1974 concerning equal pay for men and women[14] requires every employer to give men and women equal pay for the same work or for work of equal value.

E. Right to a standard of living adequate for health and well-being; assistance for chidren (*article 25 of the Universal Declaration*)

Planning

The Act of 20 March 1974 on physical planning[15] is designed to provide the people of Luxembourg with better living conditions, both physical and spiritual, by promoting the harmonious development of the country for the common good through the optimum use and exploitation of its resources, in particular through measures relating to education and vocational training, the protection of health, etc.

Health

Under article 1 of the Act of 19 February 1973 on the sale of therapeutic substances and the campaign against drug addiction,[16] the Executive is responsible for regulating, in accordance with the advice of the medical profession, the production, wholesale trading and storage of therapeutic substances, the import, export, manufacture, transport, stocking, sale and offer for sale, and use of drugs, bacterial cultures and toxins, and toxic, soporific and psychotropic substances, and the cultivation of plants from which these substances may be extracted. It is also responsible for the inspection of pharmacies, medical stores etc. This Act was passed in the interests of public health.

The provisions of the Act of 4 July 1973 on the practice of pharmacy replace those of the Act of 28 February 1905 on the practice of pharmacy and article 22 of the Royal Grand Ducal Order of 12 October 1841 concerning the organization of the medical service. They relate to article 11, paragraph 5, of the Constitution, under which the organization of health protection is a matter to be dealt with by the law.

Economic and social redeployment

In order to make it easier for farmers, traders and craftsmen to give up their businesses, the Act of 10 May 1974 providing for economic and social redeployment in agriculture, commerce and the crafts[17] provides certain economic measures for their benefit. These consist of financial assistance in the form of a terminal compensation or grant and, where appropriate, retraining assistance. The conditions for the granting of such assistance are fixed by this Act.

Childbirth allowance

Under the Act of 17 April 1974 on childbirth allowances,[18] the birth of any viable

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[13] *Ibid.*, No. 35, p. 620.

[14] *Ibid.*, No. 56, p. 1275.

[15] *Ibid.*, No. 18, p. 310.

[16] *Mémorial A 1973*, No. 12, p. 319.

[17] *Mémorial A, 1974*, No. 37, p. 678.

[18] *Ibid.*, No. 28, p. 505.

child gives entitlement to a childbirth allowance and a pre-natal grant. The qualifying conditions for these and the amounts to be paid are fixed by the Act itself.

F. Right to education

(article 26 of the Universal Declaration)

The Act of 14 March 1973 on the establishment of differentiated educational institutions and services[19] requires the State to ensure that every child who, because of his mental or sensory characteristics, cannot be educated in an ordinary or special school should receive the schooling which his condition and situation require under a system of differentiated education.

The aim of the School of Commerce and Management established at Luxembourg under the Act of 25 April 1974[20] is to provide thorough professional training for young men and women seeking an administrative or commercial career in the private or public sector.

The main purpose of the Act of 4 October 1973 introducing leave of absence for further education[21] is to grant leave of absence to young people in employment in order (*a*) to promote the civic education of young people and the further training of leaders for youth clubs and youth movements, and (*b*) to enable people in employment to complete their vocational training.

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[19] *Mémorial A 1973*, No. 16, p. 395.

[20] *Mémorial A 1974*, No. 34, p. 608.

[21] *Mémorial A 1973*, No. 57, p. 1349.

MADAGASCAR

A. Right to an effective remedy

(article 8 of the Universal Declaration)

Order No. 73–036 establishing statutes for the magistrature was adopted on 25 July 1973.[1]

B. Freedom of movement

(article 13 of the Universal Declaration)

During the period under consideration, the courts of Madagascar handed down only one decision involving human rights—the right to freedom of movement. By Decree No. 484 D 462 of 30 November 1974 of the Grand Jury of Magistrates (Chambre d'accusation) of the Court of Appeals of Madagascar, the Court ruled on an appeal submitted on behalf of Mr. Bernard Pigny, "charged with contravening company law, not at present in custody", against an order of the examining magistrate of the Tananarive judicial district, "refusing until further notice to grant the authorization requested by the accused . . . to leave the national territory"; as well as on an appeal by the Public Prosecutor against an order by the same examining magistrate prohibiting Mr. Donald Koplin from leaving the territory of Madagascar.

The Court considered that:

> "although the examining magistrate may, in order to ascertain the facts of the case, order the accused to be held in custody pending trial, the latter, when released, cannot be bound by any obligation other than that provided for at the end of article 273 [of the Code of Criminal Procedure], namely to notify the examining magistrate of any change of address, since choice of residence is in fact nothing more than a right left to his discretion; furthermore, the witness like any person against whom a charge has not yet been brought, even if a charge is brought at a later date, is not liable to any coercive measures other than those intended to ensure his appearance in court".

The Court declared null and void the requests of the examining magistrate in that they constituted a denial of the right of Mr. Pigny and Mr. Koplin to leave the national territory and accordingly quashed the orders issued.

C. Right to own property

(article 17 of the Universal Declaration)

Order No. 74–021 establishing penalties for the abuse of the right to own property and providing for the transfer to the State of undeveloped property was adopted on 20 June 1974.[2]

D. Right to take part in government

(article 21 of the Universal Declaration)

Order No. 70–016 relating to the Peoples' National Development Council was adopted on 3 April 1973.[3]

E. Right to education

(article 26 of the Universal Declaration)

Decree No. 288 *bis* on the establishment and organization of the National Youth Council was adopted on 20 January 1973.[4]

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[1] *Journal officiel*, 28 July 1973, p. 2269.

[2] *Ibid.*, 22 June 1974, p. 1682.

[3] *Ibid.*, 7 April 1973, p. 821.

[4] *Ibid.*, 25 January 1973, p. 205.

MALAYSIA

A. Protection of the environment

(article 25 (1) of the Universal Declaration)

In view of the stepping up of industrialization in Malaysia and the danger of pollutants, the Environmental Quality Act, 1974, has been passed to minimize environmental pollution. The Act restricts pollution of the atmosphere, of the soil and of inland waters and noise pollution; prohibits the discharge of oil into Malaysian waters and prescribes penalties for offences.

B. Protection of young persons

(article 25 (2) of the Universal Declaration)

The previous legislation enacted before the Second World War has been repealed and replaced by a new Act, the Women and Girls' Protection Act, 1973. The two principal objectives of this Act are:

(*a*) To prevent and suppress prostitution among female persons under 21 years of age, and to rehabilitate them; and

(*b*) To punish persons responsible for procuring female persons for prostitution.

Places of refuge for female persons in need of protection have been established. Under the new Act, female persons may, instead of being committed to a place of refuge by order of the court, be placed under supervision of social welfare officers. Female persons who are subject to inquiry conducted by protectors—i.e. social welfare officers—have the right to be represented by advocates and solicitors, and in this way the fundamental rights of citizens are protected as enshrined in the Constitution.

MEXICO

A. Right to equal protection of the law; right to an effective remedy

(articles 7 and 8 of the Universal Declaration)

The Decree of 29 October 1974 supplementing articles 76, 78, 79, 91 and 161 of the Act concerning the Protection of Civil and Political Rights (Ley de Amparo) promulgated in implementation of articles 103 and 107 of the Political Constitution of the United Mexican States[1] enhances the protection provided by that Act. The decree stipulates that, in any case which involves extensive and detailed deliberation with regard to the rights of minors or persons legally incapacitated, the court hearing the case shall deem a claim to have been made for the enforcement of their rights even if those rights have not been specified in the petition. Further, the decree amends the second paragraph of article 79 by establishing the strict legality of protection of rights (*amparo*) proceedings founded on misapplication of the law in acts emanating from judicial authorities of the civil system; judgements in such proceedings must strictly follow the petition. The decree adds a section VI to article 91 of the Act. This section provides that, where persons instituting or causing the institution of protection of rights proceedings are minors or legally incapacitated, the provisions of article 78 of the Act must be followed in regard to examining grievances, waiving defects in petitions and pronouncing on acts which are the subject of complaint.

The State Counsel of the Republic Act of 27 December 1974[2] sets forth the functions of the State Counsel of the Republic in his capacity as holder of that appointment and head of the Office of the Federal Public Prosecutor, the functions of the Public Prosecutor's Office, and the functions of the State Counsel's Office. It is a function of the Public Prosecutor's Office to intervene in protection of rights proceedings in conformity with the relevant statute. In addition, the Act provides that the agents of the Public Prosecutor's Office who are assigned to the District Courts of the Republic, with the exception of those of the Federal District, have the right and the duty to bring to the knowledge of the State Counsel without delay any instances where the responsible authorities refuse or show reluctance to comply with instructions in respect of protection of rights proceedings.

B. Non-discrimination; right to a nationality; equal rights during marriage and at its dissolution; protection of the family

(articles 2, 15 and 16 of the Universal Declaration)

The Decree amending and supplementing various articles of the General Population Act, the Nationality and Naturalization Act, the Federal Labour Act, the Federal State Employees' Act, the Civil Code for the Federal District (Common Matters) and the Republic (Federal Matters), the Code of Civil Procedure for the Federal District and the Code of Commerce (5 December 1974)[3] contains various provisions relating to the above rights.

Equal rights

This decree amends and supplements, *inter alia*, the General Population Act and the Civil Code for the Federal District (Common Matters) and the Republic (Federal Matters). The amendments and additions to the General Population Act aim at promoting the full integration of women into the socio-economic, educational and cultural life of the country and the involvement of marginal groups in national development.

Right to a nationality

With regard to nationality and naturalization, the decree provides that foreigners,

[1] *Diario Oficial*, 4 December 1974, p. 3.

[2] *Ibid.*, 30 December 1974, pp. 2–10.

[3] *Ibid.*, 31 December 1974, pp. 3–9.

female as well as male, shall be Mexican by naturalization if they marry a Mexican national and have or establish their domicile within the national territory; a foreigner who acquires Mexican nationality in this manner shall retain it even if the marriage is dissolved. The decree also provides that Mexican men and women who marry foreigners shall not forfeit their nationality by the fact of marriage. In the case of a marriage in which the spouses are foreigners and one of them acquires Mexican nationality after the marriage, the decree entitles the other spouse to acquire Mexican nationality provided he or she has or establishes domicile in Mexico and expressly applies for Mexican nationality to the Ministry of Foreign Affairs. It also stipulates that, in conformity with the special procedure provided by law, children born abroad of a parent who has lost his or her Mexican nationality, but regains it, and foreigners who have direct Mexican ascendancy by blood to the second degree, may become Mexican by naturalization.

Family law

With regards to the amendments and additions to the Civil Code for the Federal District and Federal Territories (Common Matters) and the Republic (Federal Matters), the decree stipulates that during marriage the rights and duties of the spouses must always be equal and independent of any economic contribution made by the husband or wife to their community of property. In questions of maintenance, the spouse and children shall have a prior claim on the income and property of the spouse who is responsible for the economic maintenance of the home, and may apply for the property to be secured in order to safeguard that claim. Each spouse shall enjoy the same authority and consideration in the home, and consequently both must settle by mutual agreement any question relating to the education and training of their children and the administration of the property which they own. They must also settle by mutual agreement all questions relating to the running of the household. Any disagreement concerning this or the other matters mentioned must be referred to the Family Judge for a decision.

The husband and wife have the right to pursue any activity they wish, provided it is not immoral or detrimental to the structure of the family. Either spouse has the right to object to the activity exercised by the other spouse; the power of decision rests with the Family Judge.

When a divorce has become final, the necessary measures must be taken to secure compliance with the obligations outstanding between the spouses and with respect to the children. Divorced parents have the obligation to contribute to the satisfaction of all the needs of their children until the latter come of age. Similarly, in cases of divorce, the innocent party shall be entitled, as long as he or she leads a respectable life and does not remarry, to the payment of maintenance by the guilty party as awarded judicially, regard being had to the circumstances of the case; if the maintenance debtor is absent, or if he is present but refuses to pay maintenance to the members of his family entitled to receive it, he will be responsible for any debts contracted by them in order to meet maintenance expenses. By virtue of another right prescribed by the statute, a spouse who has not provided grounds for separation may request the local Family Judge to require the other spouse to contribute to all the maintenance expenses of the home and the education of the children as long as the separation lasts, in the same manner and amount as prior to the separation and in accordance with the law.

C. Right to own property

(article 17 of the Universal Declaration)

The Decree amending articles 117 and 122 of the Federal Agrarian Reform Act (30 December 1974)[4] deals with the expropriation of communal property (*bienes ejidales*) for the purpose of creating urban or suburban estates or for regulating areas where squatters have settled. It provides that the proceeds of expropriation shall go to the National Fund for the Development of Communal Property, which shall hand over the proportion stipulated in article 122 to the owners of the communal property affected by

[4] *Ibid.*, 31 December 1974, p. 31.

the expropriation measures. In cases of expropriation for the reasons set out in section VI of article 112, every such owner shall be entitled to receive 20 per cent of the net proceeds of the division of his land and the equivalent of its agricultural commercial value, and to receive two standard urban plots. When expropriations are carried out in order to regularize land ownership, the compensation shall be equivalent to 20 per cent of the net proceeds of the regularization and twice the agricultural commercial value of the expropriated land.

D. Right to social security and to realization of economic rights; public health
(articles 22 and 25 of the Universal Declaration)

1. Amendments to Social Security Act

The Decree amending and supplementing the Social Security Act (24 December 1974)[5] makes substantial amendments to various articles of the Social Security Act. It stipulates that the Federal Executive, upon the proposal of the Institute, shall determine the procedure and date for compulsory inclusion in the social security scheme of domestic workers and other classes of insured persons referred to in the relevant article of the decree.

The Decree also stipulates that in the event of declared partial permanent disability, the insured person shall receive benefit calculated in accordance with the disability assessment scale contained in the Federal Labour Act; the calculation shall be based on the amount of benefit which would be paid for total permanent disability, and the degree of disability shall be fixed at some point between the maximum and minimum laid down in the scale.

The Decree further provides that the Institute shall pay persons receiving benefit for total permanent disability or for not less than 50 per cent partial permanent disability an additional annual benefit equivalent to two weeks' regular benefit.

Where children of an insured person lose both parents and are under 16 years of age or totally disabled as the result of a chronic illness or physical or mental defect, they receive an orphan's benefit equivalent to 30 per cent of what the insured person would have received in the event of total permanent disability. The Decree provides that, upon the termination of orphan's benefit, the orphan shall receive an additional sum equivalent to three months' benefit. The decree further stipulates that, regard being had to the economic, family and personal circumstances of the beneficiary, and provided that he does not come within the purview of the compulsory social security scheme, the Institute shall extend orphan's benefit from the age of 16 to the age of 25 if the orphan is engaged in studies in an institution of the national education system. The Institute must also grant benefit to orphans above the age of 16 in the instances provided by law.

2. Economic development

Decree empowering the Executive to raise loans on the credit of the nation by issuing Bonds of the United Mexican States for Economic Development (26 December 1973)[6]

This decree authorizes the Federal Executive to raise loans on the credit of the nation. It states that loans shall be subject, *inter alia*, to the following conditions: Bonds of the United Mexican States for Economic Development shall be issued, differentiated from each other by their year of issue and other distinguishing features; their value shall be expressed in such foreign currencies as shall be determined by the Federal Executive; the total issue authorized is the equivalent of a maximum of 1,250 million pesos; the certificates evidencing the loans shall be general, direct and unconditional obligations of the United Mexican States in the terms set out in the conditions of issue; and the proceeds of the loans shall be used for the execution of projects connected with economic development programmes which help to increase public revenue, and for funding of debts contracted abroad.

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[5] *Ibid.*, 31 December 1974, pp. 27–31.

[6] *Ibid.*, 28 December 1973, p. 7.

Decree amending the Monopolies (Constitution, article 28) Organic Act (27 December 1974)[7]

This Decree amends and supplements the Monopolies (Constitution, article 28) Organic Act. It is stipulated that private and public monopolies, and any acts in restraint of free competition, in both the production and distribution or marketing of goods and services, are prohibited. The prohibition extends to any agreement, combination or practice of any kind made by producers, industrialists, merchants or contractors for the purpose of restraining competition among themselves, eliminating third parties from the market or arbitrarily fixing prices for goods or services. Among the acts specified in the decree as presumptive of the formation of a monopoly or restrictive of free competition are offers or gifts to consumers of vouchers, coupons and the like entitling them to goods or money, and offers or gifts of additional goods or services, where these are not authorized by the Federal Executive and are not subject to the regulations made in pursuance of the statute.

Acts of this kind shall include acts causing the destruction of the wrapping and packaging of competitors' products and acts whose purpose is to constitute an undue, exclusive advantage in favour of one or more specified persons. Moreover, where this is the purpose of agreements, arrangements or cartels, they will be deemed to constitute a monopoly or to restrict free competition.

3. Plant and animal health

The purpose of the Plant and Animal Health Act of 18 November 1974[8] is to protect and preserve plants and animals from the harmful effects of pests and diseases. The Secretariat of Agriculture and Animal Husbandry is responsible for its implementation. Where there is a danger that human health may be affected by animal diseases communicable to man or by plant diseases and pests, the Secretariat of Agriculture and Animal Husbandry, in conjunction with the Secretariat of Health and Welfare, must establish and implement the appropriate safety measures. Under the Act, the Secretariat of Health and Welfare is required to supervise the health standards of products manufactured in factories and establishments classified as subject to federal inspection and marketed nationally for sale and supply to the public. Action must be taken to promote association of farmers, stock-breeders and others connected with farming to ensure their co-operation in pest and disease control. Another purpose of the Act is to help preserve the environment, in co-operation with other branches of the Federal Executive, by preventing the kinds of pollution caused by farming activities.

4. Narcotic drugs

The Decree amending the Penal Code for the Federal District (Common Matters) and the Republic (Federal Matters), the Federal Code of Penal Procedure and the Health Code of the United Mexican States, with regard to narcotic drugs and psychotropic substances, and article 41 of the First Ordinance (28 December 1974)[9] stipulates that narcotic drugs and psychotropic substances shall be considered as such where so specified in the Health Code of the United Mexican States, in the international agreements and treaties to which Mexico is or becomes a party, and in the laws, regulations and other provisions in force or issued in the future pursuant to section XVI of article 73 of the Political Constitution of the United Mexican States. The decree amends article 505 of the Health Code of the United Mexican States and provides specific penalties—imprisonment and fines—for, *inter alia*, persons who sow, grow or harvest cannabis or marijuana plants and for certain cases relating to the acquisition, possession or supply of cannabis or marijuana, or any substance considered by law to be a narcotic drug, or any psychotropic substance referred to in sections II and III of article 321 of the Health Code of the United Mexican States.

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[7] *Ibid.*, 30 December 1974, pp. 36–37.

[8] *Ibid.*, 13 December 1974, pp. 9–20.

[9] *Ibid.*, 31 December 1974, pp. 23–26.

E. Right to work

(article 23 of the Universal Declaration)

1. Free choice of employment and just and favourable conditions of work

The Decree amending and supplementing articles 4, 5, 30 and 123 of the Political Constitution of the United Mexican States (27 December 1974)[10] establishes the equality of men and women before the law, which must protect both the organization and the development of the family. By this enactment, any person may engage in such profession, industry, commerce or occupation as suits him, provided it is lawful. He may be prohibited from doing so, by judicial decision or by government order issued as provided by law, only where the rights of third parties are threatened or those of society infringed. It is expressly stipulated that everyone is entitled to the fruits of his labour and that he may not be deprived of them except by judicial decision. Moreover, no person may be obliged to perform personal labour without just compensation, except where judicial authorities impose labour as a punishment. Also, it is expressly provided that the State may not permit the execution of any "contract, stipulation or agreement that has as its object the impairment, loss or irrevocable sacrifice of the liberty of the individual, whether by reason of occupation, education or religious vow".

The statute indicates that placement services for workers shall be gratuitous and that priority shall be given to persons who are the sole source of income for their families. It also stipulates that, *ceteris paribus*, such persons shall have priority in promotion in accordance with their seniority.

With regard to labour contracts, the rendering of agreed services shall be obligatory for the period prescribed by law and shall not in any way affect the political or civil rights of the worker; non-performance of the contract by the worker will entail no obligations except with regard to civil liability.

The Decree also stipulates that night work may not exceed seven hours. For young persons under 16 years of age it prohibits unhealthy or dangerous work, and work of any kind after 10 p.m. The decree also forbids pregnant women from performing work that requires considerable effort and may endanger their health; they are to have a rest period before and after childbirth, totalling 12 weeks, and are to receive their full salary, retaining both their employment and any rights acquired thereby. Throughout the nursing period, mothers shall have two special periods of rest to feed their children, as well as medical aid, feeding assistance and nursery services.

With regard to hygiene and safety, employers must observe the provisions of the relevant statutes in their establishments and adopt adequate measures for the prevention of accidents by organizing work in such a manner as to ensure and protect the safety and life of their employees. The Social Security Act, covering all forms of security conducive to the protection and well-being not only of workers and agricultural labourers but also of other groups of society, and of their families, is deemed to be of public benefit in matters of social security.

2. Right to just and favourable remuneration

Minimum wages

On 4 September 1973, the Constitutional President of the United Mexican States promulgated the Decree empowering the National Minimum Wages Board to increase the standard minimum wages for rural workers and urban employees[11] in order to maintain their purchasing power. To this end, the Chairman of the Board is required to convene the Council of Representatives and place before it an opinion prepared by the Technical Directorate on the loss in the purchasing power of wages. The Council was to decide on the percentage increase to be applied, between 17 September and 31 December 1973, to the current minimum wages. The Chairman of the Board is required to transmit the decision of the Council of Representatives, together with a document showing the minimum wages resulting from the increase, for publication in the *Diario Oficial* of the Federation.

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[10] *Ibid.*, 31 December 1974, pp. 2–3.

[11] *Ibid.*, 5 September 1973, pp. 10–11.

The Decree amending and supplementing the Federal Labour Act (27 December 1974)[12] amends the wages provisions of the Federal Labour Act and stipulates that, as regards daily wages paid in cash, both collective and statutory agreements shall be reviewable annually and that application for review shall be made at least 30 and 60 days respectively before the expiry of one year from the date on which the collective agreement or the statutory agreement is concluded, reviewed or extended. Demands for such reviews shall be deemed a further ground for strike. In addition to its statutory duties and functions, the Technical Directorate is required to publish price fluctuations and their impact on the cost of living at regular intervals and to give an opinion, subject to presidential direction, on inquiries addressed to it concerning price fluctuations and their effect on the purchasing power of wages. The decree also provides that minimum wages shall be fixed annually and enter into force on 1 January of the following year.

The Decree of 22 December 1974 amending article 95 of the Federal Labour Act[13] contains a further innovation. It provides that the Regional Boards and the National Board shall fix minimum wages for urban employees.

One of the provisions of the Decree amending, supplementing and repealing various articles of the Federal Labour Act (22 December 1974)[14] is that workers, employers and trade unions may report breaches of labour legislation to the labour authorities. The Decree provides that Chairman of Special Boards, Standing Federal Conciliation Boards and Conciliation Units, and employment inspectors, have a duty to report to the Public Prosecutor's Office any employer who, under any industrial, agricultural, mining, commercial or service agreement, pays his employees less than the standard minimum wage or fails to pay the standard minimum wage. Any employer subject to any industrial, agricultural, mining, commercial or service agreement who issues payment vouchers for amounts in excess of those actually paid or who pays his employees wages below the standard minimum shall incur the penalties laid down in the decree.

Compensation for overtime work

Following on the preceding decrees dealing with wages, the Decree supplementing the Federal State Employees' Act (22 December 1974)[15] provides that Sunday work entitles the employee to an additional payment of 25 per cent of his ordinary daily pay. It also provides that any employee who works during one or both of the ten-day vacation periods prescribed by article 30 of the Federal State Employees' Act shall be entitled to a bonus of 25 per cent of his pay for the period in question.

F. Right to education

(article 26 of the Universal Declaration)

Federal Education Act

The Federal Education Act (27 November 1973)[16] was promulgated by the Congress of the United Mexican States to regulate education furnished by the State, by decentralized State agencies and by private bodies, or individuals, authorized or considered to provide officially recognized studies. The provisions of the Act constitute legislation of public order and social interest. The education in question is considered a public service and must conform to the principles laid down by article 3 of the Political Constitution of the United Mexican States. Its objectives include the promotion of balanced development of the personality; heightened awareness of nationality and an increased sense of international solidarity; the protection and enrichment of the cultural heritage of the nation and the provision of access by the community to its riches and values; the promotion of knowledge of and respect for institutions; the furtherance of social conditions conducive to a fair distribution of material and cultural wealth; the encouragement of research, artistic creation and the spread of culture; and the promotion and management of scientific and

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[12] *Ibid.*, 30 September 1974, pp. 8–9.

[13] *Ibid.*, 24 December 1974, p. 27.

[14] *Ibid.*, 24 December 1974, pp. 26–27.

[15] *Ibid.*, 24 December 1974, pp. 27–28.

[16] *Ibid.*, 29 November 1973, pp. 34–39.

technological activities aimed at satisfying the needs of independent national development. The Act states that one of the aims of education shall be "to promote solidarity for the attainment of a just social life, to exalt the rights of the individual and society and to seek universal peace based on recognition of the economic, political and social rights of nations".

The Act stipulates that the educational system must be organized in such a way that the pupil may be integrated into the economic and social life of the country at any time and that workers may take up study. It prescribes the right of all the inhabitants of the nation to the same opportunities of access to the educational system, subject to the requirements of the relevant legislation. With regard to educational rights, the Act establishes, *inter alia*, the right of those who exercise paternal authority or guardianship to enrol their children or wards for primary schooling, it being among their obligations to ensure that their children or wards under 15 years of age receive primary education and to co-operate with educational institutions in the conduct of their activities. The guiding principle behind the education furnished under the Act is that it shall be based on the results of scientific progress and "combat ignorance and its consequences, bondage, fanaticism and prejudice".

The Federal Executive, through the Secretariat for Public Education, is responsible for providing public education throughout the Republic, for developing and planning the national educational system, and for participating in the formulation of plans for international co-operation in matters of teaching, research and the spread of culture. In order to help to eliminate economic and social imbalances, the Act provides that education services shall be extended to those who lack them and that those who receive direct benefit from them shall be required to perform social work as a prerequisite for obtaining an academic qualification or degree.

The Act states that the primary purpose of the educational process is the development of the pupil, and that his active participation in the process must be enlisted with a view to his acquiring a balanced personality. The process must include facilities for providing educators with refresher training on a continuing basis to enable them to perform their tasks effectively. The educational process is to be based on principles of freedom and responsibility which will assure good relations between pupils and teachers, and is to encourage team work in order to establish communication on a firm footing between pupils, teachers, parents and public and private institutions. Educational establishments must maintain permanent and active links with the community.

The Act provides that State education shall be free and primary education compulsory. It expressly stipulates that studies undertaken within the national education system shall have official recognition throughout the country.

Access to higher studies and extension of technical and vocational education

To enable the State to maintain and extend vocational and technical instruction and access to higher studies, the Congress of the United Mexican States has adopted the Metropolitan Autonomous University Organic Act (13 December 1973)[17] the Chapingo Autonomous University Establishment Act (22 December 1974)[18] and the National Polytechnic Institute Organic Act.[19]

The Metropolitan Autonomous University Organic Act establishes that University as a decentralized State agency with legal personality and rights of patrimony. The aims of the University are to impart higher education and ensure that professional training meets national needs, to organize and develop humanistic and scientific research, and to preserve and spread culture. To achieve its aims, the University is authorized, *inter alia*, to conceive and plan advanced studies in accordance with the principles of freedom of expression and research, to confer academic diplomas, qualifications and degrees and to confirm and establish equivalences in respect of studies undertaken in national or foreign institutions.

The Chapingo Autonomous University is a decentralized State agency with legal

[17] *Ibid.*, 17 December 1973, pp. 21–24.

[18] *Ibid.*, 30 December 1974, pp. 59–61.

[19] *Ibid.*, 16 December 1974, pp. 6–10.

personality, rights of patrimony and its seat at Chapingo, State of Mexico. It is empowered to establish regional units and regional university centres, preferably in the rural areas of the country. Its objectives are, *inter alia*, to provide technical and vocational training which will enable its graduates to help in solving rural problems and in establishing a viable strategy to combat under-development. In addition to its teaching function, it carries out scientific and technological research aimed at better economic and social use of agricultural and other natural resources and at finding ways and means of helping to satisfy national requirements for independent development.

The Chapingo Autonomous University encourages freedom of research within an educational process which is open to all schools of thought and seeks to ensure that the results of scientific and technological research are applied in rural areas in promoting social changes which will improve economic and cultural standards.

The National Polytechnic Institute is an educational, scientific and cultural institution in which instruction is provided free. Its auxiliary bodies include the Centre for Research and Advanced Studies of the National Polytechnic Institute, the Committee for the Conduct and Development of Academic Activities of the National Polytechnic Institute, the Board of Works and Installations of the National Polytechnic Institute and such other bodies as may be established by decrees issued by the Federal Executive or by decisions of the National Polytechnic Institute itself.

Through this institution, the State seeks *inter alia* the following objectives: to contribute by education to development and social, economic, scientific, technological and cultural independence, in conformity with the aims of the Mexican Revolution; to conduct scientific and technological research aimed at improved use of human, natural and material resources, in the interests of the population and national economic development; to preserve, spread and expand the country's cultural heritage; to inculcate in the student body of the Institute "lofty ideals of humanism, service and social solidarity"; and to foster technical skill and cultural progress among the working class, maintaining and broadening access to the Institute's research and study facilities for all students without adequate means.

Science and technology

The Decree amending the National Council for Science and Technology Establishment Act (27 December 1974)[20] deals, among other things, with the consultancy services which the Council is required to provide in the scientific and technological field, upon agreed terms in each case, to the governments of the states of the Federation, to municipalities and to private bodies and individuals.

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[20] *Ibid.*, 31 December 1974, pp. 22–23.

NETHERLANDS

A. Right not to be subjected to arbitrary arrest or detention

(article 9 of the Universal Declaration)

Mention must be made of the Act of 26 October 1973,[1] which contains amendments to the provisions governing custody while awaiting trial. The Act limits the use of custody while awaiting trial both in respect of the instances in which the order may be made and in respect of the ground on which such an order may be based. As under the old Act, a person may be held in custody on the order of a public prosecutor for a maximum of four days; thereafter he may be held in continued custody only on a court order. Such a court order is initially made for six days but may be extended for another six days. If yet another extension is needed, the court may fix the term at a maximum of 30 days; a 30-day order may only be extended twice. However, the maximum period for which a person may be deprived of his liberty, from the moment of arrest until the trial begins, is 106 days. Moreover, the Act provides that a suspect who is being held in custody by order of the public prosecutor is entitled to the assistance of counsel if he so requests.

B. Right to a fair trial

(articles 10 and 11 of the Universal Declaration)

The decision of the Supreme Court of 21 November 1972[2] stated that section 40 of the Road Traffic Act, which makes it an offence for the owner or holder of a motor vehicle to fail to comply with an order of the Public Prosecutions Department to reveal the identity of the perpetrator of an offence committed with the vehicle, does not contravene the provision of article 6, paragraph 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This article states that everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law. It had been suggested that this was an offence for which no blame could be attached to the offender. The Supreme Court held the view, however, that the guilt of the owner or holder lay in the fact that he failed to take due care that no offence was committed with his motor vehicle.

The Supreme Court ruled in its decision of 13 February 1973[3] that to proceed with a criminal case in respect of which an application for postponement has been made is not in contravention of article 6, paragraph 1, of the Treaty of Rome.

In its decision of 23 April 1974,[4] the Supreme Court gave the following opinion:

> Under article 6, paragraph 3 (*a*), of the European Convention, everyone charged with a criminal offence has the right to be informed promptly, in a language he understands, and in detail, of the nature of and the reason for the accusation against him; there is no exception to this rule if the offence in question is only a misdemeanour; there is no reason why non-compliance with the above-mentioned provision of the Convention—which does not require that the information referred to be furnished in or with the writ of summons—should entail nullification of the writ of summons. However, it must be assumed on the basis of this provision, which is intended to protect the interests of the defence, that any court which becomes aware that a case is proceeding in contravention of this provision should suspend the proceedings so that the information in question may be provided.

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1 *Staatsblad* (Bulletin of Acts, Orders and Decrees) 1973, No. 509.

2 *Nederlandse Jurisprudentie* 1973, No. 123.

3 *Ibid.*, No. 138.

4 *Nederlandse Jurisprudentie* 1974, No. 272.

C. Non-discrimination on the ground of sex; right to a social order in which fundamental rights and freedoms can be fully realized

(articles 2 and 28 of the Universal Declaration)

The Prime Minister appointed the National Advisory Committee on Emancipation in December 1974. The Committee is composed of eminent Dutch men and women and its terms of reference are to submit to the Government its views on the emancipation of women, including practical policy advice on measures for promoting equal treatment of men and women and full integration of women in all walks of life. The Advisory Committee will be assisted in its work by a study group and secretariat.

D. Non-discrimination on the ground of race; right to freedom of residence

(articles 2 and 13 of the Universal Declaration)

Two amendments introduced by the Rotterdam Municipal Council to the Lodging-Houses Bye-Law and to the Housing Bye-Law of that municipality were annulled by the Royal Decrees of 19 July and 10 September 1974[5] on the grounds of discrimination. The aim of those amendments had been to control the number of migrant workers and nationals of the Kingdom from Surinam and the Netherlands Antilles taking up residence in that municipality. The two groups had settled in large numbers in certain districts of Rotterdam and this had led to friction between them and other residents of the districts.

E. Freedom of opinion and expression

(article 19 of the Universal Declaration)

1. In connexion with the rules laid down in 1972 by the Prime Minister concerning the freedom of expression of civil servants when they are speaking unofficially, i.e. not in their capacity as civil servants,[6] the Second Chamber of Parliament requested the Government to provide for the necessary procedural guarantees to be incorporated into the General Civil Service Regulations, which, while avoiding every form of preventive supervision, would guarantee freedom of expression for civil servants.

2. In order to maintain the diversity of the press, which is essential for the dissemination of information and the forming of public opinion in a democratic society, a Press Fund was created in 1974 with the task of making recommendations to the Minister on applications from the press for financial support.

F. Right to social security and to an adequate standard of living

(articles 22 and 25 of the Universal Declaration)

1. With regard to legislation on the granting of government financial assistance to persons unable to support themselves, mention may be made of the Act for the Structural Amendment of the National Assistance Act, which came into force on 1 January 1973. The Government is thereby empowered to draw up compulsory rules regarding the assessment of the amount of assistance to be granted. Before entry into force of the Act, national criteria could only be set in respect of persons belonging to specific groups, such as unemployed workers or disabled persons.[7]

2. The Decree on National Harmonization entered into force as of 1 July 1974. This Decree, which is based on the National Assistance Act, lays down rules for the amount of the benefits in the absence of income, and for the exemption of income and capital.

3. The Act governing benefits for the 1940–1945 victims of persecution has superseded the Government Assistance Scheme for the 1940–1945 victims of persecution and came into force on 1 January 1973.[8]

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[5] *Staatsblad* 1974, Nos. 496 and 556; see also the second periodic report of the Netherlands to the Committee on the Elimination of Racial Discrimination (CERD/C/4).

[6] See *Yearbook on Human Rights for 1972*, p. 196.

[7] See also *Yearbook on Human Rights for 1972*, p. 194.

[8] For further details, see *Yearbook on Human Rights for 1972*, p. 194.

4. The General Convention relating to social security concluded on 4 February 1974 between the Kingdom of the Netherlands and the Spanish Government, with Final Protocol,[9] entered into force on 1 December 1974. The Convention supersedes the Convention concluded on 17 December 1962 between the two countries. The replacement of the 1962 Convention in its entirety was made necessary by important changes in social legislation in the two countries after 1966. The Convention deals with all aspects of social legislation. Its provisions are nearly identical with those contained in social security conventions concluded by the Netherlands with other countries in recent years, except that it has been extended to include self-employed persons. The basic principles, the equality of treatment of the nationals of each contracting party and the payment of the social benefits to which they or their heirs are entitled, regardless of where they are employed or domiciled, have been retained.

5. The agreement relating to social security concluded between the Kingdom of the Netherlands and the Republic of Austria, with Final Protocol,[10] entered into force on 1 January 1975. The agreement covers all those who come under the social security legislation of the two countries. This means that non-wage-earners may also claim benefits under the provisions of the agreement in respect of certain categories of insurance, particularly the national insurance scheme. The agreement applies to all forms of social security and, like the revised convention concluded with Spain, guarantees that the nationals of one contracting party should receive under the social security legislation of the other equal treatment with the nationals of the latter and, further, the payment of the benefits to which they or their heirs are entitled, regardless of where they are employed or domiciled.

G. Right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment

(article 23 of the Universal Declaration)

1. By the Act of 22 February 1974,[11] amending the Unemployment Insurance Act and the Unemployment Benefit Act, which came into force on 1 March 1974, a regulation has been included which provides that an unemployed person who, in consultation with the employment office, accepts employment at a lower wage than the daily wages on which his unemployment benefits have been calculated is entitled to a wage supplement. The object of this supplementary wage regulation is to adjust labour supply to the demand by eliminating a financial obstacle for the employee.

The maximum wage supplement is:

(*a*) For employees aged 45 years or more: to bring the wage up to 100 per cent of the last daily wage on which benefits were calculated, for a period of six months; up to 90 per cent of the daily wage for the next six months and up to 85 per cent for three years thereafter;

(*b*) For employees under the age of 45: to bring the wage up to 90 per cent of the daily wage for a maximum period of six months and up to 85 per cent of the daily wage for the next two years.

In view of the fact that older unemployed generally experience greater difficulty in getting work the regulation discriminates in their favour.

Supplementary wages can only be paid if in the judgement of the employment office:

(*a*) Suitable work is not available for the unemployed person at a wage which would render the payment of a supplement unnecessary;

(*b*) There is no other unemployed person who could fill the position without a supplement being necessary;

(*c*) The work is considered suitable for the unemployed person in question provided a supplement is paid.

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[9] *Tractatenblad* (Bulletin of Treaties), 1974, No. 80.

[10] *Ibid.*, No. 77.

[11] *Staatsblad* 1974, No. 66.

2. Up till 1 July 1973 employment in category B under the terms of the Sheltered Employment Act could only be temporary because it lasted for the duration of the training, which was designed to enable a trainee to acquire the requisite fitness for a permanent position in category A. If and as soon as this objective proved to be unattainable the temporary employment had to be terminated pursuant to the regulations then valid.

As of 1 July 1973, however, amendments and additions to several decrees on the Sheltered Employment Act have provided for permanent employment in category B. Two conditions are attached to the above:

(*a*) There must be medical, social or educational reasons indicating that it is in the best interests of the applicant that he be given the opportunity to work.

(*b*) An investigation carried out into the handicapped person's social, medical, working and possibly psychological background should indicate that he can be expected to work regularly under suitable conditions without disturbing others working around him.

In so far as the available data do not automatically justify employment in category B, part of the examination must consist of an observation period lasting at least four weeks prior to employment.

Developments in the public and private sectors have also led to an integration of work categories and the corresponding basic wages for those in sheltered employment, doing both manual and white collar work. This means that, since 1 July 1973, the distinction which previously existed in the remuneration of manual and white collar workers has in fact been eliminated.

The factors which must be considered before resorting to sheltered employment differ so greatly from one individual to another that it cannot always be said with certainty on the basis of the above-mentioned examination whether all the requirements have been met. In the light of the foregoing and also bearing in mind that employment is in fact entered into for an unlimited time, it has appeared desirable during an initial two-month period in sheltered employment for an evaluation to be made of whether the employee does indeed, as was assumed when he began his employment, meet the requirements set for a position in sheltered employment. Should this prove not to be the case his employment is legally terminated.

H. Right to education

(article 26 of the Universal Declaration)

A memorandum was submitted to the Second Chamber of Parliament on 7 June 1974 advocating compulsory part-time education of two days a week for 15- to 17-year-olds. It is anticipated that there will be compulsory full-time education for 15-year-olds before 1977. The goal is to introduce compulsory full-time education for everyone to the age of 18.

NEW ZEALAND

A. Right to work

(article 23 of the Universal Declaration)

1. Protection against unemployment and underemployment

Most employees in New Zealand industry, other than those at senior management level are covered by awards and agreements which have been negotiated by their respective employees' unions and representatives of the employers concerned. Awards and agreements invariably contain a clause concerned with dismissal and the termination of employees' services. Usually a contract of service remains in force until it is terminated by either the employer or the employee, or by their mutual agreement. Where the employment has been permanent, a minimum period of notice is usually stipulated by the award or agreement.

If an award is silent on the question of forfeiture of wages when termination has not been carried out within its terms, an employee's redress could include a claim in the Magistrate's Court for damages.

The legislation under which agreements and awards are made is the Industrial Relations Act 1973. This Act contains provision for the settlement of "personal grievances" where an employee feels he has been dismissed unjustifiably. Provision for dealing with such a claim must be included in every award or agreement.

If any person is at any time genuinely unemployed and is unable to find work, he is entitled, under the New Zealand Government's policy for benefits and pensions, to safeguard against loss in income in the form of an unemployment benefit and to receive supplementary assistance where income or financial resources are insufficient to meet his living costs and other commitments.

2. Just and favourable remuneration

For many years the basis for determination of wages and salaries for the majority of employees has been a system of conciliation and arbitration supplemented by general wage orders. About half of New Zealand's wage and salary earners are subject to awards and industrial agreements falling under the jurisdiction of the Industrial Relations Act 1973. The Act recognizes certain factors not previously or only partially taken into account by prior legislation.

3. Right to form and to join trade unions

The New Zealand system of conciliation and arbitration is based on the voluntary registration of industrial unions and associations. The Industrial Relations Act 1973 simplified and consolidated procedures developed under the former Industrial Conciliation and Arbitration Act in order to bring them up to date with present needs.

Under section 104 of the Industrial Relations Act, every person who, by virtue of his employment or intended employment, is within the class of which an industrial union of workers is constituted, and who is not of general bad character, is entitled to be admitted to membership of the union; and so far as the rules of any union are inconsistent with the provisions of this subsection they are deemed to be null and void. No person is, however, obliged to join a union, and he may be exempted from union membership on conscientious grounds.

Section 163 of the Act provides that subject to certain rules any society of persons lawfully associated for the purpose of protecting or furthering the interests of employers or of workers engaged in any specified industry or related industries in New Zealand may be registered as an industrial union of employers or as the case may require, of workers, under this Act.

4. Right to strike

At common law there is a recognized right to strike, although this is restricted by statutory rules. The Industrial Relations Act 1973 provides that no person in any of certain named industries (which relate to essential services) may strike without having given to his employer within one month before so striking not less than 14 days' signed notice in writing of his intention to strike. The law, however, does not prohibit other ways in which a worker may exercise his right to withhold his labour and the majority of industrial stoppages (e.g. stop-work meetings) proceed without hindrance.

B. Right to a standard of living adequate for health and well-being

(article 25 of the Universal Declaration)

1. Housing

Housing Corporation rental houses and flats have been built since March 1937. These are allocated on the basis of housing need. In 1973 the income limit on applicants for tenancies was removed and a points system of priorities substituted. The Corporation's rental policy distinguishes between the basic or fair rent for a property, which remains the same irrespective of the tenant, and an income-related rent, which is personal to the tenant.

In 1973, the Property Speculation Tax Act was passed to discourage the buying and selling of land for speculative purposes. The Act provided for the imposition of a tax on profits equal to 90 per cent of the profit made except where the land had been held for two years prior to disposal. Exceptions are made where land is disposed of for *bona fide* purposes.

Under the Public Works Act 1928, the Government has power to take land for the purpose of public works, and this power has recently been exercised to purchase land within or near to urban areas to provide low-cost housing for people under disadvantaged economic conditions.

2. Protection and improvement of the environment

In 1973–1974 the Government introduced a system of environmental impact reporting on all major government works and actions likely to affect the environment. Under these procedures it is the responsibility of the agency promoting a proposal to ensure that it is subject to environmental assessment before final decisions are made. The approved procedures provide for projects with significant environmental impact to be the subject of an environmental impact report. This report is prepared by the promoting agency and is published to enable interested bodies and citizens to comment on it. Before the proposal is submitted to Government for final approval the Commission for the Environment prepares an audit of the impact report and in doing so takes account of public submissions made on it. The Commission's audit which includes recommendations on the environmental implications, is available for the Government at the time it makes a final decision on the project.

Public consciousness of the need to preserve the environment and to recycle and conserve resources has grown markedly in recent years. Along with this, concern has developed about pollutants resulting from increased industrialization and affecting both urban and rural areas. A diversity of legislation empowering central and regional authorities to deal with environmental problems was already in existence before 1973. A new development in environmental preservation came with the passing of the Marine Pollution Act 1974.

This act is designed, amongst other things, to give effect to five international conventions: the International Convention for the Prevention of Pollution of the Sea by Oil 1954 as amended in 1962; the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution 1969; the International Convention on Civil Liability for Oil Pollution Damage 1969; the International Convention on the Establishment of an International Fund for Oil Pollution Damage 1971; and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters 1972.

Part I of the Act relates to the prevention of pollution. It includes provisions for preventing or dealing with the discharge of oil or other pollutants and it allows regulations

to be made requiring ships to be fitted with equipment to prevent or reduce discharges or escapes of oil or other pollutants into the sea. A permit system is established for all waste and matter which is to be dumped.

Part II confers authority to deal with shipping which by virtue of the cargo being carried constitutes a threat of pollution in or to New Zealand waters or to the shoreline or to related interests.

Part III deals with civil liability for pollution damage and provides, *inter alia*, for civil liability in the case of off-shore installations and in the case of ships where the International Convention on Civil Liability does not apply.

Part IV deals with additional compensation and indemnification which is to be provided from a fund to be established under article 2 of the Fund Convention under which it is intended to ensure that there is full compensation for those who have suffered damage that has not been fully met by the shipowner.

3. Assistance to disadvantaged persons

In 1969 the Royal Commission on Social Security examined the position of small groups of socially or economically disadvantaged people within New Zealand society. It was discovered that although such people as solo parents, unmarried mothers, deserted wives and the wives of mental-hospital patients were covered by emergency benefits under previous legislation, they had no statutory right to such benefits and often failed to realize their eligibility for government assistance. As a result, legislation was enacted making this right statutory in November 1973 under the Social Security Act.

4. Special care for children

New legislation came into force on 1 August 1973 effecting various changes in the administrative structure of the children's health camps. The functions and objectives of these camps will remain unchanged under the Health Camp Act 1972. The camps were originally set up to provide undernourished children with the facilities to regain health in a short time. Although there is not the same need for this today, they are still valuable in that they allow children to escape from the tensions of their everyday environment into a relaxed atmosphere, where a balanced diet is combined with a reasonably organized régime and remedial teaching. They also provide a healthy atmosphere for children convalescing from illness.

C. Right to participate freely in cultural life
(article 27 of the Universal Declaration)

1. Right to take part in cultural life

Every attempt is made to ensure that, although children from all sections of the community receive their schooling under exactly the same conditions, equal education does not mean uniform education. The early 1930s saw a radical departure from the educational tendency to create a uniformly "European" society. Today every effort is made to foster awareness and pride in Maori culture by inclusion in the school syllabus of materials from Maori culture, language and history. Concurrently, the necessity to equip Maori and other Polynesian children for their role in a multiracial society is recognized.

With the creation of the Maori Education Foundation in 1961, efforts have been better focused on encouraging Maoris to take advantage of the educational opportunities offered. In 1972 the Pacific Islands Polynesian Education Foundation was established to provide similar opportunities for Pacific Islanders resident in New Zealand.

An appreciation that all New Zealanders stand to gain from a plurality of cultures has led to an upsurge of interest in Polynesian, in particular Maori, culture and heritage. To take some examples, interest in the Maori language has led to its inclusion as a university course and in teachers' colleges, to the presentation of more radio and television programmes in the Maori language and to proposals to have the language taught to all New Zealanders as a second language in secondary schools. Maori language and culture is now integrated into the programmes of many primary schools. Official status has been given to the Maori language by Act of Parliament.

Further indications of the wish to preserve New Zealand's Polynesian heritage may be seen in legislation before Parliament designed to control the export from New Zealand of a wide range of cultural and historical property, by making it necessary to obtain the consent of the Secretary for Internal Affairs before exporting any antiquity. The legislation also includes special provisions relating to Maori artifacts. All Maori artifacts found after the legislation comes into force will be deemed to be *prima facie* the property of the Crown, and the Secretary for Internal Affairs will have to be notified when they are found. With regard to artifacts already in private ownership, it will become necessary for auctioneers and second-hand dealers wishing to trade in artifacts to hold a special licence, and for active collectors of artifacts to be registered. Such artifacts shall be sold only to public museums, registered collectors and licensed auctioneers and dealers.

The Arts Council was set up by the Government to give support to playwrights, painters, sculptors and a full range of performing artists. Its subsidies of ballet, opera and the theatre ensure that a wider spectrum of the public is able to enjoy these cultural facilities. The Council also offers assistance to film societies, a Maori Writers' and Artists' Conference, Polynesian arts festivals, literary journals, Maori language publications, art galleries and cultural centres. It also sponsors visiting artists from abroad who, in its view, would make a valuable contribution to New Zealand culture. The Council is at present engaged in the publication of books which will preserve a careful record of New Zealand's indigenous art forms. A significant policy change began in 1973 when a grant from the National Lottery Board of $250,000 was made, on the recommendation of the Council, to subsidize concert halls and theatres. The sum of $250,000 has been made available annually by the Government to subsidize museums and art galleries with capital projects.

2. Right to the protection of the moral and material interests arising out of scientific, literary or artistic work

In 1973 the right of New Zealand authors to benefit from the fact that their works were made available in public libraries was acknowledged by the introduction of a system of payments from the New Zealand Authors' Fund. A writer must have been resident in New Zealand for more than two years and have more than 50 copies of his work lodged in the public library system in order to qualify for a grant. Allocations are made according to the number of copies in circulation. In addition, grants for specific literary projects are available from the New Zealand Literary Fund.

NORWAY

A. Right to life and security of person

(article 3 of the Universal Declaration)

Act No. 6 of 9 February 1973 relating to Transplantation of Organs, Hospital Autopsies and Surrender of Corpses[1] was enacted because of the increased importance in recent years of the transplantation of tissue and organs and the need that has arisen, partly for this reason, for statutory regulation of the removal of organs or other biological material from one person for use in treating disease or injury suffered by another person.

The Act regulates the conditions governing transplantation both from living and from deceased donors. For the removal of organs from a living donor, it is required among other things that he should be over 18 years of age and have given his written consent. For the removal of organs from a deceased donor, it is generally required either that the deceased should have made his decision on the matter by word of mouth or in writing, or that the person in question should have died in hospital or have been dead on admission and that neither the deceased nor his next of kin should have objected to the removal of organs for transplantation purposes, and that there should be no grounds for believing that the operation would be contrary to the views of the deceased or his next of kin or that other special reasons would argue against the operation. Before such an operation may be performed, death must have been confirmed by two medical practitioners. The Act contains no provisions as to the criteria on which confirmation of death is to be based, since this is regarded as a medical problem to be decided on the basis of the expert medical knowledge and technical possibilities available at any given time.

B. Right to a fair and public hearing

(article 10 of the Universal Declaration)

In 1959 the City Court, in accordance with subsection 1 of section 39 *b* of the Penal Code, had sentenced A to preventive detention.[2] In 1969 A brought an action against the State claiming compensation for injury as a result of the judgement. The basis of the claim was that procedural errors made during the conduct of the case must be regarded as representing an abuse which resulted in A's suffering economic loss on account of his endeavours to achieve redress.

In particular A claimed that he had been denied permission to be present at the main court proceedings. Since A was mentally ill, the Court's majority (four judges) held that there had been no procedural error in his being absent during the hearing. The minority (one judge) felt that A, in the case in question, had had a right to be present in court since the illness was no hindrance in this respect.

The judgement includes statements of opinion concerning article 6 in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

C. Right to privacy

(article 12 of the Universal Declaration)

Act No. 17 of 23 March 1973 amending the General Civil Penal Code and the Act relating to the Entry into Force of the General Civil Penal Code regulates the liability for punishment and the liability for damages of the press and the broadcasting service, mainly in respect of defamation and violation of personal privacy, so that these mass media are now in all main respects subject to the same rules in regard to liability.

One innovation is a new rule that liability for punishment for the violation of personal privacy by means of these mass media cannot be placed upon a person who has only participated in the technical presentation or distribution. One of the reasons for this rule

[1] *Norwegian Law Gazette*, part I, 1973, p. 196.

[2] *Norwegian Law Journal*, 1974, p. 935.

is that personnel of this category should not be able to exercise a *de facto* censorship on the grounds of their liability for punishment.

The Penal Code already contained a rule making the editor of a newspaper or periodical liable for punishment (in accordance with a separate penal provision) if the newspaper or periodical published something which would have rendered him liable for punishment, pursuant to another statutory provision, had he known the content. The new Act places a corresponding liability on the Director-General of the Norwegian Broadcasting Corporation, the Directors of Programmes and the Heads of Programme Departments in both radio and television. It also provides that the provisions relating to liability for compensation and redress for defamation in print be applicable to broadcasting. Likewise, the Act gives the special provisions in legislation relating to the press, as regards the right of members of the press in certain circumstances to refuse to answer questions as to the identity of the author of an article or the source of information in the text, similar application in respect of the employees of the Norwegian Broadcasting Corporation.

