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INTRODUCTION

The *Yearbook on Human Rights for 1948* is the third yearbook on human rights published by the Secretariat of the United Nations.

A. Yearbook on Human Rights for 1946

On the recommendation of the nuclear Commission on Human Rights, the Economic and Social Council adopted at its second session a resolution requesting the Secretary-General to make arrangements for the "compilation and publication of a yearbook on law and usage relating to human rights, the first edition of which should include all declarations and bills on human rights now in force in the various countries..."[1] Pursuant to this resolution, the Secretariat published the first *Yearbook*.[2]

The first *Yearbook on Human Rights* contained (1) the constitutional provisions of all the countries of the world concerning human rights in force on 31 December 1946; (2) legislative texts of various countries concerning human rights; (3) statements on the law and usage governing human rights in countries having no written constitution, or the constitutions of which contain no special provisions concerning human rights; (4) studies on human rights and their protection in certain countries.[3]

B. Yearbook on Human Rights for 1947

The second *Yearbook*[4] differed in a number of respects from the *Yearbook for 1946* as a result of the directives given by the Commission on Human Rights. At its second session, held at Geneva from 2 to 17 December 1947, the Commission, having examined the first volume of the *Yearbook*, appointed a sub-committee of three members to submit suggestions on the composition of future *Yearbooks*. The report submitted by that sub-committee[5] and subsequently approved by the Commission made a number of suggestions on the composition of future *Yearbooks*, but stated that those suggestions should apply to the *Yearbook for 1947* "only in so far as this does not necessitate extensive revision which would delay publication and involve additional expense".

Accordingly, the *Yearbook for 1947* was divided into three parts:

I. *States (National Law)*

This part includes (*a*) the constitutional provisions on human rights promulgated during 1947 in the various countries of the world; (*b*) certain constitutional provisions enacted before 1947 which, for purely technical reasons, could not be included in the *Yearbook for 1946*; (*c*) legislative texts concerning human rights enacted in various countries in 1947; (*d*) statements on law and usage governing human rights which, for technical reasons, could not be included in the *Yearbook for 1946*.

II. *International Treaties and Agreements*

This part contains: (*a*) the provisions concerning human rights in various treaties and agreements concluded between States during 1947; (*b*) the provisions concerning human rights contained in Trusteeship Agreements concluded before 1 January 1948.

III. *The United Nations and Human Rights*

Part III of the *Yearbook* covers the period from the adoption of the United Nations Charter on 26 June 1946 to 31 December 1947. It is divided into three chapters: (1) human rights under the Charter of the United Nations; (2) United Nations organs which are concerned with matters of human rights; (3) summary of activities concerning human rights up to the end of 1947. Part III is followed by a Documentary Annex reproducing either the complete text or extracts of decisions concerning human rights taken by the various United Nations organs.

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[1] *Journal of the Economic and Social Council*, first year, No. 29, p. 521.

[2] *Yearbook on Human Rights for 1946*, Lake Success, New York, 1947, 450 pages.

[3] These statements or studies were made by qualified experts nominated by the Governments of the countries concerned, by delegates or officials of Governments, or by experts selected by the United Nations Secretariat.

[4] *Yearbook on Human Rights for 1947*, Lake Success, New York, 1949, 581 pages.

[5] Document E/CN.4/63/Rev.1.

The above enumeration of the parts and chapters of the second *Yearbook* shows that the field covered by it is considerably broader than that covered by the *Yearbook for 1946*. In addition to constitutional and legislative texts and statements, it includes the texts of international treaties and a description of the work of the United Nations in questions of human rights.

C. Yearbook on Human Rights for 1948

The present volume has extended still further the scope of the *Yearbook*. It includes, at the end of Part I, an important Annex on the subject of electoral law. The other sections of the *Yearbook* have also been expanded.[1] The *Yearbook for 1948* has accordingly been divided into three parts:

Part I. States (National Law)

This part includes all constitutional provisions on human rights promulgated during 1948 and certain constitutional provisions enacted before 1948 which, for technical reasons, it was impossible to include in the *Yearbook for 1947*. Part I of the *Yearbook for 1948* also includes legislative texts concerning human rights enacted in 1948.

All constitutional and legislative texts for 1948 were transmitted by the *Yearbook's* correspondents or assembled by its editors.

Lastly, this part contains a note entitled "Personal Medical Services in the United Kingdom". The Government of the United Kingdom and Northern Ireland has decided to submit each year a comprehensive paper reviewing the application of one principle of the Bill of Human Rights, so that in the course of time the yearbooks will contain a complete statement of the application of human rights in the United Kingdom. Part I also contains a statement by Sir Benegal N. Rau on "Human Rights in India".

An Annex to Part I contains a selection of constitutional and legislative provisions concerning electoral law.

Part II. International Treaties and Agreements

This part contains the provisions of the various treaties and agreements concluded during 1948 (or in some cases earlier) concerning human rights, and in particular important texts in the following categories:

(1) Basic instruments of specialized agencies
(2) Agreements concluded under the auspices of specialized agencies or by other inter-governmental organizations
(3) Regional treaties and agreements
(4) Bilateral treaties.

Part III. The United Nations and Human Rights

This part includes the following chapters: Universal Declaration of Human Rights; Covenant on Human Rights; measures of implementation; Convention on the Prevention and Punishment of the Crime of Genocide; status of women; freedom of information; prevention of discrimination and protection of minorities; procedures for dealing with communications; some specific questions (this chapter contains sections on stateless persons, right of asylum, trade union rights, declaration of old age rights, declaration of the rights of the child, and suppression of traffic in women and children); and questions of human rights in certain territories (City of Jerusalem, Trust Territories, Non-Self-Governing Territories).

The field covered by the third *Yearbook* is both broader and more detailed than that of the two preceding volumes.

Like the preceding *Yearbooks*, the *Yearbook for 1948* includes an Index of constitutional provisions.

* * *

The Secretary-General of the United Nations expresses his sincere thanks to all the correspondents who have supplied the editors of the *Yearbook* with texts, information and statements, and whose names appear in the footnotes.

[1] The Commission on Human Rights decided at its second session that court decisions should not be included in the *Yearbook*. (E/CN.4/64 and E/600, paragraphs 44–45). During its third session, however, the Commission reconsidered the question and expressed the view that court decisions were fully as important as provisions of constitutions, laws, ordinances and international treaties and hence should also be included in the *Yearbook*. It was understood that this decision would apply only to the *Yearbooks* for 1949 and thereafter. (See Report to the Economic and Social Council on the third session of the Commission (document E/800, paragraph 21.) No decision on the inclusion of court decisions in the *Yearbook* had been taken by the Economic and Social Council up to the end of 1948.

PART I

STATES (NATIONAL LAW)

AFGHANISTAN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The Constitution did not undergo any change during 1948.

The latest important legislation in the field of social and economic rights consists of the "Regulations to govern the employment of persons in industrial establishments in Afghanistan"[2] of 16 January 1946. The Regulations are divided into eight chapters: Conditions of employment; obligations of employers; obligations of manual and clerical workers and apprentices; termination of contracts of employment or apprenticeship; regulation of hours of work; prevention of industrial accidents; hygiene; and miscellaneous.

The regulations are preceded by the following statement of principles:

"These regulations are made for the purpose of regulating the relations in industry between manual and clerical workers on the one hand, and employers on the other hand.

"These regulations are based upon the following two principles:

"1. Freedom to choose one's vocation: all persons are free to choose any lawful vocation provided that they obtain permission in writing from the Ministry of National Economy and carry on the vocation chosen in accordance with rules made by the public authorities;

"2. Protection of employed persons by applying the following rules:

(*a*) Regular payment of full remuneration;
(*b*) Compensation for accidents occurring in the course of employment;
(*c*) Regulation of hours of work in accordance with the rules of equity;
(*d*) Weekly rest day;
(*e*) Accident prevention;
(*f*) Hygiene."

[1] Text and information through the courtesy of the Delegation of Afghanistan to the United Nations.

[2] The text of these regulations appears in: International Labour Office, *Legislative Series*, Afghanistan 1, March-April 1948.

PEOPLE'S REPUBLIC OF ALBANIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The following acts and ordinances promulgated during 1948 are related to the development of human rights in Albania.

I. Family Relations and Welfare of Women and Children

1. Act No. 623 of 13 May 1948 concerning the prohibition of certain backward customs relating to betrothal and marriage;

2. Act No. 601 of 18 May 1948 concerning marriage;

3. Act No. 604 of 20 May 1948 concerning the relations between parents and children.

Parts of these three Acts are included in this *Yearbook*.

II. Penal Code of 4 June 1948

Article 4, which lays down in effect the principle "*nullum crimen sine lege, nulla poena sine lege*", and article 95, which deals with the non-retroactivity of criminal law, are included in this *Yearbook*.

III. Protection of Labour

1. Decree-law No. 587 of 17 March 1948, concerning labour inspection. (*Official Journal* No. 39 of 10 April 1948.)

2. Regulations based on the Labour Code (promulgated in 1947):

Regulation of 11 December 1947 concerning the organization and operation of employment exchanges. (*Official Journal* No. 10 of 16 January 1948.)

Decision of the Labour Directorate fixing the average wage. (*Official Journal* No. 19 of 5 February 1948.)

Government Ordinance No. 14 concerning the work and labour conditions of the dockers in the ports of the People's Republic of Albania. (*Official Journal* No. 47 of 4 May 1948.)

Regulation concerning health and technical protection at work. (*Official Journal* No. 16 of 2 February 1948.)

Regulation concerning health and technical working conditions in printing shops. (*Official Journal* No. 29 of 11 March 1948.)

Regulation concerning precautions against the danger of electric current in factories and other places of work. (*Official Journal* No. 101 of 6 December 1948.)

Regulation concerning health and technical protection methods in the petroleum works. (*Official Journal* No. 30 of 17 March 1948.)

Regulation concerning health and technical protection methods in work underground (mines). (*Official Journal* No. 35 of 31 March 1948.)

Government Ordinance No. 9 of 18 March 1948 concerning students of economics. (*Official Journal* No. 40 of 12 April 1948.)

Government Ordinance No. 20 of 15 May 1948 establishing the remuneration of students of economics. (*Official Journal* No. 62 of 31 May 1948.)

Parts of the regulation of 11 December 1947 are included in this *Yearbook*.

IV. Public Health

1. Act No. 554 of 27 December 1947 concerning the adoption of Decree-law No. 543 of 20 October 1947 which makes it mandatory to report all cases of contagious and epidemical diseases and establishes preventive measures. (*Official Journal* No. 13 of 21 January 1948.)

2. Act No. 553 of 27 December 1947 concerning the adoption of Decree-law No. 542 of 20 October 1947 which establishes sanitary regulations governing the preparation, preservation and sale of food. (*Official Journal* No. 13 of 21 January 1948.)

V. Social Insurance

1. Government Ordinance No. 66 of 26 December 1947. (*Official Journal* No. 21 of 7 February 1948.)

Buyers' and sellers' co-operatives and artisans' co-operatives will begin to pay their contributions to social insurance on 1 January 1948. Insured workers will become eligible for benefits on the same date.

2. Act No. 578 of 26 January 1948 to amend article 59 of the Act regarding Social Insurance of 26 August 1948. (*Official Journal* No. 30 of 17 March 1948.)

3. Decree-law No. 594 of 28 April 1948 introducing certain additions to the Act regarding Social Insurance. (*Official Journal* No. 52 of 10 May 1948.)

By this supplementary legislation the number of members of the family who are entitled to the benefits of social insurance in case of illness is increased (article 1); accidents suffered by non-insured persons while engaged in voluntary reconstruction work shall be deemed to be accidents at work (article 2); voluntary contributions to the social insurance and the time spent after 18 years

[1] The texts concerning Albania included in this *Yearbook* and the information on which this note is based were received through the courtesy of Mr. Manush F. Myftin, Assistant Minister for Foreign Affairs of the People's Republic of Albania.

on study for the purpose of professional or special training, shall be credited to the pension (article 3); service before the social insurance law came into force shall normally be credited to the pension (article 4); compensation shall as a rule be payable for accidents suffered in regular or voluntary reconstruction work prior to the entry into force of the Act regarding Social Insurance (article 5, paragraph 1); service in the Army by professional soldiers or specialists who have entered other services where social insurance is compulsory, entitles the persons concerned to the benefits of social insurance (article 5, paragraph 2).

The relevant articles are reproduced in this *Yearbook*.

PROHIBITION OF CERTAIN BACKWARD CUSTOMS RELATING TO BETROTHAL AND MARRIAGE ACT [1]

Act No. 623 of 13 May 1948

Art. 1. Parents, relatives or guardians who betroth a minor under 16 years of age or who incite her to betrothal shall be liable to a term of imprisonment not exceeding two years and to a fine not exceeding 10,000 lek.

The same penalties shall be imposed upon parents, relatives or guardians who compel a person over 16 years of age, even if she is of full age, to betroth herself or marry.

Art. 2. A prospective bridegroom or his parents, relatives or guardian who make payment in cash or in kind, or supply other objects by way of purchase price to the parents, relatives or guardian of the bride, shall be liable to a term of imprisonment not exceeding two years.

Any person who accepts such payment shall be liable to a term of imprisonment of not less than one year and to a fine equal to the value of the payment received.

[1] Albanian text in *Kodi i Familjes*, Publications of the Ministry of Justice, No. 6, Tirana, 1948. Translation by the United Nations Secretariat.

MARRIAGE ACT [1]

Act No. 601 of 18 May 1948

CHAPTER II
RIGHTS AND DUTIES OF SPOUSES

Art. 3. Husband and wife have equal rights in the marital partnership.

Art. 4. Husband and wife owe each other mutual faithfulness and assistance.

Art. 5. Husband and wife have the same rights and the same duties towards their children; they are jointly responsible for their support and education.

Art. 6. The spouses may agree either to take the husband's name as their joint name or each to retain his or her own surname.

Where the spouses do not agree to take a joint name, each may add the other's name to his or her own name.

The spouses shall be required to state their future name when the marriage is concluded.

Where the spouses do not agree to bear a joint surname, the children shall take the father's name.

The declarations in regard to the names of the spouses shall be entered in the marriage register.

Art. 7. The method of conducting the household economy shall be determined by agreement between the spouses. They shall both contribute to the support of the family in proportion to their financial circumstances.

Both spouses shall have complete freedom in the choice of work or profession.

The place of common domicile shall be determined by joint agreement between the spouses. If one of the spouses changes domicile even for a valid reason the other shall not be bound to follow him.

Art. 9. Property acquired by the work of the spouses during marriage shall be joint property.

In case of law suit, the respective shares of the joint property due to the spouses shall be determined by the court in proportion to the contribution of each and in the light of all the circumstances of the case. In such case consideration shall be given not only to the property acquired by each spouse, but also to the assistance given by one spouse to the other, the performance of domestic tasks, the care given to the maintenance of the property and any other work, together with co-operation in the administration, maintenance and increment of the joint property.

Art. 12. A spouse who is without means of support, is unable to work or is without work shall have the right to claim support from the other spouse where the latter is in a position to provide assistance.

[1] Albanian text in *Kodi i Familjes*, Publications of the Ministry of Justice, No. 6, Tirana 1948. Translation by the United Nations Secretariat.

CHAPTER V

DISSOLUTION OF MARRIAGE

Art. 70. An indigent spouse who is unable to work or is without work and who is not responsible for the dissolution of marriage shall be entitled to request that the judgment of dissolution of marriage award him or her alimony to be paid by the other spouse in proportion to the latter's ability.

The right to alimony shall cease when the divorced spouse in receipt thereof remarries or when the court considers, in the light of all the circumstances, that the divorced spouse does not deserve to receive alimony.

RELATIONS BETWEEN PARENTS AND CHILDREN ACT [1]

Act No. 604 of 20 May 1948

CHAPTER I

GENERAL PROVISIONS

Art. 3. Parents have the same rights and the same duties towards children born in wedlock as towards children born out of wedlock.

Children born in wedlock or out of wedlock have the same rights and the same duties towards their parents.

Art. 4. Proceedings to establish paternity shall be permitted.

CHAPTER III

EXERCISE OF PARENTAL AUTHORITY

Art. 12. Parental authority shall be exercised jointly by both parents.

In case of disagreement between the parents, the decision shall be taken by the board of guardianship.

Where either parent is prevented from exercising parental authority, it shall be exercised by the other parent.

Art. 13. In case of divorce or dissolution of marriage, parental authority shall be exercised by the parent responsible for the custody and education of the children.

If a parent considers the measures taken by the other parent exercising parental authority to be improper, he or she may apply to the board of guardianship for a decision.

Art. 14. Where one of the parents is unknown, is deceased, has been sentenced to loss of parental authority, has forfeited that authority or has been deprived of legal capacity, parental authority shall belong to the other parent.

Art. 15. A parent who abuses parental authority or becomes guilty of grave negligence in the exercise of the rights deriving therefrom may be deprived of parental authority by juridical decision.

Parental authority may be restored to a parent by judicial decision when the reason entailing loss of parental rights has ceased to exist.

CHAPTER VII

AFFILIATION

Art. 27. The father of a child born out of wedlock shall be required to contribute, in proportion to his means, to the expenses occasioned by pregnancy and childbirth, and to the cost of supporting the mother during the three months preceding and the three months following childbirth.

[1] Albanian text in *Kodi i Familjes*, Publications of the Ministry of Justice, No. 6, Tirana 1948. Translation by the United Nations Secretariat.

PENAL CODE [1]

of 4 June 1948

CHAPTER II

CRIMINAL RESPONSIBILITY

Art. 4. Penal offences may only be defined and penalties may only be determined by law.

CHAPTER VI

APPLICATION OF THE PENAL LAW

1. APPLICATION OF THE PENAL LAW IN POINT OF TIME

Art. 95. (1) Responsibility for a penal offence shall be determined in accordance with the penal law in force at the time that the act was committed.

(2) The new penal law applies even to offences committed before its entry into force where it abolishes penal responsibility or reduces the penalty.

(3) Where the new law institutes penal responsibility or increases the penalties to which a given penal offence renders the offender liable, it shall not apply except by virtue of a special provision.

[1] Albanian text in *Kodi Penal*, Publications of the Ministry of Justice, No. 5, Tirana, 1948. Translation by the United Nations Secretariat.

REGULATION CONCERNING THE ORGANIZATION AND OPERATION OF EMPLOYMENT EXCHANGES [1]

of 11 December 1947

Art. 3. Professional qualifications being equal, preference in the engagement of workers shall be given in the following order of priority:

(*a*) To persons disabled in the war of liberation and to persons who, though not disabled, helped in the liberation of the country;

(*b*) To the fathers of large families;

(*c*) To persons who have been unemployed for a long time;

(*d*) In general, to persons belonging to the poorer sections of the population.

[1] Albanian text in *Gazeta Zyrtare* (*Official Journal*) No. 10, of 16 January 1948. Translation by the United Nations Secretariat. This regulation is based on the Labour Code promulgated on 25 August 1947. The Labour Code is reproduced in: International Labour Office, *Legislative Series* 1947, Albania 1.

DECREE-LAW INTRODUCING CERTAIN ADDITIONS TO THE SOCIAL INSURANCE ACT [1]

Decree-law No. 594 of 28 April 1948

Art. 1. The following paragraphs shall be added to article 22: [2]

(*c*) Nephews (children of the brother or sister) and orphans who have lost both parents, referred to in (*b*);

(*d*) Grandparents, father-in-law and mother-in-law.

Art. 2. The following paragraph should be added to article 30, paragraph 2:

Any accident suffered by an uninsured person in the course of work performed voluntarily for the improvement and reconstruction of the country shall be classed as an industrial accident.

Art. 3. Article 41, paragraph 1, shall read as follows:

The time devoted to study after the age of 18 years for the purpose of obtaining special or vocational training may be taken into account in calculating the pension if the insured person pays the appropriate voluntary contributions. A maximum of five years may be added in this manner.

Art. 4. The following paragraphs shall be added to article 54:

(4) In the case of insured persons who were in employment before the entry into force of the present law, the period of work done before the law entered into force shall be taken into account in calculating the pension.

The method of computing such period as well as the appropriate pension basis shall be determined by a Government ordinance.

(5) Independently of the foregoing provisions, individual or family pensions acquired before the entry into force of the present law, as well as pensions which may be granted in virtue of the previous law, shall be revised with a view to increase, reduce or discontinue in the manner to be determined by a Government ordinance.

Art. 5. The following provisions shall be added to chapter VIII (Transitional Provisions):

(1) Any person who has suffered physical injury as the result of an industrial accident which occurred before the entry into force of the present law, either in the course of his normal work or in the course of work performed voluntarily for the improvement and reconstruction of the country, shall also be entitled to the compensation provided for by the law on industrial accidents. A Government ordinance shall determine the method of calculating the basis on which the annuity is to be computed.

(2) In the case of officers, regular non-commissioned officers and highly paid army specialists who have left the National Army to take up other employment in which they are made subject to social insurance, the time they have spent with the colours shall be reckoned in full for the purposes of the present law, unless they are already in receipt of the benefits provided for by the law on social insurance for soldiers.

[1] Albanian text in *Gazeta Zyrtare* (*Official Journal*) No. 52, of 10 May 1948. Translation by the United Nations Secretariat. The Social Insurance Act (Act No. 528 of 26 August 1947) is reproduced in its original form in: International Labour Office, *Legislative Series* 1947, Albania 2. See also the summary of the Decree-lawon p. 4 of this *Yearbook*.

[2] Article 22 of the Act regarding social insurance lists the members of the insured person's family who are entitled to benefit in the event of sickness.

ARGENTINA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The necessity for a reform of the Constitution was declared by law No. 13233 in conformity with article 30 of the Constitution of 1 May 1853, which reads as follows:

"The Constitution may be amended entirely or in any of its parts. The necessity for a reform must be declared by the Congress with a vote of at least two-thirds of its members; but it shall not be effected except by a convention called for the purpose."

The bill proposing the reform was approved by the Chamber of Deputies at its meeting of 14 August 1948. The Senate approved the bill at its meeting of 27 August. The executive power set the date of 5 December 1948 for the elections to the convention.[2]

[1] This Note is based upon information received through the courtesy of Dr. Cesar Barros Hurtado, attorney-at-law, Buenos Aires.

[2] The Constitution was approved by the National Constituent Assembly on 11 March 1949 and entered into force on 16 March 1949, the date on which it was published in the *Journal of the Sessions of the National Constituent Assembly*.

AUSTRALIA

NOTE ON HUMAN RIGHTS IN AUSTRALIA[1]

As pointed out in the 1946 edition of this *Yearbook*, the fundamental human rights of personal freedom, of speech, of the Press, of religion, of assembly and association do not depend, in Australia, on any written constitutional guarantee, but form part of the traditional political pattern. The laws provide virtually for universal suffrage and full freedom to stand for election to Parliament. A scrutiny of human rights in Australia during 1948 does not show any spectacular advancement.

But there was one major development—a new determination of the standard working week. In Australia, employer-employee disputes come within the jurisdiction of special industrial tribunals, the more important of which have judicial authority being constituted as courts of justice. Before the superior federal tribunal in that jurisdiction—the Commonwealth Court of Conciliation and Arbitration—a claim was brought by representatives of the trade unions for a standard working week of 40 hours. After an exhaustive hearing, involving the Court in an investigation of every aspect of the Australian economy and a close consideration of the public interest, the Court delivered judgment on 8 September 1947, unanimously granting the claim. The reduction in hours was ordered to take effect from 1 January 1948. 1948 thus saw the 40-hour week become the norm in Australian industry.

As to economic security, employment continued during 1948 at high levels and social service benefits were extended. Increases were made in pensions and child endowment, and the grant of pensions was liberalized by lifting the levels of income and property, the enjoyment of which debars a person from qualifying for a pension. In other words, the means test has been made more generous. Widows whose children are proceeding to university and higher education are given additional benefits.

The Government also introduced a scheme for the rehabilitation of physically handicapped persons. As was said in the Senate on 28 October 1948—

> "With proper treatment and suitable training under the direction of highly qualified and enthusiastic professional and technical staff, men and women with severe physical handicaps respond readily and show resourcefulness to a surprising degree in making a successful readjustment of their lives."

Provision is made in the legislation for the establishment of clinics and for medical, dental, psychiatric, hospital and therapeutic treatment; an allowance is paid if the trainee is required to live away from home; artificial and surgical aids and appliances may be provided; books, equipment and tools of trade are to be supplied for the purpose of gainful employment.

Some minor advances were made during 1948 in matters coming within the legislative field of the States. In Tasmania, Victoria and New South Wales, the rates of pensions for retired miners and certain disabled miners were increased.

Education is provided by the States. There is compulsory free education and there are extensive scholarships for university and secondary education. During 1948, Victoria increased the number of scholarships and also the amount of the allowance for students living away from home. In New South Wales, the means test was liberalized so as to raise the property qualification which operates as a bar to the grant of scholarships. In Tasmania, allowances to certain children were increased; a travelling scholarship in art was initiated; and an Adult Education Board was established with the function of organizing a complete scheme of adult education. In Queensland, a small provision was introduced into the law providing that where a State ward was employed in the business of his foster parent, the award wage laid down by the Industrial Court must be paid.

[1] Note prepared by Dr. H.F.E.Whitlam, Crown Solicitor, Canberra.

SOCIAL SERVICES CONSOLIDATION (No. 2) ACT

AN ACT TO AMEND THE SOCIAL SERVICES CONSOLIDATION ACT 1947, AS AMENDED BY THE SOCIAL SERVICES CONSOLIDATION ACT 1948[1]

(Assented to 10 December 1948)

Part VIII of the Principal Act is repealed and the following Part inserted in its stead:

PART VIII. REHABILITATION OF PHYSICALLY HANDICAPPED PERSONS

135. 1. The Director-General may, on behalf of the Commonwealth, provide or arrange for the provision of

(*a*) The treatment and vocational training

(i) of pensioners and claimants for pensions; and

(ii) of beneficiaries and claimants for benefits who, but for that treatment and training, would be likely to become unemployable; and

(*b*) Such facilities and other things as are necessary in connexion with treatment or training referred to in either of the last two preceding paragraphs.

2. The treatment and training referred to in sub-section 1 of this section may include:

(*a*) Medical, dental, psychiatric and hospital treatment (whether as an in-patient or an out-patient), physical training and exercise, physiotherapy, occupational therapy and prevocational training and other treatment under medical supervision;

(*b*) The payment of tuition fees and other like fees in connexion with training; and

(*c*) The provision of amenities incidental to treatment or training.

3. The value of treatment and training provided under this section shall be deemed not to be income for the purposes of Part III or Part VII of this Act.[2]

135A. 1. Subject to the next succeeding sub-section, the Director-General shall determine the persons who are eligible to receive treatment and training.

2. A person shall not be eligible to receive treatment or training unless he is suffering from a physical or mental disability which—

(*a*) has existed for a period of not less than thirteen weeks;

(*b*) appears likely to continue for a further period of not less than thirteen weeks;

(*c*) is a substantial handicap to his engaging in a suitable vocation; and

(*d*) except in the case of a permanently blind person, is remediable, and there are reasonable prospects of his engaging in a suitable vocation within a period of two years after the commencement of treatment or training.

135B. A person who is receiving treatment (not being treatment received concurrently with training) shall, so long as he remains eligible under the other provisions of this Act, receive any pension or benefit for which he is for the time being qualified.

135D. While a person is receiving training, he shall be paid a rehabilitation allowance at a rate determined in accordance with this section, together with a training allowance at the rate of one pound per week, and any pension (including any wife's allowance or child's allowance payable by virtue of his being a pensioner), or any benefit, payable to or in respect of him, or which he is qualified to receive, shall be suspended ...

[Sub-sections of section 135D and the sections 135E–135S deal with the amount of allowances, grant of other facilities and conditions to which payment of benefits may be made subject. The cost of treatment and training is to be borne by the Commonwealth.]

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[1] English text in: The Commonwealth of Australia, *Social Services Consolidation (No. 2)*, No. 69, of 1948, Canberra, Commonwealth Printer. The principal Act which was amended by this Act is Act No. 26 of 1947, which was assented to on 11 June 1947. The principal Act was amended first by Act No. 38 of 1948, assented to on 19 October 1948. For the main contents of the amendments, see Dr. Whitlam's note in this *Yearbook*, p. 9. The text reproduced hereunder is limited to sections of the new Part VIII—Rehabilitation of physically handicapped persons.

[2] Part III deals with age and invalid pensions and Part VII with unemployment and sickness benefits.

STANDARD HOURS INQUIRY, 1946[1]

ORDER OF THE COMMONWEALTH COURT OF CONCILIATION AND ARBITRATION

effective January 1948

On 15 October 1945, the Printing Industry Employees Union of Australia, pursuant to clause 39 of the award dated 18 March 1942 and known as the Commonwealth Printing awards, made application for a reduction of the standard hours prescribed by the award from 44 to 40 per week.

On 18 December 1946, the hearing of the said application was adjourned *sine die*.

The matter was again listed before the Full Court on 4 February 1946.

On the same day, the Attorney-General of the Commonwealth of Australia, pursuant to section 18B (2) of the *Commonwealth Conciliation and Arbitration Act 1904–1934*, announced his intervention in the public interest. The application was thereupon adjourned *sine die* to enable other organizations of employees or persons which so desired to seek leave to intervene in the proceedings.

The matter was again listed before the Full Court in Melbourne on 4 March 1946, when applications for leave to intervene were made by the Australasian Council of Trade Unions, several organizations of employees and others. On the same day the matter was adjourned *sine die*.

On 22 April 1946 and subsequent dates, summonses were issued at the instance of the organizations of employees mentioned in the first column of schedule "A" hereto for orders varying the awards or agreements mentioned in the third column of the said schedule.

The application first mentioned and the applications for variations mentioned in schedule "A" together with so much of the disputes mentioned in schedule "B" as concerned standard hours were listed before the Full Court in Melbourne, on 22 May 1946 and subsequent dates and the hearing of all the matters proceeded concurrently.

[Here follow 20 names of persons representing unions, employers, His Majesty the King in the right of the Commonwealth of Australia and in the right of the States of Australia, cities, Railways Commissioners, etc.]

On 8 September 1947, the Full Court delivered the following judgment:

The Hours Claim

The pursuit of leisure by the workers of the world has persisted through history for many centuries. But leisure did not become realizable until man was able to add to the labour of his hands and his animals the forces of nature. In the past it was enjoyed by the few who were able to command the labour of others, whether as slaves or feudal serfs. Capitalism replacing earlier social orders ushered in the machine age and made it possible to extend the boon of increased leisure—freedom from the grind of unremitting labour—to the many. From the early beginnings of this system, workers sought this leisure and have slowly won it.

One hundred years ago in England, a 10-hour day or a 60-hour week was enacted. In Australia 90 years ago, an 8-hour day or 48-hour week was achieved in limited cases. Twenty years ago, this Court awarded a 44-hour week. There is no reason to assume that the capacity of industry has ended at 44 hours.

It has been the historic role of employers to oppose the workers' claims for increased leisure. They have, as is well known, opposed in Parliament and elsewhere every step in this direction, and this case is no exception. The arguments have not much changed in 100 years. Employers have feared such changes as a threat to profits; an added obstacle to production; a limitation upon industrial expansion; and a threat to internal and international trade relations. Steadily, first in one country then in another, this opposition has been overcome, until great institutions like the International Labour Organization in the international arena, this Court in this country, and the legislatures both here and elsewhere, have declared for the desirability of added leisure.

And history has invariably proved the forebodings of employers to be unfounded.

On 30 October 1946, this Court having heard and considered the cases for the applicant unions, the Commonwealth and the States, and the attitude of the employer respondents, as disclosed in their opening address, made the following declaration:

> "The Court feels that the time is opportune for an announcement that the four Judges now sitting declare their approval of the principle of a 40-hour week."

What, in the light of this declaration, is the problem before us and what are the factors involved?

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[1] Printed English text (Canberra, Commonwealth Government Printer) received through the courtesy of Dr. H. F. E. Whitlam, Commonwealth Crown Solicitor, Canberra. See also Dr. Whitlam's note, p. 9 of this *Yearbook*. The Commonwealth Court of Conciliation and Arbitration, according to its own comment on its evolution, became "an institution having in effect wide legislative powers", a legislative power "so great indeed as to occupy a field from which the Federal Parliament is excluded; so paramount as to override in appropriate cases the State legislation, and so vital as to make the law for Australians in that realm which touches them most closely and intimately..." (see paragraph 2 of the section "The Function of the Court", p. 12 of this *Yearbook*. The orders made by the Court came into operation at the beginning of the first pay period in January 1948 [see p. 14, par. 9]).

Predominantly, we are to consult the interests of the parties and the national interest and welfare. The problem includes social, economic, political (in the wide sense) and international matters, and the factors involved include production and productivity, costs and prices, the state of the internal economy, the economic relationship of classes, the relative validity of the claims for leisure and for goods, the right of the people to determine these issues democratically, the relative position of the States and the Commonwealth, and the development of the great national undertakings.

The task of judgment is to estimate the weight of all the factors, and, if we cannot unravel, at least to seek some predominant pattern in the wide range of inextricably interwoven matters which have been brought before us so that the best interest of the nation both in the short and in the long run is achieved. In the course of forming such a judgment we are required to weigh the imponderable, to compare incomparables, to measure what has no measure and to reduce to certainty what is basically a matter of assumption, hypothesis and speculation. All this must be attempted in a daily flow of rapidly changing circumstances.

The Function of the Court

The issue, as the history of the case indicates, comes to this Court as a number of industrial disputes (over 100 applications are before the Court) between many registered organizations of workers and their employers who are respondents. Some of these disputes are of long standing; others of them were created when it was known that the Court proposed to make a general investigation into standard hours. It is a commonplace of Australian industrial law that the limit of the constitutional power of the Court is to settle these disputes each within its ambit, and the ultimate judgment will in fact settle these particular disputes and do no more. But we know, as a matter of practical fact, that it will in the long run lead to uniform standard hours throughout Australia. The responsibility of this onerous task does not properly belong to this Court. It is bound only to settle the dispute. It is something additional that State legislatures and State industrial tribunals make its decisions in these disputes the bases of industrial determinations.

The evolution of this Court from an industrial tribunal limited to the particular task in each case to an institution having in effect wide legislative powers is an interesting one which some one will one day explore. This legislative power is so great, indeed, as to occupy a field from which the Federal Parliament is excluded; so paramount as to override in appropriate cases the State legislation; and so vital as to make the law for Australians in that realm which touches them most closely and intimately—viz., their industrial relations filling half the waking hours of their working days. It is a matter of striking comment that in a democracy so much responsibility and so much legislative power should be imposed on and entrusted to three men appointed for life and beyond the reach of the popular will.

It is clear, however, that the popular will if it could be ascertained is, in a fundamental question of this kind, a matter which this Court should not ignore, if for no other reason than that any vital frustration of it might quite well work out in lowered industrial effort and a falling productivity and production, while on the other hand, as Mr. Eggleston[1] so often urged, the fulfilment of that will might operate as a stimulus to better effort. The facts therefore that four States (*i.e.*, New South Wales, Victoria, Queensland and Tasmania, which include the greatest both in population and economic activity) and the Commonwealth have become parties to these proceedings and have pressed the Court to settle all these disputes by granting forthwith a 40-hour week in each case are matters of the greatest import. Is it not a legitimate conclusion that, if the constitutional position were otherwise than it is in Australia, then the responsibility of making this decision would have been assumed by the Parliament as it was in New Zealand in 1936? As it is, however, no Parliament in Australia could do what New Zealand did. The Commonwealth because it has no industrial power adequate for the purpose; the States because they can legislate only for so much of their industrial field as is not covered by the decisions of this Court. Hence the legislatures remain important to secure the industrial uniformity so essential for ordered business and harmonious industrial relations.

No Government, State or Federal, either in its capacity as Government or as employer respondent opposed the claim for shorter hours; no Government has denied the Court's 30 October 1946 declaration above quoted. Western Australia broadly leaves the matter to the Court; South Australia commends the principle of increased leisure, even shorter than 40 in appropriate circumstances and opposes only the immediate application of it. The attitude of the other four States and of the Commonwealth has already been indicated. And of the employers themselves, the Full Court said also on 30 October 1946:

> "It is apparent that the employers do not intend disputing the above proposition as a matter of doctrine . . . 'that the gravamen of the employers' case is "that circumstances are not appropriate and the time not proper for any reduction in present standards of working hours" "'.

There is no doubt of the constitutional authority of the States to make industrial laws and to pass Standard Hours Acts within the limits we have indicated, and, if authority, then a duty in the appropriate circumstances. New South Wales did exercise that authority by passing the Industrial Arbitration (Forty-hour Week) Amendment Act, 1947, and postponed the operation of it. Afterwards the Government went

[1] Mr. R. M. Eggleston was counsel for the applicant Unions generally (*Editor's note*).

to the electorate upon the termination of Parliament's term. There was no political change in the Government as the result of the election and the Act became operative as from 1 July 1947. The Queensland Government, we were told during the hearing, proposes to pass a similar Act during this year.

It would, in the constitutional circumstances, be wrong for this Court to criticize the exercise by a sovereign State of its powers, and we do not do so. But it is of course very obvious that the New South Wales Act did alter very material economic and political factors and did, during the hearing of the case, present this Court with a *fait accompli* in relation to a substantial section of its industry and to that extent did affect the freedom with which the Court might otherwise have acted. We have, as is proper, weighed these facts and they form part of the bases of our judgment.

The Court is pressed by the workers and the four Governments to apply the principle enunciated by it on 30 October 1946, fully and forthwith on the ground that this is the only adequate way of settling these disputes; for this working-class claim has been and is the basis of industrial dispute and unrest and will go on being so. No realist for a minute thinks that a rejection by the Court in these cases would bring about industrial harmony or would abate for an instant the demand for the shorter week. History has shown how persistent in the past have been such claims. There is no reason to suspect that the future will differ. The claim is expressive of a world movement sanctioned by the International Labour Organization and already achieved in some countries. It is, we are assured by responsible leaders of the claimants, a claim justified at this moment by hopes held by the workers based, they say, on promises given during the war when workers ungrudgingly worked long hours; that when the war ended this desirable social reform would be achieved.

[In the following sections, the Court deals with the sincerity of the claims of the workers as presented by the union representatives and the support given to these claims by the Government of the Commonwealth and the Governments of certain States. The arguments of the employers are then summarized and dealt with more extensively as far as they relate to shortages of commodities as an argument against the addition of leisure. The effect of reduced working time on production is examined and statistical evidences are presented. The capacity of the industry to absorb the reduced working week and the amount of added costs affecting State instrumentalities, particularly State railways and tramways, as well as the impact on other incomes and particularly rural incomes, is investigated. The possible effect of increased costs upon the capacity of Australia to meet foreign competition and the impact on the balance of trade are studied and the idea of steadying the effect of the impact by gradually introducing the new reform is examined. In order to provide for a period of adjustment, certain provisions with regard to the working of overtime are discussed.]

Conclusion

What the Court has done in this decision is, as the employers have indicated, to make a major social judgment which will have very great and important consequences. A decision the other way would also be an important social judgment. It has involved tremendous preparation. We have had all the assistance with which the best minds could provide us. For the use we make of it, ours is the responsibility, and it is trite to admit that we feel it very heavily. One comfort, however, remains, that is, if experience shows that we have erred and, contrary to our best judgment, the economy does suffer, or, if because of unforeseen world conditions unanticipated results threaten us, then the Court can take such necessary steps as will best protect and preserve our community against any such untoward possibilities.

Nothing in this judgment is to be taken as a reason or an argument for the reduction of standard hours in industries where the weekly hours are already 40 or less. These industries call for special consideration which has not been undertaken in these proceedings.

Our task is finished; the future will be watched with concern and interest; the economy is in a period of transition and of major change and development. This Court has, in its recent decision on wages and conditions, varied greatly the benefits and burdens of wage payers and wage receivers and the play of economic forces. Perhaps this decision completes what can safely be done for the time being and for the immediate future; the economy must now be allowed to digest and assimilate all these changes and will of course be closely and continuously under observation by the Court and by the office of Economic and Industrial Research to be set up in terms of section 81AA of the *Commonwealth Conciliation and Arbitration Act 1904-1947*.[1]

Order

... 1. In the several industries whose awards or disputes are before us in these proceedings, the standard hours of work where fixed at 44 per week are reduced to 40 per week.

2. Where the standard hours of work in any industry now before the Court are not expressly fixed at 44 per week but the provisions of the relevant award in itself, or as varied or affected by the orders of any other competent tribunal are based upon the Court's hitherto existing standard of 44 hours per week all variations are made which are necessary to the end that the award should henceforth be based upon the Court's new standard of 40 hours per week. We refer in particular to the maritime industries now before the Court.

3. Where in any industry now before the Court the standard hours of work in the industry are fixed at 44 hours of work but in any particular occupation or occupations within the industry hours of work are at

[1] Reproduced in *Yearbook on Human Rights for 1947*, p.6.

present fixed at more than 44 or less than 44 or are left to the agreement of the parties or are otherwise not fixed no alteration is effected by our present order. Where in such a case the hours of work in any particular occupation or occupations are at present fixed at 40 or less our judgment and this order are not to be regarded as affording any foundation or justification for an application for a reduction of such hours. In all other cases the questions whether any, and if so what, differentiation is to be made in respect of an occupation within the industry are left to the determination of the Judge or Conciliation Commissioner in charge of the particular industry. This judgment will then be regarded as a *prima facie* ground for reduction of the hours fixed but in determining whether such reduction should be made, and the extent thereof if made, account will also be taken of any special circumstances which resulted in the particular fixation of hours or the absence of a fixation of hours.

4. Where by any provision of an award any wage-rate or condition of employment is fixed by reference to standard hours of work of 44 per week, the award is varied in such respects as are necessary to adapt the provisions to standard hours of 40 per week. We refer in particular, but without limiting the generality of this paragraph, to the basic wage, loadings and margins expressed or required to be ascertained on an hourly basis, piece work rates fixed or required to be ascertained by reference to the output of earnings of an employee of average capacity in 44 hours, and provisions as to annual leave and sick leave. But this paragraph has no relation to rates which although expressed on an hourly basis have no relation to the standard of 44 hours per week as the basis of their fixation.

5. Where hours are at present fixed solely or alternatively at some multiple of 44 to be worked in some number of weeks greater than one, the corresponding multiple of 40 is substituted for the present multiple of 44. But the maximum number of hours which under any such provision may be worked in one week, or in any number of weeks less than the full multiple, is not hereby varied. And all such provisions are left to be further considered by the Judge or Conciliation Commissioner in charge of the industry after hearing the parties on the question of the number of weeks over which hours may be spread so as to give an average of 40 and the maximum hours which may be worked in any one week or number of weeks less than such full number.

6. The above paragraphs are intended to deal with the reduction of standard hours of work from 44 per week to 40 per week and with other variations which are consequential thereon. Should the Registrar be in doubt whether any variation sought by any party in settling the formal order is merely consequential the order may be otherwise drawn up but that particular part of the dispute shall be left to the determination after hearing the parties, of the Judge or Conciliation Commissioner in charge of the industry.

7. In each award affected by the above paragraphs there shall be inserted provisions:

(i) Empowering an employer to require any employee to work reasonable overtime at overtime rates and providing that the employee shall work overtime in accordance with such requirement;

(ii) Providing that no organization, party to the award, shall in any way, whether directly or indirectly, be a party to or concerned in any ban, limitation or restriction upon the working of overtime in accordance with the requirements of such provision;

(iii) Providing that such provision shall remain in operation only until otherwise determined by the Judge or Conciliation Commission in charge of the industry.

But nothing in this paragraph is to affect the operation of any existing clause of an award providing for compulsory overtime.

8. Questions of the hours and days during and on which the standard hours hereby prescribed are to be worked and all questions of meal breaks and other breaks in the continuity of work are not dealt with by the Court but are left to be determined by the Judge or Conciliation Commissioner in charge of the industry. Where an award provides that the present standard 44 hours per week are to be worked in specified numbers of hours on specified days such specified numbers of hours shall be regarded as maxima and the awards varied accordingly pending final determination as above the hours and days during and on which the standard hours hereby prescribed are to be worked.

9. The orders hereby made are to come into operation at the beginning of the first pay period to commence in January 1948.

AUSTRIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

No constitutional or legislative texts of importance concerning human rights were promulgated during the year 1948.

[1] Information through the courtesy of Dr. Franz Matsch, Austrian Liaison Officer with the United Nations.

BELGIUM

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

By an Act of 27 March 1948, women were accorded the right to vote and to be elected on equal footing with men. Relevant articles of the Belgian electoral law, including the amendment of 1948, appear in the annex "Electoral laws" to this part of the *Yearbook*.[2]

[1] Information through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des Sciences administratives*, Brussels.

[2] See p. 276.

BOLIVIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

During the year 1948, no new legislative texts having a bearing on human rights were promulgated.

For the municipal elections, which took place in December 1947, a decree was issued regulating the right of Bolivian women to vote and to be elected to municipal office. This decree is published in the annex "Electoral Laws" to this part of the *Yearbook*.[2]

This measure was taken in implementation of the Constitution of 23 November 1945, which in article 45 [3] granted this right to women for the first time.

[1] Information through the courtesy of Dr. Eduardo Anze Matienzo, Ambassador, Permanent Representative of Bolivia to the United Nations.

[2] See p. 281.

[3] See p. 279 of this *Yearbook*.

UNITED STATES OF BRAZIL

CONSTITUTION OF THE STATE OF PIAUÍ[1]

of 22 August 1947

PART I

ORGANIZATION OF THE STATE

Chapter 1

INTRODUCTORY PROVISIONS

Art. 7. It shall be the duty of the State, in conjunction with the Union:

1. To safeguard the observance of the Constitution and of the laws;

2. To promote public health and assistance;

3. To protect places of natural beauty, and historical and artistic monuments and documents, and to prevent the clandestine export of works of art;

4. To encourage settlement on the land;

5. To supervise the administration of the social laws;

6. To spread public education of all grades, encourage and ensure the protection of disabled persons, children, young persons, maternity and large families, and to promote training in eugenics.

PART III

GENERAL PROVISIONS

Chapter 1

RIGHTS AND GUARANTEES

Art. 125. The State of Piauí shall, on its territory and within the limits of its jurisdiction, ensure respect for personal rights and guarantees which the Federal Constitution recognizes and grants to Brazilians and foreigners, without restrictions or privileges based on birth, sex, race, profession exercised by a person or his parents, social status, property, religion or political opinions.

Chapter II

SOCIAL AND ECONOMIC ORDER

Art. 126. It shall be the duty of the State, within the limits of its powers under the Federal Constitution, to adopt measures respecting the economic and social order and to issue laws with respect to the following:

1. Organization of a plan for land reclamation and development by means of measures of protection including fiscal protection, in particular for the encouragement of small farmers, stock breeders and rural workers;

2. Organization of producer, school, consumer and credit co-operatives, in favour of which exemptions from State and municipal taxes shall be granted by law;

3. Assistance to workers and labourers in general, with a view to facilitating the purchase of machinery, tools and other appliances necessary for agricultural development, by means of a reduction in taxes and the granting of credits;

4. Distribution of seeds and fertilizers free of charge to rural workers and small farmers;

5. Encouragement of stock-raising by providing stock-breeders with facilities for the purchase of barbed wire, breeding-animals and veterinary products;

6. Encouragement of home industries by means of tax exemption;

7. Granting of assistance to municipalities, as prescribed by law, for the installation of electric light in their chief centres;

8. Establishment in every municipality of health centres with a medical staff and dental service in towns not already so provided;

9. Technical assistance for agriculture and stock-raising;

10. Extension of the means of transport;

11. Promotion and encouragement of the building and purchase of cheap housing, particularly in the diamond-bearing regions and in towns which, on account of their special climatic conditions, can be developed as holiday resorts;

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[1] Portuguese text in *Constituição do Estado do Piauí*, Teresina, 1947, transmitted through the courtesy of Dr. Levi Carneiro, attorney-at-law, Rio de Janeiro. English translation from the Portuguese text by the United Nations Secretariat.

New constitutions of all the States of Brazil were adopted, in 1947, after a new federal Constitution had been promulgated on 18 September 1946 (see *Yearbook on Human Rights for 1946*, p. 45). The human rights provisions of eighteen State Constitutions are reproduced in *Yearbook on Human Rights for 1947*, pp. 18–60. The human rights provisions in the Constitutions of Piauí and Rio de Janeiro, which are not represented in the previous *Yearbook*, are published in this *Yearbook*. See also the "Note on the Brazilian State Constitutions" in the previous *Yearbook*, p. 18.

12. Assistance to private undertakings in the development of works for water catchment and storage, the drilling of tubular and artesian wells, and the purchase for this purpose of machinery and drilling appliances.

The municipalities shall co-operate with the State in the establishment, development and maintenance of these services.

Art. 127. The percentage set aside under article 45, paragraph 3, for assistance to populations suffering from drought shall be applied in the main to the construction of dikes and dams in accordance with a system of co-operation on a 50 per cent basis.

Art. 128. The law shall, in the concession of ceded lands, assure to squatters (*posseiros*) who habitually dwell thereon the preference for the purchase of the land, up to 25 hectares, and shall donate it free of charge to those recognized to be indigent.

Art. 129. The working of the carnauba palm plantations belonging to the State shall be put up in every case to public tender, to which the greatest possible number of competitors shall have access; for this purpose the plantations shall be subdivided and the rent shall be paid in cash.

1. The Government of the State shall protect the cultivation of the carnauba and, except as laid down in article 135, shall cede from Government lands suitable areas to persons willing to work them free of charge for the purpose of rationalized planting; such lands shall become the private property of the concessionaire if he can show within three years that he has made good use of the land.

2. Any company, undertaking or person obtaining land for the cultivation of the carnauba shall be entitled to grow cereals or other approved crops concurrently; the concession, however, shall be annulled if it is proved that good use was not made of the carnauba plantation.

Art. 130. The law shall set up a specialized credit establishment for the encouragement of agriculture and stock-raising.

Art. 131. Workers and workers' organizations shall be entitled to the special protection of the State.

Art. 132. The vehicles and other instruments of work of small farmers and labourers shall be exempt from taxation, provided that they are used in their own undertaking.

Art. 133. Welfare services maintained by private persons shall be placed under the protection and supervision of the public authorities.

Art. 134. The State shall take steps to abolish mendicancy and take measures for the protection of disabled persons.

Art. 135. The management of the estates transferred to the State in accordance with article 7 of the transitional provisions of the Federal Constitution[1] shall be governed by the principles laid down in the Government Estates Regulations (*Estatutos das Fazendas Estaduais*) which shall be drawn up by the Legislative Assembly with a view to the development and improved utilization of the said estates in accordance with the following principles, amongst others:

(*a*) Inalienability of the estates in whole or in part;

(*b*) Settlement of the inhabitants thereof on the land by means of a lease for an indeterminate period, subject to the State's right to annul the lease on the grounds of public necessity or utility, and a guarantee of the right to compensation for the value of the improvements and additions made by the lessee;

(*c*) Lessee's right to sell to a third party the improvements or additions made by him, if the State does not desire to exercise its option, the purchaser being subject to the same obligations as arose out of the first lease;

(*d*) Right of the lessee's heirs and successors to continue the lease subject to the same rights and obligations as the previous lessee;

(*e*) Granting of a lease free of charge, up to 20 hectares, to persons of recognized indigence who do not possess other immovable property and take up permanent residence on the leased land;

(*f*) Lessee's obligation to give diligent attention to the carnauba plantations existing on the leased land, the working of which is reserved to the State and shall be conducted as laid down in the preceding article;

(*g*) Medical assistance together with the establishment of a health station at administrative headquarters;

(*h*) Organization of co-operatives in order to facilitate the purchase by residents of materials, medicaments and clothing;

(*i*) Protection of livestock, at least 5 per cent of the yield of the estates being retained for the conservation of existing livestock and the purchase of cattle and horses, and particularly of breeding-animals of different and selected strains;

(*j*) Priority for the State in the purchase of breeding-animals, which shall be put to pasture on the estates under the same conditions as private livestock;

(*k*) Compulsory public tenders for the working of the manioc plantations existing on the estates;

(*l*) Appropriation of at least 5 per cent of the yield from the estates for the conservation of existing installations and the making of improvements.

Art. 136. During periods of economic disequilibrium, or when circumstances so require, the State and municipalities may enact legislative provisions with a

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[1] *Art. 7.* The cattle farms belonging to the Union, situated in the territory of the State of Piauí, being the remainder of those which were confiscated from the Jesuits during the Colonial period, are hereby transferred to that State.

view to taking measures at the sources of production in order to guarantee and sell to consumers at reasonable prices the commodities necessary for their subsistence.

Art. 137. The State shall prohibit monopolies, groups or organizations, which aim at cornering commodities, or action prejudicial to the interests of producers and consumers.

Chapter III

THE FAMILY

Art. 138. The State and municipalities shall make provision for the special protection of the family as constituted on the basis of indissoluble marriage, and the preliminary formalities and celebration of marriage shall be free of charge.

The registration of the birth and death of persons of recognized indigence shall also be free of charge.

Chapter IV

EDUCATION AND CULTURE

Art. 139. In co-operation with the Union, the State and municipalities shall make provision for education in accordance with the principles laid down in the Federal Constitution and shall appropriate not less than 20 per cent of the proceeds of taxation for the maintenance and development thereof.

Art. 140. In official secondary educational establishments, 20 per cent of the places shall be reserved for students whose indigence is recognized and duly certified by the administrative or judicial authorities; in the case of private educational establishments in receipt of a subsidy from the State, the proportion shall be reduced to 5 per cent.

The conditions of entrance shall be governed by the ordinary law.

Art. 141. Appropriations shall be made in the budget for the establishment of scholarships for poor students of high intellectual ability and good character, to enable them to attend secondary higher and professional schools, provided that the economic and financial circumstances of the State permit.

Art. 142. In rural areas the State shall be obliged to establish and maintain an elementary school at any place where it is possible to bring together 30 children for instruction, and shall immediately appoint a qualified teacher through its competent organ.

A private person who establishes and maintains a rural elementary school for ten or more children shall be entitled to a grant from the State and municipality, in equal quantities, in the form prescribed by law.

Art. 143. It shall be the duty of the State:

(*a*) To foster and encourage the establishment of public libraries in municipalities;

(*b*) In co-operation with the municipalities, to encourage the development of science, letters and culture in general;

(*c*) To co-operate with the municipalities in the construction of school buildings;

(*d*) In conjunction with the municipalities, to give assistance to schools founded by private initiative, subject to the conditions prescribed by law;

(*e*) To provide moral and material assistance, in so far as financial conditions permit, to private initiative aimed at the establishment of institutions for higher education in the State.

CONSTITUTION OF THE STATE OF RIO DE JANEIRO [1]

of 20 June 1947

PART IX

DECLARATION OF RIGHTS AND GUARANTEES

Art. 128. The State shall ensure, within the limits of its competence, that the rights and guarantees recognized and granted to nationals and aliens under the Federal Constitution [2] are made effective within its territory.

PART X

ECONOMIC AND SOCIAL ORDER, FAMILY, EDUCATION AND CULTURE

Art. 129. The State shall take steps, within the limits of its competence, to guarantee within its territory the economic and social order, family protection, the right to education and the promotion of culture, in accordance with the provisions of the Federal Constitution.

Art. 130. The State and the municipalities shall take steps to bring about the progressive abolition of *latifundios* with a view to utilizing such estates for the welfare of the community. *Latifundios* shall be abolished at the expiry of three years after notification that they are to be utilized or split into small parcels of land:

(*a*) by doubling every year the land tax and the urban tax;

(*b*) by expropriating them for public use, for the purpose of division into lots and resale, preferably to rural workers.

[1] Portuguese text in: Estado do Rio de Janeiro, *Constituição*, Niterói 1947, transmitted through the courtesy of Dr. Levi Carneiro, attorney-at-law, Rio de Janeiro. English translation from the Portuguese text by the United Nations Secretariat. See also footnote 1 to Constitution of the State of Piauí, p. 18 of this *Yearbook*.

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

By *latifundios* are meant large landed estates one-third or less of the productive area of which is worked in such a manner as to provide an adequate yield. These conditions shall be defined by law.

Art. 131. The State shall encourage the productive utilization of the ceded lands and of available public lands by the cession or sale thereof preferably to Brazilian nationals and to peasants who do not possess other farm land, and for this purpose it shall prepare plans of settlement and allotment.

The State shall ensure to squatters (*posseiros*) on ceded lands who habitually dwell thereon, preference for the purchase of the land, up to twenty hectares.

Art. 132. The State shall expropriate for the purpose of settlement, by means of cession or resale after division into lots, lands lying along public highways and railways of which profitable use is not made, and land whose owners refuse to pay the improvement tax.

Provision may be made by law for the expropriation, for settlement or resale, of lands rendered productive by means of reclamation works.

Art. 133. The State and the municipalities shall ensure the provision of social, technical and material assistance to rural populations. For this purpose they shall, *inter alia*, take steps in regard to the following:

I. Medical services and the supply of pharmaceutical products;

II. The supply of fertilizers, seeds and implements;

III. The campaign against ants.

Such assistance shall be given free of charge to rural workers and small producers.

Art. 134. The State shall establish or promote the establishment of specialized credit institutions with a view to encouraging farming and stock-raising.

Art. 135. The State shall encourage electrification in rural areas by the direct supply of power, subsidies or loans.

Art. 136. It shall be the duty of the State and of the municipalities to promote the organization of producer, consumer and credit co-operatives in favour of which exemptions from State and municipal taxes shall be granted by law.

Art. 137. It shall be the duty of the State and of the municipalities to promote and facilitate the construction and purchase of cheap housing for owner occupation.

The fees payable to the notaries and officials of the land register office for the above-mentioned purchases, as well as transfer tax, shall be reduced by 50 per cent.

Art. 138. It shall be the duty of the State and of the municipalities to keep profits on the sale of textiles and other necessities at a just level and, if necessary, to set up centres for the direct supply of these articles to the population.

Art. 139. Assistance to mothers, children and young persons shall be compulsory. A law shall be enacted for the protection of large families, as laid down in the Federal Constitution.[1]

Art. 140. The State, within the scope of its competence, shall provide protection and assistance for the family, including civil marriage free of charge, from the preliminary formalities up to the performance of the ceremony, for persons of recognized indigence.

Art. 141. The State shall organize its systems of education, public, social and health assistance, promote the formation of good health habits among the population and maintain the necessary services, including hospitals.

The State shall grant subsidies to private social welfare establishments and maintain medical and dental services free of charge for indigent schoolchildren.

Art. 142. The State and municipalities shall appropriate annually not less than 20 per cent of the proceeds of taxation for the maintenance and development of education.

Art. 143. Elementary education shall be exclusively in the national language.

1. The State and municipalities shall provide elementary education for adults in rural and urban areas so as to ensure a policy of compulsory literacy.

2. Every industrial, commercial and agricultural undertaking which employs more than one hundred persons shall be bound to provide elementary education free of charge for its employees and their children.

Art. 144. The State shall promote agricultural and technical training in accordance with regional conditions with a view to the training of specialists and skilled workers.

Art. 145. The State shall make provision for secondary education in subjects most suitable to local conditions, in towns with a population of more than 10,000 inhabitants and in municipalities with a population of more than 30,000 inhabitants.

In municipalities in which no public secondary school exists, the State shall arrange for courses to be held enabling the inhabitants to qualify for the examinations of the official secondary educational establishments.

Art. 146. Public education shall be free of charge, and admission to the establishments where such education is provided shall be reserved by preference to persons adducing evidence of lack or insufficiency of means.

Art. 147. The State and municipalities shall make provision for education in all grades for pupils of

[1] See article 164 of the Federal Constitution, reproduced in *Yearbook on Human Rights for 1946*, p. 48.

recognized indigence and endow scholarships for pupils who have distinguished themselves in classes from the elementary grade on.

Not less than one-tenth of the quota prescribed in article 142 shall be set aside for the purposes of this article.

Art. 148. The Education Fund is hereby instituted. It shall be governed by a statute and utilized for educational purposes, the supply of school equipment, the organization of studies, the supply of meals, medical and dental assistance and the establishment of holiday camps.

Art. 149. Religious instruction, which shall be optional, shall form part of the curriculum of public schools and shall be given in accordance with the pupil's religious denomination as stated by him, if he has legal capacity, or by his legal representative or guardian.

Art. 150. The State shall promote and encourage the establishment of public libraries.

Art. 151. The State shall encourage scientific research; it shall establish and maintain institutions for this purpose and assist private initiative by means of Government subsidies and protection.

PART XI

GENERAL PROVISIONS

Art. 152. It shall not be lawful for the State and municipalities:

I. To discriminate between Brazilians or to give preference to one State or municipality as against another;

II. To establish or make grants to any religious denomination or to impede the exercise of any religious faith;

III. To enter into any relations, whether of alliance or dependence, with any religious denomination or church, without prejudice to mutual collaboration for the benefit of the common interest;

IV. To challenge the authenticity of public documents.

BURMA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

The Constitution of Burma of 24 September 1947[2] went into effect on 4 January 1948.

Among the new laws referring to human rights, the Parliamentary Election Act, 1948, is to be cited. Relevant articles of this Act are reproduced in this *Yearbook*.[3]

[1] Information received through the courtesy of Mr. Chan Htoon, LL.B, Attorney-General, Rangoon.

[2] See the human rights provisions of this Constitution in *Yearbook on Human Rights for 1947*, p. 64.

[3] See the Annex "Electoral Laws" to this Part of the *Yearbook*, p. 287.

CANADA

ACT OF 1948 TO AMEND THE DOMINION ELECTIONS ACT, 1938 [1]

SUMMARY

The Act of 1948 to amend the Dominion Elections Act, 1938, contains the following provisions:

(*a*) The repeal of the disqualification as electors on account of race which formerly applied to Chinese, East Indians and Japanese persons who resided in the province of British Columbia;

(*b*) The granting of the right to vote in every province to inmates of charitable institutions. Previously, these inmates were disqualified from voting in the provinces of Ontario, Nova Scotia and New Brunswick;

(*c*) The granting of the right to vote to the wives of Canadian Indian veterans of World War I and World War II;

(*d*) The allocation of votes cast by members of the Canadian Permanent Forces to the electoral districts in which are situated their places of ordinary residence.

(*e*) The allocation of votes cast by Canadian Veterans of World War I and World War II, who are receiving treatment or domiciliary care in certain hospitals or institutions, to the electoral district in which are situated their places of ordinary residence; and

(*f*) The granting of the right to vote to the wives and dependents of servicemen, in the polling divisions in which such wives and dependents are residing during the course and as a result of the duties performed by such servicemen.

Sections of the Dominion Elections Act are reproduced in the annex "Electoral Laws" to this Part of the *Yearbook*.[2]

[1] English text in *Statutes of Canada, 1948*, Ottawa, 1948, pp. 343–439. Summary through the courtesy of the Canadian Delegation to the United Nations.

[2] See p. 291.

INDUSTRIAL RELATIONS AND DISPUTES INVESTIGATION ACT 1948 [1]

INTRODUCTORY NOTE

In the Industrial Disputes Investigation Act, commonly known as the Lemieux Act, passed in 1907, the Canadian Parliament made provision for the establishment of industrial investigation and conciliation boards to make inquiry into and make recommendations for the settlement of industrial disputes, for the publication of conciliation board reports, and for a cooling-off period by the prohibition of strikes and lockouts by any party to the dispute until the completion of the conciliation board's work and the publication of its report.

In 1944 the Government of Canada, under the authority of the War Measures Act, enacted the Wartime Labour Relations Regulations. These regulations prohibited unfair labour practices on the part of employers and trade unions, including provisions protecting the rights of workers to organize and belong to trade unions of their own choice, provisions for the final settlement without stoppage of work of disputes concerning representation of employees for collective bargaining purposes, and disputes concerning the interpretation or violation of collective agreements. The regulations also provided for compulsory collective bargaining and an orderly collective bargaining and conciliation procedure, coupled with the prohibition of strikes and lockouts pending compliance with the stipulated procedures. The regulations applied to industries engaged in the production of essential war supplies. During the life of these regulations, the Industrial Disputes Investigation Act was suspended.

In 1948, the Canadian Parliament, after public hearings by the Industrial Relations Committee of the House of Commons, during which representations from union and employer organizations and other interested parties were received by the Committee, enacted the Industrial Relations and Disputes Investigation Act, having application to industries falling within the legislative jurisdiction of the Federal Parliament. This Act replaced the former Industrial Dis-

[1] English text in *Statutes of Canada, 1948*, Ottawa, 1948, pp. 573–600. Introductory Note and text received through the courtesy of the Canadian Delegation to the United Nations.

putes Investigation Act and the Wartime Labour Relations Regulations, which were revoked as of the date that the new Act came into force, 1 September 1948.

The Act re-enacts the provisions contained in the Wartime Labour Relations Regulations enumerated above, with appropriate amendments. The provisions of this Act have been incorporated in the labour relations legislation of a number of provinces.

11-12 George VI, Chapter 54

AN ACT TO PROVIDE FOR THE INVESTIGATION, CONCILIATION AND SETTLEMENT OF INDUSTRIAL DISPUTES

(Assented to 30 June 1948)

PART I

RIGHTS OF EMPLOYEES AND EMPLOYERS

3. (1) Every employee has the right to be a member of a trade union and to participate in the activities thereof.

(2) Every employer has the right to be a member of an employers' organization and to participate in the activities thereof.

UNFAIR LABOUR PRACTICES

4. (1) No employer or employers' organization, and no person acting on behalf of an employer or employers' organization, shall participate in or interfere with the formation or administration of a trade union, or contribute financial or other support to it: Provided that an employer may, notwithstanding anything contained in this section, permit an employee or representative of a trade union to confer with him during working hours or to attend to the business of the organization during working hours without deduction of time so occupied in the computation of the time worked for the employer and without deduction of wages in respect of the time so occupied, or provide free transportation to representatives of a trade union for purposes of collective bargaining or permit a trade union the use of the employer's premises for the purposes of the trade union.

(2) No employer, and no person acting on behalf of an employer, shall

(*a*) Refuse to employ or to continue to employ any person, or otherwise discriminate against any person in regard to employment or any term or condition of employment because the person is a member of a trade union; or

(*b*) Impose any condition in a contract of employment seeking to restrain an employee from exercising his rights under this Act, and without restricting the generality of the foregoing, no employer shall deny to any employee any pension rights or benefits to which he would otherwise be entitled by reason only of his ceasing to work after the commencement of this Act as the result of a lockout or while taking part in a concerted stoppage of work due to a labour dispute where such lockout or stoppage of work has been enforced by the employer or called by the recognized representative of such employee, as the case may be, after all steps provided or contemplated by law have been taken through negotiation, collective bargaining, conciliation and arbitration to settle such dispute or by reason only of dismissal contrary to this Act.

(3) No employer and no person acting on behalf of an employer shall seek by intimidation, by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to refrain from becoming or to cease to be a member or officer or representative of a trade union and no other person shall seek by intimidation or coercion to compel an employee to become or refrain from becoming or to cease to be a member of a trade union.

(4) Except as expressly provided, nothing in this Act shall be interpreted to affect the right of an employer to suspend, transfer, lay off or discharge an employee for proper and sufficient cause.

5. Except with the consent of the employer, no trade union and no person acting on behalf of a trade union shall attempt, at an employer's place of employment during the working hours of an employee of the employer, to persuade the employee to become or refrain from becoming or continuing to be a member of a trade union.

6. (1) Nothing in this Act prohibits the parties to a collective agreement from inserting in the collective agreement a provision requiring, as a condition of employment, membership in a specified trade union, or granting a preference of employment to members of a specified trade union.

(2) No provision in a collective agreement requiring an employer to discharge an employee because such employee is or continues to be a member of, or engages in activities on behalf of a union other than a specified trade union, shall be valid.

COLLECTIVE BARGAINING

Application for Certification of Bargaining Agent

7. (1) A trade union claiming to have as members in good standing a majority of employees of one or more

employers in a unit that is appropriate for collective bargaining may, subject to the rules of the Board and in accordance with this section, make application to the Board to be certified as bargaining agent of the employees in the unit.

(2) Where no collective agreement is in force and no bargaining agent has been certified under this Act for the unit, the application may be made at any time.

(3) Where no collective agreement is in force but a bargaining agent has been certified under this Act for the unit, the application may be made after the expiry of twelve months from the date of certification of the bargaining agent, but not before, except with the consent of the Board.

(4) Where a collective agreement is in force, the application may be made at any time after the expiry of ten months of the term of the collective agreement, but not before, except with the consent of the Board.

(5) Two or more trade unions claiming to have as members in good standing of the said unions a majority of employees in a unit that is appropriate for collective bargaining, may join in an application under this section, and the provisions of this Act relating to an application by one union and all matters or things arising therefrom shall apply in respect of the said application and the said unions as if it were an application by one union.

8. Where a group of employees of an employer belong to a craft or group exercising technical skills, by reason of which they are distinguishable from the employees as a whole and the majority of the group are members of one trade union pertaining to such craft or other skills, the trade union may apply to the Board subject to the provisions of section 7 of this Act, and shall be entitled to be certified as the bargaining agent of the employees in the group if the group is otherwise appropriate as a unit for collective bargaining.

Certification

9. (1) Where a trade union makes application for certification under this Act as bargaining agent of employees in a unit, the Board shall determine whether the unit in respect of which the application is made is appropriate for collective bargaining and the Board may, before certification, if it deems it appropriate to do so, include additional employees in, or exclude employees from, the unit, and shall take such steps as it deems appropriate to determine the wishes of the employees in the unit as to the selection of a bargaining agent to act on their behalf.

(2) When, pursuant to an application for certification under this Act by a trade union, the Board has determined that a unit of employees is appropriate for collective bargaining

(*a*) If the Board is satisfied that the majority of the employees in the unit are members in good standing of the trade union; or

(*b*) If, as a result of a vote of the employees in the unit, the Board is satisfied that a majority of them have selected the trade union to be a bargaining agent on their behalf;

the Board may certify the trade union as the bargaining agent of the employees in the unit.

(3) Where an application for certification under this Act is made by a trade union claiming to have as members in good standing a majority in a unit that is appropriate for collective bargaining, which includes employees of two or more employers, the Board shall not certify the trade union as the bargaining agent of the employees in the unit unless

(*a*) All employers of the said employees consent thereto; and

(*b*) The Board is satisfied that the trade union might be certified by it under this section as the bargaining agent of the employees in the unit of each such employer if separate applications for such purpose were made by the trade union.

(4) The Board may, for the purposes of determining whether the majority of the employees in a unit are members in good standing of a trade union or whether a majority of them have selected a trade union to be their bargaining agent, make or cause to be made such examination of records or other inquiries as it deems necessary, including the holding of such hearings or the taking of such votes as it deems expedient, and the Board may prescribe the nature of the evidence to be furnished to the Board.

(5) Notwithstanding anything in this Act, no trade union, the administration, management or policy of which is, in the opinion of the Board,

(*a*) Influenced by an employer so that its fitness to represent employees for the purpose of collective bargaining is impaired; or

(*b*) Dominated by an employer;

shall be certified as a bargaining agent of employees, nor shall an agreement entered into between such trade union and such employer be deemed to be a collective agreement for the purposes of this Act.

Effect of Certification

10. Where a trade union is certified under this Act as the bargaining agent of the employees in a unit

(*a*) The trade union shall immediately replace any other bargaining agent of employees in the unit and shall have exclusive authority to bargain collectively on behalf of employees in the unit and to bind them by a collective agreement until the certification of the trade union in respect of employees in the unit is revoked;

(*b*) If another trade union had previously been certified as bargaining agent in respect of employees in the unit, the certification of the last-mentioned trade union shall be deemed to be revoked in respect of such employees; and

(*c*) If, at the time of certification, a collective agreement binding on or entered into on behalf of employees in the unit is in force, the trade union shall be substituted as a party to the agreement in place of the bargaining agent that is a party to the agreement on behalf of employees in the unit, and may, notwithstanding anything contained in the agreement, upon two months' notice to the employer terminate the agreement in so far as it applies to those employees.

Revocation of Certification

11. Where in the opinion of the Board a bargaining agent no longer represents a majority of employees in the unit for which it was certified, the Board may revoke such certification and thereupon, notwithstanding sections 14 and 15 of this Act, the employer shall not be required to bargain collectively with the bargaining agent, but nothing in this section shall prevent the bargaining agent from making an application under section 7 of this Act.

Notice to Negotiate

12. Where the Board has under this Act certified a trade union as a bargaining agent of employees in a unit and no collective agreement with their employer binding on or entered into on behalf of employees in the unit, is in force,

(*a*) The bargaining agent may, on behalf of the employees in the unit, by notice, require their employer to commence collective bargaining; or

(*b*) The employer or an employers' organization representing the employer may, by notice, require the bargaining agent to commence collective bargaining; with a view to the conclusion of a collective agreement.

13. Either party to a collective agreement, whether entered into before or after the commencement of this Act, may, within the period of two months next preceding the date of expiry of the term of, or preceding termination of the agreement, by notice, require the other party to the agreement to commence collective bargaining with a view to the renewal or revision of the agreement or conclusion of a new collective agreement.

Negotiation

14. Where notice to commence collective bargaining has been given under section 12 of this Act

(*a*) The certified bargaining agent and the employer, or an employers' organization representing the employer shall, without delay, but in any case within twenty clear days after the notice was given or such further time as the parties may agree, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively with one another and shall make every reasonable effort to conclude a collective agreement; and

(*b*) The employer shall not, without consent by or on behalf of the employees affected, decrease rates of wages or alter any other term or condition of employment of employees in the unit for which the bargaining agent is certified until a collective agreement has been concluded or until a Conciliation Board appointed to endeavour to bring about agreement has reported to the Minister and seven days have elapsed after the report has been received by the Minister, whichever is earlier, or until the Minister has advised the employer that he has decided not to appoint a Conciliation Board.

15. Where a party to a collective agreement has given notice under section 13 of this Act to the other party to the agreement

(*a*) The parties shall, without delay, but in any case within twenty clear days after the notice was given or such further time as the parties may agree upon, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively and make every reasonable effort to conclude a renewal or revision of the agreement or a new collective agreement; and

(*b*) If a renewal or revision of the agreement or a new collective agreement has not been concluded before expiry of the term of, or termination of the agreement, the employer shall not, without consent by or on behalf of the employees affected, decrease rates of wages, or alter any other term or condition of employment in effect immediately prior to such expiry or termination provided for in the agreement, until a renewal or revision of the agreement or a new collective agreement has been concluded or a Conciliation Board, appointed to endeavour to bring about agreement, has reported to the Minister and seven days have elapsed after the report has been received by the Minister, whichever is earlier, or until the Minister has advised the employer that he has decided not to appoint a Conciliation Board.

Conciliation

16. Where a notice to commence collective bargaining has been given under this Act and

(*a*) Collective bargaining has not commenced within the time prescribed by this Act; or

(*b*) Collective bargaining has commenced;

and either party thereto requests the Minister in writing to instruct a Conciliation Officer to confer with the parties thereto to assist them to conclude a collective agreement or a renewal or revision thereof and such request is accompanied by a statement of the difficulties, if any, that have been encountered before the commencement or in the course of the collective bargaining, or in any other case in which in the opinion of the Minister it is advisable so to do, the Minister may instruct one or more Conciliation Officers to confer with the parties engaged in collective bargaining.

17. Where a Conciliation Officer fails to bring about an agreement between parties engaged in collective bargaining or in any other case where in the opinion of the Minister a Conciliation Board should be appointed to endeavour to bring about agreement between parties to a dispute, the Minister may appoint a Conciliation Board for such purpose.

COLLECTIVE AGREEMENTS

18. A collective agreement entered into by a certified bargaining agent is, subject to and for the purposes of this Act, binding upon

(*a*) The bargaining agent and every employee in the unit of employees for which the bargaining agent has been certified; and

(*b*) The employer who has entered into the agreement or on whose behalf the agreement has been entered into.

19. (1) Every collective agreement entered into after the commencement of this Act shall contain a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or persons bound by the agreement or on whose behalf it was entered into, concerning its meaning or violation.

(2) Where a collective agreement, whether entered into before or after the commencement of this Act, does not contain a provision as required by this section, the Board shall, upon application of either party to the agreement, by order, prescribe a provision for such purpose and a provision so prescribed shall be deemed to be a term of the collective agreement and binding on the parties to and all persons bound by the agreement and all persons on whose behalf the agreement was entered into.

(3) Every party to and every person bound by the agreement, and every person on whose behalf the agreement was entered into, shall comply with the provision for final settlement contained in the agreement and give effect thereto.

20. (1) Notwithstanding anything therein contained, every collective agreement, whether entered into before or after the commencement of this Act, shall, if for a term of less than a year, be deemed to be for a term of one year from the date upon which it came or comes into operation, or if for an indeterminate term shall be deemed to be for a term of at least one year from that date and shall not, except as provided by section 10 of this Act or with the consent of the Board, be terminated by the parties thereto within a period of one year from that date.

(2) Nothing in this section shall prevent the revision of any provision of a collective agreement, other than a provision relating to the term of the collective agreement, that under the agreement is subject to revision during the term thereof.

STRIKES AND LOCKOUTS

21. Where a trade union on behalf of a unit of employees is entitled by notice under this Act to require their employer to commence collective bargaining with a view to the conclusion or renewal or revision of a collective agreement, the trade union shall not take a strike vote or authorize or participate in the taking of a strike vote of employees in the unit or declare or authorize a strike of the employees in the unit, and no employee in the unit shall strike, and the employer shall not declare or cause a lockout of the employees in the unit until

(*a*) The bargaining agent and the employer, or representatives authorized by them in that behalf, have bargained collectively and have failed to conclude a collective agreement: and either

(*b*) A Conciliation Board has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the Conciliation Board was received by the Minister; or

(*c*) Either party has requested the Minister in writing to appoint a Conciliation Board to endeavour to bring about agreement between them and fifteen days have elapsed since the Minister received the said request and

(i) No notice under sub-section 2 of section 28 of this Act has been given by the Minister, or

(ii) The Minister has notified the party so requesting that he has decided not to appoint a Conciliation Board.

22. (1) Except in respect of a dispute that is subject to the provisions of sub-section 2 of this section

(*a*) No employer bound by or who is a party to a collective agreement, whether entered into before or after the commencement of this Act, shall declare or cause a lockout with respect to any employee bound by the collective agreement or on whose behalf the collective agreement was entered into; and

(*b*) During the term of the collective agreement, no employee bound by a collective agreement or on whose behalf a collective agreement has been entered into, whether entered into before or after the commencement of this Act, shall go on strike and no bargaining agent that is a party to the agreement shall declare or authorize a strike of any such employee.

(2) Where a collective agreement is in force and any dispute arises between the parties thereto with reference to the revision of a provision of the agreement that by the provisions of the agreement is subject to revision during the term of the agreement, the employer bound thereby or who is a party thereto shall not declare or cause a lockout with respect to any employee bound thereby or on whose behalf the

collective agreement has been entered into, and no such employee shall strike and no bargaining agent that is a party to the agreement shall declare or authorize a strike of any such employee until

(*a*) The bargaining agent of such employees and the employer or representatives authorized by them on their behalf have bargained collectively and have failed to conclude an agreement on the matters in dispute; and either

(*b*) A Conciliation Board has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the Conciliation Board was received by the Minister; or

(*c*) Either party has requested the Minister in writing to appoint a Conciliation Board to endeavour to bring about agreement between them and fifteen days have elapsed since the Minister received the said request and

(i) No notice under sub-section 2 of section 28 of this Act has been given by the Minister, or

(ii) The Minister has notified the party so requesting that he has decided not to appoint a Conciliation Board.

23. (1) No employee in a unit shall strike until a bargaining agent has become entitled on behalf of the unit of employees to require their employer by notice under this Act to commence collective bargaining with a view to the conclusion or renewal or revision of a collective agreement and the provisions of section 21 or 22 of this Act, as the case may be, have been complied with.

(2) No employer shall declare or cause a lockout of employees while an application for certification of a bargaining agent to act for such employees is pending before the Board.

24. A trade union that is not entitled to bargain collectively under this Act on behalf of a unit of employees shall not declare or authorize a strike of employees in that unit.

25. Nothing in this Act shall be interpreted to prohibit the suspension or discontinuance of operations in an employer's establishment, in whole or in part, not constituting a lockout or strike.

26. Notwithstanding anything contained in this Act, any employee may present his personal grievance to his employer at any time.

[Section 27 deals with the duty of Conciliation Officers to make reports to the Minister; sections 28-30 deal with the constitution of Conciliation Courts and the oath of officers to be taken by them; section 31 deals with terms of reference for Conciliation Boards; sections 32-34 with their procedure; and sections 35-38 with the reports to be made by the boards. Section 39 establishes penalties for offences of employers decreasing wage rates or altering terms or conditions of employment contrary to sections 14 or 15 of the Act. Section 40 establishes penalties for unfair labour practices and for refusals to comply with any order of the court, judge or magistrate, contrary to the Act. Section 41 establishes penalties for lockouts or strikes contrary to the Act.]

42. Every person, trade union or employers' organization who does anything prohibited by this Act or who refuses or neglects to do anything required by this Act to be done by him is guilty of an offence and, except where some other penalty is by this Act provided for the act, refusal or neglect, is liable on summary conviction,

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

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

[Sections 43–45 deal with complaints received by the Minister and referred to the Board.]

46. (1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister.

(2) A consent by the Minister indicating that he has consented to the prosecution of a person named therein for an offence under this Act alleged to have been committed, or in the case of a continuing offence, alleged to have commenced, on a date therein set out, shall be a sufficient consent for the purposes of this section to the prosecution of the said person for any offence under this Act committed by or commencing on the said date.

[Sections 47–52 contain general provisions regarding information to be sent to the Minister and to the Board by parties to a collective agreement.]

PART II

[This Part deals with the application and administration of the Act. Sections 53–55 determine to what classes of employees and employers, works or businesses the Act shall apply.]

INDUSTRIAL INQUIRIES

56. (1) The Minister may either upon application or of his own initiative, where he deems it expedient, make or cause to be made any inquiries he thinks fit regarding industrial matters, and may do such things as seem calculated to maintain or secure industrial peace and to promote conditions favourable to settlement of disputes.

(2) For any of the purposes of sub-section 1 of this section or where in any industry a dispute or difference between employers and employees exists or is apprehended, the Minister may refer the matters involved to a Commission, to be designated as an Industrial Inquiry Commission, for investigation thereof, as the Minister deems expedient, for report thereon; and shall furnish the Commission with a statement of the

matters concerning which such inquiry is to be made, and, in the case of any inquiry involving any particular persons or parties, shall advise such persons or parties of such appointment.

(3) Immediately following its appointment an Industrial Inquiry Commission shall inquire into the matters referred to it by the Minister and endeavour to carry out its terms of reference; and in the case of a dispute or difference in which a settlement has not been effected in the meantime the report of the result of its inquiries, including its recommendations, shall be made to the Minister within fourteen days of its appointment or such extension thereof as the Minister may from time to time grant.

(4) Upon receipt of a report of an Industrial Inquiry Commission relating to any dispute or difference between employers and employees the Minister shall furnish a copy to each of the parties affected and shall publish the same in such manner as he sees fit.

(5) An Industrial Inquiry Commission shall consist of one or more members appointed by the Minister and the provisions of sections 33 and 34 of this Act shall apply, *mutatis mutandis*, as though enacted in respect of that Commission and the Commission may determine its own procedure but shall give full opportunity to all parties to present evidence and make representations.

(6) The Chairman and members of an Industrial Inquiry Commission shall be paid remuneration and expenses at the same rate as is payable to a Chairman and members of a Conciliation Board under this Act.

ADMINISTRATION

Minister

57. The Minister of Labour shall be charged with the administration of this Act and shall exercise the powers and perform the duties imposed on the Minister by Part I of this Act.

[Sections 58-61 provide that there shall be a Labour Relations Board to administer Part I of the Act, which shall be known as the Canada Labour Relations Board. The Board may, with the approval of the Governor in Council, make rules governing its procedure. The decisions of the Board regarding questions listed in section 61 shall be final and conclusive for all purposes of the Act. Sections 62 and 63 provide that, where legislation enacted by the legislature of a Province and Part I of the Act are substantially uniform, the Minister of Labour may, on behalf of the Government of Canada, with the approval of the Governor in Council, enter into agreement with the Government of the Province to provide for the adminstration by officers and employees of Canada, of the provincial legislation. Section 72 provides that the Canada Labour Relations Board, established by this Act, shall be the successor to the Wartime Labour Relations Board, established in 1944, and provides for the continuation of every regulation, order, decision, or determination, or any other act issued by the Wartime Labour Relations Board or by the Minister.]

CEYLON

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

The new Constitution of Ceylon came into operation on 4 February 1948.[2]

The following Acts promulgated in 1948 have a bearing on human rights:

Trade Unions (Amendment) Act No. 15 of 1948;

Citizenship Act No. 18 of 1948.[3]

Parts of these two Acts are reproduced in this *Yearbook.*

Parliamentary Elections (Amendment) Act No. 19 of 1948

This Act, assented to on 30 September 1948, amends the Parliamentary Elections Order in Council, 1946, by conferring a right of appeal on questions of law from the determination of an election judge in an election petition. Sections of the Parliamentary Elections Order in Council 1946 are reproduced in the annex "Electoral Laws" to this Part of the *Yearbook.* [4]

Immigrants and Emigrants Act No. 20 of 1948

This Act, assented to on 6 October 1948, makes provisions for controlling the entry into Ceylon of persons other than citizens of Ceylon, for regulating the departure from Ceylon of citizens and persons other than citizens of Ceylon and for removing from Ceylon undesirable persons who are not citizens of Ceylon.

[1] This note is based on information and texts received through the courtesy of the Permanent Secretary of the Ministry of External Affairs, Colombo.

[2] See the note and the text of the provisions regarding human rights in the Ceylon (Constitution) Order in Council, 1946, as amended in 1947, in *Yearbook on Human Rights for 1947*, pp. 75–76.

[3] An Indian and Pakistani Residents (Citizenship) Act (No. 3 of 1949) was assented to on 28 February 1949 and will appear in *Yearbook on Human Rights for 1949.*

[4] See p. 292.

CITIZENSHIP ACT
No. 18 of 1948 [1]

AN ACT TO MAKE PROVISION FOR CITIZENSHIP OF CEYLON AND FOR MATTERS CONNECTED THEREWITH

(Assented to 21 September 1948)

PART I
CITIZENSHIP OF CEYLON

2. (1) With effect from the appointed date, there shall be a status to be known as "the status of a citizen of Ceylon".

(2) A person shall be or become entitled to the status of a citizen of Ceylon in one of the following ways only:

(*a*) By right of descent as provided by this Act;

(*b*) By virtue of registration as provided by this Act or by any other Act authorizing the grant of such status by registration in any special case of a specified description.

(3) Every person who is possessed of the aforesaid status is hereinafter referred to as a "citizen of Ceylon". In any context in which a distinction is drawn according to whether that status is based on descent or registration, a citizen of Ceylon is referred to as "citizen by descent" or "citizen by registration"; and the status of such citizen is in the like context referred to as "citizenship by descent" or "citizenship by registration".

3. A citizen of Ceylon may, for any purpose in Ceylon, describe his nationality by the use of the expression "Citizen of Ceylon".

PART II
CITIZENSHIP BY DESCENT

4. (1) Subject to the other provisions of this Part, a person born in Ceylon before the appointed date shall have the status of a citizen of Ceylon by descent, if—

(*a*) His father was born in Ceylon, or

(*b*) His paternal grandfather and paternal great-grandfather were born in Ceylon.

[1] English text in: Parliament of Ceylon, second session 1948, *Citizenship Act, No. 18 of 1948*, Colombo, Ceylon Government Press, 1948.

(2) Subject to the other provisions of this Part, a person born outside Ceylon before the appointed date shall have the status of a citizen of Ceylon by descent, if—

(*a*) His father and paternal grandfather were born in Ceylon, or

(*b*) His paternal grandfather and paternal great-grandfather were born in Ceylon.

5. (1) Subject to the other provisions of this Part, a person born in Ceylon on or after the appointed date shall have the status of a citizen of Ceylon by descent if at the time of his birth his father is a citizen of Ceylon.

(2) Subject to the other provisions of this Part, a person born outside Ceylon on or after the appointed date shall have the status of a citizen of Ceylon by descent if at the time of his birth his father is a citizen of Ceylon and if, within one year from the date of birth, the birth is registered in the prescribed manner—

(*a*) At the office of a consular officer of Ceylon in the country of birth, or

(*b*) Where there is no such officer, at the appropriate embassy or consulate in that country or at the office of the Minister in Ceylon.

6. Upon application made in that behalf in the prescribed manner, the Minister may, in his discretion, grant, in the prescribed form, a certificate of citizenship of Ceylon by descent to a person with respect to whose status as a citizen of Ceylon by descent a doubt exists; and a certificate issued under this section to any person shall be conclusive evidence that that person was a citizen of Ceylon by descent on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

7. Every person first found in Ceylon as a newly born deserted infant of unknown and unascertainable parentage shall, until the contrary is proved, be deemed to have the status of a citizen of Ceylon by descent.

8. No person who is a citizen of any other country under any law in force in that country shall have the status of a citizen of Ceylon by descent unless he renounces citizenship of that other country in accordance with that law.

9. (1) Any reference to father, paternal grandfather, or paternal great-grandfather in any of the provisions of this Part relating to citizenship by descent shall, in regard to a person born out of wedlock and not legitimated, be deemed to be a reference to mother, maternal grandfather, or maternal great-grandfather respectively.

(2) A person shall be deemed, for the purposes of this section, to have been legitimated if his parents married each other subsequent to his birth.

10. Any reference in this Part to the status or description of the father of a person at the time of that person's birth shall, in regard to a person born after the death of his father, be deemed to be a reference to the status or description of the father at the time of the father's death; and where that death occurred before, and the birth occurs on or after the appointed date, the status or description which would have been applicable to the father had he died on or after that date shall be deemed to be the status or description applicable to him at the time of his death.

PART III

CITIZENSHIP BY REGISTRATION

11. (1) This section shall apply to any applicant for registration as a citizen of Ceylon who has the following qualifications:

(*a*) That the applicant is of full age and of sound mind;

(*b*) That the applicant—

(i) Is a person whose mother is or was a citizen of Ceylon by descent or would have been a citizen of Ceylon by descent if she had been alive on the appointed date, and who, being married, has been resident in Ceylon throughout a period of seven years immediately preceding the date of the application, or, being unmarried, has been resident in Ceylon throughout a period of ten years immediately preceding the date of the application; or

(ii) Is the spouse, or the widow or widower, of a citizen of Ceylon by descent or registration, and has been resident in Ceylon throughout a period of one year immediately preceding the date of the application; or

(iii) Is a person who ceased under section 19 to be a citizen of Ceylon by descent upon his acquiring citizenship of any other country in which he has been resident, and thereafter renounced that citizenship in accordance with the law of that other country; and

(*c*) That the applicant is, and intends to continue to be, ordinarily resident in Ceylon.

(2) Subject to the other provisions of this Part, a person to whom this section applies shall—

(*a*) If he has any of the qualifications set out in sub-paragraphs (i) and (ii) of paragraph (*b*) of sub-section (1) of this section, be registered as a citizen of Ceylon on his making application in that behalf to the Minister in the prescribed manner, or

(*b*) If he has the qualification set out in sub-paragraph (iii) of the aforesaid paragraph (*b*), be so registered on his making such an application, unless the Minister decides to disallow such application on grounds of public policy.

(3) The Minister's refusal, under sub-section (2)(*b*) of this section, to allow the application of any person for registration as a citizen of Ceylon shall be final and shall not be contested in any court.

12. (1) Subject to the other provisions of this Part, a person to whom section 11 does not apply may, on his making application in that behalf to the Minister in the prescribed manner, be registered as a citizen of Ceylon if the Minister is satisfied—

(*a*) That he is a person who—

(i) Has rendered distinguished public service or is eminent in professional, commercial, industrial, or agricultural life; or

(ii) Has been granted in Ceylon a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914, of the United Kingdom, or Letters Patent under the Naturalization Ordinance, and has not ceased to be a British subject; and

(*b*) That he is, and intends to continue to be, ordinarily resident in Ceylon.

(2) The number of persons registered as citizens of Ceylon under this section shall not exceed twenty-five in any year.

(3) The Minister's refusal under this section to allow the application of any person for registration as a citizen of Ceylon shall be final and shall not be contested in any court.

13. (1) Where an applicant for registration as a citizen of Ceylon has any minor child, he may in his application or by subsequent letter make a request for the inclusion of the name of that child in the certificate of registration which may be granted to him under this Part.

(2) Where a request as aforesaid is made by an applicant under section 11 or section 12, the Minister shall, subject to the other provisions of this Part, comply with the request if the applicant is registered as a citizen of Ceylon.

14. (1) Save as provided in section 11, a person who has ceased to be a citizen of Ceylon shall not be granted citizenship by registration.

(2) A person who is a citizen of any country other than Ceylon under any law in force in that country shall not be granted citizenship by registration unless he renounces citizenship of that country in accordance with that law.

15. There shall be kept and maintained, in the prescribed form, a register of persons who are granted citizenship by registration.

16. The Minister shall grant, in the prescribed form, a certificate of registration as a citizen of Ceylon to every person who is registered under section 11 or section 12 and, where he decides to comply with a request made by that person under section 13, shall include in the certificate the name of every minor child to whom the request relates.

17. (1) A British subject to whom a certificate of registration as a citizen of Ceylon is granted shall, on subscribing the prescribed oath or affirmation of citizenship, have the status of a citizen of Ceylon by registration as from the date of that certificate.

(2) An alien to whom a certificate of registration as a citizen of Ceylon is granted shall, on subscribing the prescribed oath or affirmation of allegiance and the prescribed oath or affirmation of citizenship, have the status of a citizen of Ceylon by registration as from the date of that certificate.

(3) A minor child whose name is included in a certificate of registration as a citizen of Ceylon shall have the status of a citizen of Ceylon by registration as from the date of that certificate.

PART IV

LOSS OF CITIZENSHIP

18. If a citizen of Ceylon of full age and of sound mind makes a declaration of renunciation of citizenship of Ceylon in the prescribed manner, the Minister shall cause the declaration to be registered; and, upon registration thereof, the declarant shall cease to be a citizen of Ceylon: Provided however that the Minister may withhold registration of such declaration if it is made during the continuance of any war in which Ceylon is engaged and if, by the operation of any law enacted in consequence of that war, the declarant is deemed for the time being to be an enemy.

19. A person who is a citizen by descent or by registration shall cease to be a citizen of Ceylon if he voluntarily or by operation of law becomes a citizen of any other country.

20. (1) A person who, under sub-section (2) of section 5, is a citizen by descent and whose father was or is a citizen by registration shall, on attaining the age of 21 years, cease to be a citizen of Ceylon, unless, before the expiry of one year after attaining that age, he transmits to the Minister a declaration of retention of citizenship of Ceylon in the prescribed manner.