D. Right to own property

(article 17 of the Universal Declaration)

Allodial right (*odelsrett*) and the right of primogeniture (*åseterett*) are traditional Norwegian legal institutions associated with forest holdings and agricultural estate. Allodial right gives certain members of a family a priority right to take over agricultural property because the family concerned had previously owned it. If the property has been sold to someone not a member of the family, a member of the family in question is entitled to redeem it. The right of primogeniture is a special right to inherit a land holding without the estate being divided among the direct heirs.

Act No. 58 of 28 June 1974 relating to allodial rights and rights of primogeniture[3] introduces some important changes. Mention may be made of the fact that the group of people with allodial rights is now much more limited than before. In addition, the new Act gives effect to equality of the sexes (priority being based on age and line of descent). Formerly men took precedence over women. Pursuant to the new Act, children born out of wedlock and adopted children also have allodial rights. The equality between the sexes and allodial rights for children born out of wedlock do not, however, apply to children born or adopted before 1 January 1965. An important new rule, moreover, covers the introduction of a residence and operation requirement in respect of holders of allodial rights (with the right to apply for dispensation). In the new Concession Act a residence and operation requirement has now been introduced for persons acquiring agricultural or forest properties not covered by allodial rights.

Compensation for expropriation of real property

Act No. 4 of 26 January 1973 relating to compensation in cases of expropriation of real property[4] aims particularly at preventing the enhanced value brought about by social developments, or the enhanced value brought about by any measures in favour of which expropriation takes place, from accruing to the expropriator in cases of expropriation. (This Act must be viewed in relation to Act No. 3 of 26 January 1973 referred to below.)

Act No. 4 represents a clear break with previous non-statutory law, in that the determination of the value of the *land* shall no longer be based on its market value but shall as a general rule be decided on the basis of the actual use to which the property is being put at the time when the expropriation application is submitted to the public authority competent to sanction the act of expropriation. Even so, due allowance is to be made for such changes as may reasonably be expected in the running of the property, on the basis of the local conditions, as far as such changes may be made within the framework of the economic activity being carried on or of the general purpose for which the property is being used prior to expropriation. In certain special cases, however, a higher value than is mentioned here may be used as a basis. Apart from this, no possibility for operational changes and no expectations of any future increase in value are allowed for.

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[3] *Norwegian Law Gazette*, part I, 1974, p. 606.

[4] *Ibid.*, 1973, p. 155.

No consideration is made for changes in value which are related to the act of expropriation.

Act No. 3 of 26 January 1973 amending Act No. 1 of 1 June 1917 relating to public survey valuation, expropriation claims and redemption of allodial property etc.[5] puts into effect the system of public survey valuation and must be viewed in relation to Act No. 4 of 26 January 1973 relating to compensation in cases of expropriation of real property, referred to above. The Act restricts the right to resort to legal remedies in the process of public survey valuation, in that the former system of valuation review (concerning the appraisal aspects of value determination) is revoked. It is possible to have the public survey valuation reviewed, as regards procedure and the application of the law, by the ordinary Courts, so that it is now generally possible to lodge an appeal with the Court of Appeal and thereafter with the Supreme Court.

E. Freedom of conscience and religion

(article 18 of the Universal Declaration)

A judgement of the District Court in 1974[6] is relevant to conscientious objection to military service. Under Act No. 3 of 19 March 1965, which authorizes exemption from military service on conscientious grounds and provides that a person thus exempted shall instead perform civilian national service, a member of the sect of Jehovah's Witnesses was exempted from military service but refused to undertake civilian national service. The District Court found that the necessary conditions for enforced performance of civilian national service as provided in section 20 of the Act relating to conscientious objectors were fulfilled. The person in question lodged an appeal against the application of the law and held that it was an encroachment on religious freedom, under the first paragraph of section 2 of the Constitution, to impose civilian national service on Jehovah's Witnesses. The appeal was rejected. Section 1 of the Act relating to Conscientious Objectors does not provide for exemption on conscientious grounds from the duty to perform civilian national service in accordance with section 10, and the first paragraph of section 2 of the Constitution does not warrant unlimited religious freedom giving citizens the right to refuse community obligations of the kind referred to here.

F. Right to take part in government

(article 21 of the Universal Declaration)

Act No. 22 of 11 May 1973, amending Act No. 1 of 17 December 1920 relating to parliamentary elections and Act No. 6 of 10 July 1965 relating to local government elections,[7] amends the Parliamentary Elections Act and the Local Government Elections Act on several points. Firstly, the right to vote is extended to cover Norwegian nationals domiciled abroad. Norwegians domiciled abroad are now entitled to vote if they have been entered in the Norwegian population register as domiciled in Norway at some time in the course of the preceding 10 years and if they have been included, at their own request, in the local register of voters on the occasion of an election. Further, the Act provides rules concerning the right of sick and disabled people to vote in advance in the locality where they are staying at the time of the general election. In this respect, the rules relating to parliamentary elections are now in line with the rules adopted for local government elections in 1971.

G. Right to just and favourable remuneration

(article 23 of the Universal Declaration)

Act No. 61 of 14 December 1973 relating to government guarantees for pay claims in bankruptcy estates etc.[8] establishes a scheme for government guarantees to ensure the

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[5] *Ibid.*, 1973, p. 139.

[6] *Norwegian Law Journal*, 1974, p. 688.

[7] *Norwegian Law Gazette*, part I, 1973, p. 502.

[8] *Ibid.*, 1973, p. 414.

payment of claims which have fallen due in respect of pay or other remuneration for work in an employment relationship and which cannot be met owing to the employer's inability to pay. The guarantee covering pay claims is financed by an employers' levy which is part of the employers' contribution to the National Insurance Scheme.

H. Right to just and favourable conditions of work; right to reasonable limitation of working hours

(articles 23 and 24 of the Universal Declaration)

Amendments reducing the number of working hours for certain particularly exposed categories of employees are contained in Act No. 71 of 20 December 1974 amending Act No. 2 of 20 December 1956 relating to workers' protection.

The working week is to be reduced from 40 hours to 38 hours for continuous shift work, for work on a similar rota basis and for underground work in mines etc. Certain other categories of employees have their working week reduced from 42½ to 40 hours.

These changes represent one stage in the Government's phased programme aimed at reducing ordinary working hours.

I. Right to a standard of living adequate for health and well-being; special assistance for children

(article 25 of the Universal Declaration)

1. Land utilization

Planning legislation that previously applied only to shore areas has been extended to apply also to mountain areas by Act No. 51 of 8 June 1973 amending Act No. 103 of 10 December 1971 relating to planning in shore areas and certain other acts.[9] The purpose of the new Act is "to promote a co-ordinated utilization of land in shore and mountain areas with a view to preserving as far as possible their natural assets and public availability, as well as to ensuring that development of the areas for recreation and tourism occurs on the basis of the best interests of the community as a whole, for the good of both users and landowners".

In contradistinction to the shore areas at the sea, in respect of the mountain areas there is neither any general prohibition against building nor any general requirement concerning permits. On the other hand the Act makes it possible for the Ministry to require that a development plan be drawn up. The rules for the mountain areas are in all main respects the same as those for the shore areas of inland lakes and along watercourses.

2. Consumer protection

Act No. 36 of 14 June 1974 amending Act No. 2 of 24 May 1907 relating to purchase,[10] aims primarily at strengthening the legal status of the ordinary consumer, particularly vis-à-vis professional salesmen. The Purchase Act of 1907 was largely drawn up with a view to civil and commercial purchase relationships, based on the *a priori* assumption of a certain equality between the parties. In the purchase relationship between a professional salesman and an ordinary consumer, however, there is in fact no such equality. Out of social considerations, therefore, the amendments relating to the consumer aim at strengthening the legal status of the weaker party by means of certain non-excludable provisions.

3. Child maintenance allowance

Pursuant to Act No. 66 of 20 December 1974 relating to the index regulation of child maintenance contributions,[11] child maintenance contributions paid by parents are to be

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[9] *Ibid.*, 1973, p. 710.

[10] *Ibid.*, part I, 1974, p. 453.

[11] *Ibid.*, p. 1036.

linked to the cost-of-living index, whether such contributions are stipulated under an agreement or by the courts, the County Governor or the relevant ministry, and irrespective of whether they are paid pursuant to legislation relating to children born in or out of wedlock. The aim is to safeguard the economic position of these children against any deterioration due to inflation, but the Act will also be applicable if the level of prices should fall.

PHILIPPINES

During 1973 and 1974 various Presidential decrees were issued to supplement existing laws and regulations relating to human rights:

A. Right to own property

(article 17 of the Universal Declaration)

Presidential Decree No. 410 of 11 March 1974 declares ancestral lands occupied and cultivated by national cultural communities to be alienable and disposable. This Decree is intended to further accelerate the social justice programme of the "New Society"; it gives Muslims and members of other cultural minority groups equal opportunity to own the land that is occupied and cultivated by them and that was occupied and cultivated by their ancestors.

B. Freedom of religion

(article 18 of the Universal Declaration)

Presidential Decree No. 291 of 12 September 1973 recognizes Muslim holidays as part of Philippine national holidays in the provinces or cities where Muslims are in the majority.

C. Right to work and to just and favourable conditions of work

(article 23 of the Universal Declaration)

Presidential Decree No. 442 of 1 May 1974 (which took effect six months after promulgation) institutes a Labour Code, thereby revising and consolidating existing labour and social laws. The basic policy provides that the State shall afford protection to labour, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall ensure the right of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work.

By Presidential Decree No. 591 of 2 December 1974, ILO Convention No. 122 was adopted as an employment policy of the Philippines. It recognizes the principle that all human beings, irrespective of race, creed, sex, belief, or station in life, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, economic security and equal opportunity.

D. Right to an adequate standard of living

(article 25 of the Universal Declaration)

Presidential Decree No. 583 of 16 November 1974 prescribes penalties for the unlawful ejectment, exclusion, removal or ouster of tenant farmers from their holdings. In view of the Government's determination to emancipate the tenant farmers from a feudalistic system of land ownership, the decree declares it a policy of the State that no acts or schemes that are designed to obstruct the implementation of the land reform programme or that are obviously in derogation of the rights of tenant farmers shall remain unpunished.

In relation to the land reform programme of the "New Society", Presidential decree No. 584 of 16 November 1974 establishes a procedure for acquisition by small farmers of equity in rural banks. Farmers who are members of "Samahang Nayon" can now share in stocks of rural banks up to 40 per cent, giving them the opportunity for self-development, social growth and economic independence in a just and democratic society.

By Presidential Decree No. 290 of 11 September 1973 an appropriation of 406,880,000 pesos was set aside, to be administered by the Presidential task force for the reconstruction and development of Mindanao, to accelerate the progress and economic well-being of the region.

POLAND

Introduction

In 1973–1974 great progress in Poland's social and economic development was achieved serving the full realization and expansion of basic human rights, which are proclaimed in the first place in the Constitution. This note gives examples of the more important developments and legislation on human rights in Poland in the period under review.

In the period 1973–1974 many problems related to human rights were solved on a broader scope than previously. It should be stressed that as concerns the protection and application of human rights the situation in the Polish People's Republic is such that in many respects it exceeds standards provided for in the corresponding international instruments.

A highlight of legislative action during the period was the adoption on 26 June 1974 of a Labour Code,[1] to enter into force on 1 January 1975. The Labour Code accomplishes the following objectives:

(*a*) It establishes a new and uniform system of labour law, abrogating the former regulations, which were partly outdated and diffused in too many legal acts;

(*b*) It waives all differences in the rights of physical and brain workers;

(*c*) It ensures conditions promoting the proper organization of the work process in places of work and raising the dignity of good work.

On the strength of the principles of social justice, Polish labour law treats all working people in the same way, granting everyone equal rights for discharging equal duties.

The Labour Code reaffirms the principle that in the Polish People's Republic the primary aims of all endeavour are man and the growth of his material well-being and cultural standards. Some of the problems dealt with in the Labour Code are discussed in detail below, under the appropriate headings.

A. Right to an effective remedy

(article 8 of the Universal Declaration)

In its resolution of 8 December 1973 (III CZP 37/73), the Full Assembly of the Civil Court stated that in the cases of intentional infliction of bodily harm or impairment of health defined in article 445 of the Civil Code, the claimant may demand financial damages from the defendant (article 445 of the Civil Code), as well as payment of an adequate sum of money to the account of the Polish Red Cross Society (article 448 of the Civil Code).

B. Guarantees of the rights of the defendant

(articles 10 and 11 of the Universal Declaration)

In a decision of 24 November 1973 (II KZ 220/73), the Supreme Court stated that: "Default or improper conduct of obligations by an attorney cannot be taken to the prejudice of the defendant provided the latter, as a party to the proceedings by right, bears no guilt in respect of the attorney's failure to discharge his duties".

The Supreme Court, in its judgement of 27 May 1974 (I KR 498/73), ruled that in article 314, paragraph 2, the Penal Procedure Code makes it mandatory for the presiding judge to rule out of order questions that are loaded, that offend a witness or that concern matters in respect of which request for evidence shall be dismissed under article 155, paragraph 1, item 2 of the Code.

In its resolution of 15 July 1974 (KW Pr 2/74), the General Assembly of the Supreme Court stated that, in view of the extent and complexity of legislative regulations, Courts

[1] *Law Gazette, 1974*, No. 24, item 141.

shall *ex officio* provide parties to the proceedings with full information, not only when the particular rules make it mandatory but also when it is necessary for obtaining statements and evidence from the participants in proceedings, for proper judgement of the case, or in order to enable the participants in the proceedings themselves to enjoy their rights.

C. Right to social security
(article 22 of the Universal Declaration)

1. Labour and social insurance courts

The law of 24 October 1974 on labour and social insurance courts[2] carries into effect the Labour Code's principles concerning the manner of consideration of employees' claims arising from labour relations. The competence of the courts was extended to include social insurance matters and financial benefits for labour accidents and occupational diseases.

2. Social insurance

Improvement of the situation of pensioners

The following pensions were increased with effect from 1 September 1974: (i) minimum old-age, retirement and disability pensions; (ii) additional allowances for children and wives provided for by pensioners; (iii) additional allowances for invalids requiring permanent care; (iv) pensions for war invalids; (v) pensions for combatants; (vi) pensions for farmers ceding their farms to the State.

On 1 January 1975, the five-year programme is to come into operation to increase all pensions by raising the percentage of wages which they represent. As of that date, an old-age pension will amount to 80 per cent of the first 2,000 zlotys of a monthly wage plus 25 per cent of the balance exceeding 2,000 zlotys of this wage. The latter percentage will be increased gradually by 5 per cent a year to 50 per cent in 1980 (up to 1 January 1975: 80 per cent of the first 1,500 zlotys plus 55 per cent of the amount between 1,500 and 2,000 zlotys plus 25 per cent of the balance over 2,000 zlotys). Disability and family pensions will be increased in the same way.

Sick benefits

On 1 July 1974, sick benefits were increased to 100 per cent of net wages.

Scope of insurance protection

The scope of insurance protection has been broadened in the following ways:[3]

(1) Members of collective farms enjoy the same full benefits as those for which all national economy employees are eligible.

(2) The craftsmen's insurance system, ensuring medical services, old-age, disability and family pensions, also covers commissioned agents of the Ruch establishment selling newspapers and publications, and persons running servicing establishments.

(3) Medical services and old-age benefits are granted to authors working for themselves.

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[2] *Ibid.*, No. 39, item 231.

[3] See law of 29 May 1974 amending some provisions for old-age pensions (*Law Gazette, 1974*, No. 21, item 116); law of 29 May 1974 on pensions for war invalids and their families (*ibid.*, item 117); law of 29 May 1974 on transfers of farms to State ownership against pensions and other financial benefits (*ibid.*, item 118); Council of Ministers Ordinance of 31 May 1974 concerning minimum old-age and disability pensions (*ibid.*, item 122); law of 27 September 1973 on pensions for authors and their families (*Law Gazette, 1973*, No. 38, item 225); Council of Ministers Ordinance of 14 September 1973 on additional allowances to minimum old-age and disability pensions due from the performance of scientific work (*ibid.*, No. 39, item 228); Council of Ministers Ordinance of 18 December 1973 on craftsmen's old-age and disability pensions and subscriptions related thereto, as well as subscriptions for craftsmen's social insurance (*ibid.*, No. 51, item 294); Council of Ministers Ordinance of 15 June 1973 on social insurance of persons acting as agents commissioned by the Prasa-Ksiazka-Ruch Publishing House for sales of newspapers and publications (*ibid.*, No. 27, item 156).

(4) The right to medical services free of charge is granted to independent farmers and their families.

D. Right to work
(article 23 of the Universal Declaration)

1. Work and employment

In the course of 1973 and 1974, as in earlier years, the yearly national socio-economic plans ensured employment to the whole increase of the labour force. According to the Central Statistical Office, the average employment in the socialized economy increased by about 700,000 persons in those years.

Activities related to the procurement of employment and to the occupational training of unskilled women and persons with limited capacities were conducted.

Legislation in this field included Council of Ministers Decree No. 44 of 8 February 1974 on the establishment of a vocational activities fund,[4] which is subsidized from the State budget, and Council of Ministers Ordinance of 27 December 1974 on conditions of occupational rehabilitation establishing eligibility to compensation benefits and on rules applicable to the allocation of these benefits.[5] It establishes compensation benefits to employees who for various reasons lose the capacity to work or undergo medical treatment or occupational rehabilitation. It also guarantees wages at their previous level for periods of occupational rehabilitation up to 24 months.

The Assembly of Seven Judges, in a resolution of 23 March 1974 (III PZP 5/74), stated that "the termination of a labour contract by a confectionery industry plant without the consent of a trade union section shall be invalid (art. 5, para. 1, of the Joint Labour Contract for the Confectionery Industry of 8 June 1962)".

During the period under review, Poland became a party to the ILO Convention No. 127 concerning the maximum permissible weight to be carried by one worker (Geneva, 1967).

2. Wages

Equal pay for equal work

The new Labour Code confirms the principle of equal pay for equal work contained in the Constitution of the Polish People's Republic. The employee's right to wages dependent on the kind, quality and quantity of work constitutes the basic principle of the Polish labour law (article 13 of the Labour Code).

Any wage differentiation arising from criteria other than labour contributions, in particular any discrimination in wages on account of nationality, race, religion, sex or age, is contrary to Polish law and the principles of the Polish socio-political system.

Determined by collective labour contracts in industry and ministerial regulations in non-industrial branches, the wage system in Poland is based on the principle of equal pay for equal work.

Besides State supervisory bodies, the implementation of these principles is secured by conciliation boards set up in places of work for settling disputes arising from labour contracts, as well as by courts of law.

Just and favourable remuneration

In Poland, real wages have been growing considerably. In 1973, a single real wage increased by 10·8 per cent over that of 1972, and in 1974 by about 8 per cent over that of 1973. The growth of wages also includes the minimum wage, which in 1974 was 20 per cent higher than in 1972. The number of employees receiving minimum wages does not exceed 1 per cent of all employees in the socialized economy.

An illustration of legal measures in this field is Council of Ministers decree No. 162 of 5 July 1974 on increasing the lowest wages.[6]

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[4] *Monitor Polski, 1974*, No. 8, item 59.

[5] *Law Gazette, 1974*, No. 51, item 325.

[6] *Monitor Polski, 1974*, No. 26, item 154.

E. Right to rest and leisure
(article 24 of the Universal Declaration)

1. Periodic holidays with pay

Under article 154 of the new Labour Code every employee has the right to an annual leave with full pay from 14 working days after one year of employment to 26 working days after 10 years of employment. Time spent learning (extending from 2 to 8 years) in schools of levels higher than elementary is counted in the years of employment establishing eligibility to a full-pay leave. Some employees, e.g. scientific workers, are entitled to a longer leave. During his leave, an employee receives the same wage as he would receive if he worked. Employees and their families are given possibilities to spend at least two weeks in holiday places and centres where the cost is covered partly by employees and partly by employing institutions from their social welfare fund.

The ordinance of the Minister of Labour, Wages and Social Welfare of 21 October 1974[7] deals with employees' leaves.

2. Working time

The new Labour Code provides in article 129 that the working time of employees cannot in principle be longer than 46 hours per week and 8 hours per day. In 1974, a process was started towards a gradual shortening of the working time (article 129, para. 2 of the Labour Code) which has been shortened to 45 hours per week (six Saturdays off). In 1975, the real working time will be 44 hours per week (12 Saturdays off). Shorter working time involves no reduction in earnings. The Labour Code provides for a possibility of overtime work, but no more than 10 hours in a month (article 133).

For overtime work, an employee receives his regular pay and extras amounting to 50 per cent of the basic per hour rate for the first two hours of overtime work and to 100 per cent of the basic per hour rate for the remainder of overtime work, for work on Sundays, holidays and at night (article 134).

The decree of 14 July 1973 on additional days free of work[8] and Council of Ministers decree 41 of 6 February 1974 on rules and dates of additional days free of work in 1974 and 1975[9] deal with this subject.

F. Right to a standard of living adequate for health and well-being
(article 25 of the Universal Declaration)

1. Adequate food

The illustrative legislation is the bill of 21 November 1974 on the further improvement of national nutrition and on the development of agriculture, passed by the Sejm of the Polish People's Republic.[10]

2. Social benefits

The illustrative legislation is the act of 23 June 1973 on the principles of establishment and distribution of reward, social welfare and housing funds in employing institution.[11]

This is a reform of the system of accumulation and distribution of means for social welfare activities in employing institutions, as well as for the housing needs of employees. It also provides grounds for the establishment of what is known as the "thirteenth pay".

This act extends the right of establishing social welfare and housing funds to all employing institutions in Poland. Since the date of its entry into force, 65 per cent of all employing institutions in Poland have used the right of establishing the annual reward fund (the "thirteenth pay").

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[7] *Law Gazette, 1974*, No. 43, item 259.

[8] *Ibid.*, No. 29, item 160.

[9] *Monitor Polski, 1974*, No. 6, item 43.

[10] *Ibid.*, No. 39, item 230.

[11] *Law Gazette, 1973*, No. 27, item 150.

3. Health care

Now, practically the whole population of Poland enjoys the right of medical service free of charge.

The Government has elaborated a comprehensive programme of the development of health protection and social assistance for the whole population for the years 1973–1990. The report on the state of health of children and youth was elaborated in 1974, thus providing an assessment of the situation and outlining the programme for further activities in this field up to 1990.

Further progress has been made in social assistance, mainly in the assistance for old people. Sanitary conditions in the country have also been improved and a remarkable improvement has been made in bringing the epidemic situation of infectious diseases under control. The system of post-graduate training for doctors and other medical personnel has been expanded.

The Government's endeavours to improve the national health protection system have evoked the population's idea to raise the National Health Protection Fund.

One of the initiatives launched by the population is also the building of the Children's Health Centre, a hospital complex built as a monument to the memory of children killed in the Second World War.

Relevant legislation is:

(*a*) Bill of 19 January 1974 by the Sejm of the Polish People's Republic on national health protection.[12] It approves, *inter alia*, the governmental programme of development of health protection in Poland for the years 1973–1990;

(*b*) The Labour Code's provisions for the protection of the health of employees, especially of women. According to the Code, women cannot be employed in conditions hazardous to their health; neither can labour contracts be terminated by employing institutions as regards women during pregnancy and maternity leave. The Code has also specific provisions for the protection of the health of young workers and of those employed in production processes;

(*c*) Ordinance of the Minister of Health and Social Welfare of 20 February 1973 on the organization of health care centres.[13] It provides for organization changes to improve health care and provide better conditions for the population to use it;

(*d*) Ordinance of the Minister of Health and Social Welfare of 10 December 1974 on medical examinations of employees;[14]

(*e*) Ordinance of the Minister of Health and Social Welfare of 4 June 1974 on the limitation of tobacco smoking for health reasons;[15]

(*f*) Ordinance of the Minister of Health and Social Welfare of 2 July 1974 on providing the population with orthopedic equipment.[16]

4. Family protection; mother and child care

In the years 1973 and 1974, the following helped to improve the material situation of families:

(*a*) Extension of full-pay maternity leaves from 12 to 16 weeks after the first child, and to 18 weeks with any other children;

(*b*) Expansion of the State financial assistance to include foster families, as well as the right of children and youth from such families to the same social welfare benefits from employing institutions as those to which other children are eligible;

(*c*) Increase of family allowances (easier eligibility for higher family allowances in 1973, and higher allowances for children and housewives in families having a *per capita* income of up to 1,400 zlotys, in two stages; beginning in 1974 and in 1975);

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[12] *Monitor Polski, 1974*, No. 4, item 22.

[13] *Law Gazette, 1973*, No. 7, item 52.

[14] *Law Gazette, 1974*, No. 48, item 296.

[15] *Ibid.*, No. 22, item 135.

[16] *Ibid.*, No. 26, item 154.

(*d*) Additional allowances for crippled children in the amount of 500 zlotys paid with family allowances.

The network of crèches and kindergartens has been expanded to assist women in their work and family duties. Greater numbers of children are included in seminar camps organized by employing institutions, schools and youth organizations, more families are also included in family holiday projects sponsored by employing institutions (a growth by 32 per cent in the years 1971–1973).

Laws were elaborated during the years 1973 and 1974 for entry into force on 1 January 1975:

(*a*) The Act of 18 July 1974 on alimony fund[17] which provides for the payment of benefits to children and other persons in difficult material conditions if alimony dues cannot be exacted from persons bound by law to pay them;

(*b*) The Labour Code, which: (i) extends maternity leave to 26 weeks in case of birth of more than one child (art. 180, para. 1, item 3); (ii) lays down a 14-day maternity leave for a female employee adopting a child in the first four months of lifetime; if a female employee adopts a child up to one year old, she has the right to a 4-week leave on the maternity leave terms (art. 183); and (iii) sets out new provisions for the protection of the health of pregnant women, especially for the terms of employment and remuneration of pregnant women and for the protection of their work (arts. 176–178);

(*c*) The act of 17 December 1974 on social insurance benefits in case of illness and maternity;[18]

(*d*) Council of Ministers decree No. 119 of 10 May 1974 on material assistance for children and youth in foster families.[19]

A relevant decision of the Assembly of Seven Judges was contained in a resolution of 14 December 1973 (III PZP 28/73), which stated that "the rights stipulated in Council of Ministers Ordinance No. 13 of 14 January 1972 on leave without pay for working mothers taking care of small children[20] shall apply to a female employee taking care of an adopted child".

5. Post-penitentiary assistance

Council of Ministers Ordinance of 29 May 1974 on post-penitentiary assistance[21] provides assistance to persons released from prisons in the form of job-placement facilities, temporary housing, medical treatment to ill persons and such benefits as clothing, food and grants.

G. Right to education

(article 26 of the Universal Declaration)

The bill of 13 October 1973 on the national education system, passed by the Sejm of the Polish People's Republic,[22] provides for:

(*a*) General obligatory education at secondary level;

(*b*) Pre-school education for all six-year-old children and still younger children in the future;

(*c*) Organizational and technical conditions helping to level up the standard of education in village and small-town schools.

Employees pursuing studies while holding full-time jobs were granted the right to claim special leave for study with full pay by decision of the Council of Ministers of 23 March 1973. They are also entitled to other facilities (e.g., reimbursement of costs of travel to school).

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17 *Ibid.*, No. 27, item 157.

18 *Ibid.*, No. 47, item 280.

19 *Monitor Polski, 1974*, No. 22, item 127.

20 *Monitor Polski, 1972*, No. 5, item 26.

21 *Law Gazette, 1974*, No. 21, item 126.

22 *Monitor Polski, 1973*, No. 44, item 260.

During the period under review, Poland became a party to the Convention on reciprocal recognition of validity of documents of graduation issued by high schools, high vocational schools and schools of university level, and of documents granting scientific degrees and titles (Prague, 7 June 1972).

H. Right to participate in cultural life

(article 27 of the Universal Declaration)

In addition to cultural activities on a commercial basis, employing institutions develop a large-scale financing programme to assist employees and their families with cultural interests and to make cultural facilities more available to them. The provisions on social welfare activities in employing institutions in force on 1 January 1974 stipulate that such institutions put aside state funds at their disposal to finance cultural programmes for employees and their families.

The relevant legislation includes the following:

(1) Council of Ministers Ordinance of 2 November 1974 on social welfare funds and activities in employing institutions;[23]

(2) Council of Ministers Ordinance of 29 December 1973 on the implementation of the act on pensions for authors and their families;[24]

(3) Council of Ministers Ordinance of 29 December 1973 on medical treatment and pensions for authors;[25]

(4) Ordinance of the Minister of Culture and Art of 29 December 1973 on the determination of the status of an author and on the competence of the Commission for Authors Pensions.[26]

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[23] *Law Gazette, 1974*, No. 43, item 260.

[24] *Ibid.*, No. 1, item 1.

[25] *Ibid.*, No. 1, item 2.

[26] *Ibid.*, No. 1, item 7.

ROMANIA

Introduction

Among constitutional developments during the period under study, mention should be made of Law No. 1, of 28 March 1974,[1] on the amendment of certain articles of the 1965 Constitution of the Socialist Republic of Romania.[2] This law established a new supreme organ of State power: the President of the Republic as Head of State and representative of State power in the internal and international relations of the Socialist Republic of Romania. The President of the Republic is elected by the Grand National Assembly for the duration of the legislature (five years). On his election, the President takes an oath before the Grand National Assembly, by which he undertakes, *inter alia*, to respect and uphold the Constitution and the laws of the country and to do everything in his power constantly to apply the principles of socialist democracy. The powers of the President include the granting of citizenship, pardons and the right of asylum. For all his activities he is responsible to the Grand National Assembly.

Certain other important developments affecting human rights are described below under headings related to specific articles of the Universal Declaration of Human Rights.

A. Freedom of opinion and of information

(article 19 of the Universal Declaration)

The Press Law of the Socialist Republic of Romania (Law No. 3 of 28 March 1974) is based on the fundamental right of freedom of the press, established by article 29 of the Constitution.

This law guarantees all citizens the right to freedom of the press, the possibility of expressing, through the press, their opinions on problems of general interest and of a public nature, and the right to be informed of national and international events. The State also establishes the requisite conditions for workers of different nationalities living in the country to obtain information and to express their opinions through publications in their native languages.

The law emphasizes, *inter alia*, that the press is a medium of general information through which citizens exercise their freedom of speech and opinion, and that it should contribute to the multilateral affirmation of the human personality, to the development of socialist democracy and to promotion of the cause of peace, progress, understanding and co-operation between peoples.

In order to protect the interests of society and of individuals against abuse of the right of expression through the press, the law prohibits, *inter alia*, the publication of material which spreads fascist or anti-humanitarian ideas or chauvinist propaganda, incites to racial or national hatred or violence, or is liable to offend national sentiments, and the publication of inaccurate information which injures the legitimate interests, dignity, honour or reputation of an individual. The right of a person injured by statements in the press, which he or she considers inaccurate, to publish and dissiminate a reply (retort, correction or statement) is guaranteed, as is also an adequate procedure for enforcing this right. In regulating the profession of journalism, the law provides, *inter alia*, that the use of pressure or acts of intimidation designed to prevent a journalist from exercising his profession is prohibited.

As regards international co-operation relating to the press, the law contains provisions on development of the relations of the Romanian press with the press in other countries; on the activities of correspondents and representatives of the Romanian press abroad, which should promote co-operation between the countries concerned; and on the facilities granted to foreign press correspondents in Romania.

[1] *Official Gazette*, No. 45, 28 March 1974.

[2] Articles 71–76 of the Constitution. Text of the Constitution republished in *Official Gazette*, No. 167, 27 December 1974; for extensive excerpts see *Yearbook on Human Rights for 1965*, pp. 239–243.

B. Right to take part in government; electoral system
(article 21 of the Universal Declaration)

As an indication of the constant concern of the State to develop and perfect socialist democracy, new legislative measures have been adopted concerning the electoral system. An amendment to article 25 of the Constitution,[3] on the basic right of citizens to elect and to be elected to the Grand National Assembly and the People's Councils, provides that the right to present candidates for election to these bodies is vested in the United Socialist Front. This is the largest permanent political body of representative character; it brings together within its organizational framework, and under the direction of the Romanian Communist Party, the social and political forces of the nation and the social and mass organizations of the country, to enable the whole nation to share in the management of all sectors of State activity.

The new electoral law of the Socialist Republic of Romania (Law No. 67 of 20 December 1974[4]) provides that the exercise of electoral rights constitutes an expression of the unique and sovereign powers of the people and of the direct participation of citizens in the management of the State. The State guarantees citizens the full exercise of all electoral rights on the basis of their perfect equality of rights, without distinction as to race, national origin, sex or religion. Several candidates may be proposed for each constituency for election to the Grand National Assembly and the People's Councils. In addition, the law contains provisions on the holding of elections, the responsibilities of deputies towards their electors, both for their own activities and for the activities of the body to which they have been elected, and on the procedure for their removal if they fail to discharge the duties incumbent on them or lose the confidence of the electors.

C. Right to work; and right to just favourable remuneration
(article 23 of the Universal Declaration)

The right to free choice of employment is provided for and guaranteed both in article 18 of the Constitution and in article 2 of the Labour Code, which entered into force on 1 March 1973; under the Code, all citizens are given the opportunity to engage in economic, technical-scientific, social or cultural activity, depending on their aptitude, their vocational training and their goals.

The right to equitable remuneration for work, guaranteed by article 18 of the Constitution, is the subject of a new law—No. 57 of 29 October 1974, on remuneration according to the quantity and quality of work.[5] The provisions of this law apply and develop the principles of remuneration according to the quantity, quality and social importance of work, of equal pay for equal work, of giving the workers a joint material interest in their work, and of fair distribution of income from work by ensuring a just balance between minimum-level incomes and higher incomes. With a view to ensuring a continuous rise in the standard of living of the workers, the State periodically increases the remuneration of all categories of personnel in relation to the increase in the productivity of social work and in the national income. As provided by the law, in addition to scheduled wages, allowances, bonuses, increases and other rights for the work done, the workers and their families benefit from the Consumers' Social Fund, the purpose of which is to provide for education at all levels, health protection, social insurance for temporary work disability, pensions, State allowances for children, financial aid to families, and other social and cultural needs.

The following legislative measures have been adopted to secure an increase in the incomes of various categories of workers: Decree No. 170 of 22 July 1974, increasing the remuneration of personnel in certain branches and sectors of activity;[6] Decree No. 171 of 22 July 1974, increasing the guaranteed income of members of agricultural production

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[3] Law No. 66, of 20 December 1974, on the amendment of certain articles of the Constitution (*Official Gazette*, No. 161, 23 December 1974).

[4] *Official Gazette*, No. 161, 23 December 1974.

[5] *Ibid.*, Nos. 133–134, 1 November 1974.

[6] *Ibid.*, No. 101, 23 July 1974.

co-operatives;[7] Decree No. 224 of 3 December 1974, on assurance, by agricultural production co-operatives, of the guaranteed income for workers other than their members and on extension of the application of the guaranteed income to interco-operative economic associations concerned with agriculture and animal husbandry.[8]

D. Right to work; right of motherhood and childhood to special care and assistance

(articles 23 and 25 (2) of the Universal Declaration)

In accordance with the requirements of the new Labour Code, working mothers are allowed to take longer periods of leave to look after their sick children and employers are compelled to extend the contracts of women workers during maternity leave, while breast-feeding a child and when taking care of a sick child up to three years of age, as well as throughout their husband's military service.

To enable women to continue skilled work, the number of places in crèches and kindergartens was doubled between 1969 and 1973. Moreover, in order to increase the assistance given to families with a large number of children, mothers with eight or more children up to 18 years of age have been given a special monthly grant ever since 1 November 1972, whether or not they are wage-earners, work in co-operatives, are pensioners or have income from other sources.

New regulations have also been brought into force to increase the right of children and adolescents to protection and social welfare.

E. Right to a standard of living adequate for health and well-being; right to the necessary social services

(article 25 of the Universal Declaration)

1. Housing

Housing construction, to which the State attaches special importance, is a remarkable feature in the improvement of the people's living conditions. Amendments were made in 1973 to the law of leasehold which entitled everyone to acquire a more spacious building lot and to build or buy his own house with State loans.

The following legislative measures were passed: Act No. 4/1973 concerning the development of housing construction, the sale to the general public of dwellings built with State funds, and the construction of rest homes for personal ownership;[9] Decision No. 800/1973 of the Council of Ministers on the adoption of measures to give effect to Act No. 4/1973 concerning the development of housing construction, the sale to the general public of dwellings built with State funds, and the construction of holiday homes for personal ownership;[10] Act No. 5/1973 concerning the management of the rent fund and the regulation of owner-tenant relations;[11] and Decision No. 860/1973 of the Council of Ministers concerning the establishment of measures to give effect to Act No. 5/1973 relating to the management of the rent fund and the regulation of owner-tenant relations.[12]

2. Health

As a result of the steady improvement in the general well-being of the population and of economic, social and health measures, mortality has been reduced from 15 per 1,000 live births in 1969 to 11 per 1,000 in 1972, and child mortality from 53·3 per 1,000 live births in 1969 to 38·2 in 1973.

Special attention has also been given to the improvement of environmental and industrial hygiene. On 22 June 1973 an Act on the protection of the environment[13] was passed

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[7] *Ibid.*, No. 102, 23 July 1974.

[8] *Ibid.*, No. 152, 6 December 1974.

[9] *Ibid.*, No. 46, 31 March 1973.

[10] *Ibid.*, No. 108, 20 July 1973.

[11] *Ibid.*, No. 47, 31 March 1973.

[12] *Ibid.*, No. 107, 19 July 1973.

[13] *Ibid.*, No. 91, 23 June 1973.

to ensure the concerted application of measures to prevent the pollution of environmental factors, to conserve natural resources and to improve living conditions in urban agglomerations. In enforcing the act, the competent bodies have established health regulations for environmental protection in residential areas.

3. Security in the event of disability

The new Labour Code extends the right to material assistance of apprentices becoming incapacitated during training at their place of work. Provisions have been made obliging employers to maintain the service agreements of wage-earners with temporary disability and to take steps for the social and occupational rehabilitation of persons unable to continue in their trade or profession owing to certain accidents, occupational diseases or other diseases causing their disability.

4. Improvement of living standards

With a view to ensuring continuous improvement in the living standards of certain categories of the population, the following legislative measures have been adopted: Decree No. 214, of 17 July 1973, on the payment of an allowance to pensioners and social welfare beneficiaries, and an increase in the State allowance for children;[14] and Decree No. 173, of 22 July 1974, on an increase in scholarships for students at institutions of higher education.[15]

F. Right to education

(article 26 of the Universal Declaration)

The number of pupils and students has risen considerably because there is an increasing need for trained professionals to work in the national economy, and education, being free, is open to everyone. In the school year 1972/73, 4·3 million children and young people were enrolled in schools and faculties, so that practically one fifth of the population of the country was following a course of study at one level or another.

G. Cultural life of the community; protection of interests arising from scientific productions

(article 27 of the Universal Declaration)

In view of the importance of the cultural heritage of the nation and the right of everyone to enjoy the treasures of national and universal culture it contains, Law No. 63, of 30 October 1974 was enacted for the protection of the national cultural heritage of the Socialist Republic of Romania.[16] According to this law, the national cultural heritage comprises property of particular artistic, historic, documentary or scientific value (natural monuments and rare specimens). The law declares that this heritage belongs to the people as an integral part of their national wealth and it is in the interests of all the people that the State should make it known and provide for its conservation, exploitation and incorporation into public life.

To protect the moral and material rights of persons who develop new technical devices corresponding to the present stage of scientific and technical progress, a new law has been enacted: Law No. 62, of 30 October 1974, on inventions and innovations.[17] The provisions of this law are intended to secure the recognition and effective protection of the rights of the authors of inventions and innovations, both in Romania and abroad; the application and general dissemination of inventions and innovations in the national economy; and a stimulating and equitable system of moral and material recompense for inventors and innovators.

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[14] *Ibid.*, No. 106, 18 July 1973.

[15] *Ibid.*, No. 102, 23 July 1974.

[16] *Ibid.*, No. 137, 2 November 1974.

[17] *Ibid.*, No. 48, 1 April 1974.

SAN MARINO

Rights of citizens

The most important achievement in the field of human rights, during the period specified, was the approval by the Consiglio Grande e Generale della Repubblica (Parliament) of the "Declaration of the Rights of Citizens and the Fundamental Principles of the Legal System of San Marino", contained in Law No. 59 of 8 July 1974.[1]

The principles upon which the Declaration rests are the following:

(1) The rules of general international law are considered to be an integral part of the legal system of San Marino. San Marino adheres to the international conventions concerning human rights and freedoms;

(2) The Republic rejects war as a means of resolving conflicts between States;

(3) The right to political asylum is reconfirmed;

(4) The sovereignty of the Republic lies with the people, who exercise it through the forms of democratic representation provided for in the ordinances;

(5) The organs of the judiciary are guaranteed full independence in the exercise of their functions;

(6) All are equal before the law, regardless of personal and social status and political and religious convictions. All citizens have the right of access to public service and elective office;

(7) The rights of the human person are inviolable;

(8) All are entitled to civil and political freedoms. In particular, freedom of the individual, of domicile, abode, emigration, assembly and association, thought, conscience and worship is guaranteed. The secrecy of communications is protected;

(9) Art, science and education are free. The right to free study without payment is ensured to all citizens;

(10) Suffrage is universal, secret and direct;

(11) All citizens have the right to association, by democratic means, in political parties and trade unions;

(12) The law ensures to workers just remuneration, holidays, weekly rest and the right to strike;

(13) All citizens have the right to social security;

(14) Property and private economic initiative are safeguarded. Expropriation of private property is permitted, in the forms provided by the law, for public purposes, with appropriate compensation;

(15) The Republic protects the historical and artistic heritage and the natural environment;

(16) The development of the personality of young people is promoted in the context of study, work, sport and recreational activities;

(17) The State protects the institution of the family. Every mother is entitled to assistance and protection. The law guarantees children born out of wedlock the same treatment as legitimate children;

(18) Citizens have no financial or personal obligations other than those provided by law.

(19) The law must establish the obligation to state the reasons for administrative measures and provide for a hearing of the parties concerned;

(20) Judicial protection of subjective rights and legitimate interests is guaranteed. The right to defence is safeguarded at all stages of the proceedings. Penalties may be

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[1] *Bollettino Ufficiale*, No. 3, 31 July 1974, pp. 87–88.

imposed only by a pre-ordained judge and according to the principle of non-retroactivity. The accused is not considered guilty until he is finally convicted.

The foregoing provisions may be subject to review by the Consiglio Grande e Generale only by a two-thirds majority of its members.

SENEGAL

Civil liability

The National Assembly of the Republic of Senegal adopted, at its meeting on 3 July 1974, an Act introducing compulsory insurance in respect of all motor-vehicle traffic.[1]

According to the provisions of this Act, any natural or legal person who may incur civil liability as a result of bodily injury or material damage caused to a third party by a motor vehicle must be covered by insurance guaranteeing this liability under the conditions laid down in the Act.

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[1] Act No. 7433 (*Journal officiel*, 26 August 1974, p. 1377).

SINGAPORE

A. Non-discrimination and protection of minorities
(article 2 of the Universal Declaration)

Discrimination of any kind based upon race, colour, sex, language, religion, etc., is strictly forbidden by the Constitution. Further, in 1973 a Constitutional amendment was passed establishing a Presidential Council for Minority Rights whose general function is to consider and report on such matters affecting persons of any racial or religious community in Singapore as are referred to it by Parliament or the Government. Its specific function is to draw attention to any Bill or to any subsidiary legislation which in its opinion is, or is likely in its practical application to be, disadvantageous to persons of any racial or religious community and not equally disadvantageous to persons of other such communities, either directly by prejudicing persons of that community or indirectly by giving advantage to persons of another community.

B. Right to work; right of motherhood and childhood to special care and assistance
(articles 23 (1) and 25 (2) of the Universal Declaration)

With regard to the question of assistance to mothers, the Government is aware that the availability of adequate day-care facilities for young children is an important consideration amongst married women in deciding whether to take up employment. The Social Welfare Department has encouraged more married women to take up employment by the provision of crèches of a high standard in various strategic points in the Island. During recent years several measures have been taken to expand, and augment crèche facilities in the Republic. More crèches have been established, especially in the densely populated housing estates. In 1973 Toa Payoh Crèche in Toa Payoh New Town was opened, bringing the total number of crèches in the Republic at the end of June 1973 to 12. The Department is planning the opening of more crèches in the next five years.

In addition the Department encourages and helps the private sector, especially industrial organizations, to set up crèches within their own premises to reduce high turnover in the female labour force and to induce more married women to take up employment.

The Crèche Establishments Act, which was passed in 1973, provides for the licensing and control of private crèches to ensure the education, health, safety and welfare of the young children who are sent to them.

C. Right to the enjoyment of the highest attainable standard of health
(article 25 (1) of the Universal Declaration; article 12 of the International Covenant on Economic, Social and Cultural Rights)

Legislation to control air pollution has been enacted, including the Clean Air (Prohibition on the use of open fire) Order 1973, whereby the open burning of trade waste became illegal.

Pollution of the sea is controlled by the 1973 Civil Liability (Oil Pollution) Act, which makes the owner of a ship liable for damage caused and for the cost of any measures taken to prevent or reduce any such damage in the area of Singapore arising from discharge or escape of oil from the ship.

The scope of the Sale of Food and Drugs Act and Food and Drugs Regulations, 1957, was found to be inadequate. A new Sale of Food Act, 1973, was passed to secure wholesomeness and purity of food; it fixes standards for a larger variety of food, prevents the sale or other disposition or use of appliances dangerous or injurious to health, and prevents the fraudulent or deceptive sale of foods.

Campaigns are launched annually to publicize new laws and, more important, to stimulate active public participation in the improvement of the environment. The theme for the 1973 campaign was "Keep our water clean". In these campaigns the widest possible

participation was aimed at through the involvement of government departments, private organizations, educational institutions and community centres. There was wide publicity and extensive use of mass media.

The Misuse of Drugs Act 1973 was passed by Parliament on 16 February 1973 and became operative on 7 July 1973. The purpose of the Act is to effect controls over the possession, sale, supply, and manufacture of drugs that tend to be misused and that are subject to international surveillance under the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971.

SUDAN

Introduction

During the period under review an important development was the entry into force of the Permanent Constitution of the Sudan, 1973. Legislation affecting human rights enacted during 1973 and 1974 included the State Security Act, 1973; the Central Bureau for the State Security Act, 1973; the Sudan Penal Code, 1974; the Code of Criminal Procedure, 1974; the Code of Civil Procedure, 1974; the Manpower Act, 1974; the Apprenticeship and Vocational Training Act, 1974; the Copyright Act, 1974; the Southern Provinces Regional Self-Government Act, 1972; and the Social Insurance Act, 1974.

A. Equal rights

(article 2 of the Universal Declaration)

All Sudanese citizens have equal rights and duties, irrespective of their origin, race, religion or sex, in relation to holding any public office or post in the public service; this does not, of course, prevent the restriction of the right by the requirement of qualifications for a given profession. For these reasons the legislature has enacted laws regulating the public service.

B. Right to life

(article 3 of the Universal Declaration)

Under the Constitution, everyone has the right to life.

C. Protection against torture and cruel or degrading treatment or punishment

(article 5 of the Universal Declaration)

Article 65 of the Constitution ensures that no Sudanese national shall be subjected to any form of bodily or mental torture or intimidation. It provides that any person who tortures, intimidates or entices an accused person shall be guilty of an offence punishable by law. An accused person so tortured, enticed, or intimidated shall be entitled to reasonable compensation.

Under article 73 of the Constitution, "capital punishment shall not be carried out unless a final judgement has been passed by a competent court and confirmed by the President of the Republic". Article 74 gives any person sentenced to death the right to apply for pardon or commutation of that sentence. Mercy, pardon and commutation of death sentence may be granted in all cases. Under article 75, it is provided that no person under 18 years of age shall be sentenced to death and that such sentence shall not be carried out on women who are pregnant or suckling their babies unless two years of suckling have lapsed. Nevertheless, the constitutional provisions exempt judicial sentences or punishment from what has been set out above where specifically permitted by law. Thus, an individual will be hanged if he is found guilty of murder under section 251 of the Sudan Penal Code, 1974.

D. Equality before the law

(article 7 of the Universal Declaration)

Article 38 of the Constitution of 1973 provides: "All persons in the Democratic Republic of the Sudan are equal before courts of law. The Sudanese have equal rights and duties, irrespective of origin, race, locality, sex, language or religion."

E. Right not to be subjected to arbitrary arrest or detention

(article 9 of the Universal Declaration)

Under the Constitution, article 66 provides that any person arrested or interned shall be immediately informed of the reasons of such arrest or internment and that a citizen

shall not be arrested without a valid warrant of arrest issued by a competent court having jurisdiction, save where the law otherwise provides.

This right is further guaranteed by the Code of Criminal Procedure, the Code of Civil Procedure and the remedies provided thereunder. Thus, the writs of habeas corpus, *mandamus*, prohibition and *certiorari* exist to secure that persons illegally detained shall be released and that those bound by law to perform certain duties and functions and refusing to do so shall be made to perform their duties.

Article 66 of the Constitution provides, in its second paragraph, that any person arrested shall be brought before the competent court within the period prescribed by the law, which period may, when necessary, be renewed from time to time. It also provides that no person shall be remanded in custody awaiting trial for a period exceeding the period prescribed by the law, and that no person shall be held in custody when fine is the only punishment for the offence committed by him.

Article 67 of the Constitution provides that release on bail is a right in cases prescribed by law and that the sum demanded for release on bail shall not be excessive. This area is regulated by chapters 30 and 31 of the Code of Criminal Procedure, 1974 (see also section 92 E of the same Code).

F. Right to a fair trial

(article 10 of the Universal Declaration)

The provisions of the Constitution include the right of an accused person not only to trial, but to fair trial. Under article 64 an accused person has not only the right to be brought for trial without delay but the right to a prompt trial in accordance with the process of the law.

The right of an accused person to be represented in legal proceedings by a legal representative of his own choice is provided in article 63.

The right of the accused person to fair trial is further developed under article 68 of the Constitution, which reads as follows:

> "In all criminal trials the accused shall be entitled to be confronted with witnesses for the prosecution and shall also be entitled to have his defence witnesses compelled by law to appear before the court to testify; and their transport expenses shall be borne by the State.
>
> "The accused shall also have the right to choose his advocate and in serious offences where he is unable to retain an advocate, the State shall appoint and pay the fees of such advocate. All the above shall be in accordance with the law."

G. Right to be presumed innocent until proved guilty; right not to be judged retroactively

(article 11 of the Universal Declaration)

Under article 69 of the Constitution an accused person is presumed innocent until his guilt is proved beyond reasonable doubt, and he shall not be required to prove his innocence. Thus, he should be represented by an independent pleader and he should obtain independent legal advice.

Above all, article 70 provides that no person shall be punished for an act which was not an offence at the time he committed that act and that no punishment shall be inflicted upon any person which exceeds that prescribed by the law in force at the time such an offence was committed. Under article 71 an accused person cannot be subject to double jeopardy.

In the recent case of *S.G.* v. *Soul Naser Abdel Rahman*, the defendant was accused of acts extending over the period between 1967 and 1970. Charges were framed under the Punishment of Corruption Act, 1969, and the Unlawful Enrichment Act, 1966. The accused prayed the Military Tribunal, which was trying him, to stay proceedings and to allow him to make a petition to the Supreme Court. In that petition, the accused challenged the constitutionality of some of the laws. He alleged that section 2 (2) of the Punishment of Corruption Act, 1967, violated the provisions of article 185 of the Constitution and the provisions of article 70 of the Constitution and made the law cover acts which were not covered by it when they were committed. The Supreme Court held that the Punishment

of Corruption Act, 1969, was unconstitutional for its retroactive nature and that the Military Tribunal had no jurisdiction to try the case.

H. Right to privacy

(article 12 of the Universal Declaration)

According to article 43 of the Constitution, dwellings are inviolable and they shall not be entered or searched without the permission of their occupants. Under article 42, private life is inviolable and the State shall guarantee the secrecy of postal, telegraphic and telephonic communications in accordance with the law.

I. Freedom of movement

(article 13 of the Universal Declaration)

It is specifically provided that every citizen has the right to move freely throughout the Sudan and reside in any part thereof. Article 41 of the Constitution states that freedom of movement and residence "shall be guaranteed for all citizens, except for reasons of security and public health as prescribed by law, provided that the period and extent of any restriction thereon shall be fixed".

Article 40 of the Constitution states: "No Sudanese shall be deported from Sudanese lands or be prevented from entering them."

J. Right of asylum

(article 14 of the Universal Declaration)

The right of asylum is guaranteed by article 44 of the Constitution and regulated by the Regulation of Asylum Act, 1974.

K. Right to own property

(article 17 of the Universal Declaration)

Articles 33 and 34 of the Constitution provide that the right of private ownership of property shall be guaranteed for all citizens unless it is against the public interest and that such property shall not be confiscated except in the public interest in accordance with the law and on payment of fair compensation.