(2) A person who has ceased to be a citizen of Ceylon under sub-section (1) of this section may, within a period of one year after the date on which he ceased to be such citizen or within such further period as the Minister may for good cause allow, make a declaration to the Minister that he wishes to resume citizenship of Ceylon; and he shall, on making such declaration, again have the same status of a citizen of Ceylon as he had before that date.

21. A person who is a citizen by registration shall cease to be a citizen of Ceylon if that person resides outside Ceylon for five consecutive years or more, exclusive of any period during which that person—

(*a*) Is employed abroad as an officer in the service of the Government of Ceylon; or

(*b*) Is abroad as a representative of the Government of Ceylon; or

(*c*) Being the spouse or minor child of a citizen of Ceylon who is abroad in any of the capacities specified in paragraphs (*a*) and (*b*) of this section, resides abroad with that citizen; or

(*d*) Resides abroad on a holiday or for reasons of health; or

(*e*) Is a student at an educational institution abroad; or

(*f*) Resides abroad with a spouse who is a citizen of Ceylon by descent; or

(*g*) Is abroad for any prescribed purpose.

22. A person who is a citizen by registration shall cease to be a citizen of Ceylon if he is convicted by a court of competent jurisdiction—

(*a*) Of an offence under this Act; or

(*b*) Of any of the offences against the State, specified in chapter VI of the Penal Code, for which a sentence of rigorous imprisonment may be imposed.

PART V

MISCELLANEOUS

....

26. (1) In this Act, unless the context otherwise requires: "alien" means a person who is not a British subject;

....

"appropriate embassy or consulate" means the office of an Ambassador or of a consular officer in the service of the Government of the United Kingdom at which a register of births is kept;

"British subject" has the same meaning as in the law of the United Kingdom;

....

"minor child" means a person who has not attained the age of 21 years;

....

(2) For the purposes of this Act, a person of full age is a person who has attained the age of 21 years.

TRADE UNIONS (AMENDMENT) ACT

No. 15 of 1948 [1]

AN ACT TO AMEND THE TRADE UNIONS ORDINANCE IN ORDER TO MAKE SPECIAL PROVISION RELATING TO THE REGISTRATION OF TRADE UNIONS OF PUBLIC SERVANTS AND TO OTHER MATTERS CONNECTED THEREWITH

(Assented to 28 August 1948)

2. The Trade Unions Ordinance [2] is hereby amended by the insertion therein, immediately after Part III, of the following new sections which shall have effect as Part III A of that Ordinance:

PART III A

SPECIAL PROVISIONS APPLICABLE TO TRADE UNIONS OF PUBLIC SERVANTS

18 A. In this Part—

(*a*) "public servant" includes any person in the employment of the Government of Ceylon whatsoever may be the terms or duration of his employment as such;

(*b*) "trade union to which this Part applies" means any trade union of which public servants are members or membership of which is declared by the rules of the union to be open to public servants.

18 B. (1) For the resolution of doubts it is hereby declared that, save as otherwise provided in sub-section (2), every association or combination of public servants having as its object or among its objects one or more of the objects specified in the definition of "trade union" in section 2 is a trade union for the purposes of this Ordinance; and the provisions of this Ordinance shall, subject to the succeeding provisions of this Part, apply accordingly in the case of every such association or combination.

(2) An association or combination consisting exclusively of members of any police force established under the Police Ordinance, or of prison officers, or of members of the Agricultural Corps established under the Agricultural Corps Ordinance, No. 60 of 1946, shall, notwithstanding anything in its objects, be deemed not to be a trade union, and nothing in this Ordinance shall apply to, or in relation to, any such association or combination.

In this sub-section "prison officer" has the same meaning as in the Prisons Ordinance, but does not include any medical officer or apothecary for the time being on the staff of any prison.

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[1] English text in: Parliament of Ceylon, *Trade Unions (Amendment) Act* No. 15 of 1948, Colombo, Ceylon Government Press. Text and information through the courtesy of the Permanent Secretary of the Ministry of External Affairs, Colombo.

[2] English text of this ordinance in: *Chapter 116. Trade Unions.* Ordinance No. 14 of 1935, 1938 Revision. Colombo, Ceylon Government Press.

18 C. (1) The Registrar[1] shall not register any trade union to which this Part applies, unless the rules of the union contain the following provisions, that is to say—

(*a*) A provision restricting eligibility for membership of the union or for any office whatsoever (whether paid or honorary, including that of patron) solely to public servants who are employed in any one specified department of Government or in any one specified service of the Government, or who, having regard to the nature of the work upon which they are engaged are of any specified class or category of public servants though employed in different departments of Government;

(*b*) A provision declaring that the union shall not be affiliated to or amalgamated or federated with any other trade union, whether of public servants or otherwise; and

(*c*) A provision declaring that the union shall not have any political objects or political fund within the meaning of section 41 of this Ordinance.[2]

(2) The powers of the Registrar under section 14[3] shall include the power to refuse to register any trade union to which this Part applies on the ground that the rules of the union do not contain the provisions or any of the provisions specified in sub-section (1), or that any such provision contained in any rule is being contravened with the knowledge, consent or connivance of any officer of the union; and an appeal under section 16[4] shall lie in any case where the Registrar refuses to register a trade union on any ground hereinbefore mentioned.

18 D. (1) The District Court of Colombo, on application made to the Court in that behalf by the Attorney-General, may make order directing the Registrar to withdraw or cancel the certificate of registration of any registered trade union to which this Part applies, if the Court is satisfied—

(*a*) That the rules of the union for the time being in force do not contain the provisions or any of the provisions specified in sub-section (1) of section 18 C, or that any such provision contained in any rule has been contravened with the knowledge, consent or connivance of any officer of the union; or

(*b*) That the union, or any of its officers or agents on behalf of the union, has promoted, organized, aided or financed any strike of any of its members intended in the opinion of the Court wholly or partly for the purpose of influencing or overawing the Government on any political issue not affecting public servants in their capacity as such, or wholly or mainly for the purpose of supporting workmen, other than public servants, in any strike or trade dispute.

(2) Every application under sub-section (1) in respect of any trade union shall—

(*a*) Name the union as respondent;

(*b*) State the grounds on which the application is made; and

(c) Be signed by the Attorney-General, or by the Solicitor-General on his behalf.

[Paragraphs 3–6 contain further details regarding procedure.]

[18 F provides that in the event of any conflict or inconsistency between any provision of this Part and any other provision of this Ordinance, the former provision shall prevail.]

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[1] Part III (sections 7–18) of the *Trade Union Ordinance* contains provisions regarding registration of trade unions. Section 7 reads as follows:

"7. (1) The Registrar shall keep and maintain in such form as may be prescribed, a register of trade unions in which shall be registered the prescribed particulars relating to any registered trade union and any alteration or change, which may from time to time be effected in the name, rules, officers or executive thereof or in the situation of the registered office thereof, and all such other matters as may be required to be registered therein under this Ordinance.

"(2) A certified copy of any entry in the register shall be conclusive proof of the facts specified therein as on the date of such certified copy."

[2] Article 41 (1) reads as follows: "A registered trade union may constitute a separate fund, hereinafter in this Ordinance called 'the political fund', from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects, hereinafter in this Ordinance called 'political objects' specified in sub-section (2)."

The following sub-sections contain qualifications and restrictions as regards political funds and obligations of members of trade unions to contribute to such funds.

[3] Section 14 reads as follows: "The Registrar may refuse to register any trade union if he is not satisfied that the trade union has complied with the provisions of the Ordinance or of any regulations made thereunder, or if he is of the opinion that any one of the objects or rules, or the constitution of the union is unlawful or conflicts with any such provision."

[4] Section 16 provides that appeals against the refusal of the Registrar to register a trade union may be made to the district court within a certain period, and prescribes that certain particulars are to be observed in filing such a petition.

CHILE

ACT REGARDING THE PERMANENT DEFENCE OF DEMOCRACY[1]

Act No. 8987 of 3 September 1948

TITLE I

CONCERNING THE DEFENCE OF THE DEMOCRATIC SYSTEM

No. 1

OFFENCES AND THEIR PUNISHMENT

Art. 1. The existence, organization, activity and propaganda by speech, writing or any other means, of the Communist Party and, in general of any association, entity, party, faction or movement which seeks to establish in the Republic a system opposed to democracy or which commits any act prejudicial to the national sovereignty, are prohibited.

Only those systems which, by doctrine or action, seek to establish a totalitarian or tyrannical government that would suppress the inalienable liberties and rights of minorities and, in general, of the individual, shall be considered as systems opposed to democracy.

The mere fact of forming the unlawful associations referred to in the preceding paragraphs constitutes an offence.

Whether they are members of associations or not, persons violating any of the prohibitions contained in this article shall be liable to the penalties prescribed in article 2 of this Act.

Art. 2. An offence against the internal security of the State, punishable by the maximum degree of minor imprisonment (*presidio*), penal servitude (*reclusión*) forced residence (*relegación*) or deportation (*extrañamiento*)[2] and a fine of 5,000 to 50,000 pesos, is committed by persons who:

(1) By speech, writing or any other means, induce one or more members of the armed forces or police to commit a breach of discipline, or to disobey their superior officers or the established authorities of the Republic;

(2) Instigate, provoke or foment rebellion against the national institutions or against the form of government of the Republic, or the violation by violent means of the rights established by the Political Constitution;[3]

(3) Disseminate or promote, by speech, writing or any other means, doctrines the purpose of which is to overthrow the social order or the political and legal system of the nation by violence;

(4) Form associations for the purpose of preparing or committing any of the offences against the internal security of the State referred to in this Act, whatever may be the period of existence of such associations or the number of their members;

(5) Maintain relations with foreign persons or associations, for the purpose of receiving instructions or assistance of whatever nature, with a view to committing any of the punishable acts referred to in this article;

(6) Give financial support to any foreign person or association with a view to the commission in Chile of offences considered prejudicial to the internal security of the State;

(7) Enrol as members of, or belong to, any of the associations referred to in the preceding paragraphs or any of the other associations, entities, movements, factions or parties referred to in this Act, or engage in activities characteristic of them or assist them to prepare or commit acts punishable under this Act;

(8) Disseminate by speech, writing or any other means within the country, or send abroad, tendentious

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[1] Spanish text in: Ministerio del Interior, *Ley de Defensa permanente de la Democracia*, Santiago de Chile, 1948. Spanish text through the courtesy of Mr. Carlos Valenzuela, Counsellor to the Delegation of Chile to the United Nations. English translation from the Spanish text by the United Nations Secretariat. The Act was adopted on 3 September 1948. The provisions of the Act as adopted and those of the respective Acts and codes to which the Act relates were consolidated in a single text by the President of the Republic, by decree No. 5839 of 30 September 1948. The consolidated text was published in *Diario oficial* of 18 October 1948.

[2] *Presidio* is simple imprisonment; *reclusión*, penal servitude; *relegación*, forced residence in a determined part of the national territory; and *extrañamiento*, deportation from the national territory. According to the length of time for which these penalties are imposed, a distinction is made between minor (*mínimo*) imprisonment, from 61 to 341 days; average (*medio*), from 341 to 541 days; long-term (*mayor*), from 541 days to 5 years; and maximum (*máximo*), from 5 years to life-long imprisonment. Each of these penalties has a minimum, average or maximum degree. The minimum degree of maximum imprisonment, for instance, is 5 years; the average degree 10–15 years; the maximum degree life-long imprisonment.

[3] See the human rights provisions of the Constitution of the Republic of Chile, in *Yearbook on Human Rights for 1946*, p. 58.

or false reports or information intended to disturb the constitutional or legal order, the tranquillity and security of the country, the economic and monetary system, or the stability of Government stocks and securities; a like offence is committed by Chileans who, while outside the country, disseminate such reports or information abroad;

(9) As public officials responsible for the enforcement of the law, show culpable negligence in carrying out the Acts, regulations or instructions issued by the legitimately established Government in circumstances of special gravity;

(10) Hold, arrange or facilitate meetings, the purpose of which is: to overthrow the legitimately established Government; to conspire against, or commit any act prejudicial to the legal or constitutional system or the internal peace of the State; or to plan sabotage, destruction, work-stoppages, "go slow" strikes, or any other act the purpose of which is maliciously to impair the normal development of the productive activities of the country, in order to injure the national economy or disturb a public utility service;

(11) Knowingly lease or rent or in any way provide houses, premises or buildings for meetings held with the object of committing or planning acts against the internal security of the State or the established constitutional or legal system; or lease or rent or in any way provide houses, premises or buildings for the associations, entities, movements, factions or parties referred to in this article or in other provisions of this Act.

Such premises or buildings may be closed by order of the court for the duration of the proceedings;

(12) Assist in, or contribute to, financing the organization, development or exercise of activities punishable under this Act.

If such assistance is rendered by any legal person, the persons affording it shall be personally liable.

Art. 3. An offence against public order, punishable by the maximum degree of minor imprisonment, penal servitude, forced residence or deportation and a fine of 3,000 to 20,000 pesos, is committed by persons who:

(1) Publicly insult the name, flag, or emblem of the nation; or, in like manner, commit the offences of calumny, defamation, offering violence or threats, against the President of the Republic or the Ministers of the State, whether in connexion with their public duties or not;

(2) Incite to destroy, render useless or cause the temporary or permanent stoppage of, or in fact destroy, render useless or cause the stoppage of public or private installations intended for any public service or public utility, or the material means requisite for their operation;

(3) Clandestinely import, manufacture, transport, distribute, sell or store arms, projectiles, munitions, explosives, asphyxiating, poisonous or tear gases or apparatus for their projection or materials for their manufacture. In such cases the said objects shall be seized;

(4) Organize, maintain or promote work-stoppages or strikes, in violation of the relevant statutory provisions, causing or likely to cause disturbances of public order, disruption of public utility services or services the operation of which is compulsory by law, or damage to any essential industry.

Officials or wage-earning or salaried employees employed by the Government, municipalities, Government organs, autonomously administered Government undertakings or semi-governmental institutions shall not in any circumstances declare a strike or stop work. The same prohibition applies to wage-earning and salaried employees in those private undertakings or institutions which are responsible for public utility services.

Persons encouraging, promoting or supporting such strikes or stoppages of work shall be liable to the penalties prescribed in this article, without prejudice to their position or post being immediately declared vacant, or to the termination of the relevant contract of employment.

Collective labour disputes arising in the private undertakings or institutions to which these provisions refer shall be submitted, without prejudice to the provisions of the first paragraph of article 40 of Law No. 7295, to compulsory arbitration by a tribunal of three members, as a court of first instance, judging in equity, which shall consist of a representative of the wage-earning or salaried employees, a representative of the institutions or undertakings concerned and a person appointed, for each case, by the President of the Republic;

(5) Instigate, or in fact carry out, sabotage, a stoppage of work, the introduction of a "go slow" policy or any other unlawful act, with intent to do harm, which impairs or may impair the normal development of the country's essential industries or which disturbs or may disturb the normal operation of a public service or public utility.

Art. 4. If a person incites another to the subversion of public order, or to revolt or rise against the established Government, or if a person, for the same purposes, incites another to commit homicide, robbery or arson or the crimes or minor offences referred to in article 480 or Titles I and II, Book II of the Penal Code, he shall be guilty of an offence against the internal security of the State and against public order and shall be liable to the minimum degree of major imprisonment, penal servitude, forced residence or deportation.

Art. 5. The circulation, delivery or transmission by the mail, telegraph, cable, customs or transport services, of written or printed matter or reports constituting elements of any offence punishable under this Act shall be unlawful.

The intendants, governors, chiefs, administrators or office supervisors of such departments or services shall defer for a time limit not exceeding 24 hours the delivery, despatch, transport or transmission of such printed matter, documents or periodicals and shall, within the said time limit, notify the *Juez de Letras* of the Department[1] and the latter shall briefly and summarily decide whether their despatch, transmission, communication or distribution shall be prohibited or allowed.

If an official or employee coming within the scope of the preceding paragraph fails to fulfil the obligation imposed upon him thereunder he shall be liable to the penalties prescribed in article 3 of this Act, reduced by one degree.

It shall not be lawful for the administrative authorities mentioned herein or any other authorities to detain or open letters or impose censorship upon the Press or telephone or radio communications, except in the cases expressly stated by the laws.

Art. 6. It shall not be lawful to confer on any person affiliated to any of the organizations, entities, factions, movements or parties referred to in articles 1 and 2 or in the other provisions of this Act, or on any person who engages in or promotes any of the activities prohibited thereby any nomination, appointment or contract, whether remunerated or not, for a post or position in the service of the Government, municipalities, Government organs, governmental, semi-governmental or autonomously administered governmental institutions or services. Posts or positions held by such persons shall be declared vacant.

The provisions of the preceding paragraph shall also apply to the posts of advisers and directors of governmental, semi-governmental and municipal institutions or services and of other Government organs, whether autonomously or independently administered or not, which come within the same category.

If an adviser or director as aforesaid or if a person by obtaining the nomination, appointment or contract as mentioned above contravenes the provisions of this article he shall be liable to the penalties prescribed in article 3 of this Act, reduced by two degrees.

If the head of a service who is responsible for declaring, or obtaining the declaration, of vacancy of the posts, positions or employment referred to in the preceding paragraphs fails to do so within a time limit of five days reckoned from the first day on which he is in a position to do so, he shall be liable to the penalties prescribed in the preceding paragraph, and shall be liable also to the loss of his own position or post.

Art. 7. If any offence to which this Act refers is committed through the medium of the Press or radio, the court mentioned in article 18, or the *Juez de Letras* who sits in the criminal court in departments in which a court of appeal does not sit, shall, *ex officio* or on an application made by the authorities, order the suspension of the publication of the offending newspaper or magazine not exceeding ten issues, or the suspension of broadcasts for a period not exceeding 30 days and, in case of the repetition of the offence, shall order the printing establishment or radio station to be closed for one month or two months, respectively, without prejudice to the sentence, which may order closure for a period not exceeding one year. If such action is taken by a *Juez de Letras*, he shall immediately send a full record of the case to the court mentioned in article 18.

The directors and proprietors, managers or administrators of newspapers, magazines or publications and of broadcasting stations, shall be liable for offences punishable under this Act, which are committed through their agency and shall incur the penalties prescribed in article 3 of this Act, reduced by one degree, and the fines prescribed therein.

The defendants may appeal against the relevant decision to the competent court of appeal by any means or procedure. The court shall decide the appeal within twenty-four hours from the time it is lodged, by brief, summary proceedings in which the parties are heard.

Without prejudice to the provisions of the first paragraph and in the case of serious offences, the courts mentioned therein may, *ex officio* or on application made by the authorities, order the immediate seizure of any publication which patently involves any offence punishable by law.

If the defendant is acquitted definitively he shall be entitled to compensation from the Treasury for damages suffered through the adoption of any of the aforementioned measures.

If he is convicted, the adoption of each of those measures shall be considered as equivalent to an extenuating circumstance when determining the penalty.

Art. 8. It shall not be lawful for any persons other than members of the armed forces, the carabineer corps, the investigation service or the corps of prison guards to use fire-arms or edged weapons within the urban limits of the cities and towns of the Republic, without permission from competent authority.

A contravention of this provision shall be punishable by the minimum degree of minor penal servitude and a fine in proportion to the financial means of the offender, but not exceeding one thousand pesos for each offence.

Art. 9. If a person introduces, prints, keeps in stock, distributes or sells pamphlets, magazines, prints, periodicals or cinematograph films intended for propagation of the doctrines referred to in article 2, paragraph 3, of this Act, he shall be deemed to be

[1] A judge whose jurisdiction covers a department or a province (the larger administrative units) is called *Juez de Letras*. As a temporary measure, a judge whose jurisdiction covers one of the smaller administrative units need not be a lawyer.

propagating or promoting such doctrines. Such propaganda material shall be confiscated.

Art. 10. The use of flags, emblems, uniforms or insignia of a subversive or revolutionary nature shall be prohibited. The police force shall break up any procession, meeting or demonstration using any of the insignia or badges mentioned in this article.

Art. 11. The offences to which this Act refers shall be deemed to be committed in public or publicly when they are committed through the medium of periodicals, newspapers, speeches, lectures, broadcast, cinematograph films, loud-speakers, theatrical performances, printed matter, posters, pamphlets, placards, notices, signs, caricatures, mural inscriptions or by other similar means of dissemination.

Art. 12. If any offence to which this Act refers is committed through the medium of the Press, the penalties prescribed herein shall be imposed, and the fine shall be doubled. Imprisonment may not be substituted for such fine, and the owner of the printing establishment in which the offending publication was printed shall be jointly liable for payment. As soon as the charge has been preferred by the public prosecutor, the machinery, equipment, and furniture of the said printing establishment shall be attached as security for payment of the fine, which shall rank in priority with No. 6 in article 2472 of the Civil Code.

Art. 13. In cases where an offence punishable under this Act is committed in emergency zones or places declared to be in a state of siege, and those referred to in article 6, paragraph 9, of the Organic Code of the Courts, the prescribed penalty may be increased by one degree; the prescribed fine may likewise be increased by up to 50 per cent.

The provisions contained in article 3 of Act No. 8940, of 15 January 1948,[1] shall remain in force as permanent provisions after the expiry of the time limit mentioned in article 7 of that Act, subject, however, to the stipulation that where conditions are agreed between the undertaking and the intervening authority, they shall not be inferior to those obtaining at the time when stoppage of work occurred.

Art. 14. The maximum penalty shall be imposed for any offence contemplated in this Act, which is punishable by a heavier penalty under another Act.

Art. 15. If the person sentenced lacks resources with which to pay the fine, the penalty of imprisonment shall be substituted at the rate of one day for every ten pesos, provided that the penalty shall not exceed sixty days.

Art. 16. If an official or wage-earning or salaried employee in the service of the Government, municipalities, Government organizations, governmental or semi-governmental institutions or services, or autonomously administered Government enterprises or agencies is convicted of any of the offences contemplated in this Act he shall be disqualified for any post, position or office in such entities for the period of the penalty.

No. 3

ENJOYMENT OF THE FREEDOM OF THE PRESS

Art. 22. Every newspaper or periodical shall be bound to publish free of charge any explanations or corrections sent to it by officials, corporate bodies or private persons in the belief that they have been made the object of an offensive or unwarrantable allusion.

Corrections shall in all cases be restricted to the subject matter of the explanation; they shall not exceed the length of the article to which they relate, if submitted by private persons, or twice that length if submitted by officials or corporate bodies; nevertheless, it shall not be lawful to require that they should be less than fifty lines or more than two hundred lines in length.

The explanation or correction shall be published, without interpolations, in the same edition, on the same pages and in the same type as the article to which it relates, and shall appear in the next issue following that containing the article, provided that the person concerned delivers the copy at least twelve hours before the time at which the newspaper or periodical appears.

It shall not be lawful for the newspaper or periodical to refuse to publish the reply, without prejudice to the responsibility of its author.

In case of a contravention of the provisions of this article, the manager of the newspaper or periodical shall be liable to a fine of not less than 100 nor more than 1,000 pesos.

Notwithstanding anything herein contained, the court may order publication of the said reply.

If the newspaper or periodical disobeys this order, it shall be liable to a further fine of not less than 5,000 nor more than 10,000 pesos.

If the offending newspaper, periodical, publication or magazine persists in its refusal after the imposition of this fine, it shall be suspended by the court until it agrees to comply with the order.

If the newspaper or periodical adds any comment to the reply of the person concerned, the latter shall have the right to reply under the same conditions as before.

Art. 23. The following are especially liable and shall be deemed to be the principals of the offences punishable under Title III of Decree-law No. 425 of 1925:

(1) The director and proprietor, where a newspaper, magazine or periodical publication is concerned. If the proprietor is a company, liability shall devolve on the manager and on the directors of limited liability companies and in other cases the partners concerned in the administration:

[1] See *Yearbook on Human Rights for 1947*, p. 78, footnote.

(2) In default of a director, the printer;

(3) In default of a director and a printer, the persons engaged in selling, distributing, or exhibiting posters, publications, figures, prints, engraved drawings, objects, emblems or pictures.

The authors shall also be held liable, unless they prove that publication, in whatever form, took place without their consent or agreement.

Where an article is published in the exercise of the right to reply, only the author shall be liable.

All the above provisions are without prejudice to the liability of any persons proved to have participated as principals or accomplices in the offences punishable under Decree-law No. 425 of 1925, in accordance with the general provisions of the Penal Code.

The author and printer may discharge themselves of liability by producing the person who guaranteed publication, provided that he can be taken and prosecuted without previous proceedings.

No. 4

CONCERNING ALIENS

Art. 24. It shall not be lawful for any alien to enter the country if he professes the doctrines referred to in article 2, paragraph 3, of this Act, or is a member of an association or organization for the teaching or dissemination of such doctrines.

Art. 25. Naturalized aliens who have been convicted of any of the offences referred to in this Act shall be deprived of their naturalization certificates and may be deported from the national territory.

Art. 26. If an alien enters the country although he is not the holder of a passport to which a visa has been duly affixed, or if the visa does not comply with the requirements as to form and period of validity, or if such alien fails to satisfy the conditions for which the authorization was granted, he shall be arrested by the police and summarily deported, on an order from the Ministry of the Interior.

The same penalty shall be incurred by aliens residing in the country who fail to submit to the authorities, within a period of six months, documents in the form indicated in the previous paragraph.

Nevertheless, any alien coming within the scope of this article may request the Ministry of the Interior for permission to remain in the country, and such permission shall be granted if the person concerned does not constitute a danger to the State.

Art. 27. Aliens entering the country must register, within a period of three days, in the special registers instituted under Act No. 3446 of 12 December 1918, and obtain a personal identity card; possession of the said card shall not confer the right to settle in the country, regardless of the conditions in which the passport visa was obtained.

Art. 28. The President of the Republic shall fix minimum amounts in cash, kind or securities to be held by aliens entering the country, in order to meet their essential needs in the national territory.

TITLE II

CONCERNING THE PROTECTION OF THE DEMOCRATIC SYSTEM IN TRADE UNIONS AND OTHER LABOUR ORGANIZATIONS

Art. 29. Persons of either sex over the age of 18 years, who work in the same undertaking or at the same occupation, or are engaged in the same trade or profession or similar or related trades or professions, whether intellectual or manual, are granted the right of association.

Nevertheless, if a person has been charged with or convicted of any offence punishable under Title I of this Act or excluded from electoral or municipal registers, he shall not be a member of any trade union.

Notwithstanding the provisions of the preceding paragraph, persons covered thereby shall be entitled to the share of profits as provided in article 402 of the Labour Code and, if they pay the contributions for which they are liable, to such cultural, educational, co-operative, solidarity and welfare benefits as the trade union may grant, in conformity with its statutes and regulations.

Art. 30. Wage-earning or salaried employees in the service of the State, municipalities or Government undertakings shall not form trade unions or belong to any trade union.

The activities in the offices or on the premises of the organizations mentioned in the first paragraph of sections, units or groups whose work is of an essentially political nature shall likewise be prohibited.

Responsible heads of services in which such an offence is proved shall be liable to suspension from their duties for three months, without pay.

Art. 31. The purposes of industrial trade unions are:

(1) To conclude collective contracts of employment with firms and enforce the workers' rights derived from such contracts. The right to receive the wages stipulated is enjoyed directly by the workers;

(2) To represent the workers in the exercise of the rights derived from individual contracts of employment, when required to do so by those concerned;

(3) To represent the workers in collective disputes and, specially, in conciliation and arbitration proceedings;

(4) The organization of mutual-aid associations supplementing the laws on social welfare, canteens and stores, the construction of polyclinics and mausolea unemployment insurance, halls for entertainments;

(5) The equipment of industrial or training schools and public libraries;

(6) The organization of co-operatives. The organization of producers' co-operatives shall be permitted only when the articles produced differ from those manufactured by the undertaking concerned;

(7) In general, to further such objectives in the fields of culture, solidarity, co-operation and social welfare as are agreed upon by their members and determined in their articles of association.

Art. 32. The investment of funds which trade unions are entitled to collect directly by way of a share in industrial profits shall be managed by a committee consisting of the president of the trade union, the manager or representative of the undertaking and a chairman, who shall be the labour inspector of the highest rank in the district or, in Santiago, the provincial inspector.

This committee shall prepare the estimates within thirty days after receipt of the share.

Where such estimates exceed the sum of one hundred thousand pesos, approval by the President of the Republic shall be required.

Art. 33. Without prejudice to the provisions of the preceding article, the trade union has the right to administer, through its directors, all funds belonging to the union.

The directors shall be responsible for culpable negligence in administration and shall be jointly and severally liable, without prejudice to criminal liability, if the case should arise.

Offences committed in the administration of trade union funds shall be the object of a public prosecution.

Art. 34. The movement of funds shall be made known by statements of accounts which shall be posted every month in a conspicuous place in the establishment, and shall be subject to the accounting and cash controls required by the regulations of the association.

A balance-sheet shall be prepared twice a year and a copy thereof shall be sent to the office of the competent labour inspector.

Contraventions of the provisions of this article shall be punishable by termination of the duties of the trade union directors, without prejudice to any other penalties which may be prescribed.

Art. 35. If a person who is on the permanent strength of the establishment is accused of having committed one of the offences referred to in Title I of this law, he may be suspended from his post or employment in the establishment, company or occupation in question, without prejudice to the definitive decision made at the relevant trial.

If he is acquitted, he shall be entitled to be reinstated in his post or employment and to receive the corresponding remuneration as from the date of his reinstatement.

The judgement of acquittal shall provide for payment by the Treasury, as compensation for damages occasioned by the proceedings to the person acquitted, of an amount equal to the remuneration he has lost owing to the suspension authorized under the first paragraph.

Art. 36. If a person has been convicted or proved guilty of a crime or offence, or has been excluded from the electoral or municipal registers, or belongs to any of the associations, entities, parties, factions or movements referred to in Title I, articles 1 and 2, of this law, he shall not be a director of a trade union, a member of a conciliation board, or of a special agricultural conciliation and arbitration board, an arbitrator or member of an arbitration tribunal in collective labour disputes, a member of the Joint Committee on Minimum Wages, a member of a joint committee on wages, a lay member of a labour court, an employees' representative, or a member of a delegation representing wage-earning or salaried employees in collective labour disputes, or hold any office representing employers or wage-earning or salaried employees in official, governmental or semi-governmental organizations.

Art. 37. At the request of the Directorate-General of Labour, the Directorate-General of Inland Revenue shall audit the accounts and examine the management or investment of the funds of trade unions, and report thereon to the Directorate-General of Labour.

The Directorate-General of Labour may, when it considers such action necessary in order to protect the interests of the trade unions or if the president or treasurer of such organizations, or both, are absent or unable to act, appoint a labour official or inland revenue official to replace the president or treasurer, or both, in the management and investment of union funds, subject to the provisions of the laws, regulations and relevant articles of association.

TITLE III

CONCERNING THE PROTECTION OF THE DEMOCRATIC SYSTEM IN ELECTORAL PROCEDURE

No. 1

REGISTRATION AND EXCLUSION FROM THE ELECTORAL REGISTERS

Art. 38. The condition of being "a citizen with the right to vote", which is prescribed in article 27 of the Political Constitution of the State,[1] shall be satisfied by valid registration in the electoral registers and by possession of the other qualifications stated in article 7 of the said Constitution.

Art. 39. The following persons shall not be registered, even though they satisfy the conditions laid down in article 23 of Act No. 4554:

(1) Non-commissioned officers and privates in the Army, Navy, Carabineers, Police or Gendarmerie;

[1] See p. 294 of this *Yearbook*.

(2) Persons deprived of their rights as citizens because of physical or mental disability rendering them incapable of free and intelligent action;

(3) Persons under prosecution or who have been convicted, for offences incurring severe penalties;

(4) Persons who have served enemies of Chile or its allies during a war, who have been naturalized in another country or whose naturalization papers have been cancelled;

(5) Members of the regular clergy;

(6) Persons charged with or convicted of offences under Title I of this Act and those who are members of the associations, entities, parties, factions or movements referred to in that title. The registration boards shall not, however, be competent to determine the existence of the latter disqualification; application for exclusion of the persons concerned may be made to the regular courts under articles 40 and 41, where applicable, or under article 42 of this Act.

Persons coming within the scope of paragraphs (3), (4) and (6) may be registered as soon as they have regained their civic rights.

In the cases mentioned in paragraph 6, civic rights shall be automatically restored five years after the sentence is put into effect or, if the penalty imposed is for a term exceeding five years, after it has been served, or earlier, if expressly authorized by the President of the Republic in respect of offences not incurring severe penalties.

Registration may not be refused for any other cause or reason except in the case of persons whose previous registration has been cancelled by virtue of article 2 of the transitional provisions of this Act.

Art. 40. Application for exclusion of persons unlawfully registered by the Boards must be made to the *Juez de Letras* who sits in the criminal court, within the ten days after publication of the lists of citizens registered.

In order to be valid, such applications must be accompanied by a receipt for deposit with the Treasury of ten pesos for each voter challenged. This sum shall be payable to the Treasury if the challenge is rejected.

Application may also be made for the exclusion of persons belonging to the entities, associations, movements, factions or parties referred to in Title I of this Act.

Art. 41. During registration, and within ten days following the publication of the lists of citizens registered referred to in article 81 of Act No. 4554, any elector may apply to the *Juez de Letras* of his Department for the exclusion of persons enrolled by the registration boards in contravention of the provisions of this Act, as provided in article 40 thereof.

Application may also be made for the exclusion of persons belonging to the entities, associations, movements, factions or parties referred to in Title I of this Act.

Art. 42. It shall not be lawful for persons belonging to the associations, entities, parties, factions or movements referred to in Title I, articles 1 and 2, of this Act to be enrolled in the electoral or municipal registers, but the respective registration boards shall not be competent to determine the existence of this disqualification.

Any elector may apply to the *Juez de Letras* who sits in the competent criminal court for exclusion from the said registers of persons registered in contravention of this prohibition, and for cancellation of their registrations. Such application may be made at any time, with the exception of the periods referred to in article 3 of Act No. 4554 on electoral registrations.

The application shall be proceeded with and decided as provided in articles 44, 45, 46 and 47 of the said Act No. 4554, and the evidence submitted shall be carefully weighed by the court.

CHINA

NOTE ON THE CONSTITUTIONAL SITUATION[1]

The Chinese Constitution,[2] adopted by the National Assembly on 25 December 1946 and promulgated by the National Government on 1 January 1947, became effective on 25 December 1947. According to article 174, paragraph 1, the National Assembly has the power to amend the Constitution.

China's first popularly elected National Assembly was convened in Nanking on 29 March 1948. Under the sponsorship of Dr. Wang Shih-chieh and others, a bill to grant the President emergency powers was passed on 18 April 1948. This bill was appended to the Constitution as a temporary measure.

It is true that the emergency measures may be modified or abrogated by the Legislative Yuan in accordance with paragraph 2 of article 57 of the Constitution, that the period of national crisis may be declared terminated by the President on his own initiative or at the request of the Legislative Yuan, or that the extraordinary session of the National Assembly to be called not later than 25 December 1950 shall decide whether or not the temporary provisions are to remain in force. It may be said, nevertheless, that the powers granted to the Legislative Yuan in articles 39 and 43 of the Constitution have been curtailed and the corresponding rights of the people have been suspended, at least during the so-called period of national crisis.

Accordingly, the Executive Yuan, on 17 August 1948, dispatched to all authorities throughout the country a four-point security order which provided: (1) search by judicial or police agencies of private residences or other premises without a search warrant during an emergency; (2) suppression of strikes or other actions detrimental to production; (3) prevention of student strikes, demonstrations and other obstructionist movements; (4) accountability of responsible officials of Government organizations, public bodies and schools for the maintenance of order in their respective organizations.

The text of the temporary provisions of the Constitution for the period of national crisis, passed by the National Assembly on 18 April 1948, is as follows:

"In accordance with the procedure stipulated in paragraph 1 of article 174, the following temporary provisions to be effective during the period of national crisis are hereby enacted:

"The President during the period of national crisis may, by resolution of the Executive Yuan, take emergency measures to avert imminent danger to the security of the State or of the people, or to cope with any serious financial or economic crisis, without being subject to restrictions stipulated in article 39 or in article 43[3] of the Constitution.

"The emergency measures mentioned in the preceding paragraph may be modified or abrogated by the Legislative Yuan in accordance with paragraph 2 of article 57 of the Constitution.

"The period of national crisis may be declared terminated by the President on his own initiative or at the request of the Legislative Yuan.

"The President shall call an extraordinary session of the First National Assembly not later than 25 December 1950 to discuss all proposals pertaining to amendments to the Constitution. If at that time the period of national crisis has not yet been declared terminated in accordance with the foregoing provision, the extraordinary session of the National Assembly shall decide whether or not the temporary provisions are to remain in force or are to be abrogated."

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[1] This note was prepared by Dr. Chung-fu Chang, Adviser, Chinese Delegation to the United Nations.

[2] See the text of the provisions regarding human rights in the Constitution of the Republic of China in *Yearbook on Human Rights for 1947*, pp. 79–82.

[3] *Art. 39.* "The President may, in accordance with law, declare martial law with the approval or confirmation of the Legislative Yuan. When the Legislative Yuan deems it necessary it may, by resolution, request the President to rescind such law."

Art. 43. "In case a natural calamity, an epidemic or a serious national, financial or economic change necessitates emergency measures to be taken, the President, during the recess of the Legislative Yuan, may, by resolution of the Executive Yuan Council, and in accordance with the emergency decree-laws, issue an emergency decree expedient and necessary to cope with the situation. Such a decree shall, within one month after issuance, be presented to the Legislative Yuan for confirmation; in case the Legislative Yuan dissents, the decree shall immediately become null and void."

COLOMBIA

DECREE TO PROVIDE FOR THE PARTICIPATION OF EMPLOYEES IN THE PROFITS OF UNDERTAKINGS

Decree No. 2474[1] of 19 July 1948

The President of the Republic of Colombia,

in the exercise of the powers conferred upon him by article 121 of the National Constitution, and

CONSIDERING:

That by decrees No. 1239 and No. 1259 of 10 and 16 April 1948, public order was declared to be disturbed and a state of siege was proclaimed throughout the territory of the Republic;

That it is the duty of the Government to enact measures of a social and economic character directed towards the speedy restoration of public order;

That the improvement of the living conditions of the working classes and the raising of the level of their incomes are directly related to public economic and social order;

That in order to offset the inequalities in the incomes of the various economic groups and to devise means of harmonizing the interests of capital and labour in the various undertakings, measures must be taken to ensure that employees shall receive a fair share in the profits of undertakings when in excess of a specified limit so that they may have an incentive to harder and more efficient work while at the same time receiving compensation for the increased cost of living, commensurate with the extent of their family obligations,

DECREES:

Art. 1. Commercial undertakings with a capital of 100,000 pesos or more which employ more than twenty permanent employees, industrial undertakings with a capital of 100,000 pesos or more which employ more than 30 permanent employees, agricultural and forestry undertakings with a capital of 200,000 pesos or more which employ more than 30 permanent employees and stock-raising undertakings with a capital of 200,000 pesos or more which employ more than 20 permanent employees shall be bound to distribute a portion of their profits which are in excess of a prescribed rate of return among the employees who are personally employed on a permanent basis. . . .

Art. 4. Profit-sharing shall be effected on the basis of profits in excess of 12 per cent on the capital as assessed for the undertaking in accordance with the general regulations regarding income tax and supplementary taxes, subject to the following exceptions:

[Here follows an enumeration of the exceptions.]

Art. 5. For the purposes of this decree, the capital of the undertaking means the capital determined for the assessment of income tax, tax on capital and supplementary taxes.

Art. 6. An employee shall not be entitled to share in the profits of an undertaking other than the undertaking in which he is personally employed. Therefore, if the declaration of income shows that the income is derived from various sources or economic activities or from various undertakings of the same kind or of different kinds, the assessing officer shall assess the income from each of the undertakings separately.

Similarly, in order to determine the net profit of each of the undertakings, the general management expenses, sums paid on account of interest and the amortization of debts and the amount of the income tax, capital tax and supplementary taxes shall be divided proportionally between them in accordance with the profits of each undertaking.

Art. 7. Profit-sharing shall be carried out in accordance with the following scale:

(*a*) On profits in excess of 12 per cent but not in excess of 15 per cent, 5 per cent of the excess;

(*b*) On profits in excess of 15 per cent but not in excess of 18 per cent, 8 per cent of the excess;

(*c*) On profits in excess of 18 per cent but not in excess of 25 per cent, 12 per cent of the excess;

(*d*) On profits in excess of 25 per cent but not in excess of 35 per cent, 15 per cent of the excess;

(*e*) On profits in excess of 35 per cent, 20 per cent of the excess.

[1] Spanish text of the Decree in *Derecho del Trabajo* (published in Bogotá) Nos. XLIII and XLIV, July-August 1948, pp. 5–11. Text and information were received through the courtesy of Dr. Rafael Escallón, Professor of Criminal Law and Sociology at the National University, Bogotá. English translation from the Spanish text by the United Nations Secretariat. The decree entered into force on 19 July 1948, the date of its promulgation.

Art. 8. A worker shall not be entitled to participate in the profits of the undertaking unless his contract of employment covers the whole financial period to which the profits relate. . . .

Art. 9. The right to a share in the profits shall be extended to partners who render active and permanent services in the undertaking, as if they were employees.

Art. 10. Profits shall be distributed to the employees on the basis of share units in accordance with the following factors: (*a*) wage; (*b*) family responsibilities; (*c*) seniority; (*d*) attendance; (*e*) efficiency and integrity.

Art. 11. The value of each unit shall be the quotient obtained by the division of the profits to be distributed by the total number of units awarded to the employees in accordance with the following articles.

Art. 12. The share of each employee shall correspond to the total number of his units.

Art. 13. Wage units shall be awarded on the following scale:

(*a*) Up to 50 pesos, 5 units;
(*b*) Over 50 and up to 100 pesos, 10 units;
(*c*) Over 100 and up to 200 pesos, 18 units;
(*d*) Over 300 and up to 400 pesos, 30 units;
(*e*) 400 pesos and over, 32 units.

The wage to which this article refers is the twelfth part of the wages earned during the whole year, including overtime pay.

Art. 14. Family units shall be awarded at the rate of four units for each member of the family dependent on the worker, up to a maximum of 32 units.

A person living in the home of and exclusively dependent on the employee and entitled to be maintained in accordance with Part 21, Book I, of the Civil Code shall be deemed to be a member of the family.

Art. 15. Seniority units shall be awarded as follows:

(*a*) From 1 to 5 years of service, 3 units;
(*b*) Over 5 and up to 10 years' service, 6 units;
(*c*) Over 10 and up to 15 years' service, 10 units;
(*d*) Over 15 years' service, 16 units.

Art. 16. Eight attendance units shall be awarded to every employee who has not been absent from his employment during the financial year, one unit being deducted for each absence.

Absence on legitimate grounds shall not be deemed to be absence from employment:

Art. 17. Not more than twelve efficiency and integrity units shall be awarded to each employee judged by the owner of the undertaking to merit them in accordance with the rules laid down for that purpose in the special regulations of the undertaking; these regulations shall be submitted for the approval of the Ministry of Labour.

Art. 18. Attendance, efficiency and integrity units shall not be awarded to persons sharing in the profits to whom article 9 of this decree refers.

Art. 19. No individual share shall exceed half of the wages earned or received during the financial year to which the profits relate.

Any surplus shall be paid to the Colombian Institute of Social Security, which shall apply funds arising from this source to the organization and maintenance of social security.

Art. 20. The undertaking shall pay the employee 50 per cent of his share at the times and under the conditions laid down in articles 23 and 26 of this decree. The balance shall be deposited in the banking institution or organization appointed by the Government in the decree issuing administrative regulations and interest shall be paid thereon at the rate approved at the time by the Colombian Savings Bank.

Art. 21. Complete or partial withdrawals of the deposits to which the preceding article refers shall not be effected except in the following cases, good cause being shown:

(*a*) For the purchase of a dwelling house to be occupied by the employee, or for the payment of mortgages on such house, or for the payment of the initial instalment required for the purchase of the house;

(*b*) During periods of unemployment, in monthly instalments not exceeding one-half of the last monthly wage received;

(*c*) In the event of domestic misfortune or to meet urgent family expenses;

(*d*) In the event of the death of the employee, the deposit shall be paid to his heirs.

In the case of married employees, the withdrawals to which this article refers shall not be effected except with the express consent of the husband and wife.

Art. 26 The undertaking shall pay to each employee the amount of his share in the profits, in four quarterly instalments, the first payment being made 30 days after the balance sheet for the corresponding financial period is closed, or 30 days after the assessment of income tax, capital tax, and supplementary taxes, in the case of natural or legal persons other than limited liability companies.

When a worker's share is less than one twenty-fourth of his annual wage, payment shall be made in a lump sum in the month of December.

Art. 27. In the event of domestic misfortune an undertaking may make advance payments to any employee, on account of his share in the profits.

Art. 29. If on review of the assessment for profit-sharing, it appears that the undertaking should pay an amount greater than that shown in the original assessment, the undertaking shall immediately make

the additional payment in the same manner and under the same conditions as those laid down in the preceding articles.

If such review shows that the amount to be shared is smaller, the undertaking may deduct the difference from the sums to be shared in the next financial period.

Art. 30. Sums accruing to workers on account of shares in the profits of the undertaking shall not be reckoned as wages for the purposes of assessing benefit on leaving the employment and other social benefits.

Art. 31. The profit-sharing established by the present decree shall in no way entitle any employee or employees to take part in the management or administration of the enterprise or to inspect its books. Any inspection which may be required for the purposes of this decree shall be carried out by the State alone.

Art. 32. Profit-sharing shall take effect as from 1 January 1950 and for this initial period shall be effected on the basis of the profits obtained by undertakings during the 1949 financial year.

Art. 33. In issuing regulations for the administration of this decree, the Government is empowered to prescribe the procedure of appeal against the assessments for profit-sharing declared by undertakings; to prescribe penalties for contravention of the provisions of the decree or the regulations issued thereunder; to state the principles for the definition of a permanent worker; to set up a Profit-sharing Department responsible for supervising observance of the relevant provisions; to establish posts and prescribe the relevant salaries and, in general, to take such action as it may deem necessary for the proper carrying out of this decree.

COSTA RICA

NOTE ON THE CONSTITUTIONAL SITUATION [1]

On 8 May 1948, the Constitution of Costa Rica of 7 December 1871, the human rights provisions of which were published in *Yearbook on Human Rights for 1946*, p. 71, was declared out of operation.

The provisional Government of the Republic, however, declared in the special decree issued to this effect, that all chapters covering human rights in the former Constitution would remain in force. There was no change, therefore, in the basic laws of the country regarding human rights.

On 3 September 1948, the "Founding *Junta* of the Second Republic" issued a decree providing for the election of a National Constituent Assembly to be held on 8 December 1948.[2] The National Electoral Tribunal was to announce the result of the election at the latest on 8 January 1949, and the National Constituent Assembly to meet on 15 January 1949.

The National Constituent Assembly was assigned the task of discussing the draft Constitution submitted by the *Junta* and of taking a final decision on the Constitution of the Second Republic.

The decree provides that the elections take place in accordance with the Electoral Code (No. 500 of 18 January 1946, as amended). Parts of this Code are reproduced in the Annex "Electoral Laws" to this Part of the *Yearbook*, p. 297.

[1] Information through the courtesy of Dr. Alberto P. Cañas, Permanent Representative of Costa Rica to the United Nations.

[2] Decree No. 151 is published in *La Gaceta* of 9 September 1948 and in: Republica de Costa Rica, Publicaciones Oficiales, *Codigo Electoral, Decreto Legislativo No. 500 de 18 Enero de 1946 y sus reformas*, San José, November 1948, pp. 69–70.

CZECHOSLOVAKIA

CONSTITUTION OF THE CZECHOSLOVAK REPUBLIC[1]

of 9 May 1948

DECLARATION

We, the Czechoslovak People, declare that we are firmly resolved to build up our liberated State as a People's democracy which will ensure to us a peaceful road to socialism.

We are determined to defend with all our strength the achievements of our national and democratic revolution against all the endeavours of domestic and foreign reaction, as we have proved afresh before the whole world by the action we took in defence of the People's Democratic Order in February 1948.

We mutually pledge ourselves that our two nations shall labour at this great task together, hand in hand, thus continuing the progressive and humanitarian traditions of our history.

Already a thousand years ago the Czechs and Slovaks, two brotherly nations, members of the great Slav family of nations, lived jointly in a single State, and jointly accepted from the East the highest achievement of the culture of that era—Christianity. As the first in Europe they inscribed on their standards, during the Hussite revolution, the ideas of freedom of thought, of government by the people, and of social justice.

For centuries the Czech and Slovak peoples fought against the feudal exploiters and the German Hapsburg Dynasty for their social and national liberation. The concepts of freedom, progress and humanity were the guiding ideas of our two nations when, in the nineteenth century, by the joint effort of Slovak and Czech intellectual pioneers who had sprung from the people, they entered upon the era of national revival. It was also under this flag that both our nations began their joint struggle against German imperialism during the First World War, and, inspired by the Great October Revolution, they created after centuries of subjection, on 28 October 1918, their common State—the democratic Republic of Czechoslovakia.

Already then, during the first resistance movement, our people, inspired by the great example of the revolutionary struggle of the Russian workers and peasants, longed for a better social order, for socialism. But this progressive endeavour, true to our best traditions, was shortly brought to naught, when, upon the split of the workers' movement in December 1920, the numerically weak section of capitalists and landowners succeeded in turning back, in spite of the democratic Constitution, the progressive development of our Republic, and in establishing the capitalist economic order with all its attendant evils—above all, the nightmare of unemployment.

And later, when a new imperialist expansion, in the foul likeness of German nazism, threatened both our nations with destruction, the latter-day ruling class, the bourgeoisie, once again committed treason, just as the nobility had done in the days of the Hussite revolution. At the time of our greatest peril they made common cause with the enemy against the people and thus enabled world imperialism temporarily to settle its differences, at the expense of our two nations, by the shameful Munich Pact.

Thus the road was cleared for the treacherous assault upon our peace-loving country by the hereditary enemy, to whom devoted assistance was given by the descendants of alien colonists settled in our midst and, in accordance with our Constitution, enjoying democratic rights in full equality with us. The dreadful events of the Second World War saw our two nations again united in the common struggle for liberation, a struggle which, at the cost of the lives of countless of our best sons and with the aid of the Allies, above all the great Slav Power, the Union of Soviet Socialist Republics, reached its climax through the Slovak and Czech risings of 1944 and 1945, in the national and democratic revolution of our people, and was brought to a victorious conclusion by the liberation of Prague by the Red Army, on 9 May 1945.

We have now decided that our liberated State shall be a national State, rid of all hostile elements, living in brotherly harmony with the family of Slav States and in friendship with all peace-loving nations of the world. We wish it to be a People's democratic State, where the people not only make the laws through their representatives, but also carry them into effect through their representatives. We wish it to be a State in which the entire economy shall serve the people and be so directed that general prosperity shall grow, that there shall be no economic crises and that the national

[1] Official Czech text in *Czechoslovak Collection of Laws and Decrees No. 150, of 1948*. English translation by F.O. Stein, published by the Czechoslovak Ministry of Information, August 1948, and revised for the *Yearbook* by Dr. Caroline Schwelb, New York. The Constitution was adopted on 9 May 1948, promulgated on 9 June 1948 and became operative on the day of its promulgation.

income shall be justly distributed. Along this road we wish to attain a social order in which exploitation of man by man shall be completely abolished—socialism.

In this spirit we have laid down in the second part of this Constitution its Fundamental Articles, and in the third we have expounded them in detail, and we propose thereby to give a firm foundation to the legal order of our People's democracy.

FUNDAMENTAL ARTICLES OF THE CONSTITUTION

Article I

(1) The Czechoslovak State is a People's democratic Republic.

(2) The People are the sole source of all power in the State.

Article II

(1) The Czechoslovak Republic is a unitary State of two Slav nations possessing equal rights, the Czechs and the Slovaks.

(2) The territory of the State forms a single and indivisible whole.

Article III

(1) The People's democratic Republic recognizes no privileges; work for the benefit of the community and participation in the defence of the State is the duty of all.

(2) The State guarantees to all citizens, men and women alike, freedom of the person and its expression and takes care that every citizen enjoys the same advantages and the same opportunities.

(3) All citizens have the right to education, the right to work, to a just reward for work done, and to leisure after work. National insurance shall provide for all citizens in case of incapacity for work.

Article IV

(1) The sovereign People exercise the State power through representative bodies, which are elected by the People, controlled by the People and accountable to the People.

(2) The franchise to the representative bodies is universal, equal, direct, and secret. Every citizen has the right to vote on reaching the age of 18. Every citizen may be elected on reaching the age of 21.

(3) To deal with public matters and to exercise their democratic rights the people form voluntary associations, in particular political, trade union, co-operative, cultural, women's, youth, and gymnastic associations.

[Arts. V–VII deal with the National Assembly, the President of the Republic and the Government.]

Article VIII

(1) In Slovakia, the State power is vested in and exercised by, and the national individuality of the Slovak nation is represented by, the Slovak National Organs.

(2) The Slovak National Organs shall, in the spirit of the People's democracy, ensure the equality of Czechs and Slovaks. All organs of the Republic shall endeavour, in harmony with the Slovak National Organs, to ensure that equally favourable conditions be created for the economic, cultural and social life of both nations.

[Art. IX deals with the organs of legislative and executive power in Slovakia.]

Article X

The State power in municipalities, districts, and regions is vested in and exercised, and the rights and liberties of the People are safeguarded by the National Committees.

Article XI

(1) The judicial power is exercised by independent courts.

(2) The judiciary shall be composed, on the one hand, of judges by profession; on the other, by judges chosen from the people. They shall have equal powers of decision.

(3) The judges are independent in the discharge of their office, being bound solely by the legal order of the People's democracy.

Article XII

(1) The economic system of the Czechoslovak Republic rests on the nationalization of the mineral resources, the industries, the wholesale trade and finance; on the ownership of the land in accordance with the principle "The land belongs to those who till it"; on the protection of small and medium-sized enterprises, and on the inviolability of personal property.

(2) The entire national economy of the Czechoslovak Republic shall serve the People. In this public interest the State directs all economic activity by a Uniform Economic Plan.

DETAILED PROVISIONS OF THE CONSTITUTION

PART I

RIGHTS AND DUTIES OF CITIZENS

Equality

Sect. 1. (1) All citizens are equal before the law.

(2) Men and women shall have equal status in the family and in the community and shall have equal access to education, and to all professions, offices, and honours.

Personal Freedom

Sect. 2. Personal freedom is guaranteed. It may not be restricted or withheld except by virtue of an Act.

Sect. 3. (1) No one shall be prosecuted, except in cases permitted under the law, and then only by a court or authority competent by virtue of the law, and under the procedure prescribed by law.

(2) No one shall be arrested, unless he be caught *in flagrante delicto*, except on a reasoned warrant in writing granted by a judge. Such warrant shall be served at the time of the arrest, or, if this is not possible, within 48 hours thereafter.

(3) No one shall be taken into custody by a public official, except in such cases as are prescribed by law, whereupon he shall either be released within 48 hours or be brought before a court or such authority as may be competent, according to the nature of the case, to deal with it further.

Inviolability of Domicile

Sect. 4. The inviolability of the home is guaranteed. It may not be restricted, except by virtue of an Act.

Sect. 5. (1) The premises of no one may be searched, except in cases permitted under the law, and then only by a competent court or public official duly authorized by virtue of the law, and under the procedure prescribed by law.

(2) A search may be carried out, unless the law directs otherwise, only on the strength of a reasoned warrant in writing granted by a judge or competent authority. This warrant shall be served at the time of the search, or, if this is not possible, within 48 hours thereafter.

(3) The official carrying out the search shall produce his authority, and, at the request of the person whose premises he has searched, he shall at the time of the search, or, if this is not possible, within 48 hours thereafter, furnish that person with a written statement giving the reasons for the search, and the result thereof, and with a list of all articles seized.

Secrecy of Mails and of the Transmission of News

Sect. 6. No one shall violate the secrecy of letters under cover or other written matter, whether they be kept in a private place or despatched by mail or other means of transmission, except in the cases authorized and in the manner prescribed by statute. The secrecy of news transmitted by telephone, telegraph, or other similar public means of transmission shall be protected in the same manner.

Freedom of Residence

Sect. 7. (1) Every citizen shall be free to take up his permanent or temporary residence anywhere within the territory of the Czechoslovak Republic. This right may not be restricted except where this is in the public interest and by virtue of an Act.

(2) The right to emigrate abroad may not be restricted, except by virtue of an Act.

Right of Property

Sect. 8. Within the limits set out by general provisions of the law, every citizen may anywhere within the territory of the Czechoslovak Republic acquire real and other property and carry on gainful activity there.

Sect. 9. (1) Private ownership may not be restricted, except by virtue of an Act.

(2) Expropriation shall not be possible except by virtue of an Act and on payment of compensation, unless an Act provides, or shall in future provide, that no compensation be granted.

(3) No one shall misuse the right of property to the detriment of the community.

Protection of the Family and of Youth

Sect. 10. (1) The institutions of marriage and of the family and motherhood are under the protection of the State.

(2) The State shall ensure that the family be the sound foundation of the development of the nation. Large families shall be granted special relief and assistance.

Sect. 11. (1) To children the State shall ensure special care and protection. The State shall, in particular, take systematic measures to further the growth of the population.

(2) The rights of a child shall not be prejudiced by virtue of its origin. Details shall be provided by Act.

(3) To young people the State shall ensure all opportunities for their full physical and mental development.

Right to Education

Sect. 12. (1) All citizens have the right to education.

(2) The State shall ensure that every one receive education and training in accordance with his capabilities and with a view to the needs of the community.

Sect. 13. (1) All schools shall be State schools.

(2) Basic education shall be uniform, compulsory and free.

(3) Details and exceptions shall be provided by Act.

Sect. 14. (1) All education and all instruction shall be so provided as to be in accordance with the results of scientific research, and so as not to be inconsistent with the People's Democratic Order.

(2) The supreme direction of all education and of all instruction, as well as the supervision thereof, shall be the competence of the State.

Freedom of Conscience and Belief

Sect. 15. (1) Freedom of conscience is guaranteed.

(2) No one shall suffer prejudice by virtue of his views or philosophy, faith or convictions; but neither

shall anyone be entitled to refuse to fulfil the civic duties laid upon him by law on the ground of his views or philosophy, his faith or his convictions.

Sect. 16. (1) Everyone shall be entitled to profess privately and publicly any religious creed or the philosophy of secularism.

(2) All religious creeds, as well as secularism, shall be equal before the law.

Sect. 17. (1) Everyone shall be at liberty to carry out the acts connected with any religious creed or with his secularist philosophy, provided that the exercise of this right is not inconsistent with public order and morality. This right shall not be misused for non-religious ends.

(2) No pressure, whether direct or indirect, shall be put upon anyone to take part in such acts.

Freedom of Expression and the Protection of Cultural Assets

Sect. 18. (1) Freedom of expression is guaranteed.

(2) Everyone may, within the limits of the law, express his opinion by word of mouth, in writing, in print, pictorially, or in any other manner whatsoever. No one shall suffer prejudice through the exercise of this right.

Sect. 19. (1) Freedom of creative mental work is guaranteed. Scientific research and the promulgation of the results thereof, as well as art and its expressions, are free provided that they do not violate the penal law.

(2) All cultural assets are under the protection of the State. The State shall ensure that these assets be available to all, and support science and the arts in the interest of the development of the national culture, of progress, and of the general welfare; in particular the State shall ensure to creative workers favourable conditions for their work.

Sect. 20. (1) Everyone shall have the right to bring his views and the fruits of his creative mental work to the general notice, and to publicize and display them in any manner whatsoever.

(2) This right shall not be restricted by Act except with a view to safeguarding the public interest and the cultural needs of the people.

Sect. 21. (1) Freedom of the Press is guaranteed. It shall therefore not be permitted, in principle, to subject the Press to preliminary censorship.

(2) An Act shall provide who shall be entitled to publish newspapers and periodicals, and on what conditions, having regard, in particular, to the principle that profit shall not be the aim of such publication.

(3) Provision shall be made by an Act for planned direction in the fields of the publication and distribution of non-periodical literature, especially of books, musical scores and reproductions of works of the plastic and graphic arts, such direction to be planned in such manner as to safeguard the freedom of science and of the arts and the protection of valuable works of art.

Sect. 22. (1) The right to produce, distribute, publicly exhibit, as well as to import and export motion pictures shall be reserved to the State.

(2) Broadcasting and television shall be the exclusive right of the State.

(3) The exercise of these rights shall be regulated by Acts, which shall also lay down exceptions.

Right of Petition

Sect. 23. Everyone shall be entitled to submit petitions to any public authority.

Freedom of Assembly and Association

Sect. 24. (1) The right to assemble and to form associations is guaranteed in so far as the People's Democratic Order, or public peace and order are not threatened thereby.

(2) The exercise of these rights shall be regulated by Acts.

Sect. 25. (1) In order to protect their rights, employed persons may associate in the United Trade Union Organization and to defend their interests through the instrumentality thereof.

(2) To the United Trade Union Organization shall be guaranteed a wide participation in the control of the economy and in the decisions on all matters relating to the interests of the working population.

(3) The interests of the persons employed in individual plants and offices shall be represented by the United Trade Union Organization and its bodies.

Social Rights

Sect. 26. (1) All citizens shall have the right to work.

(2) This right shall in particular be secured by the organization of labour directed by the State in pursuance of the planned economy.

(3) Women shall be entitled to the special regulation of their working conditions, having regard to pregnancy, maternity and child care.

(4) The law shall provide for special working conditions for young persons, having due regard to the requirements of their physical and mental development.

Sect. 27. (1) All working members of the population shall be entitled to a just remuneration for work done.

(2) This right shall be secured by the wage policy of the State, pursued in concurrence with the United Trade Union Organization and directed towards the constant raising of the standard of living of the working population.

(3) In assessing the remuneration for work the decisive factors shall be the quality and quantity of the work, as well as its benefit to the community.

(4) Conditions being equal, men and women shall be entitled to equal remuneration for equal work.

Sect. 28. (1) All working members of the population shall have the right to leisure.

(2) This right shall be secured by the regulation by statute of hours of work and of holidays with pay, as well as by the provision of recreational facilities for the working population.

Sect. 29. (1) Everyone shall be entitled to the protection of health. All citizens shall be entitled to medical care and to provision in old age, and in the case of incapacity for work and loss of livelihood.

(2) Women shall be entitled to special care in the events of pregnancy and maternity; children and young persons shall be entitled to all facilities for a full physical and mental development.

(3) These rights shall be secured by the Acts relating to national insurance, as well as by the public health and social welfare services.

(4) The protection of life and health at work shall in particular be ensured by State supervision and by the regulations concerning safety measures at places of work.

Fundamental Duties of the Citizen towards the State and the Community

Sect. 30. (1) It is the duty of every citizen to be loyal to the Czechoslovak Republic, to uphold the Constitution and the laws and in all his actions to be mindful of the interests of the State.

(2) In particular it is the patriotic duty of every citizen to assist in the maintenance and furtherance of the national property and to guard against its being diminished or damaged.

Sect. 31. It is the duty of all citizens to discharge conscientiously and honestly in the spirit of the People's Democratic Order, all public functions to which they are called by the People.

Sect. 32. It is the duty of every citizen to work to the best of his abilities and to contribute by his work to the common weal.

Sect. 33. Taxes and public duties shall not be levied except by virtue of an Act, nor shall the public authority impose personal services except by virtue of an Act.

Sect. 34. (1) The defence of the State and of the People's Democratic Order is the supreme duty of every citizen. Service in the People's democratic army of the Czechoslovak Republic is the supreme honour for every citizen.

(2) It is the duty of every citizen to undergo military training, to take part in military service, and to obey any call to the defence of the State.

(3) For the purpose of the defence of the State and for the preparation of such defence, co-operation and material contributions may be demanded from, and restrictions as well as services and performance in kind imposed upon everyone.

(4) In the exercise of their official function, public authorities and executive officers shall, by virtue of their authority, also take care of the interests of the defence of the State.

(5) Details shall be prescribed by Act.

General Provisions

Sect. 35. No penalties may be threatened or imposed except by virtue of an Act.

Sect. 36. (1) It is the duty of all public authorities, in the discharge of their office or function, to act in accordance with the law and with the principles of the People's Democratic Order.

(2) Any public official who offends against this duty shall be liable to punishment according to the law.

Sect. 37. (1) Utterances and acts tending to endanger the independence, integrity and unity of the State, the Constitution, the Republican form of government and the People's Democratic Order, are punishable.

(2) The misuse of civil rights and liberties to such ends is inadmissible. In particular it is forbidden to spread, in any manner and in any form whatsoever, the doctrines of nazism and fascism, racial and religious intolerance and chauvinism.

Sect. 38. An Act shall provide what restrictions may be imposed upon the rights and liberties of citizens in time of war, or when events occur that threaten in increased measure the independence, integrity and unity of the State, the Constitution, the Republican form of government and the People's Democratic Order, or public peace and order.

PART II

THE NATIONAL ASSEMBLY

Sect. 40. (1) Detailed provision shall be made by Act concerning the conditions of the electoral franchise to the National Assembly and its exercise, as well as concerning the procedure to be followed in the election of deputies.

(2) An Act shall provide what activities and which public functions shall be incompatible with the function of deputy.

PART VII

THE JUDICIARY

Sect. 134. No one shall be withheld from his lawful judge.

Sect. 135. (1) The jurisdiction in matters of civil law shall be discharged by civil courts, which shall be either regular courts, or special courts, or courts of arbitration.

(2) The jurisdiction in criminal matters shall be discharged by the criminal courts, except in those cases in which criminal matters are subject to administrative criminal procedure under the general provisions of the law.

(3) Special courts may be established for the conduct of criminal proceedings; such courts shall not be established except for a limited period and only in cases previously specified by Act.

Sect. 136. (1) The jurisdiction of the military criminal courts is regulated by a special Act.

(2) The extension by statute of the jurisdiction of military courts to the civil population shall not be permissible except in time of war or increased danger to the State and except in respect of acts committed during such time.

Sect. 143. The judges shall declare on oath that they will abide by the laws and orders, that they will interpret them in the light of the Constitution and of the principles of the People's Democratic Order, and that they will be impartial in their decisions.

Sect. 144. (1) Proceedings in court shall as a rule be oral and public. The public shall not be excluded from the proceedings except in the cases prescribed by Act.

(2) Judgment shall be pronounced in the name of the Republic.

(3) In criminal cases judgment shall always be pronounced in public.

(4) Proceedings in criminal courts shall be based upon the principle of public prosecution. The accused shall be guaranteed the right to be defended by counsel.

Sect. 145. An Act shall determine the liability of the State and of the judge for damages arising through a violation of the law committed by the judge in the discharge of his office.

PART VIII

THE ECONOMIC SYSTEM

Sect. 146. The means and instruments of production shall be either national property, or the property of People's Co-operatives, or in the private ownership of individual producers.

Sect. 147. National property shall in particular include the economic assets nationalized under special Acts (section 153), as well as all public assets serving the common weal.

Sect. 148. The following can only be national property:

Mineral wealth and the mining thereof;

Sources of natural energy and power plants;

Mines and foundries;

Natural therapeutic sources;

The production of goods serving the health of the people;

Enterprises of not less than 50 employees or persons engaged therein, save for the enterprises of People's Co-operatives;

Banks and insurance institutions;

Public rail transport and regular road and air transport;

Postal services, public telegraph services and telephone services;

Broadcasting, television and the film (section 22).

Sect. 149. (1) National property shall, in principle, be vested in the State (State ownership).

(2) Such portions of the national property as are not of national significance and serve wholly or chiefly the inhabitants of a certain administrative unit (municipality, district, region), may be vested in the units of the People's Administration (communal ownership).

Sect. 150. The State shall administer the national property either directly or through the instrumentality of National Enterprises (section 155).

Sect. 151. Economic enterprise shall be either public (in particular State enterprise or enterprise of the units of the autonomous People's Administration), or co-operative (enterprise of the People's Co-operatives), or private.

Sect. 152. (1) The right to economic enterprise shall be vested in the State exclusively.

1. In the sphere of exclusively national property (section 148), provided the said property is not by statute vested in the units of the People's Administration (section 149, sub-section 2);

2. Under the Nationalization Acts (section 153);

3. Under the Acts relating to the regulation of domestic and foreign trade, as well as to the international forwarding trade.

(2) The State may, in consideration of the public interest and of the requirements of the national economy, surrender the exploitation of certain economic or other assets to the units of the People's Administration or to People's Co-operatives, or to other bodies corporate.

Sect. 153. (1) Which sectors of the economy and which economic or other assets are nationalized, and to what extent, shall be determined by Act.

(2) The statutory extent of nationalization measures already effected cannot be restricted.

(3) By nationalization the ownership of the affected enterprises and other economic units and property rights shall pass to the State.

Sect. 154. (1) Nationalized enterprise shall, in principle, be organized by the State in the form of National Enterprises.

(2) The State may also organize in this form other sectors of State enterprise, as well as economic assets that have been or shall in future be acquired by it otherwise than by nationalization.

Sect. 155. (1) National Enterprises shall be part of the national property and shall be subject to the supreme direction and supervision of the State.

(2) National Enterprises shall be autonomous bodies corporate.

Sect. 156. The economic activities of the People's Administrative Units shall be directed by the National Committees. This economy or portions thereof may be organized in a form analogous to that of National Enterprises.

Sect. 157. (1) The People's Co-operatives are associations of workers for the pursuit in common of activities, the aim of which it shall be to raise the standard of living of their members as well as of the rest of the working population, and not to derive the greatest possible profit from the capital invested.

(2) The State shall support the People's co-operative movement in the interest of the development of the national economy and of the general welfare.

Sect. 158. (1) The private ownership of small and medium-sized enterprises employing not more than 50 persons is guaranteed.

(2) The personal property of the citizens is inviolable. This provision shall in particular relate to household utensils and articles of personal use, to family dwelling-houses and to savings derived from personal labour as well as to the rights of succession to such property.

Sect. 159. (1) The largest area of land which may be held in private ownership by individual or joint owners or by a family working together shall be 50 hectares.

(2) In the cases of farmers who till their land in person, private ownership of land shall be guaranteed up to the limit of 50 hectares.

(3) Details shall be prescribed by Act.

Sect. 160. The State shall, with the active participation of the farmers, so direct the agricultural policy that the technical level of agricultural production be gradually raised and the social and cultural gap between town and country be bridged.

Sect. 161. Private monopoly organizations operating for profit, in particular cartels, trusts and syndicates, are prohibited.

The Uniform Economic Plan

Sect. 162. The State shall, by means of the Uniform Economic Plan, direct all economic activity, in particular production, trade and transport, in such a manner that a suitable level of national consumption be ensured, that the quantity, quality and continuity of production be increased and the standard of living of the population thus be gradually raised.

Sect. 163. (1) The Uniform Economic Plan shall always be drawn up for a certain period of time and shall be promulgated by Act.

(2) The preparation and implementation of the Uniform Economic Plan shall be one of the primary functions of the Government. In this task the Government shall base its work upon the creative initiative of the working population and its associations.

(3) The Government shall at regular intervals submit to the National Assembly reports respecting the implementation of the Uniform Economic Plan.

Sect. 164. (1) It shall be the duty of everyone who is alloted any task whatsoever in the operation and implementation of the Uniform Economic Plan to carry out such task conscientiously and prudently to the best of his personal and economic abilities.

(2) It shall be the duty of persons and bodies corporate to adapt their economic activities to the Uniform Economic Plan.

PART IX

GENERAL PROVISIONS

Sect. 165. (1) State citizenship in the Czechoslovak Republic shall be one and uniform.

(2) The conditions on which State citizenship is acquired and lost shall be prescribed by Act.

PART X

CONCLUDING AND TRANSITIONAL PROVISIONS

Sect. 171. (1) All parts of this Constitution (the Declaration, Fundamental Articles and Detailed Provisions) shall be effective as a whole.

(2) The individual provisions of this Constitution shall be interpreted in the spirit of the entire Constitution and of the principles on which it is based.

(3) The interpretation and application of all other provisions of the Legal Order shall always be consistent with the Constitution.

DENMARK

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

I. CONSTITUTION

In February 1946, a parliamentary commission was established under the chairmanship of Mr. Knud Kristensen, Prime Minister at that time, and comprising representatives of all political parties. According to its terms of reference the commission was to study those provisions of the Constitution in need of revision and propose the necessary amendments. In February 1948, after Mr. Hans Hedtoft had succeeded to the Premiership, the commission was reconstituted under his chairmanship.

The commission has not yet reported officially, but unofficially it has been made known that the representatives of the major political parties have agreed to propose that the minimum age qualification for voting, which is 25 years at present, should be reduced to 23 years. As at the end of 1948, no official proposal to that effect has been submitted to Parliament.

II. LEGISLATION

The following Acts and decrees referring to human rights were promulgated in 1948:

1. Act No. 137 of 23 March 1948 regarding home rule for the Faröe Islands. This small group of islands in the North Atlantic is inhabited by a population with a language and cultural traditions of its own, and thereby distinct from the rest of the population of Denmark. Although the Act does not refer to the rights of individuals, it is of interest in so far as it grants autonomy to a national minority within the constitutional framework of the Danish State. The text of this Act is printed below.

2. Electoral law of 9 June 1948. Relevant articles of this Act are reproduced in the Annex "Electoral Laws" to this Part, page 304.

3. Act No. 458 of 26 November 1948 regarding the examination of travellers by customs officials. This act limits the power of customs officials to search persons when entering or leaving the country.

4. Royal Decrees Nos. 18 and 19 of 24 January 1948. By these decrees women were granted the right to vote and to be elected to municipal and provincial councils in Greenland on equal footing with men. (Greenland does not elect representatives to the Danish Parliament; the question of the right to vote and to be elected to Parliament does not, therefore, arise.)

[1] Information through the courtesy of Professor Max Sörensen, University of Aarhus.

ACT RESPECTING THE HOME GOVERNMENT OF THE FARÖE ISLANDS [1]

Act No. 137 of 23 March 1948

We, Frederik the Ninth, by the grace of God King of Denmark etc., hereby proclaim: In recognition of the special position which the Faröe Islands occupy nationally, historically, and geographically within the Kingdom, the *Rigsdag* in agreement with a resolution of the Legislative Assembly (*Lagting*) of the Faröe Islands has passed, and We do signify Our consent to, the following Act on the constitutional position of the Faröe Islands within the Kingdom:

Art. 1. Subject to the provisions of this Act the Faröe Islands shall constitute a self-governing national community within the Kingdom of Denmark. In virtue thereof the people of the Faröe Islands, through their popularly elected Legislative Assembly (*Lagting*) and through an administration called the *Landsstyre* appointed thereby, shall assume within the union of the Kingdom the direction and conduct of such matters of special concern to the Faröe Islands as are set out in this Act.

Art. 2. The matters and classes of matters included in List A appended to this Act shall be deemed to be in principle matters of special concern to the Faröe Islands. The Home Government of the Faröe Islands (that is to say, the institutions mentioned in the second sentence of article 1) may determine that all or some of such matters and classes of matters shall be transferred to it forthwith, and the said Home Government shall then assume all expenditure connected therewith. The Home Government may later determine, with

[1] Printed Danish text: *Lov om Faeröernes Hjemmestyre*, (Act. No. 137 of 23 March 1948), received through the courtesy of Professor Max Sörensen, University of Aarhus. English translation from the Danish text by the United Nations Secretariat.

the like consequence, that matters and classes of matters in the list not forthwith transferred shall be then transferred to the Home Government. In like manner the Home Government shall be bound to assume matters and classes of matters included in the list when the authorities of the Kingdom so desire.

Art. 3. Further consultation shall be held to determine whether and to what extent the classes of matters included in List B shall be deemed to be matters of special concern to the Faröe Islands.

Art. 4. The Home Government shall have legislative and administrative authority over classes of matters coming within its competence. Laws passed by the Legislative Assembly and ratified by the president of the *Landsstyre* shall be known as *Lagting* laws.

Art. 5. The competence of the Faröe authorities shall be subject to the limitations resulting from the rights and obligations for the time being in force under treaties and other international agreements.

The authorities of the Kingdom shall decide questions concerning the foreign relations of the Kingdom.

Art. 6. Matters which under this Act do not come within the competence of the Faröe Home Government shall be dealt with by the authorities of the Kingdom as common matters of the Kingdom.

Questions of doubt concerning the competence of the Faröe Home Government with respect to the authorities of the Kingdom shall be brought before a board consisting of two members chosen by the Danish Government, two members chosen by the *Landsstyre*, and three judges of the Supreme Court, one of whom shall be designated as chairman, appointed by the president of the Supreme Court. If the four members representing the Danish Government and the *Landsstyre* come to an agreement, their decision shall be final. Otherwise the decision shall lie with the three judges of the Supreme Court.

The Prime Minister may stay the operation of a resolution brought before the Board until the Board has given its decision thereon.

Art. 7. [Bills originating with the Danish Government authorities that contain provisions exclusively applicable to the Faröe Islands shall be communicated to the Faröe Home Government for consideration before they are introduced in the *Rigsdag*. Danish laws concerning local conditions in the Faröe Islands shall also be communicated to the Faröe Home Government for consideration before they are given effect in the Islands. The same procedure shall apply with respect to treaties and other international agreements needing ratification by the *Rigsdag* and concerning the special interests of the Islands.]

Art. 8. [Where the Faröe Home Government so requests, a specialist in Faröe affairs may be appointed after consultation with the National *Landsstyre* to assist the Ministry of Foreign Affairs in matters concerning the special economic interests of the Faröe Islands. Similarly an assistant dealing particularly with the interests of the Faröe Islands shall be appointed to assist Danish representatives in countries in which the Islands have special economic interests. The Faröe Home Government may represent the special interests of the Islands in negotiations with foreign countries on trade and fishery agreements. In matters of special interest to the Islands the Minister of Foreign Affairs may authorize representatives of the Faröe Home Government to conduct negotiations directly with the assistance of the Danish Foreign Office.]

Art. 9. In matters of joint concern an agreement shall be reached, after consultation, on the extent to which and the cases in which the Faröe Home Government shall be permitted to make regulations on matters of special concern to the Faröe Islands and to assume the administration of such matters.

Art. 10. Passports and certificates of nationality issued in the Faröe Islands to a Faröe Islander shall bear the words: "*Føroyingur*" and "*Føroyar*" after the words "Danish" and "Denmark". A Faröe Islander is a person of Danish nationality domiciled in the Faröe Islands. The right to elect and be elected to bodies under the Faröe Home Government may be restricted to Faröe Islanders. No other legislative or executive distinction may be made between Faröe Islanders and other Danish citizens.

Art. 11. Faröe shall be recognized as the principal language, but Danish shall be taught well and carefully and both languages may be used in official matters.

In the presentation of appeals all documents in Faröe shall be accompanied by a Danish translation.

Art. 12. [This article contains provisions concerning the recognition and use of the Faröe flag.]

Art. 13. All regulations now in force in the Faröe Islands which do not conflict with this Act shall remain in force until amended or repealed by the proper authority.

Art. 14. The Faröe Islands shall be represented in the *Rigsdag* by at least two members. So long as the *Rigsdag* is divided into the present two Chambers, the Faröe Islands shall be represented by one member in the Upper House (*cf.* article 36 of the Constitution) and two members in the Lower House.

Art. 15. The office of county prefect (*Amtmand*) in the Faröe Islands shall cease to exist.

Instead thereof there shall be a representative of the Kingdom (*Rigsombudsmand*). The representative of the Kingdom shall be the supreme representative of Denmark in the Faröe Islands and the head of the Danish administration in the Islands. He shall have access in the course of his duties to the Legislative Assembly and be entitled to participate in discussions of all joint

matters but not to vote. He shall be notified forthwith of resolutions made by the Legislative Assembly or the *Landstyre*, and copies of *Lagting* laws and other orders made by the Faröe Home Government shall be supplied to him forthwith.

The representative of the Kingdom shall assume the duties of the county prefect subject to the changes resulting from this Act until such time as a new system comes into operation.

Art. 16. This Act shall enter into force on 1 April 1948.

MATTERS OF SPECIAL CONCERN TO THE FARÖE ISLANDS

List A

(Excerpts)

The following classes of matters are designated as matters of special concern and shall pass immediately to the independent Faröe administration or be transferred later thereto on application by the Legislative Assembly or the Danish Government.

1. Arrangements by the Faröe Islands for home government under the new system.

Within the said system this heading includes regulations concerning the Legislative Assembly; the law of election to the Legislative Assembly; the executive administration; the introduction, passing, ratification and notification of *Lagting* laws; the engagement, dismissal, conditions of service, wages and pensions of home civil servants.

2. Communal affairs.

3. Public works and fire service, town planning, housing, letting, public registry.

4. Public health, medical practitioners, midwives, hospitals, pharmacists.

This heading includes medical officers, statutory provisions on unqualified practice, measures against tuberculosis and other contagious diseases, care of the insane and vaccination.

5. Public welfare; special services; social insurance; compulsory accident insurance; workers, working conditions, apprentices, assistants, holidays.

6. Direct and indirect taxes.

7. Right of appropriation, and general disposition of all home revenue.

9. Schools.
10. Archives, libraries, museums.
13. Agriculture and rural affairs.
14. Theatre and cinema licences, entertainment.
15. Supply, production and distribution.

List B

The following matters shall be discussed further before a final position is taken on whether and to what extent they may be recognized as matters of special concern:

1. The national church.
2. Police.
3. Minerals, radio, aircraft.
4. Land.
5. Import and export control.

DOMINICAN REPUBLIC

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

During the year 1948, the legislation of the Dominican Republic has not been changed to any appreciable degree as regards the provisions dealing with human rights.

[1] Information through the courtesy of Dr. Horacio Vicioso, Under-Secretary of State for International Relations, Ciudad Trujillo.

ECUADOR[1]

LEGISLATIVE DECREE REGARDING THE SHARE OF WORKERS IN THE NET PROFITS OF THEIR FIRMS[2]

of 5 November 1948

NOTE

Article 185 of the Constitution of Ecuador of 31 December 1946[3] provides that "all workers shall receive a share in the net profits of their respective firms, at a percentage fixed by law, which may not be lower than 5 per cent. The distribution shall be governed by law."

This provision was implemented by article 374 of the Labour Code, promulgated in 1938, which made it obligatory for firms to contribute 5 per cent of their profits to the respective works council. The article reads as follows:

"The enterprise concerned shall be bound to pay a contribution equivalent to not less than 5 per cent of its net profits to the works council. This contribution shall be paid on the basis of the balance sheet and at the time when the balance sheet is drawn up."

It was thus intended, in conformity with the spirit of the Labour Code, to ensure that the largest possible number of Ecuadorian workers join workers' associations or works councils. Article 185 of the Constitution, however, quoted above, does not make it obligatory for workers to form or join associations, as is seen from the following paragraph of the article:

"Both employers and workers are guaranteed the right to form unions for purposes of professional advancement. No one may be compelled to join a union. Public servants, as such, may not form unions."

The legislative decree of 5 November 1948 amends article 374 of the Labour Code in so far as it recognizes the individual rights of workers to receive a share in the profits without the necessity of paying those sums to the works councils. It moreover supplements article 374 by providing, in addition to the 5 per cent allotted to the workers, a further 2 per cent to be deposited in the Insurance Fund in the name of each worker in a savings account for social welfare purposes.

As a result of these modifications, a greater degree of liberty in joining trade unions is ensured the worker.

Art. 1. The net share of the workers in the profits of their respective firms shall be an individual share under the terms of the present Act.

Art. 2. Seven per cent of the net profits of the respective firms shall be distributed amongst all the workers. This 7 per cent shall be distributed as follows:

Five per cent shall be distributed individually and directly amongst all the workers, in proportion to the total amount of the remuneration received by each of them during the corresponding year;

The remaining 2 per cent shall be deposited by the firm in the Insurance Fund, in the name of the worker concerned, in a savings account for social welfare purposes for the benefit of the workers themselves, such as purchase of workers' dwellings, extension of medical-social services, pledge offices, etc. Until the Legislature at its next session determines the manner in which these funds are to be used, in accordance with the purposes stated, they may be paid to the workers in the same manner and at the same time as the reserve funds.

Art. 3. Workers receiving bonuses or gratuities, the amount of which exceeds the percentage fixed by law, shall not be entitled to receive from the 5 per cent of the profits individually distributed in accordance with the present Act any sum in excess of the difference between the bonuses and gratuities and the amount which would be due to them in the distribution.

Art. 4. Workers employed by contractors, stewards or agents shall receive a share of the profits of the firms for which such contractors or agents are working.

Workers employed on piece-work, paid at daily or piece rates, shall also receive a share of the profits of their respective firms.

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[1] Certain articles of the Treaty of Amity between the Republic of the Philippines and the Republic of Ecuador, of 24 March 1948, are reproduced in Part II of this *Yearbook*, p. 453.

[2] The text of the Legislative Decree and the information on which the introductory note is based were supplied through the courtesy of Dr. Homero Viteri-Lafronte, Permanent Representative of Ecuador to the United Nations. The Legislative Decree was signed on 5 November 1948 by the President of the Senate and the President of the Chamber of Deputies, promulgated on 2 December 1948 by the President of the Republic and published in *Registro Oficial* No. 85, of 14 December 1948. English translation from the Spanish text by the United Nations Secretariat. According to article 14, the Legislative Decree came into force on the day of its publication.

[3] Article 185 is reproduced in full in *Yearbook on Human Rights for 1946*, pp. 94–95.

Art. 5. Artisans are exempted from the obligation to pay a share of their profits to their workmen and apprentices.

An artisan is a manual worker who, possessing the qualifications laid down in the Labour Code, has invested in his workshop, working tools, machinery or raw materials, a sum not exceeding 20,000 sucres; who employs not more than six workmen; and whose monthly rate of sales does not exceed 15,000 sucres.

Any manual worker who has invested sums not less than 20,000 sucres and not exceeding 40,000 sucres in tools, machinery or raw materials, shall also be considered as an artisan, provided that he fulfils the other requirements of the preceding paragraph and has been declared as such by the Directorate-General of Labour. That department shall, at the request of the party concerned, issue the required statement certifying that the latter's work could not be carried on with machinery, tools and raw materials within the limits established in the preceding paragraph.

Art. 6. The share in the net profits of their respective firms paid to workers shall not be considered as part of their salary for the purposes of contribution to the provident funds or for determination of the reserve and pension funds established under article 124 of the Labour Code.

Art. 7. If one or more firms are engaged in production and others are principally concerned with the distribution and sale of the articles produced by the former, the Ministry of Labour may consider them as one single firm for the purposes of distributing the share in the profits.

Art. 8. Statements made in income-tax returns shall be used as a basis for determining the annual profits of the respective firms. The Treasury shall, at the request of the workers' organizations of the respective firms, order such investigations and examinations as it deems necessary to estimate the effective profits. The respective workers' organization shall appoint a representative to assist in the examination of the accounts.

Art. 9. The amount due to individual workers shall be handed over directly to them by the respective firm, whether or not such workers are members of the works council, and either party—*i.e.* employers or workers—may request the assistance of an official of the Ministry of Labour to supervise the distribution. A record shall be kept of all proceedings and copies delivered to both parties and the Ministry concerned.

The copies must be delivered within 15 days from the date of the payment of the profits, which must take place before 15 March each year.

Art. 10. The Ministry of Social Welfare and Labour shall impose a fine of from 1,000 to 10,000 sucres on any firm which has been proved, after investigation by the Treasury, to have made false declarations, with fraudulent intent, concerning its net profits, or has used irregular methods in order to avoid handing over the due percentage or to decrease the amount of the same; the amount of the fine to be determined by the financial capacity of the firm.

The sums arising from these fines shall be added to the 2 per cent paid out of the profits in the form indicated in article 2 of the present Act.

Art. 11. Firms shall be given the option of granting to their workers and employees at certain times of the year advances on the 5 per cent of the net profits or the equivalent, which are to be distributed.

Art. 12. The share in the profits of the firms paid to the workers shall be subject to the same guarantees as those established for wages in the Labour Code.

Art. 13. The Ministry of Labour shall settle any questions that may arise in applying the present law.

Transitional Provision. Five per cent of the profits for the year 1947 of firms which have not yet made the distribution amongst their workers, shall be paid subject to an agreement between employers and workers as regards the form and periods allowed for payments, these agreements to be ratified by the Ministry concerned. Any bonuses and gratuities granted by firms to their workers in 1947 shall be included in the share payable under the present article.

EGYPT

LABOUR DISPUTES CONCILIATION AND ARBITRATION ACT [1]

Act No. 105 of 7 July 1948

Art. 1. This Act shall apply to every dispute affecting labour or the conditions thereof arising between one or more employers and the whole or a part of their manual or clerical workers except:

(1) Disputes arising out of the engagement, discharge, disciplining or individual conditions of labour of one or more workers, not being disputes of principle affecting the common interests of all the workers or a section thereof.

(2) Disputes arising out of the application or interpretation of a statute, regulation or judgment of a court.

(3) Disputes affecting officials, manual or clerical workers of the Government, or officials or workers of provincial, city or village councils, or classes of manual or clerical workers whose relations with their employers are governed by statute or decree.

(4) Disputes affecting agricultural workers or domestic servants.

Art. 2. If a dispute arises to which the provisions of article 1, first paragraph, apply, and the parties cannot settle it between themselves, either party may submit directly or through a representative an application to the Labour Office for the area within which the place of work is situated to endeavour to settle the dispute by amicable means. Such application shall indicate the names of the parties to the dispute or their representatives, their addresses, and the subject of the dispute.

Art. 3. An application submitted by an employer must be signed by him or by his authorized agent.

An application submitted by workmen must be submitted by the chairman of the union to which they belong, together with the appropriate resolution of the executive council of the union. If they do not belong to a union, the application must be submitted by the majority of the workers, or by the majority of the section of workers affected by the dispute.

The application must also contain the names of those persons who have been appointed to negotiate on behalf of the union; their number must not exceed five.

Art. 4. The Labour Office shall endeavour for two weeks, not including public holidays, from the date of submission of the application to settle the dispute by amicable means, and shall be guided therein by the representations submitted to it by each of the parties.

Art. 5. If the Labour Office succeeds in settling the dispute, the terms of the agreement shall be set out in triplicate in a report and shall be signed by the official representing the Office and by the representatives of the two parties. A copy shall be handed to each of such representatives, and the third copy shall be retained in the Office for reference in case of need. Such report shall have the force of an award of an arbitration tribunal as referred to in this Act.

Art. 6. If the Labour Office does not succeed in settling the dispute by amicable means, a report shall be sent to the Labour Department setting out the result of the endeavour and the reasons for its failure. The Labour Department shall show the said report to the Minister for Social Affairs, who, if he cannot settle the dispute by a further attempt, shall order that the dispute be referred to a board for conciliation between the two parties.

The said board shall be composed as follows:

(1) The president of the court of first instance, or his deputy, as chairman;

(2) A representative of the Labour Department, to be appointed by the Minister for Social Affairs;

(3) A representative of the Ministry of Commerce and Industry, to be appointed by the Minister of Commerce and Industry;

(4) The employer affected by the dispute, or his deputy;

(5) A representative of the workers' union or one of the workers affected by the dispute, to be chosen by the workers, as the case may be;

(6) A delegate of the chamber of the industry affected, if any; otherwise an employer from the industry or trade affected or from a similar industry or trade, to be chosen by the employer from lists to be drawn up in the manner and under the conditions laid down by order of the Minister.

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[1] Arabic text in *Egyptian Gazette*, Supplement to No. 92, 8 July 1948, received through the courtesy of Dr. Omar Loutfy, Legal Adviser, Egyptian Delegation to the United Nations. English translation from the Arabic text by the United Nations Secretariat.

(7) A delegate of a union, if any, of the industry or trade of the workers engaged in the dispute, to be chosen by themselves; otherwise a worker from the industry or trade to be chosen from lists to be drawn up in the manner and under the conditions laid down by order of the Minister.

The members specified in (6) and (7) shall not have a direct interest in the dispute. The board shall be assisted by the opinion of such experts in the subject of the dispute as it may select, but these shall not take part in its deliberations.

If the dispute concerns the workers of a branch of a firm which carries on business in several places, the conciliation board for the area of the headquarters of the firm shall deal with the dispute.

Art. 7. If the board succeeds in settling the dispute between the parties, a report of the terms of the agreement shall be drawn up as laid down in article 5, and such report shall have the force of an award of an arbitration tribunal.

Art. 8. If the board does not succeed in settling the dispute by amicable means, the Minister for Social Affairs shall refer the dispute to an arbitration tribunal in the following two cases:

(1) If arbitration is compulsory under article 9.

(2) If arbitration is not compulsory and the president of the board invites the parties to accept arbitration and they agree to accept it, or one agrees and the president of the board supports him therein.

In such case the provisions of articles 10–16 shall apply, and the arbitration shall have the effects of a compulsory arbitration.

Art. 9. Arbitration shall be compulsory in the following cases:

(1) If an award has previously been issued by an arbitration tribunal relating to the dispute.

(2) If the dispute affects work in:

(*a*) Public utility services, such as water supply, lighting, drainage and the like,

(*b*) Bakeries, slaughter-houses, wholesale vegetable and meat supply concerns, food factories, ice factories, or refrigeration installations,

(*c*) The combined carriage of passengers and goods.

Art. 10. The arbitration tribunal shall be composed as follows:

(1) The president of the appellate court having jurisdiction over the place of the dispute, or his deputy, as chairman.

(2) The chief prosecutor in the said court, or his deputy,

(3) One of the judges of the said court, to be appointed by the general assembly of the court,

(4) A representative of the Labour Department, to be appointed by the Minister for Social Affairs,

(5) A representative of the Ministry of Commerce and Industry, to be appointed by the Minister of Commerce and Industry, as members.

Art. 11. The following shall sit with the tribunal referred to in the preceding article as members of the jury:

(1) Two original and two alternate delegates from the chamber of the industry concerned, if any, otherwise chosen by the employer from the lists referred to in article 6, and having no direct interest in the dispute.

(2) Two original and two alternate delegates from a union, if any, in the industry or trade of the workers affected by the dispute, to be chosen by them, otherwise chosen by them from the lists referred to in article 6, and having no direct interest in the dispute. The members of the jury shall be chosen within seven days of the notification of the parties that the dispute has been referred to arbitration, and if they are not so chosen the Minister for Social Affairs shall appoint them. Members of the jury shall not take part in the deliberations.

If the dispute concerns the workers of a branch of a firm which carries on business in several places, the arbitration tribunal for the area of the headquarters of the firm shall deal with the dispute.

Art. 12. The arbitration tribunal shall sit in the court house of the local court of first instance on a date fixed by its president, and notice thereof shall be given to the members of the tribunal, the members of the jury, and the representatives of the parties by registered post at least three days before the date of the hearing.

The tribunal shall not be properly constituted unless all its members and the original members of the jury are present. If an original member of the jury is absent, his place shall be taken by one of the alternates in the order in which their names appear in the list prepared for the purpose. If the tribunal is incomplete through the absence of original and alternate members of the jury after due notice, the tribunal shall be properly constituted without them or with such of them as appear, as the case may be.