L. Freedom of conscience and religion

(article 18 of the Universal Declaration)

This right is guaranteed by article 47 of the Constitution, which states: "Freedom of belief, prayer and performance of religious practices, without infringement of public order or morals, is guaranteed".

M. Freedom of expression

(article 19 of the Universal Declaration)

Under article 48 of the Constitution, every person is free to say and write what he likes so long as it is not defamatory, seditious, obscene or blasphemous.

Nevertheless, this freedom is highly restricted and regulated by law. Thus, sections 105 and 106 of the Sudan Penal Code, 1974, provide that any person who does or attempts to do, or conspires with any person to do, any act with a seditious intention, utters any seditious words or prints, publishes or imports a seditious publication shall be guilty of an offence. Seditious intention means to provoke hatred or contempt or incite disaffection against the Government or attempt to overthrow it by force, to stir up discontent among the inhabitants of the Sudan or to promote hostility between different classes of the population.

Article 4 of the Constitution and the State Security Act, 1973, also regulate freedom of expression.

N. Freedom of assembly and association

(article 20 of the Universal Declaration)

The right pertaining to freedom of assembly and association is provided for by articles 50 and 51 of the Constitution. Article 50 provides that the Sudanese shall have the right to hold peaceful meetings and to take part in quiet and peaceful processions in accordance with the provisions of the law. Article 51 states that Sudanese have the right to form trade unions, associations and societies in accordance with the provisions of the law.

O. Political rights

(article 21 of the Universal Declaration)

The area of political rights is treated in articles 45, 46 and 216 of the Constitution and in the Southern Provinces Regional Self-Government Act, 1972.

Articles 45 and 46 of the Constitution provide that every citizen shall have the right to participate in elections and referendums when he attains 18 years and fulfils conditions of eligibility as prescribed by law, and to participate in public life and in nomination of themselves for public posts and offices.

The Southern Provinces Regional Self-Government Act provides, in its preamble, that it is an organic law to institute self-government in the Southern Provinces of the Sudan. Section 3 of the Act says that "the Southern Provinces of the Sudan shall constitute a self-governing region within the Democratic Republic of the Sudan and shall be known as the Southern Region".

P. Right to social security

(article 22 of the Universal Declaration)

The right to social security is protected by the provisions of articles 24, 26, 27, 28, 54 and 55 of the Constitution. In implementation of these provisions, the Social Insurance Act, 1974, was enacted and a corporation known as the Social Insurance Corporation is now under formation.

Q. Right to work and to favourable conditions of work

(article 23 of the Universal Declaration)

The Constitution guarantees this right. The relevant provisions are contained in articles 36, 51 and 52.

R. Right to education

(article 26 of the Universal Declaration)

Under the Constitution of the Sudan, education is an investment and the State shall plan and supervise it to serve the national objectives (art. 20). Article 29 provides that the eradication of illiteracy and the promotion of adult education are a national duty.

Article 53 of the Constitution states that education is a right of every citizen and that the State shall endeavour to spread and provide it free in all stages.

SWEDEN

Introduction

A new Constitutional Act was adopted and was to enter into force on 1 January 1975. It embodies a number of provisions safeguarding human rights and fundamental freedoms.

In chapter 1 the basic principles of the Constitution are set out. Article 8 provides that courts and administrative authorities shall, when exercising their functions, observe objectivity and impartiality and that they shall not, unless permitted by law, treat anyone differently from others on grounds relating to his personal life, such as belief, opinions, race, colour, origin, sex, age, nationality, language, social status or economic conditions.

Chapter 2 deals with fundamental rights and freedoms. Article 1 provides that, in relation to the public authorities, the following rights and freedoms shall be guaranteed to all citizens:

(1) Freedom of expression and freedom of the press; the freedom to communicate information and express opinions orally, in writing, in pictorial representations, or in any other way;

(2) The right to information: the right to obtain and receive information;

(3) Freedom of assembly: the freedom to arrange and to participate in meetings;

(4) The right to demonstration: the right to express opinions in public places, either individually or in groups;

(5) Freedom of association;

(6) Freedom of religion: the freedom to join with others in religious communities and to practise one's religion;

(7) Freedom of movement: the freedom to move within the realm and to leave the realm.

Other relevant provisions of the new Constitution are referred to below, under headings relating to specific articles of the Universal Declaration of Human Rights.

A. Capital punishment

(article 5 of the Universal Declaration)

Article 1 of chapter 8 of the new Constitution provides that no law or other regulation may imply that a sentence for capital punishment can be pronounced.

While the death penalty in times of peace was abolished *de jure* in Sweden in 1921, the corresponding reform as to times of war was implemented as of 1 July 1973. The Act[1] on the death penalty in certain cases when the country is at war was, thus, repealed as of that date.

B. Administration of justice

(articles 7–11 of the Universal Declaration)

Chapter 11 of the new Constitution deals with judicial and general administration. Article 1 provides that a court other than the Supreme Court or the Supreme Administrative Court shall be instituted only as provided by law. No court may be instituted for an act already committed or for a particular dispute, or otherwise for a particular case.

Under article 3 of chapter 11 it is provided that if an authority other than a court has deprived a person of his liberty on account of a criminal act or a suspicion of such act, such person shall be entitled to have the matter tried by a court without undue delay. This provision likewise applies if a Swedish national has been coercively taken into custody for any other reason than that mentioned above. In the latter case an examination by a board

[1] 1948: 450.

shall rank equally with the trial in court, provided that the composition of the board is governed by rules of law and that the chairman of the board is or has been a permanent judge.

Freedom from arbitrary arrest and detention (art. 9)

An Act[2] on compensation on account of restrictions of liberty entered into force on 1 July 1974. The new act applies to cases where a judicial or administrative authority has ordered some form of restriction of liberty, for instance, arrest, detention, injunction to leave the jurisdiction or treatment in a social institution. Compensation shall be awarded *inter alia* when the accused is acquitted, when the proceedings are stayed or—where the decision was taken by an administrative authority—when it is evident that the restrictive measure was unfounded. Compensation shall cover expenses, loss of income, interference with economic activities and personal suffering.

Right to legal aid (art. 11 (1))

An act[3] amending the Legal Aid Act[4] entered into force on 1 July 1973. The amendments imply that legal aid may be given also in cases relating *inter alia* to the Act concerning Closed Psychiatric Care in Certain Cases, the Temperance Act, the Child Welfare Act and the Aliens Act. A legal counsel may be appointed to assist the person concerned. The counsel's fee as well as the costs for the investigation and for the appearance before the authority are paid from public funds.

Non-retroactivity (art. 11 (2))

Under article 1 of chapter 8 of the new Constitution, no law or other regulation may imply that it shall be possible to impose a penalty or other penal sanction on account of an act which was not subject to any penal sanction at the time it was committed, or to impose a more severe penal sanction on account of the act than that which was prescribed at that time. What has thus been provided with respect to penal sanctions shall likewise apply with respect to confiscation or any other special legal effects attached to criminal acts.

C. Right to privacy

(article 12 of the Universal Declaration)

Under article 3 of chapter 2 of the new Constitution, every citizen shall be protected against being subjected by any authority to bodily search, to the search of his home, to any encroachment on the privacy of his correspondence or telecommunications, or to eavesdropping.

Computerized data

A new Data Act[5] entered into force on 1 July 1973. The purpose of the Act is to protect the individual's privacy. It is stipulated that, as a rule, computerized registers containing information on individuals must not be kept without the permission of a special authority, the Data Inspection Board. This compulsory licensing system does not, however, apply to registers established in accordance with decisions by the Government or the Parliament. The Board shall continuously supervise the computerized registers and may, if undue intrusion on privacy occurs, impose new or special conditions or even recall the licence. Everyone has, upon request, access to the information kept about him in a register. This privilege shall be granted free of charge but only once in each twelve-month period.

Debt collecting

An Act[6] on debt-collecting activities entered into force on 1 July 1974. The purpose

2 1974: 515.
3 1973: 164.
4 1972: 429.
5 1973: 289.
6 1974: 182.

of the Act is to protect debtors against improper debt-collecting practices, and to that end it lays down standards for debt-collecting activities, which must not result in undue encroachment on privacy. All debt-collecting activities shall be subject to a permit granted by the Data Inspection Board, which also has a supervisory function. The implementation of the provisions is guaranteed by means of penal sanctions and the right to claim damages.

D. Freedom of movement; right to a nationality

(articles 13 and 15 of the Universal Declaration)

Article 1 of chapter 8 of the new Constitution provides that no law or other regulation may imply that it shall be possible to expel a Swedish national or otherwise prevent a Swedish national from returning to Sweden, or that it shall be possible to deprive a Swedish national who is resident in Sweden of his citizenship, except in a case where he is or becomes a national of another State.

E. Marriage and the family

(article 16 of the Universal Declaration)

Marriage Code

Important changes in the Marriage Code were introduced as of 1 January 1974.[7] They imply a far-reaching modernization of the rules on the contracting and the dissolution of marriages. Certain impediments to marriage, for instance, mental illness, have been abolished. The institution of judicial separation has disappeared. In certain cases, however, a divorce must be preceded by a reconsideration period of six months. In principle, a spouse who wishes to obtain a divorce is entitled to obtain it without having to state any reason to the court. The rules on compulsory mediation in certain cases have been abolished.

Family Code

The provisions in the Family Code on the custody of children born out of wedlock have been amended[8] to the effect that the question of the custody shall be decided exclusively with regard to the interests of the child without automatic preference to one or other of the parents.

F. Right to own property

(article 17 of the Universal Declaration)

Under chapter 8, article 1, of the Constitution, any private subject shall be guaranteed the right to obtain compensation, according to principles to be determined by law, if his property is expropriated or otherwise requisitioned.

G. Freedom of religion, of opinion and of association; freedom to seek, receive and impart information

(articles 18, 19 and 20 of the Universal Declaration)

Article 2 of chapter 2 of the Constitution provides that every citizen shall be protected against any authority compelling him to belong to any association or religious community or to make known his opinions.

Article 4 of chapter 2 of the Constitution states that with regard to freedom of the press and the right to have access to public documents, the Freedom of the Press Act shall apply.

H. Right to social security

(article 22 of the Universal Declaration)

Dental insurance

A national dental insurance scheme, within the framework of the national health

[7] Act No. 1973: 645.

[8] Act No. 1973: 646.

scheme, has been introduced as from 1 January 1974. As a rule, 50 per cent of the cost of dental treatment, as indicated in a list of approved charges, is paid by the patient and 50 per cent by the insurance. In the case of particularly expensive treatment, the insurance will reimburse 75 per cent of the charges. Legislation has been enacted whereby the county councils and other non-county local authorities responsible for public dental care under the national dental service shall be responsible also for the dental care of all children and young people up to and including the age of 19, and for specialized dental treatment. The dental care of all children is free of charge in the public dental service.

Pensions

An extensive programme of reform in the pensions sector will come into force during 1975 and 1976.[9] The cost of this programme, estimated at SKr 3,000 million, is being covered by increased social insurance charges for the national basic pension and a higher contribution for the national supplementary pension.

A statutory reduction of the general retirement age to 65 will come into force on 1 July 1976. From the same date, there will be increased opportunities for retirement at varying ages.

The improved national basic pension benefits consist primarily of increases in the basic sums involved as from 1 January 1975. Continued special increments are to be paid to those who have little or no national supplementary pension.

A question of particular importance is the provision of better pension benefits for young disabled persons as from 1 July 1976.

More favourable rules are to be introduced from 1 July 1975 for the special national basic pension benefits extended to handicapped persons in the form of invalidity compensation, supplementary invalidity allowance and nursing grants. By the terms of the new proposals, the present invalidity compensation and supplementary allowance are to be combined in a new benefit called "handicap compensation". In respect of both this benefit and the nursing grant to parents looking after a handicapped child at home, the less stringent rules envisaged will extend to a larger number of handicapped persons the possibility of compensation for nursing and other additional costs arising from the handicap.

Medical care: private practitioners

As from 1 January 1975, new rules will be applied for compensation under the national health scheme for medical care provided by private practitioners. The fee charged to the patient by most privately practising doctors will be at most SKr 20. Certain doctors will have the opportunity to commit themselves individually to a specific scale of charges, and their charge to the patient will then be SKr 25 or 30, depending on their previous level of charges. At the medical centres (multipractice surgeries), the charge will generally be SKr 30. The patient pays his fee directly to the doctor. The remainder of the doctor's charge is paid directly to the doctor by the social insurance office, in the form of compensation for medical care under the national health scheme. As in the case of public medical care, the fee paid by the patient also covers any laboratory or X-ray tests. If the doctor refers the patient to the non-institutionalized medical care provided by the community, the patient's first visit to the public care system will be free of all charges. The practitioners associated with the national health insurance will be required to keep within a list of charges for medical care approved by the Government. This means that private medical care will also be subject to an approved scale. It is assumed that private practitioners will in general associate themselves with the new insurance system. This applies primarily to doctors dealing with 2,000 or more visits per year, who are together responsible for 75 per cent of all privately provided medical care. Private practitioners with fewer visits per year will also be able to join the scheme.

The national health insurance rules regarding compensation for travel will be simplified and will be the same for visits to doctors working in the public medical system and to private practitioners.

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[9] Act No. 1974: 784.

Social insurance

The insuree will in the future no longer pay any contribution of his own for social insurance. As of 1 January 1974, the national basic pension contribution paid by the insuree was abolished and replaced by a social insurance charge of 3·3 per cent, which is debited to employers and self-employed persons.

I. Right to work and to just and favourable conditions of work; right to form and to join trade unions

(article 23 of the Universal Declaration)

Employment security

The Act[10] on employment security entered into force on 1 July 1974; it aims at providing increased employment security for the individual. The Act governs *inter alia* the conditions under which a job relationship may be severed as well as the order to be applied when the employer wishes to dismiss employees on account of scarcity of work or to lay off employees temporarily. An employee who has been dismissed on account of scarcity of work has a certain priority when the employer decides to recruit new employees. By way of rules on notice and consultation, the trade unions are kept aware of the staff policy of the enterprises.

The Act[11] on certain measures to promote employment entered into force on 1 July 1974. An employer is obliged to give notice to the county labour market board a certain period before employees are dismissed or laid off temporarily. The Act also contains rules aiming at providing increased possibilities for these employees to retain their employment or obtain employment on the open labour market. They provide for consultations between the labour market authorities and the employers and organizations concerned; if no agreement is reached on the necessary measures, the labour market authorities may advise the employer what measures are to be taken.

Safety measures

The Labour Welfare Act[12] was amended as of 1 January 1974. The industrial safety organization was reinforced. Safety representatives and safety committees have been given some new tasks. Stricter rules have been introduced with regard to the testing of industrial premises from a working environment standpoint, starting in the planning stage. Safety representatives are empowered, in case of an immediate and serious danger to the life and health of the employees and if a request for improvement has not been complied with, to stop the work until the labour inspection office has considered the matter.

Trade unions

Under article 5 of chapter 2 of the Constitution, any trade union and any association of employers shall have the right to take strike or lock-out action or any similar measures, except as otherwise provided by law or ensuing from a contract.

The Act[13] on the status of the trade union representative at the place of work, which entered into force on 1 July 1974, is intended to form the basis for and support trade union activities, which are a necessary prerequisite for the complete realization of the reforms achieved during recent years relating to the working life. The Act aims primarily at activities that directly concern the interests of the employees in their relations with the employer, but it also covers other questions connected with trade union activities. A prerequisite for the implementation of the Act is that the trade union representative is employed by the employer and engaged at the place of work. The Act also offers protection against aggravated conditions of employment on account of the assignment. A trade union representative is entitled by law to the free time necessary to enable him to perform his duties.

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[10] 1974: 12.
[11] 1974: 13.
[12] 1949: 1.
[13] 1974: 358.

J. Right to education

(article 26 of the Universal Declaration)

Day-care centres

Government subsidies for the running of day-care centres and after-school centres were raised considerably as from 1 July 1974. The Government subsidies to construction costs have also been raised. It is estimated that 25,000 new places will be made available during 1974 and 1975. The total number of places in children's day-care centres in 1974 is estimated at 81,000. There are a further 51,000 places in private families registered with local authorities, bringing the total number up to about 132,000 as of 1974. In 1965, the corresponding figure was 22,900.

Pre-school activities

As from 1 July 1975,[14] the municipalities will be under a statutory obligation to provide pre-school places for all children in their area from the autumn term of the year they reach the age of six. Pre-school activities shall cover at least 15 hours per week and a total of at least 525 hours per year. Special measures are being taken for children under the age of six who for physical, mental, social, linguistic or other reasons are in particular need of support and stimulation for their development. The public pre-school for six-year-olds and for younger children with special requirements will be free of charge up to 15 hours per week or 525 hours per year. To create the necessary conditions for a continued rapid expansion of day-care activities for the children of gainfully employed or student parents, a plan for the expansion of pre-school activities is to be set up in each municipality. This plan will cover a five-year period and will contain a schedule of requirements and an account of how and to what extent the authority intends to meet these requirements by the provision of day nurseries, part-time groups, family day nurseries etc.

Free time for education

The Act[15] on the right of an employee to free time for education entered into force on 1 January 1975. Every employee is entitled by law to obtain leave of absence from his work in order to educate himself.

Free time for immigrant workers to learn Swedish

The Act[16] on the right of immigrants to leave of absence with pay when taking part in instruction in the Swedish language has been extended to comprise all employed immigrants, irrespective of when they obtained their first employment. The Act shall in principle also apply to immigrants employed in the Swedish merchant marine.

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[14] Act No. 1973: 1205

[15] 1974: 981.

[16] 1972: 650.

SYRIAN ARAB REPUBLIC

Introduction

The Constitution of the Syrian Arab Republic, promulgated in 1973,[1] devotes a special chapter to the basic principles protecting human rights and dignity. The preamble of the Constitution sets out those principles and affirms that freedom is a sacred right and that popular democracy is the ideal attribute that gives the citizen the enjoyment of his freedom and makes of him an honourable person, and that the country's freedom is guarded only by free citizens. In article 25, paragraph 1, the Constitution provides that freedom is a sacred right; the State shall guarantee to its citizens their personal freedom and shall protect their honour and safety.

A. Protection against torture and cruel or degrading treatment or punishment

(article 5 of the Universal Declaration)

No person may be tortured physically or morally or humiliated. The law defines the penalties for those who inflict such treatment (Constitution, art. 28, para. 3).

B. Principle of equal treatment; equality before the law

(articles 2 and 7 of the Universal Declaration)

In accordance with article 45 of the Constitution, the State shall provide women with all the opportunities of active and full participation in political, social, cultural and economic life, and remove the obstacles to their development and participation in the building of the Arab socialist society.

In accordance with the provisions of article 25, paragraph 2, the rule of law is a fundamental principle for the community and the State. Paragraph 3 of the same article provides that citizens are equal before the law in rights and duties; and paragraph 4 stipulates that the State upholds the principle of equality of opportunity between citizens.

C. Right not to be subjected to arbitrary arrest

(article 9 of the Universal Declaration)

No person may be searched or arrested except in accordance with the law (Constitution, art. 28, para. 2).

D. Right to due process

(article 11 of the Universal Declaration)

Article 28, paragraph 1, of the Constitution states that an accused person is presumed innocent until condemned by a final judgement at law. Paragraph 4 of the same article provides that the right to judicial process, appeal and defence shall be protected by law. Under the provisions of article 29 there is no crime or penalty unless the law so provides. Article 30 stipulates that no legal provision may apply to an act done before that legal provision came into force, or have retroactive effect. However, in cases involving non-criminal acts, the law may provide otherwise.

E. Right to privacy

(article 12 of the Universal Declaration)

Under the provisions of article 31 of the Constitution dwellings are inviolable and may not be entered or searched except in accordance with the law. Article 32 provides that the secrecy of postal and telegraphic communications shall be protected by law.

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[1] Decree No. 208, 13 March 1973.

F. Freedom of movement

(article 13 of the Universal Declaration)

A citizen may not be banished from the national territory and every citizen may move about within the territory of the State unless forbidden to do so by order of a court or by a provision of the law relating to public health and public safety (Constitution, art. 33).

G. Right of asylum

(article 14 of the Universal Declaration)

A political refugee may not be handed over because of his political principles or his defence of freedom (Constitution, art. 34).

H. Right to marry and found a family; protection of the family

(article 16 of the Universal Declaration)

In accordance with article 44 of the Constitution, the family is the basic cell of society and is protected by the State; moreover the State shall protect and encourage marriage and help to remove the material and social obstacles to it.

I. Freedom of conscience and religion

(article 18 of the Universal Declaration)

Freedom of belief is protected and the State respects all religions and guarantees freedom for all forms of religious practices provided there is no disturbance of public order (Constitution, art. 36).

J. Freedom of opinion and expression

(article 19 of the Universal Declaration)

Every citizen shall have the right to express his opinion publicly and freely, in speech, in writing or in any other form of expression, and to participate in the work of supervision and constructive criticism so as to safeguard the integrity of the structure of the homeland and nation and enhance the socialist régime. The State shall guarantee the freedom of the press and of printing and publishing, in accordance with the law (Constitution, art. 38).

K. Freedom of peaceful assembly and association; right to form trade unions

(articles 20 and 23 (4) of the Universal Declaration)

Article 39 provides that citizens may assemble and demonstrate peaceably without infringing the principles of the Constitution, and that the exercise of this right shall be regulated by statute.

Article 48 provides that sectors of the people have the right to establish trade unions, social and occupational associations and co-operative societies for production or services. The scope, relations and activities of these organizations shall be defined by statute. Under the provisions of article 49, these people's organizations shall take an active part in the various bodies created by statute to fulfil the following functions:

(*a*) Construction of the Arab society and protection of its system;

(*b*) Planning and direction of the socialist economy;

(*c*) Improvement in the conditions of work, protection, health, culture and other factors of individual life;

(*d*) Realization of scientific and technical progress, and development of the means of production;

(*e*) Supervision by the people of the apparatus of power.

L. Right to work and to just and favourable conditions of work; right to rest and to reasonable limitation of working hours

(articles 23 (1) and (3), and 24 of the Universal Declaration)

According to the provisions of article 36 of the Constitution, work is a right and a duty of every citizen, and the State is bound to provide work for every citizen; every citizen is entitled to receive wages befitting the nature and yield of his work, and the State is bound to guarantee this right; the State shall also lay down the number of hours of work, guarantee social security to workers, and regulate their right to rest, holidays, compensation and allowances.

M. Right to the necessary social services

(article 25 of the Universal Declaration)

Article 46 of the Constitution provides that the State shall support every citizen and his family in the event of emergency, illness, disability, orphanhood or old age. The State shall also protect its citizens' health and make available the means of prevention, treatment and cure.

In accordance with article 44, paragraph 2, the State shall protect motherhood and childhood, guard the young and adolescent, and provide them with suitable conditions for development of their aptitudes.

Article 47 stipulates that the State shall provide cultural, social and health services, especially for those living in villages, in order to raise their level of living.

N. Right to education

(article 26 of the Universal Declaration)

Education is a right guaranteed by the State and is free of charge at all its stages and compulsory at the primary stage. The State shall extend this obligation to other stages and shall supervise education and plan it to serve the needs of the community and of production (Constitution, art. 37).

O. Right to participate in cultural life

(article 27 (1) of the Universal Declaration)

The State shall encourage the artistic talents and abilities of all its citizens (Constitution, art. 23).

THAILAND

Introduction

Considerable changes have taken place since 14 October 1973. Much legislation that previously restricted the rights and freedom of the people has been repealed or amended. There is movement at all levels, both in rural and in urban areas, towards improved government administration and wider participation of individuals in government affairs.

The new Constitution of the Kingdom of Thailand was promulgated on 7 October 1974.[1] The date of the general elections was fixed at 26 January 1975. Some of the provisions of the Constitution are briefly described below under the pertinent articles of the Universal Declaration of Human Rights.

National policy for youth development

As young people are considered an important resource for the economic and social development of the country, it is necessary to give priority to their development. The national youth policy laid down by the Government[2] is, among other things: to ensure that young people shall be properly brought up in accordance with their station in life, that they shall have equal protection of the law, and that services provided by the State shall be available to them; to provide young people living in slums with appropriate social welfare services; to prevent and cure drug addiction of young people; to provide young people with permanent places to live; to provide an adequate number of appropriate places for recreation in residential areas; to promote the participation of young people in sports activities; to promote the physical and mental health of young people; to promote the education and training of young people, both in and outside schools, so that they may acquire sufficient knowledge to ensure their livelihood; to assist young people of intelligence in acquiring education to the limit of their abilities; to promote books programmes for young people and provide them with access to libraries or reading rooms; to promote research into the problems of young people for use in conducting youth activities; to improve and promote youth centres and other places for youth activities, which have already been established or will be established in every locality; to encourage young people to acquire religious knowledge and to follow religious precepts in their daily lives; to accelerate the solution of problems of unsuitable behaviour of young people; to encourage young people in each locality to earn their living within their locality; to provide young people with employment according to their knowledge and abilities; to accelerate vocational training to meet manpower needs; to promote voluntary development work of young people; to encourage young people to organize into groups for the purpose of participating in useful activities; to encourage young people to have constructive ideas and to do constructive work for the development of the country; to encourage young people who are studying for higher education to have the opportunity to practise in the locality according to their fields of study; to promote the training of persons whose work is concerned with young people to know and understand the principles and procedures of such work and to devote themselves to it; and to utilize every kind of mass media to promote the education and activities of young people.

A. Equal rights

(article 2 of the Universal Declaration)

The Constitution guarantees that men and women have equal rights (sect. 28).

B. Right to a fair trial

(articles 10 and 11 of the Universal Declaration)

The Constitution provides (sect. 34) that a person charged with an offence who cannot

[1] *Government Gazette*, vol. 91, part 169, 7 October B.E. 2517 (1974).

[2] *Ibid.*, vol. 90, part 156, 1 December B.E. 2516 (1973).

afford to employ an advocate for himself has the right to receive aid from the State in accordance with the law. It also provides (sect. 35) that every person has the right not to make a statement incriminating himself that may result in his being criminally prosecuted.

By an amendment dated 19 March 1974[3] to Announcement No. 2 of the National Executive Council of 17 November 1971,[4] the National Legislative Assembly transferred the trial and adjudication of all offences, except offences against the King, the Queen, the Heir to the Throne or the Regent and offences against the security of the State, back from the military to the civilian courts.

The prosecution of criminal charges in Khwaeng courts, which had been conducted by police officers since 1960, has been transferred to the public prosecutors by the Act establishing Khwaeng Courts and Criminal Procedure in Khwaeng Courts (No. 3).[5]

C. Right to own property

(article 17 of the Universal Declaration)

Property rights are protected under the Constitution (sect. 39). Immovable property shall not be expropriated except by virtue of a law specifically enacted for the purpose of public utility, national defence, acquisition of natural resources, town planning, agricultural or industrial development, land reform or other reason of public interest, and fair compensation must be given to the owner. In determining the amount of compensation, the nature and site of the immovable property shall be taken into consideration, together with the causes and objectives of the expropriation, so as to bring about social justice.

Under the Constitution the State is required to organize the system of land ownership and possession with a view to promoting agriculture and industry and to impose on landowners the obligation to utilize their land with due regard to its nature (sect. 80), and to encourage all farmers, by means of land reform and other methods, to acquire land ownership or rights in land for the purpose of engaging in agriculture (sect. 81).

The Land Consolidation for Agriculture Act, 1974,[6] was adopted to ensure that all land within a land consolidation project area may receive the benefits of irrigation and public utilities with the object of increasing agricultural productivity and reducing production costs.

On the issue of a Royal Decree designating a project area of land consolidation, the owners or mortgagees of land or the persons holding title deeds to land within such area shall surrender the documents proving their right to the land to the *Changwat* Land Consolidation Committee, which will construct the irrigation and drainage systems, roads and other public utilities so that the owners of all plots of land may use them. Then the value of land for such construction shall be deducted from the assessed value of each plot of land and other properties in the area, in proportion to the assessed value before the reallocation of land. In the reallocation of land, the Committee shall provide each owner with his original plot of land, or with a certain part of his original plot, or with a new plot as close to the original plot as possible; the value of new land shall be as close to the net value of the original plot of land as possible. After the reallocation, any owner of land who has received land and property, the assessed value of which is more or less than the net value of the original land, shall pay or receive, as compensation, the difference in value in accordance with the rules prescribed by the Central Land Consolidation Committee.

The Control of Paddy Field Lease Act, 1974,[7] replaced the previous Act of 1950.[8] It controls the length of leases and makes rules for, among other things, the fixing of the maximum rent, on the basis of the quality of the soil, the maximum productivity, the farming expenses for the principal crop, etc. The Act also provides that a paddy field which is not used for agriculture or for other purpose that is in conformity with the common economic interest shall be let out.

[3] *Ibid.*, vol. 91, part 50, 19 March B.E. 2517 (1974).

[4] *Ibid.*, vol. 88, part 124, 18 November B.E. 2514 (1971).

[5] *Ibid.*, vol. 91, part 175, 18 October B.E. 2517 (1974).

[6] *Ibid.*, vol. 91, part 155, 18 September B.E. 2517 (1974).

[7] *Ibid.*, vol. 91, part 215, 17 December B.E. 2517 (1974).

[8] *Ibid.*, vol. 7, part 56, 17 October B.E. 2493 (1950).

In order to prevent abuses, the Pawn Shop Act (No. 2) (1974)[9] was passed by the National Legislative Assembly with the purpose of protecting the owner of an article by requiring a pawn-shop keeper to record the identification particulars of the pledger on the counterfoil of the pledging receipt.

D. Freedom of opinion and expression

(article 19 of the Universal Declaration)

The Constitution guarantees, in section 40, freedom of speech, writing, printing and publication. No restriction of such liberty shall be imposed except by virtue of a law specifically enacted for the purpose of maintaining the security of the State, protecting the rights, liberty, dignity or reputation of another person, maintaining public order or good morals or preventing moral degeneration of the people. The closure of a press shall only be enforced after a final judgement by a Court. The owner of a newspaper business must be a person of Thai nationality.

E. Freedom of assembly and association

(article 20 of the Universal Declaration)

In February 1974 the Act[10] repealing the Announcement No. 4 of the National Executive Council of 17 November 1971[11] which had prohibited all political meetings of more than five persons, was adopted by the National Legislative Assembly.

Announcement No. 9 of the National Executive Council of 19 November 1971,[12] which had banned all political parties, was also repealed, by the Political Parties Act, 1974.[13] Under this Act, not less than 15 persons of Thai nationality who are at least 20 years of age and who are not Buddhist priests, novices, monks or members of the clergy may form a group to promote a political party having directive principles of policy that are not contrary to law and order, public morals, or the system of democratic government provided for in the Constitution, and may send out invitations to other persons to become members. When the total number of persons applying for membership, including the promoters, reaches 1,000, they may establish a political party by having it registered as such with the Registrar in the Ministry of the Interior (sect. 7). No one may be a member of more than one political party at a time (sect. 31). No one may give money, property or any other benefit to a political party in an attempt to persuade it to carry out or refrain from carrying out any act that is not an appropriate activity of a political party and that causes advantage or disadvantage to any person or group of persons or is detrimental to the official service (sect. 26), and no political party may accept money, property or any other benefit for such purpose (sect. 27).

According to section 117 (3) of the Constitution of 1974, in order to promote the party system of democratic representative government, candidates for election as members of the House of Representatives are required to be members of political parties.

F. Right to take part in government

(article 21 of the Universal Declaration)

In 1974 the National Legislative Assembly repealed Announcement No. 19 of the National Executive Council of 15 December 1971,[14] which had abrogated the provisions regulating the election of members of *Changwat* assemblies and of municipal assemblies; the 1974 Act[15] repealing the Announcement also provided that the election of members of municipal assemblies was to be held by 26 December 1974 and the election of members of *Changwat* assemblies by 25 February 1975.

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[9] *Ibid.*, vol. 91, part 202, 30 November B.E. 2517 (1974).

[10] *Ibid.*, vol. 91, part 19, 3 February B.E. 2517 (1974).

[11] *Ibid.*, vol. 88, part 124, 18 November B.E. 2514 (1971).

[12] *Ibid.*, vol. 88, part 126, 20 November B.E. 2514 (1971).

[13] *Ibid.*, vol. 91, part 173, 15 October B.E. 2517 (1974).

[14] *Ibid.*, vol. 88, part 140, 15 December B.E. 2514 (1971).

[15] *Ibid.*, vol. 91, part 154, 17 September B.E. 2517 (1974).

The Act on Election of Members of Municipal Assemblies (No. 7), 1974,[16] was enacted in implementation of the principles of the new Constitution. The Act provided that persons of Thai nationality who are not less than 20 years of age on 1 January of the year in which the election is held have the right to vote (sect. 17). The Act laid down the conditions on which persons who have acquired Thai nationality by naturalization are entitled to vote and to be a candidate for election (sects. 17 *bis* and 20 *bis*).

The Act on Election of Members of the House of Representatives (No. 3), 1974,[17] was adopted to fulfil the provisions of section 112, 115 (1) and 117 (1) of the 1974 Constitution. The number of members to be elected from each *Changwat* is based on the population, according to the latest census published by the Ministry of the Interior before the date of promulgation of the Royal Decree on the election. A *Changwat* having a population of up to 150,000 has one member; a *Changwat* with more than 150,000 has one additional member for each additional 150,000 inhabitants; a fraction of 150,000, from 75,000 upwards, shall be counted as 150,000 (sect. 6). The conditions to be fulfilled by persons who have acquired Thai nationality by naturalization in order to be eligible to vote are set out in section 17 of the Act.

G. Economic rights; right to just and favourable remuneration

(articles 22 and 23 of the Universal Declaration)

In order to improve the standard of living of farmers, who in the past have often been exploited by middlemen, the Government issued a Royal Decree establishing the Marketing Organization for Farmers, 1974.[18] The new organization has the following objectives: (i) to establish markets for agricultural produce where farmers can get a fair price; (ii) to encourage farmers to bring their produce for sale in the market directly; (iii) to buy agricultural produce and home industry products and sell them to the public at reasonable prices; (iv) to proceed with the price stabilization of agricultural produce; (v) to assist farmers with regard to the production, distribution, marketing, storage and transportation of their produce; (vi) to promote improvement in the quality of agricultural produce to meet the requirements of the market; and (vii) to act as a representative of the Government, ministries and departments in the procurement of factors of production and the necessary consumer goods for sale to farmers at reasonable prices (sect. 6).

In addition, the Aid Fund for Farmers Act, 1974,[19] was enacted to relieve farmers of debts, to enable them to acquire ownership of land for cultivation, to increase their productivity and income, and to stabilize prices of primary products. These objectives have been set in order to raise the standard of living of farmers, who represent the majority of the population of Thailand.

H. Economic and social rights; right to a standard of living adequate for health and well-being

(articles 22 and 25 of the Universal Declaration)

The 1974 Constitution contains new directive principles of State policy, including the conservation of the environment and the elimination of pollution (sects. 77 and 93) and the promotion of the exploration of natural resources in order that they may be economically exploited for the benefit of the Thai people in a manner not contrary to the principles of conservation (sect. 78). The State is required to narrow the economic and social gap between individuals (sect. 79), to protect the interests of farmers with respect to the production and distribution of their produce (sect. 82), to impose measures for the prevention of direct or indirect economic monopoly by individuals (sect. 85), and to adopt a demographic policy that is appropriate for the country, taking into account the natural resources, the economic and social conditions and the level of technological progress, and that will promote economic and social development and the security of the State (sect.

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16 *Ibid.*, vol. 91, part 154, 17 September B.E. 2517 (1974).

17 *Ibid.*, vol. 91, part 186, 6 November B.E. 2517 (1974).

18 *Ibid.*, vol. 91, part 167, 5 October B.E. 2517 (1974).

19 *Ibid.*, vol. 91, part 175, 18 October B.E. 2517 (1974).

86). The State is also required to assist persons suffering as a result of performing duties for the nation, of rendering assistance to the official services, of performing duties inspired by humanitarian principles, or of natural calamities (sect. 87) and to promote and support State and private social work for the welfare and happiness of the people (sect. 88).

Environment

In view of the importance of ecology to the national development, a Royal Decree[20] establishing the Institute of Environmental Research in Chulalongkorn University was passed in October 1974. In addition, two bills on conservation of the environment were before the National Legislative Assembly at the end of 1974.

Public health

The Poisonous Materials Act (No. 2), 1973,[21] contains some amendments to the earlier Act of 1967. They include the requirement for the registration of poisonous materials before production or importation and the prohibition of spraying or releasing any poisonous materials from the air without permission of the competent official; increased penalties are laid down for offences. These measures are devised to safeguard the lives and health of the people.

In the past, cosmetics had been sold without any restriction, but in 1974 the Cosmetic Act[22] was passed, providing for control of the production, importation and sale of cosmetics, for the prohibition of the sale of unsafe cosmetics, and for the imposition of heavy penalties for offences.

Social security

The Act on Relief for Persons Suffering from the Performance of Service to the Government, to the Nation or for Humanity (No. 3), 1974,[23] was enacted to supersede the previous Act of 1954. It provides, among other things, that all those who have been injured while performing such service, regardless of their entitlement to compensation or relief under the Act, have the right to receive medical expenses from the Government, in accordance with the rules of the Ministry of Finance (sect. 12).

I. Right to work and to favourable conditions of work

(article 23 of the Universal Declaration)

The directive principles of State policy contained in the new Constitution include, under section 89, to encourage people of working age to obtain employment and receive fair wages, and to ensure fair protection of labour and provide employees with security and promotion in their employment as well as with sickness and old age insurance.

The Ministry of the Interior issued during the period under review three amendments to its Notification of 16 April 1972 concerning labour protection,[24] which had been issued under the National Executive Council's Announcement No. 103 of 16 March 1972.[25] These amendments were contained in notifications of 8 August 1973,[26] 13 June 1974[27] and 4 December 1974.[28] They cover, among other things, the subjects referred to below.

Working hours are limited to 42 hours a week for any work that may be harmful to the health of an employee, as specified by the Ministry of the Interior (clause 3 (3)).

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[20] *Ibid.*, vol. 91, part 167, 5 October B.E. 2517 (1974).
[21] *Ibid.*, vol. 90, part 154, 29 November B.E. 2516 (1973).
[22] *Ibid.*, vol. 91, part 155, 18 September B.E. 2517 (1974).
[23] *Ibid.*, vol. 90, part 155, 30 November B.E. 2517 (1974).
[24] *Ibid.*, vol. 89, part 61, 16 April B.E. 2515 (1972).
[25] *Ibid.*, vol. 89, part 41, 16 March B.E. 2515 (1972).
[26] *Ibid.*, vol. 90, part 107, 23 August B.E. 2516 (1973).
[27] *Ibid.*, vol. 91, part 102, 13 June B.E. 2517 (1974).
[28] *Ibid.*, vol. 91, part 212, 13 December B.E. 2517 (1974).

In certain types of work, such as hotels, restaurants, transport and such other work as is prescribed by the Ministry of the Interior, employees may work overtime or on holidays. In other cases, an employer may, for the benefit of production, distribution and service, have employees work overtime or on a holiday, in so far as is necessary, but only with the written permission of the Director-General of the Labour Department or a person designated by him (clause 11).

The amounts of compensation that must be paid to employees whose employment is terminated through no fault of theirs are laid down; they vary from the equivalent at the last wage rate of 30 days' wages to the equivalent of 180 days' wages, according to the length of time the employee has worked in the job. This clause does not apply to termination of employment of a permanent employee which has been fixed in advance or to that of an employee who has been employed on written probation of not more than 180 days (clause 46).

The amounts of compensation to be paid by employers in the case of injury or death of employees as a result of the employment are laid down (clause 54).

In addition, under Notification of the Ministry of the Interior dated 11 June 1973,[29] the rates of contributions to be paid by employers in the different types of employment are specified (clauses 1–4, 11 and 13). Procedures for claiming compensation and for appealing decisions of the Office of Compensation Fund are set out (clauses 15, 23–25).

The Notification on Labour Relations (No. 2), issued by the Ministry of the Interior on 26 August 1974,[30] amends the notification of 16 April 1972.[31] It covers the appointment of representatives of employers and employees (clause 6 *bis*), the time-table for negotiations and for conciliation procedures (clauses 10, 12), and provides for intervention by the Minister of the Interior in cases where no agreement can be reached after conciliation in disputes affecting the national economy or public order (clause 14).

The Notification on minimum wages dated 14 February 1973[32] has been replaced four times since it was issued, as a result of wages adjustments that have taken place following the rise in the price of oil and in the standard of living. The minimum wages are now set forth in Notifications No. 3 of 13 June 1974,[33] No. 4 of 1 August 1974[34] and No. 5 of 1 October 1974.[35]

J. Right to education

(article 26 of the Universal Declaration)

The Constitution provides that all persons shall enjoy an equal right to receive fundamental education under the law on compulsory education (sect. 41).

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[29] *Government Gazette*, vol. 90, part 66, 11 June B.E. 2516 (1973).

[30] *Ibid.*, vol. 91, part 143, 26 August B.E. 2517 (1974).

[31] *Ibid.*, vol. 89, part 61, 16 April B.E. 2515 (1972).

[32] *Ibid.*, vol. 90, part 16, 16 February B.E. 2516 (1973).

[33] *Ibid.*, vol. 91, part 102, 13 June B.E. 2517 (1974).

[34] *Ibid.*, vol. 91, part 137, 13 August B.E. 2517 (1974).

[35] *Ibid.*, vol. 91, part 174, 15 October B.E. 2517 (1974).

TOGO

A new Labour Code governing occupational relations between employers and workers was adopted in 1974.[1] It is based on the major principles already established and contains a whole series of new provisions guaranteeing the rights and obligations of employers and workers.

A. Freedom of association

(article 20 of the Universal Declaration)

Chapter II of the Code deals with trade unions (freedom to establish a trade union, civil capacity of trade unions, special mutual assistance and pension funds, and freedom to form trade union associations).

B. Right to work; right to rest; protection of motherhood and childhood

(articles 23, 24 and 25 of the Universal Declaration)

Chapter III deals with the contract of employment. Articles 28 *et seq.* strengthen control over the recruitment of foreign workers. The benefits payable to the worker in the event of non-occupational illness or call-up into the army are increased under article 44.

Chapter IV deals with wages; chapter V deals with working conditions (hours of work, night-work, female and child labour, weekly rest periods, public holidays, leave, and transport); chapter VI deals with industrial hygiene and safety, and industrial medical services.

The governmental labour administration services are considerably strengthened by the provisions of chapter VII. Articles 169 *et seq.* deal with consultative labour bodies.

Questions relating to labour disputes are dealt with in chapter VIII, which lays down the procedure to be followed in the case of individual and collective disputes. Articles 211 *et seq.*, which refer to collective disputes, lay down a rapid and effective procedure for their settlement.

Lastly, articles 221 *et seq.* (chapter IX) supplement and increase the penalties for infringements of the provisions of the Code.

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[1] Order No. 16 of 8 May 1974, establishing the Labour Code (*Journal officiel*, 19th year, No. 12 (*bis*), 10 May 1974).

UKRAINIAN SOVIET SOCIALIST REPUBLIC

The principal new developments relating to human rights during the period 1973–1974 in the Ukrainian Soviet Socialist Republic are summarized below.

A. Marriage and the family

(article 16 (1) of the Universal Declaration)

On 11 May 1973, the Presidium of the Supreme Soviet adopted a decree concerning the introduction of amendments and additions to the Marriage and Family Code of the Ukrainian SSR.[1]

Under this decree, the dissolution or nullification of a marriage does not entail any change in the surname of the children. If the parent given custody of the child after such dissolution or nullification wishes to confer his or her own surname on the child, the trusteeship and guardianship authorities may decide that the surname of a minor may be changed with the consent of both parents. In exceptional cases, when the interests of the minor require it, the trusteeship and guardianship authorities are empowered to decide that the surname of the child may be changed without the consent of the second parent.

B. Right to an adequate standard of living

(article 25 (1) of the Universal Declaration)

As in previous years, 1973–1974 saw a further improvement in the welfare of the people of the Ukrainian SSR and a strengthening of the material guarantees for the exercise of the entire range of human rights. The data given below from information published by the Central Statistical Board of the Council of Ministers of the Ukrainian SSR on the results achieved in the implementation of the plan for the development of the national economy in 1973 and 1974[2] testify to the further substantial improvement in the standard of living of working people in the Ukraine, the ever more complete and comprehensive satisfaction of their material and spiritual needs, and successes in realization of vital economic, social and cultural rights.

The annual average number of manual and non-manual workers in the national economy of the Ukranian SSR was 17·5 million in 1973 and 17·9 million in 1974. The annual average number of members of collective farms employed in the public collective farm economy was 5·3 million and 5·1 million respectively. As in previous years, there was full employment in the Republic. In certain enterprises, collective farms and State farms and on certain building sites there was a shortage of manpower.

The national income—the source of development of public production and of increases in the material and cultural standard of living of the population—increased by more than 5,000 million roubles in 1973, and by 5 per cent in 1974 as compared with 1973.

During the period 1973–1974, the wage supplement for night work was raised in all sectors of industry and more steps were taken to bring the minimum monthly wage of manual and non-manual workers up to 70 roubles. At the same time the official wage rates and salary scales for middle-bracket workers in production sectors of the economy were increased.

The average monthly cash wage for manual and non-manual workers in 1974 was 128·5 roubles, against 125·3 roubles in 1973—an increase of 2·6 per cent. With the addition of payments and benefits from social consumption funds, the average monthly wage rose from 170 to 175 roubles. The wages of collective farm workers rose annually by 5 per cent. Payments and benefits received by the population from social consumption funds totalled 15,100 million roubles, representing an increase of 900 million roubles over 1973. These funds provide free education and medical care; pensions, allowances and other

[1] *Vedomosti Verkhovnogo Soveta Ukrainskoi SSR*, 1973, No. 21, item, 181.

[2] Published in the newspaper *Pravda Ukrainy* on 1 February 1974 and 29 January 1975.

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.

During the two-year period, social consumption funds were used to provide pregnancy and maternity grants at full pay to all working women, regardless of length of service, to establish children's allowances for less prosperous families, and to improve the pensions of disabled persons and families having lost the bread-winner.

Public medical services were improved. The total number of doctors in all branches of medicine increased by almost 10,000 to 151,000 in 1974. More than 12·5 million persons rested or were treated in sanatoria and spas, rest homes, tourist centres and rest centres. Approximately 8·8 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.

There was large-scale housing, cultural and services construction during the period under review; 788,000 well-built apartments and individual houses, with a total area of 39·7 million square metres, were brought into service at the expense of the State, the collective farms and the population, thus enabling 3·6 million persons to obtain better housing.

C. Right to education

(article 26 of the Universal Declaration)

1. National Education Act

On 28 June 1974, to supplement existing laws on national education, the Supreme Soviet of the Ukrainian SSR adopted the National Education Act of the Ukrainian SSR, which entered into force on 1 October 1974.[3]

The National Education Act of the Ukrainian SSR consists of an introduction and 14 sections.

The introduction states that the Great October Socialist Revolution created the political, economic and social conditions for the development of national education, science and culture in the Ukraine.

It is further stated that the genuinely democratic system of national education established in the Ukrainian SSR provides citizens with a real opportunity to receive secondary and higher education, and with jobs in accordance with their specialities and qualifications.

The victory of socialism has ensured a constant rise in material well-being and the cultural and educational level of the people, and has made it possible to create favourable conditions for pre-school education, to consistently implement compulsory eight-year schooling, followed by general secondary education, and to greatly expand vocational and technical training, specialized secondary education and higher education. All this will promote the further growth of the national culture, the shaping of the Communist outlook and the achievement of higher labour productivity.

The aim of national education in the Ukrainian SSR is to train, as active builders of Communist society, highly-educated citizens with an all-round development, brought up on Marxist–Leninist ideas in the spirit of respect for the law and the socialist legal system and the Communist attitude to labour, physically healthy and able to work successfully in the various spheres of economic, social and cultural construction and to take an active part in social and national life.

It is emphasized in the Act that the upbringing and education of the younger generation concerns the nation as a whole and is achieved through the joint efforts of the State, the family and public organizations.

Section I of the Act contains general provisions concerning national education. Thus, article 3 reaffirms the right of citizens of the Ukrainian SSR to education, as proclaimed in the Constitution.

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[3] *Vedomosti Verkhovnogo Soveta Ukrainskoi SSR*, 1974, No. 29, item 233.

Under article 4, the main principles of public education in the Ukrainian SSR are as follows:

(1) Equality of all citizens in obtaining education, regardless of racial or national origin, sex, religious views, property status or social position;

(2) Compulsory education for all children and adolescents;

(3) The status of all educational establishments as State and public institutions;

(4) Freedom to choose, as the language of instruction, the mother tongue or the language of another people of the USSR;

(5) The provision of all types of education free of charge, full maintenance of some pupils at the expense of the State, and the provision of grants and other material assistance to pupils and students;

(6) Unity of the system of national education and continuity of all types of educational establishments, permitting movement from the lower levels of education to the higher;

(7) Unity between schooling and Communist training; co-operation of school, family and the community in the training of children and young people;

(8) The linking of the education and training of the rising generation to life and to the practice of Communist construction;

(9) The scientific character of education, and its constant improvement in the light of the latest achievements in science, technology and culture;

(10) The humanistic and high moral character of education and training;

(11) Co-education;

(12) The secular nature of education.

The national education system in the Ukrainian SSR comprises pre-school education, general secondary education, out-of-school training, vocational and technical training, specialized secondary education and higher education. Universities, lecture bureaux, courses, Communist labour schools and other public forms of disseminating political and scientific knowledge are established to promote the self-education of the citizens and an improvement in their cultural level.

This section of the Act also contains other provisions, including articles governing the competence of local soviets of workers' deputies in the management of national education.

Pre-school education

Section II of the Act is devoted to questions of pre-school education. Articles 16–20 of this section state that general and specialized crèches, kindergartens and kindergarten-crèches shall be established by local authorities, enterprises, institutes, collective farms and co-operative and other organizations in order to create more favourable conditions for educating children of pre-school age and providing the necessary assistance to the family. Specialized pre-school establishments are set up for the proper upbringing and instruction of children with physical or mental development handicaps.

Children are assigned to special pre-school establishments at the wish and with the consent of the parents or those replacing them and in accordance with the decision of medico-pedagogical commissions.

Medical staff and personnel for therapeutic and prophylactic work with the children in pre-school establishments are provided free of charge by the public health services.

General education through the secondary level

Section IV contains norms governing access to education in secondary schools of general education, which are unified, functional polytechnic schools. Their unity is ensured by the application of common principles to the organization of the educational process and by the essentially uniform content and level of general education throughout the Ukrainian SSR.

Articles 24 and 25 are devoted to the tasks of the secondary school of general education and to measures of control for ensuring that the curriculum is observed.

Under article 26 of the Act, pupils have the opportunity of being taught in their mother tongue or in the language of another people of the USSR. The parents or those replacing them have the right to choose for the children a school in which instruction is given in the language they desire.

Access of pupils to the school is ensured by optimum school zoning, the provision of properly equipped boarding facilities at schools and by regular free transport to and from schools of general education for pupils living in rural areas, use being made for this purpose of express buses, suburban and local trains, inland water transport vessels and the vehicles, specially equipped for carrying children, of collective and State farms, forestry establishments and other enterprises and organizations.

For children and adolescents requiring prolonged medical treatment, general education during convalescence is provided at sanatorium and forest schools; instruction is also given at hospitals and sanatoria and in the home.

For persons working in the various branches of the economy who do not have a secondary education there are evening (or other shift) schools of general secondary education and correspondence schools.

In order to strengthen the links between the school and family, article 32 of the Act provides for the creation of parents' committees (councils) at schools. In addition, under article 35, general education schools are under the patronage of enterprises, collective farms, institutions and organizations.

Out-of-school training

Section V of the Act is devoted to out-of-school training. With a view to the all-round development of the capacities and aptitudes of pupils, training them for social activity and interest in work, science, technology, art and sport, organizing cultural leisure activities and improving their physical fitness, it is provided that State enterprises, institutions and organizations, collective farms and public organizations shall create Palaces and Houses of Young Pioneers, stations for young technologists, naturalists and tourists, children's libraries, sports, art and music schools, Pioneer camps and other out-of-school institutions.

Vocational and technical training

The provisions of sections VI and VII of the Act are intended to govern questions relating to access to vocational and technical education and specialized secondary education. These forms of education are provided to citizens of the Ukrainian SSR in colleges, technical colleges and vocational schools.

Higher education

Under section VIII of the Act, higher education in the Ukrainian SSR is provided in universities, institutes, academies and other educational establishments officially classed as higher educational establishments, in which instruction is provided in day, evening and correspondence courses.

The main tasks of higher educational establishments are:

(*a*) The training of highly skilled specialists having a detailed theoretical knowledge and practical skill in their speciality and in Marxist–Leninist theory;

(*b*) The inculcation in students of high moral qualities, Communist consciousness and culture, and the physical training of students;

(*c*) The preparation of textbooks and educational accessories, the training of scientific and pedagogical cadres, etc.