Art. 13. The delegates of the Labour Department and of the Ministry of Commerce and Industry and the members of the jury shall take an oath before the remainder of the court as follows:

"I swear by Almighty God to do my duty truly according to conscience."

Art. 14. The arbitration tribunal shall hear the dispute brought before it and shall decide the same summarily without charge.

The parties shall appear before the tribunal in person and shall be entitled to produce contracts or memoranda in support of their case. An employer may be represented at the hearing by one of his employees.

The tribunal shall have all the powers of a court of

law, including the power to hear witnesses after administering the oath according to law, to appoint industrial experts, to inspect factories and workplaces, to examine all contracts and account books relevant to the dispute, and to do anything else that may assist it to settle the dispute. The provisions of the Penal Code and the Code of Criminal Procedure relating to offences of the second degree (delicts) shall apply to the witnesses.

Art. 15. The award of the arbitration tribunal shall be based on custom and the principles of justice, and the tribunal shall have regard to the general economic and social conditions and the relative state of each industry and trade in the area in which the dispute arose.

The tribunal shall before deliberating and giving its award hear the opinion of each member of the jury present on the subject of the dispute. If the award of the tribunal conflicts with the opinion of the majority of the members of the jury, such opinion shall be stated in the award with the reasons for rejecting it.

The award of the tribunal shall be in accordance with the majority of the votes, shall be reasoned, shall not afford ground for any proceedings for defamation, and shall be binding on both the parties to the dispute. After it has been given executory form by the clerks of the court of first instance for the area in which the dispute arose, it shall have the executory force of a judgment.

Art. 16. The award of the arbitration tribunal shall take effect on the date appointed therein, and if no date is appointed, then on the day next after its issue. It shall be the duty of the chairman of the tribunal to send to each of the parties to the dispute a copy of the award of the tribunal by registered post within three days from the date of issue of the award.

The file shall be deposited in the archives of the Labour Department, which shall issue extracts therefrom to interested parties.

Art. 17. The scale of charges for the issue of copies of awards and extracts shall be laid down by order of the Minister, but such charges shall not exceed the scale contained in the charges regulations in force in the civil courts.

Art. 18. Without prejudice to the executory force of the award of the arbitration tribunal, an employer who fails to comply therewith within one week from the prescribed date shall be liable to a fine of not less than ten pounds and not exceeding one thousand pounds; and a workman who fails to comply with such award shall be liable to a fine of not less than one hundred piastres and not exceeding one thousand piastres.

Art. 19. Strikes by workers and lockouts by employers shall be prohibited in any form:

(1) Before submission of the application for conciliation referred to in article 2, and during the proceedings before the Labour Department;

(2) While the dispute is before the conciliation board;

(3) While the dispute is before the arbitration tribunal.

Art. 20. Subject to the provisions of article 19, it shall be forbidden to an employer to discharge his workers by lockout from his premises unless the lockout is intended to protect the premises and their contents from aggression, in which case he shall be bound forthwith to notify the Labour Department and the police thereof.

It shall also be forbidden to employees or workers to strike work, either together or in sections, in such a way as to cause the stoppage of work within the premises in which they work, unless they have notified the employer, the Labour Department, and the governor of the province or city thereof at least fifteen days before the time fixed by them for the strike. Such notice shall be given in writing and signed by the leaders in accordance with the provisions of article 3, and shall state the reasons for the strike, and the person giving it shall receive a receipt stating the date and hour when the notice was delivered.

Art. 21. The penalty for an offence against the two preceding articles shall be a fine not exceeding one hundred pounds. If the strike or lockout affects one of the classes of work laid down in article 9, paragraph 2, the penalty shall be a fine of not less than twenty pounds and not exceeding two hundred pounds, or imprisonment for a term not exceeding one year, or both.

Art. 22. It shall be the duty of the Ministers for Social Affairs, Home Affairs, Justice, and Commerce and Industry to carry this Act into effect each in the matters within his competence, commencing on the date of its publication in the *Official Gazette.*

The Minister for Social Affairs shall make the necessary orders for the carrying of this Act into effect.

FINLAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The following Acts promulgated during 1948 have a relation to human rights:

I. *Personal Liberties*

1. Act No. 515 amending the order concerning the administration of the Penal Code, of 1 July 1948;

2. Act No. 516 amending the Act on courts martial and the procedure therein, of 1 July 1948;

3. Act No. 518 repealing the provisions of law relating to privileges of the knightage, nobility and clergy in regard to arrest, of 1 July 1948. The texts of these Acts are reproduced in this *Yearbook.*

II. *Social and Economic Rights*

In the field of social and economic rights, a considerable number of Acts were promulgated in the post-war period, first in 1946, among which may be mentioned:[2]

1. Act No. 436 respecting collective agreements, of 7 June 1946;

2. Act No. 437 respecting the Labour Court, of 7 June 1946;

3. Act No. 604 respecting hours of work, of 2 August 1946;

4. Act No. 317 respecting annual holidays for employees, of 27 April 1946;

5. Act No. 713 to amend the Act respecting the national pension system, of 11 October 1946;

6. Act No. 907 respecting invalidity assistance, of 30 December 1946.

In 1948, the following Acts are to be recorded:

1. Act No. 312 relating to central hospitals, of 17 April 1948;

2. Act No. 608 on accident insurance, of 20 August 1948;

3. Act No. 649 relating to tuberculosis, of 3 September 1948;

Summaries of these three Acts are reproduced in this *Yearbook.*

4. Act No. 681 amending the law regarding marriages, of 3 September 1948;

5. Act No. 614 respecting the maintenance of children in certain cases, of 20 August 1948;

6. Act No. 541 respecting supplementary grants for children, of 22 July 1948;

7. Act No. 566 respecting relief to the families of soldiers, of 22 July 1948;

8. Act No. 311 amending the law concerning medical attendance, of 17 April 1948;

9. Act No. 404 respecting injury sustained by soldiers, of 28 May 1948.

[1] The texts and information on which this note is based were received through the courtesy of the Finnish Branch of the International Law Association.

[2] The Acts of 1946 listed hereunder are reproduced in: International Labour Office, *Legislative Series*, 1946, Finland 2–7.

ACT TO AMEND THE ORDER CONCERNING THE ADMINISTRATION OF THE PENAL CODE[1]

Act No. 515 of 1 July 1948

NOTE[2]

The order amended by the following text was enacted on 19 December 1889. It provided for the arrest of any person found committing or reasonably suspected of committing an offence,

(1) If the offence was punishable by at least two years' hard labour;

(2) If the offence was punishable by less than two years' hard labour but at least two years' imprisonment or if, irrespective of the penalty, it was in the nature of theft, burglary or concealment of stolen goods; and if there was in any of these cases reason to suppose that the offender or suspect intended to escape or, by

[1] Swedish text, received through the courtesy of the Finnish Branch of the International Law Association, in *Finlands Författningssamling*, Nos. 514–528, 1948, p. 836. English translation from the Swedish text by the United Nations Secretariat. The Act entered into force on 1 August 1948.

[2] This Note was prepared by the Finnish Branch of the International Law Association.

destroying evidence or otherwise, to obstruct the progress of the case;

(3) If a person found committing, or suspected of, an offence less serious than those mentioned in paragraph (2) was unknown and refused to state his name or address or was suspected of stating them falsely.

The apprehension of a suspect for trial was originally based only on practice, as the order concerning the administration of the Penal Code did not provide for it. The Police Law of 14 February 1925 contained provisions concerning arrest applicable to the power of a policeman to apprehend a person who had committed an offence; it directed that after apprehension the case was to be promptly and thoroughly investigated. There was no time-limit, however, to the keeping in custody of a suspect before he was either declared arrested or set free.

These provisions were amended by the Act of 1948 reproduced below.

TEXT

20. A person found committing, or suspected on reasonable grounds of committing, an offence for which the penalty is death or hard labour or imprisonment for two years or more, may be arrested if his arrest does not contravene the Act on the representation of the people, provided the nature of the offence, the conduct or behaviour of the suspect, or other circumstances make it likely that he will escape or otherwise evade prosecution or, by destroying evidence or in some other way, obstruct the investigation of the case, or there is reason to fear that he will continue his criminal activities. If the penalty for the offence is only the term of imprisonment aforesaid and the suspect has a permanent place of residence in the realm, danger of escape may not be assumed unless he has made previous preparations for, or has attempted, escape.

If the penalty for the offence is less than that referred to in the first paragraph but includes imprisonment, and the suspect has no permanent place of residence in the realm, and there is reason to fear that he will escape, he may be arrested.

If the minimum penalty for the offence is two years' hard labour, the suspect shall be arrested unless there is obviously no reason for so doing.

A person suspected on reasonable ground of an offence may be arrested irrespective of the nature of the offence if he is unknown and declines to give his name or address, or gives a name or address that may be presumed to be false, or if he has no permanent place of residence in the realm and there is reason to fear that he will evade prosecution by leaving the country.

Concerning arrest in certain cases specific statutes are applicable:

21. If a drunken person is found upon a public highway or street or other public place or at a public function or assembly, or disturbs the peace of a private person or the public by violence or noise, he may be forcibly removed and, if necessary, kept in custody until he is sober. If a person otherwise disturbs the peace of a private person or the public by violence or noise, and refuses to desist on demand, it is not forbidden to use the force necessary to remove him.

22. County authorities may make regulations for the arrest of persons found committing or suspected of having committed offences as provided in article 20.

A county prefect and his assistant, a city chief of police and his deputy, the chief of the criminal, security or public order branch of a police force and his deputy, an officer on special duty, a head commissioner, commissioner, city prosecutor or other public prosecutor for a city, a person acting as assistant to such officers for the purpose of prosecuting offences, the head of the police, a chief inspector of police, an inspector of police, an assistant inspector of police, the chief of national police and his deputy, a divisional chief of national police, the chief of the criminal department, a commander, assistant commander and inspector of mobile police, the chief of the frontier guard, the chief of the investigation department of the frontier service and the prosecutor of a circuit court are also empowered on their own responsibility to effect or procure the arrest of a person as provided in the first paragraph.

The Minister of the Interior and the Chancellor of Justice to the Council of State may confer upon a person empowered to make special criminal investigations the right of arrest mentioned in the second paragraph.

The cases in which and the conditions under which other authorities may issue orders for arrest are specially provided by statute.

23. A person who has committed an offence punishable by imprisonment and is found in the act or escaping may be arrested by any person. Any person is entitled to arrest a person liable to arrest on a warrant issued by a county authority, the chief of the national police, the chief of the criminal department, the chief of the frontier guard or a chief of police.

A person not possessing power of arrest apprehending a person in virtue of the first paragraph or of article 21, or detaining a person in the event provided for in article 20 after interrogation, shall without delay report the fact to an authority possessing the power of arrest.

A person apprehended by an authority possessing power of arrest or arrested as provided in article 20 after interrogation, or whose arrest has been reported in accordance with the second paragraph, shall, if no warrant for his arrest has previously been issued, be committed or released without delay within a time not exceeding three days from his detention, not counting the time, which may not exceed four days, ordinarily required for his removal to the place where the examining authority for the area where the offence was committed is situated. Where there are not sufficient grounds for arrest but it appears especially

important that the suspect should be kept in custody pending further investigation, an authority possessing power of arrest may order him to be detained beyond the said period. Such detention may not exceed fourteen days, and the authority possessing power of arrest shall as soon as possible order the arrest or release of the suspect. Detention may not exceed the period aforesaid even with the consent of the suspect.

25. An arrested person shall forthwith be conveyed to a common gaol. If it appears necessary for the investigation of the offence not to transfer the arrested person while the examination is proceeding, the authority possessing power of arrest may order him to be detained in some other place suitable for his detention for a longer period, but not after the case has been brought before the court for trial.

26. The court which is to conduct the examination shall be informed of the arrest forthwith, and shall forthwith proceed with the examination in the matter. A judge may not postpone examination in any case in a city for longer than eight days or in the country for longer than one month from the day on which he received notice of the arrest. If a rural judge is prevented from himself beginning the examination, he shall request the circuit court to appoint another judge to deal with the matter in his place until he is able to do so.

Where the examination is to be conducted by a circuit court it may not be postponed for longer than one month from receipt of the notice of arrest.

Where the accused is under arrest, the trial of the case may not be postponed, in cities, for longer than fourteen days and, in the country, for longer than one month unless such postponement is required to investigate the accused's mental condition.

30*a*. Where a person is condemned to death or to hard labour or imprisonment for two years or more, the court may order that he shall be taken in custody or continue to be kept in custody if the nature of the offence, the conduct or behaviour of the offender, or other circumstances render it likely that he will escape or otherwise evade prosecution or, by destroying evidence or in some other way, obstruct the investigation of the case, or where there is reason to fear that he will continue his criminal activities. If the offender is condemned to death or to hard labour for two years or more, the court shall order that he be taken in custody unless there is obviously no reason for so doing.

If the sentence is less than imprisonment for two years, the court may order the offender to be taken in custody or kept in custody if he has no permanent place of residence in the realm and there is reason to fear that he will escape. If the offender is sentenced to a penalty of less than two years' imprisonment for theft, housebreaking or concealment of stolen property or for attempting or being accessory to such an offence, the provisions of the first paragraph shall apply.

If the penalty is reduced by order of a court under chapter 3, article 4, of the Penal Code, the court shall consider whether the offender should be taken in custody or continue to be kept in custody as a person dangerous to society, notwithstanding the provisions of the first two paragraphs.

Concerning arrest in certain cases specific statutes are applicable.

41*a*. A person who is detained shall be informed of the offence of which he is suspected. The household or next of kin of the detained person shall be informed of his detention as soon as is possible without obstructing the examination; provided that such information shall not without special reason be given against the wish of the detained person.

A detained person shall be kept in custody, but shall not be subjected to any restriction on his personal liberty other than that necessary for the purpose of the detention, the maintenance of order in the place of custody, or public security. He shall be kept in custody and moved in such a manner as not to attract undue attention. The statutory provisions relating to prisoners awaiting trial shall apply as appropriate to the treatment of the detained person.

ACT TO AMEND THE ACT ON COURTS MARTIAL AND PROCEDURE[1]

Act No. 516 of 1 July 1948

Article 42 of the Act of 16 April 1920 on courts martial and the procedure therein (93/20) is amended as follows:

CHAPTER 6

ARREST

42. The provisions of the ordinary Act[2] relating to the arrest, detention and apprehension of persons found committing or suspected of committing offences and of convicted persons shall be observed together with, but subject to, the provisions of this Act.

[1] Swedish text, received through the courtesy of the Finnish Branch of the International Law Association, in *Finlands Författningssamling*, Nos. 514–528, 1948, p. 839. English translation from the Swedish text by the United Nations Secretariat. The Act entered into force on 1 August 1948.

[2] See the amended provisions of this Act in this *Yearbook*, p. 64.

ACT TO REPEAL THE PROVISIONS RELATING TO THE PRIVILEGES OF THE KNIGHTAGE, NOBILITY AND CLERGY IN REGARD TO ARREST[1]

Act No. 518 of 1 July 1948

The provisions relating to arrest contained in paragraph 5 of the privileges of the knightage and nobility, established on 16 October 1723, and in paragraph 24 of the privileges of the clergy, established on the same date, are hereby repealed.

[1]Swedish text, received through the courtesy of the Finnish Branch of the International Law Association, in *Finlands Författningssamling*, Nos. 514–528, 1948, p. 840. English translation from the Swedish text by the United Nations Secretariat. The Act entered into force on 1 August 1948.

CENTRAL HOSPITALS ACT[1]

Act No. 312 of 17 April 1948

SUMMARY

By order of the Government, central hospitals can be established for a group of communes. The hospitals comprise at least three special branches of medicine and an infectious diseases department; the communes contribute to their building, maintenance, administration and use according to a definite plan. A poor commune may, upon application, be wholly or partly exempted from the payments due from it.

A commune contributing to the support of such a hospital has a permanent right to use it in proportion to the number of beds the commune provides. The general departments are open to patients domiciled in the commune or guaranteed by it. The infectious diseases department admits patients whom it is necessary to isolate on account of dangerous infectious diseases, and for whose care the parish is responsible

[1]Swedish text of the Act in *Finlands Författningssamling*, Nos. 311–315, of 22 April 1948. Summary prepared by the Finnish Branch of the International Law Association.

ACCIDENT INSURANCE ACT[1]

Act No. 608 of 20 August 1948

SUMMARY

The new Act regarding accident insurance entered into force on 1 January 1949. As regards principles, the most important change introduced by the Act lies in the fact that intellectual workers are placed on the same footing as other workers for the purposes of legislation relating to accidents. Moreover, the new Act no longer fixes a maximum salary. The only workers not covered by the Act are certain members of the employer's family and persons casually employed for a very short period by an employer who does not otherwise employ workers entitled to compensation.

The new Act provides that, to ensure that compensation is paid for accidents, employers must take out an insurance policy for their employees with a company authorized to deal with the types of insurance covered by the Act. Employers who do not employ workers for more than four consecutive days during the calendar year and employers whose income has been assessed at less than 60,000 marks for the last communal tax and who do not employ workers for more than thirty days during the calendar year are not required to take out insurance.

In order to encourage accident prevention, employers are personally liable for the first 2,000 marks compensation for each accident or for the first 1,000 marks in the case of employers not required to take out insurance. Employers having neglected to take out insurance, although required to do so, are liable for the first 20,000 marks for each accident and in addition are required to pay the premium they should have paid. Compensation for accidents arising in the course of work done for employers in the last two categories is payable by the insurance companies in accordance with the ordinary compensation procedure.

The State pays compensation for accidents arising in the course of work done on its behalf, in accordance with the principles established by the Act and independently of any insurance system.

The benefits mentioned in the new Act, as in the old ones, include medical attendance, *per diem*

[1]Swedish text of the Act in *Finlands Författningssamling*, Nos. 608–613, of 21 August 1948. Summary (in French) prepared by the Finnish Branch of the International Law Association. English translation from the French text by the United Nations Secretariat.

allowances, annuities, survivors' pensions and funeral expenses and, as new forms of benefit, lump-sum compensation and assistance for disabled persons.

The provisions relating to annuities have been completely revised. If disability is less than 30 per cent, the disabled person receives a lump sum, not an annuity. Annuities are divided into a basic annuity and a supplementary annuity. The former is determined on the basis of the degree of physical disability while the latter varies in accordance with the extent to which it is considered that the disabled person has other means of support, deriving either from his former occupation or from another occupation for which he is fitted.

When it is considered necessary to grant disability assistance, expenses occasioned by such assistance which have been incurred by the disabled person, are refunded to him by the organizations for the assistance of disabled persons.

The other amendments relating to compensation deal chiefly with the establishment of the amount of such compensation.

TUBERCULOSIS ACT [1]

Act No. 649 of 3 September 1948

SUMMARY

Communes and joint communes are to maintain a central sanatorium and a tuberculosis clinic. In the central sanatorium of a tuberculosis district every commune belonging to the district is to have at its disposal a number of beds to be fixed by the Government. The Government may for special reasons authorize a commune to maintain beds in the central sanatorium of another district.

Every person over 15 years of age must, when required to do so by public announcement or personal summons, attend a collective examination held in his place of residence to ascertain whether his lungs show symptoms of tuberculosis.

If any person suffers from tuberculosis or if there is good reason to think that he suffers from tuberculosis, he is required to submit to examination and to observe all the precautionary measures prescribed by the medical authorities in order to prevent the spread of the infection.

A person suffering from tuberculosis who is considered dangerous to persons living with him and who disregards instructions must submit to such treatment as is necessary to prevent the spread of the disease.

Such person may, by order of the Board of Health, be placed in a sanatorium or other medical establishment even if this would not otherwise be necessary for the treatment of his illness.

At least half the patients in a central sanatorium are to be maintained free of charge. This applies to persons not otherwise in need of relief, as well as to persons in poor circumstances. Grants towards the establishment and maintenance of central sanatoria and tuberculosis clinics are made from public funds.

[1] Swedish text of the Act in *Finlands Författningssamling*, Nos. 649–652, of 10 September 1948. Summary prepared by the Finnish Branch of the International Law Association.

FRANCE

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. Constitution of the French Republic

There have been several requests for a revision of the Constitution adopted at the referendum of October 1946. Some of these requests have been submitted to the National Assembly, but hitherto none of them has been considered and none of the articles of the Constitution has been amended.

II. Public Freedoms

Public freedoms have been recognized and regulated in France for a long time past and have not been the subject of noteworthy legislative measures or regulations in the past year.

It may be mentioned, however, that the explicit recognition of trade union rights to civil servants by the general civil service statute of October 1946 (Act of 19 October 1946, *Journal officiel* of 20 October 1946, p. 8910) has recently raised the question of the right of civil servants to strike. In the words of the preamble to the Constitution, "The right to strike may be exercised within the framework of the laws that govern it." The legislation foreshadowed by this text has not yet been enacted. Only one Act establishing a special status for the police has been passed in this connexion; it provides, in particular, that any collective cessation of work may be sanctioned without application of disciplinary measures (Act No. 1504 of 28 September 1948, *Journal officiel* of 29 September 1948, p. 9533). On the other hand, circulars issued by the Presidency of the Council authorize the suspension of high-ranking officials who participate in a strike.

In another field, that of freedom of the Press, it may be noted that an Act of 28 February 1947[2] (*Journal officiel* of 1 March 1947, p. 1904), abrogated the requirement to obtain previous authorization for publishing a newspaper or periodical, a requirement which had been introduced during the war and retained for some time afterwards because of the shortage of paper.

The delicate questions raised in France by the principle of the secularity of education and public services were brought into prominence by the issue of two decrees dated 22 May and 10 June 1948[3] (the latter published in the *Journal officiel* of 11 June, p. 5643). These are known as the Poinsot-Chapuis decrees from the name of the Minister of Public Health and Population at that time. These texts define the conditions in which public entities may subsidize family associations for the assistance they give to the beneficiaries of non-State education and their families. Some difficulties are being met with in the application of these laws.

In this connexion, it is interesting to note the important part played in France by family associations, the status of which was established by the Order of 3 March 1945 and which are represented on the main organs of the social administration and on the Economic Council.

III. Economic and Social Rights

Two categories of measures may be placed under that heading:

(1) *Housing Policy*

Two decrees of 30 December 1948 containing public administrative regulations for the application of Part II of Law No. 1360 of 1 September 1948[4] (*Journal officiel* of 2 September 1948, p. 8667) instituted housing grants (*Journal officiel* of 31 December 1948, p. 12719). This is a new category of family benefits, aimed at helping families which wish to obtain better accommodation, to move, to make improvements and to pay a higher rent.

This measure is connected with the revision of the legislation on rents and with the progressive increase in the latter provided for in the Act of 1 September 1948.

(2) *Generalization of Social Security*

This measure, which was one of the original objectives of the French plan for social security, is gradually being implemented by the adoption of texts which bring new categories of citizens within the social security system:

Civil servants (Decree of 31 December 1946, *Journal officiel* of 9 January 1947, p. 239; and Act of 9 April 1947, *Journal officiel* of 10 April 1947, p. 3334).

Unpaid workers in the agricultural, industrial and commercial and liberal professions (Act of 17 January 1948, *Journal officiel* of 18 January 1948, p. 562).

Students (Act of 24 September 1948, *Journal officiel* of 25 September 1948, p. 9400; and Decree of 31 December 1948, *Journal officiel* of 2 January 1949, p. 170,

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[1] This note was prepared by Mr. Jacques Donnedieu de Vabres, *au Conseil d'Etat, Agrégé des Facultés de Droit, Paris.* English translation from the French text by the United Nations Secretariat.

[2] See the text of this Act in *Yearbook on Human Rights for 1947*, p. 96.

[3] The decree of 10 June is reproduced below.

[4] Reproduced below.

and corrigendum to the *Journal officiel* of 15 January 1949, p. 667).

Male and female students of the higher schools and universities and their spouses and children will in future receive benefits in kind (namely, the reimbursement of their medical, pharmaceutical and treatment expenses) under the general social security system covering the three most important physiological risks to which they are exposed, namely, illness, protracted illness and maternity.

Funds for this purpose are provided by a small lump-sum contribution which students are asked to make, by a subsidy granted by the State and by the participation of other social security organizations. Since these benefits are provided through students' mutual aid societies, the latter have a share in the management of their system of guarantees against social risks.

IV. Electoral Rights

(1) *National Assembly*

The election of deputies is governed by the Act of 5 October 1946[1] (*Journal officiel* of 8 October 1946, p. 8494 and of 1 November 1946, p. 9303). This text was amended by the Act of 27 August 1947 (*Journal officiel* of 28 August 1947, p. 8534), and by that of 13 July 1948 (*Journal officiel* of 14 July 1948, p. 6851) both of which supplement article 40 of the aforementioned Act of 5 October 1946. An Act of 1 April 1948 (*Journal officiel* of 2 April 1948, p. 3164) determined the representation to be given to the African territory of Upper Volta.

It should be noted that the Act of 5 October 1946 marks a setback in the full application of the principle of proportional representation as compared with the Act of 13 April 1946 (*Journal officiel* of 14 April 1946) voted by the first Constituent Assembly, but never applied because of the non-ratification of the draft Constitution prepared by the same Assembly. This Act was based on the principle of proportional representation with transfer of surplus votes on a nation-wide basis; the Act at present in force is rather based on the Order of 3 September 1945 (*Journal officiel* of 4 September 1945), under which the elections to the first Constituent Assembly were held.

Since then, there has been a movement in certain parliamentary groups in favour of a return either to elections by a majority vote or to a compromise between proportional representation and a majority vote.

(2) *Council of the Republic*

It is sufficient to mention the Act of 23 September 1948[2] (*Journal officiel* of 24 September 1948, p. 9394), which gives the representatives of local communities a greater share in the election of senators (the members of the Council of the Republic have decided to adopt this title). A sixth of the Council of the Republic is no longer elected direct by the National Assembly, and the *grands électeurs* appointed by the electoral body to participate in the election of the councillors have disappeared. The deputies alone meet the delegates of the municipal and general councils in their constituencies to elect the senators. A decree containing public administrative regulations for the application of this Act was published in the *Journal officiel* of 25 September 1948, p. 9430.

V. Cultural Rights

(1) *Educational Reform*

It may be recalled that a general reform plan was studied after the liberation by an official commission known as the Langevin Commission. Some of the considerations which then attracted the Commission's attention caused the Government to take a certain number of measures, amongst which the following may be mentioned:

(*a*) An increase in the number of schools, necessitated by the rise in the French birth-rate. In this connexion we may note the establishment of a check on school attendance through family allowances (which may be withdrawn in cases of unjustified absence) and the increase of grants for school buildings.

(*b*) The introduction of new methods of teaching, which have been instituted experimentally side by side with the old methods in the sixth and fifth classes of the secondary schools (children from about 10 to 13). These methods are accompanied by an extension of school and university vocational guidance.

(2) *Assistance to Students*

Under the impulse of university associations, the concept of the student as a "young intellectual worker" has gradually gained a foothold in France. Parliament reflected this in its debates on the law mentioned above which instituted a system of social security for students.

But a number of measures taken by certain higher educational establishments foreshadow the establishment of a real class of "pre-salaried students". In contrast to the existing scholarships, which have proved inadequate both in amount and number, this is not an assistance measure, dependent upon proof of the applicant's indigence, but a first step in remuneration for study, when it is performed effectively by an already qualified student.

The first beneficiaries have been pupils of the higher State schools who in most cases have been recognized as trainee public servants and receive a salary in that capacity. This applies to the principal military schools and, amongst civilian establishments, to the National School of Administration (Order of 9 October 1945, *Journal officiel* of 10 October 1945, p. 6378 and Decree of 27 November 1946, *Journal officiel* of 28 November 1945, p. 10034), which recruits and trains graduates for the higher ranks of the major State departments; young civil servants who have done five years' service may take the entrance examination for this school.

[1] Reproduced in the annex "Electoral Laws" to this Part of the *Yearbook*, p. 317.

[2] Reproduced in the annex "Electoral Laws" to this Part of the *Yearbook*, p. 318.

The pupils of the *Ecoles normales supérieures*, who are the future secondary schoolteachers and university professors, also receive a salary under the Act of 26 August 1948 (*Journal officiel* of 27 August 1948, p. 8435). The same applies to the pupils of the *Ecole nationale des Chartes*, which trains librarians and museum curators.

There is every likelihood that other categories of students will soon receive a "pre-salary".

Thus, the allowance granted to medical students serving as interns in Paris hospitals has just been increased, and two bills have been submitted to Parliament for the generalization of the "pre-salary", at least in respect of the higher schools and students who have already taken certain university degrees.

VI. International Agreements

The following may be mentioned under this head:

(1) *Cultural agreements*, mainly providing for exchanges in the field of education, concluded with the United Kingdom (*Journal officiel* of 27 July 1948, p. 7271), Belgium (*Journal officiel* of 5 July 1947, p. 6295), Poland (*Journal officiel* of 31 July 1947, p. 7468) and the United States of America (*Journal officiel* of 23 January 1949, p. 868).

(2) *Social security conventions*, usually containing a reciprocity clause, concluded with Belgium (17 January 1948), Italy (31 March 1948), Poland (9 June 1948) and the United Kingdom (11 June 1948).

(3) *Labour agreements.* The immigration treaty concluded with Italy on 21 March 1947 (not published in the *Journal officiel*) provides, in particular, that family benefits may be granted to Italians working in France, even if their children are in Italy.

In the same connexion, it may be noted that a permanent committee for the study of questions relating to the exchange of trainees between France and other countries was set up by an Ordinance of 12 March 1948 (*Journal officiel* of 26 March 1948, p. 2981).

DECREE TO AMEND DECREE No. 48-855 OF 22 MAY 1948, CONCERNING THE ATTRIBUTIONS OF THE NATIONAL UNION AND THE DEPARTMENTAL OR LOCAL UNIONS OF FAMILY ASSOCIATIONS[1]

Decree No. 48-965 of 10 June 1948

Art. 1. The National Union of Family Associations and the departmental or local unions are responsible for the management of all services for aid to families experiencing material difficulties in bringing up their children.

Art. 2. The funds assigned by the unions to these services shall consist of the public or private subsidies granted to them and of donations and legacies.

The unions shall assign these funds and distribute them among the families through the services mentioned in article 2 within the limits of the said assignments.

Departments, communes and public institutions are authorized to allocate subsidies to these unions for the operation of the said services out of their ordinary and in the form of gifts.

Art. 3. Administrative expenses arising out of the operation of the services provided for in the present decree shall be borne by the unions, which may receive payments and allowances from public or private bodies for this purpose.

Should the funds provided for in the preceding paragraph prove insufficient, they may also, with the prefect's approval, apply a percentage of the public subsidies allocated to them to the performance of the task entrusted to them under the present decree.

Art. 4. Assistance, scholarships or other benefits granted by unions of family associations out of funds of public origin to families experiencing material difficulties with regard to their children who attend public or private school establishments or are educated at home, shall be subject to the same conditions, quotas and reservations as the assistance, scholarships or other benefits that public entities and establishments may legally grant.

No distinction shall be made between families in comparable circumstances, nor between children on the grounds of legitimacy.

Art. 5. The granting to families of assistance, scholarships and other benefits by unions of family associations, and the management of their funds derived from public subsidies, shall be supervised by the prefect or sub-prefect, in a manner to be specified by an ordinance of the Ministers of the Interior, of Finance, of National Education and of Public Health and Population.

The prefect shall receive and decide all complaints made with regard to the allocation of this assistance.

The above-mentioned ordinance shall establish the methods of *a priori* supervision consisting in the approval of the lists of beneficiaries and decisions on individual allocations, and of *a posteriori* supervision.

Art. 6. Unions of family associations shall keep special accounts for their family aid service organized under the present decree. These accounts shall show among the receipts all the funds assigned to this

[1] French text in *Journal officiel*, No. 137, of 11 June 1948, p. 5643. English translation from the French text by the United Nations Secretariat. See also the preceding "Note on the Development of Human Rights", p. 69, under No. II.

purpose, whether of public or private origin. The accounts shall be kept and the funds managed by a Treasury accountant approved by the prefect.

This method of accountancy shall not, however, affect the assignment of funds of private origin.

Appointments of stores accountants for goods acquired by unions of family associations for the distribution of benefits in kind shall be submitted to the prefect for his approval.

The administrative accountancy of family aid services and the stores accountancy shall be subject to the supervision of the General Inspectorate of Finance, the General Administrative Inspectorate of the Ministry of the Interior, the General Inspectorate of Public Health and Population and the prefect and his representatives.

Art. 7. In any case in which the prefect finds that public funds have been utilized by a union of family associations in a manner contrary to the provisions of the present decree, such union shall be in the Treasury's debt for the amount of the sums illegally used. The Treasury's claim shall be recovered by a payment demand served by the chief treasurer-paymaster.

In any case in which the prefect finds that the provisions of the present decree have been violated by a departmental or local union of family associations, a joint ordinance may be issued by the Ministers of the Interior and of Public Health and Population, after consultation with the National Union of Family Associations, debarring the said departmental or local union from receiving any further subsidies from public entities or establishments.

Art. 8. The creation of the services provided for in the present decree shall not have the effect of altering the purpose and attributions of bodies pursuing aims similar to those of the said services.

Art. 9. Any regulations contrary to the present decree are and shall remain abrogated.

DECREE CONCERNING THE PUBLIC ADMINISTRATIVE REGULATIONS FOR THE APPLICATION OF PART II OF THE HOUSING ALLOWANCES ACT No. 48-1360 OF 1 SEPTEMBER 1948[1]

Decree No. 48-1971 of 30 December 1948

TITLE I

GENERAL CONDITIONS FOR THE GRANTING OF HOUSING ALLOWANCES

Art. 1. Housing allowances may be granted to all wage-earners or assimilated persons, or persons having the status of independent workers in non-agricultural professions, who have at least two dependent children, born or conceived, entitling them to family benefits, and who fulfil the other conditions provided for in the present decree.

Employers, farmers, independent workers in agricultural professions and households which do not receive a single-wage allowance because one of their members belongs to one of these professional categories, are not entitled to the allowance.

Children permanently in the charge of a third person or of a public or private institution shall not be reckoned for the purpose of the allowance.

The housing allowance shall be granted whenever the beneficiary, although unable to carry on a professional activity, is entitled to family benefits, and in particular in the cases provided for in articles 3, 4 and 6 of the Decree of 10 December 1946 concerning the public administrative regulations for the application of Act No. 46-1835 of 22 August 1946, establishing the system of family allowances.

Art. 2. For the application of Article 16b of Act No. 46-1835 of 22 August 1946, supplemented and modified by Act No. 48-1360 of 1 September 1948:

1. The minimum rent shall be determined annually by the decree fixing the rate of housing allowances, taking into consideration the resources of all the persons habitually living in the household, including family allowances, and also the single-wage allowance and the pre-natal allowances if any, and any housing allowances arising out of a private contract;

2. The dwelling must comprise the following minimum numbers of living- or sleeping-rooms:

Four rooms for three or four persons;

Five rooms for five or six persons;

Six rooms for seven, eight or nine persons;

An additional room for each group or fraction of a group of three extra persons. . . .

3. The dwelling must meet the health requirements prescribed by the sanitary regulations in force in the locality where it is situated.

The maintenance for which the tenant is liable should not be neglected to the point of jeopardizing the fundamental conditions of habitability.

Art. 3. Housing allowances are granted on the application of the person concerned to the pay-office or authority which pays family benefits. The terms of the application form shall be established by a joint order of the Ministers concerned.

The application must be accompanied by the following certificates:

[*Here follows a list of the certificates required.*]

[1] French text in *Journal officiel* No. 308, of 31 December 1948, p. 12719. English translation from the French text by the United Nations Secretariat. See also the preceding "Note on the Development of Human Rights", p. 69, under No. III.

Art. 4. The rates of housing allowances shall be fixed each year, after consultation with the Higher Commission for Family Allowances, by a decree countersigned by the Ministers concerned, to take effect as from 1 July . . .

The rent taken into consideration shall be the main rent actually paid subject to the legal price limit on 1 January of the current year. Rent increases resulting from the exercise of a profession shall not be taken into consideration.

Family allowances and any pre-natal allowances or single-wage allowance that have been received shall be taken into consideration in determining the percentage of available resources spent on rent.

In the case of premises used both for dwelling and commercial purposes, the part of the rent taken into consideration shall not exceed the amount resulting from the application to the parts of the premises reserved for dwelling purposes of the provisions of articles 28 and 31 of Act No. 48-1360 of 1 September 1948. . . .

The housing allowance shall be paid only in respect of the housing unit which constitutes the main residence. Persons owning housing units which they occupy in the cases provided for in article 8 of the present decree shall be entitled to the allowance.

Art. 5. If rent is six months overdue when payable at intervals of more than three months or if it is two periods in arrear when payable at intervals of three months or under, the lessor may require the paying authority to pay the allowance to him instead of to the lessee, unless the latter, having been duly informed of the lessor's intention by the paying authority by registered mail, pays the sums due within one month.

When non-payment is the result of a dispute as to the amount of the rent which is pending before a court of law, the payment of housing allowances shall be suspended by the paying authority until the court's decision has become final. . . .

The payment of allowances shall be suspended if, within a time-limit of not less than three months, the lessee has failed to repair his dwelling or has persisted in his refusal to submit to the inspection prescribed by law.

[Title II deals with special conditions for certain categories of beneficiaries; Title III deals with improvement and house-moving grants and Title IV contains transitional provisions.]

GERMANY

Soviet Zone of Occupation [1]

CONSTITUTION OF THE MARK BRANDENBURG [2]

of 6 February 1947

A. DEMOCRATIC STRUCTURE

Art. 4. (1) All residents of Mark Brandenburg—men and women—who are German nationals, are equal before the law and possess the same civic rights, unless they have been deprived of them for having committed crimes or because of national-socialist or militarist activities.

(2) No one by virtue of his employment shall be prevented from exercising civic rights or public duties.

(3) All men and women are admitted to public service in accordance with their qualifications.

(4) Employees of the public service are servants of the people. They must prove themselves worthy of the confidence of the people at all times.

Art. 5. The manual and clerical workers shall participate on equal terms with the employers in the regulation of wages and working conditions, as well as in the development of the means of production and the economy. Manual and clerical workers shall exercise these rights through trade unions and works councils.

Art. 6. Within the framework of the laws, the State power finds its limitations in basic rights. These are:

Freedom of the person,
Freedom of the expression of opinion,
Freedom of faith and conscience,
Freedom of science and its teaching,
Freedom of franchise,
Freedom of association and assembly,
Freedom of the right to strike,
Freedom of suffrage,
Freedom of the home,
Right of freedom of movement,
Guarantee of the secrecy of letters and the mails.

There exists a right of resistance against laws which are contrary to morals and humanity.

Art. 7. Sunday, May First, and the other legally recognized holidays remain protected as days of recreation from work.

Art. 8. (1) The manifestation of national or religious hatred and all racial persecution are forbidden and shall be punished.

(2) Persons who spread or disseminate militarist or national-socialist ideas shall be removed from public office. They may not occupy leading positions in the economic or cultural life. The franchise may also be withdrawn from them.

B. LANDTAG

Art. 10. (1) The *Landtag* consists of members elected by the people. The members are elected through general, equal, secret and direct elections according to the principles of proportional representation, for a period of three years.

(2) The number of members is 100.

(3) Qualified voters are all men and women of German nationality who are 20 years old on election day and have their residence in Mark Brandenburg.

(4) All German citizens who are qualified to vote and who are 23 years old are eligible for election.

Art. 11. Only the recognized anti-fascist democratic parties are entitled to present lists of candidates.

Art. 12. Elections take place on a Sunday or a legal holiday.

Art. 24. National-socialist or militarist propaganda or racial persecution by a member involves his exclusion from the *Landtag*. The exclusion requires a two-thirds majority.

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[1] The human rights provisions of three Constitutions of German States in the Soviet Zone of Occupation which are printed in this section, the Constitutions of Brandenburg, Mecklenburg and Saxony-Anhalt complete the texts of the human rights provisions of the Constitutions of the German States (*Länder*) reproduced in earlier *Yearbooks*. See the Constitutions of Bavaria, Hesse and Württemberg-Baden (United States Zone) in *Yearbook on Human Rights for 1946*, pp. 119–131; Baden, Rhineland-Palatine and Württemberg-Hohenzollern (French Zone), *Yearbook on Human Rights for 1947*, pp. 100–117; Saxony and Thuringia (Soviet Zone), *ibid.*, pp. 117–124; Bremen (United States Zone), *ibid.*, pp. 126–132. No constitutions were promulgated in the Zone of Occupation of the United Kingdom. See also the "Note on the State Constitutions", *ibid.*, p. 100.

[2] English text based on the translation in *Constitutions of the German Länder*, prepared by Civil Administration Division, Office of Military Government (U.S.), 1947, pp. 141–148. This Constitution was enacted by the *Landtag* and promulgated on 6 February 1947 and, in accordance with article 69, became effective on the day of its promulgation.

D. LEGISLATION

Art. 37. (3) The recognized rules of international law are considered as binding and integral parts of the law of Mark Brandenburg.

E. ADMINISTRATION OF JUSTICE

Art. 38. Justice is administered pursuant to the provisions of the laws by professional and lay judges, according to the principles of social justice.

Art. 39. Lay judges shall participate to the fullest extent in the administration of justice. Lay judges are designated by the democratic parties.

Art. 40. Judges are independent in the exercise of their office and subject only to law.

Art. 41. (1) No one may be deprived of his lawful judge. Arrested and imprisoned persons must be brought before the judge within 24 hours.

(2) Punishment shall be imposed only if it has been prescribed by law at the time of the commission of the act.

(3) Extraordinary courts are not permitted. Special courts are permitted only on the basis of legal provisions.

Art. 43. Administrative courts serve as a protection against orders and decrees of the administrative agencies.

Art. 44. All court proceedings are public. The public may be excluded by decision of the court if a danger to public order or morals is imminent.

G. ECONOMY

Art. 49. (1) The organization of economic life must comply with the principles of social justice. Within these limits the economic freedom of the individual is assured. Private initiative of tradesmen and peasants must be encouraged. Freedom of trade and industry is guaranteed pursuant to the provisions of the laws.

(2) The economic life shall be guided by a plan which takes into consideration the economic unity of Germany and the requirements of the *Land*; economy must serve the needs of the people.

Art. 50. (1) Property is guaranteed by the Constitution. Its extent and limitations are determined by the laws.

(2) The right of eminent domain may be exercised only for the general welfare on the basis of law. Appropriate compensation must be given, unless otherwise provided by law.

(3) The landed property acquired pursuant to the ordinance concerning land reform of 6 September 1945 is guaranteed by the Constitution.

Art. 51. Mark Brandenburg, its *Gemeinden* and *Kreise* may, within the scope of their productive capacity, establish economic enterprises or acquire or participate in such enterprises, if these measures serve the welfare of Mark Brandenburg or its inhabitants. The *Landtag* decides upon the participation of members of the *Landtag* in the administration of such enterprises.

Art. 52. The acquisition and the sale of enterprises and real or other property of Mark Brandenburg require the consent of the *Landtag*. For the sale thereof, a two-thirds majority vote is necessary.

H. FINANCE

Art. 53. Taxes or imposts shall be collected only on the basis of the laws.

I. EDUCATION OF THE PEOPLE

Art. 58. (1) Everyone has an equal right to education which is guaranteed by public institutions.

(2) Public education shall be provided by the same uniformly organized and integrated democratic school system for boys and girls on the basis of general compulsory school attendance.

Art. 59. (1) The observance of general compulsory school attendance shall be complied with by attendance at the elementary school. Additional education shall take place in vocational and technical schools, in secondary schools or other educational institutions.

(2) Attendance at a vocational school is a duty of all youth until they are at least 18 years old, if they are not attending another public school.

(3) Gifted students from all levels of the population shall be enabled to attend secondary schools and institutions of higher education. The opportunity to gain the necessary knowledge to study at an institution of higher education without interruption of vocational activities is to be facilitated by the establishment of evening and extension courses.

Art. 60. The school shall provide everyone with an education commensurate with his abilities and talents, irrespective of social position and religious denomination. Instruction and educational supplies shall be provided free of charge in the elementary and vocational schools.

Art. 61. (1) In co-operation with the family, the schools shall educate youth to become individuals capable of independent thinking and responsible behaviour, able and willing to adapt themselves to life within the community.

(2) As the standard-bearer of culture, it shall be the task of the school to educate youth in the spirit of peaceful and friendly relations among peoples, towards democracy and humanity.

(3) Everyone may choose his vocation freely.

K. RELIGIOUS SOCIETIES

Art. 62. (1) All residents of Mark Brandenburg enjoy freedom of faith and conscience. The undisturbed exercise of religion is under the protection of the State.

(2) The misuse of ecclesiastical institutions for political party purposes is forbidden.

Art. 63. (1) The exercise of civil or civic rights, as well as the admission to public service, does not depend on religious denomination.

(2) No one is under obligation to reveal his religious conviction. Administrative agencies and courts have the right to inquire into religious affiliation only in so far as rights and duties are involved or in case of a legally prescribed statistical census. No one shall be forced into religious acts, to participate in religious exercises or ceremonies, or to use a religious form of oath.

Art. 64. (1) The freedom to join religious societies is guaranteed.

(2) Every religious society regulates and administers its affairs independently within the provisions of the laws which apply to all.

(3) Religious societies are corporations of public law in so far as they have been until now. Other religious societies shall be granted the same rights on request, if their organization and the number of their followers constitute a guarantee of permanency.

(4) Should several such religious societies, which are in the category of corporations of public law, merge into a new association, then this association also will be a corporation of public law.

(5) Associations pursuing the common furtherance of an ideology shall be put on the same level as religious societies.

Art. 65. A law is required for the abolition of public contributions to religious societies based on law, contract or special legal title.

Art. 66. (1) The right of religious societies to give religious instruction on the school premises is guaranteed. Religious instruction shall be given by teachers selected by the churches. No one shall be forced to give religious instruction or be prevented therefrom.

(2) The parents or legal guardians decide upon the participation of the children in religious instruction.

Art. 67. Religious societies shall be admitted where necessary into hospitals, penal institutions and other public establishments for the performance of religious ministrations according to need.

Art. 68. The decision as to membership of children in a religious society rests with the parents or legal guardians until the child is 14 years old, pursuant to the provisions of the laws.

CONSTITUTION OF MECKLENBURG[1]

of 15 January 1947

I. DEMOCRATIC STRUCTURE OF THE LAND

Art. 2. The State power is vested in the people.

All State power emanates from the people. It is exercised by the people and must serve their welfare.

The limits of the State power lie in the recognition of the democratic-republican structure of the State and in the basic rights of the citizens.

The people exercise their will through the election of representative bodies, through initiative and referendum, through participation in the administration of government and justice and through the comprehensive control of the agencies of public administration.

Art. 4. All residents of German nationality are citizens of the *Land.*

Art. 5. All citizens, without distinction, are admitted to public office in accordance with their qualifications, pursuant to article 7.

Employment status shall not restrict the exercise of civic rights or public duties.

II. BASIC RIGHTS AND DUTIES OF THE CITIZENS

Art. 7. All citizens are equal before the law. Men and women have the same rights.

All citizens have the same civic duties. They have the same civic rights unless deprived of them because of a crime or of national-socialist or militarist activity.

Any manifestation of national hatred and all religious and racial persecution are forbidden and will be punished. Persons who disseminate or support militarist or national-socialist ideas shall be removed from public office. They may not occupy leading positions in the economic and cultural life. The franchise can also be withdrawn from them. Mandates of members of the popular representative bodies may

[1] English text based on the translation in *Constitutions of the German Länder*, prepared by Civil Administration Division, Office of Military Government (U.S.), 1947, pp. 127–137. This Constitution was enacted by the *Landtag* on 15 January 1947 and, in accordance with article 102, became effective on the day of its promulgation.

be cancelled because of such activity, by a two-thirds majority vote of these bodies.

Art. 8. The freedom of the person is inviolable. Any restriction or denial of personal freedom by public power is admissible only on the basis of law.

Persons who are deprived of their freedom must be notified at the latest on the following day by which agency and for what reasons orders depriving them of their liberty have been issued; immediate opportunity will be given to them to appeal against the restriction of their freedom.

Art. 9. Every citizen has the right to reside in a place of his own choice in the *Land*. He has the right to emigrate.

Art. 10. All citizens of the *Land* enjoy full freedom of faith and conscience.

Every citizen has the right, within the limitations of the law, to express his opinion freely by word, writing, print, picture or by any other means and to take part in meetings and demonstrations. No form of employment may interfere in the exercise of this right, and no one may be prejudiced for having exercised it.

Every citizen has the right to address petitions to the popular representative bodies.

Art. 11. Art, science, and their teaching are free. The *Land* guarantees them care and protection.

Art. 12. The home of every citizen is sacred and inviolable. Exceptions are admissible only on the basis of law.

Art. 13. The secrecy of letters, the mails, telegraph and telephone is inviolable. Exceptions are admissible only on the basis of law.

Art. 14. All citizens have the right to form associations and societies for purposes which are not contrary to the criminal laws and do not serve to disseminate national-socialist or militarist ideas. Furthermore, this right cannot be limited through preventive measures.

The right to form associations for the betterment of wages and working conditions is guaranteed to everyone. The right to strike is recognized. All stipulations and measures which seek to limit or hinder this freedom are illegal and prohibited. Recognized trade unions are under the protection of the *Landtag*.

Art. 15. Every citizen has a right to employment. He is free to choose his own vocation. It is the duty of the *Land* to secure for every citizen work and subsistence through planned economy. Whenever suitable work cannot be obtained for him, the necessities of life will be provided him.

Art. 16. Everyone who works has a right to vacation and recreation, as well as to care during illness and old age, pursuant to the provisions of the laws.

For the maintenance of the health and the ability to work of the gainfully employed population, for the protection of motherhood and as a precaution against the economic consequences of old age, incapacity, unemployment and other vicissitudes of life, the *Land* shall create a uniform, comprehensive insurance system, administered by the insured.

Sunday, 1 May and other legal holidays are days of rest and are protected by the laws.

Art. 17. The manual and clerical workers shall participate on equal terms with the employers in the regulation of wages and working conditions and in the economic development of productive forces.

Manual and clerical workers shall exercise these rights through trade unions and works councils.

Art. 18. All citizens have an equal right to education. It shall be guaranteed through public institutions.

Art. 19. The family is under the special protection of the Constitution. Marriage is based on equal rights for both sexes.

Marriage as the basis of the family is under the special protection of the State. The education of the children with respect to physical, spiritual and social fitness is the first duty and natural right of the parents. The rights and duties of the parents towards their children, as well as those of husband and wife to each other, shall be respected by the State power.

Art. 20. In all spheres of public, economic and social life women enjoy the same rights as men. All legal provisions contrary to the equal rights of women shall be annulled.

For equal work, men and women have the right to the same compensation. Women enjoy special protection in all forms of employment.

Motherhood is entitled to the protection and care of the *Land*. An unwed mother has the same rights as a married mother.

The fact that a child is born out of wedlock shall not lead to discrimination. The same conditions for the physical, mental and social development which exist for the child born in wedlock shall be created for him.

Art. 21. Youth has the right to employment and recreation, which shall be guaranteed through legislation and measures of the *Land*.

For equal work, youth has the right to the same pay as an adult.

Youth has the right to happiness and joy. They shall have access to cultural institutions and facilities.

Youth shall be protected against moral, mental and physical neglect.

Compulsory education can be prescribed only on the basis of law.

III. THE LANDTAG

Art. 23. The *Landtag* consists of 90 representatives elected by the people.

The members are elected for a period of three years by general, equal, secret and direct vote according to the principles of proportional representation.

The members are representatives of the entire people, subject only to their conscience and not bound by any instructions.

Art. 24. All citizens who are 20 years old are qualified to vote.

All citizens who are qualified voters and who are 23 years old are eligible for election.

Details are determined by the election law.

Art. 25. Lists of candidates may be submitted only by democratic parties and organizations authorized by the election law. Freedom and secrecy of the polls are guaranteed.

Art. 26. Elections take place on a Sunday or a legal holiday.

VI. ADMINISTRATION OF JUSTICE

Art. 61. Justice is administered pursuant to the provisions of the laws by professional and lay judges according to the principles of social justice.

Art. 62. Through the development of law schools, the *Land* shall provide the facilities to enable individuals from all levels of the population to acquire the qualifications necessary to judicial office.

Art. 63. Lay judges are to participate in the administration of justice in all fields and in all courts pursuant to the provisions of the laws.

Lay judges are proposed by the democratic parties and organizations and appointed by the popular representative bodies concerned.

Art. 64. Judges are independent in the administration of justice and subject only to law.

Correctly promulgated laws are binding upon all judges.

Art. 65. Court sessions are public. The public may be excluded by decision of the court if the security of the State or morals are endangered.

Art. 66. Extraordinary courts are forbidden. No one may be deprived of his lawful judge.

Everyone is entitled to a hearing in court.

Every person accused of a punishable act may avail himself of a defence counsel.

Retroactive penal laws are not permitted, unless they concern war crimes or crimes against humanity committed before the day of capitulation (8 May 1945).

Art. 68. The administrative courts serve for the protection of the citizen against illegal orders and decrees of the administration.

VIII. ECONOMY

Art. 73. The organization of economic life must conform with the principles of social justice for the purpose of guaranteeing a dignified human existence for all.

Within these limits, the economic freedom of the individual is guaranteed.

Independent tradesmen and peasants shall be encouraged to develop their private initiative. Freedom of trade and industry is guaranteed pursuant to the provisions of the laws.

The economic life shall be guided by a plan which takes into consideration the requirements of the economic unity of Germany. Economy must serve the needs of the people.

Art. 74. All private monopoly organizations, such as cartels, syndicates, combines, trusts, etc., are prohibited.

Art. 75. Property is guaranteed by the Constitution. Its extent and limitations are determined by the laws.

The right of inheritance is guaranteed pursuant to the provisions of the civil laws. The share of the State in inheritance is determined by law.

Intellectual work and the rights of authors, inventors and artists enjoy the protection and care of the *Land.*

Art. 76. The distribution and exploitation of land shall be supervised and its misuse prevented.

The formation of new, privately owned large estates comprising more than 100 hectares is prohibited.

Moreover, the right of the peasant to landed property is guaranteed. This also applies to the land which the peasants acquired on the basis of the ordinance concerning land reform of 5 September 1945.

Art. 77. For every citizen and every family a healthy homestead shall be provided in accordance with their needs. Special care shall be taken in this respect for the victims of fascism, those incapacitated by war, and expellees.

Art. 78. The *Land* and the self-governing units shall participate in the administration of economic enterprises or influence them by other means, in order to meet the economic requirements.

Art. 79. The right of eminent domain may only be exercised for the general welfare on the basis of law. Appropriate compensation must be given unless otherwise provided by law.

Art. 80. Expropriated enterprises of active national-socialists and war criminals are to become public property. Enterprises appropriate for public management are to be managed by the *Land.* Details shall be determined by law.

IX. FINANCE

Art. 81. Taxes, imposts and fees may be collected only on the basis of legal provisions.

Art. 82. Taxes on capital, income, and consumption are to be kept in an appropriate relation to each other and to be graduated according to the best social principles. Ability to pay and to maintain an average standard of living must be taken into consideration.

Through a strong progressive increase in the scale of the inheritance tax, the accumulation of large fortunes, which may be detrimental to the interests of the people, shall be prevented.

X. RELIGIOUS SOCIETIES

Art. 86. The undisturbed exercise of religion is guaranteed and under the protection of the *Land.*

The misuse of the church and the exercise of religion for political party purposes is forbidden.

Art. 87. Civil or civic rights and duties are neither conditioned nor limited by the exercise of religious freedom.

The exercise of these rights or the admission to public office does not depend on religious denomination.

No one is under obligation to reveal his religious conviction. Administrative agencies have the right to inquire into religious affiliation only in so far as rights and duties are involved or in case of a legally prescribed statistical census.

No one shall be forced to participate in religious or ideological instruction, functions or ceremonies, or to participate in religious or ideological exercises, or to use a religious form of oath, nor may he be prevented therefrom without legal basis.

No person employed in public service needs the approval of his superiors if he wants to impart religious instruction in his spare time.

Art. 88. The freedom to join religious societies is guaranteed.

Every religious society regulates and administers its affairs independently within the provisions of the laws which apply to all. It appoints its functionaries without concurrence of the *Land* or the *Gemeinden.*

Religious societies are corporations of public law in so far as they have been until now. Other religious societies shall be granted the same rights on request, if their organization and the number of their followers constitute a guarantee of permanency. Should several such public religious societies which are in the category of corporations of public law merge into an association, then this association also will be a corporation of public law.

Religious societies of the public law category are authorized to levy taxes from their members on the basis of the State tax lists, in accordance with the general provisions. All other payments to the church in the nature of taxes, in particular the customary dues, are abolished by this provision.

Art. 89. Public contributions to religious societies based on law, contract or special legal title shall be commuted by law.

Art. 90. Where necessary, religious societies shall be admitted into hospitals, penal institutions and other public establishments for the performance of services of religious worship and ministration. No one may be forced to take part in such services.

Art. 91. Whoever desires to withdraw from a publicly and legally recognized religious society shall declare his intention at the Registrar's Office verbally or in a publicly certified form.

Art. 92. The decision as to membership of children in a religious society may remain with the parents or the legal guardians until the child is 15 years old.

Beyond that age the child enjoys freedom of decision.

Art. 93. The right of religious societies to give religious instruction and the means and facilities necessary to the execution thereof, including the provision of the necessary rooms, are guaranteed.

Art. 94. Associations pursuing the common furtherance of an ideology shall be put on the same level as religious societies.

XI. EDUCATION OF THE PEOPLE

Art. 95. Education and instruction of youth shall be provided through public institutions. The *Land* and the *Gemeinden* shall co-operate in their establishment.

Public education shall be provided by the same uniformly organized and integrated democratic school system for boys and girls on the basis of general compulsory school attendance.

Art. 96. The observance of general compulsory school attendance shall be complied with by attendance at the elementary school. After completion of the elementary school, systematic additional schooling shall take place in vocational and technical schools, in secondary schools or other educational institutions.

Attendance at a vocational school is the duty of all youth until they are at least 18 years old if they are not attending another public school. The vocational school provides for the continuation of the technical training of the students. The secondary school provides the knowledge and develops the capacities necessary to enable the student to attend an institution of higher education.

By means of evening and extension courses the opportunity shall be provided for members of all levels of the population to gain the knowledge necessary for admission to an institution of higher education, without interruption of their vocational activities.

Art. 97. The school shall provide everyone with a comprehensive education, commensurate with his

abilities and talents, irrespective of the social position of the parents and of religious denomination.

Instruction and educational supplies shall be provided free of charge in the elementary and vocational schools. Gifted students from all levels of the population shall be enabled to continue their education in secondary schools and institutions of higher education.

Art. 98. The school shall educate youth to become individuals capable of independent thinking and responsible behaviour, able and willing to adapt themselves to life within the community.

As the standard-bearer of culture, it shall be the task of the school to inculcate youth with true human principles, in the spirit of peaceful and friendly relations between peoples and in the spirit of true democracy.

XII. FINAL PROVISIONS

Art. 99. Any endeavours to abolish or restrict the democratic structure of the State and the basic rights of the citizens are contrary to the Constitution and shall be punished as crimes against the Constitution; the attempt to do so is also punishable. Details shall be determined by law.

Any acts contrary to the Constitution shall not become legal by the use of measures provided in this Constitution.

Art. 100. The provisions of this Constitution are law of immediate and direct application.

The generally recognized rules of international law are considered as binding and integral parts of the law of the *Land*.

CONSTITUTION OF SAXONY-ANHALT[1]

of 10 January 1947

A. THE DEMOCRATIC STRUCTURE OF THE PROVINCE

Art. 4. (1) All citizens, without distinction, are admitted to public office in accordance with their qualifications.

(2) No form of employment may interfere with the exercise of civic rights or the fulfilment of public duties.

Art. 5. Employees of the public service are servants of the people and not of a party. Their rights and duties are regulated by law.

Art. 6. All residents of the province who are German nationals are citizens of the province.

Art. 7. It is the duty of the authorities of the province, of all self-governing units, and all employees of the public service to strengthen democracy and promote the general welfare.

B. BASIC RIGHTS AND DUTIES OF CITIZENS

Art. 8. (1) All citizens are equal before the law. Men and women enjoy equal rights.

(2) All citizens have equal civic rights unless they have been deprived of them for having committed crimes or because of national-socialist or militarist activities.

(3) Any manifestation of national or religious hatred and all racial persecution are prohibited and will be most severely punished. All persons who disseminate or support militarist or national-socialist ideas are to be removed from public office. They may not occupy leading positions in the economic or cultural life. They may also be deprived of the franchise. Popular representatives may be deprived of their mandate by a two-thirds majority of the popular representative body concerned, because of such activities.

Art. 9. (1) The freedom of the person is inviolable. Restriction or denial of personal liberty is admissible only on the basis of law.

(2) Persons who have been deprived of their liberty are to be notified on the following day at the latest by what agency and for what reason orders depriving them of their liberty have been issued. They must be given immediate opportunity to appeal against the restriction of their liberties.

Art. 10. (1) Each citizen has the right to reside in the province at a place of his own choice. He is entitled to leave the province.

(2) Exceptions are admissible only on the basis of law.

Art. 11. Within the limitations of the law, each citizen has the right to express his opinion freely by word, writing, printing, pictures and by other means and to participate in meetings and demonstrations.

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[1] English text based on the translation in *Constitutions of the German Länder*, prepared by Civil Administration Division, Office of Military Government (U.S.), 1947, pp. 115–124. This Constitution was enacted by the *Landtag* and promulgated on 10 January 1947, and, in accordance with article 97, became effective on 11 January 1947, the day after its enactment.

No form of employment may interfere in the exercise of this right and no one may be prejudiced against for having exercised it. Each citizen has the right to petition popular representative bodies and the Cabinet.

Art. 12. (1) Property is guaranteed by the Constitution. Its extent and limitations are determined by law.

(2) Pursuant to the provisions of the civil law, the right to inheritance is guaranteed. The share of the State in an inheritance is determined by law.

(3) The right of eminent domain shall be exercised only for the common welfare and only on the basis of law. It is made only with appropriate compensation unless otherwise provided by law.

Art. 13. (1) Art, science and its teaching are free. The province protects them and participates in their development.

(2) Intellectual work, the rights of authors, inventors and artists enjoy the protection and care of the province.

Art. 14. The home of each citizen is sacred and inviolable. Exceptions are admissible only on the basis of law.

Art. 15. The secrecy of letters, the mails, telegraph and telephone is inviolable. Exceptions are admissible only on the basis of law.

Art. 16. (1) All citizens have the right to form associations and societies for purposes which are not contrary to the penal laws or which do not serve the dissemination of national-socialist or militarist doctrines. This right cannot be restricted by preventive measures.

(2) The right to form associations for the protection of wages and working conditions is guaranteed to everyone. The right to strike is recognized. All stipulations or measures which attempt to limit or deny this freedom are illegal and prohibited. Recognized trade unions are under the protection of the province.

Art. 17. (1) Each citizen has the right to employment and the free choice of his vocation. It is the duty of the province to guarantee each citizen work and subsistence. Whenever no suitable work can be obtained for him, the necessities of life will be provided for him.

(2) Although enjoying full personal freedom, it is the moral duty of each citizen to use his mental and physical abilities in a manner which the common welfare demands.

Art. 18. (1) Everyone who works has a right to vacation and recreation and care during illness and old age, pursuant to the provisions of the law.

(2) For the protection of the health and the ability to work of the gainfully employed population, for the protection of motherhood, and as a precaution against the economic consequences of old age, incapacity, unemployment and other vicissitudes of life, the province will establish a uniform and comprehensive system of insurance administered by the insured.

(3) Sundays, holidays, and 1 May are days of rest and are under the protection of the law.

Art. 19. Manual and clerical workers enjoy the same right as employers in the regulation of wages and working conditions and in the efficient economic development of the productive forces. Manual and clerical workers exercise these rights through trade unions and works councils.

Art. 20. All citizens have an equal right to an education. It is guaranteed to them through public institutions.

Art. 21. The family is under the special protection of the Constitution. Marriage is based on equal rights for both sexes.

Art. 22. (1) In all phases of public, economic and social life, men and women enjoy the same rights.

(2) For the same work or production, men and women have the right to equal compensation. Women enjoy special protection in all forms of employment.

(3) Motherhood has the right to protection and care by the province. In this respect an unwed mother has the same right as a married mother.

(4) The fact that a child is born out of wedlock shall not lead to discrimination. The same conditions for physical, mental and social development which exist for the child born in wedlock shall be created for him.

Art. 23. (1) Youth has the right to employment and to recreation, which shall be guaranteed through appropriate laws of the *Landtag*.

(2) For the same work or production as adults, youth has the right to equal compensation.

(3) Youth has the right to joy and happiness. They shall have access to cultural institutions and facilities. Youth shall be protected against exploitation and against moral, mental, and physical neglect.

(4) Compulsory education can be prescribed only pursuant to the provisions of the law.

C. THE LANDTAG

Art. 25. (1) The *Landtag* consists of popularly elected representatives.

(2) Representatives are elected through general, equal, secret and direct elections on the basis of proportional representation and for a term of three years.

(3) The members are representatives of the entire people.

Art. 26. (1) All citizens who are 20 years old are qualified to vote.

(2) All citizens qualified to vote, who are 23 years old, are eligible for election.

(3) Only recognized political parties are entitled to submit lists of candidates. When a representative leaves the party on whose list of candidates he has been elected and joins another political party, the Committee of Elders decides on the loss of the mandate.

(4) Details are determined by an election law.

Art. 27. Freedom and secrecy of the ballot are guaranteed.

Art. 28. Elections take place on a Sunday or a legal holiday.

E. LEGISLATION

Art. 60. (1) The provisions of this Constitution are law of immediate and direct application.

(2) The universally recognized rules of international law are considered as binding and integral parts of the law of the province.

F. ADMINISTRATION OF JUSTICE

Art. 61. Justice is administered by professional and lay judges based on the principles of social justice and pursuant to the provisions of the law.

Art. 62. The province will provide the facilities to enable individuals from all levels of the population to acquire the qualifications necessary to judicial office.

Art. 63. (1) Lay judges shall participate in the administration of justice to the fullest extent.

(2) Within the provisions of the law, lay judges shall be nominated by the democratic organizations and political parties and shall be elected by the popular representative bodies concerned.

Art. 64. (1) Judges are independent in the administration of justice and subject only to law.

Art. 65. Extraordinary courts are forbidden; no one may be deprived of his lawful judge.

Art. 66. (1) Every person is entitled to a fair hearing in court.

(2) Every person accused of a punishable act may avail himself of the services of a defence counsel.

Art. 67. Administrative courts must be established for the protection of the citizens against the orders and decrees of the administration.

H. ECONOMY

Art. 72. The organization of economic life must comply with the principles of social justice and with the aim of providing a dignified human existence for all.

Within these limits, economic freedom of the individual is guaranteed.

Independent tradesmen and peasants shall be encouraged in the development of their private initiative. Freedom of trade and industry is to be guaranteed pursuant to the provisions of the law.

Economic life will be regulated according to a plan which takes into account the requirements of German economic unity, as well as those of the province. It must serve the needs of the people and increase the productivity of economic enterprises.

Art. 73. All private monopolistic organizations, such as cartels, syndicates, combines, trusts and so forth, organized for the increase of profits through regulation of production, prices and distribution, are prohibited.

Art. 75. The peasant is guaranteed the ownership rights of his land. This also applies to peasants who have received land according to the Land Reform Law of the province of 3 September 1945.

Art. 76. Distribution and use of land is supervised and all misuse will be prevented. Every citizen and every family is guaranteed a healthy homestead in accordance with their needs. Victims of fascism, persons injured in war or industry, and expellees are to receive special consideration.

Art. 77. The province and the self-governing units may, in the interest of the satisfaction of consumers' requirements, participate in the administration of economic enterprises or influence them by other means.

Art. 78. Expropriated enterprises of active national-socialists and war criminals are the property of the province, unless they have been transferred by it to private, *Gemeinde* or *Kreis* ownership.

Art. 79. (1) Economic establishments which are the property of the province shall be conducted as independent economic enterprises.

(2) Enterprises owned by the province shall be combined according to their economic character and managed like other similar industrial enterprises. The management is under the direct control of the Minister concerned.

I. FINANCE

Art. 80. Taxes and imposts may be collected only in accordance with regulations based on law.

Art. 84. Taxes and imposts are to be held in appropriate relation to each other and are to be

graduated according to the best social principles. Ability to pay, as well as the maintenance of an average standard of living, must be taken into consideration.

K. EDUCATION OF THE PEOPLE

Art. 85. Education and school training of youth is accomplished by public institutions.

In their establishment the province and the *Gemeinden* shall co-operate. Public education shall be provided by the same uniformly organized and integrated democratic school system for boys and girls on the basis of general compulsory school attendance. In accordance with the natural right and the supreme duty of parents towards the education of their children, the participation of the parents in the formation of school policy is guaranteed (i.e. parent-teacher organizations).

Art. 86. The observance of compulsory school attendance shall be complied with by attendance at the elementary school. Additional systematic instruction shall be provided by vocational and technical schools, secondary schools and other educational institutions after completion of the elementary school. Attendance at a vocational school is required of all youth, until they are at least 18 years old if they are not attending another public school. The vocational school provides primarily vocational training for the student. The secondary school imparts knowledge and develops abilities to permit the student to qualify for attendance at an institution of higher education.

Persons from all levels of the population shall be given the opportunity to qualifiy for study at an institution of higher education without interrupting their vocational activities.

Art. 87. The school shall provide everyone with a comprehensive education commensurate with his abilities and talents regardless of the social status of his parents and his religious denomination. Instruction may not offend the religious feelings of those holding different beliefs. Instruction and educational supplies are provided free of charge in elementary and vocational schools. Gifted students of all levels of the population will be given the opportunity to continue their training in high schools, vocational schools and institutions of higher education.

Art. 88. The school shall educate youth to become individuals capable of independent thinking and responsible behaviour, able and willing to adapt themselves to the life of the community.

As the standard-bearer of culture it shall be the task of the school to inculcate youth with true human principles in a spirit of peaceful and friendly relations between peoples and in the spirit of real democracy.

L. RELIGIOUS SOCIETIES

Art. 89. All residents of the province enjoy full freedom of faith and conscience. The undisturbed exercise of religion is guaranteed and is under the protection of the State.

Art. 90. (1) Civil or civic rights and duties are neither conditioned nor limited by the practice of religion. The exercise of civil or civic rights or the admission to public office is independent of religious denomination.

(2) No one is required to reveal his religious conviction. Administrative agencies have the right to inquire into religious affiliation only in so far as rights or duties are involved or as required by a legally prescribed statistical census.

Art. 91. (1) The freedom to form religious societies is guaranteed.

(2) Every religious society regulates and administers its affairs independently and within the provisions of the law. It appoints its functionaries without the concurrence of the province or the *Gemeinde.*

(3) Religious societies are corporations of public law in so far as they have been until now. Other religious societies are to be granted the same rights upon application, if their organization and the number of their members constitute a guarantee of their permanence. If several religious societies of public law merge, then this association is also a corporation of public law.

(4) Religious societies of public law are permitted to levy taxes on their members on the basis of the State tax lists and pursuant to the general provisions.

(5) Associations which have the aim of furthering an ideology have the same legal standing as religious societies.

Art. 92. Public contributions to religious societies based on law, contract, or special legal title, shall be commuted by law.

Art. 93. Religious instruction is a concern of religious societies. They may use school facilities as long as class work is not obstructed thereby.

Wherever worship services and religious ministrations are requested in hospitals, penal institutions and other public establishments, religious societies shall be admitted for the performance of religious functions.

Art. 94. Whoever wishes to withdraw legally from religious societies shall declare his intention at the registrar's office or submit his individual declaration in a publicly certified form.

Art. 95. The parents or legal guardians may decide concerning the religious affiliation of children until they are 14 years old.

From that age on the child enjoys the freedom of decision as to whether he will remain in the religious society.

United States Zone of Occupation

MILITARY GOVERNMENT ORDINANCE No. 23[1]

of 7 January 1948

REGARDING RELIEF FROM UNLAWFUL RESTRAINT OF PERSONAL LIBERTY

Article I

PURPOSE AND SCOPE

The purpose of this Ordinance is to confirm and clarify certain safeguards of personal liberty in the nature of those available in *habeas corpus* proceedings by providing a procedure whereby those individuals whose personal liberty is restrained may, in appropriate cases, secure a speedy judicial determination of the legality of such restraint and, if it be found unlawful, may secure their freedom. The relief herein provided is in addition to and independent of the right of such persons to file petitions for review and petitions for clemency, and is available even though the restraint complained of may have been imposed by virtue of the sentence or order of a court other than a court acting hereunder.

Article II

PERSONS ENTITLED TO APPLY FOR RELIEF UNDER THIS ORDINANCE

1. Any natural person within the United States Area of Control (including the United States Sector of Berlin) may apply for relief hereunder, as provided in article V, if he is detained, confined, or otherwise restrained of his personal liberty,

(*a*) Pursuant to an order, decision or sentence of a Military Government court;

(*b*) At the instance of, or after transfer of jurisdiction over such person to, Military Government;

(*c*) In Military Government custody at the instance of, or after transfer of jurisdiction to, other elements of the occupation forces or their representatives; or

(*d*) In German custody at the instance of, or after transfer of jurisdiction over such person to, other elements of the occupation forces or their representatives, unless jurisdiction over such person has subsequently been transferred to the German authorities.

2. No such person, however, may apply for relief hereunder:

(*a*) From restraints pursuant to,

(1) charges to be tried before German courts or tribunals;

(2) charges to be tried before one of the military tribunals established under Military Government Ordinance No. 7, as amended, or under Military Government Ordinance No. 8, or before a Military Government court especially established under the jurisdiction of the Judge Advocate of the European Command for the trial of war criminals; or

(3) a sentence imposed by any tribunal or court referred to in paragraphs (1) and (2) of this sub-section or by the International Military Tribunal; or

(*b*) Where held by and for elements of the occupation forces other than Military Government, including all cases where such persons are held in connexion with court-martial or war crimes proceedings.

Article III

RELIEF UNDER THIS ORDINANCE

1. Any person eligible to apply for relief hereunder, as provided in article II, is entitled to relief under this Ordinance whenever he is unlawfully restrained of his personal liberty.

2. An application for relief under this Ordinance may be filed at any time.

Article IV

UNLAWFUL RESTRAINTS OF PERSONAL LIBERTY

1. Any person eligible to apply for relief hereunder, as provided in article II, is unlawfully restrained of his personal liberty whenever he is confined pursuant to a sentence of a Military Government court, and

(*a*) Such court was without jurisdiction over him or over the offence, or imposed a sentence beyond the limits of its jurisdiction; or

(*b*) In the trial before such court resulting in the sentence, there was a material disregard of any of the rights guaranteed to such person by article V of Military Government Ordinance No. 2 or such trial did not comply with the essential requirements of due process of law.

2. Any such person, unless good cause to the contrary be shown to the satisfaction of the court, shall likewise be considered unlawfully restrained of his personal liberty whenever,

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[1]Printed text, issued by the Military Government, Germany, United States Area of Control, received through the courtesy of Mr. Rex E. Greaves, Chief, Reports and Analysis Branch, Civil Affairs Division, U. S. Army.

This Ordinance became effective within the States of the American Zone of Occupation, including the United States sector of Berlin, on 7 January 1948.

(*a*) Such person, other than a material witness, is held more than three days without having been brought before a summary or other Military Government court for trial or for a determination by the court as to whether there is sufficient probability of such person's guilt to order him held available for trial or, in the case of extradition, deportation or repatriation proceedings, whenever such person is held more than three days without a determination by such a court, or by the appropriate administrative official charged with the responsibility for administration of extradition, deportation or repatriation procedures, that there is sufficient reason to order such person held for extradition, deportation or repatriation;

(*b*) Such person is held as a material witness for a trial in a Military Government court for more than three days without a valid order of such court requiring him to be so held; however, no such order for the detention of a material witness for any trial in a Military Government court shall be valid for more than twenty-one days, provided that such an order may be renewed by the court for additional periods of not more than twenty-one days each;

(*c*) Such person is held for trial by a Military Government court for more than twenty days without service upon him of the charges under which he is to be tried; or

(*d*) Such person has been served with charges to be tried before a Military Government court and thereafter is held without trial for a period longer than the orderly conduct of the business of the court requires, allowing the prosecution and defence reasonable time to prepare their cases.

3. Any such unsentenced person shall likewise be considered unlawfully restrained,

(*a*) Whenever such person has duly applied for release on bail and no decision on such application has been made within five days (Saturdays, Sundays and holidays excepted) from the date of filing of such application; or

(*b*) Whenever an application for release on bail has been granted but the bail required is excessive and such person has duly applied for reduction of bail and such application has been denied or no decision on such application has been made within five days (Saturdays, Sundays and holidays excepted) from the date of filing of such application.

4. Nothing in this Ordinance shall prevent a Military Government court from determining in circumstances not herein referred to, or before the expiration of any time-limit herein provided, that any person eligible to apply for relief hereunder within article II is otherwise unlawfully restrained of his personal liberty.

[Article V treats of the formalities of application; article VI of jurisdiction and proceedings, and article VII of the conduct of hearings.]

Article VIII

ORDERS

1. If at the conclusion of the hearing the right of the aggrieved person to relief has not been established by a preponderance of the evidence, the court shall make an order denying his application and ordering him returned to custody.

2. If, however, at the conclusion of the hearing the right of the aggrieved person to relief is established by a preponderance of the evidence, the court shall make an order granting the application....

[Points (*a*) to (*d*) of paragraph 2 deal with the directions of such orders in the different cases dealt with in article IV.]

[Article IX deals with conditions governing bail, stating under paragraph 2 that excessive bail should not be required; article X deals with reviews of orders issued, pursuant to this Ordinance, and article XI with penalties.]

Article XII

SUSPENSION OF PROCEEDINGS

1. All rights and privileges conferred by this Ordinance and all proceedings conducted thereunder may be suspended whenever the Military Governor or the Deputy Military Governor determines that such suspension is necessary or advisable in the interest of maintaining law and order or the security of the occupying forces. Such suspension may be made effective either throughout the entire United States Area of Control (including the United States Sector of Berlin) or within a *Land* or other portion thereof, or as to a particular case or class of cases.

2. No order discharging an aggrieved person from custody shall issue if the Military Governor or the Deputy Military Governor, or the appropriate *Land* or Sector Director of the Office of Military Government shall, prior to issuance of the order, direct that the court before which the hearing is held defer the issuance of the order; provided that whenever such direction is made by a *Land* or Sector Director, he shall immediately forward to the Office of Military Government (U.S.) a statement of the action taken and the reasons therefor.

3. No suspension, deferment or stay other than as provided in article X and this article is authorized.

[Article XIII contains general provisions.]

GUATEMALA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The Constitution promulgated on 11 March 1945,[2] did not undergo any alteration.

A congressional decree No. 526 amending the Labour Code of 8 February 1947 was promulgated on 9 July 1948.

Most of the sections contained in the decree refer to secondary points or to matters of procedure. The only innovation of substance is the right to *reinstatement* to which section 9 refers. Under the Code as originally drafted, the only right of an employee dismissed by his employer was the right to compensation equivalent to one month's wages for each year's service, or for less than a year's service the proportionate amount. The amended text establishes an alternative right under which the employee can choose between the compensation as laid down, or reinstatement in his employment under at least the same conditions as he previously enjoyed. Nevertheless, an employee is not entitled to an absolute right to reinstatement; the decision is left to the discretion of the judge with due regard to the circumstances; in this way an exception can be made in certain cases in which reinstatement is obviously undesirable from the employer's point of view.

Section 1 of the amending decree contains a fundamental principle relating to freedom of work; however, this is not an innovation, since it was already embodied in the original text of the Code and in the Constitution. The only change is the addition of the words "based on law", which legally bind the competent authority making an exception from the principle. In the absence of these words the power of an authority to make an exception appeared somewhat arbitrary.

Sections 1 and 9 of Congressional Decree No. 526 are reproduced in this *Yearbook*.

The Guatemalan Social Security Institution, founded in 1946, has continued its operations and has extended them to further parts of the Republic and to new phases of workers' welfare.

In the field of adult education, the work of the National Literacy Committee has continued unabated, and during 1948 through its efforts 18,000 adults learned to read and write.

[1] Information and texts on which this note is based were received through the courtesy of Dr. Julio Camey Herrera, Director of the Legal Department of the Ministry of External Relations, Guatemala City.

[2] See the provisions relating to human rights of the Constitution in *Yearbook on Human Rights for 1946*, pp. 135–143.

CONGRESSIONAL DECREE No. 526[1] OF 9 JULY 1948 TO AMEND THE LABOUR CODE

1. The first paragraph of section 6 shall read as follows:

It shall not be lawful for any person to restrict the right of another to work or to prevent another from engaging in any occupation or activity in which he wishes to engage, provided that he complies with the relevant laws or regulations. This right shall not be restricted except by a decision of the competent authority, *based on law*[2] and issued for reasons of public policy or the national interest.

9. *The following addition shall be made to section 78*:

The employee may call upon the employer to fulfil the contract and to reinstate him in his employment on at least the same conditions; the employer shall be bound to comply with the award of the judge ordering the reinstatement of the employee.

The right of an employee to require fulfilment of the contract shall be limited as follows:

(*a*) The right may be exercised as an alternative to the right to claim the compensation referred to in the first part of this section;

(*b*) Only employees working in undertakings employing twenty or more employees shall have this right;

(*c*) The Labour and Social Welfare Tribunals are empowered to decide concerning the advisability or otherwise of the reinstatement and shall order

[1] Spanish text in *Diario de Centro America*, No. 92, of 15 July 1948. English translation from the Spanish text by the United Nations Secretariat. The decree was adopted by the Legislature on 5 July and promulgated on 9 July 1948. It went into effect the day after its publication in the *Diario*, on 16 July 1948. The full text of the Labour Code as originally promulgated by decree No. 330 of 8 February 1947 is published in: International Labour Office, *Legislative Series*, 1947, Guat. 1.

[2] Italicized words added on 9 July 1948.

reinstatement with due regard to the circumstances of each case. If in his award the judge orders the reinstatement requested by the employee, the employee shall not be entitled to the compensation payable in respect of dismissal, but he shall be entitled to wages not received by him from the date of his dismissal until the date of his reinstatement, in accordance with the provisions of sub-paragraph (*g*) of section 61; further, if the employer refuses to comply with the award, the employee shall be entitled to require that the award shall be enforced by judicial order as laid down in sub-paragraph (*b*) of section 426.

HAITI

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The Constitution of 1946 was not amended in 1948.

The following Acts which have a bearing on human rights were promulgated in 1948:

Act of 2 March 1948 amending the Act of 23 October 1947 on trade disputes (*Le Moniteur* No. 19, of 4 March 1948);

Act of 2 March 1948 amending the Act on trade union organization (*Le Moniteur* No. 19, of 4 March 1948);

Act of 5 May 1948 revising certain provisions of the Act of 16 December 1947 on working conditions (*Le Moniteur* No. 37, of 5 May 1948).

The Acts of 2 March on trade union organization and of 5 May 1948 on working conditions are reproduced in this *Yearbook.*

[1]This note is based on texts and information received through the courtesy of Dr. Clovis Kernisan, Professor in the Faculty of Law of Port-au-Prince University. English translation from the French text by the United Nations Secretariat.

TRADE UNION ORGANIZATION ACT

as amended on 2 March 1948[1]

ARTICLE I

Articles 5, 6, 9, 14, 17 and 28 of the Trade Union Organization Act are hereby modified as follows:

Art. 5. Deleted.

[*Former text:*

Art. 5. No one can be forced to join or not to join a trade union.

Any provision or agreement to the contrary shall be considered null and void.]

Art. 6. [*Minors under 15 years*][2] persons under judicial disability and persons sentenced to a punishment involving personal restraint or loss of civil rights, may not, while such sentence is in force, be members of a trade union. Similarly, directors, administrators or representatives acting on an employer's behalf and managers may not be members of a trade union formed by the workers of an enterprise. *Such persons may only form an association amongst themselves.*[3]

Art. 9. In order that trade unions may be deemed to be legally constituted, they must comply with the provisions of the present Act and be registered within *90 working days*[4] from the date of their formation at the Labour Office [*or at the prefecture when there is no Labour Office*].[5]

Art. 14. In order to be a member of the Steering Committee *or a delegate*[6] of a trade union, a person must:

1. Be a Haitian citizen,
2. Be of full age,
3. Be able to read and write.
4. Not have been sentenced to punishment involving personal restraint or loss of civil rights,
5. Have been engaged in the occupation or trade or have been in the place of employment for at least one year or hold a diploma or certificate of professional ability in the same branch or the same trade.

Art. 17. The Secretary of State for Labour may suspend the activities of a trade union for a period not exceeding one month, if it is established in an official report duly drawn up by the inspectors of the Department of Labour that it is engaging in punishable offences against individuals and against property.

The Secretary of State for Labour cannot suspend the activities of a trade union during a labour dispute or a legal strike, unless the conditions listed in the foregoing paragraph are applicable.

[1]French text in *Le Moniteur* No. 19, of 4 March 1948. English translation from the French text by the United Nations Secretariat. Text and information through the courtesy of Dr. Clovis Kernisan, Professor in the Faculty of Law at Port-au-Prince University.

The Act was adopted by the Senate on 21 February 1948 and by the Chamber of Deputies on 22 February 1948. It was promulgated by the President of the Republic of Haiti on 2 March 1948. The new Act amends certain articles of the Act on trade union organization of 1947 which was published in the *Yearbook on Human Rights for 1947*, pp. 144–147. The present text is arranged to permit of comparison with the former text.

[2]Omitted in the 1948 text.

[3]Former text of the italicized words: "*Such persons may, however, form an association with those engaged in identical or similar activities.*"

[4]Former text: *30 working days.*

[5]Omitted in the 1948 text.

[6]Italicized words added in 1948.

[*Former text:*

Art. 17. The Secretary of State for Labour may suspend the activities of a trade union for a period not exceeding three months, if any of the following facts are proved after an enquiry has been made and an official report drawn up by the competent judge and subject to the right of reply:

(*a*) That it is resorting to open violence against individuals in order to compel them to belong to the union or to hamper their lawful occupation;

(*b*) That it is inciting to or engaging in punishable offences against individuals and against property;

(*c*) That it is intentionally or maliciously supplying the Department of Labour with false information;

(*d*) That it is engaged in commercial or political activities.

The Secretary of State for Labour cannot suspend the activities of a trade union during a labour dispute or a legal strike, unless the conditions listed in the foregoing paragraphs are applicable.]

Art. 28. Deleted.

[*Former text:*

Art. 28. Professional trade unions may use part of their resources for building cheap housing and acquiring land for workers' gardens, health centres or training centres and newspapers, reviews or wireless stations.

They may freely inaugurate and administer workers' relief funds and information offices for posts vacant and wanted and may establish and subsidize such professional agencies as: professional provident funds, laboratories, experimental stations, scientific agricultural or social educational services, and training courses and publications of interest to the profession. The movable and immovable property essential for their meetings, their libraries and their professional training courses shall not be liable to distraint when used for these special purposes.]

ARTICLE II

The present Act repeals all Acts or legislative provisions, and all decree-laws or provisions of decree-laws at variance therewith, and the Secretary of State for Labour shall be responsible for its enforcement.

ACT OF 5 MAY 1948 TO REVISE CERTAIN PROVISIONS OF THE CONDITIONS OF EMPLOYMENT ACT[1]

HOURS OF WORK

Art. 1. Normal hours of work shall be 8 hours a day or 48 hours a week.

The parties may agree amongst themselves to divide the 48 hours otherwise than into 8 hours a day, without exceeding 10 hours a day.

Hours of work shall be deemed to mean periods during which the employee is at the employer's orders.

Overtime worked in excess of normal working hours shall be paid for at a rate increased by 50 per cent.

The time spent by a factory or office worker in rectifying errors for which he is responsible shall not be considered as overtime.

Overtime shall not be authorized in dangerous or unhealthy work.

Art. 2. Unless the parties agree otherwise, factory or office workers shall be allowed a minimum rest period of an hour and a half towards the middle of the day, preferably between noon and 2 p.m. This break shall not be counted in the ordinary working hours.

Art. 3. Nursing mothers shall be entitled to two rest periods a day, of at least half an hour each.

Art. 4. All commercial undertakings or firms employing wage-earning personnel shall calculate their normal working hours so as to cease work and release their staff at 5 p.m. between 1 October and 1 May and at 4 p.m. between 1 May and 1 October.

Nevertheless, during the holiday period at the end of the year, between 15 December and 1 January, undertakings may continue their activities after 5 p.m., provided that they pay their employees for overtime.

The restrictive provisions of the present article do not apply to shipping agencies and air or land transport services, laundries, hairdressers, chemists, restaurants, bakeries, factories working day and night, nor to small groceries selling essential products. Nevertheless, the aforementioned establishments shall either establish systems of shifts or pay for overtime.

WEEKLY REST PERIODS AND PUBLIC HOLIDAYS

Art. 5. The employment of the same worker for more than six days a week in any establishment whatsoever is prohibited.

The weekly rest period shall last for twenty-four consecutive hours and shall be given preferably on Sunday.

All agricultural, industrial and commercial establishments and all establishments employing manual labour shall cease their activities and remain closed on Sundays, unless they fall within the category of establishments engaging in the activities referred to in article 7 of the present Act.

Art. 6. Employees who are not engaged by the day, hour or job or on piece-work shall have the benefit of the weekly rest periods, public holidays and work stoppages authorized by presidential decree without any reduction of pay.

Art. 7. The provisions of articles 5 and 6 shall not

[1] French text in *Le Moniteur* No. 37, 5 May 1948, special number. English translation from the French text by the United Nations Secretariat. Text and information through the courtesy of Dr. Clovis Kernisan, Professor in the Faculty of Law at Port-au-Prince University. The Act was adopted by the Senate on 4 March 1948 and by the Chamber of Deputies on 5 May 1948. It was promulgated by the President of the Republic on 5 May 1948. The Conditions of Employment Act was promulgated 16 December 1947.

apply to persons engaged exclusively in the following occupations:

(*a*) Repair of damage caused by *force majeure* or accident, if such work cannot be postponed;

(*b*) Work which cannot be interrupted in view of the nature of the needs which it serves, for technical reasons, or for reasons based on the necessity of avoiding serious injury to the public interest, to agriculture, to stock-raising or to industry;

(*c*) Work which owing to its nature can be performed only in certain seasons and which depends upon the irregular action of the forces of nature;

(*d*) Work which is essential to the good progress of an undertaking and cannot be postponed;

(*e*) Domestic and hospital work.

Art. 8. The proprietors of the businesses and undertakings referred to in the preceding article shall nevertheless grant one day of full rest to their employees every week.

Paid domestic workers shall, however, be entitled to only two half-days of full rest a week.

Art. 9. Work done on Sundays and holidays shall be paid for at overtime rates.

HOLIDAYS WITH PAY

Art. 10. All workers shall be entitled, after a year's service, to a paid holiday of at least 15 consecutive days. Workers shall also be entitled to 15 days' sick leave, without reduction in wages. A medical certificate may be required by the employer in the case of sick leave.

Art. 11. Women shall cease work three weeks before the presumed date of their confinement. Women shall not resume their occupation until three weeks after their confinement.

This holiday shall be regarded and paid for as sick leave, after one year's service.

Art. 12. Any worker entitled to an annual holiday who leaves his employment for any reason before he has taken it shall be paid the equivalent of 15 days' work.

WAGES

Art. 13. All manual or intellectual workers shall be entitled to a minimum living wage enabling them to provide for their own needs and those of their families.

Art. 14. Wages may be paid at time rates (by the month, fortnight, week, day or hour), at piece rates, by the job or contract, in cash, in cash and kind, or by a share in profits, sales or receipts of the employer.

In towns where there are banks, the wages of commercial employees and of all employees except day labourers shall be paid by cheque.

Art. 15. Wages payable in money shall be paid in legal currency. Payment in the form of merchandise, vouchers, promissory notes, coupons or any other token alleged to represent currency is absolutely prohibited. The employee is free to spend his wages as and where he wishes.

Art. 16. "Wages in kind" are deemed to mean exclusively wages received by the worker or his family in the form of food, housing accommodation, clothing and other articles intended for their direct personal use.

In agricultural or stock-raising undertakings, land ceded by the employer to the employee for the sowing and harvesting of his own crops shall not be deemed a payment in kind.

Art. 17. The parties shall fix by agreement the intervals for the payment of wages, but the said intervals shall not exceed a fortnight in the case of manual workers or a month in the case of commercial and office workers and intellectual workers in general.

If the wages consist in a share in the profits, sales or receipts of the employer, a monthly sum payable to the employee shall be fixed in proportion to his needs and to the probable total of the profits he will receive. The final settlement shall be made at least once a year.

Art. 18. Subject to the provisions of paragraph 2 of the preceding article, wages shall be paid to the employee in full for each pay period. By full wages are meant the wages earned for the ordinary working day and for overtime.

Art. 19. Except when otherwise agreed, wages shall be paid at the place where the employees do their work.

Wages shall not be paid at any house of ill fame, place of amusement or place for the sale of alcoholic beverages, except in the case of the employees of the establishment where payment is made.

Art. 20. Any employer who makes an advance may obtain reimbursement only by means of successive deductions not exceeding one-third of the total contractual wage.

The employer may attach a retail store to his establishment only on the express conditions of selling without profit.

Art. 21. Night work shall be paid at a higher rate than day work. Night work shall be deemed to mean work done between 6 p.m. and 6 a.m.

The parties shall agree amongst themselves as to the rate of night differential.

Art. 22. In the case of a mixed day—that is to say, a day including day work and night work—the provisions of article 21 shall apply to the night work.

Art. 23. Any employer or establishment violating the provisions of the present Act shall be liable to a fine of 50 to 500 gourdes for each offence, to be enforced by the *Tribunal de Paix*.

Art. 24. The present Act repeals all Acts, or legislative provisions, and all decree-laws or provisions of decree-laws at variance therewith, and the Secretary of State for Labour shall be responsible for its enforcement.

HUNGARY

ACT OF 29 NOVEMBER 1948 TO ELIMINATE THE DISADVANTAGEOUS POSITION OF WOMEN IN THE PUBLIC SERVICE AND OTHER CAREERS[1]

Act XLIII of 1948

Art. 1. The purpose of this Act is that, in the interests of the protection of basic human rights and in keeping with the changed social conditions, a legal status equal to that of men shall be assured for women as regards their finding employment either in the public services or in the other careers.

Art. 2. 1. Any woman who meets the conditions required for the position may be employed in any public service position whether filled by appointment, by election or in some other manner. This rule shall also be applied *mutatis mutandis* to official missions and private employment.

2. [Authorizes the Minister for National Defence, the Minister of the Interior and the Minister of Finance to establish by ordinance conditions and detailed rules governing the employment of women who report voluntarily for employment in certain services and to apply in such ordinances the principle set out in the preceding paragraph.]