Rights and obligations of pupils and students and of workers in the public education system

The rights and obligations of pupils and students are set out in section IX of the Act. All pupils and students in the Ukrainian SSR have the right to free use of laboratories, workrooms, lecture halls, reading rooms, libraries and other supporting educational establishments, as well as sports centres, equipment, stocks and other furnishings of educational establishments. They are also duly provided under the legislation with scholarship,

grants, hostels, dormitories and medical care, and are entitled to free or reduced-price travel and to other forms of material assistance.

Persons studying without interruption of industrial service are entitled to additional leave at their place of work, a shortened working week and other concessions.

Through their social organizations, pupils and students participate in the discussion of questions relating to the improvement of the educational process and other problems.

Graduates of vocational and technical schools, specialized secondary educational establishments and higher educational establishments are guaranteed jobs in accordance with their speciality and qualifications.

Section X of the Act governs teacher-training, teaching activities and professional rights and duties of national education workers. In particular, article 71 provides that workers in the national education system shall be entitled to longer State-paid holidays, to free accommodation with heating and lighting in the territory of the rural and community soviets of worker's deputies, and to pension advantages.

Right to education of foreign citizens and stateless persons

The last section of the Act provides that foreign citizens and stateless persons have the right to receive education in the Ukrainian SSR on an equal footing with citizens of the Republic, in accordance with the provisions of existing legislation.

2. PRACTICAL EXERCISE OF THE RIGHT TO EDUCATION

According to data of the Central Statistical Board of the Council of Ministers of the Ukrainian SSR,[4] about 16 million persons were receiving education of one kind or another on 1 January 1975. Attendance at schools of general education of all types totalled 8.3 million. Schools of general education with places for 472,000 pupils were opened in Ukrainian towns and villages in 1973 and 1974, while 1,501,000 persons received secondary education.

Attendance at full-time pre-school establishments exceeded 1.9 million, and seasonal children's establishments served more than a million children.

Enrolment at higher educational establishments was 161,000, of which 95,000, or 6,000 more than in 1972, were attending day departments.

Enrolment in special secondary educational establishments was 241,000, of which 149,000, or over 2,600 more than in 1972, were attending day departments.

During the two-year period, 700,000 specialists with higher and specialized secondary education were absorbed into the economy; they included 251,000 with higher education and 449,000 with specialized secondary education. By the end of 1974, more than 76 per cent of the population employed in the economy had higher or secondary education (complete or incomplete).

In the period 1973–1974, great attention was given in the Ukrainian SSR to the training and advanced training of manual and non-manual workers and of members of collective farms. During this period, vocational-technical colleges trained 630,000 young skilled workers. About 10.5 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.

All these data are evidence of the practical exercise by citizens of the Ukrainian SSR in 1973–1974 of their right to education.

D. Copyright

(article 27 (2) of the Universal Declaration)

The decree of the Presidium of the Supreme Soviet of the Ukrainian SSR concerning the introduction of amendments and additions to the Civil Code of the Ukrainian SSR reformulates a number of articles of the Code.[5] They define the persons concerned and

[4] Published in the newspaper *Prvada Ukrainy* on 1 February 1974 and 29 January 1975.

[5] *Vedomosti Verkhovnogo Soveta Ukrainskoi SSR*, 1974, No. 39, item 384.

specify the juridical facts which give rise to authors' rights for such persons. The use of an author's works by other persons (including translation into another language) is only permitted on the basis of an agreement with the author or his legal representatives.

Articles 493–495 of the Code state that an author's rights are valid for his lifetime and are transferred to his estate for 25 years on his death. An author's right to the title and inviolability of his work is not transferred.

E. Limitations on the exercise of freedom for the purpose of ensuring respect for the rights and freedoms of others

(article 29 (2) of the Universal Declaration)

On 17 June 1974, the Presidium of the Supreme Soviet of the Ukrainian SSR adopted a decree concerning the introduction of additions and amendments to certain legislative acts of the Ukrainian SSR.[6] Under this decree, articles were added to the Criminal Code of the Ukrainian SSR stipulating criminal liability for the sowing or cultivation of prohibited crops containing narcotic substances, and for the illegal preparation, acquisition, storage, transportation, remittance, sale or theft of narcotic substances. Persons setting up or maintaining premises for the use of narcotic substances shall also incur criminal liability.

Additions and amendments have also been made to the Public Health Act of the Ukrainian SSR. Under a new article of this act, drug addicts must undergo treatment in public health authority treatment and preventive centres. Patients refusing such treatment may be sent to therapeutic labour clinics for compulsory treatment.

Article 14 of the Criminal Code of the Ukrainian SSR has been reformulated as part of the campaign against drug addiction. Under the decree of the Presidium of the Supreme Soviet of the Ukrainian SSR of 3 July 1973, if an offence has been committed by a person abusing drugs and consequently placing his family in a serious material situation, the court may declare him to be of limited capacity. Such a person is placed under guardianship in accordance with the provisions of the law.[7]

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[6] *Ibid.*, 1974, No. 27, item 222.

[7] *Ibid.*, 1973, No. 29, item 259.

UNION OF SOVIET SOCIALIST REPUBLICS

Introduction

During 1973–1974, the supreme organs of State power and State administration of the Union of Soviet Socialist Republics and of the Union Republics, continuing their action in pursuance of the social and economic programme chartered by the Twenty-fourth Session of the Communist Party of the Soviet Union and aimed at further raising the material and spiritual well-being of the Soviet people and at strengthening the guarantees of the democratic rights of citizens, adopted a number of legislative and administrative measures for the practical realization of those objectives.

A general survey of regulatory acts adopted by various legislative and administrative institutions is given below, arranged under headings relating to the appropriate articles of the Universal Declaration of Human Rights.

In connexion with the ratification by the USSR on 16 October 1973 of the International Covenants on Human Rights, it should be noted that Soviet democracy is not limited to granting rights to the citizens but goes considerably further than bourgeois democracy. In the USSR the greatest importance is attached to ensuring social and economic rights, such as the right to work, to leisure, to free education, to material security in old age and in the case of illness or disability and to the protection of health. At the same time, these rights and freedoms are not only established in terms of the Constitution but, what is even more important, all necessary social and material conditions are ensured to implement them; and as a result Soviet people fully enjoy the advantages of the socialist system, the basic principle of which is "Everything for the sake of man and for the good of man". It should be pointed out, however, that citizens not only enjoy rights and freedoms but also have certain obligations to society. Marx stressed that "there are no rights without obligations and no obligations without rights", and V. I. Lenin said: "to live in society and to be free from society is impossible". In enjoying rights and freedoms citizens are duty bound to bear in mind the interests of society and of the State as a whole and the rights and freedoms of other citizens.

A. Right to security of person
(article 3 of the Universal Declaration)

1. Public order

An important piece of legislation in the field of protection of public order is the decree of the Presidium of the Supreme Soviet of the USSR of 8 June 1973 on "Basic obligations and rights of the Soviet Militia in the protection of public order and the fight against crime".[1] The Soviet Militia, the decree states, is called upon to ensure the protection of public order, Socialist property, and the rights and lawful interests of citizens, enterprises, organizations and institutions from criminal encroachment and other anti-social acts. The most important tasks of the Militia are the prevention and stopping of crimes and other anti-social acts, the speedy detection of crime, and maximum assistance in eliminating the causes of crime and of other violations of the law. All actions of the Militia are based on the strictest observance of socialist legality. The decree clearly defines the basic obligations and rights of the Militia. The organs of the Procurator's Office are responsible for supervising the legality of the measures employed by the Militia in the protection of public order and the fight against crime envisaged by the decree.

On 20 May 1974 the Presidium of the Supreme Soviet of the USSR adopted a decree on "Basic obligations and rights of Volunteer People's Groups in the protection of public order".[2] The decree emphasizes that all actions by Volunteer People's Groups are based on

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[1] *Vedomosti Verkhovnogo Soveta SSSR*, 1973, No. 24, item 309.

[2] *Ibid.*, 1974, No. 22, item 326.

strict observance of socialist legality. The decree defines the obligations of Volunteer People's Groups and the rights of members of such groups. The organs of the Procurator's Office are responsible for supervising the scrupulous enforcement of the law in the actions of Volunteer People's Groups.

On 20 May 1974 the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR adopted a decision on "The further improvement of the activities of Volunteer People's Groups in the protection of public order" which, in particular, instructs the competent organs resolutely to strive to steadily increase the role and importance of People's Groups in the protection of the rights and lawful interests of citizens, in ensuring public order and in combating violations of the law.

2. Safety of aircraft

Decree No. 3798–VIII of the Presidium of the Supreme Soviet of the USSR of 3 January 1973[3] on "Criminal liability for the pirating of aircraft" provides that the pirating of aircraft while on the ground or in flight shall be punishable by deprivation of liberty for from three to ten years. For the pirating or seizure of aircraft accompanied by the use or threat of force, or damage to the aircraft or other serious consequences, the decree provides for deprivation of liberty for from five to 15 years with or without confiscation of property; and if such acts result in the death of persons or in serious bodily injury, it provides for deprivation of liberty for from eight to 15 years with confiscation of property, or capital punishment with confiscation of property. The decree also establishes criminal liability for being an accessory before the fact and for failure to report knowledge of the preparation or commission of the crime.

Decree No. 4827–VIII of the Presidium of the Supreme Soviet of the USSR of 19 December 1973[4] on "Increased liability for the illegal carriage by air of explosive or highly inflammable substances, or other dangerous goods and objects" establishes the criminal liability of passengers for the above-mentioned acts and provides for deprivation of liberty for not more than three years or corrective labour for not more than one year, or a fine of not more than 100 roubles where such acts have serious consequences, the decree provides for deprivation of liberty from three to ten years. If no grounds exist for criminal proceedings, the violator is liable to an administrative fine of not more than 50 roubles.

3. Illegal possession of firearms

With a view to increasing the effectiveness of the fight against crimes associated with the use of firearms, munitions and explosive substances, decree No. 5487–VIII of the Presidium of the Supreme Soviet of the USSR of 11 February 1974[5] on "Liability for the illegal carrying, possession, acquisition, manufacture or sale of firearms, munitions or explosive substances" establishes criminal liability for these acts and provides for deprivation of liberty for not more than five years.

B. Equitable justice

(articles 6–11 of the Universal Declaration)

On 19 July 1973, the sixth session of the Supreme Soviet of the USSR enacted a USSR Law on the State Notarial System which lays down the most important basic regulations on the organization and work of the notarial system in the USSR requiring a uniform country-wide solution.[6]

In accordance with article 2 of the above-mentioned Law, each Union Republic has drawn up and adopted its own Law on the State Notarial System replacing the Regulations on the State Notarial System previously existing in the various Republics.[7]

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[3] *Ibid.*, 1973, No. 1, item 3.

[4] *Ibid.*, 1973, No. 39, item 541.

[5] *Ibid.*, 1974, No. 7, item 116.

[6] *Ibid.*, 1973, No. 30, item 393.

[7] In the Russian Federation, the Law on the State Notarial System was adopted at the seventh session of the Eighth Supreme Soviet of the RSFSR, on 2 August 1974 (*Vedomosti Verkhovnogo Soveta RSFSR*, 1974, No. 32, item 852).

The need for a renewal of notarial legislation was due to the economic, social and cultural transformations that have taken place in the country and the expansion of relations with foreign States. In addition, notarial legislation is closely connected with other categories of legislation, such as civil, civil-procedural, marriage and family, collective farm, land and labour legislation, which have in recent times been the object of substantial revision. All this made it necessary to bring notarial legislation into harmony with the current level of social development.

The correct performance of notarial functions makes it very important to clearly define the tasks of the State Notarial System. According to article 1 of the law, those tasks are: the protection of socialist property, of the rights and lawful interests of citizens, of State institutions, enterprises and organizations, of collective farms and other co-operative and social organizations, the strengthening of socialist legality and legal procedure, the prevention of violation of the law through the correct and timely certification of agreements and other transactions, the formalization of inheritance rights, the affixing of executive notations and other kinds of notarial operations.

For the better protection of the rights of Soviet citizens abroad, the number of notarial acts which Soviet consular institutions are entitled to perform has been increased. Article 12 of the law has given them the right to issue certificates concerning the right of ownership of a share of the community property of spouses, to attest that a particular citizen is alive and living in a certain place, and to certify that a citizen is the person whose face is shown on a photograph.

An important principle of the work of notarial bodies is the observance of the rule of secrecy in their activities. In this regard, the law (art. 7) has extended this rule not only to notaries and other officials who perform notarial functions but also to all persons who learn of notarial acts in the course of their official duties. Therefore, information concerning notarial acts is given only to the citizens and organizations on whose instructions or in respect of whom such notarial acts were performed and to judicial, prosecution and investigative organs if such information is essential for the proper settlement of criminal or civil cases. In view of the strictly personal nature of such a matter as a will, the legislator has retained the existing provision prohibiting the giving of any information on this notarial act until the death of the testator.

Of basic importance is the rule in article 8 of the law concerning the provision by notaries and other officials performing notarizations of assistance to citizens and organizations that are exercising their rights and defending their legitimate interests. The forms of such assistance may vary greatly. For example, a notary is entitled to demand that an organization or official supply information or documents needed for a notarization, where the persons concerned have difficulty in obtaining such information or documents themselves.

As a rule, notarization may be performed in any State notarial office or office of the executive committee of a district, town, settlement or village soviet of workers' deputies; only in cases specifically mentioned in the legislation must the notarization take place in a given notarial office or in the executive committee office of a given soviet of workers' deputies.

In the interests of citizens, notarization may also be performed outside the premises of a notarial office if, because of illness, disability or any other acceptable reason, the citizen is unable to appear at the notarial office.

To prevent delays and better serve citizens, article 15 of the law provides that notarial acts shall be performed on the day when all the necessary documents are presented. Only in strictly determined cases mentioned in the legislation may the performance of a notarial act be postponed or suspended: for instance, where it is necessary to demand additional documents, to obtain from a court information on the receipt of a statement from an interested party contesting a point of law or of facts which the other interested party is asking to be certified.

Judicial bodies play an important role in supervising the legality of the work of notaries. An interested party who believes that the performance or non-performance of a notarial act was incorrect is entitled to lodge a complaint with the people's court having jurisdiction over the place where the State notarial office or executive committe is situated. A complaint may also be lodged with the court in the event of an incorrect certification of a

will (or power of attorney) or of a refusal to certify, by the chief or duty physician of a medical institution, head of an expedition, captain of a ship, etc. (art. 21).

With a view to ensuring objectivity in the activities of notaries, article 18 of the law lays down the rule that State notaries are not entitled to perform notarial acts for themselves, their spouses, their spouses' relatives or their own relatives.

Reflecting the requirements of the expanding economic, scientific and technical, and cultural ties with other countries, the law (art. 26) gives foreign citizens and stateless persons the right on a footing of equality with Soviet citizens to apply to State notarial offices and other bodies that perform notarizations. The law also enables foreign enterprises and organizations to apply to State notarial offices and consular institutions of the USSR.

The requirements of notarial practice are also met by the new rule laid down in article 28 of the law, whereby a power of attorney which is assigned for the performance of acts abroad and which does not indicate the length of its validity remains in force until cancelled by the person issuing the power of attorney.

C. Special assistance for children and families

(articles 16 and 25 of the Universal Declaration)

The directives of the Twenty-fourth Party Congress provided for a considerable increase in social consumption funds which were to finance, in particular, the introduction of cash payments of children's allowances.

On the basis of a decree of the Presidium of the Supreme Soviet of the USSR, dated 25 September 1974, the Council of Ministers of the USSR approved on 26 September 1974 the regulations for the award and payment of children's allowances to low-income families.

The allowances are paid to families of manual and non-manual workers, members of collective farms, members of unions of creative artists and other workers, military personnel, pensions and students.

The allowance is awarded and paid to the mother at her place of work or study; however, where the mother does not work or pursue any studies, payment is made at the husband's place of work or study.

If the mother has died, has been deprived of her parental rights or is not herself bringing up the child, the allowance is paid to the father or the guardian of the child.

The level of allowance paid in respect of an adopted child is the same as in the case of a natural child. The allowance is also paid in respect of a stepchild where it has not been awarded to the natural mother or father of the child.

The allowances are paid whether or not other benefits are received in respect of the children, including the allowances to mothers of many children and to single mothers and allowances for children of military personnel on emergency services.

Children's allowances are not liable to tax.

D. Rights of workers

(article 23 of the Universal Declaration)

Regulations concerning the production combine

On 27 March 1974 the Government of the USSR approved regulations concerning the production combine (Kombinat). The regulations provide that the production combine (Kombinat) carries out measures to improve the system of wages and salaries with a view to strengthening the material interest of workers both in the results of their personal labour and in the over-all results of the operation of production units and of the production combine as a whole.

Procedures for considering labour disputes

New regulations on procedures for considering labour disputes were adopted on 20 May 1974.[8]

[8] *Vedomosti Verkhovnogo Soveta SSSR*, 1974, No. 22, item 235.

These regulations expand the competence of judicial organs in considering labour disputes.

District (Municipal) People's Courts examine labour disputes upon application:

(*a*) By manual and office workers when they do not agree with a decision of the factory and works local committee (FWLC) or shop committee;

(*b*) By the management of an enterprise (institution), when it considers that a decision of the FWLC or shop committee is contrary to existing legislation;

(*c*) By manual and office workers when they disagree with a decision of a labour-disputes commission consisting of a trade-union organizer and the director of an enterprise (institution) or when the parties fail to agree in such a commission;

(*d*) By the Procurator when he considers that an order of the FWLC or the decision of a labour-disputes commission consisting of a trade union organizer and a director of an enterprise (institution) is contrary to existing legislation.

District (municipal) People's Courts examine labour disputes without referral to a labour-disputes commission or to the FWLC (or shop committee) upon application:

(*a*) By manual and office workers, dismissed on the initiative of the management of an enterprise (institution), for restoration to their post or for modification of the statement of reasons for their dismissal, except in the case of disputes involving workers who occupy managerial posts (schedules No. 1 and No. 2);

(*b*) By manual and office workers of an enterprise (institution) where there is no FWLC or trade-union organizer, and upon application of persons working under labour contracts in collective farms;

(*c*) By the management for compensation by manual or office workers of damage caused to the enterprise (institution).

The court also directly hears disputes between a worker and management on a question concerning the application of labour legislation which, in accordance with that legislation, has provisionally been decided by the management in agreement with the FWLC (regulation 38). Manual and office workers who apply to the court in connexion with claims relating to labour-law relations are exempt from payment of court expenses to the State (fees and costs connected with the hearing of the case) (regulation 40).

If it decides to restore to his job a manual or office worker who has been wrongly dismissed or transferred to another job, the organ hearing the dispute simultaneously adopts a decision on payment to the worker of his average wage for the time of his compulsory absence from work or the difference in salary for the time he was performing lower-paid work, but for a period of not more than three months (regulations 44 and 45).

A decision or order to restore to his job a worker wrongly dismissed or transferred to another job adopted by the organ responsible for hearing the labour dispute is subject to immediate enforcement (regulation 47). If a management delays implementation of a decision of a labour-disputes commission or of a court, or of an order of the FWLC to restore to his job the unlawfully transferred or unlawfully dismissed worker, he is paid his average salary or the difference in salary for the whole period of the delay (regulation 48).

In hearing labour disputes concerning financial claims, the organ hearing the dispute is entitled to decide that the worker shall be paid the sums due, but for not more than one year, and in cases of cash compensation for unused leave at the time of dismissal, for leave in respect of not more than two years' work (in far northern districts, three years' work).

Supplementary leave

Soviet labour legislation has increased the length of supplementary leave for some categories of workers for uninterrupted periods of work (from three to six working days). These leaves, which are in addition to the basic annual leave, are granted to workers in light industry, railway transport and to many other categories of workers.

E. Right to a standard of living adequate for health and well-being
(article 25 of the Universal Declaration)

1. Public health

Some important regulatory acts for the protection of public health were adopted during 1973–1974.

Medical assistance

Under the decision of the Council of Ministers of the USSR on "Some measures for the further improvement of medical assistance to the population" of 23 November 1973,[9] it was decided to increase the accounting norm for cash expenditures on the acquisition of medical preparations in the haematological and other specialized departments of hospitals. It was specified that patients who had had a kidney-transplant operation were to receive medicines free of charge during their treatment as out-patients.

Health resorts

Also concerned with public health were the Regulations on Health Resorts, approved by a decision of the Council of Ministers of the USSR of 5 September 1973.[10] As indicated in the decision, places having natural curative springs, deposits of curative muds, climatic and other conditions favourable to the cure and prevention of disease may be formally recognized as health resorts. Health resorts are given a surrounding health-protection area within which all work polluting the soil, water or air, or damaging forests or other greenery in a manner conducive to the development of erosion processes and negatively affecting the natural curative facilities and the sanitary conditions of health resorts are prohibited. Within the health-protection area, sanitation and other measures are carried out to maintain appropriate sanitary conditions and safeguard the natural curative facilities of the health resorts and to create favourable conditions for treatment and rest.

Treatment at health resorts is carried out according to scientific methods approved by the Ministry of Health of the USSR, and persons are assigned to health-resort institutions for treatment in accordance with medical criteria approved by the USSR Ministry of Health.

With a view to maintaining conditions for the treatment and rest of citizens at health resorts, the executive committee of the soviets of workers' deputies have established general regulations for health resorts providing in particular for measures controlling the operations of transport, entertainment, commercial and other enterprises, and public loud-speaker broadcasts, as well as other anti-noise measures.

Health inspection service

A decision of the Council of Ministers of the USSR of 31 May 1973 approved regulations concerning the State Health Inspection Service in the USSR.[11] The main task of the State Health Inspection Service, as indicated in the regulations, is to supervise implementation of hygiene and anti-epidemic measures aimed at the elimination and prevention of pollution of the environment, sanitation of working, educational, living and recreational activities of the population, and supervision of the organization and implementation of measures to prevent and reduce morbidity. In particular, the regulations establish such rights of the State Health Inspection Service as the right to express conclusions concerning the conformity of new housing, buildings intended for cultural and public use, industrial plants and other enterprises and structures with the established hygiene and anti-epidemic rules and standards in force; the right to prohibit the use of chemical substances, materials and methods in the production and processing of food products, of growth stimulants in edible agricultural products, of chemical substances to protect plants, and of polymers, plastics and other chemical products where there is a danger of harmful effects on health;

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[9] *Sbornik Postanovlenii SSSR*, 1973, No. 25, item 144.

[10] *Ibid.*, 1973, No. 20, item 112.

[11] *Ibid.*, 1973, No. 16, item 86.

the right to prohibit the utilization for human food of products which are found to be unsuitable for human consumption; and the right to require compulsory disinfection of articles used by patients that represent a danger as regards the spreading of infectious diseases, and of premises which were occupied by patients.

Decisions and conclusions of organs and institutions of the Health and Epidemiological Service of the USSR Health Ministry's system on matters within their competence are binding on employees of State organs, enterprises, institutions and organizations, as well as on citizens.

The regulations also lay down the amounts of fines for violation of the hygiene and anti-epidemic rules, the procedure for their imposition by employees of the Health and Epidemiological Service, and the procedure for appealing the actions of those employees.

Noise reduction

Protection of the health of the public, particularly against the harmful effects of noise, is the subject of the decision of the Council of Ministers of the USSR of 3 October 1973 concerning "Measures to reduce noise in industrial enterprises, town and other populated localities",[12] which provides for a wide complex of measures in that field.

Pollution

Public health protection is also the subject of such acts as "Regulations for State supervision of the operation of gas-cleaning and dust-removing installations", approved by the decision of the USSR Council of Ministers of 7 February 1974, and the decision of the USSR Council of Ministers on "Strengthening action against pollution of the sea by substances harmful to human health or the living resources of the sea".[13]

Decree No. 5590–VIII of the Presidium of the Supreme Soviet of the USSR of 26 February 1974[14] on "Increased liability for the pollution of the sea by substances harmful to human health or to the living resources of the sea" establishes criminal liability for such acts and provides for deprivation of liberty for not more than two years, or corrective labour for not more than one year, or a fine of not more than 10,000 roubles; where the damage caused to the health of human beings or the living resources of the sea has been substantial, the decree provides for deprivation of liberty for not more than five years or a fine of not more than 20,000 roubles.

The decree also provides for punishment—corrective labour for not more than one year or a fine of not more than 500 roubles—for failure by the captain of a ship or other floating craft to inform the administration of the nearest Soviet port of the fact that harmful substances have been or are about to be dumped as an emergency measure. Violation of the rule requiring the registration of operations involving harmful substances is punishable by an administrative fine of not more than 100 roubles.

Measures against drug addiction

Decree No. 5928–VIII of the Presidium of the Supreme Soviet of the USSR of 25 April 1974[15] on "Stronger measures against drug addiction" provides that the illicit preparation, acquisition, possession, transport or shipment of narcotic substances for the purpose of selling them as well as the illegal sale of such substances is punishable by deprivation of liberty for not more than 10 years, with or without confiscation of property. The period of deprivation of liberty runs from 5 to 15 years, with confiscation of property, if the acts in question are repeated or are carried out in collusion with a group of persons or by a particularly dangerous recidivist or if they involve large quantities of narcotics.

The theft of narcotic substances is punishable by deprivation of liberty for not more than five years, with or without confiscation of property; where there are aggravating circumstances the penalty may be not more than 15 years with confiscation of property.

Criminal liability was increased for the planting of crops containing narcotic substances (opium poppy, Indian hemp, etc.), for organizing or maintaining dens for the consumption

[12] *Ibid.*, 1973, No. 22, item 123.

[13] *Ibid.*, 1974, No. 6, items 24 and 26.

[14] *Vedomosti Verkhovnogo Soveta SSSR*, 1974, No. 10, item 161.

[15] *Ibid.*, 1974, No. 18, item 275.

of narcotics or for making premises available for such purposes, for inducing persons to consume narcotic substances, and for the illicit manufacture, acquisition, possession, transport or shipment of narcotics without the intention of selling them.

In addition, it is provided that drug addicts are obliged to undergo treatment in public health institutions. Avoidance of such treatment entails committal by court order to a medical-labour prophylactic institution for compulsory treatment for a period of from six months to two years.

2. Financial benefits and allowances

Tax reductions in certain cases

An Act of 19 July 1973 approved the decree of the Presidium of the Supreme Soviet of the USSR of 25 December 1972 on "Cessation of taxation and reduction of tax rates on a given amount of wages and salaries".[16]

A decree of the Presidium of the Supreme Soviet of the USSR of 20 September 1973[17] reduced income taxes on income received by citizens engaged in handicrafts.

On 4 September 1973 the Presidium of the Supreme Soviet of the USSR adopted a decree of "Income tax on sums paid for the publication, presentation or other use of works of science, literature and art".[18]

Increased pensions in certain cases

21 November 1973 was the date of publication of a decree of the Presidium of the Supreme Soviet of the USSR on "Further increase in the amounts of pensions to invalids and families which have lost their breadwinner"[19] and the decision of the Council of Ministers of the USSR pursuant to that decree concerning "Introduction of changes in the regulations on procedures for the assignment and payment of State pensions and in the regulations on procedures for the assignment and payment of pensions to members of collective farms".[20]

These acts considerably increase the amounts of pensions for handicapped persons and for families which have lost their breadwinner. In addition to an increased basic pension rate, these pensioners are allowed further benefits: supplementary amounts to pay for their care or for the care of incapacitated members of the family dependent on them. The improved pension scheme is applicable to manual and office workers and to collective farmers.

The above measures are a development in continuation of the constant trend in Soviet legislation to ensure the necessary living standards for handicapped persons and for persons having limited disability.

Additional benefits for meritorious workers

More recent legislation provides, as in the past, for additional benefits for workers actively employed in the national economy. On 18 January 1974, the Presidium of the Supreme Soviet of the USSR adopted decrees on "Creation of the Order of Labour Glory" and on "Creation of the 'Labour Veteran' Medal".[21]

In addition to the great social honour and distinction involved, manual, office and collective-farm workers decorated for their labour services with the Order (all degrees) of Labour Glory enjoy considerable material benefits. They are entitled to higher pensions, free use of public transport, free stays at sanatoria or rest homes, and various other benefits.

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16 *Ibid.*, 1973, No. 30, item 395.

17 *Ibid.*, 1973, No. 39, item 542.

18 *Ibid.*, 1973, No. 37, item 497.

19 *Ibid.*, 1973, No. 48, item 678.

20 *Sbornik Postanovlenii SSSR*, 1973, No. 25, item 143.

21 *Vedemosti Verkhovnogo Soveta SSSR*, 1974, No. 4, items 75–76.

Compensation for members of air crews

On 13 March 1973, the Presidium of the Supreme Soviet of the USSR adopted a decree on "Compensation for prejudice caused to members of the crew of a civil aircraft in connexion with the performance of their official duties".[22] This decree is aimed at further strengthening the protection of the rights and interests of citizens. As compared with existing general standards of compensation for prejudice caused to workers in connexion with the performance of official duties, the decree considerably increases the responsibility of air transport enterprises for prejudice caused to members of the crew of civil aircraft in connexion with the performance of their official duties.

The decree lays down that in case of disablement or other injury to the health of a member of the crew of a civil aircraft, occurring in connexion with his performance of official duties during the take-off, flight or landing of the aircraft, the air transport enterprise is required to compensate the victim in an amount exceeding the amount of the allowance received by him or of the pension awarded him and actually received after the damage to his health, unless it can prove that the injury was intended by the victim.

Thus, only intent on the part of the victim, for which the burden of proof lies with the respondent, releases the air transport enterprise from the responsibility of compensating the injury.

In case of the death of a member of the crew of a civil aircraft occurring in the course of his official duties during take-off, flight or landing of the aircraft, by the same rules, the compensation is extended to unemployable persons dependent on the deceased or entitled to support by him on the day of his death, as well as to a child of the deceased born after his death.

The responsibility of air transport enterprises to crew members is also increased by a second regulatory provision of this decree. Section 2 provides that in the administration of compensation in the cases envisaged by the decree, the rules of part I of article 93 of the Basic Civil Legislation of the USSR and the Union Republics are not applied. Those rules make it possible to reduce or completely exclude compensation, if the injury was caused or aggravated by gross negligence on the part of the victim.

Recovery of medical expenses of victims of criminal acts

On 25 June 1973, the Presidium of the Supreme Council of the USSR adopted a decree on "Reimbursement of funds spent on the medical treatment of citizens who have been victims of criminal acts".[23] *Inter alia*, the decree seeks to strengthen the protection of the rights and interests of citizens, since not only is its application aimed at the reimbursement of State expenditure on the medical treatment of victims of crime but it also has considerable educational and preventive value.

The decree provides that funds spent on the hospitalization of citizens whose health has been harmed by premeditated criminal acts (with the exception of injuries caused while exceeding the limits of necessary defence or while in a state of emotional shock resulting from an unlawful act by the victim) may be recovered as State income from persons found guilty of such crimes.

It is the educational value of this decree that has basically predetermined its provisions. The group of persons who might be compelled to reimburse funds spent on the treatment of victims of crimes is small as compared with that which is affected by the general norms of criminal responsibility. Under the decree only persons who have intentionally committed a crime and in respect of whom a verdict of guilty has been pronounced may be held responsible.

The decree provides that rates for calculating the funds spent on the treatment of citizens who are victims of criminal acts shall be determined by a procedure established by the Council of Ministers of the USSR.

The decree also establishes the procedure for recovering the funds. They are recovered by the court when the sentence is pronounced on the basis of the evidence in the criminal case. Where no civil suit has been brought, the court in pronouncing sentence,

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[22] *Ibid.*, 1973, No. 12, item 173.

[23] *Ibid.*, 1973, No. 27, item 348.

may, of its own motion, decide on the question of the recovery of such funds. Where sentence has been pronounced and no decision has been taken concerning the recovery of the funds, they are recovered through civil proceedings.

On 31 August 1973, the Council of Ministers of the USSR adopted decision No. 636 on "Fixing of rates for calculating funds spent on the hospitalization of citizens who have been victims of criminal acts".[24]

F. Right to education

(article 26 of the Universal Declaration)

1. Public education: Basic Legislation of the USSR and the Union Republics

Among the more important acts in this field is the Act of 19 July 1973 of the Union of Soviet Socialist Republics approving the Basic Legislation of the USSR and the Union Republics concerning Public Education,[25] which entered into force on 1 January 1974.

As stated in the preamble to the basic legislation, it was in the USSR that a genuinely democratic system of public education was established for the first time in the history of mankind. Citizens of the USSR have a real opportunity to obtain secondary and higher education, as well as work corresponding to their speciality and skills. The victory of socialism in the USSR has ensured a constant rise in the material well-being and the cultural and educational level of the Soviet people and has made it possible to create favourable conditions for pre-school education, to consistently implement compulsory eight-year schooling, followed by general secondary education, and to greatly expand vocational and technical training, specialized secondary education and higher education.

The Basic Legislation of the USSR and the Union Republics concerning Public Education lays down the fundamental principles of public education in the USSR:

(1) Equality of all citizens of the USSR in obtaining education, regardless of racial or national origin, sex, religious views, property status or social position;

(2) Compulsory education for all children and adolescents;

(3) The status of all educational establishments as State and public institutions;

(4) Freedom to choose, as the language of instruction, the mother tongue or the language of another people of the USSR;

(5) The provision of all types of education free of charge, full maintenance of some pupils at the expense of the State, and the provision of grants and other material assistance to pupils and students;

(6) Unity of the system of national education and continuity of all types of educational establishments, permitting movement from the lower levels of education to the higher;

(7) Unity between schooling and Communist training; co-operation of school, family and the community in the training of children and young people;

(8) The linking of the education and training of the rising generation to life and to the practice of Communist construction;

(9) The scientific character of education, and its constant improvement in the light of the latest achievements in science, technology and culture.

(10) The humanistic and high moral character of education and training;

(11) Co-education;

(12) The secular nature of education, excluding the influence of religion.

In keeping with the basic legislation, the system of public education in the USSR comprises pre-school education, general secondary education, out-of-school training, vocational and technical training, specialized secondary education and higher education.

Pre-school education

With a view to creating the most favourable conditions for the training of children

[24] *Sbornik Postanovlenii SSSR*, 1973, No. 20, item 111.

[25] *Vedomosti Verkhovnogo Soveta SSSR*, 1973, No. 30, item 392.

of pre-school age and giving the family the necessary assistance, there are crèches, kindergartens, general and specialized crèches-kindergartens and other children's pre-school institutions. The assignment of children to pre-school institutions, as the basic legislation emphasizes, takes place at the request of the parents or of the persons acting as parents. Pre-school institutions, in close co-operation with the family, ensure the all-round, harmonious development and training of children, protect and improve their health, instil in them elementary practical habits and a love of work, provide for their aesthetic training, prepare them for study in school, and train them in the spirit of respect for elders and of love for their socialist motherland and their birthplace.

Universal secondary education

For the purpose of further raising the level of education of the people of the USSR, universal secondary education of the growing generation is provided everywhere and is one of the most important conditions for the social, political and economic development of the society along the road to communism, and for increasing the socialist consciousness and culture of the workers.

Universal secondary education is provided through general-education schools through the secondary level, secondary vocational and technical institutes and specialized secondary educational establishments.

General education through the secondary level

The general-education schools through the secondary level (the main vehicle for obtaining a general secondary education) are unified, functional, polytechnic schools for teaching and training children and adolescents.

The pupils of the general-education school have the opportunity of being taught in their mother tongue or in the language of another people of the USSR. The parents or those replacing them have the right to choose for the children a school in which instruction is given in the language they desire.

Access of pupils to the school is ensured by optimum school zoning, transport of pupils in rural localities to and from school free of charge, and provision of properly equipped boarding facilities at schools.

Depending on local conditions, there are separate primary schools consisting of classes I to III (or IV), eight-year schools consisting of classes I to VIII and secondary schools consisting of classes I to X (or XI) which maintain the unity and continuity of all levels of general education through the secondary level.

The basic legislation provides that in necessary cases the schools shall form preparatory classes for the purpose of preparing children who will be taught in a language other than their native tongue and of children who have not been trained in pre-school institutions.

With a view to broadening social training, creating more favourable conditions for the all-round development of the pupils and helping the families in their training there have been established general-education schools with a longer day or with longer-day groups. For the same purposes there are boarding schools for children and adolescents who do not have the necessary conditions for training in the family. For children and adolescents lacking the supervision of parents, there are children's homes in which the children and adolescents receive maintenance, education and training.

For children and adolescents requiring prolonged medical treatment, general education during convalescence is provided at sanatorium and forest schools; instruction is also given at hospitals and sanatoria and in the home.

For children and adolescents having physical or mental disabilities which prevent their receiving instruction in ordinary general-education schools and requiring special training, there are specialized general-education schools and boarding schools which provide them with instruction, training, medical treatment and preparation for socially useful work.

For persons working in the various branches of the economy who do not have a secondary education, there are evening (or other shift) schools of general secondary education and correspondence schools.

Out-of-school training

With a view to the all-round development of the capacities and aptitudes of pupils, training them for social activity and interest in work, science, technology, art, sport and military skills, organizing cultural leisure activities and improving their physical fitness, there are Palaces and Houses of Young Pioneers, stations for young technologists, naturalists and tourists, children's libraries, sports, art and music schools, Pioneer camps and other out-of-school institutions.

Vocational and technical training

Vocational and technical training of youth is provided mainly in the vocational and technical educational establishments (institutes, vocational schools, etc.).

These educational establishments take in citizens of the USSR who have completed the eight-year school or the secondary level of the general-education school.

For young people entering productive employment after completing the general-education school and for persons already working in the economy who wish to acquire a new trade or increase their skills, there are evening (or other shift) vocational and technical institutes, as well as courses, specialized industrial establishments giving courses for students, and other forms of training and improvement of skills directly at places of production.

Specialized secondary education

Specialized secondary education is obtained in *tekhnikums*, institutes and other educational establishments officially classed as specialized secondary educational establishments. The right to enter these establishments is enjoyed by citizens of the USSR who have an eight-year or secondary education.

Higher education

Higher education is provided at universities, institutes, academies and other educational establishments officially classed as higher educational establishments. The right to admission to these establishments is enjoyed by citizens of the USSR who have a secondary education.

In higher, as well as in specialized secondary educational establishments, instruction may be given in the daytime, in the evening or by correspondence. Instruction in such establishments is a method by which persons working in the various branches of the economy may acquire specialization and increased skills without leaving productive work.

The main tasks of higher educational establishments are:

(*a*) The training of highly qualified specialists versed in Marxist–Lenninist theory, possessing profound theoretical knowledge and practical skills in their speciality and in the organization of mass political and educational work;

(*b*) The inculcation in students of high moral qualities, Communist consciousness, the culture of socialist internationalism, Soviet patriotism, and willingness to defend the Motherland; the physical training of students;

(*c*) A constant improvement in the quality of specialist training in the light of the demands of modern production, science, technology and culture, and of their probable development;

(*d*) The conduct of scientific research work contributing to better specialist training and to social, scientific and technical progress;

(*e*) Preparation of textbooks and other educational materials;

(*f*) Training of scientific and pedagogical cadres;

(*g*) Improvement of the skills of teaching staff of higher and secondary educational establishments and of specialists with higher education employed in the various branches of the national economy.

Training of pedagogical cadres; rights and obligations of workers in public education

The Basic Legislation of the USSR and the Union Republics concerning Public Education regulates questions of training pedagogical cadres and pedagogical activities.

It is provided, in particular, that the training of pedagogical cadres for educational institutions takes place in universities, institutions and other higher educational establishments, and, for certain specialties, also in specialized secondary educational establishments. The training of scientific-pedagogical and scientific cadres is given mainly in post-graduate courses at higher educational establishments and scientific research institutions.

The basic legislation lays down the professional rights and obligations of workers in public education, the rights and obligations of pupils and students, and the rights and obligations of parents with respect to the education of their children.

Right to education of foreign citizens and stateless persons

The basic legislation provides that foreign citizens and stateless persons living in the territory of the USSR have the right to receive education in the USSR on an equal footing with Soviet citizens in accordance with the procedures laid down by USSR legislation.

2. ADDITIONAL LEGISLATION PROVIDING FOR THE IMPROVEMENT AND FURTHER DEVELOPMENT OF THE SYSTEM OF PUBLIC EDUCATION

Pre-school institutions on collective farms

With a view to improving the pre-school training of children of collective farmers, the Council of Ministers of the USSR adopted, on 17 March 1973, a decision on "Measures for the further development of the network of children's pre-school institutions on collective farms".[26]

Rural general-education schools

On 2 July 1973, the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR adopted a decision on "Measures for the further improvement of the functioning of rural general-education schools".[27]

The decision notes the importance of the rural general-education school in achieving the objectives established by the Twenty-fourth Congress of the Communist Party of the Soviet Union in the field of socio-economic and cultural construction, and in eliminating the major differences between town and countryside. All competent organs are instructed to take concrete measures, in the coming years, for the further development of village schooling, for improving the educational materials of the schools and supplying them with qualified pedagogical cadres, and for improving the education and training of youth in rural schools. To satisfy more fully the needs of the rural population for schools and to create the necessary conditions for universal secondary education of youth, the decision deems it desirable to have, as a rule, a secondary general-education school at every State farm and large collective farm.

The decision provides for the implementation of a broad programme of construction in rural localities: new school buildings, the addition of classrooms, study-rooms and other necessary structures to existing school buildings, boarding accommodation for pupils, and housing for teachers.

In accordance with the decision, the Councils of Ministers of the Union Republics are to ensure the regular transport of pupils of general-education schools in rural localities to and from school free of charge.

It is decided that, as from 1975, up to 25 per cent of pupils living in dormitories of rural schools will no longer have to pay for three hot meals a day, while the remaining pupils will pay half the cost of their meals.

The Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR also resolved in the above decision to provide additional facilities for teachers and other pedagogical staff of rural general-education schools for obtaining credits for the purchase and construction of housing.

In accordance with the decision, the All-Union Central Trade-Union Council, the Ministry of Health of the USSR, trade-union organizations and health and public educa-

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[26] *Sbornik Postanovlenii SSSR*, 1973, No. 8, item 34.

[27] *Ibid.*, 1973, No. 16, item 85.

tion organs are to improve the medical services and the sanatoria privileges of rural teachers as well as their recreation facilities, and are to grant a larger number of teachers stays at therapeutic and preventive health-care institutions during the vacation period; to issue them annually with tourist and excursion tickets at reduced rates and to make appropriations for the equipment of holiday centres for rural teachers operated by the Republican, territorial, and regional trade-union committees of higher schools and scientific institutions.

Specialized secondary education

On 22 August 1974 the Central Committee of the Communist Party of the Soviet Union and Council of Ministers of the USSR adopted a decision on "Measures for the further improvement of the direction of specialized secondary educational institutions and the improvement of the quality of the training of specialists with specialized secondary education".

This decision provides in particular for a wide expansion of mass cultural and sports activities, and for showing greater concern for the improvement of the housing and living conditions, public catering and medical services of pupils and staff of educational establishments; it also provides for paying scholarship students of specialized secondary educational establishments a stipend during the time they spend in productive activity as workers irrespective of the pay they receive in production.

Certification of teachers

During 1974 some additional acts concerned with the further development of public education in the USSR were adopted: decision of the Council of Ministers of the USSR on "The certification of teachers of general-education schools" of 16 April 1974;[28] decision of the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR on "Measures for the further improvement of certification of scientific and pedagogological cadres" of 18 October 1974.[29]

G. Copyright; rights of inventors and authors of efficiency proposals

(article 27 of the Universal Declaration)

Copyright

A decree of the Presidium of the Supreme Soviet of the USSR of 21 February 1973[30] made changes in the chapter on "authors' rights" of the Basic Civil Legislation of the USSR and the Union Republics, considerably increasing the rights of authors, their heirs and their other beneficiaries. These changes have been reflected in the new version of the chapter in question in the civil codes of the Union Republics. The main changes are described below.

The author's right over the translation of his work into another language is strengthened (it can be translated only with his agreement).

The period of validity of a copyright is increased from 15 to 25 years after the author's death.

The provision limiting possible payments of royalties to heirs to not more than 50 per cent of the royalties which would have been due to the author himself is annulled.

Copyrights previously assigned only to authors and their heirs are as a rule extended to other successors of the author.

Provision is made for copyright protection for persons not citizens of the USSR in respect of works which were first published or which appeared in some other objective form in the territory of a foreign State, in accordance with international treaties or agreements to which the USSR is a party.

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[28] *Ibid.*, 1974, No. 11, item 53.

[29] *Ibid.*, 1974, No. 22, item 131.

[30] *Vedomosti Verkhovnogo Soveta SSSR*, 1973, No. 9, item 138.

Rights of inventors and authors of efficiency proposals

A decision of the Council of Ministers of the USSR of 21 August 1973[31] approved new regulations concerning discoveries, inventions and efficiency proposals; the regulations establish new rights and strengthen the protection of the rights of the authors of inventions and efficiency proposals. The main innovations, designed to achieve that end, are described below.

The scope of proposals which are recognized as inventions is broadened. In particular, substances obtained by chemical methods are recognized as inventions (and patents are issued). The scope of proposals recognized as efficiency proposals is also expanded.

The rights of inventors and authors of efficiency proposals to royalties are considerably strengthened. The grounds for paying royalties on inventions are increased, and they include not only the use of the invention in the economy of the USSR and the sale of licences abroad (as before) but also the use of the invention in documentation transmitted to other countries in connexion with economic and scientific-technical co-operation, and their use in facilities constructed by enterprises and organizations of the USSR abroad in connexion with technical assistance to foreign countries. A change is introduced in the procedures for determining the royalties payable for inventions which produce savings, as a result of which the amount of royalties payable to inventors for major inventions is significantly increased. Objective criteria are established for determining the amount of royalties payable for inventions and efficiency proposals which do not produce savings, and this too results in increased payments for such proposals.

Much greater encouragement is given to persons who promote inventiveness and rationalization. Under the previous legislation bonuses could be paid only to persons who had assisted in the introduction of inventions and rationalization proposals, or to persons who took an active part in patent and licence procedures. Under the new regulations, bonuses are also paid to persons who assist in the development and finding of inventions, in their formulation and in the protection of the relevant applications.

The protection of rights to discoveries, inventions and efficiency proposals is strengthened. The cases in which they are protected by judicial and administrative procedures are clearly defined. At the same time, an inventor's certification may be contested and declared invalid in judicial proceedings on grounds of incorrect statements by an inventor or a group of inventors at any time after the inventor's certificate is issued (previously this could be done only within one year after public announcement of the issue of an inventor's certificate).

Rights in connexion with administrative review of disputes are further guaranteed. Complaints of applicants against decisions adopted with regard to objections to decisions declaring an inventor's certificate or a patent invalid are reviewed by a special body—the Control Council of Scientific and Technical Expertise of the State Committee of the USSR Council of Ministers for Inventions and Discoveries, whose decisions are final and not subject to challenge. Cases coming to this Council are reviewed by a board consisting of not less than three members of the Council.

The rights of authors of efficiency proposals in connexion with administrative review of disputes are also further guaranteed. A decision recognizing a proposal as an efficiency proposal can be rescinded under the new regulations only by the highest organ responsible for the organization that evaluated the proposal (previously it could be rescinded by the organization itself).

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[31] *Sbornik Postanovlenii SSSR*, 1973, No. 19, item 109.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Introduction

In 1974 the United Kingdom Government renewed for a further two years its acceptance of articles 25 and 26 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Under these articles the Government recognizes the competence of the European Commission on Human Rights to hear complaints from individuals, and admits the compulsory jurisdiction of the European Court of Human Rights.

A. Non-discrimination

(article 2 of the Universal Declaration)

1. Equality for women

In *Equality for Women: a Policy for Equal Opportunity*, a White Paper published in September 1974, the Government set out its plans to promote equal opportunities for men and women by introducing legislation to prohibit discrimination on the ground of sex in employment, training and related matters (where it would also be unlawful to discriminate on the ground of marriage), in education, housing and accommodation, and in the provision of goods, facilities and services to the public (including loans, finance, mortgages and access to licensed premises and other public places). The proposals, which would apply to Great Britain, would apply to related advertising in these areas.

The Government intends to combine the right of individual access to legal remedies with the positive and strategic functions of a powerful Equal Opportunities Commission, responsible for enforcing the law in the public interest on behalf of the community as a whole.

Under the proposals the Commission would identify and deal with discriminatory practices by industries, firms or institutions, and would be empowered to issue "non-discrimination notices" which could, if breached, be enforced through the civil courts. It would also be able to conduct general inquiries and research, to advise Government, and to take action to educate and persuade public opinion. The Commission would have powers to require the production of relevant information.

The Government aims to introduce the legislation into Parliament during 1975 so that the employment provisions can be brought into force in time for the date of operation of the Equal Pay Act 1970—29 December 1975—which these new proposals would complement (see under section P below).

2. Northern Ireland: Commission on Human Rights

The Northern Ireland Constitution Act 1973 contains specific provisions for the prevention of political and religious discrimination by any public authority. Under the Act, any discriminatory action by a government department, local authority or other public body is liable to be made the subject of a court action in which the whole range of legal remedies is available to the litigant. The Act provides for the appointment of a Standing Advisory Commission on Human Rights, which is charged with the duty of keeping in touch with the activities of all public agencies active in the field of human rights and/or producing an annual report, which includes recommendations as to any further statutory provisions which should be made. The Commission was appointed in 1974 with Lord Feather as its chairman.

3. The Race Relations Board

Annual reports of the Race Relations Board, whose statutory function is to secure compliance with the Race Relations Act, 1968, were published in June 1973 and June 1974. The reports cover the years 1972 and 1973 respectively and analyse and comment on com-

plaints of unlawful discrimination registered by the Board under the Act (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 and in advertising). A slight drop in the number of complaints registered was recorded in 1973 (885 in 1973 compared with 913 in 1972), but there was an increase in the number of investigations (93 in 1973 compared with 68 in 1972) initiated by the Board under its powers to take action where no complaint has been made but where there is reason to suspect that an unlawful action has taken place.

The table below analyses the complaints and investigations disposed of by the Board in 1972 and 1973.

Type and outcome of complaints and investigations disposed of in 1972 and 1973

Type	*Total*		*Opinion: discrimination*		*Opinion: no discrimination*		*Others*[a]	
	1972	*1973*	*1972*	*1973*	*1972*	*1973*	*1972*	*1973*
Employment	467	383	62	45	277	228	128	110
Services	268	253	57	49	130	120	81	84
Housing	138	92	32	15	60	42	46	35
Advertisements	32	22	28	21	—	1	4	—
Incitement[b]	3	0	2	—	—	—	1	0
TOTAL	908	750	181	130	467	391	260	229

[a] Cases listed under "others" include those found to be outside the scope of the Act, those withdrawn by the complainant, or those in which contact was lost with the complainant.

[b] Under the Race Relations Act it is unlawful for a person deliberately to aid, induce or incite another person to behave in a way which is unlawful according to the Act.

In describing public information work undertaken by the Board the reports refer to an expansion of its efforts to enlist the aid of social agencies in promoting its activities. Information about the Act was, from 1974, incorporated in the training of social workers, and booklets explaining how the Act works were distributed to social workers, probation officers, health visitors and legal and community adult centres. A "schools pack" on race relations was completed; one cartoon film was produced and another put into production while a feature documentary film was screened in cinemas throughout Britain. The report for 1973 records the opinion that reporting by newspapers, television and radio on the Board's activities has been increasingly fair and accurate.

In considering the effectiveness of the Race Relations Act the report for 1973 says that in employment there remain positions, particularly skilled manual jobs and supervisory technical and managerial jobs, to which coloured people do not have equality of access. In housing, coloured people do not have equal access to all accommodation. Nevertheless, the Board says that the Act has clearly had an impact in many areas of economic and social life; crude overt forms of racial discrimination have become less common, particularly in the case of advertisements and notices. There has been some movement of coloured workers into more desirable jobs, and in housing the Board believes that discrimination is less common than before 1968.

4. Reports of the Community Relations Commission

Annual reports of the Community Relations Commission, whose main function is to encourage the establishment of harmonious community relations, were published in July 1973 and July 1974. The reports refer to developments in 1972 and 1973 which affected community relations, stating the Commission's attitudes to issues under public discussion and efforts to eliminate intolerant attitudes in the community. Its field work—the liaison with voluntary groups and immigrant organizations in the country and the work of the 85 local community relations councils—is fully described. On the question of public attitudes the commission says that during 1973 a survey was carried out into the attitudes towards immigration and ethnic minorities in Britain and the results compared

with similar surveys in 1968 and 1972. The reports say that there were some encouraging signs of improvement. Projects concerning education and housing continued to receive attention. Grants were made to a number of educational schemes, including those designed to improve methods of child care among child minders and mothers and providing training of assistants in a multiracial nursery; to a project involving school leavers in the education of very young children; and to schemes to provide supplementary education for children of school age. Programmes for teaching English to Asian women have continued and expanded. Specialist housing officers have been appointed at local level to help with housing matters, hostels have been opened for homeless young people and houses and flats acquired for conversion.

Research projects sponsored by the Government to assist in determining policies to deal with some of the difficulties encountered by immigrants and their families were undertaken during the period under review by the Community Relations Commission and Political and Economic Planning (PEP). The Commission published in 1974 the results of a survey into unemployment and homelessness among young people from minority ethnic groups, and the first report on employees of a series on racial disadvantage was published during the year by PEP, who also published the results of a separate survey on the extent of discrimination. The latter report found that, though discrimination remains substantial against West Indians and Asians applying for jobs and accommodation, it has decreased since the passing of the Race Relations Act 1968.