Art. 3. In issuing any official permit or licence required for securing employment in a professional career or carrying on an earning occupation women shall be dealt with on a basis of equality with men.

Art. 4. It shall be made possible for women to acquire any qualification or training needed for finding employment in careers or for carrying on in general any occupation for remuneration. For this purpose women must be admitted to any educational establishment, school or course of lectures on the same conditions as male students.

Art. 5. This Act shall not affect those statutory provisions which establish facilities for assisting women in securing employment in certain careers or those statutory provisions which, for reasons of health, prohibit or make subject to conditions the employment of women in certain occupations. This Act does not affect the provisions concerning the training of priests, and the filling of clerical and other ecclesiastical and denominational offices which are set out in the internal rules of churches and denominations and in other regulations connected therewith, particularly those concerning admittance to the theological faculty contained in paragraph 3 of article 1 of Act XXII of 1946.

Art. 6. This Act shall enter into force on the day of its publication; by its entering into force provisions to the contrary contained in former statutory provisions shall be invalidated.

[1]English text based on a translation received through the courtesy of Mr. Andrew Sik, Minister of Hungary, Washington. This Act came into force on 30 November 1948, the day of its publication in the *Official Gazette*.

HUNGARIAN NATIONALITY ACT[1]

of 24 December 1948

Act LX of 1948

CHAPTER I

ACQUISITION OF HUNGARIAN NATIONALITY

Art. 3. 1. Hungarian nationality by marriage shall be acquired by any woman of non-Hungarian nationality who marries a Hungarian citizen.

2. The woman shall keep her Hungarian nationality acquired in accordance with the provisions of paragraph 1 upon the death of her husband or if the court dissolves the marriage or grants a judicial separation of the spouses.

Art. 4. The Minister of the Interior may naturalize any non-Hungarian national

(*a*) Who has had his permanent residence in Hungary without interruption for three years prior to making his or her application, and

(*b*) Whose naturalization does not appear to be detrimental to the interests of the State.

[1]English text based on the translation received through the courtesy of Mr. Andrew Sik, Minister of Hungary, Washington. This Act came into force on 1 February 1949, in accordance with ordinance No. 600, article 1, of 1949, issued by the Ministry of Interior (*Official Gazette* No. 18, of 23 January 1949).

Art. 8. 1. The naturalization of a husband shall apply to his wife living with him in marriage at the time of the filing of the application for naturalization.

2. The effects of the naturalization of the parent shall apply to his or her child under parental power, irrespective of whether the child be legitimate or illegitimate.

CHAPTER II

LOSS OF HUNGARIAN NATIONALITY

Art. 12. Any woman contracting marriage with a foreign citizen shall lose her Hungarian nationality unless she does not acquire by such marriage the nationality of her husband. This provision shall also be applied to any woman who has married before the entering into force of this law a non-Hungarian citizen.

Art. 16. 1. The Minister of the Interior may deprive of his or her Hungarian nationality any person who has without the permission of the Government entered the public service of another country.

2. The decision of the Minister of the Interior shall be published in the *Official Gazette*. The decision shall become operative on the day of such publication.

Art. 17. 1. The Government on proposal made by the Minister of the Interior may deprive of his or her Hungarian nationality any person who

(1) Accepts from the Government of any foreign State or from any other organ thereof or from a foreign political organization, without the permission of the Hungarian Government, any office or mandate of a political character or becomes a member of a foreign organization having a political character or takes part in the activity of such organization; or

(2) On going abroad infringes or eludes the statutory provisions referring to departure from the country.

2. The decision of the Government shall extend to the wife and minor child of the man deprived of his nationality if the decision contains a statement to this effect.

3. The property of the person deprived of his Hungarian nationality by virtue of this article shall be confiscated. The provisions of articles 6 to 8 of Act XXVI of 1948 shall be suitably applied to the confiscation.

4. The decision of the Government shall be published in the *Official Gazette*. The decision shall become operative on the day of such publication.

5. The provisions of paragraph 1 shall not affect Act XXVI of 1948 on the deprivation of their Hungarian nationality of certain persons who reside abroad and whose property is confiscated.

CHAPTER III

RE-NATURALIZATION

Art. 19. 1. The Minister of the Interior may also re-naturalize, in the absence of the requirements set out in paragraph (*a*) of article 4:

(1) Any person who has lost his Hungarian nationality by discharge, absence or the obtaining of a foreign nationality through naturalization if such person resides in Hungary or wishes to settle here and re-naturalization is motivated by circumstances deserving special consideration;

(2) Any woman who has lost her Hungarian nationality through marrying a non-Hungarian national if

(*a*) She has become a widow; or

(*b*) Her marriage has been dissolved by a judicial decision valid according to Hungarian law; or

(*c*) If she has been living for more than a year in Hungary separated from her husband.

2. In applying paragraph 1, item 2 (*b*), a decision legally separating the spouses shall be regarded as equivalent to a decision dissolving the marriage if the marriage cannot be dissolved according to the law of the country of the husband.

Art. 20. The Government, on the proposal of the Minister of the Interior, may also re-naturalize in the absence of the requirements set out in paragraph (*a*) of article 4 any person who has been deprived of Hungarian nationality by virtue of articles 16 or 17.

CHAPTER IV

MISCELLANEOUS

Art. 22. 1. Any woman who has lost her Hungarian nationality by marriage shall re-acquire her Hungarian nationality if her marriage has been declared invalid by court decision, provided such judgement is valid according to Hungarian law. The re-acquisition of Hungarian nationality shall take place on the day on which the judicial decision becomes valid.

2. Any woman who has acquired Hungarian nationality by marriage shall lose such nationality if her marriage has been declared invalid by a judicial decision valid according to Hungarian law. The loss of the nationality shall take place on the day on which the judicial decision becomes valid. In this case the woman shall keep her Hungarian nationality if within a year from the day on which the judicial decision has become valid she notifies her wish to do so in a declaration addressed to the Minister of the Interior.

Art. 23. Any Hungarian national who is at the same time the citizen of another State shall be considered to be of Hungarian nationality until such time as he or she loses his or her Hungarian nationality in virtue of this law.

Art. 24. The Minister of the Interior shall be empowered to issue a certificate certifying the existence or loss of Hungarian nationality or the circumstance that the person named therein is according to the data available not of Hungarian nationality. Such a certificate shall be generally accepted as valid.

CHAPTER V

Art. 30. 1. Irrespective of the provisions of articles 25, 26 and 27 of this Act, those former Hungarian citizens who, on account of their socialist (communist, socialist-democrat), anti-fascist or democratic political conviction, attitude or activity, including any activity in furtherance of the revolutions of the years 1918 and 1919, have gone abroad either by their own desire or owing to some ministerial measure, shall be Hungarian citizens if they have returned to Hungary before the fifteenth day of September 1948 even if they have otherwise in accordance with the statutory provisions on nationality lost their Hungarian nationality.

2. The effects of the provision of paragraph 1 hereof apply also to the wife and child of the person who has gone abroad.

CHAPTER VI

FINAL PROVISIONS

Art. 34. Any provision on nationality contained in an international agreement shall be considered legally effective in Hungary even if it differs from the provisions of this Act.

Art. 36. 1. On the coming into force of this Act . . . all statutory provisions contrary thereto shall become invalid.

[Paragraph 2 lists repeals.]

Act of 24 December 1948

TO SUPPLEMENT THE MILITARY PENAL CODE[1]

Act LXII of 1948

CHAPTER XVI

OFFENCES AGAINST INTERNATIONAL MILITARY LAW. ACTS OF PILLAGE COMMITTED AGAINST THE DEAD, WOUNDED AND SICK

Art. 110. 1. Any soldier who at the front takes away from the dead, wounded or sick of any of the belligerent parties, with the purpose of unlawful appropriation, a piece of movable property which cannot serve as war booty, shall be punished by imprisonment for a period up to five years and in grave cases by penal servitude for a period up to ten years.

2. The penalty imposed shall be penal servitude for a period up to fifteen years,

(1) If the offender has previously been punished for the offence defined in paragraph 1, or for robbery or blackmail, and ten years have not yet elapsed since he has served his last sentence,

(2) If the offender in connexion with his act has committed or attempted wilful homicide or has inflicted grave bodily harm.

3. The penalty shall be penal servitude for life if the offender in connexion with the offence defined in paragraph 1 has committed wilful homicide.

4. Apart from sentence of imprisonment the offender shall also be condemned to loss of office and suspension of his political rights.

Mutilation of the Body of a Dead Soldier, and Killing of a Soldier who has surrendered his Arms

Art. 111. Any soldier who mutilates the body of a dead soldier and any soldier who kills or wounds an enemy who surrendered his arms or who is defenceless and is unconditionally surrendering shall be sentenced to imprisonment for a period up to five years and in grave cases to imprisonment for a period up to ten years.

Wrongful Use of the Red Cross

Art. 112. Any soldier who wrongfully uses the sign or protection of the Red Cross for preparing or carrying out hostilities and any soldier who commits a hostile act against a person under the protection of the Red Cross or who during hostilities damages or destroys any material under the protection of the Red Cross shall be punished by imprisonment for a period up to one year and in grave cases for a period up to five years.

Use of Prohibited Weapons

Art. 113. Any soldier who uses or causes to be used against the enemy a weapon or manner of fighting the use of which is expressly prohibited in the Hungarian Army shall be punished by imprisonment for a period up to five years and in grave cases for a period up to ten years.

[1] English text based on the translation received through the courtesy of Mr. Andrew Sik, Minister of Hungary, Washington. The Act came into force on 15 February 1949, in accordance with ordinance No. 51763 of 1948, issued by the Ministry for National Defence (*Official Gazette* No. 1, of 1 January 1949).

Unlawful Continuation of Hostilities

Art. 114. Any soldier who continues hostilities after having received official notice of the conclusion of peace or of an armistice or who in some other manner infringes the conditions of armistice officially brought to his notice shall be punished by imprisonment for a period up to five years and in grave cases for a period up to ten years.

Assault upon an Officer bearing the Flag of Truce (parlementaire)

Art. 115. 1. Any soldier who wilfully kills an officer of the enemy bearing the flag of truce (*parlementaire*) or his aide shall be punished by death.

2. Any soldier who wounds an officer of the enemy bearing the flag of truce (*parlementaire*) or his attendant shall be punished by penal servitude for a period up to ten years.

3. Any soldier who assaults, insults or without lawful reason restrains an officer of the enemy bearing the flag of truce (*parlementaire*) or his attendant shall be punished by detention for a period up to six months and in grave cases for a period up to two years.

4. In the cases provided in paragraphs 1 and 2 loss of office and suspension of political rights shall also be imposed.

CHAPTER XVII

OFFENCES AGAINST THE POPULATION OF OCCUPIED TERRITORIES

Plundering

Art. 116. 1. Any soldier who plunders, ransacks or marauds in a territory occupied by the Hungarian Army shall be punished by imprisonment for a period up to five years and in grave cases for a period up to ten years.

2. If the offender commits the act defined in paragraph 1 by force or with threats, the penalties defined in chapter XXVII of the Penal Code for robbery shall be applied.

Immoral Offences

Art. 117. Any soldier who commits against a person belonging to the population an act of rape (article 232 of the Penal Code) or an indecent assault with violence (article 233 of the Penal Code) shall be punished by penal servitude for a period up to fifteen years and in grave cases by death.

Assault upon Members of the Population of Occupied Territories

Art. 118. 1. Any soldier who commits an assault upon the person of an inhabitant of a territory occupied by the Hungarian Army shall be punished by imprisonment for a period up to three years.

2. If the offender commits the offence defined in paragraph 1 with some instrument suitable for overcoming personal resistance he shall be punished by imprisonment for a period up to five years.

Wilful Homicide

Art. 119. Any soldier who commits the crime of wilful homicide as defined in articles 279 or 280 of the Penal Code upon an inhabitant of a territory occupied by the Hungarian Army shall be punished by death.

Secondary Penalties

Art. 120. In case of the offences defined in this chapter loss of office and the suspension of political rights shall also be imposed.

ICELAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The human rights provisions of the Constitution of Iceland remained unchanged during the year 1948. No new Acts were promulgated which had a bearing on human rights.

[1]Information through the courtesy of Professor Olafur Jóhannesson, University of Iceland, Reykjavik.

INDIA

HUMAN RIGHTS IN INDIA [1]

1948

1. In our survey for 1947, we stated that, with a few exceptions, human rights in India were not guaranteed by the Constitution, but were embodied in the ordinary law of the land. The draft of India's new Constitution which is now under the consideration of the Constituent Assembly makes an important change in this respect: fundamental human rights are in future to form part of the Constitution. The Constituent Assembly has already adopted most of the relevant articles. There are the usual provisions regarding equality before the law, personal liberty, freedom of speech and expression, freedom of assembly and association, freedom of movement and freedom of religion. Most important of all is the provision which abolishes "untouchability" and makes its practice in any form a crime. The Constitution further provides that all laws in force immediately before the commencement of the Constitution, in so far as they are inconsistent with the rights conferred by it, shall be void.

2. Besides these fundamental rights the new Constitution contains a chapter on the allied subject of directive principles of State policy. Just as the chapter on fundamental rights sets out certain things which the State is prohibited from doing, such as discrimination or the suppression of free speech, so the chapter on directive principles sets out certain other things which the State ought to try to do, such as the provision of free primary education, of work, of maternity benefit and of public assistance in cases of unemployment, sickness or old age. These, however, are obviously matters which, unlike fundamental rights, cannot be enforced through the courts of law, so that the directive principles are really in the nature of constitutional declarations on social and economic policies of the State.

3. It must be mentioned here that although certain parts of the new Constitution have already been adopted by the Constituent Assembly, they will not come into force until the entire Constitution has been passed and brought into operation. It is expected that this will be done before the end of 1949.

4. Before reviewing the constitutional and legislative changes made in 1948 in respect of human rights in India, we must refer briefly to an important change that has taken place in the structure of the five hundred-odd Indian States which, until the end of 1947, existed as semi-independent units. During the year, a great many of these States have merged with Governors' provinces and several others have been grouped together to form self-contained units; this process is still going on; when it is completed the number of Indian State units will be reduced to about a dozen. All the new integrated States have now been linked to the Centre by fresh instruments of accession which, in the matter of legislative competence of the Central Legislature, have placed them in the same position as the Provinces of India except as to taxation. It is expected that under the new Constitution there will not be much difference between the Indian States and the other units of the Indian Union, so that future Central legislation relating to human rights will operate throughout India.

5. We shall now proceed to state to what extent steps have been taken in India during 1948 to recognize and guarantee fundamental human rights.

I. RIGHTS TO LIFE AND RESPECT FOR THE PHYSICAL INTEGRITY OF THE PERSON

6. Article 15 of the draft constitution which has been adopted by the Constituent Assembly of India at the consideration stage provides that no person shall be deprived of his life except according to procedure established by law.

7. In Mysore, whipping as a form of punishment has been abolished. *Under clause 2 of the "Abolition of Whipping Bill"*[2] no person shall be punished with a sentence of whipping by any court or authority for any offence under any law whatsoever.

II. PERSONAL FREEDOM

8. Article 15 of the draft constitution referred to above also prescribes that no person shall be deprived of his personal liberty except according to procedure

[1] Statement by Sir Benegal N. Rau, Constitutional Adviser, to the Government of India.

All references to Acts in this article are to be understood as references to Acts of the Central Legislature of India, unless the short title indicates otherwise.

[2] The Bill has been passed by the Mysore Legislative Assembly and assented to by His Highness the Maharaja in 1949.

established by law. Under article 17 (1) of the Constitution, all forms of forced labour are prohibited and any contravention of this provision is to be an offence punishable in accordance with the law. Article 13 (1) gives to all citizens, subject to certain necessary restrictions which may be described broadly as falling within the "police power" of the State, the following rights:

(*a*) The right to freedom of speech and expression;

(*b*) The right to assemble peaceably and without arms;

(*c*) The right to form associations or unions;

(*d*) The right to move freely throughout the territory of India;

(*e*) The right to reside and settle in any part of the territory of India;

(*f*) The right to acquire, hold and dispose of property; and

(*g*) The right to practise any profession, or to carry on any occupation, trade or business.

9. The lapse of the Defence of India Act, 1939, and the disturbances which followed in the wake of the partition of India in 1947 made it necessary for the Governments in India to enact special measures for the maintenance of law and order. These Acts are temporary in character and are due to expire at the end of two years. They confer on the Provincial Governments various powers, *e.g.*, to check sabotage, to proscribe documents, to impose censorship on the Press, to control processions and meetings, to prohibit the use of official uniforms, to prevent unauthorized drilling of a military nature, to require the assistance of male persons in the restoration of law and order, to arrest and detain persons for a period not exceeding two months and to requisition property. Needless to say, these powers are not exercised save in very exceptional circumstances. The Acts passed for these purposes in 1948 are noticed in the next and certain other paragraphs.

10. Under sections 2 and 3 of the Orissa Maintenance of Public Order Act, 1948 (Orissa Act IV of 1948), the Provincial Government is empowered to restrict movements or other actions of any person with a view to preventing him from acting in any manner prejudicial to the public safety and the maintenance of public order. No such restriction can, however, be enforced for a period exceeding six months. Similar provisions are contained in the West Bengal Security Act, 1948 (West Bengal Act III of 1948).[1]

11. In certain parts of the Province of Orissa a system of debt bondage was in existence whereby a person borrowing money bound himself to render personal service to the creditor in lieu of interest. The Orissa Debt Bondage Abolition Regulation, 1948 (Orissa Regulation No. I of 1948),[2] makes all future agreements of this kind void. It also frees him from existing obligations of personal service upon payment of all outstanding dues. An agreement by which a person in consideration of the performance of labour by a minor receives money or its equivalent in kind from another person will be equally void. In Bombay no landlord may in future receive rent for his land in terms of service or labour, and any such obligation in any existing agreement can be converted into cash (the Bombay Tenancy and Agricultural Lands Act, 1948).

12. The partition of India led to an exodus into India of Hindus and Sikhs from the territories which now form part of the Dominion of Pakistan. It accordingly became necessary to invest Governments with powers to regulate the conduct and movements of these refugees or displaced persons. The United Provinces Refugee Registration and Movement Act, 1948 (*U. P.* Act VII of 1948), requires every refugee to get himself registered and possess an identity card and surrender that card to the officer in charge when he changes his place of residence. The Act further provides that the Provincial Government may by order in writing require any refugee or class of refugees to reside within a specified area or to migrate from one area to another within the Province.

III. INVIOLABILITY OF THE HOME, ETC.

13. The draft constitution makes no provision in regard to this right. As we pointed out in our article for 1947, provision is contained in the ordinary law of the land.

Section 9 of the Census Act, 1948 (Act XXXVII of 1948), requires every person to allow census officers such access to his house as they may require for the purposes of the census. This can hardly be called an invasion of the sanctity of the home.

Section 16 of the Orissa Maintenance of Public Order Act, 1948 (Orissa Act IV of 1948), gives power to the Provincial Government to depute any officer to search any place, stop and search any vessel, vehicle or animal and seize anything which he has reason to believe has been, is being or is about to be used for any purposes prejudicial to the public safety or maintenance of public order (see paragraph 9 above).

IV. FREEDOM OF CONSCIENCE, ETC.

14. Article 19 of the draft constitution provides that, subject to public order, morality and health, all persons are equally entitled to freedom of conscience and the right freely to profess, practise, and propagate religion. Under article 20 every religious denomination or any other section thereof has, subject to public order, morality and health, the right to establish

[1] Excerpts from this Act are reproduced in this *Yearbook*, p. 108.

[2] Excerpts from this Act are reproduced in this *Yearbook*, p. 110.

and maintain institutions for religious purposes. Article 13, already referred to, gives the citizens, subject to certain restrictions, the right to assemble peaceably and without arms and to form associations or unions.

Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability is to be an offence punishable in accordance with law (article 11).[1]

15. The Bombay Harijan Temple Entry (Amendment) Act, 1948, confers on Harijans (sometimes referred to as "untouchables" or "scheduled castes") the same rights as other Hindus in general have in regard to worship in temples.

The West Bengal Hindu Social Disabilities Removal Act, 1948, also removes any existing discrimination on the ground of class or caste in regard to eligibility for office under the State or access to temples to offer worship or the use of public conveyances licensed by the Government or any local authority.

The Mysore Removal of Civil Disabilities (Amendment) Act, 1948 (Mysore Act IX of 1948), section 4, provides that no person owning or being in charge of any secular institution shall impose or cause or suffer to be imposed any restrictions on any Harijan. "Secular institutions" include any refreshment room, restaurant, lodging house, hospital, any place of public entertainment or amusement, any premises where services are rendered to the public, and any place used by the general Hindu public for the burial or cremation of the dead.

The Mysore Temple Entry Authorization Act, 1948 (Mysore Act XIV of 1948), entitles persons belonging to the excluded classes to enter any temple and offer worship therein in the same manner and to the same extent as Hindus in general. It also entitles them to bathe in or use the water of any tank, well, spring or water-course appurtenant to the temple whether situated within or outside the precincts thereof. A similar measure is in force also in Orissa (Orissa Temple Entry Authorization Act, 1948, sections 3 and 4).

16. Under the Orissa Maintenance of Public Order Act, 1948 (Orissa Act IV of 1948), the Provincial Government may, for the purpose of securing the public safety or the maintenance of public order, require, by order addressed to a printer, publisher or editor that any matter relating to a particular subject or class of subjects should, before being published, be submitted for scrutiny to an officer appointed for the purpose, and may also prohibit the publication of any document. They can also for the purpose of securing the public safety or the maintenance of public order prohibit or regulate the entry into or sale or distribution or circulation or publication or possession within the province of any newspaper, periodical, or any other document printed or made outside the province. During the year, similar restrictions have been imposed in West Bengal (West Bengal Security Act, 1948, sections 8 and 9), Mysore (Mysore Maintenance of Public Order Act, 1948, sections 10, 11 and 12), Baroda (Baroda Ordinance IX of 1948, section 2) and Kolhapur (Kolhapur Public Security Measures Act, 1948, section 10). Such restrictions are already in force in other parts of the country under laws enacted earlier. The reasons for taking power to impose these restrictions have already been mentioned in paragraph 9 above.

17. Under section 15 of the West Bengal Security Act, 1948 (West Bengal Act III of 1948), the Provincial Government may by general or special order prohibit, restrict or impose conditions upon the holding of or taking part in processions, meetings or assemblies which in its opinion are likely to disturb the communal peace or to endanger the safety or stability of the province. The Provincial Government may also prohibit, restrict or impose conditions on the holding of or taking part in a camp, parade, meeting or assembly where unauthorized exercises, movement, evolution or drill of a military nature is performed. Similar restrictions also obtain in Orissa (Orissa Maintenance of Public Order Act of 1948, sections 6 and 7) and Kolhapur (Kolhapur Public Safety Measures Act, 1948, section 7), (see paragraph 9 above).

V. RIGHT OF PROPERTY

18. The draft constitution confers on every person the right to acquire, hold and dispose of property. This right is, however, subject to the limitation that the State may make any law imposing reasonable restrictions on the exercise of the right either in the interests of the general public or for the protection of the interests of any scheduled tribe [article 13 (1)(*f*) read with sub-clause (5)]. The Assembly has not yet considered the article (article 24) relating to the conditions under which private property may be compulsorily acquired. The draft article in the form in which it is now before the Assembly provides that no person shall be deprived of his property save by authority of law and that the law which authorizes the taking such possession or such acquisition shall provide for the payment of compensation for the property taken possession of or acquired, and shall also fix the amount of compensation or specify the principles and the manner in which compensation is to be determined.

19. Under section 3 of the Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Act LX of 1948), which extends to the Provinces of Delhi and

[1] See the statement of Sir Benegal N. Rau in *Yearbook on Human Rights for 1947*, p. 153. The Bombay Act No. X of 1947 (to provide for the removal of the social disabilities of Harijans) published in *Yearbook on Human Rights for 1947*, p. 159, is an example of the kind of legislation referred to in this paragraph 14.

Ajmer-Merwara, the Provincial Government may acquire any land for the resettlement of persons who, on account of the setting up of the Dominions of India and Pakistan or on account of the civil disturbances or fear of such disturbances in any area now forming part of Pakistan have been displaced from or have left their places of residence in such area after the first day of March 1947, and who have subsequently been residing in India. Sections 7 and 8 of the Act provide the manner in which compensation is to be determined and payment made. In Bombay the Government can assume the management of an estate if owing to neglect of a landlord or to disputes between a landlord and his tenants the cultivation of the estate seriously suffers or where it is considered that Government management is necessary for improving the economic and social conditions of the peasants or for ensuring the full and efficient use of land for agriculture (Bombay Tenancy and Agricultural Lands Act, 1948). They can also regulate and impose restrictions on the transfer of agricultural lands, dwelling houses, sites and lands belonging to or occupied by agriculturists, agricultural labourers and artisans. Section 5 of the Act provides that no tenancy of any land shall be for a period less than ten years and no tenancy shall be terminated before the expiry of that period. It also includes provisions regarding the maximum rent payable and the method of payment of that rent (sections 6 and 7). A similar provision is in force in Assam also [Assam Adhiars Protection and Regulation Act, 1948 (Assam Act XII of 1948)]. Section 6 provides for the protection of tenants of agricultural land paying rent in kind in the Province of Assam.

Under section 5 of the Bombay Land Requisition Act, 1948, the Provincial Government has power to requisition any land for any purpose provided that no building or a part thereof, wherein the owner, the landlord or the tenant has actually resided for a continuous period of six months immediately preceding the date of the order, shall be requisitioned. When any land is so requisitioned, compensation must be paid, the amount being determined by an officer authorized in this behalf by the Provincial Government. Similar powers are vested in the Governments of West Bengal (the West Bengal Security Act, 1948, section 25) and Orissa (the Orissa Maintenance of Public Order Act, 1948, sections 13 and 14).

20. The Reserve Bank (Transfer to Public Ownership) Act, 1948 (Act LXII of 1948), brings the share capital of the Reserve Bank of India into public ownership. Section 3 of the Act prescribes the manner in which the transfer to the State is to be made.

21. According to the Constitution, every person has the right to practise any profession, to carry on any occupation or trade or business subject to any reasonable restrictions which the State may impose in the interests of the general public and in particular to any professional or technical qualifications which the State may prescribe. Thus the Pharmacy Act, 1948 (Act VIII of 1948), prescribes certain technical qualifications for pharmacists, and the Dentists Act, 1948 for dentists.

VI. DETERMINATION OF TAXES AND PUBLIC DUES BY LAWS

22. The provisions in the draft constitution in regard to these matters have not yet been considered by the Constituent Assembly and may therefore be passed over for the present. There is, however, one provision which has been adopted by the Assembly, and that is that no person shall be compelled to pay any taxes the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

23. An important event of the year is the abolition of the duty on salt manufactured in or imported by sea or land into India [the Indian Finance Act, 1948 (Act XX of 1948)]. It was for the abolition of the tax on the manufacture of salt in India that Mahatma Gandhi offered *satyagraha* in 1930 at Dandi. Ever since entering the Legislatures in 1924, the Congress Party was opposed to this tax. The abolition of the tax was decided upon during the lifetime of Mahatma Gandhi, though the measure came on the statute book only after his death.

Section 3 of the Cotton Textiles Cess Act, 1948 (Act VII of 1948), levies on any cloth or yarn held in stock by a producer or a wholesale dealer a cess at such rate as the Central Government may notify. The Government of Bombay has imposed a twelve and a half per cent tax on the total sum received in respect of any lottery and a twenty-five per cent tax on the total sum received in respect of any prize competition (the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, section 12).

VII. LEGAL STATUS OF INDIVIDUALS

24. The provisions in the draft constitution relating to citizenship have not yet been passed by the Constituent Assembly, but according to the present draft all persons who or any of whose parents or grandparents were born in India and certain other persons who are domiciled in India when the Constitution comes into force are to be regarded as citizens of India at the inception of the new Union. But power is reserved to the Parliament of the Union to make other and further provisions on the subject. Article 10 of the draft constitution provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the State. Under article 15 no person may be denied equality before the law or the equal protection of the laws within the territory of India.

VIII. CERTAIN ASPECTS OF FAMILY LIFE

25. There are no constitutional guarantees. There have been attempts in the past to promote and pass piecemeal legislation on different aspects of Hindu law both in the Central and in the Provincial Legislature. There is, however, a growing feeling in the country in favour of a consolidated and uniform code dealing with different aspects of Hindu law for the whole of India and for all sections of Hindu society. A bill to amend and codify these provisions is pending before the Constituent Assembly of India (in its legislative capacity) and it is expected that it will become law in due course. It is beyond the scope of this article to explain in detail the provisions of the Code. Broadly speaking, it includes provisions for marriage and divorce, adoption, minority and guardianship, women's property, succession and maintenance.

Inter-caste marriages have been legalized in Mysore. Notwithstanding any text, rule or interpretation of Hindu law or any custom or usage to the contrary, no marriage between Hindus which is otherwise valid is to be deemed invalid by reason of the fact that the parties thereto belong to different castes or to different sub-divisions of the same caste (the Mysore Hindu Inter-caste Marriage Validation Act, 1948, section 2).[1] The system of excommunicating members prevailing among certain communities in Bombay is in process of being abolished. Clause 3 of the Bombay Prevention of Excommunication Bill, 1948, provides that notwithstanding anything contained in any law, custom or usage for the time being in force to the contrary, no excommunication of a member of any community shall be valid and shall be of effect.

IX. LEGAL GUARANTEES OF THE RIGHTS OF INDIVIDUALS

26. Article 14 of the Constitution prescribes that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. As already stated, article 15 also provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.

X. MEANS OF DEFENCE AVAILABLE TO INDIVIDUALS IN THE CASE OF VIOLATION OF THEIR RIGHTS

27. Article 25 of the draft constitution which has been adopted by the Constituent Assembly guarantees the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by the Constitution. The Supreme Court will have the power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate for the enforcement of any of the rights conferred by the Constitution. This is, however, subject to any law made by Parliament determining the extent to which the rights conferred by the Constitution will apply to the members of the armed forces or the forces charged with the maintenance of public order.

XI. POLITICAL RIGHTS

28. Under the draft constitution, every person who is not less than 21 years of age and is not otherwise disqualified is entitled to vote in elections to the House of the People and the Legislative Assemblies of the States. Article 10 of the draft constitution confers equality of opportunity on all its citizens in matters relating to appointment to office under the State. This is, however, subject to the condition that provision may be made by law by Parliament prescribing any requirement as to residence within that State prior to such employment or appointment.

XII. SOCIAL AND ECONOMIC RIGHTS

29. Under the draft constitution, it is provided that the State should, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance during unemployment, old age, sickness, disablement and in other cases of undeserved want (article 32). It should also endeavour to provide within a period of ten years from the commencement of the Constitution for free and compulsory education for all children until they complete the age of fourteen years.

30. Under section 6 of the Poona University Act, 1948,[2] no person may be excluded from admission to any degree, diploma, title or other academic distinctions or courses of study on the sole ground of sex, creed, class, religious beliefs or political or other opinion.

31. It is provided in the Minimum Wages Act, 1948 (Act XI of 1948),[3] that Government should within the period specified in the Act fix minimum rates of wages payable to wage earners. The minimum rate is to consist of a basic rate and a special allowance at a rate to be adjusted at intervals to accord as nearly as practicable with the variation in the cost-of-living index-number applicable to such workers (section 4). The Act also provides for the fixation by the Government of the number of hours of work which shall constitute a normal working day inclusive of one or more

[1] See the text of this Act in this *Yearbook*, p. 109.

[2] Excerpts from this Act are reproduced in this *Yearbook*, p. 111.

[3] Excerpts from this Act are reproduced in this *Yearbook*, p. 102.

specified intervals; for a day of rest in every period of seven days which shall be allowed to all employees; for the payment of remuneration in respect of such days of rest; and for payment for work on a day of rest at a rate not less than the overtime rates (section 13).

32. It further provides that when a worker works on any day in excess of the number of hours constituting a normal working day the employer should pay him for overtime at such rate as may be fixed by the Government. No employer may reduce the wages of an employee on the ground that he is liable for any contribution to a scheme of insurance under the Employees' State Insurance Act, 1948 (Act XXXIV of 1938),[1] section 72. Every worker who has completed a period of twelve months' continuous service in a factory is entitled, during the subsequent period of twelve months, to leave with wages for one-twentieth of the number of days of work performed by him during the previous period of twelve months, subject to a minimum of ten days; and in the case of a child the rate of leave is one-fifteenth of the period, subject to a minimum of fourteen days.

33. The Factories Act (Act LXIII of 1948)[2] provides for the fixation of hours of work (section 51). No child may be employed or permitted to work in any factory for more than four and a half hours in a day and that too between the hours 7 a.m. and 6 p.m. This period of work is to be limited to two shifts. Employment of children below the age of fourteen years is prohibited. Similar restrictions on the hours of work and on the hours of commencement and closing are contained in the Bombay Shops and Establishments Act, 1948, the Assam Shops and Establishments Act, 1948, the Travancore Factories Bill, 1948, the Mysore Payment of Wages Act, 1948, and the Mysore Shops and Establishments Act, 1948.

The Factories Act also requires that every factory must be kept clean and must make suitable arrangements for the disposal of waste and refuse, effective and suitable provision for ventilation and temperature, suitable provision for the exit of dust and fumes, and provision for drinking water, good lighting and urinals. It also requires that no room in any factory should be overcrowded to an extent injurious to the health of the workers employed therein.

34. Under the Employees' State Insurance Act, 1948, all employees in factories or establishments to which the Act applies must be insured in the manner provided by the Act. Contributions to the insurance comprise the contribution payable by the employer and that payable by the employee. For a wage-earner whose daily wage is between one rupee and one and a half rupees, the employee's contribution is two annas and the employer's seven annas (one rupee = sixteen annas). An employee whose daily wage is less than one rupee is not required to pay any contribution, while the employer pays seven annas. The benefits which accrue to the wage earners are sickness benefit, maternity benefit, disablement benefit and dependants' benefit.

35. The Coal Mines Workers Provident Fund and Bonus Scheme Act, 1948, provides for a Provident Fund and Bonus Scheme for persons employed in coal mines.

36. With a view to restoring goodwill between the employer and employees and the smooth running of industries the Government of Bhopal have promulgated an ordinance called the Industrial Disputes Boards (Appointment) Ordinance, 1948. Its main feature is the appointment of an Industrial Disputes Board to which reference can at once be made for a quick investigation of matters in dispute (sections 3 and 5). A similar measure has also been passed in Travancore called the Travancore Industrial Disputes Bill, 1948. Under clause 62 of the Mysore Labour Bill, 1948, any employer and any registered association may by written agreement agree to submit any present or future industrial dispute or class of such disputes to the arbitration of any person. Provisions governing general relations between employers and wage earners, recognition of associations of employees, conciliation and arbitration and appointment of labour tribunals are all contained in the Industrial Disputes Act, 1947, which applies to all the Provinces of India.

37. Under the draft constitution the State should endeavour to secure to all workers, by legislation or otherwise, employment, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities (article 34). The State is also enjoined to direct its policy towards securing that all its citizens, men and women equally, have the right to an adequate means of livelihood; that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; that there is equal pay for equal work for both men and women; that the health and strength of the workers, men and women, and the tender age of children are not abused; that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and that childhood and youth are protected against exploitation and against moral and material abandonment (article 31).

38. Under the West Bengal Maternity Benefit (Tea Estates) Act, 1948 (West Bengal Act XXXIII, 1948), every woman employed in a factory or plantation who has worked for not less than one hundred and eighty days in the twelve months immediately preceding the expected day of delivery, is entitled to, and her employer is liable for, the payment of maternity benefit

[1] Excerpts from this Act are reproduced in this *Yearbook*, p. 103.

[2] Excerpts from this Act are reproduced in this *Yearbook*, p. 104.

in respect of the period of six weeks preceding the expected day of delivery and six weeks immediately following the day of delivery.

XIII. EQUALITY AND THE PRINCIPLE OF NON-DISCRIMINATION

39. Article 9 of the Constitution requires that the State shall not discriminate against any citizens on grounds only of religion, caste, sex, place of birth or any of them. It further provides that no citizen shall on grounds only of religion, race, caste, sex or any of them be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats and roads and places of public resort maintained wholly or partly out of State funds. The Constitution also provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the State (article 10).

40. India is a party to the Declaration of Human Rights proclaimed by the General Assembly of the United Nations in December 1948. India has also accepted the Protocol bringing under international control drugs, particularly synthetic drugs, capable of producing addiction, but not covered by the Convention of 13 July 1931, as amended by the Protocol dated 11 December 1946.

Central Legislation

MINIMUM WAGES ACT[1]

Act No. XI of 1948

AN ACT TO PROVIDE FOR FIXING MINIMUM RATES OF WAGES IN CERTAIN EMPLOYMENTS

1. (1) This Act may be called the Minimum Wages Act, 1948.

(2) It extends to all the Provinces of India.

2. In this Act, unless there is anything repugnant in the subject or context,

.....

(*b*) "Appropriate Government" means,

(i) in relation to any scheduled employment carried on by or under the authority of the Central Government, by the federal railway authority, or a railway company operating a federal railway or in relation to a mine, oilfield or major port, or any corporation established by an Act of the Central Legislature, the Central Government; and

(ii) in relation to any other scheduled employment, the Provincial Government; ...

3. *Fixing of minimum rates of wages.* (1) The appropriate Government shall, in the manner hereinafter provided,

(*a*) Fix, before the expiry of three years in the case of an employment specified in Part II of the Schedule,[2] or two years in any other case, from the commencement of this Act or, as the case may be, from the date of the notification under section 27 including the employment in the Schedule, the minimum rates of wages payable to employees employed in all scheduled employments;

(*b*) Review at such intervals as it may think fit, such intervals not to exceed five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

Provided that the appropriate Government shall not be required to fix minimum rates of wages in respect of any scheduled employment in which there are in the whole province less than one thousand employees engaged in such employment.

(2) The appropriate Government may fix:

(*a*) A minimum rate of wages for time work (hereinafter referred to as a "minimum time rate");

(*b*) A minimum rate of wages for piece work (hereinafter referred to as a "minimum piece rate");

(*c*) A minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time-work basis (hereinafter referred to as a "guaranteed time rate");

(*d*) A minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

(3) In fixing or revising minimum rates of wages under this section,

(*a*) Different minimum rates of wages may be fixed for:

[1] Text of the Act as passed by the Dominion Legislature received through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India.

[2] Part II of the Schedule refers to agriculture.

(i) different scheduled employments;

(ii) different classes of work in the same scheduled employment;

(iii) adults, adolescents, children and apprentices;

(iv) different localities;

(*b*) Minimum rates of wages may be fixed by the hour, by the day or by any larger wage period as may be prescribed:

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (IV of 1936), minimum wages shall be fixed in accordance therewith.

4. *Minimum rate of wages.* (1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of:

(i) A basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost-of-living index-number applicable to such workers (hereinafter referred to as the "cost-of-living allowance");

(ii) A basic rate of wages with or without the cost-of-living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorized; or

(iii) An all-inclusive rate allowing for the basic rate, the cost-of-living allowance and the cash value of the concessions, if any.

(2) The cost-of-living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

13. *Fixing hours for a normal working day, etc.*—In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may:

(*a*) Fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;

(*b*) Provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(*c*) Provide for payment for work on a day of rest at a rate not less than the overtime rate.

EMPLOYEES' STATE INSURANCE ACT[1]

Act No. XXXIV of 1948

AN ACT TO PROVIDE CERTAIN BENEFITS TO EMPLOYEES IN CASE OF SICKNESS, MATERNITY AND EMPLOYMENT INJURY AND TO MAKE PROVISION FOR CERTAIN OTHER MATTERS IN RELATION THERETO

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to all the Provinces of India ....

(4) It shall apply, in the first instance, to all factories (including factories belonging to the Crown) other than seasonal factories.

(5) The appropriate Government[2] may, in consultation with the Corporation[3] and with the approval of the Central Government, after giving six months' notice of its intention of so doing by notification in the official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

CHAPTER IV

CONTRIBUTIONS

38. *All employees to be insured.* Subject to the provisions of this Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act.

39. *Contributions.* (1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

[1] Text of the Act as passed by the Dominion Legislature received through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India.

[2] See the interpretation in Act No. XI of 1948, p. 102 of this *Yearbook*.

[3] "Corporation" means, according to Section 2, the Employees' State Insurance Corporation set up under this Act.

(2) The contributions shall be paid at the rates specified in the First Schedule,[1] and in case where the provisions of this Act are made applicable to any employee or class of employees in any factory or establishment or class of factories or establishments in such manner that they are excluded from some of the benefits under this Act, at such rates as the Corporation may fix in this behalf.

(3) A week shall be the unit in respect of which all contributions shall be payable under this Act.

(4) The contributions payable in respect of each week shall ordinarily fall due on the last day of the week, and where an employee is employed for part of the week, or is employed under two or more employers during the same week, the contributions shall fall due on such days as may be specified in the regulations.

CHAPTER V
BENEFITS

46. *Benefits.* (1) Subject to the provisions of this Act, the insured persons or, as the case may be, their dependants, shall be entitled to the following benefits, namely:

(*a*) Periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner (hereinafter referred to as sickness benefit);

(*b*) Periodical payments in case of confinement to an insured woman, certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);

(*c*) Periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit);

(*d*) Periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants' benefit); and

(*e*) Medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit).

(2) The Corporation may, at the request of the appropriate Government, and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

72. *Employer not to reduce wages, etc.*—No employer by reason only of his liability for any contributions payable under this Act shall, directly or indirectly, reduce the wages of any employee, or except as provided by the regulations, discontinue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Act

[1]The First Schedule specifies the amount of weekly contribution payable in respect of an employee, as calculated with reference to his daily wages.

FACTORIES ACT, 1948[1]

Act No. LXIII of 1948

AN ACT TO CONSOLIDATE AND AMEND THE LAW REGULATING LABOUR IN FACTORIES

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Factories Act, 1948.

(2) It extends to all the Provinces of India and shall extend to such acceding States as, by their instruments of accession, have accepted the subject matter of this Act as a matter with respect to which the Dominion Legislature may make laws for such States.

(3) It shall come into force on the first day of April 1949.

2. *Interpretation.* In this Act, unless there is anything repugnant in the subject or context:

(*a*) "Adult" means a person who has completed his eighteenth year of age;

(*b*) "Adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year;

(*c*) "Child" means a person who has not completed his fifteenth year of age;

(*d*) "Young person" means a person who is either a child or an adolescent; ...

CHAPTER VI
WORKING HOURS OF ADULTS

51. *Weekly hours.* No adult worker shall be required or allowed to work in a factory for more than 48 hours in any week.

52. *Weekly holidays.* (1) No adult worker shall be required or allowed to work in a factory on the first day

[1]Text of this Act as passed by the Dominion Legislature received through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India.

of the week (hereinafter referred to as the said day), unless:

(*a*) He has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and

(*b*) The manager of the factory has, before the said day or the substituted day under clause (*a*), whichever is earlier,

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day, and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory;

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

53. *Compensatory holidays.* (1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

54. *Daily hours.* Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day.

55. *Intervals for rest.* The period of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

56. *Spreadover.* The periods of work of an adult worker in a factory shall be so arranged that, inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day:

Provided that the chief inspector may, for reasons to be specified in writing, increase the spreadover to twelve hours.

57. *Night shifts.* Where a worker in a factory works on a shift which extends beyond midnight,

(*a*) For the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(*b*) The following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

58. *Prohibition of overlapping shifts.* (1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The Provincial Government may, subject to such conditions as may be prescribed, make rules exempting any factory or class or description of factories from the provisions of sub-section (1).

59. *Extra wages for overtime.* (1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) Where any workers in a factory are paid on a piece-rate basis, the Provincial Government, in consultation with the employer concerned and the representatives of the workers, shall, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) For the purposes of this section, "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles as the worker is for the time being entitled to, but does not include a bonus.

(4) The Provincial Government may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

60. *Restriction on double employment.* No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

66. *Further restrictions on employment of women.* (1) The provisions of this chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:

(*a*) No exemption from the provisions of section 54 may be granted in respect of any woman;

(*b*) No woman shall be employed in any factory except between the hours of 6 a.m. and 7 p.m.:

Provided that the Provincial Government may, by notification in the *Official Gazette*, in respect of any class or description of factories, vary the limits laid down in clause (*b*), but so that no such variation shall authorize the employment of any woman between the hours of 10 p.m. and 5 a.m.

(2) The Provincial Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

CHAPTER VII

EMPLOYMENT OF YOUNG PERSONS

67. *Prohibition of employment of young children.* No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

68. *Non-adult workers to carry tokens.* A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless:

(*a*) A certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and

(*b*) Such child or adolescent carries while he is at work a token giving a reference to such certificate.

69. *Certificates of fitness.* (1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew:

(*a*) A certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work;

(*b*) A certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year and is fit for a full day's work in a factory:

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2):

(*a*) Shall be valid only for a period of twelve months from the date thereof;

(*b*) May be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (*b*) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

70. *Effect of certificate of fitness granted to adolescent.* (1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (*b*) of sub-section (2) of section 69, and who while at work in a factory carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of chapters VI and VIII.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (*b*) shall, notwithstanding his age, be deemed to be a child for all the purposes of this Act.

71. *Working hours for children.* (1) No child shall be employed or permitted to work, in any factory:

(*a*) For more than four and a half hours in any day;

(*b*) Between the hours of 7 p.m. and 6 a.m.

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays, which shall not, except with the previous permission in writing of the chief inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers, and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

75. *Power to require medical examination.* Where an inspector is of opinion:

(*a*) That any person working in a factory without a certificate of fitness is a young person, or

(*b*) That a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the inspector so directs, be employed or permitted to work in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

CHAPTER VIII

LEAVE WITH WAGES

78. *Application of chapter.* (1) The provisions of this chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that where such award, agreement or contract of service provides for a longer leave with wages than provided in this chapter the worker shall be entitled only to such longer leave.

Explanation. For the purpose of this chapter leave shall not, except as provided in section 79, include weekly holidays or holidays for festivals or other similar occasions.

(2) The provisions of this chapter shall not apply to any workshop of a federal railway.

79. *Annual leave with wages.* (1) Every worker who has completed a period of twelve months' continuous service in a factory shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated at the rate of:

(i) If an adult, one day for every twenty days of work performed by him during the previous period of twelve months subject to a minimum of ten days, and

(ii) If a child, one day for every fifteen days of work performed by him during the previous period of twelve months subject to a minimum of fourteen days:

Provided that a period of leave shall be inclusive of any holiday which may occur during such period;

Provided further where the employment of a worker who has completed a period of four months' continuous service in a factory is terminated before he has completed a period of twelve months' continuous service, he shall be deemed to have been entitled to leave for the number of days which bears to the number of days specified in this sub-section the same proportion as the period of his continuous service bears to the continuous service of twelve months and the occupier of the factory shall pay to him the amount payable under section 80 in respect of the leave to which he is deemed to have become entitled . . .

80. *Wages during leave period.* For the leave allowed to him under section 79 a worker shall be paid at a rate equal to the daily average of his total full-time earnings, exclusive of any overtime earnings and bonus, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the sale, by the employer, of food grains and other articles at concessional rates, for the days on which he worked during the month immediately preceding his leave.

Provincial and State Legislation

WEST BENGAL

WEST BENGAL SECURITY ACT, 1948

as modified up to 1 November 1948[1]

West Bengal Act III of 1948

CHAPTER II

PREVENTION OF SUBVERSIVE ACTS

7. (1) No person shall, without lawful authority or excuse,

(*a*) Do any subversive act; or

(*b*) Make, print, publish or distribute any document containing, or spread by any other means whatsoever, any prejudicial report.

(2) The author, editor, printer and publisher of, and any person who otherwise makes or produces any prejudicial report, and any person who distributes or sells any report of that nature, knowing it to be of such nature, shall be deemed to have contravened this section.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both:

Provided that in any proceedings arising out of a contravention of this section,

(*a*) In relation to the making or printing of any document, it shall be a defence for the accused to prove that the said document was made or printed, as the case may be,

(i) before the Bengal Special Powers Ordinance, 1946, came into force, or

(ii) with the permission or under the authority of the Provincial Government, or

(iii) as a proof intended for submission to the Provincial Government or to a person or authority designated by the Provincial Government in this behalf with a view to obtaining permission for its publication;

(*b*) In relation to the publication of any document it shall be a defence for the accused to prove that the said document was published:

(i) before the Bengal Special Powers Ordinance, 1946, came into force, or

(ii) with the permission or under the authority of the Provincial Government.

8. (1) Where in the opinion of the Provincial Government any document made, printed or published, whether before or after this Act comes into force, contains any prejudicial report, the Provincial Government may, by order,

(*a*) Require the author, printer, publisher or person in possession of such document not being a newspaper to inform the authority specified in the order of the name and address of any person concerned in the making of such report;

(*b*) Provide for the safe keeping by persons in possession of such document and copies thereof;

(*c*) Require the delivery of such document and any copy thereof to any authority specified in the order;

(*d*) Prohibit the further publication, sale or distribution of such document, of any extract therefrom or of any translation thereof, including, in the case of a newspaper or other periodical, the publication, sale or distribution of any subsequent issue thereof;

(*e*) Declare such document and every copy or translation thereof or extract therefrom, to be forfeited to His Majesty.

(2) Where in pursuance of sub-section (1) any document is required to be delivered to a specified authority, that authority may enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(3) Where in pursuance of sub-section (1) any document has been declared to be forfeited to His Majesty, any police officer may seize any copy thereof, wherever found and any magistrate may by warrant authorize any police officer not below the rank of sub-inspector to enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

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[1] Text and information through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India. All the provisions of the Act came into force in the whole of the Province of West Bengal on and from 13 March 1948 (see *Calcutta Gazette, Extraordinary*, 13 March 1948, Part I, page 265). This Act is one of those provincial Acts adopted for the maintenance of law and order, temporary in character and due to expire at the end of two years, which are discussed in Sir Benegal N. Rau's statement (see p. 97 of this *Yearbook*).

The provisions of this Act are designed to prevent illegal acquisition, possession or use of arms; to permit the suppression of subversive movements endangering communal harmony or the safety or stability of the province, and the suppression of "*goondas*" (hooliganism); and to maintain supplies and services essential to the life of the community. Sections of Chapter II (Prevention of Subversive Acts) and of Chapter III (Public Safety and Order) are reproduced.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

9. (1) The Provincial Government may, for the purpose of preventing or suppressing subversive acts, by order addressed to a printer, publisher or editor, or to printers, publishers and editors generally,

(*a*) Require that all matters, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order;

(*b*) Prohibit or regulate the making or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any press, as defined in the Indian Press (Emergency Powers) Act, 1931.

(2) If any person contravenes any order made under subsection (1), then, without prejudice to any other proceedings which may be taken against such person, the Provincial Government may declare to be forfeited to His Majesty every copy of any document published or made in contravention of such order and any press, as defined in the Indian Press (Emergency Powers) Act, 1931, used in the making of such document.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Explanation. In this chapter "document" includes gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

CHAPTER III

PUBLIC SAFETY AND ORDER

15 (*as amended by the West Bengal Act XIX of 1948*).

(1) The Provincial Government may, by general or special order, prohibit, restrict or impose conditions upon, the holding of or taking part in processions, meetings or assemblies which, in its opinion, are likely to disturb the communal peace or to endanger the safety or stability of the province.

(2) Any police officer may take such steps, and use such force, as may be reasonably necessary for securing compliance with any order made under this section.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

15A (*as added by the West Bengal Act XIX of 1948*).

(1) If, in the opinion of the Provincial Government, it is necessary or expedient so to do for preventing or suppressing subversive acts or for maintaining supplies and services essential to the life of the community, it may, by general or special order, prohibit or restrict the movement of any commodity, article or thing (including any vessel, vehicle, aircraft or animal) either generally or between any particular places or on any particular route.

(2) If any person contravenes any order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both and the court trying the offence shall order that the commodity, article or thing (including any vessel, vehicle, aircraft or animal) in respect of which the offence has been committed shall be forfeited to His Majesty.

MYSORE

MYSORE HINDU INTER-CASTE MARRIAGE VALIDATION ACT, 1948[1]

Act No. XIII of 1948

Whereas it is expedient to recognize and place beyond doubt the validity of inter-caste marriages among Hindus:

It is hereby enacted as follows:

1. (1) This Act may be called the Mysore Hindu Inter-Caste Marriage Validation Act, 1948.

(2) It shall come into force at once.

(3) It extends to the whole of Mysore and applies also to all Hindu subjects of His Highness the Maharaja without and beyond Mysore.

2. Notwithstanding any text, rule or interpretation of the Hindu Law or any custom or usage to the contrary, no marriage contracted between Hindus shall be invalid by reason only of the fact that the parties thereto belong to different castes or to different subdivisions of the same caste.

[1] English text received through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India. The Act was assented to by the Maharaja on 4 February 1948.

ORISSA

ORISSA DEBT BONDAGE ABOLITION REGULATION, 1948[1]

Orissa Regulation No. 1 of 1948

A REGULATION TO ABOLISH THE SYSTEM OF DEBT BONDAGE AND TO MAKE PROVISION REGARDING AGREEMENTS FOR THE PERFORMANCE OF CERTAIN KINDS OF LABOUR IN THE GANJAM AGENCY TRACTS, THE DISTRICT OF KORAPUT AND THE NAWAPARA SUB-DIVISION OF THE DISTRICT OF SAMBALPUR WHICH ARE PARTIALLY EXCLUDED AREAS OF THE PROVINCE OF ORISSA

2. In this Regulation unless there is anything repugnant in the subject or context,

.....

(iv) "*Gothi* agreement" means an agreement written or oral, or partly written and partly oral, wherein the consideration for the performance of labour by any person is a debt due by that person and the interest, if any, on such debt and includes any transaction which is substantially such an agreement;

(v) "Labour" means agricultural labour, and includes domestic service or labour whether indoor or outdoor;

(vi) "Labour agreement" means:

(*a*) An agreement written or oral, or partly written and partly oral wherein the consideration for the performance of labour by any person is or includes an advance exceeding the equivalent of one month's fair and equitable remuneration made or to be made to such person or at his request to someone else and the interest, if any, on such advance; and

(*b*) An agreement by which a person in consideration of performance of labour by a minor receives money or its equivalent in kind from another person.

(vii) "Labourer" means a person who under the terms of an agreement is bound to perform labour.

3. A *gothi* agreement entered into after the commencement of this Regulation shall be wholly void.

4. A labour agreement entered into after the commencement of this Regulation shall be wholly void,

(i) If the full terms of the agreement between the parties are not expressed in writing or if a copy of such agreement is not filed in the office of the Special Assistant Agent or the Sub-divisional Officer, as the case may be, or any other authority appointed by the Provincial Government in that behalf; or

(ii) If the advance with the interest thereon, if any, is not a fair and equitable remuneration of the labourer for the period during which he has to perform labour; or

(iii) If the period expressed or implied during which the labour is to be performed exceeds or might in any possible event exceed one year; or

(iv) Where provision is made for interest, if the interest provided is not simple interest at the rate not exceeding six and one-fourth per cent per annum.

Explanation. For the purpose of this Regulation, remuneration shall not be deemed to be fair and equitable if it is less than the amount which the Provincial Government may from time to time by notification fix or, where the amount has not been so fixed if it is less than fourteen rupees a month where the labourer is not fed by the employer or five rupees a month where the labourer is fed by the employer.

5. All liability to perform labour under a valid labour agreement shall be extinguished on the expiry of the period specified in such agreement.

6. A labourer shall be at liberty to pay off any balance due out of the advance together with the interest thereon, if any, at any time during the subsistence of a valid labour agreement, and free himself of any obligation to perform labour under the agreement.

7. A labourer who has entered into a labour agreement shall not be bound to execute any other document in respect of the advance or interest thereon. If any other document is executed by a labourer, it shall be wholly void.

8. Every labour agreement referred to in section 4 shall lapse on the death of the labourer and no liability under the labour agreement shall survive against the estate of the deceased labourer or against any of his heirs.

[1] English text, printed by Orissa Government Press, 1948, received through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India. This regulation received the assent of the Governor-General on 7 June 1948.

BOMBAY

BOMBAY ACT No. XX OF 1948[1]

AN ACT TO ESTABLISH AND INCORPORATE A TEACHING AND AFFILIATING UNIVERSITY AT POONA

CHAPTER II

THE UNIVERSITY

Art. 6. (1) No person shall be excluded from any office of the university or from membership of any of its authorities or from admission to any degree, diploma, title or other academic distinction or course of study on the sole ground of sex, race, creed, class, religious belief or political or other opinion:

Provided that the university may, subject to the previous sanction of the Provincial Government, maintain, affiliate or recognize any institution exclusively for women or reserve for women or members of classes and communities which are educationally backward places for the purposes of admission as students in any institution maintained by the university.

(2) It shall not be lawful for the university to impose on any person any test whatsoever relating to sex, race, creed, class, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the university or to qualify for any degree, diploma, title or other academic distinction or to enjoy or exercise any privileges of the university or any benefaction thereof.

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[1]English text, received through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India, in *The Bombay Government Gazette* of 24 March 1948, pp. 247–281. The Act was assented to by the Governor on 19 March 1948.

IRAN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

Pending projects for a constitutional reform in 1949, the provisions on human rights in the Constitution and the laws of the country did not undergo any change.

At the end of 1948, the draft of a new electoral law for the country was submitted to Parliament. After its adoption, the main provisions of this text will be published in the *Yearbook on Human Rights*.

[1]Information through the courtesy of Mr. Nasrollah Entezam, Ambassador, Permanent Representative of the Delegation of Iran to the United Nations.

IRELAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The Oireachtas (Parliament) adopted in 1948 the Republic of Ireland Act (No. 22, 1948) as well as the following statutes which have a relation to human rights and fundamental freedoms:

Housing (Amendment) Act, 1948 (No. 1 of 1948)

Local Government (Sanitary Services) Act, 1948 (No. 3 of 1948)

Local Government (Superannuation) Act, 1948 (No. 4 of 1948)

Social Welfare (Reciprocal Arrangements) Act, 1948 (No. 10 of 1948)

Finance Act, 1948 (No. 12 of 1948)

Social Welfare Act, 1948 (No. 17 of 1948)

Workmen's Compensation (Amendment) Act, 1948 (No. 23 of 1948)

Parts of the Housing (Amendment) Act, 1948 and the Social Welfare (Reciprocal Arrangements) Act, 1948 are reproduced in this *Yearbook*.

The Republic of Ireland Act is likewise included in the *Yearbook* because of its effect on the international status of Ireland.

[1]This note is based on information received through the courtesy of the Irish Legation, Washington.

THE REPUBLIC OF IRELAND ACT, 1948[1]

No. 22 of 1948

AN ACT TO REPEAL THE EXECUTIVE AUTHORITY (EXTERNAL RELATIONS) ACT, 1936, TO DECLARE THAT THE DESCRIPTION OF THE STATE SHALL BE THE REPUBLIC OF IRELAND, AND TO ENABLE THE PRESIDENT TO EXERCISE THE EXECUTIVE POWER OR ANY EXECUTIVE FUNCTION OF THE STATE IN OR IN CONNEXION WITH ITS EXTERNAL RELATIONS (21 DECEMBER 1948)

1. The Executive Authority (External Relations) Act, 1936 (No. 58 of 1936), is hereby repealed.

2. It is hereby declared that the description of the State shall be the Republic of Ireland.

3. The President, on the authority and on the advice of the Government, may exercise the executive power or any executive function of the State in or in connexion with its external relations.

4. This Act shall come into operation on such day as the Government may by order appoint.

5. This Act may be cited as The Republic of Ireland Act, 1948.

[1]Gaelic and English texts through the courtesy of the Irish Legation, Washington. (See the preceding note on the development of human rights, last paragraph.)

HOUSING (AMENDMENT) ACT, 1948[1]

No. 1 of 1948

AN ACT TO MAKE FURTHER AND BETTER PROVISION WITH RESPECT TO HOUSING, TO AMEND AND EXTEND THE HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS) ACTS, 1932 TO 1946, THE HOUSING OF THE WORKING CLASSES ACTS, 1890 TO 1931, THE LABOURERS ACTS, 1883 TO 1941, AND THE SMALL DWELLINGS ACQUISITION ACTS, 1899 TO 1931, TO MAKE FURTHER PROVISION FOR THE FINANCIAL ASSISTANCE OF LOCAL AUTHORITIES IN THE PROVISION OF HOUSING ACCOMMODATION AND TO MAKE PROVISION WITH RESPECT TO OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID (13 JANUARY 1948)

PART I

PRELIMINARY AND GENERAL

1. (1) This Act may be cited as the Housing (Amendment) Act, 1948.

(2) This Act in so far as it amends the Housing of the Working Classes Acts, 1890 to 1931, the Labourers Acts, 1883 to 1941, the Small Dwellings Acquisition Acts, 1899 to 1931, and the Housing (Financial and Miscellaneous Provisions) Acts, 1932 to 1946, shall be read and construed as one therewith respectively and may be cited together therewith as the Housing of the Working Classes Acts, 1890 to 1948, the Labourers Acts, 1883 to 1948, the Small Dwellings Acquisition Acts, 1899 to 1948, and the Housing (Financial and Miscellaneous Provisions) Acts, 1932 to 1948.

PART IV

HOUSING OF THE WORKING CLASSES

29. (1) The Minister may make regulations for the purpose of securing the proper and efficient management of houses provided under the Housing of the Working Classes Acts, providing for all or any of the following matters:

(*a*) The maximum and minimum number of persons who shall be permitted to occupy such houses on any letting;

(*b*) The reservation of such houses (in this Act referred to as "reserved houses") for occupation by persons of a particular class and the number of houses and type of house that may be so reserved;

(*c*) The method of selection of tenants and the classes of persons to whom preference shall be given;

(*d*) The terms and conditions to be included in any agreement under which any person is permitted to occupy or use such house;

(*e*) Such other matters as the Minister may consider necessary or expedient.

(2) Regulations under this section shall provide that in the letting of houses regard shall be had to the character, industry, occupation, family circumstances and existing housing conditions of the applicants and subject thereto first preference in the letting of houses which are not reserved houses shall, wherever practicable, be given to persons displaced from reserved houses, and second preference shall, wherever practicable, be given to persons with families living in one-roomed dwellings where:

(i) One or more than one member of the family is suffering from tuberculosis; or

(ii) One or more than one member of the family (exclusive of the parents) has attained the age of sixteen years; or

(iii) The dwelling has been condemned as being unfit for human habitation.

(3) Regulations under this section may apply to housing authorities and houses generally or to a particular housing authority or to a particular class of house.

(4) Where regulations have been made under this section it shall not be lawful for the housing authority to whom the regulations apply to make a letting of a house to which the regulations apply save in accordance with such regulations.

30. (1) A housing authority (being the corporation of a country borough or the corporation of the borough of Dun Laoghaire) may and, if required by the Minister, shall provide reserved houses for occupation by persons of a particular class.

(2) A housing authority (being the corporation of a borough or the council of an urban district having a population of over twelve thousand) may provide reserved houses for occupation by persons of a particular class....

PART V

LABOURERS' COTTAGES

33. The expression "agricultural labourer" in the Labourers Acts shall include any man who:

[1]Gaelic and English texts through the courtesy of the Irish Legation, Washington.

(*a*) Is normally engaged in doing agricultural work on the land of a relative, and

(*b*) Resided with that relative when he applied for, or became tenant of, a cottage provided by a council of a county under the Labourers Acts.

34. (1) Where a cottage provided by the council of a county under the Labourers Acts is let to a tenant who is an agricultural labourer within the meaning of the said Acts because:

(*a*) He is normally engaged in doing agricultural work on the land of a relative, and

(*b*) He resided with that relative when he applied for, or became tenant of, such cottage,

such council shall not prepare a purchase scheme under the Labourers Act, 1936 (No. 24 of 1936), in relation to such cottage so long as such tenant is an agricultural labourer only because he is normally engaged in doing agricultural work on the land of a relative.

(2) Where:

(*a*) Any such tenant ceases to be normally engaged in doing agricultural work on the land of a relative but nevertheless continues to be an agricultural labourer, or

(*b*) Where such cottage ceases to be occupied by any such tenant,

the council of a county may, and shall if the Minister so directs, prepare and submit to the Minister a purchase scheme under the Labourers Act, 1936 (No. 24 of 1936), in relation to such cottage.

35. (1) The Minister may make regulations for the purpose of securing the proper and efficient management of cottages provided under the Labourers Acts providing for all or any of the following matters:

(*a*) The maximum and minimum number of persons who shall be permitted to occupy a cottage on any letting;

(*b*) The method of selection of tenants and the classes of persons to whom preference shall be given;

(*c*) The terms and conditions to be included in any agreement under which any person is permitted to occupy or use a cottage;

(*d*) Such other matters as the Minister may consider necessary or expedient.

(2) Regulations under this section shall provide that in the letting of cottages regard shall be had to the character, industry, occupation, family circumstances and existing housing conditions of the applicants and subject thereto first preference wherever practicable shall be given to applicants who are:

(*a*) Persons normally engaged in doing agricultural work for hire on the land of some other person and whose principal means of living is such work, or

(*b*) Men normally engaged in doing agricultural work on the land of relatives with whom they reside, or

(*c*) Herdsmen,

and second preference shall wherever practicable be given to applicants with families living in one-roomed dwellings where:

(i) One or more than one member of the family is suffering from tuberculosis, or

(ii) One or more than one member of the family (exclusive of the parents) has attained the age of sixteen years, or

(iii) The dwelling has been condemned as being unfit for human habitation.

(3) Where regulations have been made under this section it shall not be lawful for the council of a county to whom the regulations apply to make a letting of a cottage to which the regulations apply save in accordance with such regulations.

36. (1) Where a council of a county are by a compulsory purchase order made and confirmed under section 20 of the Act of 1932 authorized to purchase land compulsorily for the purposes of the Labourers Acts, the council may at any time after such order has become operative on giving not less than fourteen days' notice in writing to the owner and occupier of the land enter on and take possession of the land or of such part thereof as may be specified in the notice without previous consent or compliance with the provisions of the Lands Clauses Acts as amended by the Labourers Acts relating to entry on lands and upon the service of any such notice the council shall be deemed to have signified their intention of purchasing the land and shall be liable to the payment of the like compensation, as if the said provisions of the Lands Clauses Acts have been complied with and to payment of interest upon such compensation as from the time of such entry . . .

SOCIAL WELFARE (RECIPROCAL ARRANGEMENTS) ACT, 1948[1]

No. 10 of 1948

AN ACT TO ENABLE RECIPROCAL OR OTHER ARRANGEMENT TO BE MADE WITH OTHER COUNTRIES IN RESPECT OF MATTERS RELATING TO NATIONAL HEALTH INSURANCE, UNEMPLOYMENT INSURANCE, WIDOWS' AND ORPHANS' PENSIONS INSURANCE AND WORKMEN'S COMPENSATION, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID (2 JULY 1948)

1. In this Act, the expression "the Minister" means the Minister for Social Welfare; the expression "the Society" means *Cuman an Árachais Náisúnta ar Shláinte.*[2]

2. The Minister may, with the consent of the Minister for Finance, make, with the proper authority of any other country, reciprocal or other arrangements in respect of matters relating to:

(*a*) National Health Insurance,

(*b*) Unemployment Insurance,

(*c*) Widows' and Orphans' Pensions Insurance,

(*d*) Compensation or benefit payable in respect of injuries arising out of and in the course of a person's employment, and diseases or injuries due to the nature of a person's employment.

3. (1) The Minister may make such orders as may be necessary to carry out any arrangement made under section 2 of this Act, and may by any such order make such adaptations of and modifications in any enactment for the time being in force relating to the subject matter of the arrangement as he considers necessary.

(2) Every order under this section shall be laid before each house of the Oireachtas as soon as may be after it is made.

4. The reference in sub-section (5) of section 7 of the Widows' and Orphans' Pensions Act, 1947 (No. 8 of 1947) to reciprocal arrangements shall be construed as including a reference to any arrangement made under section 2 of this Act in respect of matters relating to Widows' and Orphans' Pensions Insurance.

5. The Committee of Management of the Society, with the consent of the Minister, may, for the purpose of giving effect to any arrangement made under section 2 of this Act in respect of matters relating to National Health Insurance, add to or alter any of the rules of the Society.

6. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

7. This Act may be cited as the Social Welfare (Reciprocal Arrangements) Act, 1948.

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[1] Gaelic and English texts through the courtesy of the Irish Legation, Washington.

[2] The National Health Insurance Society.

ISRAEL

PROCLAMATION OF INDEPENDENCE OF ISRAEL[1]

of 14 May 1948

. . . . . .

The State of Israel will promote the development of the country for the benefit of all its inhabitants; will be based on the precepts of liberty, justice and peace taught by the Hebrew prophets; will uphold the full social and political equality of all its citizens without distinction of race, creed or sex; will guarantee full freedom of conscience, worship, education and culture; will safeguard the sanctity and inviolability of shrines and holy places of all religions; and will dedicate itself to the principles of the Charter of the United Nations.

In the midst of wanton aggression we call upon the Arab inhabitants of the State of Israel to return to the ways of peace and play their part in the development of the State, with full and equal citizenship and due representation in all its bodies and institutions, provisional or permanent. . . .

[1] Hebrew text in *Iton Rishmi* (*Official Gazette*) No. 1, of 14 May 1948. English translation from the Hebrew text through the courtesy of Dr. Jacob Robinson, Counsel, Provisional Government of Israel, Office of the Acting Representative to the United Nations.

THE CONSTITUENT ASSEMBLY ELECTIONS ORDINANCE[1]

of 18 November 1948

Art. 3. (*a*) Elections shall be general, direct, equal, secret and proportional.

(*b*) Voting shall be for lists of candidates which shall be published by the Central Elections Committee in accordance with section 25 of this Ordinance.

Art. 4. The right to vote shall be granted to every person, man or woman, who by the 28 Kislev 5709 (31 December 1948) has completed 18 years of age, and who was in the area of the elections on the 6 Kislev 5709 (8 November 1948) and was registered by the 28 Kislev 5709 (30 November 1948) in the registration conducted in accordance with the Emergency Regulations (census of population) 5708 (1948) and whose name was included in the list of voters; but the following shall not have the right to vote:

(1) A tourist;

(2) An insane person;

(3) A person who at the time of the elections is outside the area of the elections;

(4) A person who at the time of the elections is in prison.

Art. 5 The right to be elected is granted to every person, man or woman, who has attained 21 years of age by the 29 Kislev 5709 (31 December 1948) and who—

(*a*) Is entitled to vote in accordance with section 4 of this Ordinance; or

(*b*) Is outside the area of the elections and is in possession of a passport of the State of Israel or a visa to return to Israel. The fact that a person is in prison at the time of the elections will not deprive him of the right to be elected.

Art. 6. A soldier in the Defence Army of Israel is entitled to vote if he fulfils the conditions of section 4 of this Ordinance, and he is entitled to be elected if he fulfils the conditions of section 5 of this Ordinance.

Art. 7. Government officers, including police officers in respect of whom the conditions laid down in sections 4 and 5 of this Ordinance are fulfilled, are entitled to elect or be elected, but when the name of a Government officer is included in one of the lists of candidates, his work in the Government shall be suspended from the date of the publication of the list by the Central Elections Committee until the date of the elections, and if he is elected, until such time as he ceases to be a representative in the Constituent Assembly.

. . . . . .

[1] Hebrew text in *Iton Rishmi* (*Official Gazette*) No. 33, supplement 1, of 18 November 1948. English translation from the Hebrew text through the courtesy of Dr. Jacob Robinson, Counsel, Provisional Government of Israel, Office of the Acting Representative to the United Nations.

Art. 39. A person shall be charged with an offence, and if found guilty, shall be liable to imprisonment up to one year or a fine up to five hundred pounds or to both such penalties, who

(*a*) Gives or offers a bribe in order to influence a voter to vote or to refrain from voting, generally or for a specific list;

(*b*) Receives or agrees to receive a bribe, for himself or for someone else, in return for his consent to vote or refrain from voting, generally or for a specific list, or in return for his consent to influence another person to vote or refrain from voting, generally or for a specific list;

(*c*) Threatens a voter with injury either to the voter or to some other person, if the voter votes or refrains from voting, in general or for a specific list.

"Bribe" includes, for the purpose of this section, a gift, a privilege, a loan and any other interest.

Art. 40. A person shall be charged with an offence, and if found guilty, shall be liable to imprisonment up to 6 months or a fine up to two hundred and fifty pounds or to both such penalties, who

(*a*) Uses for his identification at the polling station an identity card which is not his legal card;

(*b*) Votes more than once, whether at the same polling station or at different polling stations;

(*c*) Deliberately places in the ballot-box more than one envelope, whether the envelope contains a voting paper or is empty.

ORDINANCE REGARDING HOLIDAYS[1]

of 3 June 1948

The following holidays shall be established in the State of Israel:

Sabbath and all Israeli holidays: two days of New Year, the Day of Atonement, first and last (8th) days of Tabernacles, first and last (7th) days of Passover, and the Day of Pentecost.

Non-Jews have the privilege of observing their own holidays.

[1] Hebrew text in *Iton Rishmi* (*Official Gazette*) No. 4, of 9 June 1948, first supplement, paragraph 1. English translation of the Hebrew text through the courtesy of Dr. Jacob Robinson, Counsel, Provisional Government of Israel, Office of the Acting Representative to the United Nations.

EMERGENCY REGULATIONS FOR THE PREVENTION OF TERRORISM[1]

of 20 September 1948

Art. 1. "Terrorist organization" means a body of persons which in its operations makes use of acts of violence which are liable to cause the death of a person or to injure him or makes use of threats of such acts of violence;

"Member of a terrorist organization" means a person who belongs to such an organization, and includes a person who takes part in its operations, who is in possession of or publishes propaganda in favour of a terrorist organization, its operations or objects, or collects money or articles for the benefit of a terrorist organization or its operations.

Art. 2. A person who takes part in the management or direction of a terrorist organization, or participates in the deliberations or resolutions of a terrorist organization, or acts as a member of a court of a terrorist organization, or delivers a propaganda speech at a public meeting or over the wireless on behalf of a terrorist organization, shall be guilty of an offence, and on conviction shall be liable to a penalty of imprisonment for from five to twenty years.

Art. 3. A person who is a member of a terrorist organization shall be guilty of an offence, and on conviction shall be liable to a penalty of imprisonment for from one year to five years.

Art. 4. A person shall be guilty of an offence, and on conviction shall be liable to a penalty of imprisonment up to three years or to a fine up to 1,000 pounds or to both such penalties, who—

(*a*) Publishes in writing or orally, words of praise, sympathy or encouragement, for acts of violence which are liable to cause the death of a person or to injure him, or for threats of such acts of violence; or

(*b*) Publishes, in writing or orally, words of praise,

[1] Hebrew text in *Iton Rishmi* (*Official Gazette*) No. 22, supplement 2, of 20 September 1948. English translation from the Hebrew text through the courtesy of Dr. Jacob Robinson, Counsel, Provisional Government of Israel, Office of the Acting Representative to the United Nations.

or sympathy or a call for help or support for a terrorist organization; or

(*c*) Gives money or money's worth for the benefit of a terrorist organization; or

(*d*) Puts at the disposal of any person any place in order that that place should serve any terrorist organization or its members, either permanently or on a specific occasion, as a place for any operation, meeting, propaganda or store; or

(*e*) Puts at the disposal of any person any article in order that such article should serve a terrorist organization or a member of a terrorist organization in the carrying out of an operation on behalf of the terrorist organization.

ITALY

ACT No. 47 OF 8 FEBRUARY 1948, TO ISSUE PROVISIONS REGARDING THE PRESS[1]

Art. 1. For the purposes of the present Act, printed matter is defined as any typographical reproduction, or reproduction produced by any mechanical or physico-chemical process, intended for publication in any shape or form.

Art. 2. All printed matter must contain details of the place and year of publication, together with the name and address of the printer and of the publisher, if any.

Newspapers, news agency publications, and periodicals of any kind must indicate:

The place and date of publication;
The name and address of the printer;
The name of the proprietor and the responsible director or deputy director.

The imprints, compulsory or otherwise, characterizing the printed matter, and its contents, must be identical in every issue.

Art. 3. All newspapers or other periodicals must have a responsible director.

The responsible director must be an Italian citizen and possess the other qualifications required for inclusion in the electoral register.

Italians not resident in the Republic may also be responsible directors, provided they possess the other qualifications required for inclusion in the electoral register.

A deputy director must be nominated and assume responsibility in cases where the director is elected to Parliament.

The provisions of the present Act regarding the responsible director apply equally to persons assuming responsibility under the terms of the preceding paragraph.

Art. 4. In order to publish a newspaper or other periodical, the proprietor, if he is an Italian citizen resident in Italy, must possess the other qualifications required for inclusion in the electoral register.

Where the proprietor is an Italian citizen living abroad, he must possess the other qualifications required for inclusion in the electoral register.

In the case of minors or corporate bodies, their legal representative must possess the qualifications stipulated in the preceding paragraphs.

Art. 5. No newspaper or periodical may be published without prior registration at the registry of the court in whose jurisdictional area publication is to take place.

The following documents must be submitted to the registry for the purpose of registration:

(1) A statement signed personally by the proprietor and responsible director or deputy director, giving their names and addresses and the name and address of the person conducting the journalistic enterprise, if other than the proprietor, together with the title or description of the publication;

(2) Documents attesting to the qualifications referred to in articles 3 and 4;

(3) A document certifying entry in the list of journalists, where the laws on professional organization stipulate such entry;

(4) A copy of the instrument of corporation or of the articles of association, in cases where the newspaper or periodical is owned by a corporate body.

The president of the court, or a judge delegated by him, after ascertaining that the documents submitted are in order, shall issue instructions within 15 days for the newspaper or periodical to be entered in a special register maintained by the registry.

The register shall be open to public inspection.

Art. 6. Any change taking place in relation to any matter covered by the declaration required under article 5 must form the subject of a new declaration to be submitted in the required form and supported by any necessary documents within 15 days following such change.

Notification of the change shall be made in accordance with the provisions of the third paragraph of article 5.

The obligation to comply with the provisions of the present article rests with the proprietor, or with the person conducting the journalistic enterprise if other than the proprietor.

Art. 7. Registration becomes invalid should the publication fail to appear within the six months following the date of registration, or should a hiatus of more than one year occur in publication.

[1] Italian text in *Gazzetta Ufficiale della Repubblica Italiana* of 20 February 1948. English translation from the Italian text by the United Nations Secretariat. The Act entered into force on 21 February 1948, the day after its publication in the *Official Gazette* (see article 25).

Art. 8. The responsible director or deputy director is required to arrange for the full and free insertion in the periodical of replies, corrections or statements by persons to whom actions, opinions or statements have been attributed detrimental to their honour or deemed by them to be untruthful, provided that the contents of such replies, corrections or statements are not susceptible of giving rise to a criminal charge.

Publication as envisaged in the preceding paragraph shall be effected within three days, in the case of daily newspapers, and in the following issue in the case of other periodicals, the insertion to appear in the same edition, page or column of the periodical, and in the same type, as the original statement.

A correction must not exceed in length the article or passage to which it refers. It may, however, extend to twenty lines if the article or passage to be corrected is of lesser length.

Refusal to comply with the above obligation is punishable by a term of imprisonment not exceeding six months and a fine of 30,000 to 50,000 lire.

An extract of the court's findings, and sentence, must be published in the periodical in question. The court, where necessary, will order publication of the omitted insertion.

Art. 9. In pronouncing judgment for an offence committed through the publication of a periodical, the judge shall issue orders in all cases for the publication of the judgment, in whole or in part, in the periodical in question. The responsible director is required to publish the judgment without charge, in conformity with article 615, paragraph 1, of the Code of Penal Procedure.

Art. 10. Wall-newspapers bearing titles and published periodically as a rule are subject, even if partly handwritten, to the provisions of the present Act.

In the case of a wall-newspaper consisting of a single copy, the sole requirement under the terms of Act No. 374 of 2 February 1939 is notification of its display to the police authorities.

Breaches of the above regulation are punishable under article 650 of the Penal Code.

Wall-newspapers are not subject to any taxation fee.

Art. 11. The proprietor and the publisher bear civil responsibility for Press offences, together and in conjunction with the authors of the offence.

Art. 12. In the case of libel committed through the Press, the injured party may claim payment of compensation in addition to damages awarded under the terms of article 185 of the Penal Code. The amount of compensation is fixed according to the gravity of the offence and the extent of the libellous publication's circulation.

Art. 13. In the case of libel committed through the Press, consisting in the imputation of a specific fact, a penalty of imprisonment of one to six years, and a fine of not less than 100,000 lire, is imposed.

Art. 14. The provisions of article 528 of the Penal Code apply equally to publications intended for children and adolescents when, owing to the latter's sensitive and impressionable character, such publications are in any way likely to impair their moral sense or constitute for them an incitement to depravity, crime or suicide. The penalties, in cases of this kind, are increased.

The same provisions are applicable to newspapers and periodicals intended for children, which describe or illustrate with lurid or horrifying details, real or even imaginary events, in such a way as to disturb the feelings of morality or family discipline or to incite to suicide or crime.

Art. 16. Whoever undertakes the publication of a newspaper or other periodical without effecting the registration stipulated in article 5, shall be punished by imprisonment of up to two years or by a fine of up to 100,000 lire.

This same penalty is applicable to any person who publishes non-periodical printed matter which does not give the name of the publisher or of the printer, or in which the latter are indicated in an untruthful manner.

Art. 17. In addition to the provisions of the preceding article, any omission or inaccuracy whatsoever in the imprints stipulated in article 2, or violation of the last paragraph of the said article, is punishable by a fine of up to 20,000 lire.

Art. 18. Any person who does not declare a change within the period stipulated in article 6, or who continues the publication of a newspaper or other periodical in spite of the fact that the submission of the change has been refused, shall be punished by a fine of up to 50,000 lire.

Art. 19. Any person who, in the declarations stipulated in articles 5 and 6, gives information which is not in accordance with the truth, shall be punished under the first paragraph of article 483 of the Penal Code.

Art. 20. Whoever seizes, destroys or damages printed matter in respect of which the legal provisions have been observed, with the object of preventing its sale, distribution or dissemination, shall be punished, if the action does not constitute a more serious offence, by imprisonment of from six months to three years.

Any person who, by violence or threats, prevents the printing, publication or distribution of periodicals, in respect of which the legal provisions have been observed, is liable to the same penalty.

The penalty is increased if the act is committed by several persons together, if it is committed in a public place, or in printing works, news-stalls, agencies, or other premises used for sales to the public.

The most rapid procedure shall be applied.

Art. 21. Offences committed through the Press shall come within the cognizance of the tribunals, unless the Court of Assize has jurisdiction.

Transmission of the case to the *Pretore* (judge of first instance) shall not be allowed. Judgment shall take place in accordance with the most rapid procedure. The judge must in any case pronounce sentence within a maximum period of one month as from the date of presentation of the plea or accusation.

Art. 22. For newspapers and periodicals already authorized under the terms of previous laws, the registration stipulated in article 5 must be effected within a period of 4 months as from the entry into force of the present law.

Art. 23. Decree-law No. 13 of 14 January 1944, and all other provisions contrary to or incompatible with those of the present Act, are hereby repealed.

Art. 24. The Government shall publish the provisions governing the application of the present Act.

Art. 25. The present Act shall come into force on the day following that of its publication in the *Official Gazette* of the Republic. . . .

SPECIAL STATUTE FOR THE VALLE D'AOSTA[1]

Constitutional Law No. 4 of 26 February 1948

Art. 38. In the Valle d'Aosta the French language shall have parity of status with the Italian language. Public acts may be drafted in either language, excepting ordinances of the judicial authorities, which shall be drafted in the Italian language. State authorities shall, as far as possible, employ in the Valle d'Aosta officials who were born in the region or who know the French language.

Art. 39. In schools of all stages and grades under the regional authorities the number of hours a week set aside for the teaching of the French language shall be equal to that assigned to the Italian language. Certain subjects may be taught in the French language.

[1] Italian text in *Gazzetta Ufficiale* No. 59, of 10 March 1948, p. 822. English translation from the Italian text by the United Nations Secretariat. Text and information through the courtesy of Mr. Felice Catalano, Second Secretary of the Italian Embassy, Washington, and Mr. Oronzo Reale, attorney-at-law, Rome. Regarding the status of the Valle d'Aosta as laid down by the Constitution of the Italian Republic of 27 December 1947, see article 116 of the Constitution (*Yearbook on Human Rights for 1947*, p. 168, footnote 1 to article 20.)

SPECIAL STATUTE FOR THE TRENTINO-ALTO ADIGE [1]

Constitutional Law No. 5 of 29 February 1948

Art. 24. . . . . During the first two years of the Regional Council's term of office the President shall be elected from among the councillors of the Italian language group and the Vice-President from among the councillors belonging to the German language group; for the second two years the President shall be elected from among the members of the latter group and the Vice-President from among the members of the former group. In the event of the death or resignation of the President of the Regional Council, the Council shall arrange for the election of a new President, who shall be selected from the linguistic group of which the former President was a member. . . .

Art. 30. . . . In the Regional Board the linguistic groups shall be represented in proportion to their numbers in the Regional Council. Alternate assessors appointed to deputize for the substantive assessors in their respective functions shall be chosen with due regard to the linguistic groups of which the substantive assessors are members.

Art. 43. . . . During the first two years of the term of office of the Provincial Council of Bolzano the President shall be elected from among the councillors belonging to the German language group and the Vice-President from among those belonging to the Italian language group. During the next two years the President shall be elected from among the councillors

[1] Italian text in *Gazzetta Ufficiale* No. 62, of 13 March 1948, p. 870. English translation from the Italian text by the United Nations Secretariat. Text and information through the courtesy of Mr. Felice Catalano, Second Secretary of the Italian Embassy, Washington, and Mr. Oronzo Reale, attorney-at-law, Rome. Regarding the status of the Trentino-Alto Adige as laid down by the Constitution of the Italian Republic of 27 December 1947, see articles 114–133 and more particularly article 116 of the Constitution (*Yearbook on Human Rights for 1947*, p. 168, footnote 1 to article 120). See also the provisions agreed upon by the Austrian and Italian Governments on 5 September 1946, the text of which is contained in Annex IV of the Treaty of Peace with Italy, and article 10 of that Treaty (*Yearbook on Human Rights for 1947*, p. 393).

belonging to the Italian language group and the Vice-President from among those belonging to the German language group.

Art. 44. . . . In the Provincial Board of Bolzano the linguistic groups shall be represented in proportion to their numbers in the Provincial Council. Alternate assessors of the Provincial Board of Bolzano appointed to deputize for the substantive assessors in their respective functions shall be chosen with due regard to the linguistic groups of which the substantive assessors are members.

Art. 82. Appeals against the regional or provincial laws on grounds of violation of the Constitution or of the present Statute or of the principle of parity between the linguistic groups may be lodged with the Constitutional Court.[1]

Art. 84. While Italian remains the official language in the Region, the use of the German language in public life shall be guaranteed in accordance with the provisions of the present Statute and the special laws of the Republic.

Art. 85. German-speaking citizens of the Province of Bolzano may use their language in their dealings with public organs and authorities situated in the province or having regional competence. In meetings of regional or provincial collective organs or of local bodies the German language may be used. The organs and authorities referred to above shall use the language of the person concerned in correspondence and oral reports. Where correspondence is initiated by the official authorities it shall be drafted in the presumptive language of the person to whom it is addressed.

Art. 86. In the Province of Bolzano public authorities must, in their dealings with German-speaking citizens, give equal currency to the German place-names, provided their existence has been established and their form approved under the provincial law.

Art. 87. In the localities where the Ladin language is spoken its teaching in the elementary schools shall be guaranteed.

[1] The powers of the Constitutional Court are defined in articles 134–137 of the Italian Constitution of 27 December 1947.

JAPAN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS

The following documents have been found to have some relation to human rights and fundamental freedoms.[1]

A. *Texts concerning Personal Liberties*

Act No. 39, promulgated on 1 May 1948, regarding minor offences. This Act was published in the *Official Gazette*, English edition, of 1 May 1948.

This Act replaces former ordinances which made such minor offences punishable in police courts. The police courts are now abolished and the offences made punishable in accordance with normal criminal procedure in the regular courts. Provisions which might interfere with freedom of speech or assembly are eliminated.

Act No. 199, promulgated on 30 July 1948, relating to the procedure of *habeas corpus*. This Act was published in the *Official Gazette*, English edition, of 30 July 1948.

The Act introduces a remedy equivalent to the writ of *habeas corpus* in Anglo-American practice into the Japanese legal system thus providing an effective form of immediate relief from arbitrary incarceration or other illegal restraint. Such a remedy was essential for the preservation of civil liberties and the implementation of the new Constitution.

The text of the Act is reproduced in this *Yearbook*.

Act No. 81, promulgated on 1 July 1948, regarding special regulations concerning the procedure of administrative litigation. This Act was published in the *Official Gazette*, English edition, of 1 July 1948.

The Act guarantees the right to challenge in the regular courts any illegal disposition made by an administrative office.

Act No. 131, promulgated on 10 July 1948, entitled Code of Criminal Procedure. This Act was published in the *Official Gazette*, English edition, of 10 July 1948.

The new Code, which was to come into force on 1 January 1949, implements the elaborate safeguards established by the new Constitution for the protection of the individual in the field of criminal justice, establishes rules of evidence for the first time in Japan's legal history, and radically changes the system of criminal appeals.

A summary of the Code is reproduced in this *Yearbook*.

Act No. 136, promulgated on 12 July 1948, respecting the powers and duties of the police. This Act was published in the *Official Gazette*, English edition, of 12 July 1948.

The Act defines the duties and powers of police officials with respect to questioning; assistance of intoxicated persons, insane persons, stray children, and the sick and injured; handling of dangerous situations, such as natural disasters; prevention and restriction of crime; entry on to private property; and use of weapons—all of which are supplementary to duties and powers provided by the Code of Criminal Procedure and other laws and regulations affecting the police.

Act No. 147, promulgated on 12 July 1948, respecting inquiries into prosecutions. This Act was published in the *Official Gazette*, English edition, of 12 July 1948.

The Act respecting Inquiries into Prosecutions establishes a committee of inquiry as a popular check upon the activities of public prosecutors in cases where they fail to prosecute. If a person originally makes a formal complaint to a public prosecutor, or if he has been injured by a criminal, and the public prosecutor fails to take action, the aggrieved person may file a complaint with the committee of inquiry, which must conduct an examination upon such application. The committee of inquiry is also empowered on its own initiative to investigate cases in which no appropriate public action has been taken. The inquest does not render a bill of indictment, but is restricted to a finding of purely advisory nature.

Act No. 149, promulgated on 5 July 1948, amending the Code of Civil Procedure. This Act was published in the *Official Gazette*, English edition, of 5 July 1948.

The revision of the Code of Civil Procedure, although not required by the new Constitution, was particularly needed to relieve the appellate courts from their tremendous burden under the former appeals system. Other reforms achieved were added protection of the rights of witnesses and judgment debtors, moderni-

[1] The selection of the texts indicated hereunder has been made by Mr. Alva C. Carpenter, Chief, Legal Section, General Headquarters of the Supreme Commander for the Allied Powers, Japan. The explanations of Acts referred to in this note are based upon material supplied by Mr. Carpenter.

zation of attachment provisions, and elimination of immunities from testifying against an employer or a relative within the sixth degree of blood relationship.

Act No. 156, promulgated on 13 July 1948, called the Eugenics Protection Act.

Act No. 168, promulgated on 15 July 1948, respecting juveniles. This Act was published in the *Official Gazette*, English edition, of 15 July 1948.

The amendments to the Act respecting juveniles, supplemented by revision of the Act on Court Organization, create an independent Family Court. One division of this court consists of the Domestic Relations Court, formerly a branch of the District Court, while the other division is the Juvenile Court. The Juvenile Court is therefore a division of a court which is part of the regular judicial system, instead of a sort of probation agency of the Attorney-General's Office, as formerly. The court has jurisdiction over:

(*a*) Juveniles (under 20 years of age) who have violated any criminal law or regulation;

(*b*) Juvenile delinquents whose history is such that they are potential criminals;

(*c*) Adults who commit certain specified offences against juveniles.

Act No. 169, promulgated on 15 July 1948, called the Reformatory Act. This Act was published in the *Official Gazette*, English edition, of 15 July 1948.

The Act defines reformatories as institutions providing correctional education to those persons committed thereto by a family court. (See the summary of Act No. 168, respecting juveniles, for an explanation regarding the family court.)

B. *Texts concerning Social and Economic Rights*

Act No. 43, promulgated on 15 May 1948, for the administrative execution by proxy. This Act was published in the *Official Gazette*, English edition, of 15 May 1948.

The Act abrogated the old Administrative Enforcement Act (Act No. 84 of 1900) which provided for provisional custody by administrative authorities of persons breaking the peace, and had been used by the police as an instrument for the suppression of civil liberties. It also provides that administrative authorities may execute acts required by law in lieu of the person under obligation to perform such acts, where such person fails to fulfil his obligation, to the great prejudice of the public interest.

Act No. 68, promulgated on 30 June 1948, called Preventive Vaccination Act. This Act was published in the *Official Gazette*, English edition, of 30 June 1948.

Act No. 123, promulgated on 10 July 1948, for the control of narcotic drugs. This Act was published in the *Official Gazette*, English edition, of 10 July 1948.

Act No. 191, promulgated on 29 July 1948, called the Trade Union Act. This Act was published in the *Official Gazette*, English edition, of 29 July 1948.

Act No. 201, promulgated on 30 July 1948 respecting medical practitioners. This Act was published in the *Official Gazette*, English edition, of 30 July 1948.

Act No. 202, promulgated on 30 July 1948, respecting dentists. This Act was published in the *Official Gazette*, English edition, of 30 July 1948.

Act No. 203, promulgated on 30 July 1948, called the Public Health Nurse, Midwife and Nurse Act. This Act was published in the *Official Gazette*, English edition, of 30 July 1948.

The three Acts Nos. 201, 202 and 203 are intended to contribute to the promotion and improvement of public health.

Act No. 83, promulgated on 2 July 1948 to establish the small business board. This Act was published in the *Official Gazette*, English edition, of 2 July 1948.

This Act establishes a board within the Ministry of Commerce and Industry to assist in the development and successful operation of small, efficient, independent enterprises to serve as a bulwark against concentrations of economic power.

Act No. 130, promulgated on 30 July 1948, called Mariners Security of Employment Act. This Act was published in the *Official Gazette*, English edition, of 10 July 1948.

Act No. 167, promulgated on 15 July 1948, called Venereal Disease Prevention Act. This act was published in the *Official Gazette*, English edition, of 15 July 1948.

Act No. 171, promulgated on 15 July 1948, concerning the control of intense soliciting for insurance. This Act was published in the *Official Gazette*, English edition, of 15 July 1948.

Act No. 242, promulgated on 15 December 1948 (Fisheries Co-operative Association Act). This Act was published in the *Official Gazette*, English edition, of 15 December 1948.

Acts Nos. 222 and 258, promulgated on 3 December and 21 December 1948, to amend the National Public Service Act. These Acts were published in the *Official Gazette*, English edition, of 3 and 21 December 1948.

Act No. 256, promulgated on 20 December 1948 (Japanese National Railways Act). This Act was published in the *Official Gazette*, English edition, of 20 December 1948.

Act No. 255, promulgated on 20 December 1948 (Japan Monopoly Public Corporation Act). This Act was published in the *Official Gazette*, English edition, of 20 December 1948.

Act No. 257, promulgated on 20 December 1948. Public Corporations Labour Relations Act. This Act was published in the *Official Gazette*, English edition, of 20 December 1948.

C. *Electoral Rights*

The main electoral provisions which were in force at the end of 1948 are reproduced on page 342 of this *Yearbook*.

D. *Right to Education*

Act No. 132, promulgated on 10 July 1948, to issue provisional measures concerning the publication of textbooks. The Act was published in the *Official Gazette*, English edition, of 10 July 1948.

The object of this Act is, in view of the current economic conditions, to co-ordinate demands for and supplies of textbooks, to publish them quickly and to maintain appropriate prices, with a view to facilitating school education.

Act No. 170, promulgated on 15 July 1948, called the Board of Education Act. The Act was published in the *Official Gazette*, English edition, of 15 July 1948.

HABEAS CORPUS ACT[1]

Act No. 199 of 30 July 1948

Art. 1. The object of this Act is to implement the fundamental human rights guaranteed by the Japanese Constitution;[2] by providing a speedy and simple court remedy against illegal restraints of the person.

Art. 2. A person whose freedom is illegally restrained may apply for release in accordance with the provisions of this Act.

Any other person may also present such application for relief on behalf of the person illegally restrained.

Art. 3. Unless extraordinary circumstances exist requiring that the application mentioned in the preceding article be made by the applicant himself, it shall be made by an attorney on his behalf.

Art. 4. The application mentioned in article 2 may be made in writing or orally to a high court or district court having jurisdiction over the place where the person restrained, the restrainer or the applicant resides.

Art. 5. The application shall be accompanied by materials necessary for presumptive proof and shall contain the following information as far as it is known:

1. Name of the person restrained;
2. The gist of the request;
3. The facts regarding the detention;
4. The restrainer;
5. The place of detention.

Art. 6. Applications made pursuant to article 2 shall be decided by the court without delay.

Art. 7. The court may dismiss the application by means of a ruling where it lacks requisite vindication or necessary presumptive proof.

Art. 8. The court may, on request of the applicant or *ex officio*, transfer an application made pursuant to article 2 to another court considered to have competent jurisdiction.

Art. 9. Except in cases prescribed in the two preceding articles, the court may conduct an immediate inquiry into the reason for the restraint and other matters necessary to prepare for the trial of the application, including hearing the statements of the restrained, the applicant, their attorneys and other interested parties.

The court may cause any of its members to make the preliminary inquiry referred to in the preceding paragraph.

Art. 10. In cases where it is deemed necessary, the court may, in order to obtain a temporary release from confinement of the restrained person prior to a rendition of the judgment provided for in article 16, release such person by means of a ruling after causing him to swear that he will present himself at any time upon summons and subject to such conditions as are deemed proper, or take other appropriate dispositions.

If the restrained person does not present himself in accordance with the preceding article, he may be arrested.

Art. 11. When it becomes evident as a result of the preliminary inquiry that no grounds exist justifying the application for release, the court shall dismiss the application by means of a ruling without holding any trial proceedings.

[1] English text published in the *Official Gazette*, English edition, No. 699, of 30 July 1948. The Act came into force on 28 September 1948 (see Supplementary Provision, at the end of this text). The version reproduced here is a corrected unofficial translation furnished through the courtesy of Mr. Alva C. Carpenter, Chief, Legal Section, General Headquarters of the Supreme Commander for the Allied Powers, Japan.

[2] See the human rights provisions of the Japanese Constitution of 3 November 1946 in *Yearbook on Human Rights for 1946*, pp. 171–172.

When the court dismisses the application by ruling as provided in the preceding paragraph, it shall rescind any temporary release previously made pursuant to article 10, causing the person restrained to present himself, and remanding him to the custody of the restrainer.

Art. 12. Unless the application is dismissed pursuant to article 7 or paragraph 1 of the preceding article, the court shall designate a date and place for trial of the application and shall summon the applicant or his attorney, the restrained person and the restrainer.

The court shall issue a writ (warrant) of *habeas corpus* to the restrainer ordering him to produce the restrained person at the date and place designated in accordance with the preceding paragraph, and shall also direct the restrainer to submit a written explanation concerning the date, place and reasons for such restraint, by the day fixed for the trial.

The writ (warrant) mentioned in the preceding paragraph shall state that if the restrainer fails to obey the order he may be placed under arrest or taken into custody until he complies with its terms and shall be liable to a fine not exceeding five hundred (500) yen for each day's delay.

There shall be a period of three days between the serving of the said writ (warrant) and the day of trial. Moreover, unless special circumstances require reduction or extension of the period, the trial shall be held within one week from the date on which the application for release mentioned in article 2 was made.

Art. 13. If the person restrained is being held under a warrant issued by a court, such court and also the procurator who applied for the warrant shall be notified concerning the issuance of the writ (warrant) of *habeas corpus* mentioned in the preceding article.

The judges of the court and the procurator mentioned in the preceding paragraph may present themselves at the trial.

Art. 14. The trial hearings shall be conducted in open court and shall be attended by the restrained person, the restrainer, the applicant and his attorney.

When the applicant has no attorney, the court shall select one from among qualified lawyers.

Attorneys selected pursuant to the preceding paragraph may request travelling expenses, daily allowances, hotel expenses and compensation.

Art. 15. During the trial the court shall hear the statement of the applicant and the reply of the restrainer and shall investigate the material submitted for presumptive proof.

The restrainer shall prove the reason for the restraint.

Art. 16. If the court, upon investigation, finds the application to be unjustified, it shall dismiss the application by a judgment and shall remand the person restrained to the custody of the restrainer.

In the case mentioned in the preceding paragraph the provisions of article 11, paragraph 2, shall apply.

If the court finds the application is justified, it shall immediately release the person restrained by means of a judgment.

Art. 17. In case the application is dismissed, as provided in article 7, article 11, paragraph 1, or the preceding article, all or part of the costs of the procedure may be charged to the applicant.

Art. 18. If the restrainer disobeys the writ (warrant) of *habeas corpus* mentioned in article 12, paragraph 2, the court may arrest him or keep him in custody until he obeys the order and may fine him not more than five hundred (500) yen for each day's delay.

Art. 19. If the person restrained notifies the restrainer that he desires an attorney to represent him, the restrainer shall immediately transmit the request to the attorney designated by the restrained person.

Art. 20. Any court which has received or had transferred to it an application made pursuant to article 2 shall immediately notify the Supreme Court of the case and report to it the progress and results of the procedure taken in connexion therewith.

Art. 21. An appeal against the judgment of the lower court may be made to the Supreme Court within three days from the day the judgment is rendered.

Art. 22. If it deems it necessary, the Supreme Court may cause the lower court to transfer a pending case at any stage of the proceedings and may directly review it.

The Supreme Court may nullify or alter the decisions or dispositions of the lower court upon directly reviewing the case pursuant to the preceding paragraph.

Art. 23. The Supreme Court may implement this Act by issuing necessary rules with respect to the application, preliminary inquiry, trial and other matters mentioned in this Act.

Art. 24. Judgments which were rendered pursuant to other laws and are unfavourable to the restrained person shall be invalid to the extent to which they are inconsistent with decisions made pursuant to this Act.

Art. 25. Those who have been released pursuant to this Act shall not be restrained again on the same grounds except by a judgment of a court.

Art. 26. Anyone who removes or conceals a restrained person or contrives his escape, or commits any other act interfering with the relief provided by this Act, or who deliberately makes a false statement in his written explanation mentioned in article 12, paragraph 2, is liable to punishment by penal servitude of less than two years or a fine not exceeding fifty thousand (50,000) yen.

Supplementary Provision: This Act shall come into force sixty days after the date of its promulgation.

CODE OF CRIMINAL PROCEDURE[1]

Act No. 131 of 10 July 1948

SUMMARY

The new Code, which was passed by the Diet on 5 July 1948, will be enforced on 1 January 1949. This far-reaching reform, a very important piece of legislation from the point of view of civil liberties, was required not only by the new Constitution, but also by the generally recognized need for a modernization and humanization of the criminal process. The revision integrates, on the whole, the changes brought about by the Temporary Measures Act of the Code of Criminal Procedure (pursuant to the enforcement of the Constitution) and includes many additional innovations. The following are the main points of the Act.

Under the old code, the records of the public prosecutor and of the police concerning the examination of suspects, accused or other witnesses, were submitted to the trial court with the indictment. Thus the court could form its conclusion and might have been prejudiced, before the trial began. Such records will no longer be referred to or submitted to the court with the indictment before trial, and may not be used during the trial as a substitute for oral testimony of witnesses who are available to testify in court but are not called. Witnesses who are available will testify in the court, where their demeanour can be observed and their evidence can be subjected to cross-examination. No conviction may be based solely upon a confession, whether the confession is made in open court or outside the court, and no confession will be admitted in evidence if there is any doubt that it was not made freely and voluntarily.

As to the pre-trial investigations of the public prosecutors and police, persons asked to appear for interrogation by the police or public prosecutors will have the right to refuse and, if they do appear, may refuse to answer any questions, or if not under arrest, may leave at any time.

A copy of the indictment must be served on the accused within two months after it is filed in the court, or it will lose its validity retroactively and service by publication will not be permitted. Thus, a trial cannot be carried on in the absence of the accused without his knowledge.

The court will notify the accused of his constitutional rights to counsel for defence and to refuse to answer questions during the trial. An accused held under restraint will have the right to be informed in open court of the reasons for his detention and to be released if he has been detained for an unreasonably long period. Such release may be with or without bail. An accused who requests release upon bail shall be released as a matter of right except in cases of very serious crimes, or if he is an habitual criminal.

In addition to the presiding judge, both the prosecutor and the accused or his counsel are given the right to question witnesses. The court will have greater power to separate or consolidate trials at its discretion and will order separate trials when necessary to protect the interest of co-defendants.

All witnesses who can understand the nature of an oath will be sworn, but a witness may refuse to answer any questions which may tend to incriminate him, or a person who is or was his spouse, a blood relative within the third degree, a relative by affinity within the second degree, a guardian, or a ward. Certain professional categories may refuse to give evidence in respect of the secrets of their patients, clients or communicants unless the patient, etc., has consented to their testifying or the court finds that the privileges are invoked solely for the protection of the criminal and not the patient or the client. In addition to non-criminal enforcement fines, witnesses who refuse to appear or to be sworn or testify without good reason will be subject to criminal penalties, including fines or detention or both.

Under the old system of trial procedure where the rights of the accused were not adequately protected, the full re-trial by a court of second instance was felt to be a necessary safeguard. But with the far stronger protections now afforded the defendant under the new trial procedure, full re-trial of a case by an appellate court will no longer be needed.

The nature of *koso* appeal[2] has been essentially changed under the new code. The appellate court will never completely re-try the case. It will examine the record of the court below and the arguments of the appellant concerning errors committed during the trial, and may call some witnesses and hear some new evidence in order to determine whether or not the original judgment was correct. If the appellate court finds that the original court has made a material error in a finding or facts, it may order the lower court to

[1] Text of the Act in the *Official Gazette*, English edition of 12 July 1948. Summary through the courtesy of Mr. Alva C. Carpenter, Chief, Legal Section, General Headquarters of the Supreme Commander for the Allied Powers, Japan. See also the Note, p. 124 of this *Yearbook*.

[2] Japanese procedural law contains three forms of appeal, namely: *Kokoku*, *Koso*, and *Jokoku*. *Kokoku* appeals are those taken from interlocutory rulings. *Koso* appeals are those taken from judgments in the first instance of summary or district courts. If the issues raised in this appeal are limited to questions of law, or if the record of the initial trial appears adequate to the appellate court, no further hearing of evidence need occur. On the other hand, the appellate court has wide discretionary powers and may, if it desires, rehear any or all of the evidence taken at the lower trial. It issues a new judgment upon the termination of its consideration. A *Jokoku* appeal is made to the Supreme Court and at the present time is limited to a consideration of questions of law.

re-try the entire case, or it may reverse, affirm or modify the judgment and render sentence itself if the true facts are sufficiently clear from the record of the lower court and such new evidence as has been heard on appeal.

In order to comply with the prohibition of double jeopardy under the new Constitution, new trials or the reopening of cases finally decided will in the future be permitted only for the benefit of the accused. Provisions concerning the use of these procedures for the benefit of the State have been completely eliminated.

The Act, as it reads now, is certainly a modern instrument which will free the Japanese administration of justice of many weaknesses if it is energetically and faithfully applied.

KOREA

LAW FOR THE ELECTION OF REPRESENTATIVES OF THE KOREAN PEOPLE of 17 March 1948

Editor's Note: The General Assembly of the United Nations, in its resolution of 14 November 1947, recommended that elections of representatives of the Korean people be held on the basis of adult suffrage and by a secret ballot; it stipulated moreover that the representation should be, in each area, proportional to the population and that the elections should be under the observation of the United Nations Temporary Commission for Korea. In fact, an election under the observation of this commission was held on 10 May 1948 in that part of Korea occupied by the armed forces of the United States, while an election to the Supreme People's Council (Assembly) was conducted on 25 August 1948 in North Korea, occupied by the forces of the Soviet Union. The electoral law adopted on 10 March 1948 and promulgated on 17 March 1948 is the basis of the elections in the United States occupied part of Korea.

Preceding the above-mentioned law, the South Korean Interim Government had adopted Public Act No. 5 containing the law for the election of members of the Korean Interim Legislative Assembly which was approved by the United States Military Governor on 3 September 1947 and brought into effect on the same date.[1] For North Korea, election regulations had been issued by the Chairman of the North Korean People's Committee.[2] The two texts of 1947 are shown in a comparative chart in the quoted document of the United Nations.[3]

Public Act No. 5, of 3 September 1947, was examined by a sub-committee of the United Nations Temporary Commission "in order to bring the electoral provisions into greater conformity with the resolutions of the General Assembly of the United Nations, and in general promote as complete and free an expression of the popular will as possible." On the basis of the report of the sub-committee, the Commission made recommendations regarding the voting age, the vote of illiterates, the preservation of the secrecy of the vote, the validity of the elections, etc.

Another sub-committee established by the Commission had as its main purpose to "consider ways and means of ensuring a free atmosphere of elections in Korea". On the basis of the work of this sub-committee, the United Nations Temporary Commission on Korea adopted at its 26th meeting, on 17 March 1948, recommendations for a free atmosphere for elections,[4] to be ensured especially by the maintenance of the democratic rights of freedom of the Press and information, freedom of assembly and association, freedom of movement, protection against arbitrary arrest and detention, and protection against violence and threats of violence.

The substance of the recommendations may be reviewed as follows:

(*a*) *The question of law.* The Commission recommended that the United States authorities submit to it a compilation of the existing laws and regulations affecting civil liberties which "might at a later stage form the basis for a proclamation by the United States authorities on this subject". Meanwhile, the Commission recorded its opinion that the "democratic rights of freedom of speech, Press and assembly" included "the right to vote or not to vote and to advocate either point of view by peaceful and legal means".

(*b*) *The question of enforcement.* The Commission declared that it was "fully aware of the fact that neither laws, ordinances nor proclamations in themselves provide sufficient guarantees for a free atmosphere for elections". In this regard, the Commission declared that it was "genuinely concerned about the possible role the police might play during the elections" and that it would "make it its task to watch the attitude of the police very closely and that the results of this observation will be

[1] The text of this Act is published in: United Nations, *First Part of the Report of the United Nations Temporary Commission on Korea*, Volume II, Annexes I–VIII, General Assembly, Official Records: Third Session, Supplement No. 9 (A/575, Add. 1), Lake Success 1948, p. 26.

[2] *Ibid.*, p. 30.

[3] *Ibid.*, p. 34.

[4] *Ibid.*, p. 46.

an important factor in determining whether it is able to report to the General Assembly that the elections were held in a free atmosphere". A similar view was expressed concerning certain youth organizations and recommendations were made with a view to limiting political activity on the part of these organizations such as might prejudice a free atmosphere for the elections.

(*c*) *The question of information and education.* The Commission recommended to the United States authorities "a strenuous and active campaign of impartial dissemination of information about the elections". It was further recommended that the limited supply of newsprint available be distributed on an equitable basis and that the same principle apply to allocation, if any, of radio time.

(*d*) *The question of political prisoners.* The Commission expressed the view that persons convicted for participation in illegal meetings or distributing handbills, unless the offence was accompanied by a criminal act or incitement to criminal acts, were to be considered as having committed political offences. It was recommended that such persons at present in prison be released without reservation. It was the Commission's view that the political activity accompanied by a crime such as arson, counterfeiting, etc., could not be considered as purely political, and it was recommended in such cases that a pardon be extended by the authorities provided the release of such persons "will not be a danger to public security".

The United States authorities subsequently announced that certain measures would be introduced in order to promote a free atmosphere, in accordance with the commission's recommendations. These measures may be summarized as follows:

(*a*) A "Proclamation of the Rights of the Korean People" was issued by the Commanding General of the U.S. Army Forces in Korea which enumerated "the inherent liberties of the Korean people, who will take part in such elections".[1]

(*b*) Changes in criminal procedures were authorized by the Military Government designed *inter alia* to prohibit, or limit to specified cases, arrests without warrant, to limit the period of detention and provide for bail, counsel and punitive measures for abuse of power.[2]

(*c*) By decision of the Military Government, pardons were issued on behalf of 3140 persons who were either serving prison sentences, under investigation awaiting trial, or on parole. The released persons were declared able to register as voters or as candidates in the election "if they would otherwise be eligible to register for these purposes".[3]

Based upon its central and local observations, the methods of which were determined by the limited personnel and difficulties of transportation, the Commission stated its conclusions on the elections as follows:

(*a*) There existed in South Korea during the period of preparation for the election, and on election day itself, a reasonable degree of free atmosphere wherein democratic rights of freedom of speech, Press and assembly were recognized and respected;

(*b*) The United States Army Forces in Korea and the South Korean Interim Government complied with the recommendations of the Commission on electoral procedures and the conduct of the elections conformed generally to the electoral laws and regulations;

. . . . . .

(*d*) Having taken into account the reports of its observation groups, the conclusions noted above, and bearing in mind the traditional and historical background of the people of Korea, the results of the ballot of 10 May 1948 are a valid expression of the free will of the electorate in those parts of Korea which were accessible to the Commission and in which the inhabitants constitute approximately two-thirds of the people of all Korea.[4]

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[1] *First Part of the Report of the United Nations Temporary Commission on Korea.* Volume II, p. 60.

[2] Ordinance No. 176 of the South Korean Interim Government, effective 1 April 1948: ibid. p. 49.

[3] *Ibid.*, p. 59.

[4] *First Part of the Report of the United Nations Temporary Commission on Korea*, Volume I, General Assembly, Official Records: Third Session, Supplement No. 9 (A/515), Lake Success, 1948, p. 46.

CHAPTER I
GENERAL RULES

Sect. 1. Any citizen twenty-one or more years of age has the right to vote for representatives to the National Assembly regardless of sex, property, education or religion.

Any citizen twenty-five or more years of age has the right to be elected as a representative to the National Assembly regardless of sex, property, education or religion.

Age shall be counted as on the date the election is held.

Sect. 2. Persons to whom any of the following categories are applicable are not eligible to vote:

(1) Persons who have been declared incompetent by a decision of a court of justice;

(2) Weak-minded persons who have been placed as quasi-incompetent under guardianship by a decision of a court of justice;

(3) Persons who are serving prison sentences, or who are under suspended sentence or under a sentence not yet executed;

(4) Persons who accepted peerages from the Japanese Government;

(5) Persons who were members of the Japanese Imperial Diet.

Sect. 3. A person is not eligible to be elected:

(1) If he is ineligible to vote in accordance with section 2 of this law; provided however, section 2, number (3) does not apply if the sentence was imposed for a political offence;

(2) Persons who have received a sentence of one or more years' penal servitude or imprisonment; provided, however, that if three or more years have elapsed since the completion of sentence, or since the time when final decision was made not to execute the sentence or if the sentence was imposed for a political offence, the person concerned will not be included in this category;

(3) Persons who under the Japanese regime held ranks of *banninkan* or higher in the civilian police force, or who served as *kempei* or *kempei-bo* in the Japanese military police force, or persons who held positions in the police in charge of "thought control", or those who acted as spies for the police in charge of "thought control" under the Japanese regime;

(4) Persons who were advisers, members, or vice-chairmen of the Central Advisory Council under the Japanese regime;

(5) Persons who were members of an advisory or deciding council of *pu* or *do* (province) under the Japanese regime;

(6) Persons who held positions of the third class or higher of the *Kotokan* or who received a medal (*kun*) of the seventh class or higher; provided, however, that educators and technical officials are not included in this category.

CHAPTER II
ELECTORAL DISTRICTS AND REPRESENTATION

Sect. 8. Each electoral district shall be represented by one delegate.

CHAPTER VI
ELECTION PROCEDURE AND SUCCESSFUL CANDIDATES

Sect. 34. . . . . . .

In a separate room provided for this purpose, in which the voter shall be alone, he shall mark the ballot and put the marked ballot into the envelope. The voter shall then, in front of the chairman and members of the election committee, place the envelope containing the marked ballot into the ballot box. In the case of a voter who has spoiled a ballot form, the chairman shall hand to such voter only one other ballot form; provided that the spoiled ballot form is returned to the chairman.

Sect. 35. Each electoral district election committee and each voting district election committee shall give suitable publicity to the official ballot to be used in such electoral district for the general information of the voters by reproducing it on posters and in newspapers generally.

At the entrance of each polling place and in each room where the marking of the ballot takes place, photographs of the candidates, to be furnished by such candidates, shall be placed in the same order as the candidates are placed on the official ballot. The photograph of each candidate shall bear in Korean, as well as in Chinese letters, the candidate's name and the symbol assigned to him.

The secrecy of voting is guaranteed. The voter shall be under no obligation to disclose the identity of the candidate for whom he has voted.

No legislative, executive or administrative agency and no court shall ever question a voter as to the candidate for whom he has voted.

Sect. 43. The candidate who receives the greatest number of valid votes shall be elected.

CHAPTER IX
PENAL REGULATIONS

Sect. 53. Any of the following violators of the law shall be punished by penal servitude for not more than five years, or a fine of not more than 100,000 won, provided that both penal servitude and fine may be imposed in case that special circumstances require it:

(1) Any person who either registers on the poll register or votes by fraudulent means;

(2) Any person who gives or receives or promises to give or receive money, goods, entertainment, or any other property gain, or gives or promises to give a position of honour on favourable terms for the promise of votes or the abandonment of right to vote as a condition;

(3) Any person who tries to prevent anyone from voting or being a candidate, or forces anyone not to vote by the use of violence, threats, arrest or confinement, or any other method;

(4) Any head of a *dong* or *pan* or any other person who deliberately makes false statements when heard as a witness in accordance with section 34 of this law;

(5) Any person who, for the purpose of hindering the election, uses violence or threats against the election committee members or public officials or captures or destroys the ballot boxes or the election records;

(6) Any person who interferes with the free exercise of the right to vote or with the election process in general, by mass disturbances or demonstrations at or near the polling place;

(7) Any person who forces entrance into the polling place carrying firearms, a sword, cudgel, or any other weapon;

(8) Any member of an election committee or public official who violates any laws or regulations pertaining to the election.

Sect. 54. Any person who has been punished for the crimes described in this chapter shall be deprived of the rights to vote and to be elected for a period of three years from the date on which he completes the serving of his sentence.

Sect. 55. The statute of limitations for public prosecution with respect to the offences described in this chapter shall be one year.

CONSTITUTION OF THE REPUBLIC OF KOREA[1]

of 12 July 1948

PREAMBLE

We, the people of Korea, with a glorious tradition and history from time immemorial, following the indomitable spirit of independence, as manifested in the establishment of Tai Han Republic in the course of the Sam-El independence movement,

Now at this time engaged in reconstructing a democratic, independent country, are determined:

To consolidate national unity by justice, humanity, brotherly love and the elimination of all kinds of social evils,

To offer equal opportunities to every person,

To provide for the fullest development of the equality of each individual in all fields of political, economic, social and cultural life,

To permit every person to discharge his duties and responsibilities,

To promote the welfare of the people, to maintain permanent international peace, and thereby to assure the security, liberty and happiness of ourselves and our posterity,

Do hereby ordain and establish this Constitution on the 12th day of July in the year one thousand nine hundred and forty-eight in the National Assembly composed of our freely and duly elected representatives.

CHAPTER I

GENERAL PROVISIONS

Art. 1. Korea shall be a democratic republic.

Art. 2. The sovereignty of the Korean Republic shall reside in the people as a whole. All State authority shall emanate from the people.

[1] English text in *The Democratic Republic of Korea*, published by the Democratic Government of Korea, Office of Public Information (publication 5), Seoul 1948. Text and information through the courtesy of Dr. Sungsoo Whang, Director of the Information Bureau, Ministry of Foreign Affairs. The English translation of the Constitution as published in the quoted publication was agreed to between Dr. Chun Kyo Hong, Secretary-General of the National Assembly, and Dr. Ernst Fraenkel, member of the staff of the United States Liaison Office, and approved by the National Assembly on 12 July 1948. The English text (with unimportant deviations from the quoted translation) also appears in: United Nations, *Second Part of the Report of the United Nations Temporary Commission on Korea*, Volume II, Annexes I–VII, Paris, 1948, pages 23–31. The Korean National Assembly, in which only the people of Korea south of the 38th parallel are represented, was constituted on 31 May 1948 as a result of the elections held on 10 May 1948 under observation of the United Nations Temporary Commission on Korea (see the Act for the Election of Representatives of the Korean People with the introductory note on p. 130 of this *Yearbook*). A list of the elected members of the National Assembly (electoral district, name, age, number of votes received, occupation, party affiliation) in: United Nations, *First Part of the Report of the United Nations Temporary Commission on Korea*, Volume II, Annexes I–VIII, Lake Success, 1948, pp. 75–79. The National Assembly adopted the Constitution on 12 July 1948; the Constitution was promulgated on 17 July 1948. In accordance with this Constitution, the Korean National Assembly formed the Government of the Republic of Korea on 5 August 1948.

Art. 3. The requirements for Korean citizenship shall be determined by law.

Art. 4. The territory of Korea shall consist of the Korean Peninsula and its accessory islands.

Art. 5. The democratic Republic of Korea shall guarantee liberty and equality and the initiative of each individual in the fields of political, social and economic life. It shall be responsible for their protection and adjustment for the promotion of the public welfare.

Art. 6. The democratic Republic of Korea shall denounce all aggressive wars. The mission of the national military forces shall be to perform the sacred duty of protecting the national territory.

Art. 7. The duly ratified and published treaties and the generally recognized rules of international law shall be valid as a binding constituent part of the law of Korea. The status of aliens shall be guaranteed within the scope of international law and international treaties.

CHAPTER II

RIGHTS AND DUTIES OF CITIZENS

Art. 8. All citizens shall be equal before the law. No discrimination, in any field of political, economic and social life, derived from sex, religion, or social position, shall exist. Privileged status shall not be recognized, nor shall ever be established in the future. The bestowment of badges, medals and other decorations shall confer on their bearer only personal honours and no privileged status shall be established.

Art. 9. All citizens shall have personal freedom and no citizen shall be arrested, detained, searched, tried, punished, or subject to compulsory labour unless according to law. No citizen shall be arrested, detained or searched except by warrant of a judge. In case a person is apprehended *in flagrante delicto* or in case of danger that a person under suspicion may escape or destroy evidence, the detecting authority may ask for an *ex post facto* warrant of arrest in accordance with the provisions of law. The right to receive assistance from counsel and the right to request the court for examination of the legality of an apprehension shall be guaranteed.

Art. 10. All citizens shall be free from "limited residence", restrictions on domicile or restrictions on change of domicile, trespasses upon and the searching of private premises other than specified by law.

Art. 11. The privacy of correspondence of all citizens shall remain inviolate and shall not be interfered with except in accordance with law.

Art. 12. All citizens shall enjoy freedom of religion and conscience. No State religion shall exist. Religion shall be independent of politics.

Art. 13. Citizens shall not be subjected to any restrictions on the freedom of speech, Press, assembly and association except as specified by law.

Art. 14. All citizens shall have freedom of science and art. Rights of authors, inventors and artists shall be protected by law.

Art. 15. The right of property shall be guaranteed. Its nature and restrictions shall be defined by law. The exercise of property rights shall conform to the public welfare. Expropriation, use or restriction of private property for public purposes shall be accompanied by due compensation in accordance with the provisions of law.

Art. 16. All citizens shall be entitled to equal opportunity for education. At least elementary education shall be compulsory and free of charge. The educational system shall be determined by law and all educational institutions shall be placed under the supervision of the State.

Art. 17. All citizens shall have the right and duty to work. The standards of the conditions of labour shall be determined by law. Special protection shall be extended to the labour of women and children.

Art. 18. Freedom of association, collective bargaining and collective action of labourers shall be guaranteed within the limits of the law. Workers employed in profit-making private enterprises shall be entitled to share in the profits of such enterprises in accordance with the provisions of law.

Art. 19. Citizens who are incapable of making a living because of old age, infirmity or incapacity to work shall be entitled to protection by the State in accordance with the provisions of law.

Art. 20. Marriages shall be based on the equality of men and women. The purity of marriage and the health of the family shall receive special protection of the State.

Art. 21. All citizens shall have the right to submit written petitions to each Government agency and the Government shall be obliged to examine such petitions.

Art. 22. All citizens shall have the right to be tried in accordance with the law by judges whose status has been determined by law.

Art. 23. No citizen shall be prosecuted for a criminal act unless such act constituted a crime prescribed by law at the time at which it was committed, nor shall he be placed in double jeopardy.

Art. 24. All defendants in criminal cases shall have the right to be tried in public without delay unless

there is proper reason for not doing so. When a defendant in a criminal case who has been detained is found not guilty he may, in accordance with the provisions of law, request compensation from the Government.

Art. 25. All citizens shall have the right to elect Government officials in accordance with the provisions of law.

Art. 26. All citizens shall have the right to assume public office in accordance with the provisions of law.

Art. 27. Public officials shall be the trustees of the sovereign people and shall at all times be responsible to the people. All citizens shall have the right to petition for the removal of public officials who have acted unlawfully. Citizens who have suffered damages by unlawful acts of public officials in the exercise of their official duties may request compensation from the Government or the public corporate bodies concerned, provided that the civil or criminal liability of the public officials concerned shall not be exempted thereby.

Art. 28. Liberties and rights of the people shall not be ignored for the reason that they are not enumerated in this Constitution. A law imposing restrictions upon the liberties and rights of citizens shall be enacted only where such law is deemed necessary for the maintenance of public order and welfare of the community.

Art. 29. All citizens shall have the duty to pay taxes in accordance with the provisions of law.

Art. 30. All citizens have the duty to defend the national territory in accordance with the provisions of law.

CHAPTER III
NATIONAL ASSEMBLY

Art. 32. The National Assembly shall be composed of members elected by universal, direct, equal and secret votes. The details for the election of the members of the National Assembly shall be determined by law.

CHAPTER IV
GOVERNMENT
Section I
President

Art. 64. The President shall proclaim a state of siege in accordance with the provisions of law.

CHAPTER V
COURTS

Art. 83. The trial and the announcement of judgment shall be open to the public but may be closed to the public by a decision of the court when it is considered to disturb public peace and order or to be dangerous to public morals.

CHAPTER VI
ECONOMY

Art. 84. The principle of the economic order of the Korean Republic shall be to realize social justice, to meet the basic demands of all citizens and to encourage the development of a balanced economy.

Within the limits of the foregoing paragraph the economic freedom of each individual shall be guaranteed.

Art. 85. Mines and other important mineral resources, marine resources, water power and natural powers which may be utilized economically shall be owned by the State. In order to utilize and develop such resources, licences shall, in case of public necessity, be granted for a limited period to private persons in accordance with the provisions of law and shall be cancelled in accordance with the provisions of law.

Art. 86. Farmland shall be distributed to self-tilling farmers. The method of distribution, the extent of possession, and the nature and restrictions of ownership shall be determined by law.

Art. 87. Important transportation and communication enterprises, financial and insurance institutions, electricity, irrigation, water supply, gas and any enterprises having public character, shall be managed by the Government or by juridical persons of public law. When required by public necessity such enterprises shall be licensed to private individuals in accordance with the provisions of law and licences shall be cancelled in accordance with the provisions of law.

Foreign trade shall be under the control of the Government.

Art. 88. In order to meet urgent necessities of national defence or national life, private enterprises shall be transferred to State or public ownership, or their management shall be placed under control or supervision of the State or juridical persons of public law, when it is deemed urgently necessary in accordance with provisions of law.

Art. 89. Article 15, paragraph 2, of this Constitution shall be applicable to the cancellation of a licence, the expropriation, use or restriction of property as provided in articles 85–88.

CHAPTER X
SUPPLEMENTARY RULES

Art. 101. The National Assembly which enacted the Constitution may establish a special law dealing with the punishment of malicious anti-national acts committed prior to 15 August 1945.

ORDINANCE No. 176 REGARDING CHANGES IN CRIMINAL PROCEDURES[1] of 20 March 1948

Sect. I. The purpose of this ordinance is to provide for changes in the criminal procedure so that rights of the people to freedom from unlawful arrest and detention may be more adequately secured.

Sect. II. [Interpretation of terms.]

Sect. III. No person shall suffer restraint of body except pursuant to a warrant of arrest (*koo sok yung jang*) issued by a court, stating the name of the person to be arrested and the offence with which he is charged; provided, however, that no warrant of arrest shall be required in the following cases where prompt action is necessary:

(*a*) When the suspect has no fixed residence.

(*b*) In case a suspect is apprehended *in flagrante delicto* as defined in article 130 of the Code of Criminal Procedure, whether he is on the scene of the offence or not, except that such arrest without warrant must be made within forty-eight (48) hours of the time the offence was committed.

(*c*) In the case of an accomplice who has been discovered in the course of investigation of a flagrant offence, except that such arrest without warrant must be made within forty-eight (48) hours of the time the offence was committed.

(*d*) When a convicted prisoner or a lawfully restrained person awaiting trial has escaped.

(*e*) When an offender has been discovered as a result of examination of a dead body.

(*f*) When there is reasonable fear of destruction of evidence by the suspect.

(*g*) When there is reasonable fear that the suspect will flee.

(*h*) When there is reasonable ground to believe that the suspect has committed an offence punishable by imprisonment for one year or more or by graver penalty.

Sect. IV. In addition to other powers given by law, prosecutors or police shall have the power to enter any building at any time, day or night, without a warrant where there is reasonable ground to believe that an offence punishable by imprisonment for one year or a graver penalty has been or is being or is about to be committed therein, to take all necessary measures for the effectual prevention or detection of such offence and may then and there restrain all persons suspected of being concerned in such crime, and also may seize all property which there is reasonable ground to suspect has been stolen or used in the commission of such offence.

Sect. V. No prosecutor, judicial police or other constituted authority shall make search or seizure without a search warrant (*soo sak yung jang*) issued by a court, except as provided in section IV hereof; and *provided*, further, that property owned by, held by, or in custody of, persons subject to arrest without warrant, in accordance with the provisions of section III hereof, shall be subject to search and seizure without warrant within the time allowed by section VI hereof, for obtaining a warrant of arrest. The warrant of search (*soo sak yung jang*) herein provided for shall describe the place to be searched and the thing to be seized, in accordance with the provisions of the Code of Criminal Procedure.

Sect. VI. In case a prosecutor, a judicial police or other constituted authority has restrained the body of a person without a warrant of arrest, under provisions of sections III and IV hereof, he shall obtain from a court a warrant of arrest (*koo sok yung jang*) for such person within forty-eight hours of such restraint in the city of Seoul and in a city, county or island where a court is located, or within five days in a city, county or island where a court is not located. If he fails to obtain such a warrant of arrest within the prescribed time, the person restrained shall be immediately released. In such case, articles seized without a warrant of search (*soo sak yung jang*) shall be returned to the persons from whom they were seized. No person released under provisions of this section shall be subject to restraint of body on the same facts except pursuant to a warrant issued by a court.

Sect. VII. The provisions pertaining to warrants of arrest (*koo in jang*) and warrants of detention (*kooryoo jang*) in the Code of Criminal Procedure shall apply *mutatis mutandis* to the warrant of arrest (*koo sok yung jang*) hereof, and the provisions pertaining to arrest and detention in the Code of Criminal Procedure shall apply *mutatis mutandis* to arrest under warrant of arrest hereof. The provisions pertaining to warrant of search and warrant of seizure shall apply *mutatis mutandis* to the warrant of search hereof, and the provisions pertaining to search or seizure in the Code of Criminal Procedure shall apply *mutatis mutandis* to the search or seizure under warrant of search hereof.

[1] Korean and English text through the courtesy of Mr. Sungsoo Whang, Director of the Information Bureau, Ministry of Foreign Affairs, Seoul. The ordinance, which was promulgated pending action by the Korean Interim Legislative Assembly and the enactment of legislation pursuant to criminal procedure, went into effect on 1 April 1948 (section XXV of the Ordinance).

Sect. VIII. When the body of a person has been restrained by the police, the judicial police officer shall complete his investigation and deliver the suspect to the prosecutor within ten days from the date of actual restraint or release him unless prior to the expiration of such period of ten days an order of extension has been obtained from a competent court. But if the investigation shall require more than ten days, the judicial police officer may apply to the competent court, through the prosecutor, for an extension of the period of detention, giving reasons therefor. The court, if convinced of the necessity therefor, may order an extension of not more than ten days. Not more than one extension may be granted. At the expiration of the time fixed by the court, the suspect must be delivered to the prosecutor or be released.

Sect. IX. The prosecutor shall institute public action against the suspect or release him within ten days from the date he actually restrains the suspect or receives the suspect from the police, unless within that time he shall obtain an order from a competent court for an extension. On application by the prosecutor, giving reasons therefor, the court, if convinced of the necessity, may order an extension of the detention for a period not exceeding ten days. Not more than one extension shall be granted. At the expiration of the extension the prosecutor shall institute public action against the suspect or release him.

Sect. X. An order of extension under sections VIII and IX hereof shall state the date of expiration of the extension granted and shall be effective from the time the judge signs the same.

Sect. XI. When a suspect or an accused is arrested, he shall immediately be informed of the charge against him and the particulars thereof and shall be informed that he may provide legal counsel for himself, subject to the provisions of section XIV hereof. If the arrest is made in the presence of a member of his family, or if a member of his family makes inquiry, such member of his family shall likewise be notified of the charge and the particulars thereof and of the right of the suspect or the accused to have legal counsel.

Sect. XII. When a person is under restraint of body, he may provide legal counsel for himself, or his legal representative, supervisor, lineal ascendants or descendants, spouse or family head may provide legal counsel for him independently. The designation of legal counsel shall be effective from the date of designation and shall continue to be effective through the first instance.

Sect. XIII. Upon inquiry, the legal counsel for the suspect or the accused shall be informed of the charges against the suspect or the accused and the particulars thereof. He shall have the right to present evidence on behalf of the suspect or the accused to the judicial police officer, the prosecutor or the court.

Sect. XIV. Prior to institution of public action, interviews and written communications between the suspect and his legal counsel shall be permitted; *provided*, however, that the judicial police or the prosecutor, if there should be reasonable ground to fear that interviews and communications between the suspect and his legal counsel would result in destruction or fabrication of evidence or the escape of the suspect, may prohibit such interviews or communications. If this is done, report thereof shall be made to the competent court, together with the reason therefor. Legal counsel may object to the prohibition and apply to the court for an order of rescission of the prohibition. When the court receives such application, it shall decide upon the application within a period of two days.

Sect. XV. After the case has been committed for public trial, legal counsel and the accused in detention shall not be forbidden to correspond with or see each other.

Sect. XVI. Should legal counsel not appear, or should no legal counsel have been appointed, legal counsel may be designated by the presiding judge after hearing the opinion of the public prosecutor in the following cases:

(*a*) If the accused is under 20 or is at least 70 years of age;

(*b*) If the accused is female;

(*c*) If the accused is a deaf or dumb person;

(*d*) If the accused is suspected of being a person of unsound or weak mind;

(*e*) If such a course is otherwise deemed necessary.

Sect. XVII. (*a*) When a person is restrained in his body by constituted authority or otherwise, he, his legal counsel or persons specified in section XII hereof, may apply to the competent court for inquiry into the legality of the restraint. The application shall state all the pertinent facts and shall set out the following:

(1) The grounds on which it is claimed that the restraint is illegal.

(2) Whether or not a prior application has been made for release from the same restraint.

(3) If a prior application has been made, in what court the prior application was made and the action of the court thereon.

(4) If a prior application has been made, the reasons for the new application.

(5) If known, whether or not the person named in the application is restrained pursuant to a warrant issued by a court.

(6) If the person is restrained pursuant to a warrant issued by a court, the name of the court which issued the warrant and the alleged defects in the warrant.

(*b*) The court which receives the application shall examine it at once. If the application shows on its face that the restraint is legal, the application shall be denied. If the application shows on its face that the

restraint is *prima facie* illegal, the court shall fix a day for the hearing thereof, not more than seven days from the date the application is received, and shall order the person who is restraining the person named in the application to bring such person before the court and show cause for continuance of the restraint. If before the day set for the hearing, the person who is restraining the person named in the application shall exhibit to the court a valid warrant issued by a competent court within the time-limits provided in sections VIII and IX hereof, the court may deny the application before the day set. If, after hearing the reasons for the restraint and the objections of the restrained as the court deems necessary, the court determines the restraint to be unlawful, it shall order the release of the restrained person. No person released under provisions of this section shall thereafter be restrained in his body on the same facts except pursuant to a warrant issued by a court.

Sect. XVIII. If either party to a hearing under section XVII hereof is dissatisfied with the decision of the court, he may within three days make application to the next higher court, which court shall proceed as provided in section XVII hereof; *provided*, however, that if the lower court has ordered the release of the restrained person, he shall be released immediately.

Sect. XIV. (*a*) Courts shall be liberal in releasing persons against whom warrants of arrest or detention have been executed on their giving reasonable bail, either before or after institution of public action. In fixing the amount of bail, the court shall take into consideration the circumstances of the case and shall fix an amount high enough to give the reasonable assurance that the suspect or accused will not attempt to escape.

(*b*) Persons accused of offences punishable by fine or by penal servitude or imprisonment for not more than six months, shall be released on giving reasonable bail to be fixed by the court.

(*c*) When a person has been detained for thirty days after institution of public action without trial, the court, on application by or for him, must fix reasonable bail for his release unless the prosecutor shall show to the court good reason for denying bail. When the accused has been detained without trial for sixty days after institution of public action, the court, on application by or for him, must fix reasonable bail for his release.

(*d*) The provisions of paragraph (*c*) of this section will not apply to cases where the offence charged is punishable by death or by penal servitude or imprisonment for a term of fifteen years or more.

(*e*) Except as provided in this section, the provisions of the Code of Criminal Procedure as to release on bail shall apply.

(*f*) In cases in which the accused has been declared innocent (*moo chai*), has been acquitted (*myun so*), or the prosecution has been dismissed (*kong so ee Kak*) in the lower court, and the prosecutor has appealed to a higher court, liberation on bail previously granted shall not be revoked except for causes provided in the Code of Criminal Procedure, and, if the liberation has not been previously granted, the court shall fix reasonable bail for release of the accused.

(*g*) In cases in which the accused has appealed to a higher court from a conviction by a lower court, liberation on bail or revocation of bail previously granted shall be governed by the following:

(1) If the punishment fixed by the sentence is a minor fine, fine, detention or penal servitude or imprisonment for not more than six months, liberation on bail shall not be revoked except for causes provided in the Code of Criminal Procedure, and, if liberation on bail has not been previously granted, the court shall fix reasonable bail for release of the accused.

(2) In cases where the punishment fixed by the sentence is penal servitude or imprisonment for more than six months but less than fifteen years, revocation of previous liberation on bail or approval of application for liberation on bail shall be discretionary with the court.

(3) In cases where the punishment fixed by the sentence is death, penal servitude or imprisonment for life or for fifteen years or more, liberation on bail shall be at once revoked and not thereafter allowed unless the higher court changes the sentence.

(4) If the prosecutor, suspect or accused is dissatisfied with the order of the court fixing or denying bail, he may appeal to the next higher court within three days.

Sect. XX. [Amendments of article 471 of the Code of Criminal Procedure.]

Sect. XXI. [Right and responsibility of the chief prosecutor to inspect police jails and stations through officials appointed by him and determine whether persons are illegally restrained therein.]

Sect. XXII. (*a*) Every person who shall unlawfully restrain a person's body shall be liable civilly to the person unlawfully restrained, in damages computed at one thousand won for each day of illegal restraint. Any person who does not obey an order of a court made under this Ordinance and does not comply with the provisions of sections III, V, VI, VIII, and IX hereof, shall be punished with penal servitude for not less than six months nor more than seven years.

(*b*) If any chief prosecutor of a district court, senior prosecutor of a branch court, chief of a police division, or chief of a police station fails to take appropriate action against subordinates directly under his control for violation of the provisions of this Ordinance, he shall be discharged immediately and shall not be eligible to any of the positions in the Department of Justice or in the Police Department for a period of two years thereafter.

Sect. XXIII. [Provisions regarding the period of restraint.]

Sect. XXIX. [Repeals.]

LIBERIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The Constitution of 26 July 1847, reproduced in *Yearbook on Human Rights for 1946*, page 183, did not undergo any changes during 1948. No new laws relevant to human rights were promulgated during the year.

On 11 December 1945, the Senate and the House of Representatives had approved a joint resolution to amend section 11 of article I of the Constitution, entitled "Elections and Qualification of Voters". This resolution reads as follows:

"*Sect. 1.* That section 11 of article 1 of the Constitution entitled 'Elections and Qualification of Voters', which presently reads:

" 'All elections shall be by ballot, and every male citizen of twenty-one years of age possessing real estate shall have the right of suffrage', be so amended to read:

" 'All elections shall be by ballot, and every citizen (male and female) of twenty-one years of age, possessing real estate shall have the right of suffrage'.

"*Sect. 2.* That these amendments shall be submitted to the people for adoption or non-adoption on the first Tuesday in May, A.D. 1946.

"*Sect. 3.* This Joint Resolution shall take effect immediately and be published in handbills."

This joint resolution was accordingly submitted to the people on the date stipulated, and was adopted in May 1946.[2]

[1] Information through the courtesy of Mr. George B. Stevenson, First Secretary of the Embassy of Liberia, Washington, D.C.

[2] The amendment as adopted in 1946 does not appear in the text of the Constitution as published in *Yearbook on Human Rights for 1946*. The text of section 11 of article I is therefore to be corrected accordingly.

LIECHTENSTEIN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

During the year 1948, the Constitution remained unchanged. No acts of importance referring to human rights were promulgated.

The Diet of the principality adopted, however, on 29 December 1948, an Act for the protection of the State (*Staatsschutzgesetz*) which contains provisions relevant to human rights. This Act had not yet been promulgated at the end of 1948.

[1] Information through the courtesy of Mr. Joseph Büchel, Secretary of the Government, Vaduz.

LUXEMBOURG

CONSTITUTION OF THE GRAND DUCHY OF LUXEMBOURG[1]

of 17 October 1868

as amended 15 May 1919, 28 April 1948 and 6, 15 and 21 May 1948

CHAPTER II

LUXEMBOURG NATIONALS AND THEIR RIGHTS

Art. 9. The status of Luxembourg national is acquired, retained and lost in accordance with the rules laid down by civil law.

The present Constitution and the other laws relating to political rights shall determine what are the conditions necessary for the exercise of these rights, apart from the aforesaid status.

Art. 10 (as amended 6 May 1948). Naturalization shall be granted by the legislative power.

The consequences of naturalization shall be determined by law.[2]

[*Former text:*

Art. 10. Naturalization shall be granted by the legislative power. By such naturalization an alien is placed on the same footing as a Luxembourg national as regards the exercise of political rights.

Where the father has been naturalized, such naturalization shall extend to his child under age where the latter within two years of attaining majority makes a declaration of his desire to claim this benefit.]

Art. 11 (as amended 21 May 1948). There shall be no distinction of rank in the State.

(2) Luxembourg nationals are equal before the law; they alone shall be admissible to civil or military offices, save where exceptions may be established by law for specified cases.

(3) The State shall guarantee the natural rights of the person and the family.

(4) The right to work and the exercise of this right shall be guaranteed to all citizens by law.

(5) The social security, health protection and leisure of workers shall be organized, and trade union liberties shall be guaranteed, by law.

(6) Freedom to engage in trade and industry, the liberal professions and agriculture shall be guaranteed by law, save where restrictions may be established by the legislative power.

[*Former text:*

Art. 11. There shall be no distinction of rank in the State. Luxembourg nationals are equal before the law; they alone shall be admissible to civil or military offices, save where exceptions may be established by law for specified cases.]

Art. 12. The freedom of the individual is guaranteed.

No proceedings may be instituted against any person except in the cases provided for and according to the procedure prescribed by law.

Except in cases of *flagrante delicto*, no person may be arrested save under a warrant stating the reason for arrest and issued by the court, which must be served on the person concerned at the time of arrest or not later than twenty-four hours thereafter.

Art. 13. No person may against his will be removed from the jurisdiction of the judge assigned to him by law.

Art. 14. No penalty may be introduced or applied except in pursuance of the law.

Art. 15. The sanctity of the home shall be inviolable. No search may be carried out in the home except in the cases provided for and in accordance with the procedure prescribed by law.

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[1] French text of the revised Constitution in: Grand Duché de Luxembourg, *Annuaire officiel 1949*, Luxembourg, 1949. Text and information through the courtesy of Mr. Ferdinand Wirtgen, Government Counsellor, Luxembourg. English translation from the French text by the United Nations Secretariat.

The work of the revision was completed in several stages. Of the amended articles reproduced in the present *Yearbook*, articles 10, 29 and 53 were adopted in their modified form by the Chamber of Deputies on 15 April 1948; the requirement of the second constitutional vote having been dropped by decision of the Council of State, these articles were approved by the Grand Duchess on 6 May and published in the *Mémorial du Grand Duché de Luxembourg* No. 30, of 10 May 1948. Article 52 was adopted in its modified form by the Chamber of Deputies on 27 April 1948. The requirement of the second constitutional vote having been dropped by decision of the Council of State on 11 May 1948, this article was approved by the Grand Duchess on 15 May and published in the *Mémorial* No. 32, of 19 May 1948. Articles 11, 23 and 51 were adopted in their modified form by the Chamber of Deputies on 13 May 1948; the requirement of the second constitutional vote having been dropped by decision of the Council of State on 14 May 1948, these articles were approved by the Grand Duchess on 21 May and published in the *Mémorial* No. 35, of 29 May 1948.

[2] This law is the *Loi sur l'indigénat luxembourgeois* of 9 March 1940.

Art. 16. No person may be deprived of his property, except for reasons of public utility, in the cases and in the manner prescribed by law and in consideration for just and prior compensation.

Art. 17. The penalty of confiscation of property shall not be established.

Art. 18. The death penalty for political offences, civil death and branding are abolished.

Art. 19. The freedom of religion and public worship, and the right of every man to express his religious opinions are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

Art. 20. No person may in any way be forced to observe the acts or ceremonies of a religion or its days of rest.

Art. 21. Civil marriage must always precede the religious ceremony.

Art. 22. The intervention of the State in the appointment and induction of heads of religion, the method of appointment and dismissal of other ministers of religion, the freedom for such persons to correspond with their superiors and to publish their documents, and the relations between Church and State, shall be regulated by agreements which shall be submitted to the Chamber of Deputies in respect of those provisions which require its intervention.

Art. 23 (as amended 21 May 1948). The State shall ensure that every Luxembourg national receives elementary education, which shall be compulsory and free of charge. Medical and social assistance shall be regulated by law.

The State shall establish institutions for intermediate instruction and courses for higher education as may be necessary. It shall also establish free professional courses.

The law shall prescribe the manner in which the cost of public instruction shall be met, and the conditions for the supervision of education by the Government and the communes; it shall provide rules respecting all other matters relating to education and shall establish funds for gifted persons.

Every Luxembourg national is free to study in the Grand Duchy or abroad, and to attend any university which he may choose, subject to the provisions of the law relating to the conditions for admission to employment or to the exercise of certain professions.

[*Former text:*

Art. 23. The State shall ensure that every Luxembourg national receives elementary education.

It shall establish institutions for intermediate instruction and courses for higher education as may be necessary.

The law shall prescribe the manner in which the cost of public instruction shall be met, and the conditions for the supervision of education by the Government and the communes; it shall lay down laws respecting all other matters relating to education.

Every Luxembourg national is free to study in the Grand Duchy or abroad and to attend any university which he may choose, subject to the provisions of the law relating to the conditions for admission to employment or to the exercise of certain professions.]

Art. 24. Freedom of speech on all subjects and the freedom of the Press are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

A censorship shall never be established.

No security shall be exacted from authors, publishers or printers.

The stamp duty on Luxembourg newspapers and periodicals is abolished.

The publisher, printer or distributing agent shall not be prosecuted if the author is known, is a Luxembourg national and is domiciled in the Grand Duchy.

Art. 25. Luxembourg nationals have the right to assemble peaceably and without previous authorization, provided that they comply with the laws regulating the exercise of this right.

This provision shall not apply to political, religious or other meetings in the open air, which shall continue to be subject in every respect to the police laws and regulations.

Art. 26. Luxembourg nationals have the right of association. This right shall not be made subject to any preliminary permit.

The founding of any religious corporation must be authorized by a law.

Art. 27. Everyone has the right to address to the public authorities petitions signed by one or more persons.

Legally constituted authorities alone have the right to address petitions under a collective name.

Art. 28. The privacy of correspondence shall be inviolable.

The law shall determine who are the officers responsible for the privacy of letters entrusted to the mails. A law shall regulate the guarantee of the privacy of telegrams.

Art. 29 (as amended 6 May 1948). The use of languages in administrative and judicial matters shall be regulated by law.[1]

[*Former text:*

Art. 29. The use of the German and French languages shall be optional. Their use may not be restricted.]

Art. 30. No prior authorization is required for instituting proceedings against public officials for acts committed in their administration, subject to the provisions relating to the members of the Government.

[1] Until the end of 1948, no new law had been promulgated regulating the use of languages in administrative and judicial matters.

Art. 31. Public officials, irrespective of their rank, with the exception of the members of the Government, shall not be deprived of their posts, honours, and pensions otherwise than in the manner prescribed by law.

CHAPTER IV

THE CHAMBER OF DEPUTIES

Art. 51 (as amended 21 May 1948). The Grand Duchy of Luxembourg is a parliamentary democracy.

The organization of the Chamber shall be regulated by law . . . .

Election shall be direct.

Deputies shall be elected on the basis of simple universal suffrage and balloting by list, in accordance with the rules of proportional representation, in conformity with the principle of the smallest electoral quota and in accordance with rules to be determined by law . . . .

Electors may be called upon to express their wishes by means of a referendum in cases and circumstances to be determined by law.

[*Former text:*

Art. 51. The organization and the mode of election of the Chamber shall be determined by law. . . .

Election shall be direct.

Art. 52. Deputies shall be elected on the basis of simple universal suffrage and balloting by list, in accordance with the rules of proportional representation, in conformity with the principle of the smallest electoral quota and in accordance with rules to be determined by law. . . .

Electors may be called upon to express their wishes by means of a referendum in cases and circumstances to be determined by law.]

Art. 52 (as amended 15 May 1948). Electors must:

1. Be Luxembourg nationals;
2. Enjoy civil and political rights;
3. Have completed their 21st year;
4. Be domiciled in the Grand Duchy.

To these four conditions shall be added such other conditions as the law may determine. No property qualification may be imposed.

In order to qualify for election, a person must have completed his 25th year and fulfil the other three conditions enumerated above.

No other qualification for election shall be required.

[*Former text:*

Art. 52. (as amended 15 May 1919) . . . Electors must:

1. Be Luxembourg nationals;
2. Enjoy civil and political rights;
3. Have completed their 21st year;
4. Be domiciled in the Grand Duchy.

To these four conditions shall be added such other conditions as the law may determine. No property qualification may be imposed.

In order to qualify for election, a person must have completed his 25th year and fulfil the other three conditions enumerated above.

No other qualification for election shall be required. . . .]

Art. 53 (as amended 6 May 1948). The following persons may neither vote nor qualify for election:

1. Persons sentenced to criminal penalties;

2. Persons sentenced to imprisonment for theft, fraud or breach of trust;

3. Persons in a state of declared insolvency, bankrupts, persons under judicial disability and persons for whom a board of guardianship has been appointed.

The right to vote may, however, be restored as an act of grace to persons sentenced to imprisonment for theft, fraud or breach of trust.

[*Former text:*

Art. 53. The following persons may neither vote nor qualify for election:

1. Persons sentenced to penalties *in personam* involving loss of civil rights;
2. Persons sentenced for theft, fraud or breach of trust;
3. Persons in receipt of assistance from a public charity;
4. Persons in a state of declared insolvency, bankrupts, persons under judicial disabilities and persons for whom a board of guardianship has been appointed.]

CHAPTER VI

JUSTICE

Art. 86. No court of law or legal jurisdiction may be established except in virtue of a law. No special commissions or tribunals may be established under any denomination.

Art. 88. Proceedings in court shall be public unless such publicity endangers public order or morals, in which case the court shall issue a judgment to this effect.

Art. 89. All judgments shall be accompanied by a statement of reasons and shall be pronounced in public.

CHAPTER X

GENERAL PROVISIONS

Art. 111. All foreigners in the territory of the Grand Duchy shall enjoy the protection afforded to persons and property, save where exceptions are established by law.

Art. 113. No provisions of the Constitution may be suspended.

UNITED STATES OF MEXICO

NOTE ON THE CONSTITUTIONAL SITUATION[1]

The text of the Constitution of the United States of Mexico as published in earlier *Yearbooks*[1] underwent a change in 1948. Section I of article 20 of the Constitution, which deals with guarantees of accused persons in criminal cases, was modified. The amendment was published in *Diario Oficial* of 2 December 1948. The modified text of the entire article 20 is printed below.

[1] See *Yearbook on Human Rights for 1946*, pp. 189–203; articles 51, 54 and 115 (the latter as amended on 12 February 1947) in *Yearbook on Human Rights for 1947*, p. 183.

POLITICAL CONSTITUTION OF THE UNITED STATES OF MEXICO[1]

of 5 February 1917

as amended up to and including 2 December 1948

Art. 20 (as amended on 2 December 1948). The accused shall have the following guarantees in any criminal suit:

I. Immediately upon his application the accused shall be released on bail, the amount of which shall be fixed by the judge taking into account the personal circumstances of the accused and the gravity of the offence with which he is charged, provided that the arithmetical average of the penalty with which the offence is punishable does not exceed five years' imprisonment, and subject only to his placing the sum of money fixed at the disposal of the authorities or furnishing a personal surety or mortgage bond sufficient to cover it; the judge shall be responsible for the acceptance of such surety or bond.

The surety or bond shall not in any case exceed 250,000 pesos save when the offence represents a financial gain for the offender or causes damage to the patrimonial estate of the victim; in such cases the surety or bond shall be at least three times as great as the gain obtained or the damage caused.

[*Former text:*

I. Immediately upon his application the accused shall be released on bail up to 10,000 pesos taking into account the personal circumstances of the accused and the gravity of the offence with which he is charged, provided that the arithmetical average of the penalty with which the offence is punishable does not exceed five years' imprisonment, and subject only to his placing the sum of money fixed at the disposal of the authorities or furnishing a personal surety or mortgage bond sufficient to cover it.]

II. He may not be compelled to testify against himself; accordingly, it is unlawful to hold him *incommunicado* or to subject him to any other treatment designed to make him testify against himself;

III. He shall, at a public hearing held within 48 hours after his being handed over to the judicial authorities, be informed of the name of his accuser and the nature and cause of the charge, so as to acquaint him of the punishable act imputed to him and to enable him to reply to the charge in a preliminary statement;

IV. He shall be confronted with the witnesses for the prosecution, who shall, if available at the place of trial, testify in his presence so that he may ask them any questions helpful to his defence;

V. The witnesses and other evidence offered by him shall be admitted, and he shall be granted the time considered necessary by law to produce them and shall be assisted in securing the appearance of any witnesses requested by him, if they are available at the place of trial;

VI. He shall be tried at a public hearing before a jury of citizens able to read and write and who are residents of the place and district in which the offence has been committed, provided that the offence for which he is being prosecuted is punishable by a penalty exceeding one year's imprisonment. In all cases involving offences against public order, or the internal or external security of the nation, committed through the medium of the Press, there shall be trial by jury.

VII. He shall at all times be provided with any particulars requested for his defence which are in the possession of the court;

[1] Spanish text of article 20 was received through the courtesy of Dr. A. de Rosenzweig-Diaz Azmitia, New York. English translation from the Spanish text by the United Nations Secretariat.

VIII. He shall be tried within four months, in cases where the offence charged is punishable by a term of imprisonment not exceeding two years, and within one year, if the maximum penalty exceeds that term.

IX. He may conduct his defence in person, or through others whom he trusts, or by both methods, as he may elect. If he has no legal representative, a list of counsel prepared to act shall be submitted to him from which he may choose one or more according to his preference. Should the accused not wish to comply with the request to appoint counsel, then, at the time of the preliminary statement, the court shall appoint one from the list. The accused may name his counsel as soon as he is arrested, and shall be entitled to insist on their presence at any stage of the proceedings; he shall, however, be bound to cause them to enter an appearance whenever necessary;

X. In no case may imprisonment or detention be prolonged for failure to pay counsel's fees or any other money charges, or for civil liability or for any similar reason.

Similarly, remand in custody may not be extended beyond the maximum term fixed by law for the offence concerned.

The period spent in custody shall count towards the term of imprisonment (if any) imposed by sentence of the court.

MONACO

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The constitutional and legislative provisions relating to human rights did not undergo any change during 1948.

[1] Information through the courtesy of Mr. Louis Aureglia, LL.D., National Councillor, Monte Carlo.

NETHERLANDS

CONSTITUTION OF THE KINGDOM OF THE NETHERLANDS OF 24 AUGUST 1815[1]
with amendments and additions up to and including 3 September 1948

Introductory Note.[2] The Netherlands Constitution was supplemented in 1948 by a Chapter XIV, containing special provisions which were intended to provide for the solution of the problem of Indonesia, Surinam and the Netherlands West Indies. This chapter, which contains provisions on human rights, is reproduced here, as well as all other articles of the Constitution relating to human rights.

Another amendment of 1948 provides for giving extraordinary powers to civil authorities in the case of an emergency, war, or grave internal disturbances. Since 1887, article 195 of the Constitution has created the basis for emergency powers. However, there was a controversy whether an Act of Parliament could give extraordinary powers to other than military authorities on the basis of this provision. The new amendment now lays down beyond any doubt that the emergency powers may be attributed also to civil authorities.

CHAPTER I

THE REALM AND ITS INHABITANTS

Art. 1 (as amended 3 September 1948). The Kingdom of the Netherlands comprises the territories of the Netherlands, Indonesia, Surinam and the Netherlands West Indies.

[*Former text:*

Art. 1 The Kingdom of the Netherlands comprises the territories of the Netherlands, Netherlands Indies, Surinam and Curaçao.]

Art. 2. The Constitution is binding only for the Kingdom in Europe, except where it expresses the contrary.

Wherever the Kingdom is mentioned in the following articles, the Kingdom in Europe alone is referred to.

Art. 4. All persons within the territory of the Kingdom shall have an equal right to protection of person and property.

The law shall regulate the admission and expulsion of foreigners and the general conditions under which treaties may be concluded with foreign powers regarding their extradition.

Art. 5. Every citizen of the Netherlands shall be admissible to any public employment.

No foreigner shall be admissible to such employment except in accordance with the provisions of the law.

Art. 6. The law shall determine who are citizens and who are residents. A foreigner shall not be naturalized except by virtue of a law.

The law shall regulate the consequences of naturalization with regard to the wife and minor children of the person naturalized.

Art. 7. No previous authorization shall be required in order that one may publish his thoughts or opinions through the Press, except that every person shall be responsible according to law.

Art. 8. Every person shall have the right to present petitions, in writing, to the authorities.

Every petition must be signed by the petitioner. Signing in the name of others can be done only by virtue of a written power of attorney to accompany the petition.

Legally organized bodies may petition the authorities, but only upon matters pertaining to their particular sphere of activity.

Art. 9. The inhabitants have the rights of assembly and of association. The law regulates and restricts the exercise of these rights in the interests of public order.

CHAPTER III

THE STATES-GENERAL

Section 1

THE COMPOSITION OF THE STATES-GENERAL

Art. 81. The States-General represents all the people of the Netherlands.

[1] English translation of articles 196 and 208–211 by the United Nations Secretariat. Text of the other articles based on Walter Fairleigh Dodd, *Modern Constitutions*, Chicago 1900, Vol. II, pp. 80–119.

[2] The information on which this note is based was received through the courtesy of Dr. G. van den Bergh, Professor at the Municipal University of Amsterdam.

Art. 82. The States-General shall be divided into an Upper and a Lower House.

Art. 83. The members of the Lower House shall be elected directly by the inhabitants who are Netherlands citizens or recognized by law as Netherlands subjects and have attained the age prescribed by law, which shall not be less than twenty-three years. Each elector has one vote only.

The law shall determine to what extent the exercise of the right to vote is to be suspended in the case of private soldiers in the Army or Navy, during the time they are under arms.

From the exercise of the right to vote are excluded those who have been deprived of this right by irrevocable sentence of a court; those who are in prison or custody; those who have lost the control or management of their property by sentence of a court because of insanity or feeble-mindedness; and those who have been deprived of parental authority or guardianship of one or more children.

The law shall attach temporary or permanent loss of the right to vote to irrevocable sentence to imprisonment for more than one year for beggary and vagrancy or to more than two irrevocable sentences for public drunkenness falling within a period which shall be prescribed by law.

Art. 84. The Lower House shall be composed of one hundred members, chosen on the basis of proportional representation within limits to be determined by law.

Everything pertaining to the right to vote and the manner of voting shall be regulated by law.

Art. 85. The Upper House shall be composed of fifty members.

They shall be elected by the Provincial Estates on the basis of proportional representation within the limits to be determined by law.

Art. 86. When the States-General is convened in double number, there shall be added to the regular members of each house an equal number of extraordinary members, to be elected in the same manner as the regular members.

The decree of convocation shall also fix the day for the election.

Section 2

THE SECOND CHAMBER OF THE STATES-GENERAL

Art. 87. To be eligible as a member of the Lower House a person is required to be a citizen of the Netherlands or recognized by law as a Netherlands subject, to have completed the age of thirty years, not to be deprived of eligibility or excluded from the exercise of the right to vote by virtue of the regulation made on the subject pursuant to article 83, third clause, with the exception of judicial deprivation of freedom and sentence to imprisonment for other offences than beggary or vagrancy or notorious public drunkenness.

Section 3

THE FIRST CHAMBER OF THE STATES-GENERAL

Art. 93. In order to be eligible for membership in the Upper House, the requirements for membership in the Lower House must be fulfilled.

Art. 94. The members of the Upper House are elected for six years . . .

CHAPTER IV

PROVINCIAL ESTATES AND MUNICIPAL ADMINISTRATIONS

Section 1

THE COMPOSITION OF THE PROVINCIAL ESTATES

Art. 130. The members of the Provincial Estates shall be chosen directly for four years by the inhabitants of the province who are Netherlands citizens or recognized by law as Netherlands subjects, who have reached the age prescribed by law, which shall not be under twenty-three years. The election shall take place on the basis of the principle of proportional representation within the limits prescribed by law.

Section 3

THE MUNICIPAL ADMINISTRATION

Art. 145. At the head of the commune shall be a council the members of which shall be elected for a certain number of years by the inhabitants of the commune who are Netherlands citizens or recognized by law as Netherlands subjects, who have reached the age prescribed by law, which shall not be under twenty-three years. The election shall take place on the basis of the principle of proportional representation within the limits prescribed by law.

CHAPTER VII

JUSTICE

Section 1

GENERAL PROVISIONS

Art. 158. No one shall be deprived of his property without a previous declaration by law that the public interest requires that it be taken, and without receiving a compensation previously paid or determined, both in accordance with the provisions of a general law.

This general law shall also determine the cases in which the previous declaration by law is not required.

The requirement that the compensation be paid or determined in advance shall not apply when war, danger of war, revolt, fire, or inundation renders necessary the immediate taking of possession.

Art. 159. When the public interest requires that property be destroyed by the public authorities or rendered temporarily or permanently useless, this

shall be done upon payment of a compensation, unless the law otherwise provides.

The use of property for the preparation and execution of military inundations, when rendered necessary by war or by danger of war, shall be regulated by law.

Art. 160. All controversies regarding property or the rights arising therefrom, regarding debts, and regarding other civil rights shall belong exclusively to the jurisdiction of the courts.

Art. 161. The law may entrust either to the regular courts or to a body invested with administrative jurisdiction the settlement of controversies not included among those mentioned in article 160; the law shall regulate the procedure and the effects of the decision.

Art. 162. The judicial power shall be exercised only by the courts established by law.

The law may provide that persons who are not members of the judicial order may participate in decisions upon cases specified in the law as provided in article 160.

Art. 163. No one shall be removed against his will from the jurisdiction of the judge before whom he is entitled to be tried by law.

The law shall determine the manner of deciding conflicts of competence which may arise between the administrative and the judicial authorities.

Art. 164. Except in the cases provided by law, no one shall be taken into custody except upon a warrant from a judge, stating the reasons for the arrest. This warrant must be shown to the person against whom it is issued, either at the time of or as soon as possible after the arrest.

The law shall prescribe the form of this warrant and the period within which the persons arrested must be given a hearing.

Art. 165. The entrance of a dwelling against the will of the occupant shall be allowed only in the cases determined by law and by virtue of a special or general warrant from an authority designated by law.

The law shall prescribe the formalities to be complied with in exercising this authority.

Art. 166. The secrecy of letters entrusted to the mail or to other public carriers is inviolable, except by order of a judge in the cases prescribed by law.

Art. 167. General confiscation of the property of the guilty person shall not be imposed as a penalty for any offence.

Art. 168. All judgments shall indicate the reasons upon which they are based, and, in criminal cases, the provisions of law upon which the sentence is based.

Judgments shall be pronounced in public session.

Saving the exceptions provided by law, the sessions of courts shall be public.

A judge may depart from this rule in the interests of public order and morals.

For punishable acts, to be specified by law, the requirements stipulated in the first and second clauses may be departed from.

CHAPTER VIII
RELIGION

Art. 174. Every person shall be absolutely free to profess his religious opinions, except that society and its members shall be protected against violations of the criminal law.

Art. 175. Equal protection shall be granted to all religious denominations in the Kingdom.

Art. 176. The adherents of the various religious denominations shall all enjoy the same civil and political rights and shall have an equal right to hold dignities, offices, and employments.

Art. 177. All public religious worship in buildings and enclosures shall be permitted, with the proviso that the necessary measures may be taken to preserve the public peace and order.

Subject to the same reservation, public religious worship shall be allowed outside of buildings and enclosures, wherever it is now permitted according to the laws and regulations.

Art. 179. The King shall see that all religious denominations remain obedient to the laws of the State.

Art. 180. The Government shall not interfere in the correspondence with heads of the various churches, nor in the promulgation of ecclesiastical regulations, saving the responsibility in accordance with law.

CHAPTER IX
FINANCES

Art. 181. No taxes shall be levied for the benefit of the national treasury except by virtue of law.

This provision is also applicable to taxes levied for the benefit of national works and institutions, in so far as the right to regulate these taxes is not reserved to the King.

CHAPTER X
DEFENCE

Art. 187. All citizens of the Netherlands who are able to do so are obliged to assist in maintaining the independence of the Kingdom and in defending its territory.

This obligation may also be imposed upon residents who are not citizens.

Art. 188. For the protection of the interests of the State there shall be an Army and a Navy composed of volunteers and of those who are required to perform military service.

Compulsory military service shall be regulated by law. The obligations which may be imposed, with regard to national defence, upon those who do not belong to the Army or Navy, shall also be regulated by law.

Art. 189. The conditions upon which freedom from war service may be extended, for reasons of serious conscientious objections, shall be regulated by law.

Art. 194. All the expenses of the armies of the Kingdom shall be borne by the national treasury.

The quartering and maintenance of the troops and the transportation and furnishing of supplies of every kind required for the armies or for the defensive works of the Kingdom may be imposed upon one or more inhabitants or communes only in accordance with general rules established by law and upon payment of compensation.

The exceptions from these general rules in case of war, danger of war, or other extraordinary circumstances shall be determined by law.

The King shall decide whether "danger of war" exists in the sense in which that phrase is used in the laws of the Kingdom.

Art. 195. For the maintenance of external or internal security any part of the territory of the Kingdom may be declared by or on behalf of the King to be in a state of war or of siege. The law shall determine the manner and the cases in which this may be done and shall regulate the effects of such a declaration.

In these regulations it may be provided that the constitutional powers of the civil officers to maintain public order and to enforce police regulations shall be wholly or partly transferred to the military authorities, and that the civil officers shall be subordinate to the military authorities.

In this case articles 7, 9, 165 and 166 of the Constitution may, in addition, be disregarded.

In case of war, paragraph 1 of article 156 may also be disregarded.

Art. 196 (as added 3 September 1948). For the maintenance of external or internal security in extraordinary circumstances, the Crown or its representatives may order in respect of any part of the national territory that the constitutional powers of civil authorities with regard to public order and police be transferred wholly or partially to other civil authorities. The manner and cases in which this may take place and its consequences shall be specified by law.

The provisions of the third paragraph of article 195 shall apply.

CHAPTER XII

EDUCATION AND RELIEF ADMINISTRATION

Art. 201. Education shall be an object of constant care on the part of the Government.

The right to teach is free, subject to supervision by the authorities, and, in addition, as regards general education, whether primary or intermediate, to examination of the qualifications and moral character of the teaching staff; all these matters shall be regulated by law.

Public education shall be governed by law, provided that the religious beliefs of all shall be respected.

In every commune, public elementary education comprising adequate general instruction shall be provided by the authorities in a sufficient number of schools. Exceptions to this provision may be granted, provided that the law shall ensure that parents who wish to send their children to public schools shall be enabled to do so.

The standards of educational establishments, all or part of whose costs are defrayed by the public treasury, shall be prescribed by law, with due regard, in the case of private education, to freedom of direction.

In the case of general instruction, the standards shall be such that the standards of private education, all or part of whose cost is defrayed by the public treasury, and the standards of public education, are equally guaranteed. The regulations shall in particular respect, in the case of private education, the right to select the means of instruction and to appoint teachers freely.

The cost of private institutions for general primary education which satisfy the statutory conditions shall be defrayed by the public treasury to the same extent as in the case of public education. The law shall lay down the conditions for the making of grants from the public treasury to private institutions for general intermediate education and to institutions for preparatory higher education.

The Crown shall cause a report on the state of education to be submitted to the States-General every year.

Art. 202. The relief of the poor shall be an object of constant care on the part of the Government, and shall be regulated by law.

The King shall cause a detailed report to be made annually to the States-General concerning the measures taken in this matter.

CHAPTER XIV

(as added 3 September 1948)

SPECIAL PROVISIONS FOR THE INSTITUTION OF A NEW LEGAL STATUS IN THE TERRITORIES MENTIONED IN ARTICLE 1

Art. 208. In accordance with decisions resulting from past or future joint deliberations with and among representatives of the peoples, there shall be estab-

lished in the territories mentioned in article 1 a new legal status whereby these territories shall have independent charge of their own interests and be united as equal partners for the maintenance of their common interests and for mutual defence; and the rule of law, fundamental human rights and freedoms, and sound government shall in all cases be guaranteed.

Art. 209. 1. In the preparation and establishment of a new legal status, consideration shall be given to the decisions resulting from previous joint deliberations as set forth in the following paragraphs of this article.

2. A Union shall be formed wherein the Kingdom referred to in the fifth paragraph and the United States of Indonesia shall participate as equal States. The words *This Kingdom* shall be replaced by the words *The Netherlands* if further joint deliberations result in a decision to this effect.

3. The Crown of the Union shall be worn by Her Majesty Queen Wilhelmina, Princess of Orange-Nassau, and in succession by her rightful successors to the Crown of the Netherlands.

4. Without prejudice to any other matter which may come within the scope of its purposes, the Union shall through its own organs ensure the co-operation of the participating States in foreign affairs, defence, and, where necessary, finance, and in economic and cultural matters, and shall guarantee the rule of law, fundamental human rights and freedoms, and sound government. The Union shall participate in international legal relations in its own name.

5. The Netherlands, Surinam, and the Netherlands West Indies comprise a Kingdom, the crown of which is worn by Her Majesty Queen Wilhelmina, Princess of Orange-Nassau, and in succession by her rightful successors to the Crown of the Netherlands. Within the Union the Netherlands may maintain direct relations with the United States of Indonesia.

6. The United States of Indonesia shall have a federative structure and shall consist of individual States of equal status.

7. If any section of Indonesia does not become part of the United States of Indonesia, separate rules in accordance as far as possible with the principles of this chapter shall govern the relations of such section with these States and with the Kingdom referred to in the fifth paragraph of this article.

Art. 210. Any measures called for by the introduction of the new legal status shall if they contravene the provisions of the preceding chapters require to be authorized by law. No such bill can be passed by the chambers of the States-General unless approved by at least two-thirds of the votes cast, and such law must conform to the provisions of the first to the fifth part inclusive of the second chapter, and to the provisions of the thirteenth chapter.[1]

Art. 211. 1. Subject to the provisions of the second paragraph, the new legal status shall come into effect after voluntary acceptance through democratic process by each of the territories referred to in article 1; and in addition hereto article 209 shall apply to the Netherlands.

2. This status shall require the assent of Her Majesty Queen Wilhelmina, Princess of Orange-Nassau, or of her rightful successor to the Crown of the Netherlands, and shall be solemnly proclaimed.

[1]Chapter II deals with the King and chapter XIII with modifications of the Constitution.

SURVEY OF THE LEGISLATION RELATING TO CHILDREN[1]

Several important changes have been introduced, especially into the law relating to children, by the Act of 10 July 1947 (*Staatsblad* No. H 232) "amending the provisions of the law relating to children as contained in the First Book of the Civil Code, and, in connexion therewith, amending and supplementing the other books of the said Code, as well as the Code of Civil Procedure and other laws". This Act came into force on 1 September 1948.

Ordinarily one speaks of the "new law relating to children", but it should be remembered that only certain parts of the civil law regarding children were affected by this revision and that at the same time a number of other subjects closely connected with it were treated.

[1]Survey prepared by Dr. A. A. van Rhijn, Secretary-General of the Ministry of Social Affairs, The Hague. English translation from the Dutch text by the United Nations Secretariat.

1. *Parenthood: Recognition of Illegitimate Children*

Adoption has not yet been accepted in Netherlands law. In the process leading to the enactment of the new law, the question whether adoption should be introduced was answered in the negative. Its inherent irrevocability appeared to involve too many difficulties. Besides, there are effective means apart from adoption of protecting foster-parents and children against the natural parents. Moreover, change of name is possible under Netherlands law, so that a foster-child may acquire the family name of his foster-father or foster-mother.

Descent has therefore remained the basis of parenthood.

Netherlands law recognizes, in addition to legitimate children, "natural" children—*i.e.* children born out of wedlock. The new law has, however, limited the term "natural children" and has excluded from it children conceived in incest or adultery, who hitherto

came within it. The number of children legally regarded as having been conceived in incest or adultery is in practice not large, because the new article 381 of the Civil Code provides:

> "Unless a child has been declared by a final judgment to have been born of adultery or incest, the mother . . . . shall exercise guardianship over him as though he were a natural child."

Where adultery has been committed by a married woman, or where a woman marries before the birth of her child conceived in adultery, the legitimacy of the child may usually not be contested.

This amendment is more than a purely drafting change: the legislature desired by this means to uphold monogamous marriage. Indeed, children of adulterous and incestuous unions could not be recognized even under the old law. "Recognition" is legal procedure with definite forms, by which a man or a woman recognizes a minor as having been procreated by him or her. It establishes a "civil relationship" between the father or mother recognizing and the child, who thus acquires the "status of a recognized child". This status, it is true, does not confer all the rights of a legitimate child; but a child recognized to be a natural child may, for example, inherit along with legitimate children, though he takes a smaller portion.

The new Act has departed from the system, in force in the Netherlands since the time of Napoleon, by which the mother also was obliged to recognize her natural child if a legal relationship were to be set up. This rule was usually disregarded as a consequence of ignorance, which, however, did not lead to abuse although it sometimes gave rise to undesirable legal consequences.

The new Act has repealed that provision, which notably ran counter to popular feeling in the Netherlands. Article 336 of the Civil Code now says:

> "Birth sets up a legal relationship between a natural child and his mother.
>
> "A legal relationship between a natural child and his father is set up only by recognition."

2. *Parental Power*

The new Act has limited the authority of the husband in marriage with regard to "parental power",

The legislature, indeed, did not consider it desirable to place the mother in exactly the same position as the father, feeling it necessary that one person should be in authority. The supremacy of the father is therefore retained in the new Act, albeit in an attenuated form.

Under the old article 355 of the Civil Code only the father exercised parental power. Since the emancipation of women this supremacy has in fact largely dwindled, and the new Act really states the position as it is. Article 356, paragraphs 1 and 2, says:

> "During their marriage the parents possess parental power over their children under age.
>
> "They exercise this power jointly. In case of disagreement the decision of the father shall prevail."

The third paragraph of this article introduces a new element. It reads as follows:

> "If a decision of the father is obviously in conflict with, or seriously endangers, the child's moral and mental welfare or health, the juvenile-court judge may, on the application of the mother, set aside such decision."

In 1901, in the course of a previous revision of the law relating to children, another and a much more drastic intervention of the authorities in the parental power was made possible—its removal. This could take one of two forms: disqualification or discharge.

A judge may disqualify a parent from parental power over one or more children on a number of broadly drafted grounds, which include abuse of the power, gross neglect in maintenance or education, and misconduct.

If a parent is unfit or unable to fulfil his duty of care and maintenance, he may be discharged from parental power by the judge. Such discharge has much the same consequences as disqualification. The difference between the two measures, apart from the grounds for them, hitherto was that the parent cannot be discharged if he objects, though this rule is subject to exceptions in certain precisely defined contingencies. New article 374b provides: "Discharge may not be ordered if the parent objects thereto."

The exceptions to the rule are:

(*a*) Insanity of the parent;

(*b*) Where after a period of probation[1] lasting not less than six months it appears that this measure, by reason of the unfitness or inability of a parent to fulfil his duty of care and maintenance, is not sufficient to protect the child from moral or physical ruin;

(*c*) Where discharge of one parent is the only means whereby the children can be removed from the influence of the other parent who has been disqualified.

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[1] Probation was introduced in 1921. It was thought very important to be able to intervene earlier than is possible by discharge or disqualification, and so to avoid breaking the family and in fact to strengthen it. "If a child grows up in such a way that he is threatened with moral or physical ruin, the juvenile-court judge may place him on probation" (article 365, Civil Code). The juvenile-court judge appoints a family guardian to supervise the child under the direction of the court. Article 370 of the Civil Code provides: "The family guardian shall endeavour to maintain the fullest possible personal contact with the child and with the family to which he belongs. He shall further the mental, physical and future material welfare of the child. He shall advise the parents concerning their care and education and shall attempt to persuade them to do what is necessary for this purpose." By article 371 parents are required to comply with the family guardian's advice, but if they disagree with him they may apply to the juvenile-court judge for a ruling.

3. *Supervision over the Administration of a Minor's Property*

The property of a minor is administered by one of his parents.[1] If the minor is under guardianship, power of administration is vested in the guardian.

The new Act has added to the number of contingencies in which a parent must obtain the consent of the judge before doing any act affecting the property. Several improvements have been made also in the rules governing administration by a guardian.

4. *Duty of Maintenance as between Relatives by Blood and Marriage in the Direct Line*

Under article 463 of the Civil Code every person is required to maintain his indigent blood relatives in the direct line.

Article 464 (1) of the Civil Code imposes the like reciprocal duty on sons-in-law and daughters-in-law and their parents-in-law. The old law contained some exceptions to the last-mentioned rule which had led to doubt and confusion. The new Act puts an end to this and adds another three exceptions to the existing two. Article 464, paragraph 2, provides that the duty imposed by the first paragraph shall not exist:

"(*a*) Between parents-in-law and their sons-in-law and daughters-in-law whose marriage has been dissolved without living issue;

"(*b*) In favour of a son- (or daughter-) in-law whose marriage has been dissolved by a decree of divorce against him (her);

"(*c*) In favour of a son- (or daughter-) in-law against whom a decree of judicial separation has been granted after the decree has been made final;

"(*d*) In favour of a son- (or daughter-) in-law who has been disqualified from custody of his (her) legitimate children and whose marriage has been dissolved;

"(*e*) In favour of a mother-in-law or daughter-in-law who has remarried."

The same reciprocal duty exists between "natural" recognized children and their father or mother. The new Act, however, expressly provides in article 465 that the father cannot claim maintenance if he did not recognize the child before the child reached his majority. The old law did not contain this limitation, and so the danger that recognition might be made after majority with the object of obtaining maintenance from the recognized child although the father had not taken proper care of the child during minority was not an imaginary one.

These provisions are of great significance for the public relief of the indigent. Such relief is regarded as subsidiary to the maintenance which relatives by blood and marriage are required to furnish under the rules mentioned above, so that the authorities can recover from them the cost of any relief granted.

[1]The law preserves the authority of the father in regard to this administration as well. Article 357 of the Civil Code provides: "The father, or the mother if she exercises the parental power alone, shall administer the property of a child and represent him in civil transactions."

SOCIAL ASSISTANCE

SURVEY OF LEGISLATION[1]

In 1947 a number of amendments were made in the rules for the grant of social assistance to manual and clerical workers by the authorities.

Originally—until the first world war—such relief was entirely a municipal charge. It formed a part of the public poor relief, which in the Netherlands, pursuant to the poor law, is almost wholly the responsibility of the local authorities.

The special circumstances which arose during and after the first world war compelled the national government to participate in the assistance of unemployed workers. The State declared itself ready to contribute financially to the expenditure of this relief, and uniform provisions for payment were established.

The State Unemployment Assistance Regulations, which grew out of that beginning in accordance with requirements, remained in force until the end of the second world war. In addition, there was in existence in the Netherlands a system of voluntary unemployment insurance administered by the trade unions.

In 1945, the State Unemployment Assistance Regulations were superseded by a set of provisional regulations (the "transitional regulations") to cover the period pending the introduction of compulsory retirement and unemployment insurance.

Payments under the transitional regulations were as a general rule not made dependent on a means test. Every able-bodied and genuine worker qualifies as of right for these payments in the event of unemployment for reasons beyond his control. They are based on a specified percentage of the "official" wages—for a breadwinner, 80 per cent. (Various maxima are laid down.)

In addition, workers covered by these regulations, as is the case with those who are employed, are insured under the Disability Fund decree, which guarantees them and their dependants free medical and surgical treatment, drugs and hospital care. They

[1]This survey was prepared by Dr. A. A. van Rhijn, Secretary-General of the Ministry of Social Affairs, The Hague. English translation from the Dutch text by the United Nations Secretariat.

also receive a children's allowance similar to the payments under the Children's Allowance Act for which they could have applied if they had been in paid employment.

In 1947, the payments under the transitional regulations became subject to a definite time limit (as a rule 13 weeks). Financial assistance needed after that time is payable under another set of regulations, the social assistance regulations, in the application of which the beneficiary's means are taken more into account. The social assistance regulations are based on fixed standards of payment for spouses, boarders, persons living alone, etc., and also include a family allowance. Workers covered by these regulations are also insured under the Disability Fund decree.

Both these sets of regulations are administered by the local authorities, but the costs are entirely borne by the national government.[1]

Public assistance to indigent self-employed persons was changed in several respects in 1948.

This form of social assistance, like the unemployment relief mentioned above, was originally exclusively a charge on the local authorities.

In the 'thirties, the Government added some regulations concerning the grant of assistance to certain classes of self-employed persons of small means—*e.g.*, small farmers and nursery gardeners.

This continued until 1943, when a general regulation was introduced by which assistance could be granted to self-employed persons of small means in temporary financial difficulty and charged half to the national Government and half to the local authority.

This set of regulations, the Social-economic Self-employed Persons Assistance regulations, was revised in 1948.

Self-employed persons of small means (owners of small businesses or persons pursuing an independent occupation) who owing to exceptional circumstances are temporarily unable to maintain themselves or their families by their business or occupation, but whose business or occupation may nevertheless be presumed likely to survive, may for a certain period (as a rule not exceeding six months) receive supplementary financial assistance.

If the business must be presumed not to be capable of survival, and the owner wishes to apply for public assistance, it is terminated, and the former self-employer registers as a person seeking employment at the labour exchange. He then receives financial assistance in the same way as an unemployed workman.

Finally, it should be mentioned that self-employers may obtain small business loans through the Middle-class Security Funds under the Ministry for Economic Affairs.

Special regulations apply in the Netherlands to certain classes of persons who owing to special circumstances are faced with social difficulties.

These include:

(*a*) War victims, who are entitled to periodical payments out of public funds, where necessary and justified, for their subsistence and in certain cases to other payments.

(*b*) Resistance victims, for whom a special pensions regulation (the Extraordinary Pensions Act) has been enacted.[2]

(*c*) Ex-service men, for whom by Order in Council certain benefits were made—*e.g.* subsistence allowance during unemployment for a limited time (for breadwinners, one year) after demobilization; a compensatory allowance for civilian clothing; study loans; business facilities and similar benefits.

[1] In the Netherlands a great deal is being done to employ unemployed workers who cannot for the time being be absorbed into industrial life, on special projects supervised by a State department; wages on such projects are approximately equal to those paid in similar employment in free industry.

[2] Some articles of this Act are reproduced in *Yearbook on Human Rights for 1947*, p. 256.

PROMOTION OF HOUSING AND DISTRIBUTION OF LIVING ACCOMMODATION[1]

SURVEY OF LEGISLATION

The housing shortage is one of the most acute post-war problems in the Netherlands. The Government is endeavouring to distribute scarce materials as fairly as possible among the areas that suffered from war damage and deliberate destruction by the enemy. A new Ministry of Reconstruction and Planning has been established. Maximum limits have been fixed for rents within the framework of the wage and price controls. Liberal grants have been made by the State for housing construction. In 1948 the Regulation on the Financing of Housing Construction (*Financieringsregeling Woningbouw*),[2] which concerns housing grants, was revised, and an Order respecting Subsidies for

[1] Survey prepared by Dr. A. A. van Rhijn, Secretary-General of the Ministry of Social Affairs, The Hague. English translation from the Dutch text by the United Nations Secretariat.

[2] The principal effect of this regulation is to allow the State to grant yearly subsidies, the amount of which is fixed at the interest on non-remunerative building costs. Advances may also be made; and the way has been opened for the State to guarantee mortgage loans made by municipalities for housing construction.

Construction under the Housing Act (*Bescbikking Bijdragen Woningwetbouw*)[1] came into force.

As early as 1944 the Netherlands Government, then in London, issued a Decree respecting the Requisitioning of Living Accommodation (*Vorderingsbesluit Woningruimte*), which gave mayors the power to requisition living accommodation.

THE LIVING ACCOMMODATION ACT, 1947

The Act of 4 August 1947 "to make effective an appropriate distribution of living accommodation" (Living Accommodation Act, 1947), *Staatsblad* No. 291), laid down a complete new set of rules on the subject, inasmuch as the Decree respecting the Requisitioning of Living Accommodation was seen to be incomplete and inadequate. The Act is intended as a temporary regulation.

Under article 1 of this Act, it is unlawful "to take or to give living quarters for use or joint use unless written permission for such use has been obtained from the mayor and aldermen by the person desiring to occupy the living accommodation". This clause thus enables the mayor and aldermen of a municipality to exercise great influence over the distribution of living accommodation.

In order to accomplish the desired purpose, the Act further provides more forceful means, which had previously been granted under the Act respecting the Requisitioning of Living Accommodation. Article 7 of the Act thus states that the mayor and aldermen, to the exclusion of all other authorities, shall have the power "with due regard to such instructions and guiding directives as the Minister of the Interior may consider necessary to issue in the matter and with due consideration of the legal position of the parties and of any other interests involved, for the purpose of promoting an appropriate distribution of living accommodation in the municipality,

"(*a*) To requisition:

"(1) occupied or vacant dwellings situated in the municipality, including occupied or vacant vehicles or vessels suitable for habitation, or portions thereof, for use as living accommodation, with or without such furnishings situated therein or belonging thereto as are necessary for the use of the requisitioned living accommodation and with or without such lands and tenements as appertain thereto (requisitioning of living accommodation); buildings or parts of buildings not being used as dwellings, for use as living quarters (requisitioning of buildings);

"On terms to be fixed in each case as necessary by the mayor and aldermen, joint use may be required in requisitioned premises of such kitchens, bathrooms, cellars, passages, corridors and staircases, lavatories and the like and of such gas, water, and electric installations as exist and of lands, tenements and other space through which access is gained to the requisitioned premises and of central facilities;

"(*b*) To require the billeting of persons in dwellings (requisitioning of billets)."

The provision that the requisitioning shall be "for the purpose of promoting an appropriate distribution of living accommodation in the municipality" can only be looked upon as a suggestion by the legislator to the local authority, because article 32 of the Act expressly states that the requisitioning "shall be deemed to promote an appropriate distribution of living accommodation in the municipality. No plea to the contrary is admissible in a civil court." It was intended by this provision to prevent the courts from passing judgment on questions of policy. Only questions of law should be brought before the court.

Under article 8 the mayor and aldermen may not exercise their requisitioning power until after consultation with a local advisory committee. Before this committee renders its advice, an opportunity must be given to the person to whom the requisitioning order is to be addressed "to enable him in person or through a representative orally to make known his grievances at a meeting of the committee". After the requisition has taken place, he may lodge an appeal with the *Gedeputeerde Staten* (the provincial government) unless the said committee at a meeting in which no more than one member did not participate unanimously recommended requisitioning.

The Act contains a number of other provisions on such matters as compensation, damages, arrangements applicable to requisitioned premises (such as dividing of a dwelling), and the termination of a requisition. One of these provisions enables an owner to demand before a local judge that the requisitioned living accommodation be vacated by the person or persons to whom it was assigned or by the person or persons quartered therein "if

"(1) by reason of improper use of the building or living accommodation or by reason of serious nuisance to the owner or members of his family, a continuation of the use by, or the billeting of outside persons should no longer be tolerated;

"(2) the building or living accommodation is so urgently needed by the owner for his own use that, having due regard to the reasonable economic interests and social needs of both parties, a continuation of the use by, or the billeting of outside persons should no longer be tolerated" (article 18).