B. Right to life and security of person

(article 3 of the Universal Declaration)

1. Northern Ireland: abolition of the death penalty

The death penalty, retained for two categories of capital murder under the Criminal Justice Act (Northern Ireland) 1966, was abolished under the Northern Ireland (Emergency Provisions) Act 1973. (In the rest of the United Kingdom the death penalty for murder has effectively been abolished since 1965. A proposal to reintroduce capital punishment throughout the United Kingdom for acts of terrorism was debated in the House of Commons in December 1974 and was defeated in a free vote by a large majority (152).)

2. Criminal Injuries Compensation Scheme

A review of the Criminal Injuries Compensation Scheme, preparatory to putting it on a statutory basis, was announced by the Home Secretary in April 1973. In almost 10 years since the start of the scheme over £19·2 million has been paid to the victims of crimes of violence in England, Scotland and Wales.

C. Treatment of offenders

(article 5 of the Universal Declaration)

1. Committee on Identification Procedures

The Home Secretary announced in May 1974 the appointment of a small committee to examine the law and procedure relating to evidence of identification in criminal cases in England and Wales.

2. Reparation to victims of crime in Scotland

A committee of inquiry was set up in 1973 to consider reparation by the offender to the victim and in particular whether there should be statutory provision empowering Scottish criminal courts to order the making of such reparation following conviction.

3. Rehabilitation of offenders

The main theme of the Rehabilitation of Offenders Act 1974 is that a person convicted of a criminal offence who subsequently remains free of a further conviction for a specified number of years—the "rehabilitation period"—shall not in most circumstances be obliged to disclose the fact of his or her original conviction. He or she then becomes a "rehabilitated person", and the conviction is treated as "spent".

The Act, which covers England, Scotland and Wales and will come into operation during 1975, is designed to prevent the distress and damage to social life, reputation and employment prospects which the fear or fact of unnecessary disclosure of a criminal conviction could cause to someone who had long since lived it down.

D. Use of Welsh in court proceedings

(article 6 of the Universal Declaration)

The Lord Chancellor announced in June 1973 the installation in selected Crown Court centres in Wales of facilities for simultaneous interpretation so that either English or Welsh can be used at will without interrupting the smooth flow of proceedings. This type of translation preserves the principle of equal validity between the two languages and the equally important principle of the random selection of jury members. The effect of the Welsh Language Act 1967 is that in any legal proceedings in Wales either English or Welsh may be spoken by any party, witness or other person who wishes to use it, subject in the case of the use of Welsh in any court other than a magistrates' court to such prior notice as may be prescribed, and that any necessary provision for interpretation shall be made accordingly.

E. Equality before the law

(article 7 of the Universal Declaration)

1. Extension of legal aid qualifying limits

To give further help to people of limited means and resources to meet legal costs, regulations passed by Parliament in 1973 and 1974 twice raised the income limits within which people in Great Britain qualify for help with the costs of advice and assistance from a solicitor or legal aid in civil proceedings. In 1973 the Government announced that in future income limits for help would be reviewed annually to take account of increases in supplementary benefits, which are up-rated each year.

2. Provision of legal services

In July 1974 the Lord Chancellor commissioned an urgent study of the need for legal services in England and Wales for sections of the community who require legal help but are not receiving it.

3. Costs in criminal cases

The Lord Chief Justice directed in June 1973 that, although the award of costs must always remain a matter for a court's direction in the light of the circumstances of a particular case, it should be accepted as normal practice in England and Wales that, when the court has power to award costs out of central funds, it should do so in favour of a successful defendant, unless there are positive reasons for making a different order.

4. Small claims proceedings in civil courts

New facilities for arbitration in county court cases in England and Wales came into force in October 1973 under provisions of the Administration of Justice Act 1973. The court registrar has power to refer any proceedings to arbitration in private if the sum involved does not exceed £75 or if both parties agree. In other cases an order of the judge is necessary. Usually the arbitrator is the registrar (or, in larger cases, the judge), but, if both parties agree, someone else may be appointed. The new facilities are not confined to any particular type of case but are especially appropriate in consumer disputes.

5. Police: complaints procedure

A scheme to introduce an independent element into the procedure for handling complaints against the police in England and Wales was outlined by the Home Secretary in July 1974. It would involve an independent statutory commission with members drawn from national or regional panels, and with full-time staff qualified to sift complaints in the light of initial police investigation. The proposals are the subject of consultations with the

police authorities and police representative bodies with a view to working out a practicable scheme.

6. Parliamentary Commissioner for Administration

The Parliamentary Commissioner is an independent statutory officer whose function is to investigate complaints of maladministration brought to his notice by members of the House of Commons on behalf of members of the public. His powers of investigation extend to actions taken by central government departments in the exercise of their administrative functions, but not to policy decisions (which are the concern of the Government). Certain administrative actions are also outside his jurisdiction; these include matters affecting relations with other countries and the activities of British officials outside the United Kingdom.

In the performance of his duties, the Parliamentary Commissioner has access to all departmental papers, and reports his findings to the member of Parliament who presented the case. The Parliamentary Commissioner reports annually to Parliament and may submit such other reports as he thinks fit. A Select Committee has been appointed to consider his reports.

7. Health Service Commissioners

The three Health Service Commissioners (for England, for Scotland and for Wales) are statutory independent officers whose function is to investigate complaints from members of the public that they have suffered injustice or hardship as a result of failure in a service provided by a health authority, or failure to provide a service which it was its duty to provide, or maladministration. Health authorities include regional health authorities, area health authorities, boards of governors and family practitioner committees. Before the commissioner can investigate, the complaint must have been brought to the attention of the authority concerned and an adequate opportunity given to investigate it and reply. Matters which are outside his jurisdiction include action taken solely in the exercise of clinical judgement and the action of general practitioners and dentists in connexion with their general medical and dental services. Matters on which the aggrieved person has the right of recourse to a tribunal or a court of law are normally also excluded.

The commissioners report annually, and as they think fit, to the respective Secretaries of State, who lay the reports before each House of Parliament. The terms of reference of the Select Committee on the Parliamentary Commissioner for Administration, who at present holds the three posts of Health Service Commissioner, have been expanded to cover these reports.

8. Local government complaints system

Under the Local Government Act 1974 a complaints system for local government in England and Wales came into effect when the structure of local government was reorganized on 1 April 1974. Two statutory Commissions for Local Administration (one for England and one for Wales), have been set up. The English Commission comprises a number of local commissioners (there is only one commissioner in Wales), each of whom is responsible in a particular area of the country for investigating citizens' complaints of maladministration by local authorities. The commissioners help local authority councillors to protect the rights and interests of their constituents. (Legislation providing for the appointment of a similar commissioner in Scotland is in preparation, and in Northern Ireland a Commissioner for Complaints deals with complaints alleging injustices suffered as a result of maladministration by a number of public bodies, including all local authorities.)

9. Compensation for personal injury

A Royal Commission on Civil Liability and Compensation for Personal Injury began its work in 1973. Its terms of reference are to consider to what extent, in what circumstances and by what means compensation should be payable in respect of death or personal injury (including ante-natal injury) suffered by any person: (*a*) in the course of employment; (*b*) through the use of a motor vehicle or other means of transport; (*c*) through the

manufacture, supply or use of goods or services; (*d*) on premises belonging to, or occupied by, another; or (*e*) otherwise through the act or omission of another where compensation under the present law is recoverable only on proof of fault or under the rule of strict liability, having regard to the cost and other implications of the arrangements for the recovery of compensation, whether by way of compulsory insurance or otherwise.

F. Right not to be subjected to arbitrary arrest or detention
(article 9 of the Universal Declaration)

1. Northern Ireland: detention of terrorists

Machinery for the detention of terrorists, which eliminated the power of detention and internment by the executive alone and revoked the relevant regulations of the Special Powers Acts, was first provided by the Detention of Terrorists Order 1972 and subsequently incorporated in the Northern Ireland (Emergency Provisions) Act 1973. Under the Act anyone suspected of being concerned with terrorist activities may be temporarily detained by means of an interim custody order signed by the Secretary of State for Northern Ireland or a Minister of State or Under-Secretary of State. Such a person must, however, be released within 28 days unless his case has been referred, by the Chief Constable, to an independent commissioner, who must have held judicial office or be a barrister, advocate or solicitor of at least ten years standing. The commissioner must conduct an inquiry into the case to decide whether he is satisfied that the suspect has, in fact, been involved in terrorism and, if so, whether his detention is necessary for the protection of the public. The suspect is entitled to be legally represented at this inquiry and all his legal costs are met by the Crown. If the commissioner decides that he is satisfied on both these counts he must make a detention order; otherwise he must direct the release of the suspect. In the former event the detainee has an unrestricted right of appeal to an independent Appeal Tribunal.

The Secretary of State may refer the case of a detained person to a commissioner for review at any time; he is legally obliged to so refer the case after the detainee has been detained for one year and thereafter he must refer the case every six months. The commissioner reviewing the case must direct that the detainee be released if he cannot satisfy himself that the detainee's continued detention is necessary for the protection of the public. The Secretary of State may direct the discharge at any time of a person detained under an interim custody order, and may direct the release, subject to such conditions (if any) as he may specify, of any person detained under a detention order.

The Act, which received royal assent in July 1973, remained in force for one year; Parliament has since extended its provisions for two further six-monthly periods.

2. Gardiner Committee

In April 1974, the Government appointed a committee under the chairmanship of Lord Gardiner to carry out a searching scrutiny of the powers and provisions required to combat terrorism and subversion, including the use of detention, with the direction that such powers and provisions that the committee recommended should be consistent to the maximum extent practicable with human rights and civil liberties.

Although the Committee presented its report to the Secretary of State for Northern Ireland in December 1974, it was not published until 1975. The Government is still studying its recommendations.

G. Security of the census of population
(article 12 of the Universal Declaration)

A White Paper published in July 1973 contained government views on the security of census information in the light of reports by the British Computer Society and members of the Royal Statistical Society on security measures. In the light of its review of privacy law and of the storage and use of personal information held in government computers, the Government was considering a proposal common to both reports, that census arrangements should be subject to review by an independent body.

H. Nationality

(article 15 (1) of the Universal Declaration)

In its final report, published in 1974, the Uganda Resettlement Board, which was set up to plan the reception and resettlement of over 28,000 Ugandan Asians holding United Kingdom passports expelled from Uganda in the autumn of 1972, said that there was evidence that the vast majority had settled down and begun with determination to make a new life in Britain. Measures undertaken to encourage Ugandan Asians to make use of the health, social security and education systems and to seek the help of the employment services are described.

In March 1974 the Home Secretary announced that the husbands of Ugandan Asian women holding British passports would be admitted for settlement even though they did not hold such passports themselves. Young people over 21 who were or had recently been studying overseas were also allowed to enter to join a parent holding a United Kingdom passport. These measures allowed a number of separated families to be reunited.

I. Marriage and the family

(article 16 (1) of the Universal Declaration)

Under the Guardianship Act 1973 a mother now has equal rights and authority with the father over the legitimate children, and their equal rights are exercisable by either parent without the other except in a few special cases such as the adoption of a child or the marriage of a son or daughter under 18 years old. If the parents disagree fundamentally over the upbringing of the children, either can apply to the court for a decision on the particular issues in dispute or to be awarded sole custody and/or care and control of a child.

The Domicile and Matrimonial Proceedings Act 1973 abolished the rule that a wife has the same domicile as her husband and provided that her domicile should be separately ascertained in the same way as that of any other adult of sound mind. It also provided that in England and Wales and Northern Ireland the domicile of children should be separately assessed if they were 16 years old or more; while legitimate children who are under 16 and whose parents are living apart would have the same domicile as their mother if they are living with her and not with their father.

J. Right to own property

(article 17 (2) of the Universal Declaration)

1. Compensation for the effects of public works

The Land Compensation Act 1973 extends the law on compensation when land is affected by public development to cover the depreciating effect of public works on private property and on land values in cases where the land itself is not acquired; and improves compensation where only part of a property is taken for the works. The Act introduced a new kind of compensation—home loss payments—for people who are forced to move home for the sake of public developments. It also provides new powers to protect people from the effects of public works, such as noise, and enables public works such as new roads to be fitted better into their surroundings. The Land Acquisition and Compensation (Northern Ireland) Order 1973 makes similar provision for Northern Ireland.

2. Land tenure reform in Scotland

The Land Tenure Reform (Scotland) Act 1974 is the second stage of the Government's over-all programme for land tenure reform in Scotland as adumbrated in the White Paper *Land Tenure Reform in Scotland—A Plan for Reform* published in July 1969. The Act is concerned mainly with feu-duty, which is the monetary land burden affecting the majority of Scottish house-owners, and prohibits the creation of any new feu-duties, empowers owners to redeem existing feu-duties and required anyone selling land or buildings to redeem the feu-duty when he does so. The first step in the Reform programme was the passing of the Conveyancing and Feudal Reform (Scotland) Act 1970 which *inter alia* made provisions whereby a proprietor may apply to the Lands Tribunal for Scotland for the variation or discharge of any unreasonable, inappropriate or unduly burdensome land condition and simplified certain conveyancing procedures, particularly those relating to

the granting of a landed security. Further stages in the programme are envisaged as including the abolition of feudal and any other forms of land tenure which fall short of true ownership and the introduction of a system of registration of title to the land to replace the present Scottish system of registration of writs.

K. Freedom to receive and impart information

(article 19 of the Universal Declaration)

1. Royal Commission on the Press

The setting up of a Royal Commission on the Press was announced by the Prime Minister in May 1974. The terms of reference are to inquire into the factors affecting the maintenance of the independence, diversity and editorial standards of newspapers and periodicals, and the public's freedom of choice of newspapers and periodicals, nationally, regionally and locally, with particular reference to:

(*a*) The economics of newspaper and periodical publishing and distribution;

(*b*) The interaction of the newspaper and periodical interests held by the companies concerned with their other interests and holdings, within and outside the communications industry;

(*c*) Management and labour practices and relations in the newspaper and periodical industry;

(*d*) Conditions and security of employment in the newspaper and periodical industry;

(*e*) The distribution and concentration of ownership of the newspaper and periodical industry and the adequacy of existing law in relation thereto;

(*f*) The responsibilities, constitution and functioning of the Press Council;

and to make recommendations.

2. Committee of inquiry into the future of broadcasting

The Home Secretary announced the setting up of a committee of inquiry into the future of broadcasting in April 1974. The terms of reference are "to consider the future of the broadcasting services in the United Kingdom, including the dissemination by wire of broadcast and other programmes and of television for public showing; to consider the implications for present or any recommended additional services of new techniques; and to propose what constitutional, organizational and financial arrangements and what conditions should apply to the conduct of all these services". In order to allow time for the Committee to complete its task and for consideration of its proposals, the Government has extended the Independent Broadcasting Authority Act 1973, due to expire in 1976, to July 1979. The BBC Charter and the two Authorities' licences are to be extended for a similar period. The Committee is due to report in the early part of 1977.

3. Report on broadcasting coverage

The Government has accepted two of the principal recommendations made in the report of the (Crawford) Committee on Broadcasting Coverage, published in December 1974. The Committee was set up in May 1973 to examine the broadcasting authorities' plans for the coverage of television and sound broadcasting services in Scotland, Wales, Northern Ireland and rural England; to consider the priorities to be observed in the implementation of those plans and the allocation of resources; and to see whether any improvements to the plans were feasible. The recommendations of the report agreed to by the Government are that in all parts of the United Kingdom the extension of ultra high frequency (UHF) coverage should take first priority as regards television development, and that the fourth television channel in Wales (there are at present three in use throughout the United Kingdom) should be allocated to a separate service in which Welsh language programmes should be given priority, and that this service should be introduced without waiting for a decision on the use of the fourth channel as a whole. The Government has accepted the second recommendation in principle, and a working party is to be set up to consider in detail how it can be implemented.

4. INDEPENDENT LOCAL RADIO

By December 1974, nine independent local radio stations had begun transmissions. The stations have been set up by the Independent Broadcasting Authority under the Independent Broadcasting Authority Act 1973, as extended by the IBA (No. 2) Act 1972. Their main purpose is to provide a service relevant to the needs of the local community. It is expected that by the end of 1975 a further 10 stations will have started transmitting programmes. In August 1974 the Government announced that it had decided to limit the number of independent local radio stations to a total sufficient to provide the committee of inquiry into broadcasting (see above) with adequate experience of this form of radio operation, and it was considered that 19 stations would provide the committee with sufficient evidence of the variety and scope of the local services.

5. LOCAL COMMUNITY TELEVISION EXPERIMENTS

By December 1974, the four experiments in local cable television announced by the Government in August 1972 as additional to the one at Greenwich, were in operation at Bristol, Sheffield, Swindon and Wellingborough.

L. Freedom of association

(article 20 of the Universal Declaration)

1. TRADE UNION MEMBERSHIP

The Trade Union and Labour Relations Act 1974, which repealed the Industrial Relations Act 1971, lays down that everyone has the right not to be excluded or expelled from a trade union or a branch or section of a trade union by way of arbitrary or unreasonable discrimination, provided that he is not of a description different from that or those of the majority of the members of the union, or possesses the appropriate qualifications for such membership.

2. NORTHERN IRELAND: DISCRIMINATION IN THE PRIVATE SECTOR OF EMPLOYMENT

In 1973 Mr. William Van Straubenzee, Minister of State for Northern Ireland, set up a working party on discrimination in the private sector. It reported in June 1973 and the Government has since declared its intention of bringing in legislation based on the report as soon as the legislative programme permits.

M. Right to take part in government; qualifications for jury service

(article 21 of the Universal Declaration)

1. NORTHERN IRELAND: PROPOSALS FOR FUTURE GOVERNMENT

During March 1973 the British Government published a White Paper containing new constitutional proposals for Northern Ireland. The Northern Ireland Constitution Act, which became law in July 1973, implemented those parts of the White Paper which required expression in a statutory form. The Act abolished the Northern Ireland Parliament, providing in its stead for a legislative Assembly and a power-sharing Executive, which would be widely accepted throughout the community. Under the Act, the British Government was to remain wholly responsible for defence and foreign affairs and also for matters relating to law and order until Parliament at Westminster considered that they should be transferred to the Assembly. The Act affirmed that Northern Ireland would remain part of the United Kingdom for as long as the majority of its people so wished: this provision followed a border plebiscite in March 1973 at which a clear majority of the Northern Ireland electorate voted to remain within the United Kingdom.

Following the passage of this legislation, 78 members were elected by proportional representation to the Northern Ireland Assembly on 28 June 1973. An Executive comprising members of the Unionist, Alliance and Social Democratic and Labour Parties took office on 1 January 1974, at which time a wide range of legislative responsibilities were devolved on the Northern Ireland Assembly. Within five months of taking office, the Executive fell following a strike by the Ulster Workers Council during May 1974. The Northern Ireland Assembly was then prorogued.

Faced with this development, the Government formulated new proposals, embodied in the Northern Ireland Act passed during July, which made better temporary arrangements for the orderly government of Northern Ireland. Accordingly, Northern Ireland Departments became subject to the control and direction of the Secretary of State. The Act also provided for the election and holding in Northern Ireland of a Constitutional Convention, comprising 78 members elected by proportional representation, to consider what provision for the government of Northern Ireland would be likely to command the most widespread acceptance throughout the community there. The Convention's report will be submitted to Parliament at Westminster, with whom rests ultimate responsibility for the future system of government in Northern Ireland.

2. New qualifications for jury service

Fundamental reforms in the qualifications for jury service in England and Wales took effect in March 1974 under the provisions of the Criminal Justice Act 1972 (now consolidated in the Juries Act 1974). Many more people are now eligible for jury service, and property qualifications which had applied since 1825 have been abolished. A person is now liable for service if he or she is aged 18–65, is included on the register of electors for parliamentary and local government elections, and has been resident in the United Kingdom, the Channel Islands or the Isle of Man for at least 5 years since the age of 13.

Members of the judiciary, those concerned with the administration of justice and the clergy (including some people regularly engaged in the service of religion) are ineligible to serve as jurors. People suffering from mental illness are also ineligible. Anyone who has been sentenced to life imprisonment or to a term of five years' imprisonment or more is disqualified for life, and anyone who has served a sentence of three months or more in prison or borstal in the previous 10 years is disqualified from service. People entitled to claim "excusal as of right" if they are summoned include Members of Parliament, full-time serving members of the armed forces, and those in medical or similar professions. A court may also exclude anyone from jury service because physical disability or insufficient understanding of the English language makes his or her ability to act effectively as a juror doubtful.

The Juries (Northern Ireland) Order 1974 brings jury service in Northern Ireland into line with that in England and Wales by removing property qualifications. The upper age limit is 70 years.

N. Developments in the social services

(article 22 of the Universal Declaration)

During 1973 and 1974 social security benefits were regularly reviewed, additional provision made for the disabled and major changes carried out in the reform of the national insurance scheme and the reorganization of the National Health Service.

Social security benefits were raised twice in the two-year period, and in November 1974 the Government announced its intention to increase benefit levels in April 1975 and December 1975. Under the Social Security Benefits Bill, which was presented to Parliament at the end of 1974, long-term social security benefits such as retirement pensions would be linked to rises in average earnings or prices, whichever were the more favourable to the pensioner.

Provision for the disabled was extended in 1973 when an attendance allowance was introduced for severely disabled people needing attention either by day or by night (previously only people needing attention both by day and by night were eligible for this allowance). The new allowance is about two thirds of that payable to disabled people needing attention by day and by night.

In September 1974 the Government announced its intention to introduce further new benefits for the disabled. These include an invalidity pension payable to those people unable to work and not qualifying for a national insurance invalidity pension, an invalidity pension payable to in-patients of working age resident in psychiatric hospitals, and a weekly invalid care allowance payable to people who are caring for a severely disabled relative receiving an attendance allowance and therefore are unable to go out to work. These benefits will be introduced over a two-year period starting in April 1975.

The Government also announced proposals in September 1974 for a mobility allowance to be paid to people aged between 5 and 65 whose walking ability is severely restricted. The aim is to assist the transport costs of disabled people unable to drive a vehicle (certain classes of disabled people able to drive already receive assistance towards the cost of using a private car or may be supplied with a car or three-wheeled vehicle).

In 1973 a Family Fund was established to assist congenitally handicapped children. The Government gave a first grant of £3 million to the fund, which is administered by the Joseph Rowntree Memorial Trust. In 1974 another £3 million was contributed by the Government, and the scope of the fund was extended to cover all very severely handicapped children.

The Social Security Act 1973 introduced a scheme of fully earnings-related national insurance contributions for employees (starting in April 1975) and a reform in the state pension scheme. In 1974 the Government elected in February supported the reform in national insurance contributions but announced its intention to replace the pension reform with one of its own. A White Paper, published in September 1975, set out a scheme of earnings-related pensions fully protected against inflation and designed to end many pensioners' dependence on supplementary benefits. Under the proposals women will have equality of treatment with men, preferential treatment will be given to lower-paid workers and the value of pension rights will be maintained during contributors' lives by revaluing past earnings in line with the growth of earnings generally. Reorganization of the National Health Service by bringing together the hospital service, the local general practitioner services and the local authority health services under a unified administration of regional and area health authorities took effect from April 1974. A network of community and local health councils has been established to make representations to the health authorities on behalf of the consumer, and an independent commissioner has been appointed to provide a means of appeal for the individual citizen who is dissatisfied with action taken by National Health Service Authorities after a complaint has been made (see under section E above).

One of the effects of this reorganization was to remove from local authorities the health functions they previously performed. Any needs they have for advice or services from medical, dental, or nursing staff in carrying out their statutory duties in social services education or public health are now met by the appropriate area health authority. Another effect was that local social services authorities became responsible for the provision of social work advice and services to the health authorities, including social work service in the hospitals. There is a statutory requirement that the matching health and local authorities shall set up joint committees, to ensure proper collaboration on matters of common concern and interest.

O. Right to work and to favourable conditions of work

(article 23 (1) of the Universal Declaration)

1. Employment rights

The Trade Union and Labour Relations Act 1974 gives protection against unfair dismissal from work by providing machinery under which an employee may bring an action against an employer for unfair dismissal, and seek re-engagement or compensation (subject to a limit of 104 weeks' pay up to a maximum per week of £50). It lays down that written collective agreements between trade unions and employers are presumed to be intended to be legally binding only if they contain a provision to that effect. Special provision is made for dismissals arising from strikes or lock-outs. The Act contains provisions relating to the incorporation of disputes procedures into individual contracts of employment.

2. Health and safety at work

The Health and Safety at Work etc. Act 1974 reorganizes the system under which safety and health at work are safeguarded, extends it (with effect from 1 April 1975) to cover initially everyone at work, and furthers the protection of the general public from industrial hazards. A Health and Safety Commission, with members representing employers, trade unions and local authorities, was set up under the Act on 1 October 1974. The Commission, together with an executive to be set up on 1 January 1975, will take over responsibility for the existing government inspectorates covering factories, mines and

quarries, explosives, nuclear installations and alkali works and the Employment Medical Advisory Service, and will develop and carry out policy on health and safety matters.

From 1 January 1975 the basic obligations laid down in the Act will be supported by ministerial powers to make regulations dealing with particular hazards to health and safety issued by the Commission and by codes of practice for improving standards of protection of employees and the public in specific situations. In particular the Act gives inspectors the power to issue improvement and prohibition notices which enable them to require practical improvements to be made within a specified time or to require preventive measures immediately without first having to obtain a court order.

3. Employment and training services

Changes in the organization of the Government's employment and training services have been made under the Employment and Training Act 1973. A new Manpower Services Commission, which was established on 1 January 1974, is responsible to the Secretary of State for Employment for the development and operation of the public employment and training services. The Commission comprises representatives of employers and employees, of local authority and of educational interests, and operates through two executive arms, the Training Services Agency and the Employment Services Agency. It is financed by a grant-in-aid from the Department of Employment and operates within broad policy guidelines agreed in advance with the Secretary of State.

4. Eliminating racial discrimination in employment

At a conference in November 1974, Mr. John Fraser, Parliamentary Under-Secretary of State at the Department of Employment, reaffirmed the Government's commitment to eliminate racial discrimination. He said that the fight against discrimination was one for the health of the whole of society. The Race Relations Act, 1968, was being reviewed with the commitment that proposals for action would follow, but there was a need for other positive measures to ensure equal opportunity in employment.

The Government was giving a lead and in 1973 a circular was issued by the Civil Service Department affirming a commitment to equal opportunity policies in the Civil Service. The Department of Employment had introduced an equal opportunity policy which it was monitoring by taking regular counts of its own coloured staff. As a result consideration was now given to the special training needs of coloured staff.

There had been important developments outside the Civil Service. Advice issued to employers on company race relations policies was reinforced by close support from the Department of Employment's special race relations employment advisers to employers facing problems arising from a multiracial work force. Up to 100,000 immigrant workers, mostly of Asian origin, were handicapped by an inadequate knowledge of English, and the Government had launched a scheme to provide language training in the areas with the greatest need.

Individual training units run by local education authorities will have 75 per cent of their cost met by the Government and will be supported by a national industrial training language centre established on 1 October 1974 and financed by the Training Service Agency. The Agency's special preparatory courses designed to raise standards of literacy and numeracy so that trainees can benefit from a full course of vocational training or generally improve their employment prospects are now available in many parts of the country. Such courses are of particular benefit to immigrants who have not completed their full schooling in the United Kingdom and up to half the trainees on these courses have been coloured immigrants.

P. Equal pay for men and women

(article 23 (2) of the Universal Declaration)

Since 29 December 1974 the Secretary of State for Employment has had the power to refer collective agreements and employers' pay structures to the Industrial Arbitration Board for advice on the amendments that would need to be made to the agreement on pay structure after the coming into operation of the Equal Pay Act 1970 on 29 December 1975, in order to eliminate discrimination between men and women in the way prescribed by the Act. The Department of Employment reported in August 1974 that despite considerable

improvement there were still over a third of agreements and orders in which the women's rates were less than 90 per cent of the men's at the end of March 1974. An intensive campaign to remind employers of their obligations was launched in June 1973. This was followed by a further reminder to negotiating bodies whose collective agreements still allowed for women's rates to be less than 95 per cent of men's in December 1974.

In December 1974 the Civil Service Department announced that women civil servants who resigned to devote themselves full-time to running their homes may now apply for reappointment in the grade reached at the time of resignation.

Q. Distribution of income and wealth

(article 23 (3) of the Universal Declaration)

A Royal Commission on the Distribution of Income and Wealth was set up in July 1974 to inquire into, and to report on, such matters concerning the distribution of personal incomes, both earned and unearned, and wealth as may be referred to it by the Government. The work of the Commission will be essentially analytical and educative and will help in the formulation of the Government's policies to secure a fairer distribution of income and wealth in the community. So far, apart from its general remit, the Commission has been asked to report specifically on higher incomes and on company dividends.

R. Right to trade union organization

(article 23 (4) of the Universal Declaration)

The Trade Union and Labour Relations Act 1974, which repealed the Industrial Relations Act 1971, makes it unfair to dismiss an employee for belonging to an independent trade union or taking part in its activities. If an employee believes that he has been unfairly dismissed he may complain to an industrial tribunal which may, if it finds his complaint justified, recommend his reinstatement or re-engagement, or award compensation.

The 1974 Act deals with the right to belong to a union, and to take part in its activities, only in the context of unfair dismissal. Further legislation is proposed in the forthcoming Employment Protection Bill, which will give protection against action short of dismissal, by an employer, which is intended to prevent or deter an employee from joining a union and taking part in its activities, or to penalize him for doing so.

S. Right to rest and leisure

(article 24 of the Universal Declaration)

1. Holidays

Over 90 per cent of all employees in April 1974 were entitled to paid holidays of three weeks or more, while about one sixth had paid holidays of more than four weeks. Payment is also made in nearly all cases for public holidays, of which there are nine in Northern Ireland, seven in England and Wales and about the same number (depending on local practice) in Scotland.

2. Minister of State for Sport and Recreation

In July 1974 the Prime Minister designated a Minister of State at the Department of the Environment as Minister of State for Sport and Recreation. The new arrangement does not include any change in the functions and departmental responsibilities of other ministers—for example, in the fields of tourism and education—but will help to facilitate the co-ordination of the recreational aspects of the Government's policies.

T. Housing developments

(article 25 (1) of the Universal Declaration)

The Rent Act 1974 further widened the scope of the rent allowance scheme to benefit most tenants of privately owned, ready-furnished accommodation who have shown that they are making their homes there and who have difficulties in affording their rent.

The Housing Act 1974 sets out to secure an expansion of the voluntary housing movement under the leadership of the Housing Corporation. It provides for the registration of housing associations and introduces a new system of financial support for registered associations. The Act introduces important measures to deal with areas of housing stress in England and Wales by the declaration of housing action areas within which local authorities have special powers to secure an early improvement in the living conditions of the existing residents. In order to prevent the deterioration of the housing situation around such stress areas, authorities are empowered to declare priority neighbourhoods. The Act also strengthens and revives the house renovation grant system.

The Housing (Scotland) Act 1974 contains measures for dealing with areas of sub-standard housing in Scotland by the declaration of housing action areas for demolition and/or improvement, and arrangement for the provision of house improvement grants similar to those made for England and Wales.

The Rent Act 1974 extends the legal protection afforded to tenants of unfurnished property to tenants of furnished property where landlords do not live on the premises.

It also provides financial assistance to secure an expansion of the voluntary housing movement, balanced by a rigorous registration scheme for housing associations to eliminate its abuse, and strengthened arrangements for the provision of house improvement grants for modernizing sub-standard properties.

U. Right to education

(article 26 (1) of the Universal Declaration)

1. Expansion of nursery education

During 1973 and 1974 Government policy has supported the development of facilities for nursery education for children below the age of 5 (when schooling becomes obligatory) with the aim of making such education available without charge to all children aged 3 or 4 whose parents wish them to have it. This was estimated in 1973 as likely to require in England and Wales up to 250,000 extra places mainly in nursery classes in primary schools. Some £40 million and a further £13·8 million for Scotland, has been allocated for the first stages of the necessary building programme, for projects to start in 1974/75 and 1975/76.

2. Comprehensive secondary schools

During 1973 and 1974 there has been a continuation of the trend away from selective secondary schooling, which has been widely held to have restricted education opportunities for those children who were not successful in entering grammar schools. The Government which took office in February 1974 announced its intention of developing a fully "comprehensive" system of secondary education in maintained and assisted schools and ending selection according to ability for different types of secondary school at the age of 11 or any other age. In England and Wales about 60 per cent of the children attending secondary schools are now at comprehensive schools, compared with 43 per cent in 1972 and about 8 per cent in 1965. In Scotland, secondary schooling has long been predominantly on comprehensive lines and 98 per cent of pupils in education authority secondary schools are now in schools with a comprehensive intake.

3. Development of the Open University

The Open University continued to expand and develop during 1973 and 1974. This unique institution makes available to all the opportunity for study and qualification at university level. No previous educational qualifications are required to enter the courses. By 1974 the university had 42,170 students. Applications for places for 1975 were the highest ever. The grant-in-aid from central Government was accordingly increased to make possible the admission of 20,000 students in 1975 and 20,000 in 1976. The percentage of applications coming from people without educational qualifications is increasing; for 1975 it was 12·6 per cent, while another 38·5 per cent of applications were from applicants with qualifications below the advanced level of the General Certificate of Education (GCE). The corresponding figures for 1974 were 9·3 and 32·7.

4. Technical and business qualifications

Existing examinations and qualifications for technicians, at present administered by a variety of bodies, are gradually to be replaced by those of the Technician Education Council. This body was established in 1973 to develop a unified system of courses for all levels of technician occupations leading to nationally recognized awards. The Council's function will be to devise or approve suitable courses and set standards of performance for the award of its qualifications. It is intended that these awards will recognize different levels of performance and educational experience but, unlike the present awards, will not be associated with particular modes of attendance.

The Business Education Council was set up in 1974 to perform a function similar to that of the Technician Education Council in the area of business studies. The Council will be concerned to develop courses for those in business and commerce whose educational needs will not be met by courses and qualifications in the office skills, such as shorthand and typewriting on the one hand, and of degrees or the Diploma of Higher Education on the other. In Scotland responsibilities similar to those of TEC and BEC are carried out by the Scottish Technical Education Council (SCOTEC) and the Scottish Business Education Council (SCOTBEC), both established in 1973 by the Secretary of State for Scotland.

5. Grants to mature students

The Education Act 1975 extends the scope of the existing system of mandatory awards for students on degree and comparable courses to students on certain other higher education courses at an annual cost of some £700,000; and for the initiation of a new system of state awards at full mandatory rates to students in seven long-term colleges within Great Britain for mature students at a total annual cost of about £600,000. The Secretary of State for Scotland already has discretion under the Education (Scotland) Act 1962, as amended, to grant student awards in England and Wales and no additional legislation is therefore required to implement these arrangements for Scottish students. The seven colleges, of which five are in England, one in Wales and one in Scotland, are all grant-aided by the appropriate education department for each country and offer a major channel of "second chance" education which enables increasing numbers of men and women to go on directly to new professional or occupational training or to universities as mature students.

6. Adult illiteracy agency

The Secretary of State for Education and Science announced in November 1974 that the National Institute of Adult Education had accepted an invitation to establish an agency to administer the sum of about £1 million which he and the Secretary of State for Scotland intend to provide during this and the next financial year. The agency will help local education authorities and other organizations working with adult illiterates. The National Institute is a voluntary body which provides in London a centre for information, research and publications, as well as a channel of co-operation and consultation for adult education bodies in England and Wales. Scotland's share of the available funds is some £100,000 and a Scottish Advisory Committee serviced by the Scottish Institute of Adult Education (the National Institute's opposite number in Scotland) will consider applications from Scottish education authorities and voluntary organizations concerned with adult illiteracy and advise the Management Committee of the agency on assistance to them.

7. Educational disadvantage and the needs of immigrants

The establishment of a new unit within the Department of Education and Science to be concerned with educational disadvantage was announced in a White Paper in August 1974. The unit will serve as a focal point for the consideration of matters at all stages of education connected with educational disadvantage and the education of immigrants; will advise on the allocation of resources in the interests of immigrants and those suffering from educational disadvantage; and will establish methods of promoting good practice by the educational system in dealing with the disadvantaged and immigrants. In announcing the setting up of the unit, the Government said that the education service had achieved significant successes in meeting the needs of immigrants and their children, but members

of immigrant communities recently established in Britain still had specific difficulties, and, where they lived in the older urban and industrial areas, the majority of their children shared with indigenous children the educational disadvantages associated with such areas.

V. Right to participate in cultural life

(article 27 (1) of the Universal Declaration)

1. Report on the arts

A report on the arts, *Fruits of Patronage*, was published in July 1974 by the Department of Education and Science. The report described some of the main developments in support for the arts, together with examples of activities throughout England and Wales, over the previous 10 years. It stated that Government expenditure on the arts in 1974 would be more than £50 million. The Arts Council of Great Britain would receive about £20 million from the total expenditure. Some 3 per cent of the Council's expenditure would go to the "Housing the Arts Fund" from which help is given with the cost of buildings for the arts. Since this fund began in 1965, contributions from central funds have led to the establishment of about 220 buildings to house the arts in all parts of Great Britain. In 1973–1974 the Council also made 640 direct awards to artists, totalling in value over £270,000. The report said that, since the Local Government Act 1972, many of the new local government authorities in England and Wales had set up committees concerned with the whole range of leisure activities, with the arts playing a major role. Another development noted in the report was the increase in the number of festivals: in 1974 about 300 took place, of which 33 were directly supported by the Arts Council. During the previous 10 years more than 50 theatres throughout England and Wales had been built or substantially reconstructed. In less populated areas, travelling groups had been formed to take productions to people who would otherwise have no access to drama. Under the aegis of the British Film Institute some 50 film theatres throughout Great Britain show films chosen for their significance to the study of the film as an art. Many arts centres have been created to provide opportunities for enjoyment and participation in the arts to a wide number of people, while Government provision for the crafts rose to £440,000 in 1974–1975. The network of regional arts associations was almost completed in 1973, and now covers nearly the whole of England and Wales. The Arts Council of Great Britain's support for the associations rose from some £250,000 in 1969 to about £1·5 million in 1974.

2. Quality of life experiments

In November 1973 local authorities and other organizations in four areas of Great Britain were invited by the Government to carry out two-year experiments to improve the range and quality of leisure resources—cultural, recreational and sporting. The aim is to bring together as many local organizations as possible, including public authorities, commercial, industrial and voluntary organizations. The idea of the experiments is to test how effectively the quality of life in a community can be raised if an extraordinary effort is made to mobilize the enthusiasm, initiative and resources in that community.

3. Council for the Welsh Language

A Council for the Welsh Language, a permanent body, was set up in November 1973 to promote the use of Welsh in all spheres of life in Wales while ensuring that the rights of people who do not speak the language are not infringed. The Council examines social and other factors affecting the use and welfare of the language, and will promote co-operation among groups of people and public authorities in Wales in using and encouraging Welsh. It advises, and reports to, the Secretary of State for Wales.

W. Prevention of terrorism

(article 29 of the Universal Declaration)

In Northern Ireland the Emergency Provisions Act 1973, brought forward in the light of the continuing terrorist campaign there, gave the police powers to arrest without warrant anyone suspected of terrorism and to detain him for up to 72 hours; empowers

members of the armed forces on duty to arrest without warrant, and to detain for up to four hours, anyone suspected of committing, having committed, or being about to commit any offence; provides the security forces with powers of entry and search for strictly limited purposes (for instance, to ascertain whether munitions or explosives are being held illegally); and makes provision for the security forces to infringe private rights in case of operational necessity. The Civil Authorities (Special Powers) Acts (Northern Ireland) 1922, 1933 and 1943 were simultaneously repealed. During 1974 a Committee was set up under Lord Gardiner "to consider what provisions and powers, consistent to the maximum extent practicable in the circumstances with the preservation of civil liberties and human rights, are required to deal with terrorism and subversion in Northern Ireland, including provisions for the administration of justice and to examine the working of the Northern Ireland (Emergency Provisions) Act 1973; and to make recommendations". (It was to report in January 1975.) Following the extension of the Provisional IRA campaign of terrorist violence to Great Britain, measures designed to help deal with terrorism in connexion with Northern Ireland were introduced by the Prevention of Terrorism (Temporary Provisions) Act 1974. This Act was passed on 29 November 1974 and remains in force for six months in the first instance. The Act makes the Irish Republican Army illegal in Great Britain. It empowers the Secretary of State to make exclusion orders, if certain conditions are fulfilled, against people whom he is satisfied are concerned in terrorism. The effect of such orders is to prohibit the person concerned from being in, or entering, Great Britain (or, if he is not a citizen of the United Kingdom and Colonies, the United Kingdom). Those against whom exclusion orders are made have a right to make representations against them and have the matter referred to an independent adviser. Under the Act the police may arrest people whom they reasonably suspect of being concerned in terrorism. The police may detain people so arrested for 48 hours and the Secretary of State may extend this period for a further five days. The Prevention of Terrorism (Supplemental Temporary Provisions) Order 1974, made under the Act, provides for security checks on people entering and leaving Great Britain. The IRA was already proscribed in Northern Ireland; the other powers of the Act apply there as appropriate.

UNITED STATES OF AMERICA

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 ten 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 years 1973 and 1974, progress was made at all jurisdictional levels in achieving gains in the enjoyment of human rights. Significant examples of developments on the federal level are summarized under headings I to III below.

In 1974 the Congress amended the Foreign Assistance Act of 1961 in order to deal specifically with the relationship between security assistance and human rights. A new section was added to the 1961 Act enunciating "the sense of Congress that, except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of person". This action had been preceded in 1973 by a somewhat related step in the form of an amendment to the 1961 Act treating specifically the question of women's rights. The 1973 amendment calls for particular attention to those foreign assistance programmes, projects, and activities that "tend to integrate women into the national economies of foreign countries, thus improving their status and assisting the total development effort".

I. LEGISLATION

A. Right to protection against discrimination

(article 7 of the Universal Declaration)

In passing the Equal Credit Opportunity Act of 1974 the Congress found that there was a need to ensure that various financial institutions and other firms engaged in the extension of credit exercise their responsibility to make credit available with "fairness, impartiality, and without discrimination on the basis of sex or marital status". The Congress further found that economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination. The Act explicitly prohibits such discrimination in the following terms:

"§ 701. Prohibited discrimination

"(a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction;

"(b) An inquiry of marital status shall not constitute discrimination for purposes of this title if such an inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of credit worthiness."

B. Right to work

(article 23 of the Universal Declaration)

Several major pieces of legislation dealing with employment were enacted in 1973–1974. The Comprehensive Employment and Training Act of 1973 provides for job training

and employment opportunities for economically disadvantaged, unemployed, and underemployed persons, and seeks to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible and decentralized system of federal, state, and local programmes.

In the closely related field of vocational rehabilitation, the Congress passed the Rehabilitation Act of 1973. This Act is intended to extend and revise the authorization of federal grants to states for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps. Among the stated purposes of the Act are:

(*a*) The development and implementation of comprehensive state plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals, serving first those with the most severe handicaps, so that they may prepare for and engage in gainful employment;

(*b*) The development of new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and to provide services in this field to handicapped individuals, thereby promoting and expanding their employment opportunities in the public and private sector.

II. EXECUTIVE ACTION

The enforcement of civil rights legislation in the fields of employment, education, and housing continued to be a focal point of efforts by the Federal Government to protect and promote the human rights of all persons living in the United States. The primary responsibility for enforcement efforts continues to lie with the Civil Rights Division of the Department of Justice.

As of 1973 the Civil Rights Division had more than 160 attorneys working on enforcement matters. During the fiscal year 1973 the Division became involved in 209 lawsuits—more than ever before. Special emphasis is being given to the protection of Spanish-speaking Americans and American Indians. Increased attention is also being given to the problem of sex discrimination, with particular reference to employment rights.

A. Right to protection against discrimination

(article 7 of the Universal Declaration)

In a continuing effort to combat the practice of racial steering which, in effect, operates to make housing available to black home seekers only in black or racially transitional areas and to white home seekers only in white areas, a substantial number of suits challenged discriminatory policies of real estate companies engaged in the sale of single family dwellings or in the rental of apartment units. Many of these have been satisfactorily resolved by court orders and consent decrees.

As a general policy an attempt has been made to focus efforts on cases that will most effectively broaden the impact of the Division's fair housing activities. In line with this view, complaints against municipalities have been filed alleging racially-motivated action with regard to such matters as zoning regulations and denial of a building permit.

B. Right to work

(article 23 of the Universal Declaration)

The Attorney General shares with the Equal Employment Opportunity Commission the federal responsibility for enforcing prohibitions against employment discrimination contained in title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. To meet this responsibility the Civil Rights Division has brought suits against municipal governments, private companies and labour unions where there was evidence of a "pattern or practice" of employment discrimination based on race, colour, religion, national origin, or sex. Some of these cases have been successfully prosecuted, while others have been settled by means of consent decrees. In the latter category were (1) a case involving allegations of both racial and sex discrimination by a

major airline company and (2) a case turning on charges of racial discrimination in a major steel manufacturing complex.

C. Right to education

(article 26 of the Universal Declaration)

The United States record of affirmative action to eliminate racial discrimination is soundly established in the many civil rights decisions and statutes over the past 20 years dating from *Brown* v. *Board of Education* (347 US 483) in 1954. The Civil Rights Division is vigorously carrying on this work. As of 1973 the Division was involved in more than 230 school desegregation cases. The results of these efforts can be seen in the fact that, whereas in 1968, 68 per cent of black students in the United States were isolated in all-black schools, as of 1974 only 8·7 per cent remained in 100 per cent minority schools. These efforts continue, with emphasis currently on desegregation patterns in large northern cities, now that the task of dismantling the formerly dual systems in the southern states has largely been completed. High priority is being given to assuring that equal educational opportunities are provided to all minority groups, with proper emphasis being placed on the special educational needs of students whose primary language is not English. Questions regarding the need for bilingual instruction and other compensatory programmes for Indian, Mexican-American, Puerto Rican, and Chinese-speaking students have been successfully litigated.

III. JUDICIAL DECISIONS

During the period 1973–1974 the Supreme Court handed down opinions in a wide variety of cases affecting human rights and fundamental freedoms. In the American constitutional system these rights and freedoms are basically protected by the first ten amendments—the Bill of Rights—and the Fourteenth Amendment to the Federal Constitution. There follows a brief review of some leading cases by which the Supreme Court continues its work of defining and protecting the rights of citizens in the light of constitutional norms.

A. Right to protection against discrimination

(article 7 of the Universal Declaration)

The Supreme Court has continued its efforts to ensure that equal educational opportunities are available to all, unhindered by discrimination on the ground of race, colour, or national origin. In *Norwood* v. *Harrison* (413 US 455) the Court reviewed the validity of a state statutory programme under which text books were lent to students in private segregated schools and concluded that states have a constitutional obligation to avoid providing tangible aid to schools that practise discrimination.

The right of Chinese-speaking children in San Francisco to adequate English instruction was the issue considered in *Lau* v. *Nichols* (414 US 563). Here the Court decided that the failure of the San Francisco school system to provide English language instruction to approximately 1,800 students of Chinese ancestry who did not speak English, or to provide them with other adequate instructional procedures, denies them a meaningful opportunity to participate in the public educational programme and thus violates the Civil Rights Act of 1964 which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance".

A number of recent cases have examined questions of women's rights and sex discrimination.

Frontiero v. *Richardson* (411 US 676) centred on the question of sex discrimination. Here the Court overturned Federal statutes that discriminated against women in military service by requiring a more stringent standard for them in order to obtain financial benefits for their dependents than it did for men in the same situation.

In *Pittsburgh Press Co.* v. *Pittsburgh Commission on Human Relations* (413 US 376) the Supreme Court affirmed an order of the Commission barring the newspaper from referring to sex in employment headings in advertisements offering employment, unless the advertisements referred solely to employment opportunities not covered by a city ordinance prohibiting sex discrimination. The newspaper contended that the ordinance

contravened its constitutional right to freedom of the press. The Court held that the newspaper's First Amendment rights were not violated and that the advertisements in question did not implicate the newspaper's freedom of expression but were "purely commercial advertising", which is not protected by the First Amendment.

Several public school teachers in *Cleveland Board of Education* v. *La Fleur* (414 US 632) challenged the constitutionality of mandatory maternity leave rules in which extensive leave periods were required before and after childbirth. The Court ruled that the mandatory termination provisions of such rules violate the Due Process Clause of the Fourteenth Amendment in that they create an unwarranted conclusive presumption that every teacher who is four or five months pregnant is physically incapable of continuing her duties and also in that the arbitrary cut-off dates (which obviously come at different times of the school year for different teachers) have no valid relationship to the state's interest in preserving continuity of instruction, as long as the teacher is required to give substantial advance notice that she is pregnant.

B. Right to privacy

(article 12 of the Universal Declaration)

The Omnibus Crime Control and Safe Streets Act of 1968 states that the Attorney General or any Assistant Attorney General specially designated by him may authorize an application to a federal judge for an order authorizing or approving wiretapping. The Supreme Court, in two separate cases, *United States* v. *Giordano* (416 US 505) and *United States* v. *Chavez* (416 US 562), where authorizations had been signed by others than those specified in the Act, took pains to underscore that the Congress did not intend that the power to authorize wiretap applications be exercised by officials other than those specified in the Act, but rather that it be specifically limited so as to condition the use of wiretap procedures upon the judgement of a senior Justice Department official that the situation warranted it. Consequently, evidence obtained in a way that did not conform to the requirements of the Act must be suppressed.

In *Almeida-Sanchez* v. *United States* (413 US 266) the Supreme Court considered a case of a warrantless search of an automobile made in connexion with border surveillance which uncovered marijuana. Since the search was made without probable cause or consent and without reason to believe that the owner had crossed the border or committed an offence, it was held to be a violation of the Fourth Amendment, which prohibits unreasonable searches and seizures.

In the landmark case of *Roe* v. *Wade* (410 US 113) a pregnant single woman brought a class action challenging the constitutionality of the Texas criminal abortion laws, which proscribed procuring or attempting an abortion except on medical advice for the purpose of saving the mother's life. The Court held that state criminal abortion laws like those involved here that except from criminality only a life-saving procedure on the mother's behalf, without regard to the stage of her pregnancy and other interests involved, violate the Due Process Clause of the Fourteenth Amendment, which protects against state action the right to privacy, including a woman's qualified right to terminate her pregnancy. The Court went on to say that, though the State cannot override that right, it has legitimate interests in protecting both the pregnant woman's health and the potentiality of human life, each of which interests grows and reaches a "compelling" point at various stages of the woman's approach to term.

C. Right to freedom of speech and the press

(article 19 of the Universal Declaration)

In *Gertz* v. *Robert Welch, Inc.* (418 US 323) the Court wrestled with the competing interests of the media in the widest possible freedom to express views and of the individual in protecting his good name. In this case, a magazine falsely accused a reputable attorney representing a client in civil litigation of improper activities and associations and implied that he had a criminal record. The attorney brought a libel action and won a jury verdict; but, notwithstanding the jury's verdict, the District Court decided that the standard enunciated in *New York Times Co.* v. *Sullivan* (376 US 254), which bars media liability for defamation of a public official in the absence of proof that the defamatory statements

were published with knowledge of their falsity or in reckless disregard of the truth, should apply to this suit. The District Court concluded that the standard protects media discussion of a public issue without regard to whether the person defamed is a public official or a public figure, and the Court of Appeals affirmed. The Supreme Court reversed, holding that a publisher or broadcaster of defamatory falsehoods about an individual who is neither a public official nor a public figure may not claim the *New York Times* protection against liability for defamation on the ground that the defamatory statements concern an issue of public or general interest. Among the reasons for this holding the Court noted that, because private individuals characteristically have less effective opportunities for rebuttal than do public officials and public figures, they are more vulnerable to injury from defamation, and, because they have not voluntarily exposed themselves to increased risk of injury from defamatory falsehoods, they are also more deserving of recovery.

Another case, *Parker* v. *Levy* (417 US 733), dealt with restrictions on speech of members of the military. The Court held that the applicable articles of the Uniform Code of Military Justice under which an Army physician was court-martialled for disobeying orders and counselling enlisted men to refuse to obey orders to go to Viet-Nam were neither unconstitutionally vague under the Due Process Clause of the Fifth Amendment nor invalid under the First Amendment because of overbreadth. The Court stated, in connexion with the overbreadth issue, that, while members of the military were not excluded from the protection granted by the First Amendment, the different character of the military community and of the military mission required a different application of those protections. The fundamental necessity for obedience, and the consequent necessity for imposition of discipline, may render permissible within the military that which would be constitutionally impermissible outside it.

YUGOSLAVIA

Introduction

The basic legal document of the Socialist Federal Republic of Yugoslavia—the new federal Constitution—was adopted on 21 February 1974.[1] Constitutional amendments had been adopted in 1967, 1968 and 1971,[2] and the new Constitution incorporates not only the positive results of those constitutional amendments but a number of new provisions that should contribute to the further development of democratic relations of socialist self-management in the Yugoslav community of peoples.

The new Constitution, too, devotes considerable attention to human rights. Chapter III of part two deals exclusively with "the freedoms, rights and duties of man and the citizen". However, this matter is also covered by other provisions: preamble, "Basic Principles"; part two, chapter I, "The socio-economic system"; part two, chapter II, "The foundations of the socio-political system"; and part two, chapter IV, "Constitutionality and legality". In comparison with the previous constitutions, the list of the rights and freedoms has been extended in the 1974 Constitution to include, *inter alia*, the right to tenancy title (art. 164) and the right to a healthy environment (art. 192).

However, "the inviolable and inalienable right of the working man and citizen to self-management" (art. 155 of the Constitution), permeating the whole constitutional system and constituting the foundation of Yugoslavia's socialist relations, should be particularly pointed out. The Constitution not only proclaims the right to self-management but introduces the institutional forms of the protection of that right: workers' control, courts of associated labour, etc.

The provisions concerning the protection of human rights contained in the new federal Constitution and in the federal laws adopted in 1973 and 1974 are presented in this report within the framework of the articles of the Universal Declaration of Human Rights. However, it should be borne in mind that in the Socialist Federal Republic of Yugoslavia, at the federal level, only the basic democratic freedoms and human rights and citizens' rights (Constitution, art. 244, para. 1) are ensured; the constitutions and laws of the republics complement the safeguarding of these rights and freedoms. The republican constitutions, as well as certain republican laws in the sphere of human rights, were adopted in 1974. As it is not possible to present these texts adequately in this brief report, it should be borne in mind that only an incomplete picture of achievements in the field of human rights in the Socialist Federal Republic of Yugoslavia is given here.

The principles governing the rights of minorities are not contained in the Universal Declaration of Human Rights, in spite of some proposals made by the members of the United Nations (among them Yugoslavia). Though some constitutional rights on the position of minorities (nationalities) in Yugoslavia are mentioned below in reference to articles 7 and 26 of the Universal Declaration of Human Rights, it should be pointed out in particular that the entire socio-political structure of Yugoslavia is founded upon equality of nations and nationalities. Article 1 of the Constitution specifies that the Socialist Federal Republic of Yugoslavia "is a socialist self-management democratic community of working people and citizens and of nations and nationalities having equal rights". The equality of nations and nationalities constitutes the fundamental principle of the structure and life of the Federation, the socialist republics and the socialist autonomous provinces and communes (Constitution, arts. 3, 4, 245 and 248). This equality is especially reflected in the equality of the languages of the nations and nationalities and their alphabets throughout the territory of the Federation and in their right to develop their own culture (arts. 246 and 247). Also in official use in Yugoslavia, in addition to the languages of the nations—in conformity with the Federal Constitution and the federal law—are the languages of nationalities (art. 246, para. 1). The members of the nationalities have the

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[1] *Official Gazette*, No. 9/1974.

[2] See *Yearbook on Human Rights for 1971*, pp. 290–294.

right to use their own language and alphabet in the exercise of their rights and duties, and in proceedings before State agencies and organizations discharging public functions (art. 171, para. 3). In areas inhabited by individual nationalities, equality of the languages and alphabets of the nations and nationalities in the official use shall be ensured through the law and statutes of the socio-political communities, then by self-management acts of the organizations of associated labour and other self-managing organizations and communities (art. 246, para. 2). National equality of the nations and nationalities in the Socialist Federal Republic of Yugoslavia is also reflected in the composition of the organs of the Federation, republics, provinces and municipalities.

A. The natural human rights; mutual relations in the spirit of brotherhood

(article 1 of the Universal Declaration)

The Yugoslav Constitution spells out in its article 154 the principle of equality of citizens in their rights and responsibilities. However, as distinct from the Universal Declaration, in which the formulation "that all human beings are born free and equal in dignity and rights" is based on the theory of the natural human rights, the Constitution of the Federation, in relation to the Yugoslav community of peoples, interprets the freedoms and rights of man as an "inseparable part and expression of the socialist self-management democratic relations in which man is becoming liberated from any form of exploitation and arbitrariness". In these relations man, by his work, creates conditions for his all-round development, free expression, protection of his own personality and respect for his human dignity (Basic principles of the Constitution, sect. V, para. 1).

Paragraph 1 of article 153 of the Constitution, which is inspired by article 1 of the Universal Declaration, reads: "The freedoms and rights of man and the citizen shall be realized through solidarity among people and through the fulfilment of the duties and responsibilities of each one towards all and of all towards each one".

B. Non-discrimination

(article 2 of the Universal Declaration)

Article 154 of the Constitution proclaims the equality of citizens in their rights and duties regardless of nationality, race, sex, language, religion, education or social status. Though there are fewer grounds upon which it is prohibited to differentiate than there are in article 2 of the Universal Declaration, that does not mean that any possibilities for discrimination have been opened in Yugoslav society. In the first place, though there is no specific reference to "colour" as a separate basis for discrimination, it may be regarded as constituting only one of the racial characteristics and, consequently, its omission does not mean that possibilities are created for discrimination against any person or group. Moreover, the "social status" mentioned in the Constitution is intended to encompass the whole set of separate categories of discrimination mentioned in the Declaration, i.e. social origin, property, birth or other status.

In article 154 of the Constitution mention is made of the distinction between people according to "political or other opinion"; it is clear, however, from section V of the Basic Principles and the spirit of the entire Constitution and socio-political system of the Socialist Federal Republic of Yugoslavia, that difference of political opinions cannot constitute grounds for making a distinction between people if such opinions contribute to the promotion of the socialist, self-management-based democratic relations that are being built in Yugoslavia.

C. Right to life, liberty and security of person

(article 3 of the Universal Declaration)

The rights ensuing from this article of the Declaration are mentioned particularly in articles 175 to 177 of the Constitution. However, the protection of freedom and security of person is dealt with also in other provisions of the Constitution referred to below in connexion with other articles of the Universal Declaration.

The Constitution proclaims as inviolable the life and freedom of man and guarantees the inviolability of the integrity of the human personality. The death penalty can be

imposed in Yugoslavia; however, according to Yugoslav laws, it can be imposed or pronounced only for the gravest criminal offences.

D. Prohibition of slavery and servitude
(article 4 of the Universal Declaration)

With State communities at their present level of development there is no need to include in the Constitution any provisions on the prohibition of slavery, since there is no danger of the emergence of such relations. One provision of the new Constitution which may be related to article 4 of the Universal Declaration is the prohibition of forced labour (art. 160, para. 4).

E. Prohibition of torture and cruel, inhuman or degrading treatment
(article 5 of the Universal Declaration)

The prohibition is covered by the formulation in article 176, paragraph 1, of the Constitution concerning the "inviolability of the integrity of the human personality". Paragraph 2 of the same article prohibits and declares as punishable any extortion of confession or statements. Finally, in article 179 the respect for the human personality and human dignity is guaranteed in criminal and in any other proceedings, in the case of deprivation or restriction of liberty, and during the enforcement of a penalty.

F. Equality before the law; right to legal protection
(article 7 of the Universal Declaration)

Article 154, paragraph 2, of the Constitution sets forth that "All are equal before the law". This equality ensues also from the above-mentioned constitutional provisions concerning the prohibition of discrimination. In addition, article 170, paragraph 3, of the Constitution proclaims as unconstitutional and punishable the propagating or practising of national inequality and any incitement of national, racial or religious hatred and intolerance.

G. Legal protection of the rights granted by the Constitution or by law
(article 8 of the Universal Declaration)

Article 180, paragraph 1, of the Constitution guarantees to every person equal protection of his rights in proceedings before a court of law. This provision is broader than the one contained in article 8 of the Declaration, since it guarantees the rights set forth not only in the Constitution and the laws but in other normative acts; on the other hand, it warrants protection in proceedings not only before courts of law but also before administrative and other State agencies and organizations which decide on the rights or duties of individuals. In all these proceedings the human person is guaranteed the right of appeal or other legal remedy against the decisions adopted (art. 180, para. 2).

In order to help every individual to realize his rights, the social community creates conditions for the provision of legal aid through the court and through other forms of legal assistance (art. 180, para. 3).

H. Right not to be subjected to arbitrary arrest, detention or exile
(article 9 of the Universal Declaration)

The prohibitions under this article of the Declaration ensue from the right to freedom, which is guaranteed in article 3 of the Declaration and article 177 of the Constitution. A man can be deprived of liberty—which the Constitution proclaims as inviolable—only in cases and in keeping with procedures specified by law. The deprivation of freedom may last only as long as there are statutory grounds for it, while any unlawful deprivation of liberty is punishable (art. 177).

The Constitution determines conditions for the deprivation of liberty of a person for whom there are grounds for suspicion that he has committed a criminal offence (art. 178). Such a person may be detained only when this is indispensable for the conduct of criminal

proceedings or for reasons of public safety. Detention is ordered by a court of law; only exceptionally, under conditions spelled out by statute, may detention be ordered by another statutorily empowered authority; in that case, the detention may last no longer than three days. Detention ordered by a court of first instance may not last more than three months. The Supreme Court may extend this time-limit for another three months. If upon the expiry of these time-limits no indictment has been filed, the prisoner shall be released. The Constitution also spells out that the duration of detention should be kept to the minimum.

A written order with a statement of grounds must be served on a detained person at the moment of detention or not later than 24 hours thereafter. The person detained has the right to lodge an appeal against this order, whch must be decided by the court within 48 hours.

Any person who has been deprived of liberty without cause is entitled to rehabilitation and compensation for damages and to other statutorily established rights (art. 181, para. 5).

The issue of banishment, in Yugoslav law, has been dealt with separately for Yugoslav citizens and aliens. No Yugoslav citizen may be banished or extradited to another State (art. 200, para. 2). The criminal legislation spells out conditions for banishment of aliens as a security measure.

I. Right to a fair trial

(article 10 of the Universal Declaration)

Owing to the broad content of article 10 of the Universal Declaration, the matters covered are dealt with in a number of provisions of the new Yugoslav Constitution.

In addition to the equality of all before the law (art. 154, para. 2), the Constitution guarantees equal protection of the rights of every person in proceedings before a court of law (art. 180, para. 1).

The independence of courts and their obligation to administer justice in accordance with the Constitution, statutes and self-management enactments is spelled out in article 219 of the Constitution. Article 227, paragraph 1, specifies that court hearings shall be open. The public may be barred from court hearings on legal grounds, but only in order to safeguard secrets; to protect public morals, the interests of minors or other special interests of the social community (art. 227, para. 2).

The Constitution sets forth separately the right of a person accused of a criminal offence to be heard. Article 182, paragraph 2, spells out that no one may be sentenced by a court or other agency authorized to conduct proceedings without prior examination in the form specified by statute, or without being afforded an opportunity to defend himself. The right to defend oneself is guaranteed, as is the right to retain a defence counsel (art. 182, paras. 1 and 3).

J. The presumption of the innocence of the accused; *nullum crimen, nulla poena sine lege*

(article 11 of the Universal Declaration)

The basic principle of this article of the Declaration is affirmed in article 181, paragraph 4, of the Constitution. The right to a public trial and the guarantees necessary for defence mentioned in the Declaration are provided for in the Constitution within the provisions referred to in connexion with other articles of the Declaration.

It is stipulated in article 181, paragraph 1, of the Constitution that no one shall be punished for any act which before its commission was not defined as a punishable offence, by statute or by a legal provision based on a statute, or for which no penalty was provided. Criminal offences and criminal-law sanctions may only be established by statute (art. 181, para. 2).

It is spelt out in the Constitution that penalties shall be imposed according to the statute or other regulation that was in force at the time of the commission of the offence, unless the new statute or regulation is more favourable for the perpetrator (art. 211, para. 3).

K. Prohibition of interference with privacy, family, home or correspondence and of attacks upon honour and reputation

(article 12 of the Universal Declaration)

The rights ensuing from this article are covered by the broader notion of the right to freedom, but they are separately treated in the Constitution. However, article 176, paragraph 1, should be pointed out once again since it guarantees "the inviolability of the integrity of the human personality, personal and family life and of other personal rights".

Article 184 of the Constitution proclaims the inviolability of homes and provides that unlawful entry into other persons' dwellings or other premises and their search are punishable. Dwellings of other persons may be entered only with a warrant issued on the basis of the statute. A warrant is necessary also for the search of dwellings and it may be carried out only in the presence of the person whose dwelling is being searched and two witnesses. A person in official capacity may enter a dwelling without a warrant and carry out a search in the absence of witnesses only if this is indispensable for the immediate arrest of the perpetrator of a criminal offence, to protect the safety of life and property, or if it appears obvious that evidence in criminal proceedings could not be secured otherwise.

Secrecy of mail and of other means of communication has also been spelt out in the Constitution (art. 185). It is possible to depart from this principle only if it is envisaged by the statute that the competent authority may decide otherwise, if this is indispensable for the conduct of criminal proceedings or for the security of the country.

L. Freedom of movement

(article 13 of the Universal Declaration)

1. Freedom of movement and residence

(article 13 (1) of the Universal Declaration)

The Constitution guarantees (art. 183) freedom of movement and residence. These freedoms, according to the explicit provisions of the Constitution, may be restricted by law, but only in order to ensure the conduct of criminal proceedings, to prevent the spread of contagious diseases or protect public order, or when so required by the defence interests of the country.

Aliens in Yugoslavia enjoy freedom of movement and residence on the basis of article 201 of the Constitution, according to which they enjoy in Yugoslavia the freedoms and rights of man which are spelled out by the Constitution and have other rights and duties specified by statute and international treaties.

The Law on the movement and stay of aliens in Yugoslavia of 30 January 1973[3] explicitly recognizes these freedoms (art. 4) and sets forth the conditions for crossing the border, temporary stay and permanent residence. A different treatment from that envisaged by law may be agreed upon in an international agreement between the State of which the foreigner is a national and Yugoslavia. Article 5 of that law envisages that entry into Yugoslavia may be forbidden to foreigners, their movement in certain regions may be restricted or prohibited, their stay in Yugoslavia may be cancelled or their permanent residence forbidden in certain places, only in order to safeguard public order or for reasons of the country's defence, or for reasons of reciprocity or other considerations ensuing from international relations.

2. The right of everyone to leave any country, including his own, and to return to his country

(article 13 (2) of the Universal Declaration)

The Law on travel documents of Yugoslav nationals enacted on 31 January 1973[4] in its article 1 spells out that every Yugoslav citizen has the right to travel documents and visas for the purpose of crossing the State border and staying abroad, in accordance with

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[3] *Official Gazette*, No. 6/1973.

[4] *Ibid.*

the conditions set forth in that law. Article 43 of that law specifies the grounds on which the issuance or the extension of travel documents and visas may be refused (criminal proceedings or sentence, obligations of property or legal obligations, causing damage to the interests of Yugoslavia, security reasons, and the interests of national defence).

To countries with which Yugoslavia has concluded an agreement on the abolition of visas, Yugoslav citizens may travel without a Yugoslav exit visa. The Federal Executive Council may determine that for certain countries Yugoslav citizens need no Yugoslav visa (art. 2).

The provisions of the Law on travel documents make it possible for a Yugoslav citizen who finds himself abroad without travel documents to obtain a laissez-passer in order to return to Yugoslavia (art. 27).

M. Right of asylum

(article 14 of the Universal Declaration)

As do many other international instruments, the Universal Declaration provides for the right of everyone to seek and to enjoy asylum, whereas it makes no mention of the obligation on the part of the country in which a person has taken refuge to grant him asylum. Each country sovereignly decides to whom it will grant asylum, although a rule of international law sets forth that no political refugee must be returned to the State from which he has fled or to any other State where he may be subjected to persecution.

The Constitution guarantees the right of asylum to foreign citizens and stateless persons who are persecuted for supporting democratic views and movements, social and national emancipation, the freedoms and rights of the human personality or the freedom of scientific and artistic creative endeavour (art. 202). As compared to the Law on movement and stay of foreign citizens in Yugoslavia enacted on 12 April 1965 (art. 2, para. 1) which also guaranteed foreign citizens "the right of asylum", the already mentioned Law of 30 January 1973 reinvokes the rule of the Universal Declaration and that of customary law, providing that foreign citizens being persecuted for the aforementioned progressive views "may be granted asylum in Yugoslavia" (art. 2, para. 1).

As evinced by the reasons enumerated as entitling a person to the right of asylum, it is obvious that in Yugoslavia no asylum could be granted to persons seeking refuge from prosecution for non-political crimes or activities contrary to the purposes and principles of the United Nations. Granting or denying the right of asylum is decided by the Federal Secretariat for Internal Affairs. The right may be denied to a foreign citizen acting against the constitutional order of Yugoslavia or the constitutional principles of international co-operation (arts. 41 and 42 of the Law of 1973).

Apart from the granting of asylum, the question of the recognition of the status of refugee (political) is posed. According to the Law on movement and stay of foreign citizens in Yugoslavia, the status of refugee may be granted to foreign citizens who have left their country in order to avoid persecution for progressive political aspirations or for belonging to national, racial or religious groups. The status of refugee is granted or denied by the Federal Secretariat for Internal Affairs, which is responsible for the reception, accommodation and material security of refugees.

N. Right to a nationality

(article 15 of the Universal Declaration)

Yugoslav legislation has not explicitly proclaimed the right of each person to Yugoslav nationality (if he has no other nationality), but the Law on the Yugoslav nationality (enacted on 15 September 1964)[5] entitles a large number of people to Yugoslav nationality on the basis of the principles *jus sanguinis* and *jus soli*. The Constitution does not allow a person who has obtained Yugoslav nationality to be deprived of it. However, it has been envisaged as an exceptional possibility that federal law may provide for the deprivation of the nationality of persons absent from the country and causing damage by their activities

[5] *Ibid.*, No. 38/1964.

to the international and other interests of Yugoslavia or refusing to carry out the basic duties of a citizen, and having already obtained some other nationality (art. 200).

O. Right to marry and found a family; protection of the family

(article 16 of the Universal Declaration)

The prohibition of all forms of discrimination in contracting marriage and founding a family stems from the general constitutional prohibition of discrimination in the enjoyment of human rights.

The Constitution sets forth that marriage and marital and family relations shall be regulated by statute (art. 190, para. 1). The federal legislation on this subject in force so far will soon be superseded by republican laws which are already being prepared. In the Constitution itself there are several fundamental provisions on marriage and the family.

In order to be valid, a marriage must be contracted before a competent agency by free consent of the prospective spouses (art. 190, para. 2). "It is a human right freely to decide on family planning", reads article 191, which proceeds: "This right may only be restricted for reasons of health".

The family enjoys social protection; parents have the right and duty to raise and educate their children, and children are bound to care for their parents in need of assistance.

P. Right to own property

(article 17 of the Universal Declaration)

The Constitution guarantees citizens "the right of ownership of movable property used for personal consumption or for the satisfaction of their cultural and other personal needs" (art. 78, para. 1). Citizens may also own residential houses and dwellings for their personal and family needs (art. 72, para. 2).

Besides the fact that the socio-economic system of Yugoslavia is based on freely associated labour and socially-owned means of production (art. 10), the Constitution also guarantees the freedom of independent personal labour using means of production belonging to individuals. Citizens are entitled to such labour "provided the performance of activities with personal labour corresponds to the mode, the economic basis and possibilities of personal labour, and provided it is not contrary to the principle of income earning according to work performed or to other foundations of the socialist social system (art. 64, para. 1). Conditions for performing such labour and property rights to the means of labour are regulated by statute.

The Constitution guarantees farmers the right to ownership of arable agricultural land up to a maximum of 10 hectares per household. However, it may be provided by statute that in hilly and mountainous regions the area of arable land owned by farmers may exceed 10 hectares per household. Furthermore, it is specified by statute within what limits and under what conditions farmers may own other land, and within what limits and under what conditions other citizens may own agricultural and other kinds of land, as well as within what limits and under what conditions they may own forest and woodland. The Constitution itself denies the ownership right of land in cities and localities of an urban character or other areas envisaged for housing and other construction (art. 81, para. 1).

The Constitution sets forth the right of ownership, by associations of citizens and by other civil legal persons, of real property and movables which serve the common interests of their members and the fulfilment of aims for which they have been founded (art. 79). The limits and conditions of ownership are regulated by statute.

The right to inheritance shall be guaranteed (art. 194), but no one may retain ownership of real property and the means of labour on grounds of inheritance in excess of the limits laid down by the Constitution or by statute.

The right of ownership of objects of special cultural value may be restricted by statute, if so required by the general interest (art. 84). The right of ownership of real property may be restricted, or such property may be expropriated against equitable compensation "if so required by the general interest determined in conformity with statute" (art. 82, para. 1). Such restrictions of the right of ownership of real property must include equitable compensation to the owner.

Q. Freedom of thought, conscience and religion

(article 18 of the Universal Declaration)

Freedom of thought has been granted under article 166 of the Constitution. The same article guarantees the freedom of "option".

The Constitution determines the free profession of religion in more detail (art. 174) as an individual's private affair. Religious communities are separated from the State and the abuse of religion and religious activities for political purposes is forbidden. Such a conception of the freedom of the profession of religion, which is an individual's private affair, and the separation of the church from the State, make possible the change of religion and belief as envisaged in the Universal Declaration.

However, article 174 of the Constitution explicitly guarantees some other rights in connexion with the freedom of religion, which are also spelt out in the Universal Declaration: freedom to conduct religious affairs and services, the right to found religious schools for the training of the clergy, and the right of religious communities to own real property. The Constitution admits the possibility of the social community materially supporting religious communities.

R. Freedom of opinion and expression

(article 19 of the Universal Declaration)

Freedom of thought as set forth by article 166 of the Constitution has already been mentioned. Freedom of speech and public expression and freedom of the press and other media of information are referred to in articles 167 and 168. These freedoms include the right of citizens to express and publish their opinions, the right to be kept informed of developments in the country and in the world, the right to publish newspapers and to disseminate information through other media of information and the right to cause correction of published information that has violated the rights of man.

The press, radio and television and other media of information are bound to inform the public truthfully and objectively, and to make public the opinions of and information about bodies, organizations and citizens of concern to the general public.

The freedoms and rights of this article of the Universal Declaration are also referred to in a Law that was adopted in the period under consideration. It is the Law on the importation and dissemination of foreign mass media and on foreign information activity in Yugoslavia.[6] This Law is based on the freedom of Yugoslavia's communication with foreign countries through the use of mass media. This freedom may be restricted "in cases envisaged by statute, to ensure the protection of the independence, security and free development of the country, the respect for the freedom and rights of man, public order and morals, and with the aim of developing international co-operation in the spirit of the Charter of the United Nations" (art. 3, para. 2).

The Law in particular regulates the importation of foreign texts into Yugoslavia, questions related to foreign films and other foreign mass media, the rights and duties of representatives of foreign media of information and the position of foreign information institutions.

Foreign printed matter may be imported freely into Yugoslavia. Exceptionally, permission is required to import for dissemination purposes and to disseminate printed matter which by its contents is intended for the citizens of Yugoslavia. Such permission is not necessary for material published by the United Nations and its specialized agencies. Only authorized organizations of associated labour may import for dissemination purposes and disseminate foreign printed matter. Diplomatic and consular missions and foreign information institutions in Yugoslavia may import for dissemination purposes certain publications printed in their respective countries if authorized by the Federal Secretariat for Internal Affairs. Bulletins edited by these missions in Yugoslavia may contain only information serving the purpose of familiarizing people with their respective countries.

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[6] *Ibid.*, No. 39/1974.

Foreign juridical persons and individuals may produce informative films in Yugoslavia if granted permission by the competent republican or provincial organ. Socialist Republics and Autonomous Provinces prescribe rules on importation, dissemination and public presentation of foreign films in their respective areas.

Foreign press services, permanent foreign correspondents and permanent employees of foreign press services may carry out their activity only upon registration with the Federal Committee of Information. Foreign countries and international organizations may set up their information institutions in Yugoslavia on the basis of agreements concluded with Yugoslavia.

S. Freedom of peaceful assembly and association

(article 20 of the Universal Declaration)

Article 167, paragraph 1, of the Constitution guarantees, *inter alia*, freedom of association and assembly. There are no associations in Yugoslavia to which it is obligatory for all or for some citizens to belong.

T. Right to take part in government; right of access to the public service; right of suffrage

(article 21 of the Universal Declaration)

One of the main features of the Yugoslav society is self-management in all spheres of human activities. The Yugoslav Constitution proclaims the inviolable and inalienable right of each working man and each citizen to self-management. On the basis of this right, each individual is enabled "to decide on his personal and common interests in an organization of associated labour, local community, self-managing community of interests or other self-managing organization or community or socio-political community, and in all other forms of their self-management integration and mutual linkage" (art. 155, para. 1).

The purpose of self-management in the Yugoslav society is to achieve the management by citizens as directly as possible not only of the associated labour but also in the sphere of policy and decision-making as a whole. Direct self-management can be realized in local communities, and the Federal Constitution contains, therefore, some basic provisions (arts. 114 and 115), while republican constitutions stipulate in greater detail the forms of direct decision-making of citizens in local communities. However, it is not possible to organize decision-making based on self-management at all levels in a way that would secure direct participation of all working people in the making of all decisions and, therefore, the delegates system has been adopted. This system is based on the activity of delegations elected by basic self-managing organizations and communities, as a link between those organizations and communities, on the one hand, and the assemblies of socio-political communities (communes, autonomous provinces, republics, federation), on the other. In keeping with the interests of and the guidelines of basic self-managing organizations and communities and with general social interests and needs, the delegations formulate basic stands for the delegates to follow in the work of assemblies and in their participation in decision-making. The delegations are bound to keep the basic self-managing organizations and communities informed of their work and of the work of the delegates in the assemblies (art. 137). Members of delegations are elected by the working people in basic self-managing organizations and communities, by direct and secret ballot (art. 134, para. 1).

Generally, all citizens who have reached the age of 18 years have the right to elect and be elected. However, workers in organizations of associated labour and working people in all forms of pooling of labour, resources and interests, regardless of their age, have the right to elect and be elected to delegations to the assemblies of the socio-political communities as well as to elect delegates to the assemblies of these communities (art. 156).

The Constitution provides also for the possibility for the assembly of each socio-political community "to call a referendum to enable working people to express their views in advance on individual questions falling within the assembly's competence, or to endorse statutes, regulations and other enactments. Decisions taken through referenda shall be binding" (art. 146).

U. Right to social security and to the realization of economic, social and cultural rights
(article 22 of the Universal Declaration)

The Yugoslav Constitution links the right to social security primarily to labour relationships; workers are entitled to social security, which is ensured through "obligatory insurance based on the principles of reciprocity and solidarity and past labour, in self-managing communities of interest, on the basis of contributions collected from workers' personal incomes and contributions collected from the income of organizations of associated labour, or contributions collected from other organizations or communities in which they work" (art. 163, para. 1). Under the social security scheme, workers are entitled to health care and other benefits in the case of illness or childbirth, benefits in the case of diminution or loss of working capacity, unemployment and old age, and other social security benefits. Dependents of workers covered by social security are entitled to health care, survivors' pensions and other social security benefits.

Social security benefits for working people and citizens who are not covered by the compulsory social security scheme are regulated by statute, based on the principles of reciprocity and solidarity (art. 163, para. 2). Article 186, paragraph 2, refers to health care for uninsured citizens. Cases in which they will be entitled to health care from social resources will be spelt out by law.

V. Right to work and to just and favourable conditions of work; right to form trade unions
(article 23 of the Universal Declaration)

1. Right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment
(article 23 (1) of the Universal Declaration)

The rights under this article of the Declaration are guaranteed by articles 159 to 162 of the Constitution. However, in addition to the constitutional provisions, numerous provisions of the Law on Mutual Relations of Workers in Associated Labour of 13 April 1973[7] relate to this article as well as to articles 24 and 25 of the Universal Declaration. Although this Law was adopted a year before the new Constitution, it is in line with the spirit and provisions of the Constitution, since it is based on the constitutional amendments of 1971, which led to the adoption of the new Yugoslav Federal Constitution of 1974.

The Constitution guarantees the right to work and everyone is free to choose his occupation and job. All those who manage or dispose of social resources, as well as socio-political communities, are bound to create increasingly favourable conditions for the realization of the right to work. The social community will create conditions for the rehabilitation of citizens who are not fully capable of working and also conditions for their adequate employment. A worker may be dismissed from his job against his will only under conditions and in the manner specified by statute.

The work of foreign citizens in Yugoslavia is spelt out by the Regulation on Special Terms of Employment of Foreign Citizens in the Organizations of Associated Labour of 10 January 1974.[8] Foreign citizens and stateless persons may join the organizations of associated labour if they obtain permission for temporary stay or permanent residence in Yugoslavia or if they obtain permission for employment in such organizations from the competent republican or provincial employment agency. That permission will be issued if the demand for workers in specific professions cannot be met by domestic workers registered as seeking employment in the area concerned.

The Constitution guarantees the freedom of choice of occupation and employment. The prohibition of forced labour under the Constitution has already been mentioned. Each work-place and each function in the society are accessible to all citizens under equal conditions.

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[7] *Ibid.*, No. 22/1973.
[8] *Ibid.*, No. 6/1974.

The principle of the Constitution is that the working people "shall have the right to such working conditions as ensure their physical and moral integrity and security" (art. 161). In accordance with this principle, it is specified that workers are entitled to limited working hours, daily and weekly rest, paid annual holiday, health care and other kinds of protection and personal security at work. Young people, women and disabled persons enjoy special protection at work.

Numerous provisions of the 1973 Law on Mutual Relations of Workers in Associated Labour relate to just and favourable conditions of work, supplementing thus the constitutional principles. Protection at work is not only the right of workers, it is also a duty of workers in the basic organization of associated labour to ensure adequate protection at work. Workers are entitled to refuse to work at places where adequate protection is not ensured (art. 39 of the Law).

Work between the hours of 10 p.m. and 5 a.m. is considered as night work if not otherwise stipulated by law (art. 23, para. 5, of the Law). If appropriate working conditions for night work are not ensured, workers may refuse to work at night (art. 40, para. 3 of the Law).

The Law envisages special protection of older workers (art. 40, para. 5). Workers under the age of 18 and women cannot be requested to do exceptionally strenuous physical work, underground work, or other work which could be harmful to their health and psychological and physical health (art. 30). Workers under the age of 18 cannot be requested to work more than full working hours; however, shorter working hours can be established for them. Only in exceptional cases can workers between 17 and 18 years of age be requested to work at night (art. 36). Night work of women is also restricted (art. 34). Under the Law, disabled workers are guaranteed a job either at their own or a comparable place of work (if they are able to perform such work without vocational rehabilitation) or at a place for which they have been trained through vocational rehabilitation (art. 38).

Under the conditions stipulated by law, the Constitution guarantees the right to material subsistence during temporary unemployment.

2. Equal pay for equal work
(article 23 (2) of the Universal Declaration)

The right of the working man to benefit from the results of his work and from the achievements of the general material and social progress of the community, in keeping with the principle "From each according to his abilities, to each according to his work", is proclaimed in paragraph 3 of section II of the Basic Principles of the Constitution. However, in addition to the principle of distribution according to work performed, the rise in productivity of his own and total social labour, as well as the principle of solidarity of workers in associated labour, should be taken into account when determining personal income. Every worker is entitled to a personal income from the income of his basic organization of associated labour "according to the results of his labour and his personal contribution made to the increase in the income of the basic organization with his current and past labour" (art. 20 of the Constitution).

The fundamentals of and the criteria for the allocation of resources for their personal incomes are established by workers in a basic organization of associated labour, together with workers in other organizations of associated labour (art. 21, paras. 1 and 2). This is, in fact, regulated by self-management agreements or social compacts, which must be accepted by the workers in basic organizations of associated labour. However, should the distribution of resources for personal incomes disrupt relations corresponding to the principle of distribution according to work performed, measures may be introduced by statute to ensure the equality of workers in the application of that principle (art. 21, para. 3).

3. Right to just and favourable remuneration
(article 23 (3) of the Universal Declaration)

Under article 22, paragraph 1, of the Constitution, "every worker in associated labour working with social resources shall be guaranteed the right to a personal income and other rights stemming from labour to an amount and volume that ensure his economic and

social security". The fulfilment of this constitutional provision is secured also by the fact that a worker participates in self-management in associated labour with socially-owned means of production and by self-management of the working people "in production and in the distribution of the social product in basic and other organizations of associated labour" (art. 10).

The amount of the guaranteed personal income of a worker and the volume of other guaranteed rights, as well as the manner of their realization, are determined by self-management agreements or social compacts and by statute, depending on the general level of productivity of total social labour and on the general conditions prevailing in the environment in which the worker works and lives.

4. Right to form trade unions

(article 23 (4) of the Universal Declaration)

The right of working people to combine freely in trade unions is confirmed in paragraph 10 of section IV of the Basic Principles of the Constitution. Trade unions are the broadest organization of the working people in the Federation. The Constitution enumerates the aims and tasks of the trade unions in Yugoslavia, the most important of which, within the context of this article of the Universal Declaration, are the following: the realization of the position of the working class established by the Constitution; the realization of self-management and other rights of the working people in all fields of work and life; equality of workers in the pooling of labour and resources, in the acquisition and distribution of income, and in the establishment of general criteria for the distribution of income according to work performed; raising of the educational level of workers and training of workers for the performance of self-management and other social functions; the ensuring of social security, and improvement of the standard of living of workers.

Trade unions have a significant role in self-management agreements and social compacts, as well as in making proposals to State and social bodies for the settlement of questions relating to the material and social status of the working class.

W. Right to rest, limitations of working hours and periodic holidays with pay

(article 24 of the Universal Declaration)

The Constitution guarantees the right to daily and weekly rest and to an annual holiday with pay of not less than 18 working days (art. 162, para. 4). The 1973 Law on Mutual Relations of Workers in Associated Labour, in articles 26 to 29, regulates more precisely the question of rest, leave and holiday periods.

In the course of a full daily working time, every worker is entitled to a rest of at least 30 minutes. That rest cannot be set either at the beginning or at the end of the working time, and the duration of the rest is considered as time spent at work.

Daily rest between two consecutive working days must last not less than 12 hours without interruption. For workers older than 18 years engaged in seasonal work, the daily rest must last at least 10 hours without interruption. Workers are entitled to weekly rest of not less than 24 hours without interruption.

The constitutional provision relating to the duration of the annual leave is supplemented by the 1973 Law stipulating that the annual leave shall be not less than 18 and not more than 30 working days. Exceptionally, in cases provided for by law, the basic organization of associated labour may stipulate annual leave longer than that mentioned above. The Law itself stipulates that workers younger than 18 years are entitled to an annual leave longer by 7 days than that provided for other workers (art. 37 of the Law). The basic organization of associated labour determines the period of continual work upon the expiration of which a worker is entitled to annual leave. This period cannot be longer than 6 months.

Every worker is entitled to rest on days of holidays of the Federation, the republics and the autonomous provinces which are determined by statute as days of rest.

The basic organization of associated labour defines, in accordance with the law, further cases when a worker is entitled to a paid leave. Likewise, the cases and conditions are spelt out for unpaid leave. In these latter cases the rights and duties of a worker which derive from and on account of his work are kept in abeyance.

Within the framework of the principle of limited work time, the Constitution stipulates that the work time cannot exceed 42 hours a week (art. 162, para. 2). Only in certain activities may it be provided by statute that the work time can, for a limited period, be longer than 42 hours a week, if the nature of the work or exceptional circumstances warrant it. The Constitution also provides for a possibility to define by statute the conditions for the reduction of work time. According to the 1973 Law, the working hours cannot be divided into less than five work days, unless otherwise stipulated by law or social compact (art. 23, para. 2).

The said Law provides some flexibility in the distribution of the working hours, in cases where the nature or organization of the work require it (art. 23).

The Law also provides for the possibility of shortening the working hours and for calculating the work time so reduced as equal to the full work time. Such a decision can be made for those work posts where work is done under special conditions and where the detrimental effect on the work capacity and health of the worker cannot be completely eliminated through safety measures (art. 25).

X. Right to an adequate standard of living
(article 25 of the Universal Declaration)

1. Right to a decent standard of living and social security
(article 25 (1) of the Universal Declaration)

The Yugoslav community of nations and nationalities abides by the principle according to which man's labour is the only basis for the appropriation of the product of social labour (Basic Principles of the Constitution, sect. III, para. 5). Consequently, the rights listed under article 25, paragraph 1, of the Universal Declaration are based in Yugoslavia on labour and the results of labour, and these have mainly been dealt with in conjunction with the preceding articles of the Declaration. With regard to persons not providing by themselves for their subsistence, the Constitution distinguishes three groups: (*a*) temporarily unemployed, to whom, under the conditions spelt out by statute, material security is guaranteed (art. 159, para. 5); (*b*) incapacitated persons without their own means of subsistence to whom the Constitution guarantees assistance by the social community (art. 189); (*c*) persons fit for work but who will not work; these persons shall not enjoy the rights and protection due to them on account of labour (art. 159, para. 7), nor does the social community commit itself to provide material security for them.

2. Protection of mother and child; social care for children whether born in or out of wedlock
(article 25 (2) of the Universal Declaration)

The Yugoslav Constitution reproduces almost literally the text of the Declaration. In article 188, paragraph 1, the following is stated: "Mothers and children shall enjoy special social care". Protection of mothers features specially in the statutory provisions of the 1973 Law on Mutual Relations of Workers in Associated Labour.

During pregnancy, women are prohibited from doing overtime or night work. The same prohibition is in force for mothers with babies up to one year of age (art. 31 of the Law). During pregnancy and childbirth, women workers are entitled to maternity leave of up to 105 consecutive days. Maternity leave should be commenced 28 days prior to childbirth and, if health considerations justify it, even 45 days prior to childbirth (art. 32). Mothers are entitled to a four-hour working day until children are 8 months old. After that, if the child requires intensified maternal care due to its general health condition, the mother may continue to work a four-hour day until the child reaches 3 years of age. In each of the cases mentioned, the mother is regarded as working full-time hours (art. 33).

Parents have the right and duty to raise and educate their children (art. 190, para. 3, of the Constitution). Apart from the general care for children, special social protection is guaranteed for minors deprived of parental care (art. 188, para. 2). The Constitution guarantees the same rights and duties to children born in and out of wedlock (art. 190, para. 4).

Y. Right to education

(article 26 of the Universal Declaration)

The Constitution, in article 165, proclaims equality of citizens in their right to attain education and vocational training at all levels of education, in all kinds of schools and other educational institutions. Elementary education of at least eight years is compulsory. Members of nations and nationalities of Yugoslavia in the territory of each republic or autonomous province have the right to instruction in their own language (art. 171, para. 2).

The working people, organizations of associated labour and other self-management organizations and communities, as well as socio-political communities, ensure, within their self-management communities of interest, the material and other conditions for the establishment and operation of schools and other institutions for education of citizens and for the promotion of their activities.

Z. Right to participate in cultural, artistic and scientific achievements; protection of copyright

(article 27 of the Universal Declaration)

The Constitution proclaims the freedom of scientific, scholarly and artistic creativity (art. 169). Related to this constitutional principle is the freedom of expression of national culture and the freedom of each citizen to use his own language and alphabet (art. 170, para. 1).

The Constitution recognizes the moral and material rights to their achievements of the creators of scientific and artistic works, scientific discoveries and technical inventions. However, they may not use these rights contrary to society's interest (art. 169, para. 2). The volume, duration, restriction, termination and protection of the rights of creators to their works, and the rights of organizations of associated labour in which these works were created as a result of the pooling of labour and resources, shall be laid down by statute.

AA. Right to a social and international order in which human rights can be enjoyed

(article 28 of the Universal Declaration)

In proclaiming the freedoms and rights of man to be an inseparable part and expression of socialist self-management democratic relations in which man is liberated from any form of exploitation and arbitrariness (Basic Principles of the Constitution, sect. V, para. 1), the Socialist Federal Republic of Yugoslavia has unequivocally opted for building up a social order in which the commitments contained in this article of the Universal Declaration, binding on all States, are being fulfilled.

Other constitutional provisions reinforce the belief in the accuracy of this statement. Thus, for instance, article 203, paragraph 1, reads: "The freedoms and rights guaranteed by the present Constitution may not be denied or restricted". Any arbitrary act which violates or restricts the rights of man is unconstitutional and punishable, regardless of who has committed the act. The use of coercion and restriction of the rights of another is forbidden except in cases and in proceedings regulated by statute (art. 198).

The authors of the Constitution are of the opinion that for the realization of the freedoms and rights of man, as well as for the fulfilment of his duties, the provisions of the Constitution alone suffice in principle. Only when the Constitution provides, or when it is indispensable for the realization of the rights of man, may the mode of realization of individual freedoms and rights be regulated by statute (art. 203, para. 3).

Finally, article 203, paragraph 5, says: "The freedoms and rights guaranteed by the present Constitution shall enjoy judicial protection". The establishment of the new system of judiciary in Yugoslavia started immediately after the adoption of the new federal Constitution, so that already on 26 April 1974 the Law on the Courts of Associated Labour was adopted.[9] Various kinds of disputes within the jurisdiction of the Courts of Associated Labour (art. 18 of the Law) are directly or indirectly related to the rights

[9] *Ibid.*, No. 24/1974.

guaranteed by the Constitution to workers in associated labour. However, article 19 of the Law refers explicitly to these rights: "Courts of Associated Labour are competent also for the settlement of disputes involving acquisition and termination of the status of a worker in associated labour and for the settlement of disputes involving other self-management rights and obligations of workers arising from relationships within associated labour in organizations of associated labour and other social legal entities".

BB. Duties to the community; respect for the rights and freedoms of others
(article 29 of the Universal Declaration)

1. Duties to the community
(article 29 (1) of the Universal Declaration)

In addition to the rights and freedoms of man and the citizen, the Constitution also spells out some of his basic duties to the country, society and other individuals: the duty to abide by the Constitution and law (art. 197, para. 1), the duty to provide help to other persons in danger and the duty to act in solidarity with others in combating any general danger (art. 196); the duty to exercise conscientiously, in the interest of the socialist society based on self-management, the public, self-management and other social functions vested in him (art. 158). Everybody shall be bound to contribute, under equal conditions and in proportion to his economic possibilities, to the satisfaction of general social needs (art. 195).

The new Constitution spells out for the first time the duty of everyone to look after nature and its resources, and to protect natural landmarks and rarities and cultural monuments. Anyone who utilizes land, water or other natural resources shall be bound to do so in a way which ensures conditions for man's work and life in a healthy environment (art. 193).

"The defence of the country shall be the inviolable and inalienable right and the supreme duty and honour of every citizen", states article 172 of the Constitution. It is the right and duty of the citizen to take part in social self-protection (art. 173). The National Defence Act of 26 April 1974[10] defines the rights and duties of citizens relating to the defence of the country. In connexion with the national defence, the citizens of Yugoslavia are committed to the following among other things: (*a*) military service, (*b*) obligation to serve in the civil defence, (*c*) obligation to acquire skill and training for the purposes of defence and protection, (*d*) obligation to work (art. 52 of the Act).

The Constitution leaves it to statutes to spell out conditions under which failure to discharge duties established by the Constitution is punishable (art. 197, para. 2, of the Constitution).

2. Permitted restrictions of rights
(article 29 (2) of the Universal Declaration)

This part of the Universal Declaration is dealt with primarily under article 163 of the Constitution. Everyone is bound to respect the freedoms and rights of others, and the rights and freedoms of all are limited only by the equal rights and freedoms of others and by the constitutionally defined interests of the socialist community. The essential interests of the Yugoslav socialist community are listed in article 203, paragraph 2, which says that "no one may use the freedoms and rights established by the present Constitution in order to disrupt the foundations of the socialist self-management democratic order established by the present Constitution, to endanger the independence of the country, violate the freedoms and rights of man and the citizen guaranteed by the present Constitution, endanger peace and equality in international co-operation, stir up national, racial and religious hatred or intolerance or abet the commission of criminal offences, nor may these freedoms be used in a way which offends public morals". It is left to statutes to spell out in which cases and under what conditions the use of the freedoms in contravention of the present Constitution entails restriction or prohibition of their enjoyment.

[10] *Ibid.*, No. 22/1974.

PART II

TRUST AND NON-SELF-GOVERNING TERRITORIES

NIUE

In August 1974, the people of Niue voted by a substantial majority, for self-government in free association with New Zealand on the basis of the Constitution and the Niue Constitution Act, 1974. In resolution 3285 (XXIX) of 13 December 1974, the General Assembly took note of the result of the act of self-determination and considered that the people of Niue had thereby freely expressed their wishes and exercised their right to self-determination.[1]

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[1] See General Assembly resolution 3285 (XXIX) and the relevant chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (*Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 23* (A/9623/Rev.1), chap. XXII).

PAPUA NEW GUINEA

With the transfer of authority on 1 December 1973, by the administering Power, Papua New Guinea attained formal self-government. The House of Assembly affirmed its right as the duly elected parliament of the people of Papua New Guinea to decide when independence was to come; the administering Power accepted that the House of Assembly represented the wishes of the people on the question of independence. The administering Power had progressively transferred governmental powers to the Government of Papua New Guinea, and pending a final decision of the House of Assembly to declare independence for the Territory, the Government of Australia conducted its relations with the Government of Papua New Guinea as a Government of an independent nation to which Australia had certain special and inescapable obligations.

On 9 July 1974 the Papua New Guinea House of Assembly resolved "that Papua New Guinea do move to independent nation status as soon as practicable after a constitution has been enacted by this House and that any proposed date of independence be endorsed by this House".[1]

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[1] Papua New Guinea attained independence on 16 September 1975 and was admitted to membership in the United Nations on 10 October 1975 (General Assembly resolution 3368 (XXX)).

PART III

INTERNATIONAL DEVELOPMENTS

Note—Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

UNITED NATIONS ACTIVITIES IN THE FIELD OF HUMAN RIGHTS DURING THE PERIOD 1973-1974

Introduction

The United Nations organs whose work in the field of human rights is summarized in the present chapter are: the General Assembly; the Economic and Social Council; the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities; the Commission on the Status of Women; and the Committee on the Elimination of Racial Discrimination.

During the period under review, human rights matters were dealt with at various sessions of those organs, as follows:

General Assembly
- Twenty-eighth session (18 September–18 December 1973)
- Twenty-ninth session (17 September–18 December 1974)

Economic and Social Council
- Fifty-fourth session (17 April–18 May 1973)
- Fifty-sixth session (22 April–17 May 1974)

Commission on Human Rights[1]
- Twenty-ninth session (26 February–6 April 1973)
- Thirtieth session (4 February–8 March 1974)

Sub-Commission on Prevention of Discrimination and Protection of Minorities[2]
- Twenty-sixth session (3–21 September 1973)
- Twenty-seventh session (5–23 April 1974)

Commission on the Status of Women[3]
- Twenty-fifth session (14 January–1 February 1974)

Committee on the Elimination of Racial Discrimination[4]
- Seventh session (16 April–4 May 1973)
- Eighth session (6–24 August 1973)
- Ninth session (25 March–25 April 1974)
- Tenth session (12–30 August 1974)

A. Observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights

As requested by the General Assembly in resolution 2906 (XXVII) of 19 October 1972, the Secretary-General issued a report containing information on measures and

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[1] For the reports of the Commission on Human Rights on its twenty-ninth and thirtieth sessions see *Official Records of the Economic and Social Council, Fifty-fourth Session, Supplement No. 6* (E/5265); and *ibid., Fifty-sixth Session, Supplement No. 5* (E/5464).

[2] Reports of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its twenty-sixth and twenty-seventh sessions are contained in documents E/CN.4/1128 and E/CN.4/1160 respectively.

[3] For the report of the Commission on the Status of Women on its twenty-fifth session see *Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 4* (E/5451).

[4] The Committee on the Elimination of Racial Discrimination submitted its fourth annual report (covering its seventh and eighth sessions) to the General Assembly at its twenty-eighth session (*Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 18* (A/9018)) and its fifth annual report (covering its ninth and tenth sessions) to the Assembly at its twenty-ninth session (*ibid., Twenty-ninth Session, Supplement No. 18* (A/9618)).

activities undertaken or contemplated in connexion with the observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights by Governments, the United Nations, the specialized agencies and the regional intergovernmental organizations and non-governmental organizations concerned (A/9133 and Corr.1 and Add.1–5).

The General Assembly, in resolution 3060 (XXVIII) of 2 November 1973, urged Governments, the specialized agencies and other intergovernmental organizations, and non-governmental organizations in consultative status, to rededicate themselves during and after the observance of the anniversary to adopting further measures designed to serve the cause of human rights and the implementation of the Declaration; invited States which had not done so to ratify the international instruments concluded in the field of human rights, in particular, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and Optional Protocol, and the International Covenant on Economic, Social and Cultural Rights; and urged the world community to celebrate the twenty-fifth anniversary of the Declaration in such a way as to contribute in a significant manner to the realization of the principles, values and ideals contained in the Declaration for the benefit of all mankind.

On 10 December 1973, the General Assembly held a special meeting to commemorate the twenty-fifth anniversary of the Universal Declaration of Human Rights, in the course of which six United Nations human rights prizes were awarded, in accordance with Assembly resolution 2217A (XXI) of 19 December 1966, to persons who had made outstanding contributions to the promotion and protection of the human rights and fundamental freedoms embodied in the Universal Declaration of Human Rights. The prizes for 1973 were awarded to: Mr. Taha Hussein (posthumously), Mr. Wilfred Jenks (posthumously), Mrs. Maria Lavalle-Urbina, Bishop Abel Muzorewa, Sir Seewoosagur Ramgoolam and U Thant. At the same meeting, the General Assembly also launched the Decade for Action to Combat Racism and Racial Discrimination, as envisaged in its resolution 2906 (XXVII).

B. Elimination of racial discrimination

1. International Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly in resolution 2106A (XX) of 21 December 1965, entered into force on 4 January 1969.

The Committee on the Elimination of Racial Discrimination, established under article 8 of the Convention, consists of 18 experts who serve in their personal capacity and are elected by the States parties.

Under article 9, paragraph 1, of the Convention, States parties undertake to submit to the Secretary-General, for consideration by the Committee, reports at regular intervals on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the Convention. Under paragraph 2 of article 9, the Committee reports annually to the General Assembly on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States parties.

At its seventh session (16 April–4 May 1973), the Committee examined reports from 33 States parties to the Convention. In accordance with a rule initiated by the Committee at its sixth session in 1972, the representatives of States parties were invited to be present at the specified meetings of the Committee when their reports were examined. They answered questions put to them by the Committee, made statements on reports submitted by their Governments and furnished the Committee with additional information.

In connexion with the obligations of States parties under article 4 of the Convention: (*a*) to declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and (*b*) to declare illegal and prohibit organizations which promote and incite racial discrimination, the Committee decided at its seventh session to request the States parties to indicate what specific internal penal legislation designed to implement those

provisions had been enacted in their respective countries. Where no such specific legislation had been enacted, the States parties were requested to inform the Committee of the manner in which and the extent to which the provisions of the existing penal laws, as applied by the courts, effectively implemented their obligations under article 4 of the Convention. The States parties were requested to furnish this information by 31 December 1973.

In connexion with a report submitted by the Syrian Arab Republic, the Committee adopted a decision in which, bearing in mind that the General Assembly was still seized of the question of the human rights of the population of the Golan Heights and other Israeli-occupied territories, it expressed the hope that the population of the Golan Heights would be able as soon as possible to enjoy fully their human rights and fundamental freedoms as citizens of the Syrian Arab Republic.

In addition, the Committee dealt with copies of petitions and reports relating to dependent Territories transmitted to it by the Special Committee on Decolonization.

At its eighth session (6–24 August 1973), the Committee considered the item on the meaning and scope of article 5 of the Convention pertaining to the obligation of States parties to prohibit and to eliminate racial discrimination and to guarantee everyone the right to equality and non-discrimination before the law, particularly to civil, political, economic and cultural rights enumerated in the article, without reaching any conclusion on the subject. It examined reports and information which it had received from 11 States parties to the Convention, under its article 9, paragraph 1 and adopted recommendations thereon. The Committee considered copies of petitions and reports and other information relating to Trust and Non-Self-Governing Territories submitted to it by bodies of the United Nations which deal with matters directly related to the principles and objectives of the Convention, in conformity with article 15 of the Convention, and adopted opinions and recommendations based on its consideration of the material submitted to it. Furthermore, the Committee considered the question of co-operation with the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization on matters of mutual concern relating to the elimination of racial discrimination in respect of employment and occupation as well as in education.

In 1974, at its ninth and tenth sessions, the Committee continued the consideration of reports and other information submitted by States parties in accordance with article 9, paragraph 1, of the Convention. At its tenth session, the Committee also considered copies of petitions, reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, contained in the reports of its Working Groups on (*a*) Pacific and Indian Ocean Territories, (*b*) Territories under Portuguese administration, and (*c*) other African Territories. (The Committee was unable to complete its work on the report of the Working Group on the Atlantic Ocean and the Caribbean Territories, including Gibraltar.)

With regard to the Decade for Action to Combat Racism and Racial Discrimination, the Committee, in its resolution 2 (X) of 28 August 1974, recommended to the General Assembly to make appeals to all States parties to the Convention to co-operate without exception to the fullest possible extent with the Committee; considered it necessary to concentrate its efforts on preparing recommendations with regard to the most flagrant and large-scale manifestations of racial discrimination; expressed its readiness to take an active part in the preparation for and conduct of the international conference on combating racial discrimination and in a world-wide information campaign with the aim of eliminating racial prejudices and educating society in the spirit of struggle against manifestations of racism and racial discrimination; and endorsed the recommendation made by the Special Committee on *Apartheid* in its report to the General Assembly[5] that the General Assembly continue to decline to accept the credentials of the representatives of the Republic of South Africa.