In the latter case, a new fact must arise on grounds of which a release is desired.

[1] Under the long-existing Housing Act the State and municipalities may grant financial aid to approved building societies.

EDUCATION

SURVEY OF LEGISLATION OF 1948[1]

1. *Historical Observations*

Article 201 of the Constitution provides that the right to give instruction is free, subject to the necessary control by the authorities.[2]

This basic right was embodied in the Constitution in 1848. Until then, a private school—that is, a school not established and maintained by public authorities, could be founded only with the approval of the local authority.

As a result of the revision of the Constitution of 1917, a seventh paragraph was inserted in the present article 201, reading:

> "The expenditure of private institutions for general primary education which satisfy the statutory provisions shall be defrayed by the public treasury to the same extent as in the case of public education."

Secondary and preparatory higher education were not placed on the same financial basis, although it was provided that the legislature should lay down the conditions on which private schools would be given grants from public funds.

2. *Primary Education*

During 1948, the Act of 1920 regarding elementary education was amended by the Act of 25 June 1948, *Staatsblad* No. 254. The system established by the Act of 1920 (primarily to the effect that private and public education were placed on the same financial footing in implementation of the revised Constitution of 1917) was left unchanged. Also the system remained the same of dividing education expenditure so that salaries of legally required teachers are paid by the State, whilst the cost of buildings and materials are borne by the municipalities.

Various technical changes were made, the most outstanding being:

(*a*) The pupil scale, which determines the number of teachers required, is improved. In a school of 31 pupils, instead of 37 as formerly, the head teacher must have an assistant teacher.

(*b*) The possibility of providing grants to parents to meet the cost of transport to a school more than 4 km. from the pupils' home is extended to children not of compulsory school age. Before the amendment of the Act, the grant was limited to children of compulsory school age—*i.e.*, to children over the age of 7 who had not reached the school-leaving age prescribed in the law on compulsory education.

(*c*) Municipalities can now make arrangements to pay grants to teachers in respect of expenditure incurred in moving from one place of duty to another. This includes removal costs, board, etc.

(*d*) Because of the shortage of qualified teachers, especially for needlework and domestic science, unqualified teachers may also be employed to teach these subjects in school, subject to the prior approval of the Minister.

(*e*) Special arrangements are made in the law for the re-building or repair of school buildings damaged during the war or occupation; these arrangements involve various departures from the procedure in normal cases.

3. *Preparatory Higher and Secondary Education*

In 1948, two small but important changes were made in the statutory regulations relating to preparatory higher and secondary education. Detailed regulations governing public education had hitherto been laid down by law—admission standards, syllabuses, final examinations, qualifications and pay of teachers, school fees, etc. Private schools able to satisfy the statutory regulations for public education receive a grant covering approximately 80 per cent of their expenditure.

The need has been apparent, particularly since the war, for more freedom for special schools, both public and private. New educational methods found acceptance, but could not be fully applied because of the excessively strict provisions of the law. Consequently, there was no opportunity of experimenting as far as educational techniques and methods were concerned.

The Acts of 2 April 1948 amending and supplementing the Act regarding secondary education (*Staatsblad* No. I 127) and the Act regarding higher education (*Staatsblad* No. I 128) changed this unsatisfactory situation. Under the terms of these Acts individual schools can be granted the right to depart from the rigid regulations regarding curricula for a period of five or six years. It subsequently became possible for schools whose methods were based on the theories of Montessori, Dalton and others to experiment along those lines with official financial support. It is hoped that time will gradually show to what extent these experiments can be used as a basis for the amendment of the regulations governing the educational system as a whole.

The Act of 2 April 1948 mentioned above also introduced a considerable expansion in secondary education for girls who do not intend to go on to universities. The Act introduced a type of school for girls from 12 to 18 years of age who want to prepare themselves to be useful at home or in society. The education

[1] This survey was prepared by Dr. A. A. van Rhijn, Secretary-General of the Ministry of Social Affairs, The Hague.

[2] See p. 150 of this *Yearbook*.

provided in these schools therefore includes various subjects not taught in boys' schools—needlework, music, hygiene, child welfare and the like—and its methods are generally adapted to the mentality of girls of this age.

4. *Private Higher Education*

No mention is made in the Constitution of grants for private higher education. This does not, however, mean that no grants from public funds may be paid in aid of such education.

The Act of 3 June 1948 amending and supplementing the Act regarding higher education (*Staatsblad* No. I 231) provides that private universities without a faculty of medicine or mathematics and natural sciences will receive a 65 per cent grant and private universities with one or two such faculties an 80 or 85 per cent grant respectively, while schools of economics receive 65 per cent.

This arrangement, of course, applies only to universities or schools of economics whose degrees are recognized by royal decree.[1] This is done only if specified conditions (*e.g.* relating to the soundness of the education) are satisfied; universities are required to have at least three faculties.

[1]There are now four institutions of this kind: the Free University of Amsterdam (Calvinist), the Roman Catholic University of Nijmegen, the Rotterdam School of Economics (non-denominational) and the Tilburg Catholic School of Economics. These institutions have justified their existence in the course of time and have made a considerable contribution to the growth and expansion of cultural life in the Netherlands.

NEW ZEALAND

BRITISH NATIONALITY AND NEW ZEALAND CITIZENSHIP ACT, 1948[1]

(assented to 6 September 1948)

PART I

BRITISH NATIONALITY

Sect. 3. (1) Every person who under this Act is a New Zealand citizen or who under any enactment for the time being in force in any country mentioned in sub-section three of this section is a citizen of that country shall, by virtue of that citizenship, have the status of a British subject.

(2) Any person having the status aforesaid may be known either as a British subject or as a Commonwealth citizen; and accordingly in this Act and in any other enactment or instrument whatsoever, whether passed or made before or after the commencement of this Act, the expression "British subject" and the expression "Commonwealth citizen" shall have the same meaning.

(3) The following are the countries hereinbefore referred to—that is to say, the United Kingdom and Colonies, Canada, Australia, the Union of South Africa, Newfoundland, India, Pakistan, Southern Rhodesia, and Ceylon.

[Section 4 deals with the continuance of certain Irish citizens as British subjects; section 5 deals with the status of Irish citizens and certain British subjects.]

PART II

NEW ZEALAND CITIZENSHIP

[Section 6 deals with citizenship by birth; section 7 deals with citizenship by descent and section 8 deals with registration of citizens of countries mentioned in section 3 (3) or of Ireland.

Sect. 8. (2) Subject to the provisions of sub-section three of this section, a woman who is a citizen of any country mentioned in sub-section three of section three of this Act or an Irish citizen or a British protected person and who has been married to a New Zealand citizen shall be entitled, on making application as aforesaid, to be registered as a New Zealand citizen, whether or not she is of full age and capacity . . . .

Sect. 9. (1) The Minister may cause to be registered as a New Zealand citizen:

(*a*) An alien woman who has been married to a New Zealand citizen or to a person who would but for his death have become a New Zealand citizen by virtue of any of the provisions of section sixteen of this Act:

(*b*) The minor child of a New Zealand citizen upon application made in the prescribed manner by the woman or, as the case may be, by a parent or guardian of the child.

(2) The Minister may, in such special circumstances as he thinks fit, cause any minor to be registered as a New Zealand citizen . . . .

[Sections 12 to 14 deal with the naturalization of aliens and the conditions therefor; section 15 deals with the power of the Governor-General to specify citizenship by Order-in-Council on incorporation of territory.]

[Section 21 deals with renunciation of citizenship for reasons of dual citizenship or nationality; section 22 deals with deprivation of citizenship on naturalization in a foreign country.]

Sect. 23. (1) A New Zealand citizen who is such by registration or is a naturalized person shall cease to be a New Zealand citizen if he is deprived of that citizenship by an order of the Minister made under this or the next succeeding section.

(2) Subject to the provisions of this section, the Minister may by order deprive any such citizen of his New Zealand citizenship if he is satisfied that the registration or certificate of naturalization was obtained by means of fraud, false representation, or the concealment of any material fact.

(3) Subject to the provisions of this section, the Minister may by order deprive any New Zealand citizen who is a naturalized person of his New Zealand citizenship if he is satisfied that that citizen:

(*a*) Has shown himself by act or speech to be disloyal or disaffected towards His Majesty; or

(*b*) Has, during any war in which New Zealand was engaged, unlawfully traded or communicated with an enemy, or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or

(*c*) Has within five years after becoming naturalized been sentenced in any country to imprisonment for a term of not less than twelve months.

(4) Subject to the provision of this section, the Minister may by order deprive any person naturalized

[1] English text: *British Nationality and New Zealand Citizenship* Act, No. 15 of 1948. Wellington, Government Printer, 1948. Text and information through the courtesy of Dr. W. B. Sutch, Counsellor, Secretary-General of the Permanent Delegation of New Zealand to the United Nations.

in New Zealand of his New Zealand citizenship if he is satisfied that that person has been ordinarily resident in foreign countries for a continuous period of six years.

(5) The Minister shall not deprive a person of citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a New Zealand citizen.

(6) Before making an order under this section the Minister shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and, if the order is proposed to be made on any of the grounds specified in sub-sections two and three of this section, of his right, upon making application therefor in the prescribed manner, to have his case referred for inquiry under this section.

(7) If the order is proposed to be made on any of the grounds specified in sub-sections two and three of this section and that person so applies in the prescribed manner, the Minister shall, and in any other case the Minister may, refer the case for inquiry and report either, in accordance with the rules of court, to the Supreme Court of New Zealand or, in the prescribed manner, to a committee of inquiry constituted for the purpose by the Minister or in such other manner as may be prescribed.

PART III

SUPPLEMENTAL

Sect. 26. (1) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage or of the commencement of this Act, whichever is the later, be treated, for the purpose of determining whether he is a New Zealand citizen, or was a British subject immediately before the commencement of this Act, as if he had been born legitimate.

(2) A person shall be deemed for the purposes of this section to have been legitimated by the subsequent marriage of his parents if by the law of the place in which his father was domiciled at the time of the marriage the marriage operated immediately or subsequently to legitimate him, and not otherwise.

NICARAGUA

POLITICAL CONSTITUTION OF THE REPUBLIC OF NICARAGUA of 22 January 1948[1]

BASES OF THE STATE

Art. 6. The State has no official religion.

Art. 7. Nicaragua rejects aggressive war and intervention in the internal affairs of other States. She welcomes the principles of the Atlantic Charter; she recognizes the right of peoples to self-determination and accepts arbitration as a means of settling international disputes.

TITLE I

NATIONALITY

Art. 14. A person may be Nicaraguan by birth or naturalization.

Art. 15. The following are Nicaraguan by birth:

1. Persons born on Nicaraguan territory, except children of aliens resident in Nicaragua in the service of their Governments, and children of alien transients;

2. Children of a Nicaraguan father or mother, born abroad, when they take up residence in Nicaragua, or when under the law of their place of birth they have Nicaraguan nationality, or, when, having the right of option, they opt for Nicaraguan nationality. Children of Nicaraguan parents born abroad while the father or mother is in the service of the Republic are deemed to be Nicaraguan born for the purposes for which the fundamental or other laws require birth on national territory;

3. Nationals by birth of other republics of Central America residing in Nicaragua who personally declare before the appropriate authority their desire to become Nicaraguans, provided and to the extent that reciprocity exists in their country of origin.

Art. 16. The following persons are naturalized Nicaraguans:

1. Resident aliens who obtain a naturalization certificate in accordance with the law.

Such an applicant must previously renounce his nationality before the appropriate authority and declare his desire to acquire Nicaraguan nationality;

2. Alien women contracting matrimony with Nicaraguans and residing in Nicaragua, if they declare their desire to acquire Nicaraguan nationality.

Art. 17. Neither matrimony nor its dissolution shall affect the nationality of spouses or of their children.

Art. 18. Nicaraguan nationality is forfeited:

1. Through voluntary naturalization in an alien country outside Central America. Persons losing their nationality in this way shall recover their status as Nicaraguans on returning to Nicaragua at any time;

2. Through cancellation of the naturalization certificate.

Art. 19. Naturalized aliens in Nicaragua forfeit Nicaraguan nationality if they adopt and propagate political or racial doctrines which imply the rejection of the fatherland and the sovereignty of the Republic or are designed to destroy the democratic form of government. Aliens forfeiting their nationality in this way may not recover it.

Art. 20. Naturalization and its acquisition, forfeiture and recovery shall be regulated by law.

Art. 21. Nicaraguans shall enjoy all the rights accorded to them by the Constitution and the laws, and are obliged to defend the fatherland, respect the authorities, obey the laws, contribute to the moral and material support of the country and perform military service or any other which may be required by the State.

TITLE II

ALIENS

Art. 22. Aliens in Nicaragua enjoy all the civil rights and guarantees accorded to Nicaraguans, without limitations other than those laid down by law. They are obliged to respect the authorities, obey the law, and pay all the ordinary and extraordinary taxes to which Nicaraguan nationals are subject.

Art. 23. Aliens shall not interfere in any way in the political activities of the country.

[1] Spanish text in *La Gaceta*, No. 16, of 22 January 1948, pp. 129–155, received through the courtesy of Mr. Oscar Sevilla Sacasa, Minister of External Relations, Managua. English translation from the Spanish text by the United Nations Secretariat. The Constitution was adopted by the Constituent National Assembly on 21 January and promulgated by the President of the Republic on 22 January 1948. Concerning the preparation of this text see: Nicaragua, "Note on the Constitutional Situation" in *Yearbook on Human Rights for 1947*, p. 262.

An alien doing so may, without prejudice to any other measures to which he may be liable, be expelled without previous trial by the President of the Republic in the Council of Ministers, unless he has a Nicaraguan spouse, or legitimate or illegitimate children by a Nicaraguan mother recognized before the punishable act.

Art. 27. The extradition of aliens for political offences or for offences in ordinary law connected with political offences may not be granted. Offences of both classes shall be defined in treaties or in default thereof by the Supreme Court of Justice.

TITLE III

CITIZENSHIP

Art. 28. Nicaraguan nationals over 21 years of age, and Nicaraguan nationals over 18 years of age who can read and write or who are married, are citizens.

Art. 29. The following are the rights of citizens: to be elected or appointed to public office, to assemble, to associate, and to present petitions for political purposes, in accordance with the law.

Art. 30. The following are the obligations of citizens:

1. To be registered in the electoral registers or catalogues;

2. To vote in popular elections;

3. To discharge local offices, unless excused by law. A law shall be issued laying down regulations for these obligations and the penalties for their infringement, and for women's suffrage; such a law shall require for its enactment a majority of at least three-quarters. Women are eligible for office equally with men, save as expressly excepted by the Constitution or the laws.

Art. 31. A citizen's rights are suspended if he:

1. Is mentally incapacitated;

2. Is the subject of a warrant for imprisonment (*auto de prison*), a declaration that a prosecution against him is pending or a sentence to a penalty acting on the person.

3. Is a fraudulent debtor;

4. Is a vagrant or an habitual drunkard;

5. Is employed in Nicaragua by a foreign nation without due permission;

6. Has committed violence, coercion, corruption or fraud in elections, or advocated or proclaimed abstention from the vote;

7. Has behaved improperly towards his parents or legitimate or recognized illegitimate minor children;

8. Has assisted against Nicaragua any other country or any alien citizen in a diplomatic dispute or a suit before an international tribunal;

9. Is for any other reason in law liable to penal suspension. For suspension under items 1, 3, 4, 7 and 9 hereof a final sentence of a court shall be required. The law shall regulate restoration of the exercise of citizenship. The citizen's suffrage also is suspended for all the reasons in this article except that of advocating or proclaiming abstention from the vote.

Art. 32. The popular vote is personal, non-transferable, equal and direct.

Art. 33. Any direct popular election of a collegiate body shall be carried out in accordance with a law on the representation of minorities.

TITLE IV

RIGHTS AND GUARANTEES

Art. 34. The death penalty shall be applied only for treason to the fatherland in a foreign war and for grave offences of a purely military character.

Art. 35. The State guarantees individual liberty, which may be restricted only in accordance with law.

Art. 36. No person may be detained except by written order of an official expressly authorized by law, unless he is found *in flagrante delicto*, when he may be arrested by any private person and handed over to the authority empowered to make arrests.

Art. 37. Every person detained shall be set at liberty or handed over to the appropriate authority within 24 hours of his detention in addition to a time reasonably allowable for distance.

Art. 38. Any person detained or threatened with detention, or any other inhabitant of the Republic on his behalf, may apply orally or in writing to the competent tribunal for the remedy of *habeas corpus* in accordance with the provisions of the safeguard or protection procedure.

Art. 39. The safeguard or protection procedure shall be established by appropriate constitutive law.

Art. 40. The hearing shall be public. The accused shall be entitled to intervene personally or by a defender both at the hearing and at the preliminary proceedings.

Art. 41. Trial by jury is established for criminal cases.

Art. 42. Detention for enquiry shall cease and be of no effect, or shall be commuted to imprisonment, within ten days of the bringing of the person detained before the competent judge.

A warrant for imprisonment may not be issued against any person without full proof that an offence has been committed and proof or at least a strong presumption that he committed it.

The provisions of this article shall not apply to

military offences, which shall be governed by the appropriate law.

Art. 43. Restriction of personal liberty for purely civil debts and obligations is prohibited except for attachment (*apremio*) in cases where this is authorized by law.

Art. 44. No person shall be punished for an act or omission not previously declared punishable by law.

Art. 45. No one shall be removed from his lawful judge, nor subjected to exceptional jurisdiction; but persons committing or accessory to revolutionary acts of terrorism and banditry shall be tried and punished by military tribunals in accordance with the laws of such tribunals.

Art. 46. No one may be deprived of the right of defence.

Art. 47. Penalties shall not extend beyond the person of the offender.

Art. 48. The prisons are establishments for security and social defence.

Measures shall be taken in them for the prevention of crime, the re-education of offenders and their training for work. Cruelty or torture against persons on trial or convicted is prohibited.

Art. 49. No one may be obliged in a criminal, correctional or police case to incriminate himself, his spouse, or his relations to the fourth degree of consanguinity or the second degree of affinity.

Art. 50. The State may not deliver up its nationals; but if the extradition of a person is requested he shall be tried in its courts for any non-political offence.

Art. 51. A court shall not be entitled to deal with cases distinct from, even if related to, matters falling strictly within its competence, except always as provided under article 45.

Art. 52. The enactment of proscriptive laws and of laws prescribing penalties involving infamy or penalties of more than 30 years' duration, is prohibited.

Art. 53. If a constitutional rule is infringed to the detriment of any person, the orders of a superior official do not exempt the agent from responsibility. Serving military personnel are exempted from this provision.

In respect of the military, the responsibility shall fall on the superior officer issuing the order.

Art. 54. The State guarantees the inviolability of the home. The dwelling of any person may be entered upon by the authorities only in the following cases:

(1) The actual pursuit of an offender;

(2) To seize a criminal *in flagrante delicto*;

(3) An appeal made from inside the house or if an offence is committed in it, or if some disgraceful disorder calls for immediate action;

(4) Fire, earthquake, flood, epidemic, or the like;

(5) Visits for purposes of statistics, health or hygiene;

(6) To set free an unlawfully detained person;

(7) To seize objects sought in view of legal proceedings, provided there is at least a strong presumption of the existence of such objects;

(8) To carry out a lawful decision, injunction or order of a court;

(9) To apprehend an offender for whose detention or imprisonment a warrant has been issued, provided that there is at least a strong presumption that he is hiding in the house.

In the last four cases entry may be made only in virtue of a written reasoned order issued by the competent authority.

Entry of a dwelling in cases in which a written order of a competent authority is required may not be made between 7 o'clock in the evening and 6 o'clock in the morning without the consent of the head of the household.

Art. 55. All persons may move freely throughout national territory and freely choose their residence and domicile therein. They may be compelled to move only under an enforceable judgment. The right to emigrate and immigrate is recognized within the limitations established by law.

Art. 56. No one is obliged to do anything which the law does not prescribe, or prevented from doing anything which the law does not prohibit.

Art. 57. Nicaraguan nationals may not be blacklisted or proscribed under any law, nor suffer in Nicaragua the consequences of any such action in another country; provided that they may be tried in accordance with the laws of the Republic for disloyal acts committed in foreign wars.

Art. 58. Property is inviolable. No one may be deprived of his property save by judgment of a court, or after fair compensation to be determined by the judicial authority, for reasons of public utility or social interest defined in accordance with law. In case of national war, internal disturbance or public calamity, the competent authorities may make use of private property in so far as the public good so requires, but the right to subsequent compensation shall be reserved.

Art. 59. The State guarantees and protects intellectual property, the rights of authors, inventors and artists. The law shall regulate the exercise and duration of such rights.

Art. 60. The exercise of the right of property is subject to the limitations imposed by the maintenance and progress of social order. In accordance with this principle the law may impose obligations or servitudes

on property in the public interest and laws may be enacted to govern the relations of landlord and tenant.

Art. 61. Property, whoever the owner may be, is governed exclusively by the laws of the Republic.

Art. 62. For reasons of public or social benefit the law may lay down restrictions or prohibitions on the acquisition and transfer of stated classes of property by reason of their nature, condition or situation on national territory.

Art. 63. In the general interest the State may intervene in the exploitation and management of public services, and may after paying compensation nationalize them.

Art. 64. There is no confiscation of property except that of enemy nationals, and such confiscation shall not exceed seventy-five per cent of the net capital of an alien married to a Nicaraguan woman or having Nicaraguan children. The remaining twenty-five per cent shall be administered for the benefit of such Nicaraguan wives and children.

The products of confiscation shall be applied as a first charge to compensation for any confiscation or levy suffered by Nicaraguans in the enemy country.

The right to reclaim property illegally confiscated shall not be limited by prescription.

Property, except that of enemy nationals, may not in any case be seized or administered for political reasons or offences.

Authorities infringing these provisions shall at all times answer with their persons and property for any damage incurred.

Art. 65. Any person may freely dispose of his property under any legal title, subject to any provisions of law regarding marriage portions and alimony. Entail of property and arrangements in mortmain are prohibited except to create a family patrimony or to benefit a charity.

Art. 66. The law shall govern the organization and regulation of the family patrimony, provided always that this shall be inalienable, unattachable and exempt from any public charge.

Art. 67. Marriage, the family and maternity are protected and defended by the State.

Art. 68. The State and the municipalities shall care for the health and social improvement of the family.

Art. 69. The education of offspring is the first duty and natural right of parents towards their children, in order that these may attain their greatest physical, intellectual and social capacity.

Art. 70. Parents without economic resources are entitled to request the assistance of the State in the education of their offspring.

Art. 71. The State shall adopt measures for the grant of special allowances for large families.

Art. 72. Parents have the same duties towards children born out of wedlock as towards those born in it.

Art. 73. The civil laws shall regulate the investigation of paternity.

Art. 74. The assignment in accordance with laws of any legal title to property may not be varied or amended by law or by any act of the Government, save for the public benefit. The State shall supervise the management and investment of such property.

Art. 75. All archaeological, artistic or historical assets of the country, regardless of ownership, constitute the cultural wealth of the nation and shall enjoy the protection and care of the State.

Art. 76. Places of worship used exclusively for the services of a religious sect, and their endowments, are exempt from taxation.

Art. 77. The State recognizes freedom of contract, commerce and industry. This liberty may not be disturbed in any way save as provided in article 60 and in cases of genuine and declared general economic emergency.

The law shall prescribe safeguards for these activities and conditions for their exercise.

Art. 78. Any concession relating to the natural wealth of the State shall be granted in accordance with previous legislation, and no such concession may establish a monopoly over such wealth.

Art. 79. All services, except those performed gratuitously under a law or agreement, shall be equitably remunerated.

Art. 80. Usury is prohibited. The law limiting the interest on money is a public law, and shall prescribe penalties for its breach.

Art. 81. Unions or associations may be established for any legal purpose, but the State is responsible for authorizing corporate and economic bodies.

Art. 82. The State guarantees freedom of work and the right freely to adopt any profession, industry or trade not contrary to morality, to public health or security.

Art. 83. Manual and clerical workers and employees are guaranteed:

(1) A compulsory weekly period of rest;

(2) A maximum working day in accordance with the nature of their work. Managers, administrators, agents and all persons working without immediate supervision are exempted from the limitation of the working day;

(3) A minimum wage which will ensure them the minimum of well-being compatible with human dignity, fixed in accordance with the cost of living and with conditions and needs in the various parts of the country;

(4) The payment of wages at the intervals stated in the contract, which shall be not longer than one week if the worker is a wage earner or fifteen days if he is a salaried employee, in national currency, during the working day, and at the place in which the worker gives his services. It is prohibited to pay wages in merchandise, vouchers, tokens, or any other substitutes for currency.

(5) Compensations for accidents and hazards in the cases and form prescribed by law.

(6) Special regulation of the work of women and children;

(7) Medical assistance administered by social institutions established for the purpose;

(8) For pregnant women, a rest period of twenty days before and forty days after confinement. The mother shall be paid during this period by the employer in whose service she is, provided that she has worked for him over a continuous period of six months;

(9) Payment at double rates for night work, except that carried out in regular shifts.

(10) Prohibition of any charge on the minimum wage, except under a maintenance order;

(11) Fifteen days' leave with pay after six months' continuous work. Of this leave, one week shall be a compulsory rest period and for the rest of the time the manual or clerical worker may opt to continue his work and receive the appropriate wage or salary;

(12) If working on an indeterminate contract at least one month's notice and two free hours daily in which to seek work, unless the manual or clerical worker has given grounds for lawful dismissal.

Persons in the employment of the State or its institutions shall be governed by special laws.

Art. 84. In a contract of service the following conditions are void and not binding on the parties:

1. Those restricting or varying the guarantees and rights accorded to the man and citizen by the Constitution;

2. Those involving a direct or indirect obligation to purchase consumer goods in specified shops or places;

3. Those fixing the duration of a contract at more than two years, if the term is prejudicial to the worker.

Art. 85. The State shall establish a National Institute of Social Insurance.

A law issued laying down regulations for the establishment of an insurance fund for wage earners based on proportionate contributions from the State, the insured person and the employer to cover the risks of sickness, invalidity, old age and unemployment.

Art. 86. The system of primary, secondary and professional education is subject to technical inspection by the State.

Art. 87. Primary education is compulsory, and that provided by the State and public bodies is free and secular.

Art. 88. Teaching in official educational establishments is a public office and carries with it the right to the benefits laid down by law.

Art. 89. Academic and professional licences may be awarded only by the State, which shall determine the professions for the practice of which a licence is needed and the evidence and requirements necessary for qualification. A licence to practise a profession may not be issued unless academic evidence is produced that the appropriate courses have been undergone.

Art. 90. Agricultural or industrial undertakings in which there are more than thirty children of school age shall be obliged to maintain an elementary school.

Art. 91. Freedom of teaching is guaranteed, provided that it shall not offend against decency and public order.

Art. 92. Only diplomas relating to an office, profession or university degree shall be issued.

Art. 93. Freedom of conscience and freedom to profess any creed and practise any religion not contrary to morality, decency or public order are guaranteed. Acts of religious worship likely to cause death or physical injury are excepted. Acts contrary to morality or subversive of public order carried out during or on pretext of a religious ceremony shall entail such sanction and method of prosecution as the law may establish.

Art. 94. No one may be compelled to make an official declaration of his religious beliefs except in the course of a statistical investigation ordered by law.

Art. 95. Public cemeteries are secular, and ministers of any denomination may celebrate their especial rites therein.

Art. 96. No one may be molested or persecuted for his opinions; but persons who express opinions contrary to public order, the republican and democratic form of government, the established social system, or morality and decency, or which cause damage to other persons, shall be liable to legal sanctions.

Art. 97. All persons are entitled freely to express their ideas and opinions by word of mouth or by any means of publicity, without prejudice to their liability as determined by law for any offence they may commit. A publisher or owner of a broadcasting station as the case may be is deemed to be a co-author. There shall be no prior censorship, except to maintain morality and decency or to suppress war propaganda

or violent attempts to subvert the political or social system.

Art. 98. The right to assemble in the open air and the right to demonstrate shall be governed by police regulations.

Art. 99. No previous permission is necessary for peaceful and unarmed assembly.

Art. 100. The State does not recognize the legal existence of internationally organized political parties, nor that of the Communist and Fascist parties, nor of other parties of similar complexion going under other names. Individuals belonging to these parties may not discharge any public office and shall be liable to the sanctions prescribed by law. Only international parties which, not being Communist or totalitarian, are directed towards the union of Central America, are excepted.

Art. 101. All persons are entitled to direct written petitions or complaints to the public powers and the authorities, to have such petitions dealt with, and to be informed of the result.

Art. 102. Taxes may be introduced, existing taxes increased and payment may be waived wholly or partly only for the public benefit and by general law applying to the whole country.

Art. 103. There shall be no personal exemption from taxes and other public charges. Taxes and contributions shall be levied in proportion to property or on the scale established by law.

Art. 104. No public power may transfer to itself a case pending before a competent authority.

Art. 105. A process or suit once closed may not be reopened. In criminal justice application may be made on behalf of the offender for the reopening of a closed process in which a penalty acting on the person has been imposed.

Art. 106. The civil registry is within the exclusive competence of the State.

Art. 107. No law has a retroactive effect, except in favour of the offender in a penal matter.

Art. 108. All persons entitled freely to dispose of their property may settle civil questions by compromise or arbitration, except matters connected with alimony or the civil status of persons. As regards persons not entitled to dispose freely of their property, the law shall determine how and when they may do so.

Art. 109. All Nicaraguan nationals are equal before the law. There shall be no privilege on the grounds of birth, nobility, race or social status.

Art. 110. Written, telegraphic, telephonic and other communications and private documents and papers are inviolable and may not be opened, intercepted or inspected, unless laws are enacted therefor in the public interest; and in such a case the inspection must be carried out in the presence of the addressee or owner or, in his absence, of two witnesses, and correspondence, documents and papers not related to the investigation shall be returned.

Art. 111. The enumeration of rights, duties and guarantees made in this Constitution does not exclude others inherent in the human personality or deriving from the republican form of government.

TITLE V

LEGISLATIVE POWER

Chapter II

CHAMBER OF DEPUTIES

Art. 136. The Chamber of Deputies is composed of representatives elected by direct popular vote.

Art. 138. Only Nicaraguan-born citizens who are in possession of their civil rights and have not taken clerical orders and have completed their twenty-fifth year of age can be elected deputies.

Chapter III

CHAMBER OF THE SENATE

Art. 141. The Chamber of the Senate is composed of fifteen senators with their respective substitutes, elected directly by the people in a single national election, and former presidents of the Republic who have filled the office by direct popular election.

Art. 142. Only Nicaraguan-born citizens who are in possession of their civil rights and have not taken clerical orders and have completed their fortieth year of age can be elected senators.

TITLE VI

EXECUTIVE POWER

Chapter II

DUTIES AND ATTRIBUTES OF THE EXECUTIVE POWER

Art. 183. When in the opinion of the President of the Republic public tranquillity is threatened, he may issue orders for the detention of the persons presumed to be responsible, interrogate them and keep them in detention for not more than fifteen days, within which they must either be set at liberty or brought before the competent legal authorities; but if in the opinion of the Chief of State it is necessary to banish the suspected persons to the interior of the Republic, he may decree their banishment in the Council of Ministers.

Such detained persons may not mingle with ordinary offenders.

Art. 184. When the Republic is in a state of international or civil war, or when there is danger that such a state may arise, or if owing to an epidemic, earthquake, or any other circumstance the defence, peace or security of the nation or of its institutions or form of government so require, the President of the Republic in the Council of Ministers may by decree restrict or suspend in all or part of the national territory the exercise of constitutional guarantees, but never those appertaining to:

1. The inviolability of human life;
2. The prohibition of trial by judges other than those appointed by law;
3. The prohibition of torture and penalties involving infamy;
4. The prohibition against retroactive or confiscatory laws; and
5. The levy of taxes.

If international or civil war has broken out, the President may in the Council of Ministers decree taxation of a general character.

The decree suspending or restricting safeguards shall contain:

(*a*) The reasons justifying it;

(*b*) The definition of the guarantee or guarantees restricted or suspended; and

(*c*) The territory which will be affected by the suspension or restriction.

Neither the suspension nor the restriction of guarantees shall in any way affect the operation of the public powers of the nation, and their members shall continue to enjoy the prerogatives accorded to them by the law.

The President of the Republic and the Ministers of State shall be held responsible if they declare suspension or restriction of the constitutional system although any of the causes justifying it has not occurred; they shall also be held responsible, together with other officials concerned, for any wrongful exercise of the powers granted in this article.

In the case of foreign war the Executive shall, in the same decree in which he restricts or suspends the exercise of the constitutional guarantees, convene the Congress within the next thirty days, and the Congress may if it is not convened assemble of its own right.

The decree suspending guarantees shall be abrogated on the cessation of the causes for which it was made, and the Executive Power shall immediately account to Congress in plenary session for the measures he has taken.

Title XIII

SUPREMACY OF THE CONSTITUTION AND ITS REFORM

Art. 285. The Constitution is the Supreme Law of the Republic.

Laws, decrees, regulations, orders, provisions, pacts, or treaties which are repugnant to it or modify its provisions in any way shall be invalid.

Art. 286. The organs of State are prohibited, jointly or separately, to suspend the Constitution or restrict the rights accorded thereby except in the cases provided therein.

Laws regulating the exercise of constitutional guarantees and rights shall be invalid in so far as they abridge, restrict or vitiate these.

Officials violating this provision shall be responsible for any damage so caused.

NORWAY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The article of the Constitution of Norway referring to the minimum age of members of the Storthing was modified during 1948. The text of the human rights provisions of the Constitutions in their modified form appears in this *Yearbook.*

An Act regarding pension rights of seamen was adopted by the Storthing on 1 December and promulgated by the King on 3 December 1948.[2]

[1] Text and information through the courtesy of the Ministry of Justice and Police, Oslo, and the Permanent Delegation of Norway to the United Nations.

[2] This Act is published in *Norsk Lovtidend* No. 47, of 13 December 1948, pp. 1058–1069, and appears in English translation in: International Labour Office, *Legislative Series.*

CONSTITUTION OF 17 MAY 1814[1]

as amended up to and including 6 February 1948

A. FORM OF GOVERNMENT AND RELIGION

Art. 2 (as amended on 21 July 1851 and 3 August 1897). The Evangelical-Lutheran religion shall remain the public religion of the State. The inhabitants professing it are required to bring up their children in this religion. Jesuits shall not be tolerated.

B. THE EXECUTIVE POWER, THE KING AND THE ROYAL FAMILY

Art. 23 (as amended on 21 May 1920). .... The King may confer decorations .... but he may not confer any other rank or title than that which each office carries with it. The holding of a decoration exempts no one from the duties and burdens common to all citizens, nor does it carry with it any preferential admission to the offices of the State ....

No personal or mixed hereditary privileges may hereafter be granted to anyone.

C. CITIZENSHIP AND THE LEGISLATIVE POWER

Art. 50 (as amended on 20 May 1928 and 13 June 1946). Norwegian citizens, men and women, who have completed their twenty-first year,[2] have been domiciled in this country for five years and are residents thereof, shall have the right to vote.

Norwegian officials attached to the diplomatic or consular services, as well as their households, if they fulfil the above-mentioned conditions, shall have the right to vote in the constituency in Norway of which they were last residents.

Art. 52 (as amended on 30 April 1898, 25 April 1903, 8 July 1908, 15 August 1911, 13 March 1914, 9 June 1916 and 25 July 1919). The right to vote is suspended:

(*a*) By indictment for a criminal offence, in accordance with the provisions of the law;

(*b*) By being placed under guardianship.

Art. 53 (as amended on 6 June 1877, 22 May 1902 and 25 June 1935). The right to vote is lost:

(*a*) By conviction for criminal offences, in accordance with the provisions of the law;

(*b*) By entering the service of a foreign power without the consent of the Government;

(*c*) By acquiring citizenship in a foreign State. In the case of women who are domiciled in the kingdom and have acquired such citizenship through marriage with a foreign subject, the loss shall not take effect until they have left the kingdom;

(*d*) By being guilty of buying votes, selling one's own vote, or having voted in more than one poll.

Art. 59 (as amended 5 December 1919 and 13 November 1923). .... the electoral *Things* (assemblies) shall be held separately for each polling district. At the electoral assemblies, representatives in the Storthing for the whole electoral district and their substitutes are elected by direct election.

[1] Norwegian text of all articles amended on or before 13 June 1946 in *Norges Grundlov*, 12th edition, Oslo 1945 (with supplement of 1946). Norwegian text of the articles modified after 13 June 1946 was received through the courtesy of the Ministry of Justice and Police, Oslo, and of the Permanent Delegation of Norway to the United Nations. English translation carried out by the United Nations Secretariat and based on the text in: Ministry of Justice, *The Constitution of Norway*, Oslo, 1937.

[2] Before 13 June 1946: *twenty-third year.*

Election is on the basis of proportional representation. The rules governing it, as well as the method of conducting the elections, shall be determined by law, subject to the provisions laid down in the Constitution.

Art. 61 (as amended on 7 July 1913 and 6 February 1948). No one may be elected as a representative unless he has completed his twenty-first year,[1] has resided in the kingdom for ten years, and has the right to vote in the district for which he is nominated . . . .

E GENERAL PROVISIONS

Art. 92 (as amended on 4 June 1892, 19 March 1901 and 24 May 1919). . . . . It shall be determined by law to what extent women who fulfil the requirements prescribed for men by the Constitution may be appointed to public office.

Art. 96. No one may be convicted except in accordance with the law, or punished except by virtue of a judicial sentence. Examination by torture must not take place.

Art. 97. No law shall have retroactive effect.

Art. 98. Fees paid to officials of the courts of justice shall not be subject to any tax.

Art. 99. No one may be arrested and imprisoned except in the cases and in the manner determined by law. Whoever causes unjustifiable arrest and illegal detention shall be responsible to the person arrested.

The Government may not employ military force against the subjects of the State, except in accordance with the forms prescribed by law, unless an assembly should disturb the public peace and not immediately disperse after the civil authority has three times read aloud to it the articles of the Statute Book relating to riots.

Art. 100. There shall be liberty of the Press. No one may be punished for any writing which he has caused to be printed and published, whatever its contents may be, unless he has intentionally or clearly shown or incited others to show disobedience to the laws, contempt of religion or morality or the constitutional authorities, or resistance to their orders, or has made false and defamatory accusations against any person. Everyone shall be free to express his opinion frankly concerning the administration of the State or upon any other subject.

Art. 101. No new and permanent privileges implying restrictions on the freedom of trade and industry may hereafter be granted to anyone.

Art. 102. House searches shall not take place except in criminal cases.

Art. 103. Asylum shall not be granted to those who hereafter become bankrupt.

Art. 104. Forfeiture of lands and goods shall be abolished.

Art. 105. If the welfare of the State shall demand that any person shall surrender his movable or immovable property for the public use, he shall receive full compensation from the Exchequer.

Art. 106. The purchase money, as well as the revenues of the landed property constituting ecclesiastical benefices, shall be used exclusively for the benefit of the clergy and the promotion of education. The property of charitable institutions shall be used exclusively for their own benefit.

Art. 107. The *Odels* and *Aasaete*[2] rights shall not be abolished. The further conditions under which these rights shall continue for the greatest benefit of the State and the best advantage of the country population shall be determined by the first or second successive Storthing.

Art. 108. No earldoms, baronies, majorats or perpetuities hereafter may be established.

Art. 109 (as amended on 12 April 1907). Every citizen of the State shall, as a general rule, be liable to military service for a certain period, without regard to birth or fortune.

The application of this principle and the limitations to be placed upon it, shall be determined by law.

Art. 112 (as amended on 24 April 1869, 16 July 1907, 7 July 1913 and 24 June 1946). If experience should show that any part of this Constitution of the Kingdom of Norway requires alteration, the motion therefor shall be moved in the first, second or third ordinary session of the Storthing after a new election, and it shall be printed. Only the first, second or third ordinary session of the Storthing following the next election, however, shall have power to decide whether the proposed alteration shall be made or not. Such an alteration, moreover, must never be inconsistent with the principles of this Constitution; it must be limited to such modifications of particular provisions as do not change the spirit of this Constitution, and two-thirds of the Storthing must agree to such alteration . . . .

[1] Before 6 February 1948: *thirtieth year.*

[2] The *Odelsrett* (right of alloidal possession) is the ancient right of complete ownership of land in the country districts, including the right of redemption by the family if the land has been sold.

The *Aasaeterett* (right of succession to landed property) is the right of the eldest son to retain possession of the property at a moderate price.

PAKISTAN

NOTE ON THE CONSTITUTIONAL SITUATION[1]

Pakistan came into being on 15 August 1947, as a Dominion within the Commonwealth of Nations.[2] A constituent assembly was set up to frame a Constitution. The assembly established a number of committees charged with the examination of various aspects of the Constitution and the preparation of drafts. Up to the end of 1948, the work on the Constitution had not yet been completed.

Until the completion of the work on the new Constitution and its coming into force, Pakistan continues to be governed by Government of India Act, 1935, as modified by the Pakistan (Provisional Constitution) Order, 1947. The articles relating to human rights are reproduced hereafter.

[1] Information received through the courtesy of Mr. M. Platou, Secretary, Pakistan Permanent Delegation to the United Nations.

[2] See Indian Independence Act, 1947, in *Yearbook on Human Rights for 1947*, pp. 157–158.

GOVERNMENT OF INDIA ACT, 1935

as adapted by the Pakistan (Provisional Constitution) Order, 1947[1]

Sect. 275. Persons not to be disqualified by sex for holding certain offices.

A person shall not be disqualified by sex from being appointed to any civil service of, or civil post under, the Crown in Pakistan other than such a service or post as may be specified by any general or special order made:

(*a*) By the Governor-General in the case of services and posts in connexion with the affairs of the Federation;

(*b*) By the governor of a province in the case of service and posts in connexion with the affairs of the province:

Provided that any such agreement with respect to joint services and posts as is mentioned in chapter II of this part of this Act may provide for the powers conferred by this section on the Governor-General and the Governor of a Province being exercised, with respect to the services or posts to which the agreement applies, by the Governor-General or a specified Governor.

Sect. 298. Persons not to be subject to disability by reason of race, religion, etc.

(1) No subject of his Majesty domiciled in Pakistan shall on grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in Pakistan, or be prohibited on any such grounds from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in Pakistan.

(2) Nothing in this section shall affect the operation of any law which

(*a*) Prohibits, either absolutely or subject to exceptions, dispositions of agricultural land situate in any particular area and owned by a person belonging to some class recognized by the law as being a class of persons engaged in or connected with agriculture in that area or as being an aboriginal tribe, in favour or for the benefit of any person not belonging to that class,

(*b*) Recognizes the existence of some right, privilege or disability attaching to members of a community by virtue of some personal law or custom having the force of law.

(3) In paragraph (*a*) of sub-section (2) of this section, "agricultural land" in relation to any area where there is in force immediately before the commencement of Part III of the Act any law the operation of which is to any extent saved by the said paragraph (*a*), includes all such property and rights in or over property as are included in the expression "land" as defined for the purposes of that law as then in force.

Sect. 299. Compulsory acquisition of land, etc.

(1) No person shall be deprived of his property save by authority of law.

(2) Neither the federal nor a provincial legislature shall have power to make any laws authorizing the

[1] English text, received through the courtesy of the Pakistan Permanent Delegation to the United Nations, in *The Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order* (official edition), Karachi, 1948.

compulsory acquisition for public purposes of any land, or any commercial or industrial undertaking, or any interest in, or in any company owning, any commercial or industrial undertaking, unless the law provides for the payment of compensation for the property acquired and either fixes the amount of the compensation, or specifies the principles on which and the manner in which it is to be determined.

(3) No bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in the Federal Legislature without the previous sanction of the Governor-General, or a provincial legislature without the previous sanction of the Governor.

(4) Nothing in this section shall affect the provisions of any law in force at the date of the passing of this Act.

(5) In this section "land" includes immovable property of every kind and any rights in or over such property, and "undertaking" includes part of an undertaking.

PANAMA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The human rights provisions in the Constitution of the Republic of Panama did not undergo any change.

Among the Acts promulgated during 1948 by the National Assembly of Panama, attention is drawn to Act No. 8, of 7 December 1948 (*Gaceta Oficial* No. 10773, of 16 December 1948). This Act, amending article 103 of the organic Act on education of 24 September 1946, provides for grants for the best graduates from secondary schools and for the best of those who obtained the certificate for completing the first three grades of such schools, in order to enable them to proceed with their studies.

[1] Information through the courtesy of the Ministry o External Relations, Panama, and of Mr. Mario de Diego, Permanent Representative of Panama to the United Nations.

PERU

NOTE ON THE CONSTITUTIONAL SITUATION[1]

In October 1948, a change in Government occurred in Peru. The Government of Dr. Bustamante y Rivero was deposed and a Government Military Junta constituted on 30 October 1948 under the presidency of General Manuel A. Odria. Certain constitutional guarantees were temporarily suspended.[2]

Early in 1949, certain decree-laws were promulgated by the Government Junta which are related to economic and social rights. Extracts from these texts will be found in the *Yearbook on Human Rights for 1949*.

[1] Information through the courtesy of Mr. Carlos Holguin de Lavalle, Ambassador, Permanent Representative of Peru to the United Nations.

[2] Details on the constitutional and political situation as disclosed by the Peruvian Government in *Social Policy of the Peruvian Government* (official statement) 29 April 1949.

PHILIPPINES

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The following texts, promulgated in 1948, have been indicated, among others, as having a bearing on human rights:

ACT to amend section 284 and section 285 A of the revised administrative code, as amended (Republic Act No. 218, as approved 5 June 1948).

This Act provides for fifteen days, vacation, leave of absence with full pay for each calendar year of service to be granted to State and municipal employees or labourers after at least six months' continuous, faithful and satisfactory service. State and municipal employees or labourers shall, moreover, be entitled to 15 days of sick leave for each year of service with full pay, to be granted, however, only on account of sickness on the part of the employee or labourer concerned or of any member of his immediate family.

ACT to provide free emergency dental treatment for employees and labourers of commercial, industrial and agricultural establishments and to penalize the violation thereof (Republic Act No. 239 as approved on 10 June 1948).

This Act is reproduced in this *Yearbook*.

ACT to amend Commonwealth Act 647 granting maternity leave to women who are in the service of the Government or of any of its instrumentalities under temporary appointments (Republic Act No. 270, as approved 15 June 1948).

The amendment provides that temporary employees who have rendered two or more years of continuous service shall be entitled to maternity leave with half pay.

ACT exempting from the payment of specific taxes educational films for visual education and any reversal film used in amateur photography by amending further section 146 of Commonwealth Act 466, as amended by section 12 of Republic Act 56 (Republic Act No. 295, as approved 16 June 1948).

ACT appropriating funds to subsidize charity beds for indigent persons in private hospitals located in towns, places, or localities far from any provincial hospital (Republic Act No. 298, as approved 17 June 1948).

This Act is reproduced in this *Yearbook*.

ACT to provide for the registration of the claims of all officers and employees of the Government of the Commonwealth of the Philippines, its branches and instrumentalities and the corporations owned or controlled by the Government and those of the free local civil governments, provincial and municipal, duly organized for purposes of resistance against the enemy, to salaries and wages during the enemy or Japanese occupation of the Philippines and to provide for the manner of their settlement. (Republic Act No. 304 as approved 18 June 1948).

[1] This note is based on texts and information received through the courtesy of the Department of Foreign Affairs of the Philippines and of the Philippine Mission to the United Nations.–See sections of the Treaty of Amity between the Republic of the Philippines and the Republic of Ecuador, of 24 March 1948, on page 453, and sections of the Treaty on civil rights and consular prerogatives between the Republic of the Philippines and the Spanish State, of 20 May 1948, on page 454.

ACT APPROPRIATING FUNDS TO SUBSIDIZE CHARITY BEDS FOR INDIGENT PERSONS IN PRIVATE HOSPITALS LOCATED IN TOWNS, PLACES OR LOCALITIES FAR FROM ANY PROVINCIAL HOSPITAL[1]

of 17 June 1948

(Republic Act No. 298)

Sect. 1. The Secretary of Health, upon recommendation of the Director, Bureau of Hospitals, is hereby authorized to subsidize charity beds for the use of indigent sick persons, in private hospitals duly recognized by the Government, which are located in towns, localities or places far or inaccessible from the provincial hospitals.

[1] English text in *First Congress of the Republic of the Philippines, Third Session*, H. No. 1826. The Act took effect upon its approval on 17 June 1948 (section 4 of the Act).

The subsidy of charity beds herein authorized to private hospitals shall be granted only to those private hospitals which are far distant from provincial hospitals, and in which indigent people cannot enjoy the benefits of the use of beds and other hospital facilities given by the provincial hospitals.

The amount of subsidy shall be based on the number of beds that are allocated for the use of indigent sick persons that may be accommodated for hospitalization from time to time in such private hospitals and on the *per capita* cost that may be agreed upon between the directors of private hospitals concerned and the Director of the Bureau of Hospitals.

Sect. 2. For purposes of this Act, there is hereby appropriated the sum of one million pesos from the National Charity Sweepstakes Fund.

Sect. 3. All Acts or parts of Acts inconsistent herewith are hereby repealed.

ACT TO PROVIDE FREE EMERGENCY DENTAL TREATMENT FOR EMPLOYEES AND LABOURERS OF COMMERCIAL, INDUSTRIAL AND AGRICULTURAL ESTABLISHMENTS, AND TO PENALIZE THE VIOLATION THEREOF[1]

of 10 June 1948

(Republic Act No. 239)

Sect. 1. It shall be the duty of the owner, lessee or operator of any shop, factory, estate or commercial, industrial or agricultural establishment, whether the same be an individual, corporation, or partnership, or the national Government, or a provincial or municipal government, or the government of any political sub-division whatsoever, who permanently employs in the locality not less than fifty employees or labourers, to furnish free emergency dental attendance to his employees and labourers.

When the number of employees and labourers exceeds five hundred, the owner, lessee or operator shall engage the services of a dentist for the benefit of his employees and labourers.

The dentists of the commercial, industrial and agricultural establishments shall subject all the employees and labourers of said establishments to a dental examination at least once a year and shall make detailed monthly and annual reports of all the services rendered by them: *Provided however*, that this paragraph shall apply only to establishments, offices or industries employing not less than five hundred labourers or employees.

For the purposes of this Act, a person or establishment shall be understood to have employees or labourers in its permanent service when the work requires the constant employment of such operatives, even though these change frequently.

Sect. 2. The owner, lessee or operator of any commercial, industrial or agricultural establishment who shall violate the provisions of section 1 shall be punished by a fine of not less than twenty-five pesos nor more than one hundred pesos, and in case of recidivism the court may, in addition, order the definitive closing of the establishment. In case the owner, lessee or operator of the establishment where the violation is committed is a company or corporation, the administrator or manager shall be liable, or in his default the person acting as such or, in the presence of evidence showing their direct responsibility, the president or directors of the company or corporation. In case the national Government, or any provincial or municipal government, or the government of some political sub-division is the owner, lessee or operator of the establishment where the violation was committed, the officer having direct charge, control or supervision of said establishment shall be held liable.

Sect. 3. The Secretary of Labour shall promulgate the necessary rules and regulations to carry out the purposes of this Act.

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[1] English text in *First Congress of the Republic of the Philippines, Third Session*, S. No. 127. The Act took effect upon its approval on 10 June 1948 (section 4 of the Act).

POLAND

SOCIAL SECURITY IN POLAND[1]

SURVEY OF POST-WAR LEGISLATION

Social security laws in effect in Poland previous to the war, extending to manual and office workers, covered the following types of insurance:

(*a*) Health and maternity benefits
(*b*) Accident compensation
(*c*) Occupational disease and disability
(*d*) Old age pensions
(*e*) Life insurance
(*f*) Unemployment insurance.

The German occupation obliterated the entire social security organization, and its funds were confiscated. After the cessation of hostilities, however, social security legislation was again put into effect and the necessary organization rebuilt in spite of the precarious economic situation of the country during the reconstruction period.

Even before military operations had ceased, Polish authorities introduced new improvements in the field of social security, among them the decree of 7 September 1944 (*Journal of Laws*, No. 4, Item 19), abolishing the payment of fees for medical advice, medicines and surgical care. By decree of 29 September 1945 (*Journal of Laws*, No. 43, Item 240) the beneficiaries were relieved of payment of any share of contributions for social security and unemployment insurance, the responsilibity for these payments devolving entirely upon the employer.

The decree of 8 January 1946 (*Journal of Laws*, No. 4, Item 28) extended health and maternity benefits to civil servants and Polish State Railway employees, agricultural workers (implementation ordinance of 22 November 1946 (*Journal of Laws* of 1947, No. 2, Item 8), and convicts. Medical aid was provided for recipients of every kind of social security benefits such as retired workers' pensions, disability or accident benefits, old age pensions, widows' or orphans' benefits. Maternity benefits were increased from 50 per cent to 100 per cent of the average weekly salary.

The decree of 13 November 1946 (*Journal of Laws* of 1947, No. 2, Item 3) provides that one month's salary shall be paid to the family of a deceased office worker, a recipient of disability insurance or a recipient of old age pension, in lieu of defraying the funeral expenses.

The decree of 13 December 1946 (*Journal of Laws* of 1947, No. 2, Item 4) increased sickness benefits under health insurance from 50 per cent to 70 per cent of the average weekly salary of the beneficiary.

The statute of 28 April 1948 (*Journal of Laws*, No. 27, Item 183) extended maternity benefits (increased by decree of 8 January 1946) from eight weeks to twelve weeks. During this period, benefits are to be paid for eight weeks after childbirth instead of for six weeks as previously in force.

The decree of 28 October 1947 introduced family insurance, a new type of Polish social security insurance (*Journal of Laws*, No. 66, Item 414). A special fund was established for family benefits, which were to be awarded to the following persons:

(1) Beneficiaries of health and maternity insurance: wife, children, grandchildren under 16 years of age; children and grandchildren under 24 years of age who are students in college; step-children; war orphans adopted and being raised by the family;

(2) Beneficiaries of old age or retirement pensions: payments for every child;

(3) Orphans entitled to orphans' benefits;

(4) Orphans of persons who died in the fight for freedom and democracy during the last war.

Family benefits are payable to every worker employed at least two weeks during the course of a month. Detailed implementation ordinances were published in the *Journal of Laws* of 1948, No. 4, Items 29, 30 and 31.

[1] Survey prepared by Professor Aleksander W. Rudzinski, LL.D., Ph. D., Legal Counsellor to the Polish Delegation to the United Nations.

LABOUR LAW IN POLAND[1]

SURVEY OF POST-WAR LEGISLATION

While Polish legislation protecting manual and office workers was well developed before the second world war, further essential measures were taken immediately after the war.

The decree of 16 May 1945 (*Journal of Laws* No. 21, Item 117) increased from 25 per cent to 50 per cent the salary for overtime work; in the event of overtime lasting more than two hours, or being performed during the night, or on Sundays or holidays, the rate was increased from 50 per cent to an additional 100 per cent.

The decree of 29 September 1945 (*Journal of Laws* No. 43, Item 236) increased from 6 hours to 18 hours a week the time assigned for vocational studies and general schooling of minor workers, regardless of whether the schooling takes place during working hours or afterwards. By decree of 29 September 1945 (*Journal of Laws* No. 43, Item 238) it was provided that Sundays and holidays should not be counted when computing leave of absence of workers employed in industry and trade.

The decree of 19 September 1946 (*Journal of Laws* No. 51, Item 285) reduced the work week from 48 to 46 hours, it being understood that six hours of work will be done on Saturday. Industries engaged in continuous production are authorized to employ workers 8 hours on Saturday, on condition that the workers are paid for the additional two hours' overtime.

[1] Survey prepared by Professor Aleksander W. Rudzinski, LL.D., Ph.D., Legal Counsellor to the Polish Delegation to the United Nations.

The decree of 6 November 1946 (*Journal of Laws* No. 62, Item 344) contains detailed regulations governing health and safety measures in industry.

The decree of 13 September 1946 (*Journal of Laws* No. 61, Item 339) extended the law of collective labour agreements to agricultural workers.

The Act of 28 April 1948 (*Journal of Laws* No. 27, Item 182) provided for the transfer of a pregnant woman from strenuous work to lighter work from the sixth month of her pregnancy, without any decrease in salary. A pregnant woman is entitled to a 12-week leave of absence for confinement and convalescence. Ten weeks of interruption are obligatory. The leave shall begin at least two weeks before the scheduled birth of the child, and continue until at least 8 weeks after birth, and the mother may interrupt her work for two additional weeks at her discretion, either before or after the birth of her child.

The employer is prohibited from allowing a pregnant woman to work during the ten-week obligatory leave of absence, even though she should consent to work. During the entire pregnancy period, and during the 12 weeks' interruption in work, she cannot be dismissed except for serious reasons, or owing to her own fault, and with the consent of the shop council representing the workers. Dismissal for serious reasons cannot be effected during the four months preceding childbirth. For the period starting with the fourth month of pregnancy and ending when her child has passed the age of 18 months, a mother cannot be employed in overtime work.

PORTUGAL

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

During 1948, the Portuguese Constitution did not undergo any change; nor was the legislation relating to human rights modified to any notable degree.

[1] Information by the Portuguese Ministry of Justice, received through the courtesy of Mr. Manuel Rocheta, Counsellor of Embassy, Washington.

ROMANIA

CONSTITUTION OF THE PEOPLE'S REPUBLIC OF ROMANIA[1]
of 13 April 1948

TITLE I
THE PEOPLE'S REPUBLIC OF ROMANIA

Art. 1. The People's Republic of Romania is a popular, unitary, independent and sovereign State.

Art. 2. The People's Republic of Romania was created in the struggle waged by the people, headed by the working class, against fascism, reaction and imperialism.

Art. 3. In the People's Republic of Romania, the whole power of the State is derived from the people and belongs to the people.

The people exercise their power through representative bodies elected on the basis of universal, direct and equal suffrage by secret ballot.

Art. 4. The people's representatives in all the bodies of State power are responsible to the people and are liable to be revoked upon the will of the electors in conditions established by law.

TITLE II
SOCIAL AND ECONOMIC STRUCTURE

Art. 5. In the People's Republic of Romania, the means of production belong either to the State, being the possession of the whole people, or to co-operative organizations, or to private natural or legal persons.

Art. 6. All mineral resources, mines, forests, waters, sources of natural power, communication lines by rail, land, water and sea, post, telegraph, telephone and radio belong to the State, as common possessions of the people.

The method of transferring to the State any of the resources specified in the preceding paragraph which were in private hands on the day the present Constitution came into force, will be laid down by law.

Art. 7. The common property of the people constitutes the material basis of the economic progress and national independence of the People's Republic of Romania.

It is the duty of every citizen to defend and develop the common property of the people.

Art. 8. Private property and the right of inheritance are acknowledged and guaranteed by law.

Private property acquired through work and savings enjoys special protection.

Art. 9. The land belongs to those who work it.

The State protects the working peasant's holdings. It encourages and gives support to village co-operation.

In order to stimulate the improvement of agriculture the State may create State-owned agricultural enterprises.

Art. 10. Expropriations for reasons of public utility can be made in accordance with the law and under payment of rightful compensation as established by law.

Art. 11. When required in the general interest, the means of production, banks, and insurance companies, which are the property of private natural or legal persons, may become State property—*i.e.*, the possession of the people—under conditions established by law.

Art. 12. Work is the fundamental factor of the economic life of the State. It is the duty of every citizen. The State grants support to all working people in order to defend them against exploitation and to raise their standard of living.

Art. 13. The State grants protection to private initiative which serves the general interest.

Art. 14. Internal and foreign trade is regulated and controlled by the State, and it is carried out through State, private and co-operative commercial enterprises.

Art. 15. The State directs and plans the national economy in order to develop the economic power of the country, to ensure the welfare of the people and to safeguard the national independence.

TITLE III
FUNDAMENTAL RIGHTS AND DUTIES OF THE CITIZENS

Art. 16. All citizens of the People's Republic of Romania, irrespective of sex, nationality, race, religion, or educational qualifications, are equal before the law.

Art. 17. Any advocacy or manifestation of racial or national hatred is punishable by law.

[1] Romanian text through the courtesy of Mr. I. Nitescu, Secretary of the Legation of the People's Republic of Romania, Washington. English translation based on the text *The Constitution of the People's Republic of Romania*, published by the Legation, Washington, 1948.

Art. 18. All citizens, irrespective of sex, nationality, race, religion, educational qualifications, profession, including service men, magistrates and civil servants, have the right to vote and to be elected to all the organs of the State.

All citizens who have reached the age of 18 have the right to vote, and all citizens who have reached the age of 23 have the right to be elected.

Disqualified persons, deprived of civil and political rights—if pronounced as such by the qualified authorities in accordance with the law—do not enjoy the right to vote.

Art. 19. The citizens have the right to work. The State gradually ensures this right by the planned organization and development of the national economy.

Art. 20. The citizens have the right to leisure. This right to leisure is ensured by regulating working hours, by paid vacations, in accordance with the law, by organizing rest homes, sanatoria, clubs, parks, sports grounds, and institutions especially designed for this purpose.

Art. 21. Women are accorded equal rights with men in all spheres of public, economic, social, cultural, private-law and political life.

Women have the right to equal pay for equal work with men.

Art. 22. In the People's Republic of Romania all citizens have the right to education.

The State secures this right by organizing and developing elementary education, compulsory and free of charge, by State stipends granted to meritorious pupils and students, and by organizing and developing vocational and technical education.

Art. 23. The State encourages and supports the development of science and art and organizes research institutes, libraries, printing houses, theaters, museums, and music academies.

Art. 24. In the People's Republic of Romania, the right to use their native language and to organize education of every grade in their own language is ensured to all nationalities living in the country. Administrative and judicial authorities in the districts inhabited also by nationalities other than Romanian shall also use, orally and in writing, the language of the nationality concerned, and shall appoint officials from the nationality concerned, or from another nationality, who know the language of the local population.

The teaching of the Romanian language and literature is compulsory in schools of every grade.

Art. 25. The State takes care of public health by creating and developing health services and by encouraging and protecting physical training.

The State guarantees social protection and medical care in cases of sickness, accidents and disablement resulting from or occurring at work, or in the defence services of the country, as well as maintenance in old age, both for civil servants and for employees of private enterprises, whose contribution and rights are established by law.

Art. 26. Marriage and the family enjoy the protection of the State.

Mothers, and children under 18 years of age, enjoy special protection as established by law.

The parents have the same duties towards children born out of wedlock as towards those born in wedlock.

All acts affecting the civil status are valid only if contracted before the State authorities.

Art. 27. Freedom of conscience and freedom of religious worship are guaranteed by the State.

Religious creeds are free to organize themselves and can freely function provided their ritual and practice are not contrary to the Constitution, public security or morality.

No religious denomination, congregation or community can open or maintain institutions of general education, but may only run special schools for training personnel necessary to the cult under State control.

The Romanian Orthodox Church has its own head and is unitary in its organization.

The way of organizing and functioning of the religious creeds will be established by law.

Art. 28. Personal liberty of the citizen is guaranteed.

No person may be placed under arrest and imprisoned longer than 48 hours without a warrant of the public prosecutor, or of the examining magistrate as established by law, or under an authorization of the judicial authorities, in accordance with the law.

Art. 29. The domicile is inviolable. No person may enter the home or residence of a citizen without his consent, except in his presence and on the basis of a written warrant from the appropriate authority, or in case of *in flagrante delicto.*

Art. 30. No person may be sentenced or detained to serve a sentence except under a judicial decision according to the law.

Art. 31. Freedom of the Press, of speech, of assembly, of mass meetings, of street processions and demonstrations is guaranteed.

These rights are ensured by placing at the disposal of the working people printing presses, paper, and meeting halls.

Art. 32. The citizens have the right of association and organization, if the aims pursued are not directed against the democratic order established by the Constitution.

Any association of fascist or anti-democratic character is forbidden and punishable by law.

Art. 33. The secrecy of correspondence is guaranteed. Only in the case of court instruction, under martial law, or in the case of mobilization, may correspondence be inspected.

Art. 34. Every citizen has the right of petition, as well as the right to ask the legislature to bring suit against any civil servant for offences committed in the exercise of his duty.

Art. 35. The People's Republic of Romania grants the right of asylum to all foreigners persecuted for their democratic activities, for their struggle for national liberation, or for their scientific or cultural activities.

Art. 36. The defence of their country is an honourable duty of all citizens. Military service is obligatory for all citizens according to the law. High treason, violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, constitute the gravest crimes against the people and are punishable with all the severity of the law.

TITLE VII

JUDICIAL ORGANS AND THE OFFICE OF THE PUBLIC PROSECUTOR

Art. 86. The judicial instances are:

The Supreme Court, one for the whole country, the courts of appeal, the courts and the people's courts.

Art. 87. Certain special instances may be created by law for specific purposes.

Art. 91. In all judicial instances, proceedings are public, except in cases or circumstances provided by law.

Art. 92. The right of defence before all instances is guaranteed.

Art. 93. The judges of all grades must, in the exercise of their duties, be guided only by the law and apply the law equally to all citizens.

Art. 95. In the People's Republic of Romania the office of the Public Prosecutor supervises the observance of penal laws, both by civil servants and by the other citizens.

Art. 96. The Office of the Public Prosecutor especially supervises the prosecution and punishment of crimes committed against the democratic order and liberties, economic interests, nationa lindependence and sovereignty of the Romanian State.

EDUCATION REFORM ACT[1]

of 3 August 1948

CHAPTER I

GENERAL PRINCIPLES

Art. 1. In the People's Republic of Romania public instruction is an equal right for all citizens of the People's Republic of Romania, without distinction as to sex, nationality or religion.

It is organized exclusively by the State on the principle of unification of structure and is based on democratic, popular and realist scientific principles.

Public education is secular.

Art. 2. Public education strives:

(*a*) To eliminate illiteracy;

(*b*) To extend and democratize basic instruction to include all children of school age and all illiterates;

(*c*) To educate youth in the spirit of popular democracy and to raise the cultural level of the people;

(*d*) To guide the students in the use of their leisure time by organizing extra-curricular activities which create a bond between the school, the family and the social life of the community.

(*e*) To form on a scientific basis a core of trained specialists with intermediate and higher education, which is needed for the consolidation of the popular democracy and for the establishment of the socialist society.

(*f*) To prepare the necessary teaching personnel.

(*g*) To train research workers and creative minds in all fields of science and culture.

Art. 3. The structure of public instruction is as follows:

(*a*) Pre-school education.
(*b*) Elementary education (seven years of study).
(*c*) Secondary education.
(*d*) Higher education.

Art. 4. In all schools, instruction shall be given to co-resident nationalities in their mother tongue; the Romanian language shall, however, be taught from the first year of elementary education.

CHAPTER II

I. PRE-SCHOOL EDUCATION

Art. 5. Pre-school education is optional. It is organized for children of 3 to 7 years of age and is provided in day nurseries and kindergartens.

[1] Mimeographed Romanian text through the courtesy of Mr. J. Nitescu, Secretary of the Legation of the Romanian People's Republic, Washington. English translation from the Romanian text by the United Nations Secretariat. The Act entered into force on 3 August 1948.

Day nurseries and kindergartens are directly subordinate to the Ministry of Public Instruction.

II. ELEMENTARY EDUCATION

Art. 6. Elementary education lasts seven years and is free. The instruction for the first four elementary classes is general and compulsory. The texts for elementary instruction shall be uniform. The curriculum shall provide for a broad development of the basic subjects: language, literature, national history and geography, mathematics, natural sciences and physical education.

Due consideration shall be given to the special nature of the schools of co-resident nationalities.

Starting with the fourth elementary class, the Russian language shall be compulsory.

Art. 7. Special schools shall be organized for pupils for whom normal schooling is impossible, such as the blind and the deaf and dumb, etc.

III

[Articles 8–15 deal with secondary education;[1] articles 16–24 with higher education;[2] article 21 provides that in every branch of instruction the necessary minimum of textbooks and manuals shall be made available to students.]

IV. SPECIAL COURSES

Art. 25. In order to eliminate illiteracy, reading and writing courses lasting from one to two years shall be organized for persons from 14 to 15 years of age with an analytical curriculum and special uniform texts. Completion of these courses is equivalent, on the basis of examination, to completion of the first four years of elementary instruction.

Art. 26. Special two-year schools for men of the working classes shall be established in certain centres. These schools are intended to give the pupils training equivalent to that of secondary schools. Those passing the entrance examination may become pupils in these schools.

The pupils of these schools shall be chosen from the branches of production. They shall be supported during the period of schooling by the competent Ministries and the enterprises. Pupils completing these schools are entitled to take the examination for admission to higher education.

CHAPTER III

TEACHING STAFF

Sect. 27. The teaching staff necessary for the proper conduct of schools of all grades and all types shall be provided by the Ministry of Public Instruction, in collaboration with the competent Ministry where technical staff is concerned.

Sect. 28. Specialists such as engineers and doctors may also serve on the staff of technical schools and institutes of higher instruction, while continuing to practise.

CHAPTER IV

GUIDANCE AND CONTROL SERVICE

Sect. 29. A guidance and control service staffed by school inspectors shall be set up for each level of instruction.

Sect. 30. To assist in guiding the teaching staff, in addition to the school inspectorates, pedagogical offices shall be established with a view to contributing effective support to the pedagogical activities of the teaching staff and to the continued improvement of school work by means of documentary material on methodology, pedagogical conferences, etc.

CHAPTER V

FINAL AND TEMPORARY PROVISIONS

Sect. 31. To meet the urgent needs of the economic and social life of the country, schools for a shorter duration than that envisaged in the present Act may be established provided that they are governed by special laws.

Sect. 32. The present normal schools are converted into pedagogical schools.

Sect. 33. The present faculties in schools of higher education shall be reorganized in accordance with the present Act. In this connexion unnecessary chairs may be abolished, others may be rationalized as circumstances may require, and new chairs may be instituted.

Sect. 34. Decisions to create, modify or discontinue scholastic institutions of secondary or higher education shall be made by the Council of Ministers.

Sect. 35. All sectarian or private schools of whatever nature become State schools.

Sect. 36. Members of the teaching staff of sectarian or private schools that have been transferred to the State shall be incorporated in the State educational structure according to the degrees that they hold and in accordance with the legislation in effect at the date of enactment of the present Act.

Sect. 37. Any person who obstructs or attempts to obstruct by any means whatever the operation of section 35 of the present Act shall be sentenced to hard labour for from five to ten years and confiscation of all his property.

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[1] Secondary education lasts four years and is given in general secondary schools, normal schools, technical schools and vocational schools.

[2] Higher education is given in universities and technical colleges as well as specialized professional schools (medical schools, engineering colleges, etc.).

SAARLAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The text of the articles on human rights in the Constitution of the Saarland was published in the *Yearbook on Human Rights for 1947*.[2]

Article I of a "Transitional Law" which was adopted by the *Landtag* on 7 February 1948 and came into force on 25 February 1948 (*Bulletin officiel de la Sarre* No. 11, of 25 February 1948, p. 205) provides that:

> "The Government of Saarland is empowered to publish ordinances designed, on the one hand, to bring all existing laws and judicial regulations into conformity with the provisions of the Constitution and, on the other hand, to guarantee the powers transferred to the Government of the Saarland by the High Commissioner of the French Republic in the Saarland, in particular the powers which, in consequence of the monetary change, are required in the economic and social welfare fields."

On the basis of the Constitution and the Transitional Law referred to above, or of either of these texts, the following provisions concerning human rights have been promulgated:

Ordinance of 24 February 1948 on meetings in the Saarland.

Ordinance of 9 March 1948 to issue provisional Press regulations.

Saarland Nationality Law of 15 July 1948.

Extracts from these three texts are reproduced in this *Yearbook*.

Ordinance of 10 October 1947 respecting the compensation for partial unemployment of workers in industrial undertakings.

This Ordinance, published in the *Bulletin officiel de la Sarre* No. 11, of 25 February 1948, p. 206, provides in article 1 that if weather conditions or a shortage of raw materials or other essential products cause unavoidable partial unemployment in an industrial undertaking, compensation shall be granted to the workers suffering a loss in wages in consequence thereof. The methods for the calculation and payment of such compensation by the employer and repayment by the "Fund for Labour Market Tasks" are laid down in the Ordinance.

[1] The texts on which this note is based were provided through the courtesy of Mr. Guy de la Tournelle, Minister Plenipotentiary, Acting Representative of the French Republic to the United Nations. English translation from the French text by the United Nations Secretariat.

[2] Page 277.

ORDINANCE OF 24 FEBRUARY 1948 RESPECTING MEETINGS IN THE SAARLAND[1]

Art. 1. 1. Whenever it is intended to hold a public or private meeting or manifestation, notice thereof shall be given to the mayor or the *Verwaltungsvorsteher*, as the communal police authority, in the commune in which it is planned to hold the meeting or manifestation. Nothing herein contained shall in any way affect the provisions concerning manifestations of a special nature (such as balls, theatrical performances, etc.). The fact of giving notice in pursuance of the first sentence shall not exempt the organizer from the obligations deriving from these special provisions.

The same shall also apply to the legal provisions in matters of taxation.

2. The provisions of paragraph 1 shall not apply to religious manifestations of churches and religious bodies referred to in article 37 of the Constitution of the Saarland.[2]

Art. 2. 1. Every open-air manifestation or meeting shall be subject to the authorization of the *Landrat* as the police authority of the circle (*Kreis*).

2. Article 1, paragraph 2, shall also apply to open-air meetings and manifestations.

Art. 3. 1. The notice required under article 1 shall be made in writing not less than three days before the date for which the meeting or manifestation is planned.

[1] German and French texts in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes*, No. 13, of 2 March 1948, p. 223. English translation from the French text by the United Nations Secretariat. In accordance with Article 11, the Ordinance came into force on 2 March, the date of publication in the *Bulletin officiel*. This Ordinance is based on article 1 of the "Transitional Law" (see paragraph 1 of the above note on the development of human rights.

[2] See *Yearbook on Human Rights for 1947*, p. 280.

2. The application for authorization to hold an open-air meeting or manifestation (article 2) shall be submitted not less than one week before the intended date.

[Articles 4 and 5 deal with the form of the notice and authorization.]

Art. 6. The police authority (the regional police authority, the circle police authority, the communal police authority) shall have the right to delegate officials to such meetings or manifestations as under the terms of the present Ordinance are subject to notification or authorization, except, however, in the case of a private political meeting. A private political meeting shall be deemed to be one attended exclusively by the registered members of the political party organizing the meeting.

Art. 7. The police official delegated to a manifestation or meeting in virtue of article 6 shall have power to declare dissolved, stating the reasons therefor, any meeting or manifestation:

(*a*) If it is not found possible to produce to him the attestation certifying that the notice was made in good and due form;

(*b*) To which he has been refused access;

(*c*) At which are discussed resolutions or proposals containing an incitement or provocation to crimes or offences other than those which may not be prosecuted except at the request of the parties concerned;

(*d*) At the request of the chairman.

Art. 8. 1. The Minister of the Interior may prohibit meetings and manifestations of any kind whenever there is justified suspicion that they might cause grave breaches of public order and security. The decision shall be communicated in writing.

2. Where a prohibition has been pronounced by the Minister of the Interior, the convener has the right to appeal against it.

An appeal shall not entail a stay. The Government of the Saarland shall decide with respect to the appeal. The decision shall contain a statement of reasons.

Art. 9. Offences under the present Ordinance shall be punishable by a term of imprisonment not exceeding three months and a fine not exceeding 15,000 francs, or one only of these penalties.

ORDINANCE ON PROVISIONAL PRESS REGULATIONS of 9 March 1948[1]

I. INTRODUCTORY PROVISIONS

Art. 1. Pending the coming into operation of a Press Law for the Saarland, the printing industry and the Press shall be subject to the following regulations:

Art. 2. The publication of periodicals shall be subject to authorization by the Government. Authorizations already granted shall continue in force.

II. PRESS REGULATIONS

Art. 3. 1. Every printed work published in the territory to which this Ordinance applies shall bear the name and address of the printer and, if it is intended for bookshops or for dissemination in some other manner, the name and address of the publisher or, if it is sold by the author himself, the name and address of the latter. It shall be sufficient to mention the name and style of the firm as entered in the register of commerce in place of the name of the printer or publisher.

2. This provision shall not apply to printed matter used exclusively for commercial or transport purposes or for the purposes of domestic or social life, such as printed forms, price lists, visiting cards, announcements of betrothal, marriage or death, and the like.

Art. 4. 1. All newspapers and reviews appearing at monthly or shorter intervals even if such intervals are irregular (periodical publications within the meaning of the present Ordinance) shall contain the name and address of the responsible editor in each copy, issue or instalment.

2. Mention shall not be made of more than one editor unless it is clear, without any possible doubt, from the form and content of the notice, for which section of the publication each such editor assumes responsibility.

Art. 5. A person shall not act as the responsible editor of a periodical publication unless he is a Saarlander and the holder of an "A" identity card,[2] in the enjoyment of his full legal capacity, in possession of his civic rights and has been exonerated in the course of the political purge proceedings. Exceptions may be permitted by a commission established by the Govern-

[1] German and French texts in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes*, No. 17, of 16 March 1948, p. 276. English translation from the French text by the United Nations Secretariat. In accordance with article 21, the Ordinance came into operation on 16 March 1948, the date of its publication in the *Bulletin officiel*. Article 5 of the Constitution of the Saarland on which the present Ordinance is based is reproduced on p. 277 of the *Yearbook on Human Rights for 1947*.

[2] The conditions for the issue of the identity card are laid down in article 2 of the Ordinance instituting a Saarland identification card (*Bulletin officiel de la Sarre* No. 17, of 16 March 1948, p. 274).

ment. A responsible editor shall be bound to have his domicile or permanent residence in the Saarland.

Art. 6. 1. The editor shall be required, as soon as distribution or despatch commences, to deliver free of charge one copy of each number (issue, instalment) of a periodical publication to the police authority competent for the place of publication, against a receipt to be issued immediately, and one copy to the Government Information Office at Saarbrücken.

2. Paragraph 1 shall also apply to the publication of books and pamphlets, *mutatis mutandis.*

Art. 7. The responsible editor of a periodical publication which publishes announcements shall also be required to publish official notices on request by the authorities, it being understood that the usual cost of insertion will be paid and that the announcement will appear in one of the two following issues of the periodical.

Art. 8. 1. At the request of any public authority or private person concerned, the responsible editor of a periodical publication shall be required to publish, without additions or omissions, a rectification of facts published in the said publication, provided always that the said rectification is signed by the person making the request, that it does not contain any objectionable matter and that it is confined strictly to statements of fact.

2. The rectification shall be printed in the next issue not yet gone to press following its receipt; it shall be printed in the same section of the publication and in the same type as the article to be rectified.

3. The reply shall be printed free of charge provided that the length thereof does not exceed the communication to be rectified. The usual insertion charges shall be made for the lines in excess of such communication.

Art. 9. The provisions of articles 3 to 8 shall not apply to publications issued by the *Landtag* of the Saarland, by the Government, or by the State or communal authorities of the Saarland, in so far as their contents are confined to official notices.

Art. 10. 1. The Minister of the Interior shall have power to prohibit for a period not exceeding one month the printing and distribution of any periodical publication published in the Saarland which publishes in any issue untrue statements concerning the High Commissioner of the French Republic in the Saarland, the Government of the Saarland or any of its members, or the State authorities, or the measures taken by the above-mentioned, where such statements are likely to hold up the institutions in question to ridicule or where there is incitement to punishable acts. The same provisions shall apply where the publication contains derogatory or insulting articles with respect to the chief of state of a foreign country.

2. The distribution of a periodical publication published elsewhere than in the Saarland may also be prohibited for a period not exceeding three months under the conditions laid down in paragraph 1.

3. The prohibition shall extend automatically to all periodical publications which would in fact be a substitute for the prohibited publication. This inference may be drawn in particular in cases where the responsible editor, printer or publisher is the same as the responsible editor, printer or publisher of the prohibited publication. It shall not be lawful to supply the subscribers to a prohibited publication free of charge with another periodical publication for the duration of the prohibition.

[Articles 11 and 12 deal with the penalties for offences against the provisions of the preceding articles.]

Art. 13. 1. Liability for acts, the punishable nature of which is constituted by the contents of a publication, shall be determined in accordance with the general penal law in force.

2. Where the publication in question is a periodical publication the penalty shall be incurred by the responsible editor unless special circumstances show that he may not be regarded as the author.

Art. 14. If the contents of printed matter constitute the grounds for penal proceedings, the responsible editor and the publisher, in so far as they are not liable under article 13 as principals or accessories, shall be punished for negligence by a fine not exceeding 50,000 francs or imprisonment for a term not exceeding one year, unless they can prove that they employed all the necessary professional care or can adduce evidence as to circumstances which made it impossible for them to do so. Nevertheless, neither of the persons in question shall incur a penalty if, before publication of the judgment of the court of first instance, they name as the author or sender with whose consent publication was made, a person who is within the legal jurisdiction of the Saarland or, if deceased, was within such jurisdiction at the time of publication. The same shall apply in the case of non-periodical printed matter. The above provisions shall apply, *mutatis mutandis,* to any persons disseminating foreign publications containing punishable matter.

Art. 15. Printed matter shall not be subject to confiscation except in pursuance of the decision of a judge unless the matter in question does not conform to the provisions of articles 3 and 4 or is disseminated contrary to the provisions of article 10.

Art. 16. The competent court shall make the definitive decision respecting the continuation or cancellation of the provisional measures.

Art. 17. An order for provisional confiscation which has been confirmed by the court shall be cancelled if penal proceedings concerning the substance of the accusation are not instituted within two weeks of confirmation.

Art. 18. Copies of printed matter shall be confiscated only in places where they are collected for purposes of dissemination. The order for confiscation shall indicate the passages in the work constituting the grounds on which the order was made, together with the statutory provisions violated.

Art. 19. 1. It shall not be lawful throughout the period during which the confiscation order is in force, to distribute the printed matter which is the subject of the order or reproduce the passages constituting the grounds of the confiscation.

2. If a person being aware of the order of confiscation is guilty of a contravention thereof he shall be liable to a fine not exceeding 30,000 francs or to a term of imprisonment not exceeding six months.

SAARLAND NATIONALITY ACT

of 15 July 1948[1]

PART I

Article 1

NATIONALITY BY VIRTUE OF THE LAW

1. The following persons shall have Saarland nationality by virtue of the law:

(*a*) Any person born in the Saarland;

(*b*) Any person born elsewhere than in the Saarland whose father (or mother, in the case of an illegitimate child) was born in the Saarland;

(*c*) Any person who took up residence in the Saarland before 30 January 1933 and has maintained his permanent residence in that territory for ten years;

(*d*) The wife (or widow) of a man having Saarland nationality in virtue of (*a*) or (*b*) above;

(*e*) A child whose father satisfies the conditions set out under (*b*) or (*c*) above;

An illegitimate child whose mother satisfies the conditions set out under (*b*) or (*c*) above.

2. The provisions of paragraph 1 shall apply to persons resident in the Saarland on the date of the entry into force of the present Act.

3. If a person satisfies the conditions set out under (*a*) or (*b*) of paragraph 1 and has received from the Government of the Saarland, within three years of the entry into force of the present Act, permission to return to the Saarland, he shall automatically acquire Saarland nationality on the day of his return to the Saarland.

4. If a person satisfies the conditions set forth under (*a*) or (*b*) of paragraph 1 and is resident abroad, he shall automatically acquire Saarland nationality if he emigrated or was deported for political reasons after 30 January 1933.

5. If a person was displaced by force, or evacuated for political reasons or as the result of war-time events, he may apply for Saarland nationality, provided that he fulfils the conditions of paragraph 1 but not those of paragraph 2. The application shall be submitted to the Government of the Saarland within one year of the entry into force of the present law.

6. The acquisition of Saarland nationality under paragraphs 1 to 5 shall also extend to children under age where the latter share their parents' domicile.

7. For the purposes of paragraph 1 the territory of the Saarland shall be deemed to mean the whole of the territory as at 17 December 1947, the date of the entry into force of the Constitution.

Article 2

LOSS OF GERMAN NATIONALITY

If a person possesses or acquires Saarland nationality under article 1, but hitherto possessed German nationality, he shall henceforth, in his relations with the State of the Saarland, be regarded solely as a Saarland national.

[Article 3 deals with the renunciation of nationality.]

PART II

Article 4

GRANT OF NATIONALITY

1. Saarland nationality may be granted on application to Germans or stateless persons who were resident in the Saarland for not less than one year before 13 January 1935 and took active part in the struggle against the national-socialist regime until the end of the plebiscite proceedings.

2. Application may be made only within a time-limit of one year reckoned from the entry into force of the present Act.

Article 5

ACQUISITION OF NATIONALITY BY BIRTH

1. The legitimate child of a Saarland father shall acquire the nationality of the father by birth and the

[1] German and French texts in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes*, No. 61 (*s*), of 14 August 1948, p. 947. In accordance with article 21, the Act came into force on 14 August, the date of its promulgation. Article 66 of the Saarland Constitution, on which this Act is based, is reproduced in *Yearbook on Human Rights for 1947*, p. 282.

illegitimate child of a Saarland mother shall acquire nationality of the mother.

2. A child born in the Saarland of unknown parents shall be deemed to have been born of Saarland parents pending proof to the contrary. The same shall apply to a child found in the territory of the Saarland.

Article 6

OTHER GROUNDS FOR ACQUISITION OF NATIONALITY

In addition to the cases referred to in article 5, Saarland nationality shall be acquired by:

1. Legitimation or adoption (article 7);
2. Marriage (article 8);
3. Naturalization (article 9);
4. Reinstatement (article 10).

.....

Article 8

ACQUISITION BY MARRIAGE

By marriage to a Saarlander a woman shall acquire the nationality of her husband unless before the marriage she states her desire to retain her original nationality.

[Article 10 deals with the conditions in which the widow or divorced wife of a foreign national, who was herself a Saarlander at the time of her marriage, and a former Saarlander who lost Saarland nationality by renunciation while still a minor, may recover Saarland nationality.]

[Article 11 deals with the effects of naturalization.]

Article 12

GROUNDS FOR LOSS OF NATIONALITY

Saarland nationality shall be lost:

1. By renunciation (articles 13 to 15);

2. By the acquisition of a foreign nationality (article 16);

3. By an official decision (article 17);

4. By legitimation where this is done by an alien in accordance with Saarland laws; or by adoption by an alien duly effected in accordance with the law;

5. In the case of a Saarland woman, by marriage to an alien, unless she declares before the competent authority, not later than the date of the marriage, that she wishes to retain Saarland nationality.

Article 18

LOSS OF SAARLAND NATIONALITY BY FORFEITURE

1. If a person has acquired Saarland nationality by naturalization (article 9) he may be deprived thereof by decision of the Saarland Government if:

(*a*) He has been sentenced by a Saarland court for a penal offence constituting a crime or an offence against the internal or external security of the State of the Saarland;

(*b*) He has been sentenced by a Saarland court for a penal offence punishable under articles 105 to 111 or 113 to 116 of the Penal Code;

(*c*) He has been guilty of an action for a foreign power, which is incompatible with Saarland nationality and contrary to the interests of the Saarland;

(*d*) He has been sentenced in the Saarland or elsewhere to deprivation of liberty for a period of not less than five years for a penal offence deemed to be a crime.

2. Forfeiture shall not be lawful unless the actions referred to in paragraph 1 above were committed within ten years of naturalization. Forfeiture shall be barred after the lapse of a period of not less than ten years since the judgment within the meaning of paragraph 1 or since the offence referred to in that paragraph.

3. Forfeiture may be extended to the wife and children under age in so far as the latter are not of Saarland origin and have retained a foreign nationality. Forfeiture shall not be extended to the children unless it is at the same time pronounced against the wife.

4. If a person has forfeited Saarland nationality he shall leave the Saarland within six months.

EL SALVADOR

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The Constitution of El Salvador of 1886 as amended did not undergo any change during the year 1948.[2]

During 1948, the Government of El Salvador prepared drafts of a labour code (*Codigo de Trabajo*) and of an educational code (*Codigo de Educación*). The draft of the labour code was submitted for approval to the National Assembly of Deputies.

[1] Information through the courtesy of Mr. Charles A. Siri, Chargé d'Affaires *ad interim*, Embassy of El Salvador, Washington.

[2] Early in 1949, a new draft constitution was in preparation.

SAUDI ARABIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

During 1948 there were no new developments in the constitutional and legislative situation with regard to human rights.

[1] Information through the courtesy of Mr. Asad Al-Faqih, Minister, Representative of Saudi Arabia to the United Nations.

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SWEDEN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

During 1948, Swedish constitutional law was not amended, nor were new laws relating to human rights promulgated.

The Constitutional Act of 1812, relating to the freedom of the Press, was in the process of revision in the course of the year. This Act is one of the four fundamental Acts which can be repealed or amended only with the approval of two sessions of the *Riksdag* separated by intervening general elections to the Second Chamber.

A new draft was submitted by a commission of experts which had been appointed by the Swedish Government.[2] The Government bill No. 230, of 2 April 1948, conformed closely to the proposals of the experts, and the main provisions of the draft were approved by the Constitution Committee (Report No. 30) and the *Riksdag*.[3]

[1] This note is based on information received through the courtesy of the Royal Swedish Ministry of Foreign Affairs.

[2] See *Förslag till Tryckfribetsförordning*, prepared by the Department of Justice as public research paper 1947: 60, Stockholm, 1947.

[3] The bill was approved by another session of the *Riksdag*, after general elections, and the new Constitutional Act promulgated on 23 March 1949.

SWITZERLAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. THE CONFEDERATION

The following Federal laws relating to human rights were promulgated or entered into force during 1948:

1. Decree of the Federal Council reinforcing the penal provisions for the protection of the State, dated 29 October 1948. Extracts from the decree and an introductory note to it will be found in the present *Yearbook*.

2. Federal Act on old age and survivors' insurance of 20 December 1946 (*Recueil des lois de la Confédération*, 31 July 1947, No. 30, p. 843).

The Act entered into force on 1 January 1948 (article 154). Extracts from the Act will be found in the present *Yearbook*. The Federal Council issued regulations, dated 31 October 1947, for the execution of the Act; these regulations entered into force on the same date as the Federal Act.

3. Several ordinances and orders of 18 and 24 December 1947, 3 January, 10 March, 14 May and 8 October 1948 regulating questions of detail relating to old age and survivors' insurance.

4. Federal Act to supplement and amend the Federal Act of 13 June 1911 on sickness and accident insurance, dated 17 December 1947.

The Act entered into force on 1 May 1948. It contains new or amended provisions concerning occupational diseases. The principal provisions on this subject will be found in the present *Yearbook*.

5. Federal regulations on work in factories. 1948 text.

The text of the Federal Act on work in factories, dated 18 June 1914 and revised on 1 January 1948, adds underground work in mines to the 11 other branches of manufacture and types of work in which the employment of women and of young persons under 18 years of age (articles 183, 189) is prohibited. This clause was introduced by an order of the Federal Council of 15 December 1947 on the prohibition of the employment of women and young persons in underground work in mines.

II. CANTONS

1. The Federal Act on old age and survivors' insurance dated 20 December 1946, mentioned above, provides for participation by the cantons. Thus the Act provides for the compulsory establishment of cantonal equalization funds (articles 49, 61) side by side with the occupational funds and the equalization funds of the Confederation. In addition, cantons have the right to maintain or to establish cantonal old age and survivors' insurance institutions in order to supplement the Federal old age and survivors' insurance scheme (article 83). Cantons are required to submit to the Federal Council for approval any provisions for the implementation and adaptation of the scheme (article 100). They are also required to contribute to the funds for covering the scheme as provided in the Act (article 105).

Among the cantonal Acts promulgated to implement the above-mentioned provisions, the following should be quoted:

Aargau, Act of 6 December 1947;
Basle-Rural, Act of 27 September 1948;
Basle-Town, Act of 4 December 1930, amended by the Act of 5 February 1948;
Berne, Act of 8 February 1948 and Orders of 10 February 1948;
Geneva, Act of 10 January 1948;
Glarus, Act of 2 May 1948 and Order of 16 June 1948;
Neuchâtel, Act of 18 November 1947 and Order of 13 February 1948;
Nidwalden, Act of 25 April 1948;
St. Gallen, Act of 22 January 1948;
Schaffhausen, Act of 4 October 1948;
Schwyz, Act of 16 September 1947 and executive regulations of 23 January 1948;
Ticino, Legislative Decree of 28 January 1948;
Thurgau, Act of 6 December 1947;
Vaud, Act of 8 September 1948;
Zug, Act of 29 December 1947 and Order of 2 March 1948;
Zurich, Act of 14 March 1948.

2. In a number of cantons, orders were issued by the competent authorities to encourage the building of low-cost housing by subsidies or other means, chiefly for the benefit of large families and families in poor circumstances.

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[1] This note is based on texts and information received through the courtesy of the Federal Political Department of the Swiss Confederation and Mr. Raymond Christinger, Secretary of Legation, Office of the Swiss Observer to the United Nations. As far as the cantonal legislation is concerned, the co-operation of the cantonal authorities is gratefully acknowledged.

Among these texts, mention should be made of:

Berne, Orders of 17 February and 4 March 1948;
Fribourg, Order of 2 April 1948;
Luzern, Order of 21 May 1948;
Zug, Order of 22 March 1948;
Zurich, Orders of 22 January and 18 March 1948.

3. Other orders were published in some cantons with a view to securing the welfare of large families. The orders relate to cantonal allowances for large families, and more particularly to cantonal equalization funds for family allowances. The following texts should be mentioned:

Fribourg, Executive Regulations of 27 January 1948;
Luzern, Orders of 29 January and 12 February 1948;
Neuchâtel, Order of 17 December 1948 amending the regulation of 23 November 1945.

4. An Act regarding annual holidays for manual and clerical workers was promulgated in the Canton of Basle-Town on 12 February 1948. Extracts from this Act will be found in the present *Yearbook*.

5. In the field of public health, Acts, regulations and orders on sickness insurance (Nidwalden, Thurgau), anti-tuberculosis measures (Nidwalden), vaccination (Fribourg), the practice of the medical profession (Basle-Rural) and health inspections in schools (Fribourg) have been promulgated. The regulations of 3 January respecting the health inspection of primary schools in the Canton of Fribourg are reproduced in the present *Yearbook*.

6. In the educational field, the organization of vocational schools and vocational training and apprenticeship grants received the particular attention of legislators and executive authorities in the cantons. The following texts, from the Canton of Neuchâtel, may be quoted as an example of the texts adopted in the educational field;

Regulations concerning vocational training grants, of 21 April 1942, amended by the Order of 23 December 1948;

Act regarding teachers' training, of 2 June 1948;
Act amending the law on primary education, of 2 June 1948;
Order respecting school scholarship funds, of 9 November 1948.

7. In the Canton of Vaud, the Act of 2 December 1942 regulated free legal assistance in civil suits. Extracts from this Act are reproduced in the present *Yearbook*.

8. In the field of economic welfare, a Federal Act on the freeing of agricultural properties from debt was promulgated on 12 December 1940; it was followed by two ordinances of 16 November 1945. Cantonal executive regulations or orders were enacted in the following Cantons during the closing months of 1947 or in 1948;

Fribourg, Order of 30 July 1948;
Luzern, Executive regulations of 4 March 1948;
Schwyz, Order of 9 March 1948;
Valais, Executive regulations of 18 November 1947.

Federal Legislation

DECREE OF THE FEDERAL COUNCIL REINFORCING THE PENAL PROVISIONS FOR THE PROTECTION OF THE STATE

dated 29 October 1948[1]

Introductory Note.[2] After the failure of the efforts made in 1932, 1933 and 1936 to embody in a special law the antiquated provisions of the federal penal legislation on the protection of the State, the Federal Council adopted the Decree of 5 December 1938, penalizing acts contrary to public order and instituting measures to protect democracy. Owing to the exceptional circumstances of the time, the Federal Council found it necessary to introduce a measure making better provision for the protection of the State than the Swiss Penal Code accepted by the people on 21 December 1937, which did not enter into force until 1 January 1942.

This decree, which was based on the Constitution, was replaced by the following decrees issued by the Federal Council in virtue of its special powers: Decree of the Federal Council of 27 February 1945, instituting measures for the protection of the constitutional order and removing the ban on certain parties; Decree of the Federal Council of 7 March 1947, restricting certain provisions introduced for the protection of the constitutional order; and Decree of the Federal Council of 29 October 1948, reinforcing the penal provisions for the protection of the State.

[1] Text of the decree through the courtesy of the Federal Political Department of the Swiss Confederation and of Mr. Raymond Christinger, Secretary of Legation, Office of the Swiss Observer to the United Nations.

[2] This note was prepared by the Federal Political Department of the Swiss Confederation.

The duration of these special provisions introduced by the Federal Council is limited. Work is in progress with a view to embodying this reinforced protection of the State in the ordinary law. The Decree of 29 October 1948 supplements the ordinary penal law in the following respects: it increases the penalties provided for treason and for the organization of a military intelligence service and widens the concepts of a political intelligence service and of illicit associations. A provision, which is partly new, lays down that any person who, with a view to supporting foreign political enterprises or designs directed against Switzerland, enters into relations with a foreign State or with foreign parties or other organizations abroad, or with their agents, or who issues or disseminates false or misleading information, shall be liable to a maximum of five years' imprisonment, and, in serious cases, to imprisonment with hard labour (article 2).

The provisions concerning subversive propaganda and the disparagement of political institutions contained in the decree penalizing acts contrary to public order and instituting measures for the protection of democracy are reproduced here. Penalties are provided for any person who conducts propaganda aimed at disturbing or modifying illegally the order based on the Constitution or any person who assists such propaganda, especially if it emanates from abroad (article 6), any person who disparages political institutions publicly, maliciously or continuously, and especially any person who issues or disseminates false or misleading information for this purpose (article 8).

The other articles provide penalties for the violation of provisions concerning foreign associations (article 9), or are concerned with the punishment of acts committed abroad (article 10), the loss of civic rights (article 11) and jurisdiction (article 12). Lastly, in article 13, the Federal Council reserves the right to prohibit, for a specified period, any groups or enterprises which endanger the internal or external security of the Confederation, and to enact provisions for the suppression of their activities.

Art. 2. Any person who, with a view to supporting foreign political enterprises or designs directed against Switzerland, enters into relations with a foreign State or with foreign parties or other organizations abroad, or with their agents, or issues or disseminates false or misleading information, shall be liable to imprisonment for a period not exceeding five years.

In serious cases, the judge may pass a sentence of imprisonment with hard labour.

Art. 3. Article 272, paragraph 1, of the Penal Code shall read as follows:

Any person who, in the interests of a foreign State, a foreign party, or any similar organization abroad, and to the detriment of Switzerland or her nationals or inhabitants, conducts or organizes a political intelligence service, or engages another person for such service or assists such activities shall be liable to imprisonment.

Art. 5. Any person who commits an act aimed at disturbing or modifying illegally the order based on the Constitution of the Confederation or of a canton shall be liable to imprisonment for a period not exceeding five years.

Art. 6. Any person who conducts propaganda aimed at disturbing or modifying illegally the order based on the Constitution of the Confederation or of a canton, or assists such propaganda, especially if it emanates from abroad, shall be liable to imprisonment or to a fine.

Art. 8. Any person who publicly, maliciously and continuously disparages the political institutions of the Confederation or of the cantons, and especially the democratic principles on which they are based, and in particular, any person who issues or disseminates false or misleading information for this purpose shall be liable to imprisonment for a period not exceeding one year or to a fine not exceeding 5,000 francs.

Art. 9. Any person who disobeys the rules laid down by the federal authorities concerning foreign political groups shall be liable to arrest or to a fine not exceeding 5,000 francs.

Art. 10. The offences provided for in articles 2, 3, 5, 6 and 8 are equally punishable if they are committed abroad.

Art. 11. Persons sentenced to imprisonment may be deprived of civic rights from one to five years, if the offence denotes baseness of character or is particularly detrimental to the constitutional order.

Art. 12. The offences provided for in the present decree are within the competence of the federal jurisdiction. The Federal Department of Justice and Police may defer investigation and judgment to the cantonal authorities . . . .

Art. 13. The Federal Council reserves the right to prohibit for a specified period associations or enterprises which endanger the internal or external security of the Confederation, and to enact provisions for the suppression of their activities.

Art. 14. The present decree abrogates the Decree of the Federal Council of 7 March 1947 restricting certain provisions introduced for the protection of the constitutional order and the provisions that are still in force of the Decree of 27 February 1945, instituting measures for the protection of the constitutional order and removing the ban on certain parties.

FEDERAL ACT OF 20 DECEMBER 1946 REGARDING OLD AGE AND SURVIVORS' INSURANCE[1]

Introductory Note.[2] The first attempts to introduce old age and survivors' insurance date back to 1886. These attempts were temporarily abandoned in favour of sickness and accident insurance. The supplementary article to the Constitution[3] adopted by the Swiss people in 1925 served as a constitutional basis for the introduction of old age and survivors' insurance.

The first draft law was rejected by the people in 1931, but the system of allowances for mobilized persons, the great social achievement of the Second World War, gave a fresh impulse to old age and survivors' insurance and opened the way to its institution.

The second draft law, which is the present Federal Act regarding old age and survivors' insurance of 20 December 1946, was adopted by a large majority at the referendum of 7 July 1947 and came into force on 1 January 1948. The order for the execution of this Act is dated 31 October 1947.

PART I

THE INSURANCE SCHEME

Chapter I

PERSONS TO BE INSURED

1. (1) The following persons shall be insured in conformity with this Act:

(*a*) Persons whose civil domicile is in Switzerland;

(*b*) Persons carrying on a gainful occupation in Switzerland;

(*c*) Swiss nationals who are employed abroad in the service of an employer domiciled in Switzerland and are remunerated by the said employer . . . .

Chapter II

CONTRIBUTIONS

A. Contributions of Insured Persons

I. Obligation to pay Contributions

3. (1) Insured persons shall be bound to pay contributions as long as they are carrying on a gainful occupation, and in any case from the first day of the calendar half-year following that in the course of which they attain the age of twenty years until the last day of the calendar half-year in the course of which they attain the age of sixty-five years . . . .

II. Contributions of Insured Persons carrying on a Gainful Occupation

4. The contributions of insured persons carrying on a gainful occupation shall be reckoned as a percentage of the income derived from the carrying on of all kinds of occupation, both dependent and independent.

5. (1) Subject to section 6 below, there shall be levied on income derived from dependent occupations (such income being described hereinafter as "determinant remuneration") a contribution at the rate of 2 per cent.

6. The contributions of insured persons whose employer is not liable for the payment of contributions shall be at the rate of 4 per cent of the determinant remuneration. If the determinant remuneration is less than 3,600 francs per annum, the contribution rate shall be reduced to a figure not less than 2 per cent in accordance with a descending scale to be drawn up by the Federal Council.

8. (1) On income derived from independent occupations there shall be levied a contribution at the rate of 4 per cent. If such income is less than 3,600 francs per annum but more than 600 francs per annum, the contribution rate shall be reduced to a figure not less than 2 per cent in accordance with a descending scale to be drawn up by the Federal Council.

(2) If the income derived from an independent occupation is less than 600 francs per annum, the contribution shall be at the fixed rate of 1 franc per month.

9. (1) "Income derived from an independent occupation" shall mean all earned income other than remuneration for work performed in a dependent situation . . . .

III. Contributions of Insured Persons not engaged in any Gainful Occupation

10. (1) Subject to section 11 below, the contributions of insured persons not engaged in any gainful occupation shall be, in accordance with their position in the community, not less than 1 franc nor more than 50 francs per month . . . .

B. Employers' Contributions

12. (1) "Employer" shall mean any person who pays to compulsorily insured persons a remuneration within the meaning of sub-section 2 of section 5.

(2) All employers having a permanent establishment in Switzerland shall be liable for the payment of

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[1] French text received through the courtesy of Mr. Raymond Christinger, Secretary of Legation, Office of the Swiss Observer to the United Nations. English translation from: International Labour Office, *Legislative Series*, January-February 1948, Switzerland I.

[2] This note was prepared by the Federal Political Department of the Swiss Confederation.

[3] Article 34 (reproduced in *Yearbook on Human Rights for 1947*, p. 293.

contributions. All employers domiciled or resident in Switzerland shall be bound to pay contributions on behalf of persons employed in their household.

(3) The foregoing shall be without prejudice to exemption from the liability for payment of contributions by virtue of any international convention or by virtue of usage as prescribed by international law.

13. Employers' contributions shall be at the rate of 2 per cent of the sum total of the determinant remunerations paid out to persons who are bound to pay contributions.

Chapter III

PENSIONS

A. Right to Pension

I. General Provisions

18. (1) All Swiss and foreign nationals and persons without nationality who are covered by the insurance scheme shall be entitled to old age, widows' and orphans' pensions in conformity with the provisions laid down hereinafter.

(2) Swiss nationals who, after ceasing to be compulsorily insured, have not continued to be insured on a voluntary basis, and likewise the surviving dependants of such persons, shall be entitled to pensions only if contributions were paid for not less than ten whole years.

(3) Without prejudice to any contrary provisions contained in international conventions, the nationals of States whose legislation does not grant to Swiss nationals and their surviving dependants advantages substantially equivalent to those granted by this Act, and likewise persons without nationality and their surviving dependants, shall be entitled to pensions only for so long as they continue to have their civil domicile in Switzerland and only if contributions were paid for not less than ten whole years.

II. Right to Old Age Pension

21. (1) Bachelors and spinsters, widowers and widows and divorced persons of either sex, and likewise married men who, in conformity with section 22, are not entitled to an old age pension for man and wife, shall be entitled to a single old age pension. Where the husband is not entitled to an ordinary pension, the wife may claim a single old age pension if she herself has paid contributions at an average rate of not less than 12 francs per annum during her married life.

(2) The right to a single old age pension shall commence on the first day of the calender half-year following that in the course of which the person concerned reached the age of sixty-five years. In the case of persons who become widowed or divorced after reaching that age, the right to pension shall commence on the first day of the month following the death of the marital partner or the divorce. The right to a single old age pension shall expire upon the commencement of the right to an old age pension for man and wife or upon the death of the person possessing the right.

22. (1) A married man over sixty-five years of age whose wife is over sixty years of age shall be entitled to an old age pension for man and wife.

(2) Without prejudice to any contrary decision by the judge of the civil court, if a husband does not contribute to the maintenance of his wife or if husband and wife are living apart the wife shall be entitled to apply on her own behalf for one-half of the old age pension for man and wife.

(3) The right to an old age pension for man and wife shall commence on the first day of the calendar half-year in the course of which the conditions specified in sub-section (1) were satisfied. It shall expire upon divorce or upon the death of husband or wife.

III. Right to Widow's Pension

23. (1) The following shall be entitled to a widow's pension:

(*a*) Widows who, at the time of their husband's death, have one or more children or adopted children;

(*b*) Widows who have no children or adopted children, if at the time of their husband's death they have reached the age of forty years and have been married for not less than five years: Provided always that if a widow has been married more than once the total duration of the different marriages shall be taken into account for the reckoning of this figure.

(2) A divorced woman shall be placed on the same footing as a widow in the case of death of her former husband, if her marriage lasted not less than ten years and if her husband was bound to pay her alimony.

(3) The right to a widow's pension shall commence on the first day of the month following the death of the husband; it shall expire upon re-marriage, upon the commencement of the right to a single old age pension, or upon the death of the widow.

24. A lump-sum allowance shall be granted to a widow who, upon the death of her husband, does not satisfy the conditions for the granting of a widow's pension.

IV. Right to Orphan's Pension

25. (1) Subject to sub-section (1) of section 28 below, a child whose own father has died shall be entitled to a single orphan's pension. The Federal Council may issue rules respecting the right to pension of a child who suffers an appreciable material prejudice through the death of his mother.

(2) The right to a single orphan's pension shall commence on the first day of the month following that in the course of which the death of the father occurred and shall expire upon the commencement of right to a double orphan's pension, upon the attainment of the age of eighteen years, or upon the death of the orphan.

In the case of children who are apprentices or students the right to the pension shall subsist until the termination of the apprenticeship or of the studies, but not beyond the age of twenty years. The right to the pension shall subsist until the age of twenty years in the case of a child who, because of physical or mental infirmity, is not capable of carrying on a gainful occupation or whose capacity to that effect does not exceed 20 per cent.

26. (1) Subject to sub-section (1) of section 28 below, a child both of whose own parents have died shall be entitled to a double orphan's pension.

(2) The right to a double orphan's pension shall commence on the first day of the month following that in the course of which the surviving parent died and shall expire upon the attainment of the age of eighteen years or upon the death of the orphan. In the case of children who are apprentices or students the right to the pension shall subsist until the termination of the apprenticeship or of the studies, but not beyond the age of twenty years. The right to the pension shall subsist until the age of twenty years in the case of a child who, because of physical or mental infirmity is not capable of carrying on a gainful occupation or whose capacity to that effect does not exceed 20 per cent.

27. (1) The provisions of sections 25 and 26 shall apply in the case of an illegitimate child whose personal condition is governed by that of the father.

(2) An illegitimate child whose father has been ordered by a court decision or has undertaken in an extra-judicial agreement to contribute to the cost of maintenance shall be entitled to a single orphan's pension upon the death of one of the parents and to a double orphan's pension upon the death of the surviving parent.

(3) An illegitimate child whose father is unknown or has failed to pay the contributions towards the cost of maintenance which he was ordered to pay by a court decision or which he undertook to pay shall be entitled upon the death of the mother to a double orphan's pension.

28. (1) An adopted child shall be entitled to an orphan's pension solely upon the death of the adoptive parents. In the case of a child adopted jointly by a couple, sections 25 and 26 shall apply by analogy; if, however, the child was adopted by one person only it shall be entitled upon the death of that person to a double orphan's pension.

(2) Foundlings shall be entitled to a double orphan's pension.

(3) The Federal Council may, under certain conditions, place foster-children on the same footing as adopted children.

B. Ordinary Pensions

29. (1) All members of the pensions scheme who have paid contributions for not less than one whole year, and the surviving dependants of such persons, shall be entitled to an ordinary pension.

(2) The ordinary pensions shall be paid in the form of:

(*a*) Full pensions, in the case of insured persons whose age group has been obliged to pay contributions for not less than twenty years, in the case of the widows of such persons, and in the case of every orphan of an insured person, provided that the insured person has paid contributions for not less than one whole year;

(*b*) Part pensions, in the case of insured persons whose age group has been obliged to pay contributions for not less than one but less than twenty whole years, and in the case of the widows of such persons.

Chapter IV

ORGANIZATION

A. General Provisions

49. The old age and survivors' insurance scheme shall be administered, under the supervision of the Confederation, by employers and employees, recognized insurance institutions, occupational equalization funds, cantonal equalization funds, equalization funds of the Confederation and a Central Equalization Office.

50. (1) The persons responsible for the administration of the old age and survivors' pensions scheme and for supervising or controlling the administration thereof shall be bound to maintain secrecy concerning the matters which come to their notice.

(2) Where no private interest worthy of protection is involved, the Federal Council may authorize exceptions to the obligation to maintain secrecy.

FEDERAL ACT TO SUPPLEMENT AND AMEND THE FEDERAL SICKNESS AND ACCIDENT INSURANCE ACT OF 13 JUNE 1911[1]

dated 17 December 1947

Art. 1. An article 65 bis, reading as follows, shall be inserted in the Federal Act on sickness and accident insurance:

[1] French text through the courtesy of the Federal Political Department of the Swiss Confederation. English translation from the French text by the United Nations Secretariat.

Art. 65 bis. The Federal Council may require the heads of the enterprises mentioned in article 60 *et seq.*, in which insured persons are exposed to occupational diseases within the meaning of article 68, to take such medical or other preventive measures as experience has shown to be necessary and which the progress of science and the circumstances make it possible to apply. The Council shall at the same time lay down rules relating to the allocation of the expenses incurred by the heads of enterprises in respect of such measures.

The Federal Council may authorize the national fund to exclude from certain kinds of employment insured persons to whom such employment is particularly dangerous because of their state of health. In this connexion it shall establish provisions respecting the payment of compensation to insured persons whose earning capacity is substantially reduced because they cannot continue to engage in such employment; such compensation, however, shall not be granted to persons entitled to other benefits within the meaning of the present Act . . . .

Art. 2. Article 68 of the Act on sickness and accident insurance is repealed and shall be replaced by the following clause:

Art. 68. The Federal Council shall establish a list of substances, the production or use of which causes certain serious diseases. Any disease exclusively or essentially due to the effect of one of these substances in an enterprise subject to the insurance system and which manifested itself after the date of the inclusion of that substance in the list shall be regarded as an accident within the meaning of the Act.

The Federal Council may indicate whether and on what conditions diseases which manifested themselves before the date of the inclusion of the substance causing them and which still continue on that date shall be regarded as occupational diseases from the date of inclusion.

The Federal Council is empowered to class as occupational diseases, by way of ordinances and on conditions to be determined, certain serious diseases, arising from employment but not caused by the action of harmful substances.

Cantonal Legislation

CANTON OF BASLE-TOWN

HOLIDAYS WITH PAY ACT

of 12 February 1948[1]

Application

Art. 2. The present Act shall apply to all persons engaged in public or private employment in the territory of the Canton.

Duration of Leave

Art. 5. It shall be the duty of the employer to grant the employee annual leave with pay, such leave not to be less than the periods specified below.

(*a*) During the first three years of service, 6 working days;

(*b*) From the 4th to the 10th year of service, 9 working days;

(*c*) As from the 11th year of service, 12 working days;

(*d*) As from the 16th year of service, 15 working days;

(*e*) As from the 21st year of service, 18 working days.

Employees over forty years of age are entitled to a period of leave of twelve working days as from their sixth year of service. In such cases, the longer leave must be granted as from the year of service in which the employee attains the age of forty.

Days of rest, as defined in the Federal Act respecting weekly days of rest and in the Act on public holidays, which occur during or immediately before or immediately after the annual leave, shall be added to but not counted as leave.

A period of convalescence involving absence from work shall be considered as annual leave.

Leave for Young Persons

Art. 6. Eighteen working days' annual leave shall be granted to young employees, up to and including the year of service in which they attain the age of eighteen, and to apprentices during the period of their apprenticeship.

Partial Leave

Art. 7. In cases where employment ceases before the expiry of a full year of service, leave shall be computed on the basis of the proportion of the period of service to a full year of service. No leave is to be granted, however, in respect of an employment which has not lasted at least two months.

[1] German text through the courtesy of Mr. Raymond Christinger, Secretary of Legation, Office of the Swiss Observer to the United Nations. English translation from the German text by the United Nations Secretariat. Further details were regulated by the Governmental ordinance on the execution of the Act, dated 31 March 1948. In accordance with article 9 of this Ordinance, the Act entered into force on 1 April 1948.

Fractions of less than a half-day's leave shall be ignored.

Time of Leave

Art. 11. The employer may grant the leave in the course of a year of service or after the completion of a year of service. In the latter case, the leave must be granted not later than during the eighteenth month after the beginning of the year in which the obligation to grant the leave arose.

In the case of young employees of less than eighteen years of age and in the case of apprentices, leave shall be granted before the expiry of a period of fifteen months after the beginning of the year in which the obligation to grant the leave arose; in such cases leave may not be postponed save with the approval of the supervisory authorities.

Payment of Wages during Leave

Art. 13. During leave it shall be the duty of the employer to continue paying the employee his current wages, including (where applicable) such regular supplements as cost-of-living, family and children's allowances, but excluding compensation for exceptional services.

Unauthorized Work

Art. 15. During leave granted to them pursuant to the present Law, employees and apprentices may not engage in any form of paid work; if, in contravention of the provisions of this article, they engage in such work, the employer's obligation to pay wages during the leave shall lapse. Any sums paid to them in advance in lieu of meals or tips must be returned.

CANTON OF FRIBOURG

REGULATION OF 3 JANUARY 1948 REGARDING HEALTH INSPECTION IN ELEMENTARY SCHOOLS IN THE CANTON OF FRIBOURG[1]

CHAPTER I

APPOINTMENT OF MEDICAL INSPECTORS

Art. 1. All medical practitioners interested in the health inspection of schools may assist in this work. They should register with the district prefecture within the time-limit advertised in the *Feuille officielle* (Official Gazette).

The prefecture shall submit to the Directorate of Public Education for its approval a scheme of the distribution of the schools to be inspected.

Art. 2. The prefecture shall ensure that a medical inspector is appointed to each school district. It shall notify the Directorate of Public Education of every vacancy and shall submit the new appointment for approval . . . .

CHAPTER II

PURPOSES OF MEDICAL INSPECTION

Art. 3. The Prefecture shall notify the local authorities at least four days in advance of the day chosen by the medical officer for inspection.

The school master or mistress in charge if each class shall before the date of inspection duly complete the personal records of the pupils and enter on each health record card the name, first name, names of the parents and year of birth of the pupil in question.

Art. 4. Medical inspection of pupils shall include a thorough individual examination for:

(*a*) Pupils in their first year;

(*b*) Pupils reported by the parents or the school-teacher as being in doubtful or delicate health;

(*c*) Pupils about to leave school.

The other pupils shall be submitted to a brief individual medical examination.

Art. 5. A special examination of members of the teaching staff shall be effected during the winter term at the consulting-room of the medical inspector or of the medical practitioner of their choice.

Art. 6. The medical inspector shall supervise the hygienic conditions of the classrooms, paying attention to the lighting, heating, ventilation, furniture and cleanliness. He shall also examine the entire school building and its offices, water-closets, sanitary installations, staff quarters, etc.

CHAPTER III

DUTIES AND REMUNERATION OF MEDICAL OFFICERS

Art. 7. The medical inspector shall open a health record card for every pupil in the year of his admission to the school, after a thorough medical examination.

On the occasion of the annual health inspection, the medical inspector shall enter his comments on the health record card of each pupil.

Art. 8. A special medical note shall be made concerning every child suffering from an ailment or physically or mentally abnormal.

[1] French text through the courtesy of Mr. Raymond Christinger, Secretary of Legation, Office of the Swiss Observer to the United Nations. English translation from the French text by the United Nations Secretariat. These regulations were approved by the Council of State of the Canton of Fribourg on 3 January 1948.

This note shall indicate the ailment detected and the need for medical treatment. It shall be communicated to the parents by the school medical officer.

Art. 9. The results of the medical examination of the teaching staff shall be reported to the Directorate of Public Education. In the event of illness, the medical officer shall state whether there is danger of contagion and shall propose prophylactic measures. The teacher is free to choose a medical practitioner for further treatment.

Art. 10. The medical inspector shall draw up, free of charge, a general report on the hygienic conditions of the school building, in accordance with a model provided for him.

The report shall be drawn up in quadruplicate and forwarded to the district prefecture. The latter shall transmit it to the Directorate of Public Education, to the inspector of schools and the communal authority.

Art. 11. Not more than one school shall be inspected on any one day.

If a school medical officer fails to perform his duties as inspector he shall be barred by the Directorate of Public Education from the medical inspection of elementary schools.

[Articles 12 and 13 deal with the remuneration of school medical officers.]

CHAPTER IV

COLLABORATION OF MEMBERS OF THE TEACHING STAFF

Art. 14. If a pupil changes his residence, the teacher in charge of the class shall attach the health record card to the school record of the pupil. If a pupil leaves school, the teacher in charge of the class shall forward the health record card, in a sealed envelope, to the parents of the pupil.

Art. 15. The teacher shall be present at the medical examination of the pupils; in mixed schools the sewing mistress shall take his place during the examination of the girls.

Art. 16. Members of the teaching staff must preserve complete secrecy on all comments made by the school medical officer, during the individual examination of the pupils. Any breach of confidence in this connexion shall be punishable by the disciplinary measures laid down in the Act of 17 May 1884 respecting Elementary Education.

CANTON OF VAUD

ACT OF 2 DECEMBER 1947
RESPECTING FREE LEGAL ASSISTANCE IN CIVIL COURT CASES[1]

Art. 1. Free legal assistance shall be granted, upon request, to any person unable to meet the expense of proceedings in the ordinary courts without seriously affecting his means of livelihood or those of the persons for whom he has assumed responsibility in virtue of a legal or moral obligation.

Legal assistance shall be refused:

(*a*) If indigence cannot be proved;

(*b*) If it is clearly apparent that the claims or defence of the applicant have no proper grounds;

(*c*) If it is clearly apparent that the proceedings would not be instituted or sustained by any reasonable litigant pleading at his own expense.

Art. 2. As regards legal assistance, aliens shall enjoy the same advantages as Swiss citizens, provided always that, by a treaty or an official declaration, thei country of origin ensures equality of treatment with its own nationals to Swiss citizens.

In exceptional cases, if equity so requires, legal assistance may be granted to a person not entitled to benefit under a treaty or official declaration ensuring equality of treatment to Swiss citizens and nationals of the country concerned.

[Articles 5–7 contain details respecting the office for free egal assistance and applications to be addressed to that office.]

Art. 8. Legal assistance shall include *inter alia* according to the circumstances:

1. Exemption from stamp duties;

2. Advances covering the whole or part of the fees due to judicial officers and an advance covering all the expenses of the clerk of the court;

3. Assistance of counsel, or of a qualified legal representative, appointed by the court.

4. An advance covering all or part of the expenditure for appraisals;

5. An advance covering the whole or part of the cost of local inspection;

[1] French text through the courtesy of Mr. Raymond Christinger, Secretary of Legation, Office of the Swiss Observer to the United Nations. English translation from the French text by the United Nations Secretariat. The Act was passed by the Grand Council of the Canton of Vaud on 2 December 1947 and promulgated by the Council of State on 3 December 1947. It came into force on 1 January 1948.

6. An advance covering the whole or part of the cost of summoning and arranging the appearance of witnesses.

The payment of a monthly contribution towards the cost of proceedings and for the duration of the case may be made a condition for the granting of legal assistance.

If the assistance of counsel, or a qualified legal representative appointed by the court, is granted, the applicant shall in every case be exempted from payment of stamp duties and the advance for fees due to judicial officers.

Subject to the provisions of article 12, the decision of the office to grant legal assistance shall be valid in all cantonal jurisdictions.

In cases where the claims of the applicant are founded on the Federal Act of 13 June 1911, respecting sickness and accident insurance article 121 of that Act shall apply.

Art. 17. The State is a creditor for advances made by it and may recover the amount when the beneficiary becomes solvent; solvency may result from advantages obtained by a settlement between the parties or an award of the court.

The claim of the State shall be prescribed after five years from the date of the definitive judgment or the writ terminating the proceedings.

In proceedings instituted under the Act of 13 June 1911 respecting sickness and accident insurance, the party receiving legal assistance shall be fully and definitively exempt from fees and costs of the proceedings, unless it is later established that the applicant has committed fraud in the form of false statements concerning his indigent conditions.

SYRIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

During the year 1948 there was no modification in the existing legislation on human rights in Syria.

[1] Information through the courtesy of Mr. Faiz El-Khouri, Minister of Syria to the United States, Washington.

THAILAND

NOTE ON THE CONSTITUTIONAL SITUATION[1]

The provisional Constitution of 9 November 1947[2] was still in force at the end of the year 1948. The Thai Parliament is considering a new Constitution, but has not completed its work as at the end of December 1948.

[1] Information through the courtesy of Mr. M.C. Dilokrit Kridakon, First Secretary of the Royal Thai Embassy, Washington.

[2] See the human rights provisions of this Constitution in *Yearbook on Human Rights for 1947*, p. 285.

TURKEY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

During 1948 the Constitution of Turkey did not undergo any changes.

The Electoral Law of 1946 was amended in 1948. Relevant articles of the Electoral Law will be found in the Annex "Electoral Laws" to this part of the *Yearbook*.[2]

Shortly before the end of the year the Ministry of Health and Social Assistance submitted to the Grand National Assembly a bill for the protection of abandoned and abnormal children. At the end of the year no decision had yet been taken regarding the adoption of this bill.

[1] This note is based on information received through the courtesy of the United Nations Turkish Group for the Establishment and Protection of Human Rights and Fundamental Freedoms, Ankara.

[2] See p. 391.

UNION OF SOUTH AFRICA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The South Africa Act, 1909, was not amended during 1948. No legislation having a bearing on fundamental human rights was passed during 1948 by the Parliament of the Union of South Africa or by the Provincial Councils.

[1] Information through the courtesy of Dr. L. H. Wessels, Law Adviser, Department of Justice, Pretoria.

UNION OF SOVIET SOCIALIST REPUBLICS

Union Republics[1]

CONSTITUTION (FUNDAMENTAL LAW) OF THE RUSSIAN SOVIET FEDERATED SOCIALIST REPUBLIC[2]

of 21 January 1937

as amended up to and including 13 March 1948

CHAPTER I
THE SOCIAL STRUCTURE

Art. 1. The Russian Soviet Federated Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists and the achievement of the dictatorship of the proletariat, constitute the political foundation of the RSFSR.

Art. 3. In the RSFSR all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production, firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the RSFSR.

Art. 5. Socialist property in the RSFSR exists either in the form of State property (the possession of the whole people) or in the form of co-operative and collective-farm property (property of collective farms or property of co-operative associations).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like) as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective-farm enterprise, every household in a collective farm has for its private use a small plot of land attached to the dwelling and, as its private property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements, in accordance with the statutes of the agricultural *artel*.

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Side by side with the socialist system of economy, which is the predominant form of economy in the RSFSR, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their income from work and of their savings, of their dwelling-houses and subsidiary household economy and equipment, their household effects and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

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[1] The following texts include the human rights provisions of the Constitutions of ten Union Republics. See the human rights provisions of the USSR in *Yearbook on Human Rights for 1947*, pp. 307–310; of the Ukrainian SSR, *ibid.*, pp. 301–303; of the Byelorussian SSR, *ibid.*, pp. 69–72 and of the Georgian, Azerbaijan, Armenian, and the Estonian SSR, *ibid.*, pp. 313–324. See also the "Note on the Constitutions of the Union Republics", *ibid.*, p. 312.

[2] Russian text in *Constitution (Fundamental Law) of the Russian Soviet Federated Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the RSFSR, 13 March 1948. Text and information through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

Art. 11. The economic life of the RSFSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State and strengthening its defensive capacity.

Art. 12. In the RSFSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the RSFSR is that of socialism: "From each according to his ability; to each according to his work."

CHAPTER IX

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 113. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 114. Judicial proceedings in the RSFSR are conducted in the Russian language, or in the language of the autonomous republic or autonomous region or national district, persons not speaking these languages being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 115. In all courts of the RSFSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 116. Judges are independent and subject only to the law.

CHAPTER XI

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 122. Citizens of the RSFSR have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises and the abolition of unemployment.

Art. 123. Citizens of the RSFSR have the right to rest and leisure.

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

Art. 124. Citizens of the RSFSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 125. Citizens of the RSFSR have the right to education.

This right is ensured by universal, compulsory elementary education; by free education up to and including the seventh grade; by the system of State stipends for outstanding students in higher educational institutions; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 126. Women in the RSFSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 127. Equality of rights of citizens of the RSFSR irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of citizens, or, conversely, any establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 128. In order to ensure to citizens freedom of conscience, the church in the RSFSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 129. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the RSFSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, and the use of the streets, communications facilities and other material requisites for the exercise of these rights.

Art. 130. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the RSFSR are ensured the right to unite in public organizations such as trade unions, co-operative associations, youth organizations, sport and defence organizations and cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 131. Citizens of the RSFSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 132. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 133. The RSFSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 134. It is the duty of every citizen of the RSFSR to abide by the Constitution of the Russian Soviet Federated Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 135. It is the duty of every citizen of the RSFSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country and of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 136. Universal military service is law. Military service in the armed forces of the USSR is an honourable duty of the citizens of the RSFSR.

Art. 137. To defend the fatherland is the sacred duty of every citizen of the RSFSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER XII

THE ELECTORAL SYSTEM

Art. 138. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the RSFSR, the territorial and regional Soviets, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People's Deputies of Autonomous Regions and national and administrative areas, and of the district, city and rural (*stanitsa*, village, hamlet, *aul*) Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 139. Elections of deputies are universal: all citizens of the RSFSR who have reached the age of 18, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

All citizens of the RSFSR, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to be elected deputies of the Supreme Soviet of the RSFSR and of the Supreme Soviets of the Autonomous Republics on attaining the age of 21 years.

Art. 140. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 141. Women have the right to elect and be elected on equal terms with men.

Art. 142. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 143. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the RSFSR inclusive, are elected by the citizens by direct vote.

Art. 144. Voting at elections of deputies is secret.

[*Art. 145* deals with elections to provincial soviets, administrative soviets, city soviets, village soviets, etc.]

Art. 146. Candidates for elections are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the Working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 147. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he may be recalled at any time by decision of a majority of the electors, the procedure being established by law.

CONSTITUTION (FUNDAMENTAL LAW) OF THE UZBEK SOVIET SOCIALIST REPUBLIC[1]

of 23 July 1938
as amended up to and including 2 September 1946

CHAPTER I
SOCIAL STRUCTURE

Art. 1. The Uzbek Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists, beys, emirs and khans, the achievement of the dictatorship of the proletariat, the union of the disunited sections of the Uzbek people into a workers' and peasants' State, the liberation of the Uzbek people from national oppression by Czarism and the Russian imperialist bourgeoisie and the destruction of the nationalist counter-revolution, constitute the political foundation of the Uzbek Soviet Socialist Republic.

Art. 3. In the Uzbek SSR all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the feudal and capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Uzbek SSR.

Art. 5. Socialist property in the Uzbek SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative and collective-farm property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large State-organized enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective-farm enterprise, every household in a collective farm has for its private use a small plot of land attached to the dwelling and, as its private property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements—in accordance with the statutes of the agricultural *artel.*

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Side by side with the socialist system of economy, which is the predominant form of economy in the Uzbek SSR, the law permits the small private economy of individual peasants, cattle-breeders and handicraftsmen, based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their income from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Uzbek SSR is determined and directed by the State national econo-

[1] Russian text in *Constitution (Fundamental Law) of the Uzbek Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Uzbek SSR, 2 September 1946. Text and information through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

mic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State and strengthening its defensive capacity.

Art. 12. In the Uzbek SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Uzbek SSR is that of socialism: "From each according to his ability; to each according to his work."

CHAPTER IX

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 108. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 109. Judicial proceedings in the Uzbek SSR are conducted in the Uzbek language, in the Kara-Kalpak ASSR in the Kara-Kalpak language, and in rural and city districts where the majority of the population is Russian, Kazakh or Kara-Kalpak in the Russian, Kazakh or Kara-Kalpak language respectively, persons not speaking these languages being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 110. In all courts of the Uzbek SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 111. Judges are independent and subject only to the law.

CHAPTER X

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 117. Citizens of the Uzbek SSR have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 118. Citizens of the Uzbek SSR have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to 7 hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for manual and clerical workers and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Art. 119. Citizens of the Uzbek SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 120. Citizens of the Uzbek SSR have the right to education. This right is ensured by universal compulsory elementary education; by education, including higher education, being free of charge; by the system of State stipends for the overwhelming majority of students in higher educational institutions by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 121. Women in the Uzbek SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Resistance to the practical emancipation of women (the giving in marriage of minors, the purchase of brides, organized resistance to the encouragement of women to engage in studies, agricultural and industrial production, State administration and social and political life) is punishable by law.

Art. 122. Equality of rights of citizens of the Uzbek SSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 123. In order to ensure to citizens freedom of conscience, religious institutions in the Uzbek SSR are separated from the State, and the school from the mosque and from religious institutions. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 124. In conformity with the interests of the working people, and in order to strengthen the socialist

system, the citizens of the Uzbek SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 125. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Uzbek SSR are ensured the right to unite in public organizations: trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 126. Citizens of the Uzbek SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 127. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 128. The Uzbek SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 129. It is the duty of every citizen of the Uzbek SSR to abide by the Constitution of the Uzbek Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 130. It is the duty of every citizen of the Uzbek SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 131. Universal military service is law.

Military service in the Workers' and Peasants' Red Army is an honourable duty of the citizens of the Uzbek SSR.

Art. 132. To defend the fatherland is the sacred duty of every citizen of the Uzbek SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER XI

THE ELECTORAL SYSTEM

Art. 133. Members of all Soviets of Working People's Deputies, of the Supreme Soviet of the Uzbek SSR, the Supreme Soviet of the Kara-Kalpak ASSR and the district, city, rural and *aul* Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 134. Elections of deputies are universal: all citizens of the Uzbek SSR who have reached the age of 18, irrespective of race or nationality, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 135. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 136. Women have the right to elect and be elected on equal terms with men.

Art. 137. Citizens serving in the Red Army have the right to elect and be elected on equal terms with all other citizens.

Art. 138. Elections of deputies are direct; all Soviets of Working People's Deputies, from rural, *aul* and city Soviets of Working People's Deputies to the Supreme Soviet of the Uzbek SSR inclusive, are elected by the citizens by direct vote.

Art. 139. Voting at elections of deputies is secret.

Art. 140. Candidates for elections are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 141. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of a majority of the electors in the manner established by law.

[*Art. 142* deals with the rules for elections of deputies to district, city, settlement and village Soviets.]

CONSTITUTION (FUNDAMENTAL LAW) OF THE KAZAKH SOVIET SOCIALIST REPUBLIC[1]

of 26 March 1937
as amended up to and including 13 March 1948

CHAPTER I
SOCIAL STRUCTURE

Art. 1. The Kazakh Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords, capitalists and beys, the achievement of the dictatorship of the proletariat, the liberation of the Kazakh people from national oppression by Czarism and by the Russian imperialist bourgeoisie and the destruction of the nationalist counter-revolution, constitute the political foundation of the Kazakh Soviet Socialist Republic.

Art. 3. In the Kazakh SSR all power belongs to the working people of town, *aul* and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the feudal and capitalist system of society, the abrogation of private ownership of the means of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Kazakh SSR.

Art. 5. Socialist property in the Kazakh SSR exists either in the form of State property (the possession of the whole people) or in the form of co-operative and collective farm property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective-farm enterprise, every household in a collective farm has for its private use a small plot of land attached to the dwelling and, as its private property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements—in accordance with the statutes of the agricultural *artel.*

Art. 8. The land occupied by collective farms is secured to them for their use free of charge for an unlimited time—that is, in perpetuity.

Art. 9. Side by side with the socialist system of economy, which is the predominant form of economy in the Kazakh SSR, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their income from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Kazakh SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State and strengthening its defensive capacity.

Art. 12. In the Kazakh SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Kazakh SSR is that of socialism: "From each according to his ability; to each according to his work."

[1] Russian text in *Constitution (Fundamental Law) of the Kazakh Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Kazakh SSR., in typescript, received through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

CHAPTER VII

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 87. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 88. Judicial proceedings in the Kazakh SSR are conducted in the Kazakh language, and in districts having a population majority of Russians, Uighurs or Uzbeks in the Russian, Uighur and Uzbek language respectively, persons not speaking these languages being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 89. In all courts of the Kazakh SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 90. Judges are independent and subject only to the law.

CHAPTER VIII

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 95. Citizens of the Kazakh SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 96. Citizens of the Kazakh SSR have the right to rest and leisure. The right to rest and leisure is ensured by the establishment of an eight-hour working day for manual and clerical workers and a reduction of the working day to seven or six hours for arduous trades and to four hours in shops where conditions of work are particularly arduous; by the institution of annual vacations with full pay for manual and clerical workers and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Art. 97. Citizens of the Kazakh SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 98. Citizens of the Kazakh SSR have the right to education.

This right is ensured by universal compulsory elementary education; by free education up to and including the seventh grade; by the system of State stipends for outstanding students in higher educational institutions; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 99. Women in the Kazakh SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Resistance to the practical emancipation of women (the giving in marriage and marrying of minors, the purchase of brides, polygamy, *amengerstvo*,[1] organized resistance to the encouragement of women to engage in studies, agricultural and industrial production, State administration and social and political life) is punishable by law.

Art. 100. Equality of rights of citizens of the Kazakh SSR irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges of citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 101. In order to ensure to citizens freedom of conscience, the mosque and the church in the Kazakh SSR are separated from the State, and the school from the mosque and the church. Freedom of religious worship and freedom of anti-religious propaganda are recognized for all citizens.

Art. 102. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the Kazakh SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

[1] *Amengerstvo* is the system whereby a younger brother was required to marry the wife of his elder brother in the case of the latter's death.

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, streets, communication facilities and other material requisites for the exercise of these rights.

Art. 103. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Kazakh SSR are ensured the right to unite in public organizations; trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 104. Citizens of the Kazakh SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 105. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 106. The Kazakh SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 107. It is the duty of every citizen of the Kazakh SSR to abide by the Constitution of the Kazakh Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 108. It is the duty of every citizen of the Kazakh SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the welfare and might of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 109. Universal military service is law. Military service in the armed forces of the USSR is an honourable duty of the citizens of the Kazakh SSR.

Art. 110. To defend the fatherland is the sacred duty of every citizen of the Kazakh SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER X

THE ELECTORAL SYSTEM

Art. 111. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Kazakh SSR and the regional, district, city, settlement and *aul* (rural, *stanitsa, kisblak*) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 112. Elections of deputies are universal: all citizens of the Kazakh SSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

All citizens of the Kazakh SSR, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to be elected deputies of the supreme Soviet of the Kazakh SSR on attaining the age of twenty-one years.

Art. 113. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 114. Women have the right to elect and be elected on equal terms with men.

Art. 115. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 116. Elections of deputies are direct; all Soviets of Working People's Deputies, from *aul*, settlement and city Soviets of Working People's Deputies to the supreme Soviet of the Kazakh SSR inclusive, are elected by the citizens by direct vote.

Art. 117. Voting at elections of deputies is secret.

[*Art. 118* deals with rules for elections of deputies to district, city, settlement and village Soviets.]

Art. 119. Candidates for elections are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 120. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of a majority of the electors in the manner established by law.

CONSTITUTION (FUNDAMENTAL LAW) OF THE LITHUANIAN SOVIET SOCIALIST REPUBLIC[1]

of 25 August 1940
as amended up to and including 7 April 1948

CHAPTER I
SOCIAL STRUCTURE

Art. 1. The Lithuanian Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies firmly established as a result of the overthrow of the landlords and capitalists and the achievement of the dictatorship of the proletariat, constitute the political foundation of the Lithuanian Soviet Socialist Republic.

Art. 3. In the Lithuanian SSR all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as the result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production in the large industrial enterprises and the nationalization of such enterprises and of the banks, transport and communications with a view to the complete abolition of the exploitation of man by man and the construction of a socialist system of society, constitute the economic foundation of the Lithuanian SSR.

Art. 5. Socialist property in the Lithuanian SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative property.

Art. 6. The land, its natural deposits, waters, forests, large mills and factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property that is, belong to the whole people.

Art. 7. The common enterprises of co-operative organizations, with their livestock and implements, and the products of the co-operative organizations, as well as their common buildings, constitute the common socialist property of the co-operative organizations.

Art. 8. Side by side with the socialist system of economy in the Lithuanian SSR, the existence of the private establishments of individual peasants, artisans and handicraftsmen and of small private industrial and trading enterprises is permitted as provided by law.

Art. 9. The land occupied by peasant holdings as provided by law is secured to them for their use free of charge and for an unlimited time.

Art. 10. The right of citizens to personal ownership of their income from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Lithuanian SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the USSR and strengthening its defensive capacity.

Art. 12. In the Lithuanian SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Lithuanian SSR is that of socialism: "From each according to his ability; to each according to his work."

CHAPTER VII
THE COURTS AND THE PROCURATOR'S OFFICE

Art. 82. People's courts are elected by the citizens of the city or *volost* on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 83. Judicial proceedings in the Lithuanian SSR are conducted in the Lithuanian language, persons not speaking that language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 84. In all courts of the Lithuanian SSR cases are heard in public, unless otherwise provided for by

[1] Russian text in *Constitution (Fundamental Law) of the Lithuanian Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Lithuanian SSR, 7 April 1948, in typescript, received through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

law, and the accused is guaranteed the right to be defended by counsel.

Art. 85. Judges are independent and subject only to the law.

CHAPTER VIII
FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 90. Citizens of the Lithuanian SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 91. Citizens of the Lithuanian SSR have the right to rest and leisure.

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

Art. 92. Citizens of the Lithuanian SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance for manual and clerical workers of at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 93. Citizens of the Lithuanian SSR have the right to education.

This right is ensured by universal, compulsory elementary education; by free education up to and including the seventh grade; by the system of state stipends for outstanding students in the higher educational institutions; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms and machine and tractor stations of free vocational, technical and agronomic training for the working people.

Art. 94. Women in the Lithuanian SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them equal rights with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 95. Equality of rights of citizens of the Lithuanian SSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 96. In order to ensure to citizens freedom of conscience, the church in the Lithuanian SSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda are recognized for all citizens.

Art. 97. In conformity with the interests of the working people, and in order to strenghthen the socialist system, the citizens of the Lithuanian SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 98. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Lithuanian SSR are ensured the right to unite in public organizations: trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 99. Citizens of the Lithuanian SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 100. The inviolability of the home of citizens and privacy of correspondence are protected by law.

Art. 101. The Lithuanian SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their

scientific activities, or for their struggle for national liberation.

Art. 102. It is the duty of every citizen of the Lithuanian SSR to abide by the constitution of the Lithuanian Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 103. It is the duty of every citizen of the Lithuanian SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 104. Universal military service is law. Military service in the armed forces of the USSR is an honourable duty of the citizens of the Lithuanian SSR.

Art. 105. To defend the fatherland is the sacred duty of every citizen of the Lithuanian SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER IX
THE ELECTORAL SYSTEM

Art. 106. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Lithuanian SSR and the district, city, *volost*, town and *apylinke* Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 107. Elections of deputies are universal: all citizens of the Lithuanian SSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

All citizens of the Lithuanian SSR, irrespective of race or nationality, sex, religion, educational and residenial qualifications, social origin, property status or past activities, have the right to be elected deputies of the Supreme Soviet of the Lithuanian SSR on attaining the age of twenty-one years.

Art. 108. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 109. Women have the right to elect and be elected on equal terms with men.

Art. 110. Citizens serving in the armed forces of the USSR have the right to elect and to be elected on equal terms with all other citizens.

Art. 111. Elections of deputies are direct; all Soviets of Working People's Deputies, from *apylinke*, *volost* and city Soviets of Working People's Deputies to the Supreme Soviet of the Lithuanian SSR inclusive, are elected by the citizens by direct vote.

Art. 112. Voting at elections is secret.

Art. 113. Candidates for elections are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 114. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of a majority of the electors in the manner established by law.

Art. 115. Elections for the Soviets of Working People's Deputies of the Lithuanian SSR are conducted according to electoral areas, under the provisions laid down in the "Regulations for Elections to Soviets of Working People's Deputies of the Lithuanian SSR".

CONSTITUTION (FUNDAMENTAL LAW) OF THE MOLDAVIAN SOVIET SOCIALIST REPUBLIC[1]

of 25 August 1940
as amended up to and including 14 May 1948

CHAPTER I
SOCIAL STRUCTURE

Art. 1. The Moldavian Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, firmly established as a result of the overthrow of the landlords and capitalists and the achievement of the

[1] Russian text in *Constitution (Fundamental Law) of the Moldavian Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Moldavian SSR, of 14 May 1948. Text and information through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

dictatorship of the proletariat, constitute the political foundation of the Moldavian Soviet Socialist Republic.

Art. 3. In the Moldavian SSR all power belongs to the working people of town and country as represented by the Soviet of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production in the large industrial enterprises and the nationalization of such enterprises and of the banks, transport and communications with a view to the complete abolition of the exploitation of man by man and the construction of a socialist system of society. constitute the economic foundation of the Moldavian SSR.

Art. 5. Socialist property in the Moldavian SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative and collective property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, large mills and factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective farm enterprise, every household in a collective farm has for its private use a small plot of land attached to the dwelling and, as its private property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements—in accordance with the statutes of the agricultural *artel.*

Art. 8. Land occupied by peasant holdings as provided by law and land occupied by collective farms is secured to them for their use free of charge and for an unlimited time.

Art. 9. Side by side with the socialist system of economy in the Moldavian SSR, the existence of the private establishments of individual peasants, artisans and handicraftsmen and of small private industrial and trading enterprises is permitted as provided by law.

Art. 10. The right of citizens to personal ownership of their income from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Moldavian SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the USSR and strengthening its defensive capacity.

Art. 12. In the Moldavian SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Moldavian SSR is that of socialism: "From each according to his ability; to each according to his work."

CHAPTER VII

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 83. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 84. Judicial proceedings in the Moldavian SSR are conducted in the Moldavian and Russian languages, persons not speaking these languages being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 85. In all courts of the Moldavian SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 86. Judges are independent and subject only to the law.

CHAPTER VIII

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 91. Citizens of the Moldavian Soviet Socialist Republic have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 92. Citizens of the Moldavian SSR have the right to rest and leisure.

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

Art. 93. Citizens of the Moldavian SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 94. Citizens of the Moldavian SSR have the right to education.

This right is ensured by universal compulsory elementary education; by free education up to and including the seventh grade; by the system of State stipends for outstanding students in higher educational institutions; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 95. Women in the Moldavian SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 96. Equality of rights of citizens of the Moldavian SSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 97. In order to ensure to citizens freedom of conscience, the church in the Moldavian SSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda are recognized for all citizens.

Art. 98. In conformity with the interests of the working people, and in order to strenghten the socialist system, the citizens of the Moldavian SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 99. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Moldavian SSR are ensured the right to unite in public organizations: trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 100. Citizens of the Moldavian SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 101. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 102. The Moldavian SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 103. It is the duty of every citizen of the Moldavian SSR to abide by the Constitution of the Moldavian Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 104. It is the duty of every citizen of the Moldavian SSR to safeguard and strengthen public socialist property as the sacred and inviolable founda-

tion of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 105. Universal military service is law.

Military service in the armed forces of the USSR is an honourable duty of the citizens of the Moldavian SSR.

Art. 106. To defend the fatherland is the sacred duty of every citizen of the Moldavian SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER IX

THE ELECTORAL SYSTEM

Art. 107. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Moldavian SSR and the district, city, settlement and rural Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 108. Elections of deputies are universal; all citizens of the Moldavian SSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

All citizens of the Moldavian SSR, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to be elected deputies of the Supreme Soviet of the Moldavian SSR on attaining the age of twenty-one years.

Art. 109. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 110. Women have the right to elect and be elected on equal terms with men.

Art. 111. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 112. Elections of deputies are direct; all Soviets of Working People's Deputies, from rural, settlement and city Soviets of Working People's Deputies to the Supreme Soviet of the Moldavian SSR inclusive, are elected by the citizens by direct vote.

Art. 113. Voting at elections of deputies is secret.

Art. 114. Elections to the Soviets of Working People's Deputies of the Moldavian SSR are conducted according to electoral areas, under the provisions laid down in the "Regulations for Elections to Soviets of Working People's Deputies of the Moldavian SSR".

Art. 115. Candidates for elections are nominated according to electoral areas. The right to nominate candidates is secured to public organizations and societies of the working people; Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 116. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of the majority of electors in the manner established by law.

CONSTITUTION (FUNDAMENTAL LAW) OF THE LATVIAN SOVIET SOCIALIST REPUBLIC[1]

of 25 August 1940
as amended up to and including 1948

CHAPTER I

THE SOCIAL STRUCTURE

Art. 1. The Latvian Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, firmly established as a result of the overthrow of capitalists and great landlords and the setting up of the dictatorship of the proletariat, constitute the political foundation of the Latvian SSR.

Art. 3. In the Latvian SSR all power belongs to the working people of town and country as represented by the Soviet of Working People's Deputies.

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[1] Russian text in *Constitution (Fundamental Law) of the Latvian Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Latvian SSR, 1948, in typescript, received through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

Art. 4. The economic foundation of the Latvian SSR is the socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production in the large industrial enterprises and the nationalization of these enterprises and of the banks, transport and means of communication, with a view to the complete elimination of the exploitation of man by man and the construction of a socialist system of society.

Art. 5. Socialist property in the Latvian SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative property.

Art. 6. The land, its natural deposits, waters, forests, large mills and factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. The common enterprises of co-operative organizations, with their livestock and implements, and the products of the co-operative organizations, as well as their common buildings, constitute the common socialist property of the co-operative organizations.

Art. 8. Alongside the socialist system of economy in the Latvian SSR, the law permits the private economy of individual peasants, artisans and handicraftsmen and small private industrial and commercial enterprises, within the limits established by law.

Art. 9. The land occupied by peasant households, within the limits established by law, is secured to them for their use free of charge and for an unlimited time.

Art. 10. The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Latvian SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the working conditions of the people and raising their cultural level, of consolidating the independence of the Union of Soviet Socialist Republics and strengthening its defensive capacity.

Art. 12. In the Latvian SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Latvian SSR is that of socialism: "From each according to his ability, to each according to his work."

CHAPTER VII

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 82. People's courts are elected by the citizens of the city or *volost* on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 83. Judicial proceedings in the Latvian SSR are conducted in the Latvian language, persons not knowing that language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 84. In all courts of the Latvian SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 85. Judges are independent and subject only to the law.

CHAPTER VIII

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 90. Citizens of the Latvian SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises and the abolition of unemployment.

Art. 91. Citizens of the Latvian SSR have the right to rest and leisure.

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

Art. 92. Citizens of the Latvian SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 93. Citizens of the Latvian SSR have the right to education.

This right is ensured by universal compulsory elementary education; by free seven-year education; by the system of State stipends for students who have distinguished themselves in higher educational institutions; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms and machine and tractor stations of free vocational, technical and agricultural teaching for the working people.

Art. 94. Women in the Latvian SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education and by State protection of the interests of mother and child, State assistance for large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 95. Equality of rights of citizens of the Latvian SSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 96. In order to ensure to citizens freedom of conscience, the church in the Latvian SSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 97. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the Latvian SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 98. In conformity with the interests of the working people and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Latvian SSR are ensured the right to unite in public organizations—trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 99. Citizens of the Latvian SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 100. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 101. The Latvian SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 102. It is the duty of every citizen of the Latvian SSR to abide by the Constitution of the Latvian Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 103. It is the duty of every citizen of the Latvian SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 104. Universal military service is law.

Military service in the ranks of the armed forces of the USSR is an honourable duty of the citizens of the Latvian SSR.

Art. 105. To defend the fatherland is the sacred duty of every citizen of the Latvian SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law and is the most heinous of crimes.

CHAPTER IX

THE ELECTORAL SYSTEM

Art. 106. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the

Latvian SSR and of the Soviets of Working People's Deputies of districts, cities, settlements, *volosts* and villages—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 107. Elections of deputies are universal: all citizens of the Latvian SSR who have reached the age of 18, irrespective of race, or nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the Latvian SSR who has reached the age of 21, irrespective of race or nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities may be elected as a deputy of the Supreme Soviet of the Latvian SSR.

Art. 108. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 109. Women have the right to elect and be elected on equal terms with men.

Art. 110. Citizens serving in the ranks of the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 111. Elections of deputies are direct: all Soviets of Working People's Deputies, from the Soviets of Working People's Deputies of villages, *volosts*, settlements, cities and districts to the Supreme Soviet of the Latvian SSR inclusive, are elected by the citizens by direct vote.

Art. 112. Voting at elections of deputies is secret.

Art. 113. Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 114. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of the majority of the electors in the manner established by law.

Art. 115. Elections to Soviets of Working People's Deputies of the Latvian SSR are conducted according to electoral areas and under the regulations established by the "Law on Elections to the Soviets of Working People's Deputies of the Latvian SSR".

CONSTITUTION (FUNDAMENTAL LAW) OF THE KIRGHIZ SOVIET SOCIALIST REPUBLIC[1]

of 23 March 1937
as amended up to and including 25 March 1948

CHAPTER I

THE SOCIAL STRUCTURE

Art. 1. The Kirghiz Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies which grew and attained strength as a result of the overthrow of the landlords and capitalists, the achievement of the dictatorship of the proletariat, the liberation of the Kirghiz people from national oppression by Czarism and by the Russian imperialist bourgeoisie and the destruction of the Bai-Manap nationalist counter-revolution, constitute the political foundation of the Kirgizh Soviet Socialist Republic.

Art. 3. In the Kirghiz SSR all power belongs to the working people of town, *aul*, *kyshtak* and village as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production, firmly established as a result of the abolition of the feudal and capitalist system of economy and of tribal relationships and colonial exploitation, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Kirghiz SSR.

Art. 5. Socialist property in the Kirghiz SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative and collective-farm property (property of a collective farm or property of a co-operative association).

[1] Russian text in *Constitution (Fundamental Law) of the Kirghiz Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Kirghiz SSR, 25 March 1948. Text and information through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like) as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective-farm enterprise, every household in a collective farm has for its private use a small plot of land attached to the dwelling and, as its private property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry, and minor agricultural implements—in accordance with the statutes of the agricultural *artel.*

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the Kirghiz SSR, the law permits the small private economy of individual peasants, herdsmen and handicraftsmen, based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Kirghiz SSR is determined and directed by the State national economic plan with the aim of increasing public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State and strengthening its defensive capacity.

Art. 12. In the Kirghiz SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Kirghiz SSR is that of socialism: "From each according to his ability, to each according to his work."

CHAPTER VII
THE COURTS AND THE PROCURATOR'S OFFICE

Art. 81. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 82. Judicial proceedings in the Kirghiz SSR are conducted in the Kirghiz language, and in regions where the majority of the population is Russian or Uzbek in the Russian or Uzbek language respectively, persons not knowing the language of the majority being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 83. In all courts of the Kirghiz SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 84. Judges are independent and subject only to the law.

CHAPTER VIII
FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 89. Citizens of the Kirghiz SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of crises and the abolition of unemployment.

Art. 90. Citizens of the Kirghiz SSR have the right to rest and leisure.

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

Art. 91. Citizens of the Kirghiz SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance for manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 92. Citizens of the Kirghiz SSR have the right to education.

This right is ensured by universal compulsory elementary education; by free education up to and including the seventh grade; by a system of State stipends for students of higher educational institutions who excel in their studies; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 93. Women in the Kirghiz SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Opposition to the practical emancipation of women (giving minors in marriage, buying brides, organizing opposition to the participation of women in studies, agricultural and industrial production, State administration and social and political life) is punishable by law.

Art. 94. Equality of rights of citizens of the Kirghiz SSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 95. In order to ensure to citizens freedom of conscience, the church in the Kirghiz SSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 96. In conformity with the interests of the working people, and in order to strengthen the social system, the citizens of the Kirghiz SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.

Art. 97. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Kirghiz SSR are ensured the right to unite in public organizations—trade unions, co-operative associations, youth organizations, sports and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 98. Citizens of the Kirghiz SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 99. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 100. The Kirghiz SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 101. It is the duty of every citizen of the Kirghiz SSR to abide by the Constitution of the Kirghiz Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 102. It is the duty of every citizen of the Kirghiz SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 103. Universal military service is law.

Military service in the armed forces of the USSR is an honourable duty of the citizens of the Kirghiz SSR.

Art. 104. To defend the fatherland is the sacred duty of every citizen of the Kirghiz SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER IX

THE ELECTORAL SYSTEM

Art. 105. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Kirghiz SSR and of the regional district, city, *aul*, *kyshtak*, settlement and village Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 106. Elections of deputies are universal: all citizens of the Kirghiz SSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the Kirghiz SSR who has reached the age of twenty-one, irrespective of race or nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, has the right to be elected as a deputy to the Supreme Soviet of the Kirghiz SSR.

Art. 107. Elections of deputies are equal. Each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 108. Women have the right to elect and be elected on equal terms with men.

Art. 109. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 110. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the Kirghiz SSR inclusive, are elected by the citizens by direct vote.

Art. 111. Voting at elections of deputies is secret.

[*Art. 112* deals with rules for election of deputies to regional, district, city and rural Soviets, etc.]

Art. 113. Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 114. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of a majority of the electors in the manner established by law.

CONSTITUTION (FUNDAMENTAL LAW) OF THE TADJIK SOVIET SOCIALIST REPUBLIC[1]

of 1 March 1937

as amended up to and including 28 May 1948

CHAPTER I

SOCIAL STRUCTURE

Art. 1. The Tadjik Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords, the feudal emirate and capitalists, the achievement of the dictatorship of the proletariat, the liberation of the Tadjik people from national oppression by Czarism and by the Russian imperialist bourgeoisie, the destruction of the nationalist counter-revolution and the union of the disunited sections of the Tadjik people into a workers' and peasants' State, constitute the political foundation of the Tadjik Soviet Socialist Republic.

Art. 3. In the Tadjik SSR all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the feudal and capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Tadjik SSR.

Art. 5. Socialist property in the Tadjik SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative and

[1] Russian text in *Constitution (Fundamental Law) of the Tadjik Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Tadjik SSR, 28 May 1948. Text and information through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

collective-farm property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property, that is belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective-farm enterprise, every household in a collective farm has for its private use a small plot of land attached to the dwelling and, as its private property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements—in accordance with the statutes of the agricultural *artel.*

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the Tadjik SSR, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their income from work and of their savings, of their dwelling-houses and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Tadjik SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State and strengthening its defensive capacity.

Art. 12. In the Tadjik SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Tadjik SSR is that of socialism: "From each according to his ability; to each according to his work."

CHAPTER VIII

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 96. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 97. Judicial proceedings in the Tadjik SSR are conducted in the Tadjik language, and in districts having a population majority of Uzbeks or Kirghiz in the Uzbek and Kirghiz language respectively, persons not speaking these languages being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 98. In all courts of the Tadjik SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 99. Judges are independent and subject only to the law.

CHAPTER IX

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 105. Citizens of the Tadjik SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 106. Citizens of the Tadjik SSR have the right to rest and leisure.

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

Art. 107. Citizens of the Tadjik SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 108. Citizens of the Tadjik SSR have the right to education.

This right is ensured by universal compulsory elementary education; by free education up to and including the seventh grade; by the system of State stipends for outstanding students in higher educational institutions; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 109. Women in the Tadjik SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Resistance to the practical emancipation of women (the giving in marriage of minors, the purchase of brides, organized resistance to encouraging women to engage in studies, agricultural and industrial production, State administration and social and political life) is punishable by law.

Art. 110. Equality of rights of citizens of the Tadjik SSR irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 111. In order to ensure to citizens freedom of conscience, the church in the Tadjik SSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 112. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the Tadjik SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 113. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Tadjik SSR are ensured the right to unite in public organizations: trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people united in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 114. Citizens of the Tadjik SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 115. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 116. The Tadjik SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 117. It is the duty of every citizen of the Tadjik SSR to abide by the Constitution of the Union of Soviet Socialist Republics and by the Constitution of the Tadjik Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 118. It is the duty of every citizen of the Tadjik SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 119. Universal military service is law. Military service in the armed forces of the USSR is an honourable duty of the citizens of the Tadjik SSR.

Art. 120. To defend the fatherland is the sacred duty of every citizen of the Tadjik SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER X

THE ELECTORAL SYSTEM

Art. 121. Members of all Soviets of Working People's Deputies of the Supreme Soviet of the Tadjik

SSR, of the Gorno-Badakhshau Autonomous Region, and the regional, district, city, settlement and rural Soviets of Working People's Deputies are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 122. Elections of deputies are universal: all citizens of the Tadjik SSR who have reached the age of 18, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

All citizens of the Tadjik SSR, irrespective of race or nationality, sex, educational and residential qualifications, social origin, property status or past activities, have the right to be elected deputies of the Supreme Soviet of the Tadjik SSR on attaining the age of 21 years.

Art. 123. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 124. Women have the right to elect and be elected on equal terms with men.

Art. 125. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 126. Elections of deputies are direct; all Soviets of Working People's Deputies, from rural settlement and city Soviets of Working People's Deputies to the Supreme Soviet of the Tadjik SSR inclusive, are elected by the citizens by direct vote.

Art. 127. Voting at elections of deputies is secret.

Art. 128. Candidates for elections are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 129. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of a majority of the electors in the manner established by law.

[*Art. 130* deals with rules for the elections to soviets of administrative districts, city soviets, village soviets, etc.]

CONSTITUTION (FUNDAMENTAL LAW) OF THE TURKMEN SOVIET SOCIALIST REPUBLIC[1]

of 2 March 1937

as amended up to and including 6 March 1948

CHAPTER I

THE SOCIAL STRUCTURE

Art. 1. The Turkmen Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working Peoples' Deputies, which grew and attained strength as a result of the overthrow of the landlords, capitalists, khans and beys, the achievement of the dictatorship of the proletariat, the liberation of the Turkmen people from national oppression by Tsarism and by the Russian imperialist bourgeoisie, the destruction of the nationalist counter-revolution and the amalgamation of the dismembered fragments of the Turkmen people into a workers' and peasants' State, constitute the political foundation of the Turkmen SSR.

Art. 3. In the Turkmen SSR all power belongs to the working people of the towns and *auls* as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production, firmly established as a result of the abolition of the feudal and capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Turkmen SSR.

Art. 5. Socialist property in the Turkmen SSR exists either in the form of State property (the possession of the whole people) or in the form of co-operative and collective-farm property (property of a collective farm or property of a co-operative organization).

[1] Russian text in *Constitution (Fundamental Law) of the Turkmen Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Turkmen SSR, in typescript, received through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities are State property—that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective-farm enterprise every household in a collective farm has for its private use a small plot of land attached to the dwelling and as its private property a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements, in accordance with the statutes of the agricultural *artel*.

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the Turkmen SSR, the law permits the small private economy of individual peasants, herdsmen and handicraftsmen, based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Turkmen SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State and strengthening its defensive capacity.

Art. 12. In the Turkmen SSR, work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Turkmen SSR is that of socialism: "From each according to his ability, to each according to his work."

CHAPTER VII

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 87. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 88. Judicial proceedings in the Turkmen SSR are conducted in the Turkmen language; in rural and urban districts where the majority of the population is Russian, Uzbek or Kazakh, judicial proceedings are conducted in the Russian, Uzbek or Kazakh language respectively, persons not knowing the majority language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter, and likewise the right to use their own language in court.

Art. 89. In all courts of the Turkmen SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 90. Judges are independent and subject only to the law.

CHAPTER VIII

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 95. Citizens of the Turkmen SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 96. Citizens of the Turkmen SSR have the right to rest and leisure.

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

Art. 97. Citizens of the Turkmen SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clercial workers and employees at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 98. Citizens of the Turkmen SSR have the right to education.

This right is ensured by universal compulsory elementary education; by free education up to and including the seventh grade; by a system of State stipends for students in higher educational institutions who excel in their studies; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free technical and agronomic training for the working people.

Art. 99. Women in the Turkmen SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and the provision of a wide network of maternity homes, nurseries and kindergartens.

Opposition to the practical emancipation of women (giving minors in marriage, buying brides, organizing opposition to the participation of women in studies, agricultural and industrial production, State administration and social and political life) is punishable by law.

Art. 100. Equality of rights of citizens of the Turkmen SSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 101. In order to ensure to citizens freedom of conscience, religious institutions in the Turkmen SSR are separated from the State, and the schools from mosques, churches and religious institutions. Freedom of religious worship and freedom of anti-religious propaganda are recognized for all citizens.

Art. 102. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the Turkmen SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 103. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Turkmen SSR are ensured the right to unite in public organizations—trade unions, cooperative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 104. Citizens of the Turkmen SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 105. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 106. The Turkmen SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 107. It is the duty of every citizen of the Turkmen SSR to abide by the Constitution of the Union of Soviet Socialist Republics and of the Turkmen Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 108. It is the duty of every citizen of the Turkmen SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 109. Universal military service is law. Military service in the armed forces of the USSR is an honourable duty of the citizens of the Turkmen SSR.

Art. 110. To defend the fatherland is the sacred duty of every citizen of the Turkmen SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER IX

THE ELECTORAL SYSTEM

Art. 111. Members of all Soviets of Working People's Deputies of the Supreme Soviet of the Turkmen SSR and the regional, district, city and *aul* Soviets of Working People's Deputies are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 112. Elections of deputies are universal: all citizens of the Turkmen SSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, education and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the Turkmen SSR who has reached the age of twenty-one, irrespective of race or nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, has the right to be elected as a deputy to the Supreme Soviet of the Turkmen SSR.

Art. 113. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 114. Women have the right to elect and be elected on equal terms with men.

Art. 115. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 116. Elections of deputies are direct: all Soviets of Working People's Deputies, from *aul* and city Soviets of Working People's Deputies to the Supreme Soviet of the Turkmen SSR, inclusive, are elected by the citizens by direct vote.

Art. 117. Voting at elections of deputies is secret.

[*Art. 118* deals with rules for elections of deputies to regional, district, city and *aul* Soviets.]

Art. 119. Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 120. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon the decision of a majority of the electors in the manner established by law.

CONSTITUTION (FUNDAMENTAL LAW) OF THE KARELO-FINNISH SOVIET SOCIALIST REPUBLIC[1]

of 9 July 1940

as amended up to and including 22 April 1948

CHAPTER I

SOCIAL STRUCTURE

Art. 1. The Karelo-Finnish Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists, the achievement of the dictatorship of the proletariat, the liberation of the Karelo-Finnish people from national oppression by Czarism and by the Russian imperialist bourgeoisie and the destruction of the nationalist counter-revolution, constitute the political foundation of the Karelo-Finnish Soviet Socialist Republic.

Art. 3. In the Karelo-Finnish SSR all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production, firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Karelo-Finnish SSR.

Art. 5. Socialist property in the Karelo-Finnish SSR exists either in the form of State property (the possession of the whole people), or in the form of

[1] Russian text in *Constitution (Fundamental Law) of the Karelo-Finnish Soviet Socialist Republic*, with amendments and additions as adopted by the Supreme Soviet of the Karelo-Finnish SSR, 22 April 1948, in typescript, received through the courtesy of Mr. Alexander P. Morozov, Acting Representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text carried out by the United Nations Secretariat and based on the official translation of the Constitution of the USSR.

co-operative and collective-farm property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, and the products of the collective farms and co-operative associations, as well as their common buildings, constitute the common socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the common collective-farm enterprise, every household in a collective farm has for its private use a small plot of land attached to the dwelling, and, as its private property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements in accordance with the statutes of the agricultural *artel.*

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Side by side with the socialist system of economy, which is the predominant form of economy in the Karelo-Finnish SSR, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their income from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Karelo-Finnish SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State and strengthening its defensive capacity.

Art. 12. In the Karelo-Finnish SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Karelo-Finnish SSR is that of socialism: "From each according to his ability; to each according to his work."

CHAPTER VII

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 83. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 84. Judicial proceedings in the Karelo-Finnish SSR are conducted in the Finnish and Russian languages being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 85. In all courts of the Karelo-Finnish SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 86. Judges are independent and subject only to the law.

CHAPTER VIII

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 91. Citizens of the Karelo-Finnish SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 92. Citizens of the Karelo-Finnish SSR have the right to rest and leisure.

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

Art. 93. Citizens of the Karelo-Finnish SSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of manual and clerical workers at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 94. Citizens of the Karelo-Finnish SSR have the right to education. This right is ensured by universal compulsory elementary education; by free

education up to and including the seventh grade; by the system of State stipends for outstanding students in higher educational institutions; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 95. Women in the Karelo-Finnish SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay and provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 96. Equality of rights of citizens of the Karelo-Finnish SSR irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 97. In order to ensure to citizens freedom of conscience, the church in the Karelo-Finnish SSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda are recognized for all citizens.

Art. 98. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the Karelo-Finnish SSR are guaranteed by law:

(*a*) Freedom of speech;

(*b*) Freedom of the Press;

(*c*) Freedom of assembly, including the holding of mass meetings;

(*d*) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 99. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Karelo-Finnish SSR are ensured the right to unite in public organizations: trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 100. Citizens of the Karelo-Finnish SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 101. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 102. The Karelo-Finnish SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 103. It is the duty of every citizen of the Karelo-Finnish SSR to abide by the Constitution of the Karelo-Finnish Soviet Socialist Republic, to observe the laws, to maintain discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 104. It is the duty of every citizen of the Karelo-Finnish SSR to safeguard and strengthen public socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and life of the country, and as the source of the prosperity and culture of all the working people.

Persons committing offences against public socialist property are enemies of the people.

Art. 105. Universal military service is law. Military service in the armed forces of the USSR is an honourable duty of the citizens of the Karelo-Finnish SSR.

Art. 106. To defend the fatherland is the sacred duty of every citizen of the Karelo-Finnish SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER IX

THE ELECTORAL SYSTEM

Art. 107. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Karelo-Finnish SSR and of the district, city, settlement and rural Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 108. Elections of deputies are universal: all citizens of the Karelo-Finnish SSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights. All citizens of the Karelo-Finnish SSR, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to be elected deputies of the Supreme Soviet of the Karelo-Finnish SSR on attaining the age of twenty-one years.

Art. 109. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 110. Women have the right to elect and be elected on equal terms with men.

Art. 111. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 112. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the Karelo-Finnish SSR inclusive, are elected by the citizens by direct vote.

Art. 113. Voting at elections of deputies is secret.

[*Art. 114* deals with rules for elections of deputies to district, city, settlement and village Soviets.]

Art. 115. Candidates for elections are nominated according to electoral areas. The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 116. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of a majority of the electors in the manner established by law.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

PERSONAL MEDICAL SERVICES IN THE UNITED KINGDOM

Editor's Note. This statement was transmitted by the United Kingdom Delegation to the United Nations. In a note which accompanied the statement, the Delegation explains that "His Majesty's Government have come to the conclusion that the most useful form which their annual contribution can take is that it should be a self-contained and complete paper reviewing the application of one principle of the Bill of Human Rights each year. In accordance with this belief His Majesty's Government are therefore submitting the present paper setting out the way in which the right to medical care is observed and safeguarded in the United Kingdom. It is their intention year by year to submit a succession of such papers so that in the course of time the *Yearbook* will contain a complete statement in the most readable form of the application of human rights in the United Kingdom."

From among the Acts adopted by the Parliament of the United Kingdom during 1948, relevant excerpts from the Representation of the People Act, 1948 (11 & 12 Geo. 6. Ch. 65), are printed in the annex "Electoral Laws" to this part of the *Yearbook*. Another Act adopted in 1948 is the British Nationality Act 1948 (11 & 12 Geo. 6. Ch. 56). Nationality Acts have also been adopted in 1948 or are likely to be adopted in 1949 in other countries of the British Commonwealth. From among such Acts, relevant excerpts from the Citizenship Act No. 18 of 1948 of Ceylon and from the British Nationality and New Zealand Citizenship Act, No. 15 of 1948, are reproduced in this *Yearbook* (see pp. 31 and 158).

Article 25 of the Universal Declaration of Human Rights, adopted by the General Assembly in its third session, declares that:

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family including . . . . housing, and medical care and necessary social services . . . .

(2) Motherhood and childhood are entitled to special care and assistance . . . .

This paper gives a short survey of the way in which the right to medical care is observed and safeguarded in the United Kingdom.

There are in England and Wales, Scotland and Northern Ireland separate Departments of Health and separate legislation on most health matters, but the differences are not great and are mainly due to local circumstances. Thus the following description of the services in England and Wales may be taken as typical of those of the United Kingdom.

The protection of health in the United Kingdom, apart from the ordinary development of medical practice and of hospitals, and omitting the important contributions to the problem of nutrition made in recent years, has developed in three stages which overlap chronologically—namely, the improvement of environment, special health services, and the National Health Service.

1. *The Improvement of Environment*

In 1948 this country celebrated the centenary of the appointment of the first Medical Officer of Health. In those hundred years a complete system of environmental protection, including a Port Health Service, has developed, and no part of England or Wales is now without a whole-time medical officer. There has also been legislative and other action, with which this paper does not deal, to improve the worker's environment in his place of employment.

The statutes under which improvement of environment was effected have been many in number and were enacted at various times. Many of them were consolidated between the wars, and the main statutes before the enactment of the National Health Service Act of 1946 were as follows:

Public Health Act, 1936; Housing Act, 1936; Factories Act, 1937; Shops Acts, 1912 and 1934; Food and Drugs Act, 1938.

2. *Special Health Services*

Particularly in the present century, special health services have been provided and developed by local authorities, under the supervision of the central Government. These developments have often followed pioneer work by non-governmental persons or bodies.

The most important of these services were: Maternal and child welfare, school medical service, tuberculosis control, venereal disease control.

The statutes governing these special services can be found in the Public Health Act of 1936 and in the Education Acts. There was also an Insurance Medical Service, which provided general practitioner treatment for persons insured under the National Insurance Act.

3. *The National Health Service*

Paragraphs 1 and 2 above describe shortly the position before the National Health Service Act of 1946 came into force on 5 July 1948. It will be seen from what follows that many of the services provided under special legislation before that date are now provided, and extended, under the National Health Service Act. A note is added at the end on Health Services related to Education.

The National Health Service Act, which received the Royal Assent on 6 November 1946, makes it the duty of the Minister of Health "to promote the establishment in England and Wales of a comprehensive health service designed to secure improvement in the physical and mental health of the people of England and Wales and the prevention, diagnosis and treatment of illness".

The National Health Service—which is available to every man, woman and child—is a charge on the national income in the same way as the armed forces and other necessities. It is not an insurance scheme. Everyone is entitled to use any complete part or all of the services. There is no question of insurance qualification or "waiting periods". Most of the cost of running the service is paid out of the national exchequer, from taxes, but a contribution towards the cost is made from the National Insurance Fund and some of the expenses also fall on local rates.

A central Health Services Council advises the Minister generally on the administration of the health service. It is composed of members drawn from the various professional, administrative and local government workers concerned with the different parts of the scheme. The presidents or chairmen of the six, principal medical bodies in the country are members, *ex officio*. The Minister may also constitute various standing advisory committees on different technical aspects of the service.

The new service is broadly divided into three parts:

(*a*) Hospitals and specialists

(*b*) General practitioner service

(*c*) Local services.

Fuller details of some parts of the three main divisions follow, and, as the changes in the administration of mental health services are particularly far-reaching and in some respects different from those in respect of physical health, a special paragraph has been added to deal with them.

Hospitals

On 5 July 1948 all the voluntary and municipal hospitals in England and Wales, with relatively few exceptions, were transferred to the Ministry of Health. The transfer also included mental hospitals.

The hospital service, of which specialist facilities form part, includes general and special hospitals, maternity accommodation, tuberculosis sanatoria, infectious diseases units, provision for the chronic sick, mental hospitals and mental deficiency institutions, accommodation for convalescent treatment and medical rehabilitation, and all forms of specialized treatment, for example plastic surgery, cancer, orthopaedic and ear, nose and throat treatment.

In the main, this part of the service is organized on behalf of the Minister of Health by Regional Hospital Boards. There are 14 of these boards. Their members, who all serve in their own time and without payment, have a wide variety of experience gained with all kinds of organizations and official bodies. The day-to-day administration of the hospitals is carried out on behalf of the boards by local management committees, usually responsible for a group of related hospitals. The only hospitals outside the boards' responsibility are certain hospitals which have remained outside the National Health Service altogether and those which, because of their responsibility for providing facilities for undergraduate or post-graduate medical or dental education, are administered separately by boards of governors.

Specialists and consultants taking part in the public service usually hold a hospital appointment. They can take up whole-time or part-time service, and, if they accept a part-time appointment can still accept fee-paying patients outside the public service.

Certain hospitals have accommodation in small wards or single rooms, which, if not required for patients who need such separate accommodation for medical reasons, may be made available to patients desiring it as an amenity, the hospital making a charge representing the additional cost over the cost of maintenance in the general ward. In such a case the patient pays nothing for the cost of treatment or the normal cost of maintenance.

In some hospitals a number of pay-beds have been placed at the disposal of specialists taking part in the service for use by private patients who will pay full hospital maintenance costs as well as private fees to the specialist. In most cases the fees that may be charged by the specialist to patients occupying the private pay-beds have a maximum limit, but in a few cases the charges for treatment which the specialist may make are not limited in this way.

Specialist services and advice are obtained through the patient's family doctor, as in the past. The specialist will usually see the patient at a hospital or clinic on whose staff he is, but arrangements will be made for the specialist to visit the patient at home, if, on medical grounds, this is necessary.

A patient can still become the private fee-paying patient of a specialist apart from these arrangements if he desires to do so.

General Practitioner Services

The family doctor service is organized by executive councils. They also organize the dental, pharmaceutical and supplementary eye services for their areas. These councils, numbering 138 in England and Wales, have been set up for every county and county borough area. In some instances, for more convenient administration, one council covers two areas. Half the members of the local executive council have been appointed by the local doctors, dentists and pharmacists. The executive councils have published lists of doctors, dentists and others who are taking part in the public service.

All doctors were entitled to take part in the family doctor service in the areas where they were practising before 5 July. Taking part does not debar them from also having private fee-paying patients. Since 5 July 1948, it has been necessary, before they join the service, to get the approval of the Medical Practices Committee, who can withhold consent only if there are already enough doctors in the area, or more applicants than vacancies.

As soon as building materials and labour can be spared, health centres will be constructed in which doctors, if they wish, can work together as a team. These centres will be designed so that they meet the convenience both of the doctor and of his patients. Surgeries and consulting rooms will be equipped with the latest and most efficient forms of apparatus. There will also be comfortable waiting rooms and other facilities for the benefit of the patients. Dentists may also practise there.

Dentists, like doctors, are free to serve whole-time or part-time and to have private as well as public patients. Patients do not have to register with any particular dentist, but are free to go to any dentist in or out of their area who is taking part in the service and is willing to accept them.

There is no need for the patient to obtain a dental form or authority before seeking treatment. The dentist will be able to carry out at once all normal conservative treatment (*e.g.* fillings), emergency treatment and ordinary denture repairs. He will need to get prior authority before undertaking treatment only when it will involve the removal of teeth necessitating replacement by dentures; the provision of dentures; extensive and prolonged treatment of the gums, and other special forms of work, such as gold fillings, inlays, crowns, special appliances and oral surgery. Prior authority of this kind is given by the Dental Estimates Board, consisting of a dental chairman, 6 dental members and 2 lay members. The Board also authorizes all claims for payment submitted by dentists. A dentist can also, with the approval of the board, charge his patient extra for certain forms of treatment or for appliances more expensive than are clinically necessary, where the patient wishes this to be done. Because of the shortage of dentists, priority in the early years of the service is being given to expectant mothers and young people.

Drugs, medicines and medical and surgical appliances are provided at chemists' shops (on the prescriptions of doctors, or for certain drugs, of dentists), or at hospitals. In rural areas they may be provided by doctors.

Sight-testing and supply of glasses. While a hospital eye service is built up, supplementary arrangements have been made for ophthalmic medical practitioners and ophthalmic opticians to test sight, and for ophthalmic and dispensing opticians to supply glasses.

The Local and Home Health Services

This series of services is the responsibility of the 146 major local authorities in England and Wales—the county councils and county borough councils—acting as local health authorities. They work through health committees. In many counties there are local area sub-committees of the County Health Committee which deal with the day-to-day administration of some or all of the services. Local information on the services available, and how they may be obtained, can be got from the offices of the county councils and county borough councils. Except for certain matters mentioned below, there are no charges to the users of these services.

The services are as follows:

1. *Care of mothers and young children*

The principal services under this head are:

(*a*) Provision of ante-natal clinics for the care of expectant mothers.

(*b*) Provision of post-natal clinics for the care of mothers and babies.

(*c*) Provision of infant welfare clinics for the care of children under five.

(*d*) Provision of dental care of expectant and nursing mothers and young children.

(*e*) Provision of welfare foods and simple medicaments among which are dried milk, orange juice, cod-liver oil and vitamin tablets.

(*f*) Special arrangements for the care of premature infants at home.

Other services which may be provided under this head are:

(i) Day nurseries and registers of "daily guardians".

(ii) Special arrangements for the care of the unmarried mother and her child.

2. *Home midwives service*

The provision either directly or by arrangement with voluntary organizations or hospitals of certified midwives to attend mothers who are confined in their homes.

3. *Health visiting*

The provision either directly or through the agency of voluntary organizations of health visitors (*i.e.* trained nurses with extra training in midwifery and public health nursing) to give advice in the home generally on health matters and particularly as to the care of young children, sick persons and expectant or nursing mothers, and on how to prevent the spread of infection.

4. *Home nursing*

The provision, either directly or through the agency of voluntary organizations, of nurses to attend persons who require nursing in their own homes.

5. *Vaccination and immunization*

Arrangements with doctors for vaccination against smallpox (except in Northern Ireland, this is no longer compulsory) and immunization against diphtheria. Arrangements may also be made, subject to the approval of the Minister, for inoculation against other diseases.

6. *Prevention of illness, care and after-care*

Measures for the prevention of tuberculosis, the care and after-care of persons suffering from tuberculosis, general advice and assistance to households in which there are persons suffering from tuberculosis. These arrangements may include such things as supplying beds or bedding to enable the patient to sleep alone, the provision of nursing requisites, helping the family to find better housing accommodation, making arrangements for boarding out children of infected parents, helping to provide extra food and clothing, etc.

Care and after-care of sick persons generally, where required, including those suffering from mental illness or mental defect.

Charges may be made for services under this head.

7. *Domestic Help*

Local health authorities *may* provide domestic help for households where it is required because of illness or maternity or because of the presence of old people or young children. Charges may be made for this service.

None of the services mentioned above is new, but the responsibility now rests wholly on county or county borough councils, instead of partly on smaller and less wealthy authorities. Also, services 1 to 5 (and 6 so far as tuberculosis is concerned) are now duties which must be discharged, whereas formerly they were powers which the local authorities might or might not use. Some of the services are already highly developed, but others will take time to build up to full efficiency. Obviously for some time there will be no more midwives, health visitors, or home nurses available than there were before 5 July 1948. Domestic help services are already in operation in a number of areas and every local health authority in England and Wales has decided to use its power under the Act to set up a service as soon as may be. The extent to which any one of them will be able to meet the public's demands will depend upon the supply of suitable home helps available in the area—the recruitment of the right type of woman has always proved difficult, and it will clearly be harder to provide a service in the rural parts of the country than in the towns.

8. *Ambulance services*

Ambulance and "sitting-case" cars are provided either directly or by arrangement with voluntary organizations for the conveyance of the sick when they are unfit to travel by ordinary transport. This is a new duty imposed on county and county borough councils. The number of vehicles available on 5 July 1948 was inadequate, and most of them had been in use for more than the ten years which is the normal life of an ambulance. Steps have been taken to accelerate the manufacture and delivery of new ambulances, but steel is scarce and it will be some years before the service can be developed to full efficiency. The voluntary organizations—such as the St. John's Ambulance Brigade—are helping, and some county and county borough councils are combining their ambulance service with their fire service.

9. *Health centres*

The provision, equipment and maintenance of health centres to afford facilities under one roof for all or some of the following services:

General practitioner, dental and pharmaceutical services (by arrangement with the local executive council),

Specialists' services (by arrangement with the Regional Hospital Board),

Local health authority clinic services, health education.

Since 5 July 1948 a few premises have been functioning as health centres. A few more have been planned for erection—on new housing estates, for example—within the next two or three years. Others will be built as soon as the building situation allows.

Mental Health

On 5 July 1948 the Minister of Health, as the central authority for mental health, became responsible for providing:

(*a*) Hospital and institutional accommodation and all services, including nursing, for mentally ill or mentally defective people, irrespective of class and free of charge (subject to payment only if received as a private patient). Institutions carried on for private profit, that is to say, houses licensed under the Lunacy Act, 1890, certified under the Mental Deficiency Act,

1913, and the majority of approved homes for defectives under the Act, were not transferred.

(*b*) Services of specialists (free of charge) for mentally ill or mentally defective people.

The local health authorities are responsible for the care of mental defectives living in the community and for the initial care and, if necessary, conveyance to hospital of patients, and also for any necessary after-care that is not provided by the hospital services.

A Mental Health Advisory Committee has been set up which will advise the Minister and the Central Health Services Council (which deals with all questions of health, and of whose forty-one members four are mental health experts) on all questions dealing with mental health.

A Standing Mental Health Committee is being appointed by each Regional Hospital Board, and it is to this committee that the board will delegate the supervision of all mental hospitals, mental deficiency institutions and mental specialist services for the regional area in question.

In 1913 the newly constituted Board of Control became the authority responsible for supervising the performance of the local authorities of their duties under the Lunacy Acts. At the same time the board was charged with the general supervision of matters relating to mental defectives, who for the first time are accorded a separate legal status. These supervisory functions are now exercised by the Minister, and on 1 July 1947 he took over these functions together with the powers of licensing, or other formal approval, by which the standards of accommodation for mentally ill or defective patients outside the National Health Service are still safeguarded.

The Board of Control, however, as an independent body exercising quasi-judicial functions, continues to be responsible for matters affecting the liberty of the patient.

The main changes under the new scheme are:

(*a*) Administration and functions, as distinct from quasi-judicial duties of the Board of Control, are transferred to the Minister.

(*b*) Liability for providing hospital or institutional accommodation and treatment for persons suffering from mental illness or mental defect is transferred from the local authorities to the Minister.

(*c*) Initial care, conveyance and, where not provided by the hospital services, after-care of mentally ill or defective people become the responsibility of the local health authorities.

(*d*) Care of the mental defectives living in the community becomes the duty of the local health authorities.

(*e*) The relatives of a patient to be dealt with (otherwise than by way of an urgency order) under the Lunacy Act, 1890, may elect either themselves to proceed by petition for a reception order (a course hitherto applicable only to private patients) or, through the authorized officer, by summary reception order. It will make no difference if the person is to be a private patient or not.

(*f*) Under the Lunacy Act, 1890, discharge from a mental hospital may be effected in all cases by the petitioner (if any) or by the appropriate relative and also, in the case of a private patient, if there is no petitioner or if he is ineffective, by the person making the last payment for maintenance. The basis for discharge is thus, for the first time, made the same for private and other patients.

(*g*) It is no longer lawful to detain in a workhouse any person of unsound mind or any mental defective.

Health Services related to Education

Legislation to provide education in special schools for certain types of handicapped children began in 1895 and for school feeding and medical inspection and treatment of schoolchildren in 1906 and 1907. The Education Act, 1944, remodelled and extended the previous enactments.

School health service

Under sections 48 and 79 of the Act, local education authorities are required (i) to provide for medical inspection of all pupils at maintained schools at intervals prescribed by the Ministers, (ii) to make arrangements for securing the provision of comprehensive facilities for free medical treatment for these pupils either under the Education Acts or otherwise, and (iii) to encourage and assist pupils to take advantage of these facilities. Other provisions empower authorities to extend this service to—for example—students in establishments for further education (technical colleges, etc.) and, by agreement with the school authorities, to any school which is not maintained by them (including private schools).

By 1948, when the National Health Service was established, the school health service had become in the course of 40 years an effective though not fully complete system covering, free of charge to parents: medical inspection; inspection for and treatment of verminous infestation; speech therapy; treatment of minor ailments; dental inspection and treatment; consultative and specialist work of many kinds, including the examination and treatment of defective vision and hearing, diseases of the eyes, and ear, nose and throat, orthopaedic defects, rheumatism, etc., in-patient hospital treatment; child guidance.

It has been carried on by a staff of school doctors, dentists and nurses, using a widespread system of school clinics, by the direct employment of specialists, and by very extensive arrangements with hospitals. It is now intimately linked with the National Health Service. The duty of local education authorities is unaltered, but in general they will obtain the necessary hospital and specialist services, together with sight

testing and the provision of spectacles, through the national service, which, however, will make full use of the school clinic facilities. In order to provide a priority dental service for children, they will retain and develop the dental service, which at present secures dental inspection for the majority of the children each year and the acceptance of treatment by over 70 per cent of those found to require it. Similarly, they will continue and develop the child guidance service, which needs great extension.

Handicapped pupils

By sections 33 and 34 of the Act of 1944, local education authorities have the duty to ascertain which children require special educational treatment, to provide or secure education for them in special schools in all appropriate cases, and to make special arrangements for the remainder in ordinary schools, for which purpose, if necessary, they may be boarded out or placed in hostels. Regulations define eleven categories of pupils handicapped by disability of mind or body, viz.: blind children, partially sighted children, deaf children, partially deaf children, delicate children, diabetic children, epileptic children, educationally subnormal children, maladjusted children, physically handicapped children, children with speech defects; and govern the character of the provision to be made. Provision for the blind and deaf is not far short of complete; in the remaining categories, to a varying degree, further provision is necessary. Much extension is in hand or being planned.

Special schools range from the provision of teaching for children in hospital wards to schools, such as those for delicate children; in which the regime may not greatly depart from the normal. They include both day and boarding schools, as the needs of the children and the distance of their homes may require. Many of the boarding schools are managed by voluntary bodies, in which case the approved fees are paid by the appropriate local education authority. No charge falls on parents for the provision of any special day or boarding education deemed to be necessary.

It is the duty of the local education authorities and the managers of these schools to ensure that the children receive all the medical care which their disability calls for. For example, schools for physically handicapped children are closely linked with the orthopaedic services of the hospitals.

School meals service

Up to 1939, school feeding was a small service aimed primarily at dealing with serious malnutrition. The provision of school milk, however, while also serving this purpose, had already become a general service through which 55 per cent of the schoolchildren obtained milk to drink at school at half the normal price. Poor and malnourished children made no payment for meals or milk. During the war, school meals and milk developed into general nutrition services designed to ensure sound physique for the rising generation despite war conditions.