The General Assembly, in resolution 3266 (XXIX) of 10 December 1974, expressed its appreciation to the Committee on the Elimination of Racial Discrimination for the work it performed in pursuance of the International Convention on the Elimination of All

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[5] *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 22* (A/9022).

Forms of Racial Discrimination and called upon all States parties to the Convention to extend their fullest co-operation to the Committee and to observe fully the provisions of that Convention and other pertinent international instruments and agreements to which they were parties.

2. Decade for Action to Combat Racism and Racial Discrimination[6]

In resolution 2919 (XXVII) of 15 November 1972, the General Assembly decided to launch the Decade for Action to Combat Racism and Racial Discrimination and to inaugurate the activities thereof on 10 December 1973, and called for the draft programme to be submitted to it for final consideration at its twenty-eighth session.

The Commission on Human Rights reviewed the draft programme at its twenty-ninth session and submitted a revised draft to the Economic and Social Council for submission to the General Assembly. The Council, in resolution 1783 (LIV) of 18 May 1973, requested its Committee on Non-Governmental Organizations to draw up appropriate recommendations regarding the role of non-governmental organizations in the programme for the Decade.

The General Assembly, at its twenty-eighth session, considered a report of the Secretary-General containing the revised draft programme for the Decade for Action to Combat Racism and Racial Discrimination prepared by the Commission on Human Rights; communications received from Member States expressing their views on an earlier version of the draft programme, in accordance with a suggestion which had been accepted by the Third Committee of the General Assembly in November 1972; draft recommendations on the role of non-governmental organizations in the programme for the Decade, prepared by the Council's Committee on Non-Governmental Organizations under Council resolution 1783 (LIV) of 18 May 1973 and submitted to the Assembly for its consideration in accordance with a decision taken by the Council on 8 August 1973; and suggestions made by the Committee of Non-Governmental Organizations on Human Rights concerning possible modifications in the draft programme for the Decade, submitted to the Assembly for its information by the Council under the same decision (A/9094 and Corr.1, A/9094/Add.1 and 2). In addition, the General Assembly considered the Secretary-General's note on the possibilities of assisting non-governmental conferences in this field, including the provision of conference facilities, such as interpretation and documentation, which had been requested by the Council in a decision taken on 8 August 1973 (A/9177).

In resolution 3057 (XXVIII) of 2 November 1973, the General Assembly designated the ten-year period beginning on 10 December 1973 as the Decade for Action to Combat Racism and Racial Discrimination, approved the Programme for the Decade annexed to the resolution, and invited Governments, United Nations organs, the specialized agencies and other intergovernmental organizations, and non-governmental organizations in consultative relationship concerned, to participate in the observance of the Decade. As requested in that resolution, the Secretary-General transmitted the Programme to Governments, specialized agencies and other international organizations and took the necessary measures for the implementation of the suggestions contained in the Programme which fell within his area of responsibility or which required action by other organs of the United Nations.

The Secretary-General submitted to the Economic and Social Council at its fifty-sixth session a report prepared in accordance with paragraph 18 (*f*) of the Programme for the Decade (E/5474) and a report on the activities undertaken or contemplated by Governments and intergovernmental bodies in accordance with the Programme (E/5475). The Council undertook, in accordance with paragraphs 5 and 7 of General Assembly resolution 3057 (XXVIII), an examination of the activities undertaken or planned in

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[6] The Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-fifth session considered a note prepared by the Secretary-General, in consultation with the specialized agencies, containing an outline of a long-term programme of international action to combat racism, *apartheid* and racial discrimination. As requested by the Commission on Human Rights in its resolution 1 (XXVIII) of 15 March 1972, the Sub-Commission drew up a draft programme to be followed during the Decade for Action to Combat Racism and Racial Discrimination. The Commission on Human Rights brought the draft programme to the attention of the General Assembly at its twenty-seventh session.

connexion with the Decade since its launching in December 1973. In resolution 1863 (LVI) of 17 May 1974, the Council requested the Secretary-General to present to the Assembly, at its twenty-ninth session, the reports contained in documents E/5474 and E/5475 and a supplementary report containing any additional information received by him on activities undertaken or contemplated in connexion with the Decade, and the summary records of the Council's discussion of this item during its fifty-sixth session.

The Council further recommended to the General Assembly the adoption of a draft resolution on the question. On the recommendation of the Council, the General Assembly adopted resolution 3223 (XXIX) of 6 November 1974, in which it urged all Member States to co-operate fully in achieving the goals and objectives of the Decade and, among other things, to formulate and execute plans to realize the policy measures and goals contained in the Programme for the Decade; stressed the importance of mobilizing public opinion in support, morally and materially, of the peoples which are victims of racism, *apartheid*, racial discrimination and colonial and alien domination; and commended the active involvement of the Committee on the Elimination of Racial Discrimination in the implementation of the Programme for the Decade within its competence under the International Convention on the Elimination of All Forms of Racial Discrimination.

The Secretary-General submitted to the Economic and Social Council at its fifty-eighth session his second annual report prepared in accordance with paragraph 18 (*f*) of the Programme for the Decade (E/5636 and Add.1–3), and a note containing information concerning activities of Governments and international organizations in connexion with the Decade, as well as comments and views received from Member States in response to General Assembly resolution 3223 (XXIX) of 6 November 1974 (E/5637 and Add.1 and 2). The Council undertook, in accordance with paragraphs 5 and 7 of General Assembly resolution 3057 (XXVIII) of 2 November 1973, an examination of the activities undertaken or planned in connexion with the Decade since its launching.

3. Convention on the Suppression and Punishment of the Crime of *Apartheid*

Pursuant to Commission on Human Rights resolution 4 (XXVIII) of 23 March 1972 and General Assembly resolution 2922 (XXVII) of 15 November 1972, the Secretary-General transmitted to the Special Committee on *Apartheid* and to States the revised draft Convention on the Suppression and Punishment of the Crime of *Apartheid* which had been submitted to the Assembly by Guinea, Nigeria and the USSR[7] and the amendments thereto which had been submitted by Egypt;[8] he also submitted to the Commission on Human Rights the comments received from 29 States (A/8768 and Add.1; E/CN.4/1123 and Add.1–6).

The Commission at its twenty-ninth session set up a working group to consider the revised draft convention and related documentation.

At the same session, on the recommendation of the Working Group the Commission approved the preamble and the articles, excluding article VIII, of the draft convention. The Economic and Social Council, in resolution 1784 (LIV) of 18 May 1973, approved the draft convention and recommended that the General Assembly consider and approve it at its twenty-eighth session.

The General Assembly, in resolution 3068 (XXVIII) of 30 November 1973, adopted and opened for signature and ratification the International Convention on the Suppression and Punishment of the Crime of *Apartheid* (the text of which was annexed to the resolution), appealed to all States to sign and ratify the Convention as soon as possible, and requested all Governments and intergovernmental organizations to acquaint the public as widely as possible with the text of the Convention, using all the information media at their disposal. The Economic and Social Council has referred to the Commission on Human Rights the General Assembly's invitation to the Commission to undertake the functions set out under article X of the Convention for appropriate action by the Commission when the Convention enters into force. Under the provisions of article XV, the Convention will enter into

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[7] *Official Records of the General Assembly, Twenty-seventh Session, Annexes*, agenda item 50, document A/8880, para. 42.

[8] *Ibid.*, para. 43.

force on the thirtieth day after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.[9] In resolution 3223 (XXIX) of 6 November 1974, the General Assembly urged all Member States to sign and ratify the Convention.

4. International Day for the Elimination of Racial Discrimination

On 21 March 1973, the International Day for the Elimination of Racial Discrimination was observed by the Security Council, meeting in Panama, the Special Committee on *Apartheid*, meeting in New York, and the Commission on Human Rights, meeting at Geneva. The General Assembly had proclaimed the International Day for the Elimination of Racial Discrimination at its twenty-first session in 1966, and had chosen 21 March to commemorate the incident at Sharpeville, South Africa, in 1960, when African demonstrators against pass laws were shot and killed by South African police. On 21 March 1974, the International Day for the Elimination of Racial Discrimination was observed at a meeting of the Special Committee on *Apartheid* in New York.

5. Activities of non-governmental organizations to combat racism and racial discrimination

On the recommendation of the Commission on Human Rights, the Economic and Social Council, in resolution 1782 (LIV) of 18 May 1973, noted with interest the various activities of interested non-governmental organizations in combating racism, racial discrimination, *apartheid* and related matters (E/5237 and Add.1–2) and invited such organizations to intensify their efforts during the twenty-fifth anniversary year of the adoption of the Universal Declaration of Human Rights and the Decade for Action to Combat Racism and Racial Discrimination.

6. Further studies on racial discrimination

On the recommendation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights, the Economic and Social Council decided on 18 May 1973 to request Mr. Hernán Santa Cruz, Special Rapporteur on racial discrimination, to update the study entitled *Racial Discrimination*,[10] with special emphasis on discrimination based on colour, taking into account views expressed in the Sub-Commission, the Commission and the Council.

C. Elimination of discrimination on grounds of sex

1. International Women's Year

The General Assembly, by resolution 3010 (XXVII) of 18 December 1972, designated the year 1975 as International Women's Year, to be devoted to intensified action for the promotion of equality between men and women, the integration of women in the total development effort and the strengthening of women's role in world peace.

The Economic and Social Council, in resolution 1849 (LVI) of 16 May 1974, approved the programme of measures and activities envisaged for International Women's Year annexed to the resolution.

In resolution 1850 (LVI) of the same date, the Council endorsed a recommendation aimed at establishing a fund of voluntary contributions for International Women's Year.

The Council, in resolution 1851 (LVI) of 16 May 1974, requested the Secretary-General to organize an international conference in 1975 in connexion with International Women's Year.

The General Assembly, in resolution 3275 (XXIX) of 10 December 1974 entitled "International Women's Year", called upon Governments, specialized agencies, regional commissions and non-governmental organizations to implement fully the Programme for the Year, which had been approved by the Council in its resolution 1849 (LVI). The Assembly recommended that all Member States should include in their national develop-

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[9] See p. 297–303, 307 below, with regard to the status of the Convention.

[10] United Nations publication, Sales No. E.71.XIV.2.

ment plans, goals and projects designed to integrate women more fully in the economic and social life of the nation and, to that end, should establish appropriate national machinery, as a priority measure, for the International Women's Year. It also appealed to Member States, intergovernmental and non-governmental organizations and other bodies to give voluntary contributions to supplement the resources available for the Year.

In his proclamation inaugurating International Women's Year, the Secretary-General emphasized the same objective, noting also that the Year was not an occasion for women alone, but for the united efforts of all to ensure that fundamental human rights and responsibilities are shared by all humanity.

Within the United Nations system there was increasing awareness throughout the year of the need to recognize women's contributions as a crucial factor in development issues, for instance at the World Population Conference, held in Bucharest from 19 to 30 August 1974,[11] and the World Food Conference in November 1974.[12]

Organizations within the United Nations system also undertook a variety of public information programmes for the Year, co-ordinated at various special interagency meetings held both at Geneva and in New York in July and October 1974. Pamphlets, posters, wallsheets, exhibits, films, press releases and similar projects were prepared. National, regional and international activities were described in the *International Women's Year Bulletin* prepared and circulated by the Branch for the Promotion of Equality of Men and Women.

The General Assembly adopted two resolutions on the World Conference at its twenty-ninth session. In its resolution 3276 (XXIX) of 10 December 1974, the Assembly decided to invite all States to participate in the Conference and also decided to invite the national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States to participate as observers. It further requested the Conference to submit such proposals and recommendations as it deemed appropriate to the Assembly at its special session to be held in September 1975; and decided to consider at its thirtieth session an item entitled "International Women's Year, including the proposals and recommendations of the Conference", and another item entitled "Status and role of women in society, with special reference to the need for achieving equal rights for women and to women's contribution to the attainment of the goals of the Second United Nations Development Decade, to the struggle against colonialism, racism and racial discrimination and to the strengthening of international peace and of co-operation between States".

In its resolution 3277 (XXIX), also of 10 December 1974, the Assembly established a Consultative Committee for the Conference of the International Women's Year, composed of 23 representatives of Member States, to advise the Secretary-General on the preparation of a draft international plan of action which would be finalized by the Conference.

As preparatory meetings for the Conference, the United Nations organized a series of regional seminars on the integration of women in development, with special reference to population factors, and an interregional seminar on national machinery to accelerate the integration of women in development and to eliminate discrimination on grounds of sex was held at Ottawa from 4 to 17 September 1974 (E/CONF.66/BP/4).

2. Elaboration and implementation of international instruments

At the request of the Commission on the Status of Women at its twenty-fifth session (resolution 1 (XXV) of 25 January 1974), the Secretary-General requested Governments, specialized agencies and non-governmental organizations to submit comments on the draft Convention on the Elimination of Discrimination against Women, which had been prepared at that session of the Commission.[13] The comments received will be submitted to the Commission for consideration at its twenty-sixth session, to be held in September 1976.

With respect to the implementation of the Declaration on the Elimination of

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[11] For the report of the Conference, see United Nations publication, Sales No. E.75.XIII.3.

[12] For the report of the Conference, see United Nations publication, Sales No. E.75.II.A.3.

[13] *Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 4* (E/5451), para. 91.

Discrimination against Women and of related instruments, the Economic and Social Council, in resolution 1852 (LVI) of 16 May 1974, urged all Governments, specialized agencies and non-governmental organizations concerned to furnish information on the implementation of these instruments in the next series of reports, which would deal primarily with economic, social and cultural rights and cover the period from June 1971 to June 1975, on the basis of the guidelines provided by the Secretary-General.

3. Integration of women in the development process

The General Assembly, in resolution 3342 (XXIX) of 17 December 1974 on women and development, considered that the development process would be enhanced by the fuller participation of women and should be assisted by positive action from the United Nations system of organizations. It also expressed the belief that the full and productive use of human resources was a key factor in the promotion of economic and social development.

Regional seminars on the subject of integration of women in development with special reference to population factors, organized in co-operation with the regional commissions, were held at Bangkok from 13 to 17 May 1974 (see ST/ESA/SER.B/5/Add.1) and at Addis Ababa from 3 to 7 June 1974 (see ST/ESA/SER.B/6). Two other regional seminars were scheduled to be held in 1975 at Caracas and Beirut.

The Economic and Social Council, in its resolution 1855 (LVI) of 16 May 1974, decided that the Commission on the Status of Women should assist it in the review and appraisal of the International Development Strategy for the Second United Nations Development Decade with respect to matters within its competence. In pursuance of this request, the Branch prepared a check list summarizing the various objectives and targets of General Assembly resolutions 2626 (XXV) and 2716 (XXV) for use by Governments in over-all appraisals at the national level. Replies to this request were received from 31 Governments.

4. Programme of concerted international action for the advancement of women

The Economic and Social Council, in resolution 1855 (LVI) of 16 May 1974, *inter alia*, requested the Secretary-General to submit two reports to the Commission at its twenty-sixth session: one on the participation of women in achieving the objectives of the Second United Nations Development Decade and of General Assembly resolution 2716 (XXV), and the other on exploring approaches to, and methodologies for, the development of social data or indicators on the role and contribution of women in the economic, social and cultural aspects of the development process. As far as the employment of women by the secretariats of organizations within the United Nations system is concerned, the General Assembly, on the recommendation of the Council, adopted resolution 3352 (XXIX) of 18 December 1974, aimed at ensuring, bearing in mind the principle of equitable geographical distribution, an equitable balance between men and women staff members, particularly in senior and policy-making positions, before the end of the Second United Nations Development Decade.

5. Women's role, rights and responsibilities in the family

Within the framework of the human rights advisory services programme, the interregional seminar on "The family in a changing society: problems and responsibilities of its members" was held in London from 18 to 31 July 1973 (see ST/ESA/SER.B/3).

The Economic and Social Council, in resolution 1853 (LVI) of 16 May 1974, endorsed a recommendation aimed at ensuring legal equality for married women and recommended that Member States provide adequate judicial or other remedies to both husband and wife to help them solve their disagreements regarding employment, property, parental authority and dissolution of marriage.

6. Status of women and population questions

Regional seminars on the status of women and family planning were held in the Dominican Republic in May 1973 (see ST/ESA/SER.B/1) and in Indonesia in June 1973 (see ST/ESA/SER.B/2). The Economic and Social Council, in resolution 1854 (LVI) of

16 May 1974, affirmed that the right to decide freely and responsibly on the number and spacing of their children was a fundamental right of individuals, which facilitated the exercise of other human rights, especially by women, and requested the Secretary-General to distribute the report of the Special Rapporteur (E/CN.6/575 and Add.1–3) as a background document for the World Population Conference, 1974, and to report the findings and recommendations of the Conference affecting the status of women to the Commission at its twenty-sixth session.

The International Forum on the Role of Women in Population and Development was held at United Nations Headquarters and at Airlie Foundation Conference Center, Airlie, Virginia, from 25 February to 1 March 1974 (see ST/ESA/SER.B/4), as part of the programme of activities for World Population Year, 1974.

The study entitled *Status of Women and Family Planning* was revised and brought up to date in 1974,[14] to serve as one of the background documents for the World Conference of the International Women's Year.

7. Influence of mass communication media on the formation of new attitudes towards the role of women in present-day society

The Economic and Social Council, in resolution 1862 (LVI) of 16 May 1974, *inter alia*, invited the United Nations Educational, Scientific and Cultural Organization to consider the possibility of carrying out pilot country studies on the influence of the mass media on the formation of attitudes towards women's role in society. The Council also requested the Secretary-General to submit to the Commission on the Status of Women, at its twenty-sixth session, a progress report on the influence of mass communication media on attitudes towards the roles of women and men in present-day society.

D. Question of the violation of human rights

1. Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East

In 1973, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, established by General Assembly resolution 2443 (XXIII) of 19 December 1968 and composed of three members – (Somalia (replaced in April 1974 by Senegal), Sri Lanka and Yugoslavia – held several meetings in New York (26–28 February, 2 and 6 March, 1–12 October 1973) and Geneva (25 August–3 September 1973). In accordance with General Assembly resolution 3005 (XXVII) of 15 December 1972, the Secretary-General transmitted to the Assembly a report of the Special Committee (A/9148 and Add.1) on its findings.

The General Assembly, after considering the report of the Special Committee, adopted resolutions 3092 A and B (XXVIII) of 7 December 1973, in which it called upon Israel to desist from continuing in the occupied areas certain specified practices against the Arab inhabitants and their property and institutions in violation of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949; and to all States, international organizations and specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid actions, including actions in the field of aid, which might be used by Israel in its pursuit of the policies and practices referred to in the resolution. The Special Committee was requested to continue its work in consultation, as appropriate, with the International Committee of the Red Cross, and the Secretary-General was requested to render to it all necessary facilities and to give its reports wide circulation.

The Commission on Human Rights, at its thirtieth session, considered the question of the violation of human rights in territories occupied as a result of hostilities in the Middle East. The Commission had before it notes by the Secretary-General (E/CN.4/1129 and Add.1–3) drawing its attention to the relevant General Assembly documents, including the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. In resolution 1 (XXX) of 11 February 1974, the Commission, *inter alia*, called upon Israel to comply with its obligations

[14] United Nations publication, Sales No. E.75.IV.5.

under the Charter and the Universal Declaration of Human Rights, to acknowledge and abide by its obligations under the fourth Geneva Convention and to implement all the relevant United Nations resolutions; and to stop immediately the establishment of settlements in the occupied Arab territories and to rescind all policies and measures affecting the physical character and demographic composition of those territories. The Secretary-General was requested to bring the resolution to the attention of all Governments, the competent United Nations organs, specialized agencies and regional intergovernmental organizations and to give it the widest possible publicity.

In 1974, the Special Committee continued its work, meeting in New York (4–7 February) and at Geneva (10–12 September). The Special Committee visited the town of Quneitra on 9 September 1974 in connexion with allegations of widespread destruction of the town by Israeli forces in July, after the Israeli-Syrian disengagement agreement had been signed; it reviewed the damage and heard persons who claimed to be eyewitnesses to the use by Israeli forces of bulldozers. The Secretary-General transmitted the report of the Special Committee (A/9817) to the General Assembly at its twenty-ninth session.

The General Assembly, after considering the report of the Special Committee, adopted resolutions 3240 A, B and C (XXIX) of 29 November 1974, in which it called upon Israel to allow the Special Committee access to the occupied territories; expressed the gravest concern at the continued and persistent disregard by Israel of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and other applicable international instruments; and reiterated its call upon all States, international organizations and specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid actions, including actions in the field of aid, which might be used by Israel in its pursuit of the policies and practices referred to in the resolution. The Assembly requested the Special Committee to continue its work, in consultation, as appropriate, with the International Committee of the Red Cross; requested the Secretary-General to render to the Special Committee all necessary facilities and to ensure the widest circulation of its reports; reaffirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of War was applicable to the Arab territories occupied by Israel since 1967; and also requested the Special Committee, with the assistance of experts, designated if necessary in consultation with the Secretary-General, to undertake a survey of the destruction in Quneitra and to assess the nature, extent and value of the damage caused by such destruction.

2. Activities of the *Ad Hoc* Working Group of Experts with respect to southern Africa

The six-member *Ad Hoc* Working Group of Experts established by Commission on Human Rights resolution 2 (XXIII) of 6 March 1967, whose mandate was expanded by Commission resolutions 2 (XXIV), 21 (XXV), 8 (XXVI) and 7 (XXVII), met at Geneva from 17 to 26 January 1973 to consider and adopt its report to the Commission concerning its field trip to London, Geneva, Nairobi, Dar es Salaam, Lusaka, Brazzaville and Kinshasa, during the period from 31 July to 23 August 1972, to carry out investigations requested in Commission resolution 21 (XXV) and Economic and Social Council resolutions 1412 (XLVI), 1509 (XLVIII) and 1599 (L).

The report of the Working Group (E/CN.4/1111) prepared in accordance with Commission resolution 7 (XXVII) was submitted to the Commission at its twenty-ninth session. After examining the report of the Working Group, the Commission, in resolution 19 (XXIX) of 3 April 1973, condemned the Governments of South Africa and Portugal and the illegal régime in Southern Rhodesia for their policies of mass removal of people from fertile and arid regions, the use of napalm and other chemical weapons of war, and the execution of freedom fighters. The Commission endorsed the recommendations submitted by the Working Group and called upon the Government of the United Kingdom of Great Britain and Northern Ireland to live up to its obligations and responsibilities in Southern Rhodesia, and appealed to all Governments to desist from giving to the Governments of South Africa and Portugal and to the illegal régime of Southern Rhodesia assistance which would help to perpetuate the situation.

The report of the Working Group prepared in accordance with Economic and Social Council resolution 1599 (L) on the system of recruitment of African workers in Namibia, Southern Rhodesia and the Territories under Portuguese domination (E/5245) was sub-

mitted to the Council at its fifty-fourth session. After examining the report of the Working Group, the Economic and Social Council adopted resolution 1796 (LIV) of 5 June 1973, in which it strongly condemned the detention without trial of striking African workers in Ovamboland and their forcible return to the reserves, and called for their immediate and unconditional release; requested the International Labour Organisation to study ways and means by which trade union rights for the people of Namibia should be ensured; and requested the International Labour Office to continue to study and review conditions of work of black labour in Southern Rhodesia. It noted with deep concern the existence of a form of forced labour and the discriminatory hierarchy of labour codes in Angola and Mozambique, condemned the existence of transit centres and other similar camps for the African workers, as well as the conditions prevailing in those camps, and recommended that the International Labour Organisation should consider all possible means for strengthening the implementation by Portugal of the conventions to which it was a party.

The Council also requested the Working Group to continue to monitor the system of recruitment of African workers, as well as the disparities in wages between black and white workers in South Africa, Namibia, Southern Rhodesia and the African Territories under Portuguese domination, and to report to the Council not later than at its fifty-eighth session; and requested the Secretary-General to bring resolution 1796 (LIV) and the report of the Working Group to the attention of the Governments of Member States and other relevant United Nations organs.

The *Ad Hoc* Working Group of Experts met at United Nations Headquarters from 25 to 29 June 1973 to consider the organization of its work under resolutions 19 (XXIX) of the Commission on Human Rights and 1796 (LIV) of the Economic and Social Council, to adopt an outline for the implementation of its mandate in accordance with the terms of the resolutions and considered matters connected with its next field mission to Europe and Africa in the summer of 1974.

The Working Group met at Geneva from 14 to 22 January 1974, to consider and adopt its interim report to the Commission surveying recent developments in southern Africa and African Territories under Portuguese domination, prepared in accordance with Commission resolution 19 (XXIX). The report (E/CN.4/1135) was submitted to the Commission at its thirtieth session. The Commission, in resolution 7 (XXX) of 1 March 1974, requested the Working Group to continue its activities.

As recommended by the Commission in resolution 8 (XXX) of 4 March 1974, the Economic and Social Council, in resolution 1868 (LVI) of 17 May 1974, requested the *Ad Hoc* Working Group to remain active and vigilant at all times and to report to the Commission on Human Rights, at its thirty-first session, on any events constituting serious violations of human rights and requiring urgent investigation that might occur in South Africa, Namibia, Southern Rhodesia or the Territories under Portuguese domination; drew the attention of the General Assembly to the mandate and activities of the *Ad Hoc* Working Group of Experts, emphasizing that the Working Group was available to undertake any inquiries which the Assembly might desire to assign to it in the above-mentioned context and to maintain appropriate collaboration with the bodies concerned; and requested the Secretary-General to provide the *Ad Hoc* Working Group with the financial and technical assistance necessary for the accomplishment of its task.

In resolution 1869 (LVI) of 17 May 1974, the Council invited the General Assembly to bring to the notice of the Security Council the deterioration in the situation in southern Africa, which posed a serious threat to world peace and security; appealed to all States to affirm their strong abhorrence of flagrant violations of human rights perpetrated in South Africa, Southern Rhodesia, Namibia and the African Territories occupied by Portugal, and desist from giving assistance to the régimes in southern Africa; and to sign and ratify the International Convention on the Suppression and Punishment of the Crime of *Apartheid.*

As planned, the Working Group undertook a field mission to Europe and Africa from 15 July to 22 August 1974 for the purpose of receiving evidence and hearing testimony concerning new developments in matters falling within its mandate.

3. Study of reported violations of human rights in Chile

On 1 March 1974, the Commission on Human Rights decided by consensus to send a telegram to the Government of Chile expressing its deep concern over reports from a wide

variety of sources relating to gross and massive violations of human rights in Chile in contradiction with the Universal Declaration of Human Rights and other relevant international instruments ratified by a great number of countries, including Chile.[15] In the telegram, the Commission called upon the Government of Chile to cease such violations of human rights immediately, expressed particular concern for the protection of certain persons whose lives were reported to be in imminent danger, and requested the Chilean authorities to inform its Chairman of the measures taken in pursuance of the telegram and of the fate and welfare of the above-mentioned persons. The reply from the Government of Chile was distributed in document E/CN.4/1153.

The Economic and Social Council, in resolution 1873 (LVI) of 17 May 1974, endorsed the concern expressed by the Commission on Human Rights and called upon the Government of Chile to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in Chile, particularly those involving a threat to human life and liberty.

In resolution 8 (XXVII) of 21 August 1974, the Sub-Commission on Prevention of Discrimination and Protection of Minorities recommended that the Commission on Human Rights should study at its thirty-first session the reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment, and requested the specialized agencies and other intergovernmental organizations, as well as non-governmental organizations in consultative status concerned, to submit to the Secretary-General, for reference to the Commission on Human Rights, recent and reliable information on torture and other cruel, inhuman or degrading treatment or punishment in Chile.

The General Assembly, in resolution 3219 (XXIX) of 6 November 1974, endorsed the recommendation made by the Sub-Commission, requested the President of the twenty-ninth session of the Assembly and the Secretary-General to assist in any way they might deem appropriate in the re-establishment of basic human rights and fundamental freedoms in Chile, and requested the Secretary-General to submit a report to the Assembly at its thirtieth session on the action taken and progress achieved.

4. Study of situations which reveal a consistent pattern of gross violations of human rights

By resolution 1503 (XLVIII) of 27 May 1970, the Economic and Social Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a working group to consider all communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959, with a view to bringing to the attention of the Sub-Commission those communications, together with replies of Governments, if any, which appeared to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms.

The Working Group set up in accordance with Sub-Commission resolution 2 (XXIV) of 16 August 1971 met from 20 to 31 August 1973. After considering over 7,000 communications received after its first session in 1972, including the replies of Governments, the Working Group submitted a confidential report to the Sub-Commission. The Sub-Commission discussed the report in closed session and adopted a confidential resolution on the matter.

As provided in its resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII), the Commission at its thirtieth session considered in closed meetings the confidential resolution adopted by the Sub-Commission and related documents. The Commission decided, on 6 March 1974, to refer the relevant documents to the Governments concerned and to request them to send their observations to the Commission through the Secretary-General not later than 1 December 1974. The Commission further decided to establish a working group composed of five of its members which would meet one week before its thirty-first session to examine the documents, together with the observations of Governments thereon and any further information submitted by the Sub-Commission; to transmit to the Sub-Commission the records of the discussion of the question in the Commission; and to request the Sub-Commission, when

[15] *Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 5* (E/5464), chap. XIX, part B, decision 1.

it decides to refer to the Commission particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights, to invite the Governments directly concerned to make their written observations in order to enable the Commission to take them into account in the examination of the situations.

The Economic and Social Council adopted decision 15 (LVI) on 17 May 1974 by which it authorized the establishment of the Working Group and its meetings as proposed by the Commission.

The Working Group of the Sub-Commission met from 22 July to 2 August 1974. After considering over 9,000 communications received since its second session, including the replies of Governments, the Working Group submitted a confidential report to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-seventh session. The Sub-Commission discussed the report in closed meetings and adopted a confidential resolution on the matter.

5. Model rules of procedure for United Nations bodies dealing with violations of human rights

The Commission on Human Rights, in resolution 9 (XXX) of 5 March 1974, noted the reports of the Working Group which it had established in 1971 for the purpose of preparing draft model rules of procedure for United Nations bodies dealing with violations of human rights (E/CN.4/1086 and E/CN.4/1134). On the recommendation of the Commission, the Economic and Social Council, in resolution 1870 (LVI) of 17 May 1974, drew those reports to the attention of all organs and bodies of the United Nations dealing with questions of human rights and fundamental freedoms.

E. The right of peoples to self-determination

In accordance with General Assembly resolution 2955 (XXVII) of 12 December 1972, the Secretary-General submitted to the Assembly at its twenty-eighth session a report (A/9154) on the assistance being given to dependent Territories by certain Governments, specialized agencies, intergovernmental organizations and non-governmental organizations. The General Assembly (resolution 3070 (XXVIII) of 30 November 1973), requested the Secretary-General to continue to assist the specialized agencies and other organizations within the United Nations system in working out measures for the provision of increased international assistance to the peoples of colonial Territories.

The Secretary-General submitted to the General Assembly at its twenty-ninth session a report prepared in accordance with Assembly resolution 3118 (XXVIII) of 12 December 1973 (A/9638 and Add.1 and Add.1/Corr.1 and Add.2–5) which contained information on the action taken in the implementation of the relevant resolutions of the United Nations by the specialized agencies and international institutions associated with the United Nations, and a report prepared in accordance with Assembly resolution 3070 (XXVIII) of 30 November 1973 (A/9667 and Add.1) which contained information received from States on action taken in compliance with the resolution.

In resolution 3246 (XXIX) of 29 November 1974, the General Assembly reaffirmed the inalienable right of all peoples under colonial and foreign domination and alien subjugation to self-determination, freedom and independence; renewed its call to all States to recognize the right to self-determination and independence of all peoples subject to colonial and foreign domination and alien subjugation and to offer them moral, material and other forms of assistance; and requested the Secretary-General to continue to assist the specialized agencies and other organizations within the United Nations system in working out measures for the provision of increased international assistance to the peoples of colonial Territories.

F. Human rights in armed conflicts

1. Protection of journalists engaged in dangerous missions in areas of armed conflict

At its twenty-eighth session, the General Assembly examined, article by article, the draft articles of a convention ensuring the protection of journalists engaged in dangerous

missions in areas of armed conflict proposed by Australia, Austria, Denmark, Ecuador, Finland, France, Iran, Lebanon, Morocco and Turkey (A/9073, annex I), as well as some related amendments (*ibid.*, annexes I and II). In resolution 3058 (XXVIII) of 2 November 1973, the Assembly expressed the opinion that it would be desirable to adopt a convention for this purpose, and requested the Secretary-General to transmit the relevant documentation to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts and to invite the Conference to submit its comments and advice on the above-mentioned texts.

Pursuant to General Assembly resolution 3058 (XXVIII), the Secretary-General transmitted the relevant documentation (A/9643) to the Diplomatic Conference. On 28 March 1974, the Diplomatic Conference decided to consider the item as a matter of priority at its second session, to be held in 1975.

At its twenty-ninth session, the General Assembly adopted resolution 3245 (XXIX) of 29 November 1974, in which it expressed the wish that the Diplomatic Conference should submit its observations and suggestions to the Assembly at its thirtieth session and decided to continue the examination of the question as a matter of priority at that session, having regard to the deliberations and findings of the Diplomatic Conference.

2. Protection of women and children in emergency and armed conflict

After consideration of a recommendation submitted by the Economic and Social Council in its resolution 1861 (LVI) of 16 May 1974, the General Assembly, in resolution 3318 (XXIX) of 14 December 1974, solemnly proclaimed a Declaration on the Protection of Women and Children in Emergency and Armed Conflict and called for its strict observance by all Member States. The Declaration states that attacks and bombings on the civilian population shall be prohibited and such acts condemned, since they inflict incalculable suffering, especially on women and children, who are the most vulnerable members of the population. It also condemns the use of chemical and bacteriological weapons in the course of military operations as constituting one of the most flagrant violations of the Geneva Conventions of 1949 and the principles of international humanitarian law. It states that all forms of repression and cruel and inhuman treatment of women and children committed by belligerents in the course of military operations or in occupied territories shall be considered criminal.

G. Question of torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly, in resolution 3059 (XXVIII) of 2 November 1973, rejected any form of torture and other cruel, inhuman or degrading treatment or punishment, and urged all Governments to become parties to existing international instruments which contain provisions relating to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The Assembly requested the Secretary-General to inform it of the consideration which might have been given to this question by the Sub-Commission on Prevention of Discrimination and Protection of Minorities or by the Commission on Human Rights, and decided to examine the question at a future session.

At its twenty-seventh session, the Sub-Commission considered the item entitled "The question of the human rights of persons subjected to any form of detention or imprisonment". In resolution 7 (XXVII) of 20 August 1974, the Sub-Commission, noting that torture and other forms of cruel, inhuman or degrading treatment and punishment were flagrant violations of human rights that continued to occur notwithstanding their rejection by the General Assembly in resolution 3059 (XXVIII) and that all available information suggested that in several countries there might be a consistent pattern of such violations, decided to review annually developments in the field and for this purpose to retain the item on its agenda. In reviewing those developments, the Sub-Commission decided to take into account any reliably attested information from Governments, the specialized agencies, the regional intergovernmental organizations and the non-governmental organizations concerned in consultative status with the Economic and Social Council, provided that such non-governmental organizations acted in good faith and that their information was not politically motivated and contrary to the principles of the Charter of the United Nations; and requested the Secretary-General to transmit such information to the Sub-Commission.

At its twenty-ninth session, the General Assembly had before it a note by the Secretary-General on the consideration given to the question by the Sub-Commission and by the Commission on Human Rights and other bodies concerned (A/9767). In resolution 3218 (XXIX) of 6 November 1974, the Assembly requested Member States to furnish the Secretary-General with certain specified information, observations and comments, of which he would prepare an analytical summary for submission to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to the Assembly at its thirtieth session, to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Congress was requested to give urgent attention to the question of the development of an international code of ethics for police and related law enforcement agencies, to include, in the elaboration of the Standard Minimum Rules for the Treatment of Prisoners, rules for the protection of all persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment, and to report thereon to the Assembly at its thirtieth session. The Assembly invited the World Health Organization, taking into account the various declarations on medical ethics adopted by the World Medical Association, to draft, in close co-operation with such other competent organizations, including the United Nations Educational, Scientific and Cultural Organization, as might be appropriate, an outline of the principles of medical ethics that might be relevant to the protection of persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment, and to bring the draft to the attention of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders with a view to assisting the Congress in the implementation of the task set out in the resolution.

H. Question of slavery and the slave trade

In resolution 1695 (LII) of 2 June 1972, the Economic and Social Council directed the Sub-Commission on Prevention of Discrimination and Protection of Minorities to examine the possibility of the establishment of some form of permanent machinery to give advice on the elimination of slavery and on the suppression of the traffic in persons and exploitation of the prostitution of others, and to make recommendations with a view to seeking the better implementation of the United Nations instruments concerned. The Sub-Commission considered the question at its twenty-sixth session and, in resolution 7 (XXVI) of 19 September 1973, recommended that the Commission on Human Rights request the Economic and Social Council to authorize the Sub-Commission to appoint a group of five from among its membership to meet for not more than three working days, prior to each session of the Sub-Commission, to review developments in the field of slavery and the slave trade in all their practices and manifestations. The proposed group would also consider and examine any information from credible sources on the subject of slavery and slavery-like practices with a view to recommending remedial action.

The Commission on Human Rights decided, on 6 March 1974, to endorse the recommendations to the Economic and Social Council contained in Sub-Commission resolution 7 (XXVI) of 19 September 1973. The Economic and Social Council, in decision 16 (LVI) of 17 May 1974, authorized the Sub-Commission to appoint the above-mentioned group of five.

At its twenty-seventh session, the Sub-Commission considered, under the item entitled "Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of *apartheid* and colonialism", a report of the Secretary-General containing a survey of national legislation for the purpose of eliminating practices similar to slavery (E/CN.4/Sub.2/350), prepared in accordance with paragraph 13 (*a*) of Economic and Social Council resolution 1695 (LII) of 2 June 1972, and information from the International Criminal Police Organization (INTERPOL) (E/CN.4/Sub.2/342 and Add.1 and 2 and E/CN.4/Sub.2/349 and Add.1), submitted under paragraphs 6 and 7 of the same resolution.

By resolution 11 (XXVII) of 21 August 1974, the Sub-Commission established a Working Group of five of its members and requested it to prepare, at its meeting in 1975, a report to the Sub-Commission, for consideration at its twenty-eighth session. The Sub-Commission requested Governments, the specialized agencies, the regional intergovernmental

organizations, the non-governmental organizations in consultative status concerned and individuals to submit to the Secretary-General, for transmission to the Working Group, such reliable information on slavery and the slave trade in all their practices and manifestations, the traffic in persons and the exploitation of the prostitution of others as might be available to them. It further decided to review that decision when the International Covenant on Civil and Political Rights came into force.

I. Studies and draft principles dealing with particular rights or groups of rights

During 1973–1974, the Commission on Human Rights, the Economic and Social Council and the General Assembly considered several completed studies and draft principles relating to various rights (see sects. 1–5 below). Steps were taken to try and expedite the preparation of a draft Declaration on the Elimination of All Forms of Religious Intolerance and further consideration was given to the draft general principles on equality and non-discrimination in respect of persons born out of wedlock (see sects. 6 and 7 below). Progress reports on three studies in preparation were considered by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (see sects. 8–10 below). During the period under review, six new studies were initiated (see sects. 11–16 below). In 1973 the Council decided that a study on racial discrimination should be updated (see sect. B.6 above).

1. Equality in the administration of justice

The Commission on Human Rights at its twenty-ninth session considered the draft principles relating to equality in the administration of justice, which had been adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-third session (E/CN.4/1077, annex), and the comments of Member States thereon (E/CN.4/1112 and Add.1–8) and heard the Special Rapporteur for the *Study of Equality in the Administration of Justice*,[16] Mr. Mohammed Ahmed Abu Rennat. On the recommendation of the Commission, the Economic and Social Council, in resolution 1785 (LIV) of 18 May 1973, recommended to the General Assembly the adoption of a draft resolution concerning the draft principles.

As recommended, the General Assembly, in resolution 3144 A (XXVIII) of 14 December 1973, expressed its deep appreciation to the Special Rapporteur and called upon Member States to give due consideration, in formulating legislation and taking other measures affecting equality in the administration of justice, to the draft principles on the subject set out in resolution 3 (XXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.[17]

In resolution 3144 B (XXVIII), the General Assembly recommended that Member States should make all possible efforts to implement the Standard Minimum Rules for the Treatment of Prisoners in the administration of penal and correctional institutions and take the Rules into account in the framing of national legislation.

2. Non-discrimination in the matter of political rights

The Commission on Human Rights at its twenty-ninth session considered the *Study of Discrimination in the matter of Political Rights*[18] prepared in 1962 by Mr. Hernán Santa Cruz, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the draft general principles on freedom and non-discrimination in the matter of political rights which had been adopted by the Sub-Commission at its fourteenth session, also in 1962, and documentation relating to new developments in this field prepared by the Secretary-General pursuant to Sub-Commission resolution 1 (XXII) of 28 August 1969 (E/CN.4/1013 and Add.1–5).

On the recommendation of the Commission, the Economic and Social Council, in resolution 1786 (LIV) of 18 May 1973, drew the draft general principles[19] to the attention

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[16] United Nations publication, Sales No. E.71.XIV.3.

[17] For the text of the draft principles, see ST/HR/3, pp. 10–16.

[18] United Nations publication, Sales No. 63.XIV.2.

[19] For the text of the draft general principles, see ST/HR/3, pp. 1–5.

of Governments, international and regional intergovernmental organizations, non-governmental organizations and other institutions and bodies concerned.

3. Right of everyone to leave any country, including his own, and to return to his country

The Commission on Human Rights at its twenty-ninth session considered the *Study of Discrimination in respect of the Right of Everyone to Leave any Country, Including His Own, and to Return to His Country*[20] prepared in 1963 by Mr. José Ingles, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the draft principles on freedom and non-discrimination in respect of that right adopted by the Sub-Commission at its fifteenth session, also in 1963, and documentation relating to new developments in this field prepared by the Secretary-General pursuant to Sub-Commission resolution 1 (XXII) (E/CN.4/1042 and Add.1–4).

On the recommendation of the Commission, the Economic and Social Council, in resolution 1788 (LIV) of 18 May 1973, drew the draft principles[21] to the attention of Governments, international and regional intergovernmental organizations and other institutions and bodies concerned and decided that the Commission should consider the question at three-year intervals coinciding with its discussion of the periodic reports on civil and political rights.

4. The realization of economic, social and cultural rights

At its twenty-ninth session, the Commission on Human Rights considered the study on the realization of economic, social and cultural rights prepared by its Special Rapporteur, Mr. Manouchehr Ganji, in accordance with its resolution 14 (XXV) of 13 March 1969 (E/CN.4/1108 and Add.1–9), and information from Governments and specialized agencies on the effectiveness of the methods and means used by them in the realization of economic, social and cultural rights submitted by the Secretary-General in accordance with Economic and Social Council resolution 1689 (LII) of 2 June 1972 (E/CN.4/1023/Add.5–7, E/CN.4/1109).

On the recommendation of the Commission, the Economic and Social Council, in resolution 1792 (LIV) of 18 May 1973, requested the Secretary-General to forward the study to States for their comments and observations, authorized the Special Rapporteur to carry out further consultations with the organizations concerned and requested him to complete the study and to report to the Commission on Human Rights at its thirtieth session.

At its thirtieth session, the Commission considered the study on the realization of economic, social and cultural rights (E/CN.4/1108 and Add.1–10), together with the revised observations, conclusions and recommendations of the Special Rapporteur (E/CN.4/1131 and Corr.1), the comments and observations on the report submitted by Governments (E/CN.4/1132 and Add.1) under Economic and Social Council resolution 1792 (LIV), and a note by the Secretary-General (E/CN.4/1148) containing information and comments relating to the study received from regional economic commissions, the Committee on Review and Appraisal and the Committee for Development Planning, in accordance with Council resolution 1689 (LII).

On the recommendation of the Commission, the Economic and Social Council, in resolution 1867 (LVI) of 17 May 1974, expressed its deep appreciation to the Special Rapporteur for his comprehensive and useful study, drew the attention of all States and organizations of the United Nations system and other intergovernmental organizations to the study and, in particular, to the revised observations, conclusions and recommendations of the Special Rapporteur; and requested the Committee on Development Planning, the Commission for Social Development and the Committee on Review and Appraisal to give due attention during the mid-term review of the International Development Strategy for the Second United Nations Development Decade to early realization of economic, social and cultural rights in the process of development as set forth in the Universal Declaration of Human Rights and the International Covenants on Human Rights. States and specialized

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[20] United Nations publication, Sales No. 64.XIV.2.

[21] For the text of the draft principles, see ST/HR/3, pp. 6–9.

agencies were invited to submit in-depth periodic reports on the realization of economic, social and cultural rights to enable the Secretary-General to submit them to the *Ad Hoc* Committee on Periodic Reports. The Council requested the Secretary-General to give wide publicity to the study by publishing it.[22] The Commission on Human Rights was requested to review this matter and to keep the Council periodically informed of the implementation of the resolution.

5. International co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity

As requested by the General Assembly in resolution 3020 (XXVII) of 18 December 1972, the Commission on Human Rights at its twenty-ninth session considered draft principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity. In resolution 13 (XXIX) of 29 March 1973, the Commission adopted a set of draft principles, which were endorsed by the Economic and Social Council in resolution 1791 (LIV) of 18 May 1973. On the recommendation of the Council, the General Assembly, at its twenty-eighth session, considered the draft principles and in resolution 3074 (XXVIII) of 3 December 1973 declared that the United Nations, in pursuance of the principles and purposes set forth in the Charter concerning the promotion of co-operation between peoples and the maintenance of international peace and security, proclaimed certain principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity; these principles were set out in the resolution.

6. Elimination of all forms of religious intolerance

The question of the preparation of a declaration and of an international convention on the elimination of all forms of religious intolerance has been on the agenda of the General Assembly since 1962, but from 1967 to 1971 consideration of the item was deferred at each session. In resolution 3027 (XXVII) of 18 December 1972, the General Assembly decided to accord priority to the completion of the Declaration on the Elimination of All Forms of Religious Intolerance before resuming consideration of the draft International Convention, and requested the Secretary-General to transmit the relevant documentation to States Members of the United Nations or members of the specialized agencies for their observations.

As requested, the Secretary-General issued a report (A/9134 and Add.1 and 2), presenting the observations of States on the preliminary draft of a United Nations Declaration on the Elimination of All Forms of Religious Intolerance prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (A/8330, annex I) and on the report of the Working Group set up by the Commission on Human Rights at its twentieth session to prepare a draft Declaration on the Elimination of All Forms of Religious Intolerance (*ibid.*, annex II).

The General Assembly considered the texts and the suggestions, comments and amendments thereto submitted by Member States at its twenty-eighth session, but found it impossible to complete the final draft of a Declaration during that session. In resolution 3069 (XXVIII) of 30 November 1973, the General Assembly decided to endeavour to complete and adopt a Declaration at its twenty-ninth session. As requested in that resolution, the Secretary-General transmitted to the Commission on Human Rights all the relevant documentation, and the Economic and Social Council requested the Commission to consider at its thirtieth session, as a matter of priority, the elaboration of a draft Declaration on the Elimination of All Forms of Religious Intolerance.

The Commission at its thirtieth session was not able to accomplish its task and decided to give this matter priority at its thirty-first session.

At its twenty-ninth session, the General Assembly again considered the question of the elaboration of a draft Declaration on the Elimination of All Forms of Religious Intolerance. In this connexion, the Assembly had before it a note by the Secretary-General (A/9644). In resolution 3267 (XXIX) of 10 December 1974, the Assembly requested the Secretary-General to transmit to the Commission on Human Rights all the opinions ex-

[22] The revised study was issued under the title: *The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress* (United Nations publication, Sales No. E.75.XIV.2).

pressed and suggestions put forward in the course of the discussion of the question at that session; requested the Commission to submit, through the Economic and Social Council, to the General Assembly at its thirtieth session a single draft Declaration on the Elimination of All Forms of Religious Intolerance and of Discrimination Based on Religion or Belief; and decided to include the item in the provisional agenda of its thirtieth session with a view to considering, completing and adopting, if possible, the Declaration, provided a single draft was completed by the Commission on Human Rights.

7. Non-discrimination in respect of persons born out of wedlock

The Commission on Human Rights at its twenty-ninth session considered the *Study of Discrimination against Persons Born out of Wedlock*[23] prepared in 1967 by Mr. Vieno Voitto Saario, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the draft general principles on equality and non-discrimination in respect of persons born out of wedlock adopted by the Sub-Commission at its nineteenth session, also in 1967,[24] and documentation relating to new developments in this field prepared by the Secretary-General pursuant to Sub-Commission resolution I (XXII) (E/CN.4/1078 and Add.1–5).

On the recommendation of the Commission, the Economic and Social Council, in resolution 1787 (LIV) of 18 May 1973, requested the Secretary-General to transmit the draft general principles to Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations for their comments, invited the Commission for Social Development and the Commission on the Status of Women to consider the study further in the light of such comments and requested the Commission on Human Rights to consider the item at its thirty-first session.

8. Rights of persons belonging to ethnic, religious and linguistic minorities

At its twenty-sixth and twenty-seventh sessions, the Sub-Commission on Prevention of Discrimination and Protection of Minorities examined the progress reports submitted by Mr. Francesco Capotorti, the Special Rapporteur on the study of the rights of persons belonging to ethnic, religious and linguistic minorities (E/CN.4/Sub.2/L.582 in 1973; E/CN.4/Sub.2/L.595 in 1974). In its resolutions 2 (XXVI) of 13 September 1973 and 1 (XXVII) of 9 August 1974, the Sub-Commission requested the Special Rapporteur to continue with his study.

9. Discrimination against indigenous populations

At its twenty-sixth and twenty-seventh sessions, the Sub-Commission also examined the progress reports submitted by Mr. José R. Martínez Cobo, the Special Rapporteur on the study of the problem of discrimination against indigenous populations (E/CN.4/Sub.2/L.584 in 1973; E/CN.4/Sub.2/L.596 in 1974). At its twenty-sixth session, the Sub-Commission also heard the Special Rapporteur's statement on his visits to Australia, Malaysia and New Zealand in June 1973 (E/CN.4/Sub.2/SR.671). At the twenty-seventh session, the Special Rapporteur made a statement on his visits to Bolivia, Brazil, Paraguay and Peru in June 1974 (E/CN.4/Sub.2/SR.708). In its resolutions 1 (XXVI) of 11 September 1973 and 6 (XXVII) of 20 August 1974, the Sub-Commission requested the Special Rapporteur to continue with his study.

10. Prevention and punishment of genocide

At its twenty-sixth session, the Sub-Commission considered the progress report submitted by Mr. Nicodème Ruhashyankiko, the Special Rapporteur on the study of the question of the prevention and punishment of the crime of genocide (E/CN.4/Sub.2/L.583) and requested the Special Rapporteur to continue with his study (resolution 4 (XXVI) of 19 September 1973).

In 1974, the Special Rapporteur was unable to be present and to submit his report (E/CN.4/Sub.2/L.597) to the Sub-Commission. He was invited to continue with his study

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[23] United Nations publication, Sales No. E.68.XIV.3.

[24] *Ibid.*, annex VII.

and to present a further progress report to the Sub-Commission at its twenty-eighth session (E/CN.4/1160, chap. XIX (b)).

11. Prevention of the exploitation of labour through illicit and clandestine trafficking

On the recommendation of the General Assembly (resolution 2920 (XXVII) of 15 November 1972), the Commission on Human Rights considered the question of the exploitation of labour through illicit and clandestine trafficking as a matter of priority at its twenty-ninth session.

On the recommendation of the Commission, the Economic and Social Council, in resolution 1789 (LIV) of 18 May 1973, urged States to ratify the relevant conventions of the International Labour Organisation and to conclude, as appropriate, bilateral agreements relating to migration for employment, and requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on the Status of Women to study the question further on the basis of material, studies and suggestions to be submitted by Member States.

The Sub-Commission, in its resolution 6 (XXVI) of 19 September 1973, decided to entrust Mrs. Halima Warzazi with the task of preparing, in co-operation with the Secretariat, a study on the question of the exploitation of labour through illicit and clandestine trafficking. At its twenty-seventh session, the Sub-Commission, having received a preliminary report by Mrs. Warzazi (E/CN.4/Sub.2/351 and Add.1 and E/CN.4/Sub.2/352), decided to consider the final version of the report at its twenty-eighth session.

12. Adverse consequences of assistance given to colonial and racist régimes in southern Africa

At its twenty-sixth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities considered the question on the basis of a survey (E/CN.4/Sub.2/336 and Corr.1) prepared by the Secretary-General in accordance with Sub-Commission resolution 6 (XXV) of 30 August 1972 and other relevant material furnished by Governments and interested organizations.

On the recommendation of the Sub-Commission (resolution 3 (XXVI) of 19 September 1973), the Commission on Human Rights, in its resolution 3 (XXX) of 14 February 1974, authorized the Sub-Commission to appoint a special rapporteur to evaluate urgently the importance and the sources of political, military, economic and other assistance given by certain States to the racist and colonial régimes in southern Africa, as well as the direct or indirect effects of such assistance on the perpetuation of colonialism, racial discrimination and *apartheid*; and decided to consider this topic as a matter of priority at its thirty-second session. On the recommendation of the Commission, the Economic and Social Council, in resolution 1864 (LVI) of 17 May 1974, confirmed the authorization.

The Sub-Commission, in its resolution 2 (XXVII) of 16 August 1974, appointed Mr. Ahmed M. Khalifa special rapporteur to carry out a study on "The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa". Mr. Khalifa was requested to submit a preliminary report on the progress of his study to the Sub-Commission at its twenty-eighth session.

13. The historical and current development of the right of peoples to self-determination

The Commission on Human Rights, in resolution 10 (XXIX) of 22 March 1973, requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to place on its agenda and give high priority to the item entitled "The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms", and to report on the results of its consideration to the Commission at its thirtieth session.

At its twenty-sixth session, the Sub-Commission considered the item and after holding a preliminary discussion of the subject with a view to establishing guidelines for further

study, requested the Commission to authorize it to designate a special rapporteur for the purpose of preparing the study. On the recommendation of the Commission, the Economic and Social Council, in resolution 1865 (LVI) of 17 May 1974, approved the decision of the Sub-Commission.

As authorized, the Sub-Commission, by resolution 3 (XXVII) of 16 August 1974, appointed Mr. Aureliu Cristescu special rapporteur to carry out a study on the historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms, and requested him to submit a preliminary report on the progress of his work to the Sub-Commission at its twenty-eighth session.

14. Implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination

In accordance with General Assembly resolution 2649 (XXV) of 30 November 1970 and Commission on Human Rights resolution 8 (XXVII) of 11 March 1971, the Secretary-General presented to the Commission at its twenty-ninth session a report on the implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination (E/CN.4/1081 and Corr.1 and E/CN.4/1081/Add.1). The Commission decided, in resolution 9 (XXIX) of 22 March 1973, to consider this item as a matter of priority at its next session.

At its thirtieth session, the Commission, in resolution 5 (XXX) of 20 February 1974, invited the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a special rapporteur to analyse the report of the Secretary-General. The Economic and Social Council (resolution 1866 (LVI) of 17 May 1974) approved the Commission's decision.

Pursuant to the decision, the Sub-Commission by resolution 4 (XXVII) of 16 August 1974, appointed Mr. Hector Gros Espiell special rapporteur to analyse the updated report of the Secretary-General (E/CN.4/1081 and Corr.1 and Add.1 and 2 and Add.2/Corr.1) and to make recommendations to the Commission at its thirty-second session with regard to the implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination, and to submit a preliminary report to the Sub-Commission at its twenty-eighth session.

15. International legal protection of the human rights of individuals who are not citizens of the country in which they live

At its twenty-ninth session, the Commission considered the recommendation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (resolution 8 (XXV)) that the Commission should consider the problem of the applicability of the present provisions for the international legal protection of the human rights of individuals who are not citizens of the country in which they live.

On the recommendation of the Commission, the Economic and Social Council, in resolution 1790 (LIV) of 18 May 1973, urged States, pending the adoption of further measures in this field, to accord the highest practicable level of protection to all individuals who are not their citizens but who are nevertheless under their jurisdiction, and called upon all States to respect the right of individuals to communicate with duly appointed consular officials sent by the State of which they are nationals and, as appropriate, to have access to them, in accordance with the relevant rules of international law. The Council decided to consider this question further and requested the Commission and the Sub-Commission to prepare appropriate recommendations.

As requested, the Sub-Commission at its twenty-sixth session, considered the item entitled "The problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live". In this connexion, the Secretary-General presented a survey of those international instruments in the field of human rights which provide for distinctions between nationals and individuals who are not citizens of the States in which they live, including refugees and stateless persons (E/CN.4/Sub.2/335). The Sub-Commission decided to postpone further consideration of the item to its twenty-seventh session.

On the recommendation of the Commission on Human Rights (resolution 11 (XXX) of 6 March 1974), the Economic and Social Council, in resolution 1871 (LVI) of 17 May 1974, requested the Sub-Commission to consider as a matter of high priority at its twenty-seventh session the implementation of paragraph 1 of Council resolution 1790 (LIV), and to submit appropriate recommendations to the Commission at its thirty-first session.

In resolution 10 (XXVII) of 21 August 1974, the Sub-Commission, having considered the item, entrusted Baroness Elles with the task of preparing a report supplementing existing studies on the subject, for submission to the Sub-Commission at its twenty-eighth session.

16. DUTIES TO THE COMMUNITY AND LIMITATIONS ON HUMAN RIGHTS AND FREEDOMS

By resolution 9 (XXVII) of 21 August 1974, the Sub-Commission entrusted Mrs. Erica Irene Daes with the task of preparing a study on "The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights", which it would examine in its preliminary form at the twenty-eighth session and in its final form at the twenty-ninth session.

J. Periodic reports on human rights

Under Economic and Social Council resolutions 1074 C (XXXIX) of 28 July 1965 and 1596 (L) of 21 May 1971, States Members of the United Nations or members of specialized agencies are invited to submit reports on developments in human rights in the territories subject to their jurisdiction once every two years in a continuing cycle.[25]

As provided by the Economic and Social Council in paragraph 2 of its resolution 1693 (LII) of 2 June 1972, the *Ad Hoc* Committee on Periodic Reports held a special session at United Nations Headquarters from 11 to 19 January 1973. The Committee submitted its findings and recommendations for the rationalization and improvement of the system (E/CN.4/1104) to the Commission on Human Rights at its twenty-ninth session. The Commission, after considering the report, adopted resolution 22 (XXIX) of 4 April 1973, by which it forwarded the report to the Council and endorsed the general recommendations and the recommendations concerning periodic reports contained therein. The Economic and Social Council at its fifty-fourth session also endorsed those recommendations.

At its twenty-ninth session the Commission on Human Rights considered, with the assistance of its *Ad Hoc* Committee on Periodic Reports, the reports on freedom of information for the period 1 July 1967 to 30 June 1970 (E/CN.4/1066 and Add.1–6, Add. 4/Corr.1, Add.5–12 and E/CN.4/1067 and Add.1 and 2), examination of which had been postponed from its previous session and the reports on civil and political rights for the period 1 July 1968 to 30 June 1971 (E/CN.4/1098 and Add.1–17; E/CN.4/1100 and Add. 1).

As requested by the Commission in resolution 24 (XXIX), the Economic and Social Council at its fifty-fourth session drew the attention of the General Assembly to the importance of the periodic reports system and invited the Assembly to urge States Members of the United Nations and members of the specialized agencies to co-operate fully in submitting reports under that system.

At its thirtieth session, the Commission on Human Rights considered, with the assistance of its *Ad Hoc* Committee on Periodic Reports, the additional reports on civil and political rights for the period 1 July 1968 to 30 June 1971 received from States (E/CN.4/1098/Add.18–25), the analytical summary of the additional periodic reports (E/CN.4/1103/Add.1 and 2), the subject and country index to those reports (E/CN.4/1102/Add.1) and the memorandum on the status of multilateral international agreements in the field of human rights concluded under the auspices of the United Nations (E/CN.4/907/Rev.10), prepared by the Secretary-General.

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[25] First six-year cycle:

(i) Civil and political rights (1 July 1968–30 June 1971), to be submitted in 1972;

(ii) Economic, social and cultural rights (1 July 1969–30 June 1973), to be submitted in 1974;

(iii) Freedom of information (1 July 1970–30 June 1975), to be submitted in 1976.

The Commission, on the recommendation of the *Ad Hoc* Committee, adopted resolution 12 (XXX) of 6 March 1974 by which it reiterated the views it had expressed in resolution 24 (XXIX) of 4 April 1973, noted with regret that only a relatively small number of Governments had submitted periodic reports on civil and political rights covering the period from 1 July 1968 to 30 June 1971, expressed the hope that all Governments would submit reports under the new six-year cycle within the established time-limits, and urged Governments to submit their reports on economic, social and cultural rights by 31 March 1974.

K. Human rights and scientific and technological developments

The Commission on Human Rights at its twenty-ninth session considered briefly the question of human rights and scientific and technological developments. However, because of lack of time, it postponed further consideration to its thirtieth session.

In resolution 3149 (XXVIII) of 14 December 1973 the General Assembly requested the Commission to give high priority to the consideration of the item entitled "Human rights and scientific and technological developments". In resolution 3150 (XXVIII), also adopted on 14 December 1973, the Assembly, *inter alia*, recommended that all States should pursue a policy of utilizing all scientific and technological achievements to satisfy the material and spiritual needs of all sectors of the population; invited the Secretary-General, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and other specialized agencies concerned to pay particular attention to the problem of the protection of broad sectors of the population against social and material inequalities, as well as other harmful effects which might arise.

At its thirtieth session the Commission considered a number of documents[26] prepared by the Secretary-General in accordance with General Assembly resolutions 2450 (XXIII) of 19 December 1968, 2721 (XXV) of 15 December 1970 and 3026 B (XXVII) of 18 December 1972 and Commission resolution 10 (XXVII) of 18 March 1971. The Commission also had before it a report[27] by UNESCO, prepared in accordance with Commission resolution 10 (XXVII) and General Assembly resolution 3026 B (XXVII).

In its resolution 2 (XXX) of 12 February 1974, the Commission on Human Rights renewed the appeal contained in General Assembly resolution 3150 (XXVIII), in which all States were called upon to develop further international co-operation to ensure that the results of scientific and technological developments were used in the interests of strengthening international peace and security, the realization of the peoples' right to self-determination and respect for national sovereignty, freedom and independence and for the purpose of economic and social development and improving the quality of life for the entire population. The Secretary-General was requested to bring to the attention of Governments, for preliminary study and possible comments, the studies which had already been prepared,

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[26] (*a*) Preliminary reports concerning the impact of scientific and technological developments on certain economic, social and cultural rights, namely:

(i) On the right to a standard of living adequate for health and well-being, including the right to food (E/CN.4/1084, paras. 12–57), the right to clothing (E/CN.4/1084, paras. 58–89) and the right to housing (E/CN.4/1115, paras. 103–124);

(ii) On the right to work, to just and favourable conditions of work, to just and favourable remuneration and to equal pay for equal work, and on the right to form and join trade unions (E/CN.4/1115, paras. 12–102); and

(iii) On the right to rest and leisure and the right to social security (E/CN.4/1141, paras. 10–28);

(*b*) Reports as requested in General Assembly resolution 2450 (XXIII), paragraph 1 (*a*) and (*c*):

(i) On respect for the privacy of individuals and the integrity and sovereignty of nations in the light of advances in recording and other techniques (E/CN.4/1116 and Corr.1 and Add.1–3 and Add.3/Corr.1 and Add.4);

(ii) On uses of electronics which might affect the rights of the person and the limits which should be placed on such uses in a democratic society (E/CN.4/1142 and Corr.1 and Add.1).

[27] This report (E/CN.4/1144) dealt with the impact of scientific and technological developments on the rights laid down in articles 26 and 27 of the Universal Declaration of Human Rights, concerning the right to education, the right to culture and authors' rights.

as well as the studies to be completed in accordance with General Assembly resolution 2450 (XXIII) and Commission resolution 10 (XXVII); to seek the views and observations of Governments and the specialized agencies concerned on the use to which science and technology could be put (*a*) to strengthen international peace and security and the fundamental rights of peoples, (*b*) to promote and ensure general respect for the human rights proclaimed in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, and (*c*) through raising their standard of living, to facilitate and protect the enjoyment by all peoples of their right to employment, education, food, health and economic, social and cultural well-being; and to submit to the Commission an analysis of the views and observations received in order to enable it to consider possible guidelines on standards which could be included in appropriate international instruments. The Commission also decided to continue its consideration of the item at future sessions with a view to taking further action on the matter.

The General Assembly, at its twenty-ninth session, had before it a note by the Secretary-General containing background information on the work in progress under relevant resolutions as regards the question of human rights and scientific and technological developments (A/9645). In resolution 3268 (XXIX) of 10 December 1974, the Assembly, while acknowledging the indispensable role of science and technology for development, considered that it was necessary, on the one hand, to ensure that scientific and technological developments were not used in a manner contrary to the principles of international law and, on the other hand, to protect human rights and fundamental freedoms in situations of scientific and technological development; drew the attention of States to the advantages that might be derived from the elaboration and adoption, by the competent national authorities, of measures designed to adapt national legislation and practices, where appropriate, not only to take account of new technology but also to safeguard the fundamental rights of the individual and of groups or organizations in all sectors of social life, and invited Governments which already had experience in this field to transmit to the Secretary-General the information available to them; drew the attention of the Economic and Social Council and the Commission on Human Rights to the importance of collecting qualified opinions in the study of such problems, particularly with regard to the code of ethics, and requested them to take the necessary measures for the implementation of the resolution in liaison, in particular, with the Committee on Science and Technology for Development and the Advisory Committee on the Application of Science and Technology to Development, which were invited to follow these problems as a whole at regular intervals; requested the Secretary-General to invite the specialized agencies to go into greater detail in the studies which they were pursuing and to consider the preparation of recommendations concerning international standards in the areas within their competence that fell within the purview of the resolution; and requested the Commission on Human Rights to draw up a programme of work with a view to undertaking, in particular, the formulation of standards in the areas that would appear to be sufficiently analysed and to transmit that programme to the Economic and Social Council at its sixtieth session.

L. Teaching of human rights in universities and development of an independent scientific discipline of human rights

The Commission on Human Rights considered at its twenty-ninth session a report of the United Nations Educational, Scientific and Cultural Organization (E/CN.4/1119 and Corr.1 and 2) summarizing the findings of a survey on the teaching of human rights in faculties of law and political science throughout the world. In this connexion UNESCO indicated that it had initiated the preparation of a textbook for the university teaching of human rights as a follow-up to the survey, to be written by an international group of experts.

In resolution 17 (XXIX) of 3 April 1973, the Commission requested UNESCO to continue to extend its activities relating to the teaching of human rights in universities and the development of an independent scientific discipline of human rights and, in particular, to encourage teaching and research in human rights in universities and to accelerate the preparation of appropriate material for this purpose. The Commission also drew the attention of the Economic and Social Council to the fact that it favoured the establishment of a centre for teaching and research in the field of human rights within the framework of the United Nations University established by General Assembly resolution

2951 (XXVII) of 11 December 1972. The Council, at its fifty-fourth session, took note of this fact.

M. Improvement of the effective enjoyment of human rights and fundamental freedoms

The General Assembly at its twenty-eighth session considered a note by the Secretary-General transmitting the documentation pertaining to the question of the creation of the post of United Nations High Commissioner for Human Rights (A/9074). In resolution 3136 (XXVIII) of 14 December 1973, the General Assembly decided to keep under review the consideration of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, and to include in the provisional agenda of its thirtieth session an item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

In resolution 3221 (XXIX) of 6 November 1974, the General Assembly requested the Secretary-General to solicit the views of Member States, the specialized agencies and regional intergovernmental organizations on the subject; invited appropriate non-governmental organizations in consultative status with the Economic and Social Council to submit to the Secretary-General any relevant material on the subject, taking into account that such material would not be politically motivated contrary to the principles of the United Nations Charter; and requested the Secretary-General to prepare a concise analytical report, to be submitted to the Assembly at its thirtieth session, based on the views and material submitted under paragraphs 1 and 2 of the resolution and other relevant material.

N. Advisory services in the field of human rights

Continuing the implementation of the advisory services programme in the field of human rights established by General Assembly resolution 926 (X) of 14 December 1955, the Secretary-General organized an international seminar on youth and human rights at San Remo, Italy, from 28 August to 10 September 1973 (ST/TAO/HR/47); a regional seminar on the study of new ways and means for promoting human rights with special attention to the problems and needs of Africa at Dar es Salaam, United Republic of Tanzania, from 23 October to 5 November 1973 (ST/TAO/HR/48); and an international seminar on the promotion and protection of the human rights of national, ethnic and other minorities at Ohrid, Yugoslavia, from 25 June to 8 July 1974 (ST/TAO/HR/49).

The Secretary-General awarded 12 human rights fellowships to candidates from 12 countries in 1973, and 24 human rights fellowships to candidates from 23 countries in 1974, bringing to 535 the total number of awards under this programme. Preference was given to persons having direct responsibilities in the field of implementation of human rights in their respective countries.

In accordance with Commission on Human Rights resolution 17 (XXIII) of 22 March 1967, by which the Commission had requested the Secretary-General to consider the organization from 1969 onwards of one or more regional training courses on human rights, a training course on the subject "Human rights in the administration of criminal justice" was held at the National Center for Social and Criminological Research, Cairo, Egypt, from 18 June to 7 July 1973. The training course was attended by 18 participants from African countries members of the Economic Commission for Africa and from Arabic-speaking countries outside Africa.

The Secretary-General submitted a report on the programme of advisory services in the field of human rights to the Commission on Human Rights at its thirtieth session (E/CN.4/1136).

STATUS OF CERTAIN INTERNATIONAL INSTRUMENTS RELATING TO HUMAN RIGHTS*

* Concerning the status of these agreements at the end of 1972 see *Yearbook on Human Rights for 1972*, pp. 333–339. 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 Organization of American States and the Secretariat-General of the Council of Europe, respectively. The information concerning the Geneva Conventions of 12 August 1949 was taken from the 1973 and 1974 Annual Reports of the International Committee of the Red Cross.

I. STATES PARTIES TO UNITED NATIONS HUMAN

× = Action taken before 1 January 1973. + = Action taken

States	*International Covenant on Economic, Social and Cultural Rights* (1)	*International Covenant on Civil and Political Rights* (2)	*Optional Protocol to the International Covenant on Civil and Political Rights* (3)	*Convention on the Prevention and Punishment of the Crime of Genocide* (4)	*Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* (5)	*International Convention on the Elimination of All Forms of Racial Discrimination* (6)	*Convention relating to the Status of Refugees* (7)	*Protocol relating to the Status of Refugees* (8)	*Convention relating to the Status of Stateless Persons* (9)	*Convention on the Reduction of Statelessness* (10)
Afghanistan				×						
Albania				×	×					
Algeria				×		×	×	×	×	
Argentina				×		×	×	×	×	
Australia				×			×	+	+	× +
Austria				×		×	×	+		
Bahamas										
Bahrain										
Bangladesh										
Barbados	+	+	+			×			×	
Belgium				×			×	×	×	
Bhutan										
Bolivia						×				
Botswana						+	×	×	×	
Brazil				×		×	×	×		
Bulgaria	×	×		×	×	×				
Burma				×						
Burundi							×	×		
Byelorussian SSR	+	+		×	×	×				
Canada				×		×	×	×		
Central African Republic						×	×	×		
Chad										
Chile	×	×		×		×	×	×		
China[2]										
Colombia	×	×	×	×			×			
Congo							×	×		
Costa Rica	×	×	×	×		×				
Cuba				×	×	×				
Cyprus	×	×				×	×	×		
Czechoslovakia				×	×	×				
Dahomey							×	×		
Democratic People's Republic of Korea										
Democratic Yemen						×				
Denmark	×	×	×	×		×	×	×	×	
Dominican Republic										
Ecuador	×	×	×	×		×	×	×	×	
Egypt				×		×				
El Salvador				×						
Equatorial Guinea										
Ethiopia				×			×	×		
Fiji				+		+	×	×	×	

RIGHTS INSTRUMENTS[1] (31 DECEMBER 1974)

during 1973–1974: for further details, see table II.A below.

Convention on the Political Rights of Women (11)	*Convention on the Nationality of Married Women* (12)	*Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* (13)	*Convention on the International Right of Correction* (14)	*Protocol amending the Slavery Convention signed at Geneva on 25 September 1926* (15)	*Slavery Convention of 25 September 1926 as amended* (16)	*Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (17)	*Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (18)	*International Convention on the Suppression and Punishment of the Crime of* Apartheid (19)	States
×				×		×			Afghanistan
×	×				×	×	×		Albania
					×	×	×		Algeria
×	×	×				×	×		Argentina
+	×			×		×			Australia
×	×	×		×		×			Austria
									Bahamas
									Bahrain
									Bangladesh
+						×			Barbados
×				×		×	×		Belgium
									Bhutan
×									Bolivia
									Botswana
×	×	×			×	×	×		Brazil
×	×					×	×	+	Bulgaria
				×					Burma
									Burundi
×	×				×	×	×		Byelorussian SSR
×	×			×		×			Canada
×						×			Central African Republic
								+	Chad
×									Chile
									China[2]
									Colombia
×									Congo
×									Costa Rica
×	×	×	×	×		×	×		Cuba
×	×		×			×			Cyprus
×	×	×				×	×		Czechoslovakia
		×						+	Dahomey
									Democratic People's Republic of Korea
									Democratic Yemen
×	×	×		×		×			Denmark
×	×	×				×			Dominican Republic
×	×			×		×			Ecuador
			×	×		×	×		Egypt
			×						El Salvador
									Equatorial Guinea
×			×		×	×			Ethiopia
×	×	×		×		×			Fiji

I. STATES PARTIES TO UNITED NATIONS HUMAN

States	*International Covenant on Economic, Social and Cultural Rights* (1)	*International Covenant on Civil and Political Rights* (2)	*Optional Protocol to the International Covenant on Civil and Political Rights* (3)	*Convention on the Prevention and Punishment of the Crime of Genocide* (4)	*Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* (5)	*International Convention on the Elimination of All Forms of Racial Discrimination* (6)	*Convention relating to the Status of Refugees* (7)	*Protocol relating to the Status of Refugees* (8)	*Convention relating to the Status of Stateless Persons* (9)	*Convention on the Reduction of Statelessness* (10)
Finland				×		×	×	×	×	
France				×		×	×	×	×	
Gabon							×	+		
Gambia							×	×		
German Democratic Republic	+	+		+	+	+				
Germany, Federal Republic of	+	+		×		×	×	×		
Ghana				×		×	×	×		
Greece				×		×	×	×		
Grenada										
Guatemala				×						
Guinea					×		×	×	×	
Guinea-Bissau										
Guyana										
Haiti				×		×				
Holy See						×	×	×		
Honduras				×						
Hungary	+	+		×	×	×				
Iceland				×		×	×	×		
India				×	×	×				
Indonesia										
Iran				×		×				
Iraq	×	×		×		×				
Ireland							×	×	×	+
Israel				×			×	×	×	
Italy				×			×	×	×	
Ivory Coast						+	×	×		
Jamaica				×		×	×			
Japan										
Jordan				×		+				
Kenya	×	×			×		×			
Khmer Republic				×						
Kuwait						×				
Laos				×		+				
Lebanon	×	×		×		×				
Lesotho				+		×			+	
Liberia				×			×		×	
Libyan Arab Republic	×	×				×				
Liechtenstein							×	×		
Luxembourg							×	×	×	
Madagascar	×	×	×			×	×			

RIGHTS INSTRUMENTS[1] (31 DECEMBER 1974) (*continued*)

Convention on the Political Rights of Women (11)	*Convention on the Nationality of Married Women* (12)	*Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* (13)	*Convention on the International Right of Correction* (14)	*Protocol amending the Slavery Convention signed at Geneva on 25 September 1926* (15)	*Slavery Convention of 25 September 1926 as amended* (16)	*Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (17)	*Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (18)	*International Convention on the Suppression and Punishment of the Crime of* Apartheid (19)	*States*
×	×	×		×		×	×		Finland
×			×	×		×	×		France
									Gabon
									Gambia
×	+	+		+		+	+	+	German Democratic Republic
×	+	×		×		×			Germany, Federal Republic of
×						×			Ghana
×				×		×			Greece
									Grenada
×	×		×						Guatemala
				×			×		Guinea
									Guinea-Bissau
									Guyana
×						×	×		Haiti
									Holy See
									Honduras
×	×			×		×	×	+	Hungary
×						×			Iceland
×	×			×		×	×		India
									Indonesia
						×			Iran
				×		×	×		Iraq
×	×			×		×			Ireland
×	×			×		×	×		Israel
						×			Italy
						×			Ivory Coast
×	×		×		×	×			Jamaica
×							×		Japan
					×	×			Jordan
									Kenya
						×			Khmer Republic
					×	×	×		Kuwait
×						×			Laos
×									Lebanon
+	+				+	+			Lesotho
				×					Liberia
					×		×		Libyan Arab Republic
									Liechtenstein
						×			Luxembourg
×					×	×			Madagascar

I. STATES PARTIES TO UNITED NATIONS HUMAN

States	*International Covenant on Economic, Social and Cultural Rights* (1)	*International Covenant on Civil and Political Rights* (2)	*Optional Protocol to the International Covenant on Civil and Political Rights* (3)	*Convention on the Prevention and Punishment of the Crime of Genocide* (4)	*Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* (5)	*International Convention on the Elimination of All Forms of Racial Discrimination* (6)	*Convention relating to the Status of Refugees* (7)	*Protocol relating to the Status of Refugees* (8)	*Convention relating to the Status of Stateless Persons* (9)	*Convention on the Reduction of Statelessness* (10)
Malawi										
Malaysia										
Maldives										
Mali	+	+		+		+	+	+		
Malta						×	×	×		
Mauritania										
Mauritius	+	+	+			×				
Mexico				×						
Monaco				×			×			
Mongolia	+	+		×	×	×				
Morocco				×		×	×	×		
Nauru										
Nepal				×		×				
Netherlands				×		×	×	×	×	
New Zealand						×	×	+		
Nicaragua				×						
Niger						×	×	×		
Nigeria					×	×	×	×		
Norway	×	×	×	×		×	×	×	×	×
Oman										
Pakistan				×						
Panama				×		×				
Paraguay							×	×		
Peru				×		×	×			
Philippines	+			×	+	×				
Poland				×	×	×				
Portugal							×			
Qatar										
Republic of Korea				×					×	
Republic of Viet-Nam				×						
Romania	+	+		×	×	×				
Rwanda										
San Marino										
Saudi Arabia				×						
Senegal						×	×	×		
Sierra Leone						×				
Singapore										
Somalia										
South Africa										
Spain				×		×				
Sri Lanka				×						

RIGHTS INSTRUMENTS[1] (31 DECEMBER 1974) (*continued*)

Convention on the Political Rights of Women (11)	*Convention on the Nationality of Married Women* (12)	*Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* (13)	*Convention on the International Right of Correction* (14)	*Protocol amending the Slavery Convention signed at Geneva on 25 September 1926* (15)	*Slavery Convention of 25 September 1926 as amended* (16)	*Supplementary Convention on the Abolition of Slavery, the Slave Trade, Institutions and Practices Similar to Slavery* (17)	*Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (18)	*International Convention on the Suppression and Punishment of the Crime of* Apartheid (19)	*States*
×	×				×	×	×		Malawi
	×					×			Malaysia
									Maldives
+	+	×		+		+	×		Mali
×	+				×	×			Malta
									Mauritania
×	×				×	×			Mauritius
				×		×	×		Mexico
				×					Monaco
×				×	×	×			Mongolia
						×	+		Morocco
									Nauru
×					×	×			Nepal
×	×	×		×		×			Netherlands
×	×	×		×		×			New Zealand
×									Nicaragua
×		×		×		×			Niger
					×	×			Nigeria
×	×	×		×		×	×		Norway
									Oman
×					×	×	×		Pakistan
									Panama
									Paraguay
									Peru
×		×			×	×	×		Philippines
×	×	×				×	×		Poland
						×			Portugal
									Qatar
×							×		Republic of Korea
					×				Republic of Viet-Nam
×	×			×		×	×		Romania
									Rwanda
						×			San Marino
					+	+			Saudi Arabia
×									Senegal
×	×		×		×	×			Sierra Leone
	×					×	×		Singapore
									Somalia
				×			×		South Africa
+		×				×	×		Spain
	×				×	×	×		Sri Lanka

I. STATES PARTIES TO UNITED NATIONS HUMAN

States	*International Covenant on Economic, Social and Cultural Rights* (1)	*International Covenant on Civil and Political Rights* (2)	*Optional Protocol to the International Covenant on Civil and Political Rights* (3)	*Convention on the Prevention and Punishment of the Crime of Genocide* (4)	*Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* (5)	*International Convention on the Elimination of All Forms of Racial Discrimination* (6)	*Convention relating to the Status of Refugees* (7)	*Protocol relating to the Status of Refugees* (8)	*Convention relating to the Status of Stateless Persons* (9)	*Convention on the Reduction of Statelessness* (10)
Sudan							+	+		
Swaziland						×		×		
Sweden	×	×	×	×		×	×	×	×	×
Switzerland							×	×	×	
Syrian Arab Republic	×	×		×		×				
Thailand										
Togo						×	×	×		
Tonga				×		×				
Trinidad and Tobago						+			×	
Tunisia	×	×		×	×	×	×	×	×	
Turkey				×			×	×		
Uganda									×	
Ukrainian SSR	+	+		×	×	×				
Union of Soviet Socialist Republics	+	+		×	×	×				
United Arab Emirates						+				
United Kingdom				×		×	×	×	×	×
United Republic of Cameroon					×	×	×	×		
United Republic of Tanzania						×	×	×		
United States of America								×		
Upper Volta				×		+				
Uruguay	×	×	×	×		×	×	×		
Venezuela				×		×				
Western Samoa										
Yemen										
Yugoslavia	×	×		×	×	×	×	×	×	
Zaire				×			×			
Zambia						×	×	×	+	
TOTAL NUMBER OF STATES PARTIES	30	29	10	79	20	81	65	58	29	6

[1] 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 1974* (United Nations publication, Sales No. E.75.V.9).

[2] The following instruments were ratified on behalf of the Republic of China on the dates indicated in parentheses:
Convention on the Prevention and Punishment of the Crime of Genocide (19 July 1951);
International Convention on the Elimination of All Forms of Racial Discrimination (10 December 1970);
Convention on the Political Rights of Women (21 December 1953);
Convention on the Nationality of Married Women (22 September 1958);
Protocol amending the Slavery Convention signed at Geneva on 25 September 1926 (14 December 1955);
Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (28 May 1959).

RIGHTS INSTRUMENTS[1] (31 DECEMBER 1974) (*concluded*)

Convention on the Political Rights of Women (11)	*Convention on the Nationality of Married Women* (12)	*Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* (13)	*Convention on the International Right of Correction* (14)	*Protocol amending the Slavery Convention signed at Geneva on 25 September 1926* (15)	*Slavery Convention of 25 September 1926 as amended* (16)	*Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (17)	*Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (18)	*International Convention on the Suppression and Punishment of the Crime of Apartheid* (19)	*States*
					×	×			Sudan
×	×								Swaziland
×	×	×		×		×			Sweden
				×		×			Switzerland
				×		×	×		Syrian Arab Republic
×									Thailand
									Togo
									Tonga
×	×	×			×	×			Trinidad and Tobago
×	×	×			×	×			Tunisia
×				×		×			Turkey
	×				×	×			Uganda
×	×				×	×	×		Ukrainian SSR
									Union of Soviet Socialist Republics
×	×				×	×	×		United Arab Emirates
									United Kingdom
×	×	×		×		×			United Republic of Cameroon
	×				×	×			United Republic of Tanzania
				×		×			United States of America
		×					×		Upper Volta
									Uruguay
							×		Venezuela
		×							Western Samoa
									Yemen
×	×	×	×	×		×	×		Yugoslavia
									Zaire
×					+	+			Zambia
76	48	27	10	41	31	86	42	5	TOTAL NUMBER OF STATES PARTIES

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 of '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."

II. STATES THAT BECAME PARTIES TO CERTAIN INTERNATIONAL INSTRUMENTS DURING 1973–1974

A. United Nations

	Date of entry into force	Ratification / accession (a) / succession (b) / acceptance (c) — State	1973	1974	Number of States parties (31 Dec. 1974)	Text published in Yearbook on Human Rights — Year	Pages
1. International Covenant on Economic, Social and Cultural Rights (New York, 1966)	Not in force as of 31 December 1974	Barbados	5 Jan. *a*		30	1966	437–441
		Byelorussian SSR	12 Nov.				
		German Democratic Republic	8 Nov.				
		Germany, Federal Republic of	17 Dec.				
		Hungary		17 Jan.			
		Mali		16 July *a*			
		Mauritius	12 Dec. *a*				
		Mongolia		18 Nov.			
		Philippines		7 June			
		Romania		9 Dec.			
		Ukrainian SSR	12 Nov.				
		Union of Soviet Socialist Republics	16 Oct.				
2. International Covenant on Civil and Political Rights (New York, 1966)	Not in force as of 31 December 1974	Barbados	5 Jan. *a*		29	1966	442–450
		Byelorrusian SSR	12 Nov.				
		German Democratic Republic	8 Nov.				
		Germany, Federal Republic of	17 Dec.				
		Hungary		17 Jan.			
		Mali		16 July *a*			
		Mauritius	12 Dec. *a*				
		Mongolia		18 Nov.			
		Romania		9 Dec.			
		Ukrainian SSR	12 Nov.				
		Union of Soviet Socialist Republics	16 Oct.				

3. Optional Protocol to the International Covenant on Civil and Political Rights (New York, 1966)	Not in force as of 31 December 1974	Barbados	5 Jan.	*a*	10	1966	450–452
		Mauritius	12 Dec.	*a*			
4. Convention on the Prevention and Punishment of the Crime of Genocide (Paris, 1948)	12 January 1951	Fiji	11 Jan.	*b*	79	1948	484–486
		German Democratic Republic	27 Mar.	*a*			
		Lesotho	29 Nov.	*a*			
		Mali	16 July	*a*			
5. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (New York, 1968)	11 November 1970	German Democratic Republic	27 Mar.	*a*	20	1968	459–460
		Philippines	15 May	*a*			
6. International Convention on the Elimination of All Forms of Racial Discrimination (New York, 1965)	4 January 1969	Botswana	20 Feb.	*a*	81	1965	389–394
		Fiji	11 Jan.	*b*			
		German Democratic Republic	27 Mar.	*a*			
		Ivory Coast	4 Jan.	*a*			
		Jordan	30 May	*a*			
		Laos	22 Feb.	*a*			
		Mali	16 July	*a*			
		Trinidad and Tobago	4 Oct.				
		United Arab Emirates	20 June	*a*			
		Upper Volta	18 July	*a*			
7. Convention relating to the Status of Refugees (Geneva, 1951)	22 April 1954	Mali	2 Feb.	*b*	65	1951	581–588
		Sudan	22 Feb.	*a*			
8. Protocol relating to the Status of Refugees (New York, 1966)	4 October 1967	Australia	13 Dec.	*a*	58	1966	452–454
		Austria	5 Sept.	*a*			
		Gabon	28 Aug.	*a*			
		Mali	2 Feb.	*a*			
		New Zealand	6 Aug.	*a*			
		Sudan	23 May	*a*			
9. Convention relating to the Status of Stateless Persons (New York, 1954)	6 June 1960	Australia	13 Dec.	*a*	29	1954	369–375
		Lesotho	4 Nov.	*b*			
		Zambia	1 Nov.	*b*			
10. Convention on the Reduction of Statelessness (New York, 1961)	Not in force as of 31 December 1974	Australia	13 Dec.	*a*	6	1961	427–430
		Ireland	18 Jan.	*a*			

II. STATES THAT BECAME PARTIES TO CERTAIN INTERNATIONAL INSTRUMENTS DURING 1973–1974 (*continued*)

A. United Nations (*continued*)

	Date of entry into force	Ratification/accession (a)/succession (b)/acceptance (c)			Number of States parties (31 Dec. 1974)	Text published in Yearbook on Human Rights	
		State	1973	1974		Year	Pages
11. Convention on the Political Rights of Women (New York, 1952)	7 July 1954	Australia		10 Dec. *a*	76	1952	375–376
		Barbados	12 Jan. *a*				
		German Democratic Republic	27 Mar. *a*				
		Lesotho		4 Nov. *a*			
		Mali		16 July *a*			
		Spain		14 Jan. *a*			
12. Convention on the Nationality of Married Women (New York, 1957)	11 August 1958	German Democratic Republic	27 Dec. *a*		48	1957	301–302
		Germany, Federal Republic of		7 Feb. *a*			
		Lesotho		4 Nov. *b*			
		Mali	2 Feb. *a*				
13. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (New York, 1962)	9 December 1964	German Democratic Republic		16 July *a*	27	1962	389–390
14. Convention on the International Right of Correction (New York, 1952)	24 August 1962				10	1952	373–375
15. Protocol amending the Slavery Convention signed at Geneva on 25 September 1926 (New York, 1953)	7 December 1953	German Democratic Republic		16 July *c*	41	1953	345–346
		Germany, Federal Republic of	29 May *c*				
		Mali	2 Feb. *c*				
16. Slavery Convention signed at Geneva on 25 September 1926 and amended by the Protocol done at the Headquarters of the United Nations, New York, on 7 December 1953[1]	7 July 1955	Lesotho		4 Nov. *b*	31	—	—
		Saudi Arabia	5 July *a*				
		Zambia	26 Mar. *b*				

17. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Geneva, 1956)	30 April 1957	German Democratic Republic		16 July *a*	86	1956	289–291
		Lesotho		4 Nov. *b*			
		Mali	2 Feb. *a*				
		Saudi Arabia	5 July *a*				
		Zambia	26 Mar. *b*				
18. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (New York, 1949)	25 July 1951	German Democratic Republic		16 July *a*	42	1949	388–391
		Morocco	17 Aug. *a*				
19. International Convention on the Suppression and Punishment of the Crime of *Apartheid* (New York, 1973)[2]	Not in force as of 31 December 1974	Bulgaria		18 July	5	—	—
		Chad		23 Oct.			
		Dahomey		30 Dec.			
		German Democratic Republic		12 Aug.			
		Hungary		20 June			

[1] For the text of the Slavery Convention of 25 September 1926 as amended, see United Nations, *Treaty Series*, vol. 212, No. 2861.
[2] For the text of the Convention, see *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 30* (A/9030), resolution 3068 (XXVIII), annex.

B. International Labour Organisation

	Date of entry into force	*Ratification*			*Number of States parties (31 Dec. 1974)*	*Text published in Yearbook on Human Rights*	
		State	*1973*	*1974*		*Year*	*Pages*
1. Forced Labour Convention, 1930 (No. 29)	1 May 1932	Fiji		19 Apr.	107	—	—
2. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	4 July 1950	Australia	28 Feb.		80	1948	427–430
3. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	18 July 1951	Australia	28 Feb.		95	1949	291–292
		Bolivia	15 Nov.				
		Fiji		19 Apr.			

II. STATES THAT BECAME PARTIES TO CERTAIN INTERNATIONAL INSTRUMENTS DURING 1973–1974 (*continued*)

B. International Labour Organisation (*continued*)

	Date of entry into force	*Ratification*			*Number of States parties (31 Dec. 1974)*	*Text published in Yearbook on Human Rights*	
		State	*1973*	*1974*		*Year*	*Pages*
4. Equal Remuneration Convention, 1951 (No. 100)	23 May 1953	Australia		10 Dec.	83	1951	469–470
		Barbados		19 Sept.			
		Bolivia	15 Nov.				
		Ireland		18 Dec.			
		Nigeria		8 May			
5. Social Security (Minimum Standards) Convention, 1952 (No. 102)	27 April 1955	Ecuador		25 Oct.	24	1952	377–389
		France		14 June			
6. Abolition of Forced Labour Convention, 1957 (No. 105)	17 January 1959	Fiji		19 Apr.	91	1957	303–304
7. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	15 June 1960	Australia	15 June		84	1958	307–308
		Austria	10 Jan.				
		Barbados		14 Oct.			
		Nepal		19 Sept.			
		Netherlands	15 Mar.				
		Romania	6 June				
8. Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)	23 April 1964	Romania	6 June		25	1962	391–394
		Spain	8 May				
9. Employment Policy Convention, 1964 (No. 122)	15 September 1966	Romania	6 June		49	1964	329–330
10. Minimum Wage Fixing Convention, 1970 (No. 131)	29 April 1972	Australia	15 June		15	1970	311–313
		Iraq		16 May			
		Mexico	18 Apr.				
		Nepal		19 Sept.			
		Netherlands	10 Oct.				
		Upper Volta		21 May			
		United Republic of Cameroon	6 July				

11. Workers' Representatives Convention, 1971 (No. 135)	30 June 1973	Austria	6 Aug.		14	1971	312–313
		Germany, Federal Republic of	26 Sept.				
		Ivory Coast	21 Feb.				
		Mexico		2 May			
		United Kingdom	15 Mar.				
		Upper Volta		21 May			
		Zambia	24 May				
12. Minimum Age Convention, 1973	Not in force as of 31 December 1974				—	—	—

C. United Nations Educational, Scientific and Cultural Organization

	Date of entry into force	Ratification / accession (a) / succession (b)			Number of States parties (31 Dec. 1974)	Text published in Yearbook on Human Rights	
		State	1973	1974		Year	Pages
1. Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character with Protocol of Signature (Beirut, 1948)	12 August 1954	Libyan Arab Republic	22 Jan. *a*		28	1948	431–433
2. Agreement on the Importation of Educational, Scientific and Cultural Materials, with annexed Protocol (Lake Success, 1950)	21 May 1952	Barbados	13 Apr. *b*		69	1950	411–415
		Libyan Arab Republic	22 Jan. *a*				
		Zambia		1 Nov. *b*			
3. Universal Copyright Convention, with Appendix Declaration relating to article XVII and Resolution concerning article XI (Geneva, 1952)	16 September 1955	Algeria	28 May		67	1952	398–402
		German Democratic Republic	5 July				
		Senegal		9 Apr.			
		Union of Soviet Socialist Republics	27 Feb.				
		United Republic of Cameroon	1 Feb.				

II. STATES THAT BECAME PARTIES TO CERTAIN INTERNATIONAL INSTRUMENTS DURING 1973–1974 (*continued*)

C. United Nations Educational, Scientific and Cultural Organization (*continued*)

	Date of entry into force	*Ratification/accession (a)/succession (b)*			*Number of States parties (31 Dec. 1974)*	*Text published in Yearbook on Human Rights*	
		State	*1973*	*1974*		*Year*	*Pages*
4. Protocol 1 annexed to the Universal Copyright Convention concerning the application of that Convention to the works of stateless persons and refugees (Geneva, 1952)	16 September 1955	Senegal		9 Apr.	51	1952	402
5. Protocol 2 annexed to the Universal Copyright Convention concerning the application of that Convention to the works of certain international organizations (Geneva, 1952)	16 September 1955				54	1952	403
6. Protocol 3 annexed to the Universal Copyright Convention concerning the effective date of instruments of ratification or acceptance of, or accession to, that Convention (Geneva, 1952)	19 August 1954				45	1952	403
7. Convention for the Protection of Cultural Property in the Event of Armed Conflict, with Regulations for the Execution of the Convention (The Hague, 1954)	7 August 1956	German Democratic Republic		16 Jan.	66	1954	380–388
		Qatar	31 July				
8. Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954)	7 August 1956	German Democratic Republic		16 Jan.	57	1954	388–389
9. Convention concerning the Exchange of Official Publications and Government Documents between States (Paris, 1958)	30 May 1961	Central African Republic	20 July		36	—	—
		Iraq	27 Dec.				
		Libyan Arab Republic	9 Jan.				
10. Convention concerning the International Exchange of Publications (Paris, 1958)	23 November 1961	Libyan Arab Republic	9 Jan.		35	—	—

11. Convention against Discrimination in Education (Paris, 1960)	22 May 1962	German Democratic Republic	5 July		62	1961	437–439
		Libyan Arab Republic	9 Jan.				
		Saudi Arabia	17 Aug.				
12. 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)	24 October 1968	Australia		22 Aug.	23	1962	398–401
		Egypt		5 Aug.			
		Libyan Arab Republic	9 Jan.				
13. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 1970)	24 April 1972	Algeria		24 June	22	1970	322–326
		Argentina	11 Jan.				
		Brazil	16 Feb.				
		Dominican Republic	7 Mar.				
		Egypt	5 Apr.				
		German Democratic Republic		16 Jan.			
		Iraq	12 Feb.				
		Jordan		15 Mar.			
		Libyan Arab Republic	9 Jan.				
		Panama	13 Aug.				
		Poland		31 Jan.			
		Zaire		23 Sept.			
14. Universal Copyright Convention as revised at Paris on 24 July 1971 with Appendix Declaration relating to article XVII and Resolution concerning article XI (Paris, 1971)	10 July 1974	Algeria	28 May		14	1971	316–324
		Germany, Federal Republic of	18 Oct.				
		Kenya		4 Jan.			
		Monaco		13 Sept.			
		Norway		7 May			
		Senegal		9 Apr.			
		Spain		10 Apr.			
		Sweden	27 June				
		United Republic of Cameroon	1 Feb.				
		Yugoslavia	3 July				

II. STATES THAT BECAME PARTIES TO CERTAIN INTERNATIONAL INSTRUMENTS DURING 1973–1974 (*continued*)

C. United Nations Educational, Scientific and Cultural Organization (*continued*)

	Date of entry into force	*Ratification/accession (a)/succession (b)*			*Number of States parties (31 Dec. 1974)*	*Text published in Yearbook on Human Rights*	
		State	*1973*	*1974*		*Year*	*Pages*
15. 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 (Paris, 1971)	10 July 1974	Germany, Federal Republic of	18 Oct.		10	1971	324
		Kenya		4 Jan.			
		Monaco		13 Sept.			
		Norway		13 Aug.			
		Senegal		9 Apr.			
		Sweden	27 June				
16. 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 (Paris, 1971)	10 July 1974	Germany, Federal Republic of	18 Oct.		11	1971	324
		Kenya		4 Jan.			
		Monaco		13 Sept.			
		Norway		13 Aug.			
		Senegal		9 Apr.			
		Spain		10 Apr.			
		Sweden	27 June				
17. Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms (Geneva, 1971)	18 April 1973	Argentina	19 Mar. *a*		15	—	—
		Australia		12 Mar. *a*			
		Ecuador		4 June			
		Germany, Federal Republic of		7 Feb.			
		India		1 Nov.			
		Mexico	11 Sept.				
		Monaco		21 Aug.			
		Panama		20 Mar.			
		Spain		16 May			
		Sweden	18 Jan.				
		United States of America	26 Nov.				
18. Convention concerning the protection of the world cultural and natural heritage (Paris, 1972)	Not in force as of 31 December 1974	Algeria		24 June	10	1972	304–310
		Australia		22 Aug.			
		Bulgaria		7 Mar.			

		Egypt		7 Feb.			
		Iraq		5 Mar.			
		Niger		23 Dec.			
		Nigeria		23 Oct.			
		Sudan		6 June			
		United States of America	7 Dec.				
		Zaire		23 Sept.			
19. Convention relating to the Distribution of Programme-carrying signals transmitted by Satellite (Brussels, 1974)	Not in force as of 31 December 1974				—	—	—
20. Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Latin America and the Caribbean (Mexico, 1974)	Not in force as of 31 December 1974				—	—	—

D. Council of Europe

	Date of entry into force	*Ratification*			*Number of States parties (31 Dec. 1974)*	*Text (or extracts) published in Yearbook on Human Rights*	
		State	*1973*	*1974*		*Year*	*Pages*
1. Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 1950)	3 September 1953	France		3 May	18	1950	418–426
		Greece		28 Nov.			
		Switzerland		28 Nov.			
2. Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (Paris, 1952)	18 May 1954	France		3 May	17	1952	411–412
		Greece		28 Nov.			
3. European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors, and Protocol thereto (Paris, 1953)	1 July 1954 (Agreement) 1 October 1954 (Protocol)	Cyprus	14 Mar.		15	1953	355–357

II. STATES THAT BECAME PARTIES TO CERTAIN INTERNATIONAL INSTRUMENTS DURING 1973–1974 (*continued*)

D. Council of Europe (*continued*)

	Date of entry into force	*Ratification*			*Number of States parties (31 Dec. 1974)*	*Text (or extracts) published in Yearbook on Human Rights*	
		State	*1973*	*1974*		*Year*	*Pages*
4. European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors, and Protocol thereto (Paris, 1953)	1 July 1954 (Agreement) 1 October 1954 (Protocol)	Cyprus	14 Mar.		15	1953	357–358
5. European Convention on Social and Medical Assistance, and Protocol thereto (Paris, 1953)	1 July 1954				8	1953	359–361
6. European Convention on Establishment (Paris, 1955)	23 February 1965	Greece		28 Nov.	11	1956	292–297
7. European Social Charter (Turin, 1961)	26 February 1965	France	9 Mar.		10	1961	442–450
8. Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms Conferring upon the European Court of Human Rights Competence to give Advisory Opinions (Strasbourg, 1963)	21 September 1970	Greece Switzerland		28 Nov. 28 Nov.	17	1963	424
9. Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms Amending Articles 29, 30 and 34 of the Convention (Strasbourg, 1963)	21 September 1970	France Greece Switzerland		3 May 28 Nov. 28 Nov.	18	1963	425
10. Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms Securing Certain Rights and Freedoms other than Those Already Included in the Convention and in the First Protocol thereto (Strasbourg, 1963)	2 May 1968	France		3 May	10	1963	425–426

11. European Code of Social Security (Strasbourg, 1964)	17 March 1968	Denmark	16 Feb.		9	1964	331–334
12. Protocol to the European Code of Social Security (Strasbourg, 1964)	17 March 1968				13	1964	335
13. 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)	20 December 1971	France Greece Switzerland		3 May 28 Nov. 28 Nov.	18	1966	462–463
14. European Convention on the Adoption of Children (Strasbourg, 1967)	26 April 1968				4	1967	386–389
15. Protocol to the European Convention on Consular Functions concerning the Protection of Refugees (Paris, 1967)	Not in force as of 31 December 1974				—	1967	389–390
16. European Agreement relating to Persons Participating in Proceedings of the European Commission and Court of Human Rights (London, 1969)	17 April 1971	Switzerland		28 Nov.	10	1969	383–385
17. European Convention on the Repatriation of Minors (The Hague, 1970)	Not in force as of 31 December 1974				—	1970	327–329
18. European Convention on the Transfer of Proceedings in Criminal Matters (Strasbourg, 1972)	Not in force as of 31 December 1974				—	1972	316–320
19. European Convention on Social Security (Strasbourg, 1972)	Not in force as of 31 December 1974				—	1972	321–332
20. European Convention on the Non-applicability of Statutory Limitation to Crimes against Humanity and War Crimes (Strasbourg, 1974)	Not in force as of 31 December 1974				—	—	—

II. STATES THAT BECAME PARTIES TO CERTAIN INTERNATIONAL INSTRUMENTS DURING 1973–1974 (*concluded*)

E. Organization of African Unity

	Date of entry into force	Ratification			Number of States parties (31 Dec. 1974)	Text published in Yearbook on Human Rights	
		State	1973	1974		Year	Pages
OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (Addis Ababa, 1969)	20 June 1974	Algeria		20 June	18	—	—
		Dahomey	13 Mar.				
		Ethiopia	30 Oct.				
		Guinea	16 Apr.				
		Morocco		16 July			
		Sudan	12 Jan.				
		Zaire	4 May				
		Zambia	14 Aug.				

F. Organization of American States

	Date of entry into force	Ratification			Number of States parties (31 Dec. 1974)	Text (or extracts) published in Yearbook on Human Rights	
		State	1973	1974		Year	Pages
1. Inter-American Convention on the Rights of the Author in Literary, Scientific and Artistic Works (Washington, D.C., 1946)[3]	14 April 1947				15	—	—
2. Inter-American Convention on the Granting of Political Rights to Women (Bogotá, 1948)	22 April 1949				16	1948	438–439
3. Inter-American Convention on the Granting of Civil Rights to Women (Bogotá, 1948)	22 April 1949				15	1948	439–440

4. Convention on Diplomatic Asylum (Caracas, 1954)	29 December 1954	Haiti		1 Dec.	12	1955	330–332
5. Convention on Territorial Asylum (Caracas, 1954)	29 December 1954	Haiti		1 Dec.	10	1955	329–330
6. Protocol of Amendment to the Charter of the Organization of American States (Buenos Aires, 1967)	27 February 1970	Uruguay		16 Apr.	23	1967	391–394
7. American Convention on Human Rights (San José, 1969)	Not in force as of 31 December 1974	Colombia	31 July		2	1969	390–400

[3] For the text of the Convention, see Pan American Union, *Law and Treaty Series*, No. 19.

G. Other instruments

	Date of entry into force	*Ratification/accession* (a)			*Number of States parties (31 Dec. 1974)*	*Text (or extracts) published in Yearbook on Human Rights*	
		State	*1973*	*1974*		*Year*	*Pages*
1. Geneva Conventions of 12 August 1949	21 October 1950	Guinea-Bissau		21 Feb. *a*	138	1949	299–309[4]
		Oman		31 Jan. *a*			
		Singapore	27 Apr. *a*				
		Swaziland	20 June *a*				
2. International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961)	18 May 1964	Austria	9 Mar.		15	1961	452–454
		Chile		5 June			

[4] The *Yearbook on Human Rights for 1949* contains extracts of the four Geneva Conventions of 12 August 1949; for the full texts, see United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

ABBREVIATIONS USED IN INDEX

art.	article
Dem.	Democratic
Fed.	Federal
int.	international
n.	note
Rep.	Republic
SSR	Soviet Socialist Republic
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
USA	United States of America
USSR	Union of Soviet Socialist Republics

INDEX

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