By section 49 of the Education Act, 1944, and Regulations, it is the duty of the local education authorities to provide school milk and dinners for day pupils in maintained schools; they are empowered to provide other meals and refreshments, and to extend this service to non-maintained schools by agreement with the school authorities. The service is regarded as ancillary to the system of cash family allowances introduced in 1946. School milk, therefore, was made free of charge and is now taken by just on 90 per cent of the children. School dinners cannot be made free until the catering facilities are sufficient to meet the demand, but 28,000 out of the 30,000 grant-aided schools have a canteen service and 52 per cent of the children—*i.e.*, 2,702,000—have dinner at school daily. To meet the ultimate demand for dinners which is estimated at 75 per cent to 80 per cent of the numbers present, a large building programme is in progress to provide new, extended and improved canteen facilities. For the time being a charge is made for dinners; it must not exceed the cost of the food and is generally 5*d.* (the food cost averaging about 5½*d.*), but no charge is made in cases of financial hardship. The dinners are required to be main midday meals of very high nutritional value.

UNITED STATES OF AMERICA

INTRODUCTORY NOTE[1]

Some noteworthy developments in the field of human rights in the United States during the year 1948 are represented by the documents and excerpts from documents printed below: an Executive order designed to insure non-discriminative employment practices within the Federal Civil Service; an Executive order providing for equality of treatment and opportunity for all persons in the armed services; an amendment to the Constitution of the State of Massachusetts guaranteeing the right of free speech; excerpts from an Act of the Legislature of the State of New York prohibiting discrimination in institutions of higher learning because of race, colour, religion, creed, or national origin; and clauses of a treaty between the United States and China guaranteeing certain personal rights to nationals of the one party in the territories of the other.[2]

Besides the documents just mentioned, there were numerous other human rights developments in the United States during the year. In addition to Acts of Congress and of State and territorial legislatures, listed below, there were a number of decisions of the United States Supreme Court and of certain other courts bearing upon such matters as the procedures required in fair trial, the right of Negroes to equal educational opportunity, the rights of Negroes and of aliens to freedom of speech, *habeas corpus*, and freedom of marriage. There were also official administrative orders of various types giving effect to legislation already in force.

Acts of Congress

An Act approved 10 June 1948 prohibits discrimination in the Federal Civil Service against any person because of physical handicap (62 Stat. 351). By various clauses of the Women's Armed Services Integration Act, approved 12 June, the application of provisions of law concerning rights, privileges, benefits, and opportunities in the armed services of the United States are extended to women equally with men, within certain necessary limits (62 Stat. 356). The Selective Service Act, approved 24 June, includes the provision that in the selection of persons for training and service thereunder, and in the interpretation and execution of the provisions thereof, "there shall be no discrimination against any person on account of race or colour" (62 Stat. 604, 608). This Act includes also the provision that warrant officers in the active military service of the United States shall be competent to serve on general and special courts martial for the trial of warrant officers and enlisted persons and that enlisted persons shall be competent to serve for the trial of enlisted persons when requested in writing by the accused (62 Stat. 604, 628). Under prior legislation only commissioned officers were competent to serve on courts martial (U.S. Code, title 10, sec. 1475).

In the field of public health, the National Heart Act, approved 16 June, has as its stated purpose "to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of diseases of the heart and circulation" (62 Stat. 464); and the National Dental Research Act, approved 24 June, has as its purpose "to improve the dental health of the people of the United States through the conduct of researches, investigations, experiments, and studies relating to the cause, diagnosis, and treatment of dental diseases and conditions" (62 Stat. 598).

The Federal Longshoremen's and Harbour Workers' Act, which covers longshoremen and harbour workers and also employees in private industry in the District of Columbia, was amended by an Act of 24 June to increase benefits thereunder (62 Stat. 602).

Administrative and other Action

Typical of administrative orders are the revised rules and regulations pertaining to "parks, forests, and memorials" issued by the Department of the Interior under date of 23 December 1948. These include provisions prohibiting any discrimination, in connexion with the furnishing of public accommodation within areas administered by the National Park Service, "because of race, creed, colour or national origin" (*Federal Register*, vol. 13, No. 253, pp. 8657, 8668, 29 December 1948).

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[1] This note was prepared by the United States Government.

[2] See the part "International Treaties and Agreements", p. 451 of this *Yearbook*.

EXECUTIVE ORDER 9980 OF 26 JULY 1948 REGULATIONS GOVERNING FAIR EMPLOYMENT PRACTICES WITHIN THE FEDERAL ESTABLISHMENT[1]

Introductory Note.[2] Employment by the Federal Government is regulated by a merit system based upon the Civil Service Act approved 16 January 1883 (22 Stat. 403), together with a considerable body of supplementary legislation, Executive orders, and other regulations (see, *e.g.*, U.S. Code, title 5, chs. 12–13). Steadily developing and expanding since 1883, this merit system now includes more than 95 per cent of all permanent Federal employees. The following "Regulations Governing Fair Employment Practices Within the Federal Establishment" are designed to implement legislation already in existence.

Whereas the principles on which our Government is based require a policy of fair employment throughout the Federal establishment, without discrimination because of race, colour, religion, or natural origin; and

Whereas it is desirable and in the public interest that all steps be taken necessary to insure that this long-established policy shall be more effectively carried out:

Now, therefore, by virtue of the authority vested in me as President of the United States, by the Constitution and the laws of the United States, it is hereby ordered as follows:

1. All personnel actions taken by Federal appointing officers shall be based solely on merit and fitness; and such officers are authorized and directed to take appropriate steps to ensure that in all such actions there shall be no discrimination because of race, colour, religion, or national origin.

2. The head of each department in the executive branch of the Government shall be personally responsible for an effective programme to ensure that fair employment policies are fully observed in all personnel actions within his department.

3. The head of each department shall designate an official thereof as Fair Employment Officer. Such officer shall be given full operating responsibility, under the immediate supervision of the department head, for carrying out the fair-employment policy herein stated. Notice of the appointment of such officer shall be given to all officers and employees of the department. The Fair Employment Officer shall, among other things:

(*a*) Appraise the personnel actions of the department at regular intervals to determine their conformity to the fair-employment policy expressed in this order.

(*b*) Receive complaints or appeals concerning personnel actions taken in the department on grounds of alleged discrimination because of race, colour, religion, or national origin.

(*c*) Appoint such central or regional deputies, committees, or hearing boards, from among the officers or employees of the department, as he may find necessary or desirable on a temporary or permanent basis to investigate, or to receive, complaints of discrimination.

(*d*) Take necessary corrective or disciplinary action, in consultation with, or on the basis of delegated authority from, the head of the department.

4. The findings or action of the Fair Employment Officer shall be subject to direct appeal to the head of the department. The decision of the head of the department on such appeal shall be subject to appeal to the Fair Employment Board of the Civil Service Commission, hereinafter provided for.

5. There shall be established in the Civil Service Commission a Fair Employment Board (hereinafter referred to as the Board) of not less than seven persons, the members of which shall be officers or employees of the Commission. The Board shall:

(*a*) Have authority to review decisions made by the head of any department which are appealed pursuant to the provisions of this order, or referred to the Board by the head of the department for advice, and to make recommendations to such head. In any instance in which the recommendation of the Board is not promptly and fully carried out the case shall be reported by the Board to the President, for such action as he finds necessary.

(*b*) Make rules and regulations, in consultation with the Civil Service Commission, deemed necessary to carry out the Board's duties and responsibilities under this order.

(*c*) Advise all departments on problems and policies relating to fair employment.

(*d*) Disseminate information pertinent to fair-employment programmes.

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[1] English text in *Federal Register*, vol. 13, No. 146, 28 July 1948, pp. 4311–4313.

[2] This note was prepared by the United States Government.

(*e*) Co-ordinate the fair-employment policies and procedures of the several departments.

(*f*) Make reports and submit recommendations to the Civil Service Commission for transmittal to the President from time to time, as may be necessary to the maintenance of the fair-employment programme.

6. All departments are directed to furnish to the Board all information needed for the review of personnel actions for the compilation of reports.

7. The term "department" as used herein shall refer to all departments and agencies of the executive branch of the Government, including the Civil Service Commission. The term "personnel action", as used herein, shall include failure to act. Persons failing of appointment who allege a grievance relating to discrimination shall be entitled to the remedies herein provided.

8. All means of relief provided by this order shall be supplemental to those provided by existing statutes, Executive orders, and regulations. The Civil Service Commission shall have authority, in consultation with the Board, to make such additional regulations, and to amend existing regulations, in such manner as may be found necessary or desirable to carry out the purposes of this order.

EXECUTIVE ORDER 9981[1] ESTABLISHING THE PRESIDENT'S COMMITTEE ON EQUALITY OF TREATMENT AND OPPORTUNITY IN THE ARMED SERVICES of 26 July 1948

Whereas it is essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defence:

Now, therefore, by virtue of the authority vested in me as President of the United States, by the Constitution and the statutes of the United States, and as Commander-in-Chief of the armed services, it is hereby ordered as follows:

1. It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, colour, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale.

2. There shall be created in the National Military Establishment an advisory committee to be known as the President's Committee on Equality of Treatment and Opportunity in the Armed Services which shall be composed of seven members to be designated by the President.

3. The Committee is authorized on behalf of the President to examine into the rules, procedures and practices of the armed services in order to determine in what respect such rules, procedures and practices may be altered or improved with a view to carrying out the policy of this order. The Committee shall confer and advise with the Secretary of Defence, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, and shall make such recommendations to the President and to said Secretaries as in the judgment of the Committee will effectuate the policy hereof.

4. All executive departments and agencies of the Federal Government are authorized and directed to co-operate with the Committee in its work, and to furnish the Committee such information or the services of such persons as the Committee may require in the performance of its duties.

5. When requested by the Committee to do so, persons in the armed services or in any of the executive departments and agencies of the Federal Government shall testify before the Committee and shall make available for the use of the Committee such documents and other information as the Committee may require.

6. The Committee shall continue to exist until such time as the President shall terminate its existence by Executive order.

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[1] English text in *Federal Register*, vol. 13, No. 146, 28 July 1948, p. 4313.

United States of America: States and Territories

ACTS OF STATE AND TERRITORIAL LEGISLATURES[1]

INTRODUCTORY NOTE

The legislatures of most of the forty-eight States meet in regular session biennially in the odd-numbered years; a few meet annually, and a few biennially in the even years. In 1948, only ten State legislatures met in regular session, those of Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, New Jersey, New York, Rhode Island, South Carolina, and Virginia. In addition, the territorial legislature of Puerto Rico met in 1948 in regular session. Among the enactments of these legislative bodies in 1948 are many that relate more or less directly to human rights. It has not been practicable to publish every item of legislation pertaining to human rights. In addition to the documents mentioned in the Introductory Note which are printed in this section, a survey of the Acts passed by the State legislatures which met in regular session in 1948 will be found below. References given are to the laws of the particular State or Territory.

Moreover, the voters at referendum elections in Arizona and North Dakota approved industrial-relations laws previously passed by the State legislatures. The Arizona law, approved 2 November 1948, declares that no person shall be denied the opportunity to obtain or retain employment because of non-membership in a labour organization. Two North Dakota laws, approved 29 June 1948, provide respectively that the right of persons to work shall not be denied or abridged because of membership or non-membership in any labour organization and that a worker shall be free to decline to associate with his fellows and shall be free to obtain employment wherever possible without interference, but that he shall have the right of self-organization and designation of representatives of his own choosing (United States Department of Labour, Bureau of Labour Standards, Bulletin No. 101, *Annual Digest of State and Federal Labor Legislation enacted September 1, 1947, to November 15, 1948*, pp. 2, 4, 17–18).

Municipal Legislation

While no attempt has been made for the purposes of this publication to survey the vast field of municipal legislation in the United States for 1948 enactments relating to human rights, it is to be observed that there were municipal enactments on the subject during the year. An example is the Philadelphia Fair Employment Practice Ordinance of 16 March 1948, the full title of which is "An Ordinance prohibiting discrimination in employment because of race, colour, religion, national origin or ancestry by employers, employment agencies, labour organizations and others; providing for the creation of the Philadelphia Fair Employment Practice Commission; prescribing its duties and powers; and providing penalties". For the text of this ordinance, see Library of Congress, Legislative Reference Service, Public Affairs Bulletin No. 65, *Anti-Discrimination Legislation in the American States*, by W. Brooke Graves (Washington, November 1948), pp. 79–83.

[1] This note was prepared by the United States Government.

COMMONWEALTH OF MASSACHUSETTS

AMENDMENT TO THE CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS OF 1780

adopted 2 November 1948[1]

ARTICLE OF AMENDMENT

Article XVI of Part the First is hereby annulled and the following is adopted in place thereof:

ARTICLE XVI

The liberty of the Press is essential to the security of freedom in a State: it ought not, therefore, to be restrained in this commonwealth. The right of free speech shall not be abridged.

[1] Text supplied by the Department of the Attorney-General of Massachusetts. This amendment adds to the declaration of the rights of the inhabitants of Massachusetts, as set forth in the Constitution of the Commonwealth, the following: "The right of free speech shall not be abridged." See the text of all provisions regarding human rights in the Constitution of the Commonwealth of Massachusetts in *Yearbook on Human Rights for 1946*, pp. 360–362.

STATE OF NEW YORK

ACT OF THE LEGISLATURE OF NEW YORK ENTITLED "AN ACT TO AMEND THE EDUCATION LAW, IN RELATION TO COMPLAINTS AGAINST EDUCATIONAL INSTITUTIONS FOR ALLEGED DISCRIMINATION IN THE ADMISSION OF APPLICANTS"[1]

Approved 3 April 1948

(Excerpts)

Introductory Note.[2] This Act supplements the New York Law against Discrimination, approved 12 March 1945, otherwise known as the New York Fair Employment Practice Act, which broadly prohibits discrimination in employment because of race, creed, colour, or national origin (*Laws of New York*, 1945, ch. 118). The 1948 Act provides in effect for equality of opportunity to attain improved educational qualifications for employment.

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313. (1) *Declaration of policy.* It is hereby declared to be the policy of the State that the American ideal of equality of opportunity requires that students, otherwise qualified, be admitted to educational institutions without regard to race, colour, religion, creed or national origin, except that, with regard to religious or denominational educational institutions, students, otherwise qualified, shall have the equal opportunity to attend therein without discrimination because of race, colour or national origin. It is a fundamental American right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to effectuate the religious principles in furtherance of which they are maintained. Nothing herein contained shall impair or abridge that right.

(2) *Definitions.* (*a*) Educational institution means any educational institution of post-secondary grade subject to the visitation, examination or inspection by the State board of regents or the State commissioner of education.

(*b*) Religious or denominational educational institution means an educational institution which is operated, supervised or controlled by a religious or denominational organization and which has certified to the State commissioner of education that it is a religious or denominational educational institution.

3. *Unfair educational practices.* It shall be an unfair educational practice for an educational institution after September fifteenth, nineteen hundred forty-eight:

(*a*) To exclude or limit or otherwise discriminate against any person or persons seeking admission as students to such institution because of race, religion, creed, colour, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination or from giving preference in such election to such members or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained.

(*b*) To penalize any individual because he has initiated, testified, participated or assisted in any proceedings under this section.

(*c*) It shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, creed, colour or national origin in the admission of students.

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[1] English text in *Laws of New York*, 1948, chapter 753, p. 1380.

[2] This note was prepared by the United States Government.

TABLES OF LEGISLATION

STATES OF KENTUCKY, LOUISIANA, COMMONWEALTH OF MASSACHUSETTS, STATES OF MISSISSIPI, MISSOURI, NEW JERSEY, NEW YORK, TERRITORY OF PUERTO RICO, STATES OF RHODE ISLAND, SOUTH CAROLINA, VIRGINIA

Date of approval (1948)	*Subject*	*Citation (1948 Laws)*	
		Chapter	*Page*
	KENTUCKY		
19 March	Unemployment compensation	216	507
23 March	Child labour	107	280
24 March	Authorizing retirement and disability plans for employees of cities, counties, and their agencies	129	324
25 March	Special education of physically or mentally handicapped children	4	40
25 March	Sick leave for teachers in the common schools	88	194
25 March	Education in fields relating to health, with particular reference to the education and training of nurses and doctors of the Negro race	112	298
25 March	High-school education for war veterans	123	312
	LOUISIANA		
20 June	State aid in the college and university education of children of members of the armed forces who were killed or died between December 7, 1941, and June 30, 1946	54	182
25 June	Pension fund for the police department of New Orleans	96	284
25 June	Repealing an act regulating and controlling labour-union activities	130	372
28 June	Protection of certain minors in specified street trades	154	447
30 June	Authorizing the Governor to dedicate certain State lands for public recreational and park purposes . .	170	470
30 June	Prohibiting the transportation of strike-breakers into the State	192	502
1 July	Providing full procedure for adoption of children under seventeen years of age	228	564
5 July	Establishing a school to be known as the Louisiana State School for Spastic Children	290	687
5 July	Authorizing certain municipalities to establish pension and retirement systems for their elective and appointive officers and employees	295	722
5 July	Vital statistics pertaining to the need for hospitalization and rehabilitation of alcoholics	318	778
6 July	Providing that the State may enter into a compact with any of the United States for co-operative regional education purposes	367	982
8 July	Establishing a City of Alexandria Employees' Retirement System	459	1250
9 July	Minimum wages, vacations, sick leave, and maximum hours of work for the full-time paid members of the fire departments in certain cities and towns	481	1329

[1] These tables were supplied through the courtesy of the United States Government.

Date of approval (1948)	Subject	Citation (1948 Laws) Chapter	Page
	MASSACHUSETTS		
2 November	Amendment to the Constitution of the Commonwealth of Massachusetts of 1780, regarding the right of free speech[1]		
26 January	Forty-hour week for county employees and certain others	12	10
15 April	Leave of absence for civil-service employees who are veterans and attend school or college or are employees in "on the job" training under the G.I. bill of rights	228	219
18 May	Annual vacations for certain employees of certain cities and towns	330	309
9 June	Absent voting by residents of Massachusetts serving in or with the armed forces of the United States during war	531	538
	[1] The article of amendment appears above, p. 243.		
	MISSISSIPPI		
31 March	General Municipal Employees' Retirement Act	386	600
8 April	Programme of vocational rehabilitation	289	315
8 April	Programme of vocational rehabilitation for the blind	303	336
12 April	Mississippi Employment Security Law	412	652
13 April	Approving the proposed compact of southern States for regional educational institutions in those States	284	307
13 April	Scholarship programme of education in nursing	288	314
13 April	Workmen's Compensation Law[1]	354	507
14 April	Instruction for qualified Negro students in graduate and professional schools outside Mississippi	282	306
14 April	Organization and operation of non-profit hospital, medical, and surgical service corporations	349	494
	[1] Each of the other forty-seven States had previously enacted workmen's-compensation legislation, although there is considerable variation as to detail.		
	MISSOURI		
11 March	Relating to the Missouri workmen's-compensation system	...	438
16 March	Providing that certain persons employed by the State Board of Training Schools shall be members of the public-school retirement system	...	325
29 March	Creating a civil-service act applying to the police and fire departments of cities of the second class, and creating a civil-service commission	...	284
29 March	Education of children who are blind, deaf, crippled, or otherwise handicapped	...	383
7 April	Establishing a State vocational school	...	364
6 May	Vacation, time off duty, and salaries of members of the police force in certain cities	...	304
21 May	Relating to the adoption of children and other persons	...	213
2 June	Relating to the Missouri unemployment-compensation system	...	389

Date of approval (1948)	Subject	Citation (1948 Laws) Chapter	Page
	NEW JERSEY		
18 February	Voting by persons in the armed services of the United States and by patients in veterans' hospitals	1	11
28 May	Concerning executive clemency	83	477
28 May	Establishing a Department of Civil Service	89	504
1 June	Temporary Disability Benefits Law	110	586
21 July	To improve the condition of tenement houses	251	1109
27 July	Extending workmen's-compensation legislation to cover employees of the State, county, and municipality . .	269	1162
12 August	Creating a county employees' pension fund in certain counties	310	1227
1 September	Concerning the issuance of warrants for removal and writs of possession in ejectment in actions to recover possession of premises used for dwelling purposes . .	344	1348
21 October	Establishing a State Department of Health	444	1748
27 October	Establishing facilities for the medical treatment of alcoholics and for the prevention of alcoholism . . .	453	1853
	NEW YORK		
2 March	Absentee voting and absentee registration	71	76
21 March	Prohibiting discrimination against sightless persons accompanied by seeing-eye dogs	299	650
30 March	Authorizing a study of persons convicted of certain crimes	609	1098
30 March	Manner of granting reductions of sentences served in State prisons and penitentiaries, for good behaviour and efficient and willing performance of duties . . .	631	1134
30 March	Authorizing the establishment and operation of community colleges and State-aided four-year colleges .	696	1294
30 March	Amending the education law to permit special-service retirement prior to eligibility for superannuation retirement	717	1327
31 March	Voting by members of the armed forces	689	1268
3 April	Amending the education law to prevent discrimination in the admission of applications[1]	753	1380
3 April	Eligibility for care in public homes	759	1390

[1] An excerpt from this Act appears above.

Date of approval (1948)	*Subject*	*Citation (1948 Laws)*	
		Chapter	*Page*
	PUERTO RICO		
1 May	Appropriating funds for the establishment of a school of medicine in Puerto Rico	69	140
7 May	Creating a fund to be known as "Insular Fund for the Construction of Vocational Schools"	121	282
10 May	Exempting from all taxes every kind of institution, college, school, or academy devoted to the teaching of the fine arts	148	340
12 May	Prohibiting the manufacture with flour, other than enriched flour, of bread and any product made of flour	183	474
14 May	Social and economic rehabilitation of the blind through the creation of opportunities for remunerative work	207	616
15 May	Organization, administration, and operation of health centres in second- and third-class municipalities . .	213	640
15 May	Creating an "Individual Farm Programme"	224	784
15 May	Establishing employment insurance in the sugar industry	356	1214
15 May	Establishing the working day in Puerto Rico	379	1254
	RHODE ISLAND		
15 January	Regulating and restricting evictions from housing accommodation	1985	14
9 April	Co-operation with the Federal Security Agency's "Business Enterprises Programme for the Blind" . .	2007	57
23 April	Maintenance of adequate hospital facilities	2038	151
30 April	Providing a State-wide retirement system for school-teachers of the cities and towns	2101	358
30 April	Inclusion of school-teachers employed by the State in the retirement system created by chapter 18 of the general laws	2102	370
30 April	Extending and strengthening the mental-health services in the State	2113	416
30 April	Requiring the enrichment of bread and flour by the addition of certain vitamins and minerals	2116	419

Date of approval (1948)	Subject	Citation (1948 Laws) Chapter	Page
	SOUTH CAROLINA		
5 February	Creating Latta High School District Athletic and Recreational Board and providing for general athletic and recreational activities	602	1609
5 February	The same, Dillon High School district	604	1615
5 February	The same, Lakeview High School district	605	1618
5 February	Establishing a police civil-service commission for the city of Aiken	609	1628
20 February	Prohibiting the employment of any peace officer on a contingent basis	620	1643
3 April	Providing that South Carolina may enter into a compact with any of the United States for mutual helpfulness in relation to persons on probation or parole	686	1749
3 April	Abolishing the chain gang of Allendale County	692	1758
8 April	Securing the attendance of witnesses from without a State in criminal proceedings	720	1810
8 April	Providing for the establishment of civil-service commissions in certain municipalities	781	1938
14 April	Establishing scholarships for students at the Medical College of South Carolina	800	1966
	VIRGINIA		
7 February	Authorizing certain counties to establish and maintain a system of pensions, retirement allowances, and death benefits for their officers and employees	45	91
6 March	Authorizing the county of Greensville to appropriate funds for recreation centres, parks, libraries, civic centres, and hospital or health centres	156	335
6 March	Authorizing the town of Emporia to appropriate funds for recreation centres, parks, libraries, civic centres, and hospital or health centres	157	335
10 March	Amending and re-enacting portions of the Virginia Unemployment Compensation Act	171	356
12 March	Acquisition and operation of certain business enterprises for the benefit of the blind	198	433
17 March	Amending and broadening the provisions of the Child-Labour Law	302	551
1 April	Amending and re-enacting portions of an Act regulating the treatment, handling, and work of prisoners sentenced to the State penitentiary	435	848
6 April	Establishing certain scholarships for nursing training	529	1085
6 April	Creating in the Department of Public Health a Division of Alcoholic Studies and Rehabilitation	544	1113

URUGUAY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

In Uruguay, the Constitution did not undergo any modification during the year 1948. Nor were there any important changes in the legislation of the country with regard to human rights.

[1] Information through the courtesy of Dr. Justino Jiménez de Aréchaga, Professor of Constitutional Law, Montevideo.

UNITED STATES OF VENEZUELA

NOTE ON THE CONSTITUTIONAL SITUATION[1]

The Constitution of 5 July 1947, the human rights provisions of which were reproduced in the *Yearbook on Human Rights for 1947*[2], has not been in force since 24 November 1948. In an official announcement, it was stated that the new Government which was set up on that date would act in accordance with the Constitution of 20 July 1936, as amended in 1945,[3] reserving the right to impose those provisions of the Constitution of 1947 which were deemed progressive.

Before this change of government took place, the Legislative Assemblies of the States of Venezuela had proceeded during 1948 to adopt new constitutions in accordance with article 128 of the Federal Constitution of 5 July 1947 and with the second section of the transitional provisions of the said Constitution. These constitutions were still in force on 31 December 1948. The human rights provisions of some of these constitutions (Constitutions of the States of Cojedes, Miranda, Tachira and Trujillo, and a note on the Constitution of the State of Portuguesa) are reproduced in this *Yearbook*.

[1] This note was prepared on the basis of information supplied through the courtesy of Mr. Carlos A. Kolster, Secretary, Permanent Delegation of Venezuela to the United Nations.

[2] See pp. 350–357 of the *Yearbook* for 1947.

[3] See the human rights provisions of that Constitution in *Yearbook on Human Rights for 1946*, pp. 422–424.

United States of Venezuela: States

CONSTITUTION OF THE STATE OF COJEDES

of 17 February 1948[1]

PART III

DUTIES AND RIGHTS OF INHABITANTS OF THE STATE

Art. 7. It is the duty of Venezuelans present in the territory of the State to defend their country, obey the Constitution and the laws of the State, and such decrees, orders and resolutions as the public powers may, in accordance with the authority vested in them, enact. In no circumstances may Venezuelans serve against Venezuela, or against her allies in the event of international armed conflict; if they do so they shall be considered as traitors to their country.

Aliens are bound, during the period of their residence in Venezuela, to respect the legal precepts on the same terms as Venezuelans.

Art. 8. The rights and duties of aliens present in the territory of the State shall be those determined by the relevant national laws; in no case may the rights and duties of aliens be greater than those of Venezuelans.

Art. 9. The State guarantees to all Venezuelans present in its territory the same rights as the nation guarantees to them, and consequently secures to them:

1. Inviolability of life. No law may establish the death penalty and no authority may apply it;

2. Personal liberty and security, and therefore:

(*a*) No person may be subject to forced recruitment. Military service is compulsory and shall be performed in accordance with the law;

(*b*) Except when discovered *in flagrante delicto*, no person may be arrested or detained unless there has been prior summary notice that an offence involving liability to punishment acting on the person (*pena corporal*) has been committed, and until after a written order, stating the reasons, has been issued by the official authorized by law to order the detention;

(*c*) No person may be kept in detention if, by a final judgment of the court, the reasons for detention are invalidated, or after release on bail has been granted in cases in which the law allows this privilege.

The granting and transaction of release on bail shall not be subject to any tax;

(*d*) No person may be held *incomunicado*, or compelled to swear an oath or undergo interrogation in a criminal case against himself or against his relatives within the fourth degree of consanguinity and second

[1] Spanish text in *Gaceta Oficial del Estado Cojedes* of 18 March 1948. English translation from the Spanish text by the United Nations Secretariat. The Constitution was adopted by the Legislative Assembly of the State of Cojedes on 16 February and promulgated by the Governor of the State on 17 February 1948.

of affinity or against his spouse or the person with whom he lives in marital relationship;

(*e*) No person may be tried by specially established courts or commissions, but only by the proper judges and in virtue of pre-existing law;

(*f*) No person may be convicted in a criminal case unless he has been personally informed of the charges and has received a hearing in the form prescribed by the law;

(*g*) No person may be deprived of liberty for any failure to perform civil obligations where such failure is not defined by law as an offence;

(*h*) No person may be sentenced to any punishment acting on the person (*pena corporal*) for a term exceeding twenty years;

(*i*) No person may be sentenced to punishment involving infamy or to punishment for life or subjected to torture or other measures causing physical suffering;

(*j*) No person may continue to be deprived of liberty after completion of his sentence;

(*k*) No person may be tried a second time for the same offence.

3. All persons may move about freely within the territory of the State, change their residence, leave the State and return to it, bring in or take out their possessions, without any restrictions other than those established by law;

4. Inviolability of the home, which may not be entered by force except for the purpose of preventing the commission of an offence or of executing orders issued by the courts of justice in conformity with the law. The home shall be open to inspection for sanitary and fiscal purposes, in conformity with the law, subject to prior notice given by the authorities or officials ordering or instructed to perform the inspection;

5. Inviolability of verbal, written or any other form of communication. Letters, telegrams, private papers and any other means of correspondence may not be seized except by the judicial authority in compliance with the legal formalities, secrecy being at all times maintained concerning domestic and private matters which are not relevant to the case. Account books, vouchers, and other accounting documents are subject to inspection or examination by the competent authorities in conformity with the law;

6. Freedom of thought, as expressed in speech, writing or print, or by wireless broadcast or other publicity systems, without prior censorship; but expressions offensive to public decency, abuse, defamation, contempt of authority, and incitements to commit an offence, continue to be punishable in conformity with the law;

7. Freedom of conscience and worship, the freedom of worship being subject to the supreme control of the National Executive, in accordance with the law;

8. The right of public and private assembly, for lawful purposes and without arms, subject to the regulations imposed by the law;

9. The right, for lawful purposes, to associate and to form trade unions in conformity with the law;

10. Freedom to petition any public servant or official body and the right to obtain due reply;

11. The right to vote and to be elected in the circumstances set forth in the national Constitution, the present Constitution and the law;

12. The right to bring a charge in the competent court against any official who commits any breach of his duty;

13. Equality, by virtue of which:

(*a*) All persons shall be judged by the same laws and shall enjoy equal protection under them;

(*b*) No titles of nobility or hereditary distinctions shall be granted and no racial discrimination shall be permitted;

(*c*) Identification of a person for the purposes of civil documents shall not mention anything relating to parentage or anything that establishes differences in status at birth or indicates the civil status of the parents;

With the exception of diplomatic formulas, no official mode of address other than "citizen" and "*usted*" shall be used;

14. The right to own property. By virtue of its social function, property shall be subject to such taxes, restrictions and obligations as the law may prescribe for purposes of public utility or in the general interest.

Every author or inventor has exclusive ownership of his own work or invention, and anyone devising a trademark has the right to utilize it, subject always to compliance with the requirements of the law.

The law may place special restraints on the acquisition, transfer, use and enjoyment of specific classes of property, whether by reason of the nature or condition of such property or its location in the territory of the State;

15. Any person may freely engage in trade or industry or any other gainful occupation, subject to no limitations other than those established in the law for reasons of public health or security.

Art. 10. The foregoing statement of rights shall not be deemed to exclude any other rights, not expressly referred to, which may pertain to the citizens.

Art. 11. No law of the State or municipal ordinance or regulation of any kind shall be capable of diminishing or impairing the rights guaranteed to the citizens.

Any person who issues, signs, executes or orders the execution of decrees, resolutions or orders violating any of the rights guaranteed by the present Constitu-

tion, shall be held to have committed an offence and shall be punished in conformity with the law, though this shall not apply to measures for the defence of the State or of the Republic or for the preservation or restoration of peace, if the measures in question are ordered by competent public officials acting in their official capacity in the cases referred to in the national Constitution.

PART IV

SOVEREIGNTY AND THE PUBLIC POWER

Art. 13. Sovereignty is vested in the people and is exercised by it through the franchise and through the medium of the public powers.

Art. 14. The franchise is a right and public function reserved to Venezuelans, though in the case of municipal elections it may, in conformity with the law, be extended to aliens who have resided continuously in the country for more than ten years.

Art. 15. All Venezuelan men and women over 18 years of age not under a civil disability by virtue of a final sentence and not under a conviction involving loss of political rights, are entitled to vote.

Art. 16. Electors who are able to read and write and have reached the age of 21 are eligible for any public office, subject to no restrictions other than those established in the national Constitution and the present Constitution and the requirements as to aptitude prescribed by law for the exercise of certain functions.

CONSTITUTION OF THE STATE OF MIRANDA

of 14 February 1948[1]

PART III

RIGHTS AND DUTIES OF THE INHABITANTS OF THE STATE

Art. 8. It is the duty of Venezuelans present in the territory of the State to defend their country, obey the Constitution and the laws of the nation and of the State, and such decrees, orders and resolutions as the public powers may, in accordance with the authority vested in them, enact. In no circumstances may Venezuelans serve against Venezuela, or against her allies in the event of international armed conflict; if they do so they shall be considered as traitors to their country. Aliens are bound, during the period of their residence in Venezuela, to respect the legal precepts on the same terms as Venezuelans.

Art. 9. The duties and rights of aliens present in the territory of the State shall be those determined by the relevant national laws; in no case may the duties and rights of aliens be greater than those of Venezuelans.

Art. 10. The State guarantees to all Venezuelans present in its territory the same rights as the nation guarantees to Venezuelans, and consequently secures to them:

1. Inviolability of life. No law may establish the death penalty and no authority may apply it;

2. Personal liberty and security and therefore:

(*a*) No person may be subject to forced recruitment. Military service is compulsory and shall be performed in accordance with the law;

(*b*) Except when discovered *in flagrante delicto*, no person may be arrested or detained unless there has been prior summary notice that an offence involving liability to punishment acting on the person (*pena corporal*) has been committed, and until after a written order, stating the reasons, has been issued by the official authorized by law to order the detention. In no case may the charge be withheld for more than 30 days after detention by the judicial power. In the case of abuse or defamation of or contempt or disrespect for individuals or judicial, political or administrative bodies, invested with public authority, the accused shall be brought to trial and shall not be permitted to leave the place of trial until the case has been decided. Detention shall not take place except in execution of a final sentence;

(*c*) No person may be kept in detention if, by a final judgment of the court, the reasons for detention are invalidated, or after release on bail has been granted in cases in which the law allows this privilege. The granting and transaction of release on bail shall not be subject to any tax;

(*d*) No person may be held *incomunicado*, or compelled to swear an oath or undergo interrogation in a criminal case against himself or against his relatives within the fourth degree of consanguinity and second of affinity or against his spouse or the person with whom he lives in marital relationship;

(*e*) No person may be tried by specially established courts or commissions, but only by the proper judges and in virtue of pre-existing law;

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[1] Spanish text in: Estados Unidos de Venezuela, Gobierno del Estado Miranda, *Constitución del Estado*, Los Teques, 1948. English translation from the Spanish text by the United Nations Secretariat. The Constitution was adopted by the Legislative Assembly of the State of Miranda on 11 February 1948 and promulgated by the Governor of the State on 14 February 1948.

(*f*) No person may be convicted in a criminal case unless he has been personally informed of the charges and has received a hearing in the form prescribed by the law;

(*g*) No person may be deprived of liberty for any failure to perform civil obligations where such failure is not defined by law as an offence;

(*h*) No person may be sentenced to any punishment acting on the person (*pena corporal*) for a term exceeding 20 years;

(*i*) No person may be sentenced to punishment involving infamy or to punishment for life, or subjected to torture or other measures causing physical suffering;

(*j*) No person may continue to be deprived of liberty after completion of his sentence;

(*k*) No person may be tried a second time for the same offence.

3. Any person detained or imprisoned in violation of the guarantees established in the present Constitution for the protection of individual liberty, may invoke the procedure of *habeas corpus*, either personally or through a third party acting on his behalf; application for *habeas corpus* shall be admissible whenever the law does not provide any ordinary judicial remedy against the order, action or proceedings appealed against.

The law shall prescribe the courts which shall, in brief and summary form, deal with and decide applications for *habeas corpus*, and shall prescribe all other conditions necessary for the exercise of this remedy.

4. All persons may move about freely within the territory of the State, change their residence, leave the State and return to it, bring in or take out their possessions, without any restrictions other than those established by the law.

5. Inviolability of the home, which may not be entered by force except for the purpose of preventing the commission of an offence or of executing orders issued by the courts of justice in conformity with the law. The home shall be open to inspection for sanitary and fiscal purposes, in conformity with the law, subject to prior notice given by the authorities or officials ordering or instructed to perform the inspection.

6. Inviolability of verbal, written or any other form of communication. Letters, telegrams, private papers and any other means of correspondence may not be seized except by the judicial authority in compliance with the legal formalities, secrecy being at all times maintained concerning domestic and private matters which are not relevant to the case.

Account books, vouchers and other accounting documents are subject to inspection or examination by the competent authorities in conformity with the law.

7. Freedom of thought as expressed in speech, writing or print, or by wireless broadcast or other publicity systems, without prior censorship, but expressions offensive to public decency, abuse, defamation, contempt of authority, and incitements to commit an offence, continue to be punishable in conformity with the law. Anonymous utterances, war propaganda and propaganda inciting to disobedience of the laws are prohibited, though the foregoing shall not be construed as restricting analysis or criticism of the precepts of the law.

8. Freedom of conscience and worship, the freedom of worship being subject to the supreme control of the National Executive in accordance with the law.

9. No person may be compelled to declare his religious belief or political ideology, except when required to do so by law, and no person may plead a religious belief or discipline as an excuse for non-compliance with the laws of the Republic, or as an excuse for restraining others from exercising their rights.

10. The right of public and private assembly, for lawful purposes and without arms, subject to the regulations imposed by the law.

11. The right, for lawful purposes, to associate and to form trade unions in conformity with the law.

12. The freedom to petition any public servant or official body and the right to obtain due reply.

13. The right to vote and to be elected in the circumstances set forth in the national Constitution, the present Constitution and the law.

14. The right to bring a charge in the competent court against any official who commits any breach of his duty.

15. Equality, by virtue of which:

(*a*) All persons shall be judged by the same laws and shall enjoy equal protection under them;

(*b*) No titles of nobility or hereditary distinctions shall be granted, and no racial discrimination shall be permitted.

(*c*) Identification of a person for the purpose of civil documents shall not mention anything relating to parentage or anything that establishes differences in status at birth or indicates the civil status of the parents;

(*d*) With the exception of diplomatic formulas, no official mode of address other than "citizen" and "*usted*" shall be used.

16. The right to own property. By virtue of its social function, property shall be subject to such taxes, restrictions and obligations as the law may prescribe for purposes of public utility or in the general interest.

Expropriation may be ordered only in the cases and

subject to the formalities prescribed in the national legislation.

17. Every author or inventor has exclusive ownership of his own work or invention, and anyone devising a trademark has the right to utilize it, subject always to compliance with the requirements of the law.

The law may place special restraints on the acquisition, transfer, use and enjoyment of specific classes of property, whether by reason of the nature or condition of such property or its location in the territory of the State.

18. Any person may freely engage in trade or industry or the exercise of any other gainful occupation, subject to no limitations other than those established in the law for reasons of health or public security.

Art. 11. The foregoing statement of rights shall not be deemed to exclude any other rights, not expressly referred to, which may pertain to the citizens.

Art. 12. No law of the State or municipal ordinance or regulation of any kind shall be capable of diminishing or impairing the rights guaranteed to the citizens.

Art. 13. Any person who issues, signs, executes or orders the execution of decrees, resolutions or orders violating any of the rights guaranteed by the present Constitution shall be held to have committed an offence and shall be punished in conformity with the law, though this shall not apply to measures for the defence of the State or of the Republic, or for the preservation or restoration of peace, if the measures in question are ordered by competent public officials acting in their official capacity in the cases referred to in the national Constitution.

PART IV

SOVEREIGNTY AND THE PUBLIC POWER

Art. 14. Sovereignty is vested in the people and is exercised by it through the franchise and through the medium of the public powers.

Art. 15. The franchise is a right and public function reserved to Venezuelans, though in the case of municipal elections it may, in conformity with the law, be extended to aliens who have resided continuously in the country for more than ten years.

Art. 16. All Venezuelan men and women over eighteen years of age not under a civil disability by virtue of a final sentence and not under a conviction involving loss of political rights, are entitled to vote.

Art. 17. Electors who are able to read and write and have reached the age of twenty-one are eligible for any public office, subject to no restrictions other than those established in the national Constitution and the present Constitution and the requirements as to aptitude prescribed by law for the exercise of certain functions.

CONSTITUTION OF THE STATE OF TACHIRA of 2 March 1948 [1]

PART III

DUTIES AND RIGHTS OF THE INHABITANTS OF THE STATE

Art. 9. It is the duty of Venezuelans present in the territory of the State to defend their country, obey the Constitution and the laws of the nation and of the State, and such decrees, orders, and resolutions as the public powers may, in accordance with the authority vested in them, enact. In no circumstances may Venezuelans serve against Venezuela, or against her allies in the event of international armed conflict; if they do so they shall be considered as traitors to their country.

Aliens are bound, during the period of their residence in Venezuela, to respect the legal precepts on the same terms as Venezuelans.

Art. 10. Any inhabitant of the State has the right to omit to do anything not prescribed and is not debarred from performing anything not prohibited by law.

Art. 11. The State shall protect the interests of the working and rural population by the enactment of measures calculated to lead to the improvement of their means of livelihood.

Art. 12. The State guarantees to all inhabitants of its territory the same rights as the nation guarantees to them in the national Constitution, and consequently secures to them:

1. Inviolability of life. No law or order of an authority may establish the death penalty and no authority may apply it;

2. Personal liberty and security, and therefore:

(*a*) No person may be subjected to forced recruitment. Military service is compulsory and shall be performed in accordance with the law;

(*b*) Except when discovered *in flagrante delicto*, no person may be arrested or detained unless there has

[1] Spanish text in *Constitución del Estado Tachira*, San Cristóbal, 1948. English translation from the Spanish text by the United Nations Secretariat. The Constitution was adopted by the Legislative Assembly of the State of Tachira on 19 February 1948 and promulgated by the Governor of the State on 2 March 1948.

been prior summary notice that an offence involving liability to punishment acting on the person (*pena corporal*) has been committed, and until after a written order, stating the reasons, has been issued by the official authorized by law to order the detention;

(*c*) No person may be kept in detention if, by a final judgment of the court, the reasons for detention are invalidated, or after release on bail has been granted in cases in which the law allows this privilege. The granting and transaction of release on bail shall not be subject to any tax;

(*d*) No person may be held *incomunicado*, or compelled to swear an oath or undergo interrogation in a criminal case against himself or against his relatives within the fourth degree of consanguinity and second of affinity or against his spouse or the person with whom he lives in marital relationship;

(*e*) No person may be tried by specially established courts or commissions, but only by the proper judges and in virtue of pre-existing law;

(*f*) No person may be convicted in a criminal case unless he has been personally informed of the charges and has received a hearing in the form prescribed by the law;

(*g*) No person may be deprived of liberty for any failure to perform civil obligations where such failure is not defined by law as an offence;

(*h*) No person may be sentenced to punishment involving infamy or to punishment for life, or subjected to torture or other measures causing physical suffering;

(*i*) No person may be sentenced to any punishment acting on the person (*pena corporal*) for a term exceeding twenty years;

(*j*) No person may continue to be deprived of liberty after completion of his sentence;

(*k*) No person may be tried a second time for the same offence;

(*l*) Any person detained or arrested in violation of the guarantees established in the present Constitution may invoke the procedure of *habeas corpus* in accordance with the provisions of the national law;

3. Freedom to move about, change their residence, leave the State and return to it, bring in and take out their possessions, without any restrictions other than those established by the law;

4. Inviolability of the home, which may not be entered by force except for the purpose of preventing the commission of an offence or of executing orders issued by the courts of justice in conformity with the law;

The home shall be open to inspection for sanitary and fiscal purposes, in accordance with the law, subject to prior notice given by the authorities or officials ordering or instructed to perform the inspection.

5. Inviolability of verbal, written or any other form of communication. Letters, telegrams, private papers and any other means of correspondence may not be seized except by the judicial authority in compliance with the legal formalities, secrecy being at all times maintained concerning domestic and private matters which are not relevant to the case. Account books, vouchers and other accounting documents are subject to inspection or examination by the competent authorities in conformity with the law;

6. Freedom of thought as expressed in speech, writing or print, or by wireless broadcast or other publicity systems, without prior censorship; but expressions offensive to public decency, abuse, defamation, contempt of authority, and incitements to commit an offence, continue to be punishable in conformity with the law;

Anonymous utterances, war propaganda and propaganda inciting to disobedience of the laws are prohibited, though the foregoing shall not be construed as restricting analysis or criticism of the precepts of the law;

7. Freedom of conscience and worship, the freedom of worship being subject to the supreme control of the National Executive in so far as public order is concerned;

8. The right of public or private assembly, for lawful purposes and without arms, subject to the regulations imposed by the law;

9. The right, for lawful purposes, to associate and to form trade unions in conformity with the national law;

10. Freedom to petition any public servant or official body and the right to obtain due reply;

11. The right to vote and to be elected in the circumstances set forth in the national Constitution, the present Constitution and the relevant laws;

12. The right to bring a charge in court against any official who commits any breach of his duty;

13. Equality, by virtue of which:

(*a*) All persons shall be judged by the same laws and shall enjoy equal protection under them;

(*b*) No titles of nobility or hereditary distinctions shall be granted, and no racial discrimination shall be permitted;

(*c*) Identification of a person for the purposes of civil documents shall not mention anything relating to parentage or anything that establishes differences in status at birth or indicates the civil status of the parents;

(*d*) With the exception of diplomatic formulas, no official mode of address other than "citizen" and "*usted*" shall be used;

14. Freedom of education. The moral and civic education of children is compulsory and its aim is to

foster the national culture and the spirit of human solidarity;

15. Freedom of trade, industry and work, which shall be subject to no restrictions other than those established by the national Constitution;

16. The right to own property. By virtue of its social function, property shall be subject to such taxes, restrictions and obligations as the law may prescribe for purposes of public utility or in the general interest.

Expropriation may not be ordered except in the cases and subject to the formalities prescribed in the national legislation.

Every author or inventor has exclusive ownership of his own work or invention, and anyone devising a trademark has the right to utilize it, subject always to compliance with the requirements of the law.

The law may place special restraints on the acquisition, transfer, use and enjoyment of specific classes of property, whether by reason of the nature or condition of such property or its location in the territory of the State.

Art. 13. No person may exercise a profession for which a diploma is required unless he is the holder of the diploma and complies with the formalities required by law.

Art. 14. The principle of the proportional representation of minorities shall be applicable in all bodies within the State elected by popular vote, in the form and manner determined by the relevant national law.

Art. 15. The foregoing statement of rights shall not be deemed to exclude any other rights, not expressly referred to, which may pertain to the citizens.

Art. 16. No law, decree, resolution, regulation or order shall be capable of diminishing or impairing the rights guaranteed to the citizens.

Art. 17. Any person who issues, signs, executes or orders the execution of decrees, resolutions or orders violating any of the rights guaranteed by this Constitution shall be held to have committed an offence and shall be punished in conformity with the law.

PART IV

SOVEREIGNTY AND THE PUBLIC POWER

Art. 18. Sovereignty is vested in the people and is exercised by the people through the franchise and through the medium of the public powers.

Art. 19. The franchise is a right and public function reserved to Venezuelans, though in the case of municipal elections it may, in conformity with the law, be extended to aliens who have resided continuously in the country for more than ten years.

Art. 20. All Venezuelan men and women over 18 years of age not under a civil disability by virtue of a final sentence and not under a conviction involving loss of political rights, are entitled to vote.

Art. 21. Electors who are able to read and write and have reached the age of 21 are eligible for any public office, subject to no restrictions other than those established in the national Constitution and the present Constitution and the requirements as to aptitude prescribed by law for the exercise of certain functions.

CONSTITUTION OF THE STATE OF TRUJILLO
of 5 March 1948[1]

PART III

DUTIES AND RIGHTS OF THE INHABITANTS OF THE STATE

Art. 9. It is the duty of Venezuelans present in the territory of the State of Trujillo to defend their country, obey the Constitution and the laws of the nation and of the State, and such decrees, orders and resolutions as the public powers may, in accordance with the authority invested in them, enact.

Aliens are bound, during the period of their residence in Venezuela, to respect the legal precepts on the same terms as Venezuelans.

Art. 10. The State guarantees to all its inhabitants the same individual and social rights as the national Constitution guarantees in Part III, chapters II, III, IV, V, VI and VII,[2] except such social rights as belong to the national power by reason of its exclusive competence.

Art. 11. No law of the State and no decree, resolution or municipal order may disregard, contravene or diminish the rights guaranteed to the inhabitants of the State in the present Constitution.

Art. 12. Any person who issues, signs, executes or orders the execution of decrees, resolutions, orders or ordinances violating any of the rights guaranteed to inhabitants of the State shall be held to have committed

[1] Spanish text in *Gaceta Oficial del Estado Trujillo* of 15 March 1948. English translation from the Spanish text by the United Nations Secretariat. The Constitution was adopted by the Legislative Assembly of the State of Trujillo on 26 February 1948 and promulgated by the Governor of the State on 5 March 1948.

[2] See *Yearbook on Human Rights for 1947*, pp. 350–357, and the "Note on the Constitutional Situation" in this *Yearbook*, p. 251.

an offence and shall be punished according to law, though this shall not apply to measures for the defence of the State or of the Republic or for the preservation or restoration of peace if the measures in question are ordered by competent public servants acting in their official capacity in the cases referred to in the national Constitution.

PART IV

SOVEREIGNTY AND THE PUBLIC POWER

Art. 13. Sovereignty is vested in the people and is exercised by it through the franchise and through the medium of the public powers.

Art. 14. The franchise is a right and public function reserved to Venezuelans, though in the case of municipal elections it may, in conformity with the law, be extended to aliens who have resided continuously in the country for more than ten years.

Art. 15. All Venezuelan men and women over eighteen years of age not under a civil disability by virtue of a final sentence and not under a conviction involving loss of political rights, are entitled to vote.

Art. 16. Citizens who are able to read and write and have reached the age of twenty-one are eligible for any public office, subject to no restrictions other than those established in the national Constitution and the Constitution of the State and the requirements as to aptitude prescribed by law for the exercise of certain functions.

CONSTITUTION OF THE STATE OF PORTUGUESA[1]

of 30 January 1948

NOTE

Title III concerning the rights and duties of the inhabitants of the State of Portuguesa (articles 8 to 13) corresponds to Title III (articles 7 to 12) of the Constitution of the State of Cojedes.[2]

Title IV regarding the sovereignty and public powers (articles 14 to 25) corresponds to Title IV (articles 13 to 25) of the Constitution of the State of Cojedes, of which articles 13 to 16 are reproduced in this *Yearbook*.

[1] Spanish text of the Constitution in *Gaceta Oficial del Estado Portuguesa*, No. 88, January 1948. The Constitution was adopted by the Legislative Assembly on 22 January 1948 and promulgated by the Governor of the State on 30 January 1948.

[2] See p. 251 of this *Yearbook*.

FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA

ACT TO AMEND AND SUPPLEMENT THE PUBLIC OFFICIALS ACT[1]

SUMMARY

Amendments and additions have been made to the text of the Public Officials Act containing general regulations, according to which every citizen of the Federal People's Republic of Yugoslavia is equally eligible, under conditions laid down by the Act, to any official post in the public service (article 4) and officials are guaranteed the legal right of associating in a trade union and of participating in the founding of friendly societies and in their work (article 9). The same Act guarantees officials weekly and annual holidays with pay (article 31). Moreover, female officials are entitled to paid leave for twelve weeks for a confinement, namely six weeks before and six weeks after confinement; furthermore, such women may not be employed out of regular working hours or on night work for a year after confinement (article 32). Officials are entitled to State social insurance against disability, old age and death (pensions), and against sickness, pregnancy, confinement and accidents at work.

[1] Serbian and Croatian texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 44, of 29 May 1948. Summary received through the courtesy of Dr. Joža Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat.

EXECUTION OF SENTENCES ACT[1]

SUMMARY

The innovation in this Act consists in the fact that it provides the following penal reformatory establishments: penal reformatory homes, reformatory homes for juvenile delinquents, homes for pregnant female offenders and prisons (article 6). The Act guarantees the inmates the right to correspond with their spouses, children, parents, brothers and sisters twice a month; they are also allowed to receive parcels containing food, clothing and similar necessities (article 13). Inmates are also entitled to receive visits once a month (article 14). Persons condemned to forced labour are given a working day of eight hours and are guaranteed one weekly day of rest (article 32). Prisoners may receive remuneration for their work and overtime must always be paid (article 35).

The Act provides for the establishment of State industrial and trades undertakings for the work of condemned persons who serve out their sentences in penal reformatory institutions (article 56). Educational, cultural and physical instruction is to be organized in all penal reformatory institutions (article 59). Under this Act, courses for illiterates, technical schools and schools for the general education of minors are to be established in penal reformatory institutions. These schools have the same status as similar schools throughout the country (article 60). In addition, libraries are to be set up and prisoners are allowed both to add to them at their own expense and to read the books (article 61).

[1] Serbian and Croation texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 92, of 27 October 1948. Summary received through the courtesy of Dr. Joža Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat.

CRIMINAL PROCEDURE ACT[1]

SUMMARY

This Act provides that the judge, the public prosecutor and the investigating body are bound to establish fully and truthfully any facts that may be of importance in bringing about a judicial decision. They are obliged to exercise the same care and solicitude in examining and establishing facts in connexion with the prosecution as they do in establishing facts used for the defence. They should try to ensure that, in the course of the proceedings, the defendant's ignorance or illiteracy is not prejudicial to the rights guaranteed to him by law (article 2). The defendant is guaranteed

[1] Serbian and Croatian texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 97, of 6 November 1948. Summary received through the courtesy of Dr. Joža Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat.

the right of defence and the right to the services of counsel (articles 3, 49 and 54). The impartiality of the court is guaranteed (article 9) and the trial in court is public (article 12). Deprivation of freedom is subject to the conditions prescribed by law (article 140). A written warrant of the investigating body or public prosecutor is required for arrest; the arrested person must be examined within twenty-four hours and must be set free if there are no legal grounds for his retention in prison. The Act lays down the duration of arrest and of preventive arrest (articles 142–145). A house search may be carried out only on the basis of a warrant from the public prosecutor or investigating body and in the presence of the person on whose account the search is being made (article 147).

The defendant shall be summoned to the court by a written summons, and during the hearing his identity shall be established; neither force, nor threats, nor deception, nor any similar methods of extracting a statement or confession may be used against him (article 157). The court shall pass judgment only on the basis of the facts and evidence produced at the main trial, and shall conscientiously and carefully investigate all the items of evidence separately and in connexion with other evidence and the result of the whole of the main trial (article 245).

The Act guarantees the right of appeal against the sentence; the submission of the appeal postpones the execution of the sentence (article 255). After legal sentence has been pronounced, the penalty may be mitigated if, by legal procedure, facts come to light which either did not exist when the sentence was passed, or the existence of which was then unknown, but which would obviously have entailed a milder sentence (article 296).

The Act contains special provisions for proceedings against minors (articles 310–317) and guarantees the right to rehabilitation (articles 330–334).

The Act provides for international legal assistance in accordance with the provisions of international agreements and conventions (article 335). Provision is also made for extradition under international agreements and conventions or in accordance with the prescriptions of this Act (article 339).

ACT TO AMEND THE LAW RESPECTING THE PRESS[1]

SUMMARY

This Act provides that books and other printed matter from abroad may be brought into and distributed in the Federal People's Republic of Yugoslavia without previous authorization. The right to distribute foreign newspapers is granted to domestic and foreign enterprises and establishments which obtain the authorization of the Ministry of the Interior of the Federal People's Republic of Yugoslavia (article 1).

[1] Serbian and Croatian texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 105, of 4 December 1948. Summary received through the courtesy of Dr. Joža Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat. See the text of the Law on the Press in *Yearbook on Human Rights for 1947*, pp. 362–365, more particularly articles 15 and 16 (p. 364) on foreign printed matter.

LABOUR INSPECTION ACT[1]

SUMMARY

According to this Act, the purpose of labour inspection is to supervise the implementation of all provisions and measures for regulating labour relations and conditions, the complete and correct fulfilment of obligations for personal protection at work and the inspection of steam boilers and vessels under pressure. Labour inspection includes both supervision of labour conditions and the implementation of technical measures and technical health protection of persons employed on voluntary projects (article 1). The inspection organs are the State authorities (Federal, Republican, district, urban, rural) (article 6). Any director of an enterprise, manager, or employer, or other responsible person who obstructs the labour inspectorate in the execution of its supervision or who does not remove ascertained defects and irregularities shall be liable to a fine and to correctional labour (article 28). A fine shall be imposed upon any responsible person who fails to inform the labour inspectorate of the reorganization of an undertaking, workshop, etc., who fails to report an accident or an occurrence that might have an injurious effect on the life and health of the workers. A fine shall likewise be imposed upon a person who fails to inform the labour inspectorate of any dispute which might interfere with the regular work or fails to inform the labour inspectorate of the introduction of overtime or fails to report the execution of measures for the removal of defects and irregularities as required by this Act (article 29).

[1] Serbian and Croatian texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 108, of 15 December 1948. Summary received through the courtesy of Dr. Joža Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat.

PAYMENT OF MINE WORKERS ORDINANCE[1]

SUMMARY

This ordinance guarantees the payment of workers for a period of unemployment for which the worker is not responsible, and if the worker is unable to transfer to another mine, on the basis of 70 per cent of his wages for not more than 80 hours per month (article 11). The worker is to be paid for working time spent in travel as a result of transfer and is entitled to travelling expenses (article 12). Workers who have been engaged in mining enterprises for over a year are entitled to bonuses on their wages, which are subject to an increment for every year of work, and persons who have worked in a mining enterprise for ten or more years are entitled to an annual bonus of half or the total of their monthly pay (articles 13 and 14); moreover, workers are entitled to a bonus for work performed in specially difficult conditions (article 15), to a local bonus and a 50 per cent increase on their regular earnings for overtime (articles 17 and 18). Under this ordinance workers are also guaranteed a 50 per cent increase on their regular earnings for work performed on the weekly day of rest and to children's allowances (articles 19 and 20).

[1] Serbian and Croatian texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 74, of 28 August 1948. Summary received through the courtesy of Dr. Jože Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat.

PAYMENT OF TRANSPORT WORKERS ORDINANCE[1]

SUMMARY

Under this ordinance transport workers are entitled to payment during unemployment or transfer and for overtime, to increased wages for work on the weekly day of rest, to local bonuses and to children's allowances (articles 10 to 18) on the same basis as mine workers (see above) and also to additional pay for night work (article 14).

[1] Serbian and Croatian texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 74, of 28 August 1948. Summary received through the courtesy of Dr. Jože Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat.

ORDINANCE RESPECTING THE PAYMENT OF WORKERS AND APPRENTICES IN THE PRINTING INDUSTRIES[1]

SUMMARY

Under this ordinance, apprentices in the printing industries are paid (article 9) and workers are guaranteed the same rights and payments for periods of unemployment, overtime, night work, work performed on the weekly day of rest and children's allowances (articles 10–17) as those which apply to transport workers (see above).

[1] Serbian and Croatian texts in *Official Gazette of the Federal People's Republic of Yugoslavia* No. 58, of 7 July 1948. Summary received through the courtesy of Dr. Jože Vilfan, Minister Plenipotentiary, Permanent Representative of Yugoslavia to the United Nations. English translation by the United Nations Secretariat.

ANNEX TO PART I

ELECTORAL LAWS

AFGHANISTAN

FUNDAMENTAL PRINCIPLES OF THE GOVERNMENT OF AFGHANISTAN[1] of 31 October 1931

SHURA-I-MILLI (NATIONAL COUNCIL)

FORMATION OF THE BODY

Art. 28. This body[2] is solely composed of individuals who are interested in the social and political affairs of Afghanistan, *i.e.*, they are representatives of all the inhabitants of the country.

Art. 29. The National Council is composed of members elected from the province of Kabul and other provinces and districts, and it assembles at the capital.

Art. 30. The number of members of the National Council is stated in the election rules and is fixed.

[1] English text in: Helen Miller Davis, *Constitutions, Electoral Laws, Treaties of States in the Near and Middle East*, Durham, N.C., Duke University Press, 1947, pp. 7–8.

[2] Another body, the House of Nobles, is referred to in article 67. The members of the House of Nobles are appointed by the King. (*Editor's note*).

ACT REGARDING ELECTIONS TO THE NATIONAL COUNCIL[1] of 1931

CHAPTER 2

QUALIFICATIONS OF ELECTORS

Art. 3. Electors shall satisfy the following conditions:

(*a*) They shall be Afghan subjects;

(*b*) They shall be more than twenty years of age;

(*c*) They shall be domiciled in the electoral district or have been resident therein for not less than one year immediately preceding the elections.

Art. 4. The following are not electors:

(*a*) Persons placed under guardianship by virtue of the law;

(*b*) Bankrupt merchants;

(*c*) Persons sentenced for a criminal offence.

Art. 5. The following may not be electors by reason of their occupation or office:

(*a*) Army officers, non-commissioned officers and soldiers;

(*b*) Officers, non-commissioned officers and agents of the municipal police, in the locality where they are serving.

[1] Persian text through the courtesy of Mr. Sultan Ahmed, Secretary, Afghanistan Delegation to the United Nations. English translation by the United Nations Secretariat.

CHAPTER 3

QUALIFICATIONS FOR MEMBERSHIP

Art. 6. Candidates for election, that is to say, deputies, shall satisfy the following conditions:

(*a*) They shall be Afghan subjects;

(*b*) If they are of foreign origin, they shall have been resident in Afghanistan for ten years since the acquisition of Afghan nationality;

(*c*) They shall, as far as possible, be able to read and write;

(*d*) They shall be not less than twenty-five years of age for the first four elections and not less than thirty years of age for elections thereafter, and shall be not more than seventy years of age;

(*e*) They shall be known for their honesty and probity.

Art. 7. The following shall be disqualified for membership of the National Council:

(*a*) Officers, non-commissioned officers and other ranks of the Army and municipal police;

(*b*) Where an official seeks election in the district in which he exercises his functions, he shall resign before offering himself as candidate; any official may be a candidate in a district other than that in which he exercises his functions, though, if elected, he shall be required to resign;

(*c*) Bankrupt merchants;

(*d*) Persons sentenced for a criminal offence.

CHAPTER 5

ELECTORAL PROCEDURE

Art. 12. The elections of deputies to the National Council shall be direct and simultaneous in all the provinces of Afghanistan.

Art. 13. The electors of an electoral district shall meet as an electoral college (*jirga*) in the chief town of the district and shall deliberate concerning the election of the deputy; they shall elect their representatives from among the inhabitants of the district in the presence of the local magistrate and the *chariat* court, and shall draw up a protocol of the election.

Art. 14. Deputies shall be elected by the general agreement of the electors or, failing such agreement, by a majority vote.

Art. 15. In cases where in the election of a deputy there is no general agreement and unanimity of the electors in any one electoral district, and where the votes are divided between two or more candidates, the deputy shall be chosen by lot.

Art. 16. No elector may vote more than once except in case of a fresh election.

Art. 17. The time-limit fixed by the local magistrate for the duration of the electoral college and the election of a deputy shall be one or two days, according to the size of the locality. At the expiration of the time-limit laid down by the local magistrate for the election of the deputy, the *chariat* court shall declare the election closed.

Art. 18. The predominantly nomadic tribes enumerated in the table[1] annexed to the present Act shall each elect a deputy directly to the National Council. The other nomadic tribes which are not enumerated in the annexed table shall vote within the electoral district in which they happen to be.

Art. 19. The clerk of the *chariat* court shall prepare the protocol of the election in three copies which shall bear the seal of the court and of the local magistrate; he shall send one copy to the Governor, one copy to the National Council through the agency of the Governor and the Minister of the Interior, and the third copy to the Council of the *Naib-ol-hokouma* or of the *Hokoumet-i-Ala.*[2]

Art. 20. Candidates elected to the National Council shall submit their credentials bearing the seals and signatures of the members of the *chariat* court and of the local magistrate to the office of the Council.

CHAPTER 6

CHALLENGES OF ELECTIONS

Art. 21. No complaint or objection that an elector or a candidate might wish to formulate concerning an election while this is in progress shall operate as an impediment preventing the election from proceeding, but mention thereof shall be made in the protocol of the election drawn up by the *chariat* court.

Art. 22. Complaints concerning the election shall be received by the local magistrate and the *chariat* court in the week following the closing of the election; no complaints shall be receivable thereafter. Receipt of the complaints shall be acknowledged within one week.

Art. 23. Persons wishing to challenge the elections or the *chariat* court may apply to the National Council during the month following the opening of the session; the ruling of the Council shall be final.

Art. 24. Any election obtained by intimidation or bribery shall be invalidated, without prejudice to the penalties to which the persons responsible for the intimidation or bribery are liable.

Art. 25. No person is entitled to challenge an election unless he has the right to vote.

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[1] Not reproduced in the present *Yearbook.*

[2] Both are regional sub-divisions of the country.

PEOPLE'S REPUBLIC OF ALBANIA

CONSTITUTION OF THE PEOPLE'S REPUBLIC OF ALBANIA[1]

of 15 March 1946

Art. 14. All citizens who have reached the age of eighteen are eligible to vote and be elected to all organs of government, regardless of sex, nationality, race, creed, cultural level or residence.

Members of the armed forces also have these rights.

The right to vote is universal, equal, direct and secret.

The right to vote is forfeited by those who have been disqualified by law.

[1] English text in *Yearbook on Human Rights for 1946*, p. 3.

ARGENTINA

CONSTITUTION OF THE ARGENTINE REPUBLIC[1]

of 1 May 1853

CHAPTER I

THE HOUSE OF DEPUTIES

Art. 37. The House of Deputies shall be formed by representatives directly elected by the people of the province and of the capital, which are considered in this respect as electoral departments of one State, and by simple plurality of votes . . . .

Art. 40. To be elected deputy a person must have attained the age of twenty-five years, have exercised civic rights for four years, have been born in the province or have resided in the province for which he is to be chosen during the two years immediately preceding his election.

[1] English text in: *Ministerio de Relaciones Exteriores y Culto, Constitution of the Argentine Republic*, Buenos Aires, 1926. See also the Note on the Development of Human Rights, p. 8 of this *Yearbook*, regarding the constitutional situation.

CHAPTER II

THE SENATE

Art. 47. To be elected senator a person must have attained the age of thirty years, have exercised civic rights for six years, have an annual income of two thousand pesos or an equivalent salary, have been born in the province or have resided in the province for which he is to be chosen during the two years immediately preceding his election.

NATIONAL ELECTIONS ACT[1]

No. 8871 of 13 February 1912 with subsequent amendments

PART I

QUALIFICATIONS, RIGHTS AND DUTIES OF ELECTORS

Chapter I

ELECTORS

Art. 1. All natural-born and naturalized citizens over the age of eighteen are national electors, provided that they are registered on the electoral list.

Art. 2. The following are excluded from the electoral list:

1. For incapacity:

(*a*) Persons declared insane by order of a court;

(*b*) Deaf-mutes who are unable to make themselves understood in writing.

2. By reason of their status or condition:

(*a*) The regular clergy;

(*b*) Soldiers and police officers or gendarmes;

(*c*) Persons under detention by order of a competent judge, until they regain their freedom;

(*d*) Insane persons and beggars while they are inmates of public asylums or homes, and in general all inmates of poor-houses or persons who are normally dependent upon charitable organizations.

3. For unworthiness;

(*a*) Recidivists sentenced for offences against property, for a period of five years after completion of the sentence;

(*b*) Persons sentenced for perjury or for electoral offences, for five years;

(*c*) Persons declared by a competent authority to be incapable of performing political functions;

(*d*) Fraudulent bankrupts, until their discharge;

(*e*) Persons deprived of guardianship or trusteeship for misappropriation of funds belonging to a minor or ward, until they have made restitution;

(*f*) All persons subject to a temporary penalty, for the duration of such penalty;

(*g*) Persons who have evaded the laws on military service, until they have paid the appropriate penalty;

(*h*) Persons who have been dismissed from the Army

[1] Spanish text through the courtesy of Mr. Cesar Barros Hurtado, attorney-at-law, Buenos Aires. English translation from the Spanish text by the United Nations Secretariat.

by dishonourable discharge or for desertion, for ten years after sentence;

(*i*) Persons guilty of misappropriation or malversation of public funds, until they have made restitution;

(*j*) Persons owning or keeping houses of prostitution.

Chapter II

RIGHTS OF THE ELECTOR

Art. 3. No authority may imprison an elector during the hours of the election, except in case of *flagrante delicto* or where a warrant has been issued by a competent judge. With these exceptions an elector may not be prevented from proceeding from his residence to the polling premises, or hindered in the exercise of his functions.

Art. 4. Any person who is legally dependent upon another shall have the right to protection in casting his vote, for which purpose he shall apply to the magistrates referred to in article 93[1] or, failing them, to the Chairman of the Electoral Commission in the district in which he is entitled to vote.

Art. 5. Voting is a personal act and no authority, person, organization, party or political association may compel electors to vote in groups of any nature or denomination whatsoever.

[1] National judges in the capitals and cities and learned judges or justices of peace of each electoral college.

Chapter III

DUTIES OF ELECTORS

Art. 6. It is the duty of every elector to vote whenever national elections are held in his district.

Art. 7. The following are exempt from this obligation:

1. Electors over 70 years of age;

2. Judges and their assistants who are required under this Act to be present in their offices and to keep them open during election hours.

Art. 8. The powers conferred under this Act on the persons responsible for its application may not be renounced.

PART IX

PROHIBITIONS AND PENALTIES

Chapter II

VIOLATIONS OF THE ELECTORAL LAW

Art. 75. Any private person or public official who, by acts or omissions, directly or indirectly prevents or helps to prevent proceedings from taking place in accordance with the Constitution and the present Act shall be held guilty of a violation of the right of suffrage. Criminal intent shall always be assumed in violations of the electoral law.

WOMEN'S SUFFRAGE ACT[1]

No. 13010 of 23 September 1947

Art. 1. Argentine women shall have the same political rights and be subject to the same obligations as are granted to or imposed on Argentine men by law.

Art. 2. Female aliens resident in Argentina shall have the same political rights, if any, and be subject to the same obligations as are granted to or imposed on male aliens by law.

Art. 3. The same electoral law shall be applicable to women as to men. Women must present their civic identity books as a means of identification indispensable for all matters in civil life and for electoral proceedings.

[1] English text in *Yearbook on Human Rights for 1947*, p. 5.

AUSTRALIA

NOTE[1]

A person's right to vote in Australia derives from, firstly, provisions of the Commonwealth Constitution, secondly, the Commonwealth Electoral Act of 1908–1948 or thirdly, the provisions in the electoral laws of the particular State in which the person is resident.

The texts printed in this *Yearbook* include provisions of the Commonwealth Constitution and the Commonwealth Electoral Act. The relevant acts of the particular States are listed hereunder:

New South Wales

Parliamentary Electorates and Elections Act 1912–1946

Queensland

The Elections Act 1915 to 1948

South Australia

Electoral Act 1929–1937
Electoral Act Amendment Act 1941
Electoral Act Amendment Act 1942
Electoral Act Amendment Act 1943
Electoral Act Amendment Act 1946

Tasmania

Electoral Act 1907
Electoral Act 1941
Electoral Act 1945

Victoria

Constitution Act Amendment Act 1928
Legislative Council Elections Act 1935
Legislative Council Electors Act 1938

Western Australia

Electoral Act 1907–1940
Electoral Act Amendment Act 1948
Natives (Citizenship Rights) Act 1944

[1] This note is based on texts and information received through the courtesy of Dr. H. F. E. Whitlam, Crown Solicitor, Canberra.

CONSTITUTION OF THE COMMONWEALTH, 1900[1]

CHAPTER I

THE PARLIAMENT

Part II

SENATE

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate . . . .

8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State . . . .

10. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

Part III

THE HOUSE OF REPRESENTATIVES

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators . . . .

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which

[1] English text in: *Constitution of the Commonwealth, 1900*, Canberra, Commonwealth Government Printer (no date).

is prescribed by the law of the State and the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

31. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

34. Until the Parliament otherwise provides, the qualification of a member of the House of Representatives shall be as follows:

1. He must be of the full age of 21 years, and must be an elector entitled to vote at the election of members of the House of Representatives or a person qualified to become such an elector and must have been for three years at the least, a resident within the limits of the Commonwealth as existing at the time when he is chosen;

2. He must be a subject of the Queen,[1] either natural-born or for at least five years naturalized under a law of the United Kingdom or of a colony which has become or becomes a State, or of the Commonwealth or of a State.

[1] See section 2: "The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom."

Part IV

BOTH HOUSES OF PARLIAMENT

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

44. Any person who

1. Is under any acknowledgement of allegiance, obedience or adherence to a foreign power or is a subject or citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or

2. Is attainted of treason, or has been convicted, and is under sentence, or subject to be sentenced for any offence, punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or

3. Is an undischarged bankrupt or insolvent;

[Paragraphs 4 and 5 refer to incompatibilities between membership in either House of the Parliament and other public office or personal interest.]

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives...

THE COMMONWEALTH ELECTORAL ACT 1918–1948[1]

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO PARLIAMENTARY ELECTIONS AND FOR OTHER PURPOSES

PART III

ELECTORAL DIVISIONS

15. Each State shall be distributed into Electoral Divisions equal in number to the number of members of the House of Representatives to be chosen for the State, and one member of the House of Representatives shall be chosen for each division.

PART VI

QUALIFICATIONS AND DISQUALIFICATIONS FOR ENROLMENT AND FOR VOTING

39. (1) Subject to the disqualification set out in this Part, all persons not under twenty-one years of age, whether male or female, married or unmarried:

(*a*) Who have lived in Australia for six months continuously, and

(*b*) Who are natural-born or naturalized subjects of the King, shall be entitled to enrolment subject to the Provisions of Part VII of this Act.

(3) All persons whose names are on the roll for any electoral division shall, subject to this Act, be entitled to vote at elections of members of the Senate for the State of which the division forms part and at elections of members of the House of Representatives for the division, but no person shall he entitled to vote more than once at any Senate election or any House of Representatives election, or at more than one election for the Senate or for the House of Representatives held on the same day:

Provided that an elector shall not be entitled to vote as an elector of the division in respect of which he is enrolled unless his real place of living was at some time within three months immediately preceding polling day within that division. In this proviso the words "real place of living" include the place of living to

[1] English text: *The Commonwealth Electoral Act 1918–1940*, Canberra, Commonwealth Government Printer. The Commonwealth Electoral Act 1918–1940 was amended by Act 42 of 1946 and Act 17 of 1948 and is now to be called "The Commonwealth Electoral Act 1918–1948".

which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.

(4) No person who is of unsound mind, and no person attainted of treason, or who has been convicted and is under sentence for any offence punishable under the law of any part of the King's dominions by imprisonment for one year or longer, shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election.

(5) No aboriginal native of Australia, Asia, Africa, or the Islands of the Pacific (except New Zealand) shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election unless:

(*a*) He is so entitled under section forty-one[1] of the Constitution;

(*b*) He is a native of British India; or

(*c*) He is a person to whom a certificate of naturalization has been issued under a law of the Commonwealth or of a State and that certificate is still in force, or is a person who obtained British nationality by virtue of the issue of any such certificate.

PART XI

THE NOMINATIONS

68. No person shall be capable of being elected as a Senator or a member of the House of Representatives unless duly nominated.

69. The qualifications of a member of the House of Representatives shall be as follows:

(*a*) He must be of the full age of twenty-one years;

(*b*) He must be a subject of the King, either natural-born or for at least five years naturalized under a law of the United Kingdom or of the Commonwealth;

(*c*) He must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen; and

(*d*) He must be either—

(i) An elector entitled to vote at the election of members of the House of Representatives;

(ii) A person qualified to become such elector; or

(iii) A person who lives in the Territory for the seat of Government, and has so lived for a period of one month.

To entitle a person to be nominated as a senator or a member of the House of Representatives, he must have the qualifications specified in the last preceding sub-section.

70. No person who

(*a*) Is at the date of nomination a member of the Parliament of a State; or

(*b*) Was at any time within fourteen days prior to the date of nomination a member of the Parliament of a State; or

(*c*) Has resigned from the Parliament of a State and has the right, under the law of the State, if not elected to the Parliament of the Commonwealth, to be re-elected to the Parliament of the State without the holding of a poll, shall be capable of being nominated as a senator, or as a member of the House of Representatives.

PART XIII

THE POLLING

101. Polling booths shall have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot papers, and each voting compartment shall be furnished with a pencil for the use of voters.

119. Except as otherwise prescribed, the voter upon receipt of the ballot paper shall without delay:

(*a*) Retire alone to some unoccupied compartment of the booth, and there, in private, mark his vote on the ballot paper in the manner hereinafter described;

(*b*) Fold the ballot paper so as to conceal his vote and to show clearly the initials of the presiding officer, and exhibit it so folded to the presiding officer, and then forthwith openly, and without unfolding it, deposit it in the ballot-box; and

(*c*) Quit the booth.

PART XVI

(as amended by Act No. 42 of 1946)

LIMITATIONS OF ELECTORAL EXPENSES

[No expenses shall be incurred or authorized by any candidate exceeding in the aggregate 500 pounds in the case of a Senate election and 250 pounds in the case of a House of Representatives election. The purposes for which electoral expenses may be incurred or authorized by any candidate are listed; no expenses may be incurred or authorized for other purposes.]

[1] Reproduced above.

AUSTRIA

FEDERAL CONSTITUTIONAL ACT
1929 Text[1]

Art. 26. (1) The National Council is elected by the population of the Federation in accordance with the principles of proportional representation and upon the basis of the equal, direct, secret and personal suffrage of men and women who have completed their twenty-first year. The federal electoral law stipulates whether and under what conditions persons who do not possess federal citizenship may be entitled to the franchise in virtue of reciprocal rights guaranteed by international treaties. Voting is compulsory at elections in the federal provinces in which this is required by provincial law. The details of electoral procedure and compulsory voting wherever it exists shall be determined by federal law. This federal law shall also specify the grounds upon which non-participation in compulsory voting may be excused....

(2) The federal territory is divided into separate electoral districts, the boundaries of which may not intersect provincial frontiers. The number of deputies will be based upon the ratio between the number of electors in each constituency (electoral body) and the number of citizens in the constituencies, that is, the number of federal citizens who were normally resident in the constituencies at the time of the latest census. The organization of electorates into other electoral bodies is forbidden.

(3) The polling day must be a Sunday or other public holiday.

(4) Every elector who has completed his twenty-ninth year on 1 January of the year in which the election is held is entitled to stand for election.

(5) Exclusion from the franchise and from the right to stand for election can be effected only by a sentence or an order of the courts.

(6) Election authorities shall be appointed for the conduct and management of elections to the National Council, the election of the Federal President, referenda under article 46 and the scrutiny of petitions for national consultation. Such authorities must include as voting members representatives of the parties seeking election and, in the case of the chief election authority, past or present members of the bench of judges. The number of these members, which with the exception of the judicial members is to be specified in the order for the elections, shall be divided among the parties seeking election according to the proportion in which they were returned at the previous election to the National Council.

(7) Permanent lists shall constitute the basis upon which elections, referenda and national consultations shall be conducted. These lists shall be publicly posted for one month on 1 January and 1 June each year. While the lists are posted, federal citizens (paragraph 1, first and second sentences) have the right to demand the correction of such electoral lists. All disputes relative to electoral rights must be settled by the last day on which the lists are posted. Further details shall be embodied in a federal law, which shall also stipulate how long before each election the correction of lists may be effected.

(8) The lists of voters shall be posted by the communes or, in so far as the communes fall within the sphere of competence of a federal police authority, by that authority acting in conjunction with the commune.

[1] English text in *British and Foreign State Papers*, 1929, part II, vol. 131, p. 14.

CONSTITUTIONAL ACT OF 19 OCTOBER 1945 TO ESTABLISH A SYSTEM OF ELECTIONS TO THE NATIONAL COUNCIL[1]

II. FRANCHISE; QUALIFICATIONS OF ELECTORS

Art. 6. (1) All men and women possessing Austrian nationality who have completed their twenty-first year and are not disqualified for the franchise, are entitled to vote.

(2) All men and women possessing Austrian

[1] German text as modified by the supplementary electoral Act of 16 November 1945, in *Staatsgesetzblatt* No. 229 of 1945. English translation from the German text by the United Nations Secretariat. The Allied Commission for Austria approved this Act by decision of 30 October 1945 (see *Gazette of the Allied Commission for Austria*, Vienna, No. 1, December 1945–January 1946). A new electoral law was in preparation to be applied to the general elections scheduled for 1949.

nationality who have completed their twenty-first year, are not disqualified for the franchise and are permanently resident in a commune of the *Land* concerned are entitled to vote in elections to the Diet of the *Land*.

Art. 7. The following are disqualified from voting:

A. By reason of judicial sentence:

1. Persons who have been sentenced by the People's Court;

2. Persons who, having been sentenced for one of the crimes referred to in article 6 (1–12) of the Law of 15 November 1867, *Reichsgesetzblatt* No. 131, have not yet finished serving their sentence;

3. Persons who have been sentenced for any other crime, such disqualification to be in force for five years after the end of the sentence;

4. Persons who have been sentenced for a contravention committed for purposes of gain or for an offence of like nature or for the offence of procuring or for an offence against the Vagrancy Law (except under article 2), or who have been sentenced for drunkenness not less than three times, the disqualification in these cases to be in force for three years after the serving of the sentence.

In deciding whether a reason for disqualification exists on the grounds of a judicial sentence, the Federal President's Order dated 16 February 1938, *Bundesgesetzblatt* No. 35, concerning an amnesty for political offences (Amnesty 1938) is applicable even if the person concerned was abroad at the time of the promulgation of the said order or escaped execution of the sentence by fleeing the country.

The disqualifications referred to in *A* 2–4 are valid only in so far as the conviction has not been previously cancelled (Act of 10 July 1945, *Staatsgesetzblatt* No. 62).

B. By reason of police measures in pursuance of judicial sentence:

Persons placed under police surveillance or committed to an institution for forced labour, such disqualification to be in force for one year after the end of the said measures.

C. By reason of limitation of capacity:

1. Persons who have been declared wholly or partly incapable of managing their own affairs;

2. Persons who have been deprived of parental power over their children;

D. By reason of former membership of the National Socialist German Labour Party (NSDAP) or its armed units:

1. Persons who at any time between 1 July 1933 and 27 April 1945 were party members or candidates for party membership of the NSDAP or members of the SS or SA;

2. Persons who at any time between 1 July 1933 and 13 March 1938 were members of the National Socialist motor or flying units (NSKK or NSFK);

3. Persons who at any time between 13 March 1938 and 27 April 1945 held the rank of *Führer*, from *Untersturmführer* or the equivalent upwards, in the NSKK or NSFK.

Nevertheless, if during the forcible annexation of Austria the persons referred to in *D* 1–3 had to suffer persecution for political reasons at the hands of the State authorities of the Third Reich, they may qualify for the franchise. Further particulars on this point are contained in article 17 (4).

The disqualifications under *D* 1–3 shall not apply to persons whom the Provisional State Government declares to be exempt from the treatment prescribed in the Constitutional Law of 8 May 1945, *Staatsgesetzblatt* No. 13, article II (Prohibitory Law, article 27). Article 21 (4) shall be taken into account.

Any person who makes false statements on the electoral registration forms (article 10) in reply to the questions relating to the reasons for disqualification under *D* 1–3 shall be deemed to have committed the offence of fraud and shall be liable to imprisonment for one to five years.

. . . . . .

IV. ELIGIBILITY, CANDIDATURES

Art. 36. All men and women qualified to exercise the franchise for the National Council (article 6 (1)) who are over twenty-nine years of age on the material date are eligible to the National Council . . . .

A person who has belonged to the NSDAP or to its armed units (SS, SA, NSKK, NSFK) shall not be eligible to the National Council or to the Diets.

V. ELECTORAL PROCEDURE

Art. 46. The polling booth shall be arranged in such a way that the voter may complete his ballot paper and insert the same into an envelope in the booth without being observed by any other persons present on the premises.

DECISION REGARDING POLITICAL ACTIVITIES OF THE DEMOCRATIC PARTIES IN AUSTRIA[1]

adopted by the Allied Commission for Austria on 11 September 1945

The Allied Council has decided:

1. Effective this date, democratic political parties are hereby allowed maximum freedom to develop their political activities throughout Austria, on condition that:

(*a*) They pledge themselves to the strengthening and maintenance of a free and independent Austria;

(*b*) They maintain democratic principles and the resolute fight against Nazi ideology in all its aspects and forms in political, social, cultural and economic life;

(*c*) They do not disturb public order as established by the rules and regulations of the occupying authorities;

(*d*) They do not carry on any activities against the Occupying Powers or any one of them or against their troops in Austria.

2. The "*Österreichische Sozialistische Partei*", the "*Österreichische Kommunistische Partei*", and the "*Österreichische Volkspartei*", which are anti-Nazi and democratic, are permitted to carry on their activities throughout Austria in accordance with the conditions set out in paragraph 1.

3. Other existing parties, or new political parties, in order to obtain permission to exist and to carry on their activities throughout Austria, must present their programmes to the Allied Council for approval and fulfil the conditions set out in paragraph 1.

4. Public meetings and demonstrations will be regulated in the zones of occupation by the respective occupying authorities, and in the city of Vienna by the Inter-Allied *Kommandatura*. Closed meetings of party members, not in public buildings, are permitted to take place without special permission.

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[1] English text in *Gazette of the Allied Commission for Austria*, Vienna, No. 1, December 1945–January 1946. See also the two preceding texts in this *Yearbook*.

BELGIUM

CONSTITUTION OF THE KINGDOM OF BELGIUM[1]

of 7 February 1831

TITLE III

PUBLIC POWERS

CHAPTER I. — THE CHAMBERS

Section 1. — The Chamber of Representatives

Art. 49. The electoral law shall lay down the number of representatives in conformity with the number of the population. Such number may not exceed the proportion of one representative for every 40,000 inhabitants. The law shall determine likewise the conditions which electors are required to fulfil and the procedure for electoral operations.

[1] French text in *Code des Lois politiques et administratives*, by J. Berta and Ernest Vandeveld, Brussels, 1937, vol. I, p. 9. English translation from the French text by the United Nations Secretariat.

ELECTORAL CODE[1]

Titles I and II revised by the Act of 11 August 1928 and codified by royal decree of 12 August 1928, together with the amendments of 27 March 1948

Art. 1. In order to qualify as an elector in parliamentary elections a person must:

1. Be a Belgian citizen by birth or be fully naturalized;

2. Have attained the age of twenty-one years;

3. Have been domiciled in the same commune for not less than six months.

Each elector is entitled to one vote only.

Art. 2 (as amended on 27 March 1948). Women are entitled to vote under the same conditions with respect to age, nationality and domicile.

[*Former text:*

Art. 2. The following are also entitled to vote in parliamentary elections under the same conditions with respect to nationality, age and domicile:

1. Widows, provided that they have not remarried, o members of the armed forces killed during the war before 1 January 1919 or, failing them, the mothers of such members of the armed forces if widows; and also the widowed mothers of unmarried members of the armed forces;

2. Widows, provided that they have not remarried, of Belgian citizens shot or killed by enemy action during the war or, failing them, the mothers of such citizens if widows; and also the widowed mothers of such citizens if unmarried;

3. Women sentenced under enemy occupation to imprisonment or preventive detention on patriotic grounds.]

Art. 3. Eligibility to vote shall be established by registration in the electoral lists.

Art. 4. The right to vote is granted to every citizen who satisfies the conditions laid down in articles 1 and 2 and who is not subject to exclusion or suspension of electoral rights as laid down in this Act.

Art. 6. The following persons shall be permanently excluded from the electorate and shall not be entitled to vote:

1. Every person who has been sentenced to a *peine criminelle*;[2]

2. Every person who keeps or has kept a house of ill fame or prostitution, or who has been convicted for having kept a house of clandestine prostitution, and every person who has been held at the disposal of the Government as a procurer of prostitutes;

[1] French text in *Code des Lois politiques et administratives* by J. Berta and Ernest Vandeveld, Brussels, 1937, vol. I, pp. 167–249. Text of article 2 as amended in 1948 and information through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des Sciences administratives* and Honorary Director-General in the Ministry of the Interior.

By the same Act of 27 March 1948 extending the right to vote to women under the same conditions with respect to age, nationality and domicile as men, article 4 of the communal electoral Act was amended. The provision stipulating that the College of Burgomasters and Aldermen should revise the lists of male communal electors was amended by deletion of the term "male". See former text of the communal electoral Act, *op. cit.*, p. 284.

[2] *Peine criminelle:* penalty of more than 5 years' imprisonment (with or without hard labour), or death [*Editor's note*].

3. Every person who has been deprived of the right to exercise guardianship on grounds of misconduct or breach of trust, and every person who has been deprived of parental authority.[1]

Art. 7. The following persons shall incur suspension of electoral rights and shall not be entitled to vote during the period of disability:

1. Persons placed under a disability by order of the court and lunatics in confinement;

2. Persons sentenced to imprisonment for a term of eight days or more for theft, receiving stolen goods, breach of trust, fraud, forgery, uttering forged documents, perjury, subornation of witnesses, experts or interpreters, fraudulent bankruptcy, ... [here follows a list of other crimes and offences].[2]

The disability shall cease ten years after the conviction if the term of imprisonment is less than one month, and twenty years after if the term is one month or more;

3. Persons who, for reasons other than those given in paragraph 2, have been sentenced to a term of imprisonment of one month or more.

The disability shall cease five years after the conviction; it shall cease ten years after if the term of imprisonment is six months or more, and twenty years after if the term is one year or more.

[Here follows a list of cases in which the disability does not apply.]

In the event of a second conviction or subsequent convictions during the period of disability consequent upon the first conviction, the period of disability provided in paragraphs 2 and 3 shall be doubled in respect of each such conviction. In this case the disability shall be added to the disability first incurred.

If the sentence is suspended, the disability shall be suspended.

If by reason of a subsequent conviction a suspended sentence becomes enforceable the period of the suspension of the right to vote shall run as from the date of the new conviction. If this new conviction also involves suspension, the period of disability shall be doubled and added to that resulting from the previous conviction.

[Paragraphs 4 to 11 concern disqualification for other reasons, such as offences against the military laws, laws respecting child welfare; drunkenness in public, etc.]

12. A person who has been declared a bankrupt.

The disability shall cease when the bankrupt obtains his discharge and when the arrangement with the creditors has been fully carried out. In any case, it shall cease ten years after the judgment under which the bankruptcy was declared;

13. A person who has been sentenced to a term of imprisonment of eight days or more without the option of a fine under the penal provisions contained in the electoral laws, or a person to whom the fifth paragraph of article 210 is applicable.

The disability shall cease ten years after the conviction; it shall cease twenty years after conviction if the term of imprisonment is not less than one month.

Persons whose electoral rights are suspended under paragraphs 2 to 13 of this article shall not be registered on the electoral lists unless the period of disability is due to expire before the lists come into force.

Art. 8. None of the offences mentioned in article 7 shall involve disability if committed by a person under the age of sixteen years.

Art. 9. Persons who have been committed to an institution of refuge (*maison de refuge*)[3] shall not be registered in the electoral list or allowed to vote; furthermore, they shall not be entered in the list during the three years following their discharge from the institution.

Titles III to IX revised by the Act of 26 April 1929

TITLE VI

PENALTIES FOR FAILURE TO VOTE

Art. 207. Electors who are unable to vote may inform the justice of the peace of their reasons for abstaining and shall at the same time submit the requisite documentary evidence.

Art. 208. There shall be no grounds for proceedings if the justice of the peace recognizes the validity of the excuses, in agreement with the police superintendent or, in default of a police superintendent, the burgomaster or alderman performing the functions of a prosecuting magistrate.

Art. 209. Within eight days of the announcement of the election results, the police superintendent shall, under the supervision of the justice of the peace, draw up a list of electors who did not vote and whose excuses were not accepted. Such a list shall be drawn up for each commune.

These electors shall be required by a simple summons to appear before the justice of the peace, who shall make his decision, against which there shall be no appeal, after hearing the public prosecutor.

Art. 210. The first case of absence from the polls for which good cause is not shown shall be punished, according to the circumstances, by a reprimand or by a fine of not less than 1 franc or more than 3 francs.

[1] Permanent disqualification may also result from article 123 (6) of the Criminal Code and the legislative decree of 19 September 1945 on deprivation of civil rights on grounds of collaboration with the enemy.

[2] See also the provisions of the legislative decree of 19 September 1945 on deprivation of civil rights on grounds of collaboration with the enemy.

[3] The Belgian Code, in the section dealing with vagrancy and mendicity, lays down that a *maison de refuge* shall be exclusively for the internment of persons detained by the judicial authority at the disposal of the Government or whose committal is required by the communal authority [*Editor's note*].

If the offence is repeated within six years, the fine shall be not less than 3 or more than 25 francs.

There shall be no accessory term of imprisonment.

In the case of a second repetition of the offence within ten years, in addition to the same penalty the name of the elector shall be posted up for one month outside the communal hall in his place of domicile.

If unjustified abstention occurs for the fourth time within fifteen years, the same penalty shall be applied. The elector shall, in addition, be struck off the electoral lists for ten years, during which time he may receive no appointment, promotion or honours either from the Government or from provincial or communal authorities.

In the cases mentioned in this article, no suspension of sentence shall be allowed.

A *caveat* may be entered against a conviction by default within six months of notification of the judgment. The *caveat* may be made by a simple declaration, free of charge, at the communal hall.

TITLE VIII

ELIGIBILITY AND INCOMPATIBILITY

Art. 223. In order to be eligible to the Chamber of Representatives a person must:

1. Be Belgian by birth or fully naturalized;
2. Be in possession of his civil and political rights;
3. Have attained the age of 25 years;
4. Be domiciled in Belgium.

Art. 224. In order to be elected a senator a person must:

1. Be Belgian by birth or fully naturalized;
2. Be in possession of his civil and political rights;
3. Be domiciled in Belgium;
4. Be at least 40 years of age.

Art. 225. In order to be elected a senator by the ordinary electorate a person must in addition belong to one of the following categories:

[Here follows a list of categories.]

Art. 227. The following persons shall not be eligible to the legislative chambers:

A person who has been deprived of the right o eligibility by a judicial conviction;

A person excluded from the electorate under article 6;

A person whose electoral rights have been suspended under nos. 1, 4, 5, 6, 7, 8, 11, 12 or 13 of article 7.

BOLIVIA

POLITICAL CONSTITUTION OF THE STATE OF BOLIVIA[1]

of 23 November 1945, as amended on 20 September and 26 November 1947

SECTION IV

NATIONALITY AND CITIZENSHIP

Art. 42. Citizenship consists in: first, contributing either as a voter or as a person elected to office to the establishment or exercise of public powers; secondly, being eligible to public office without other requisites than that of capacity, save for the exceptions established by law.

Art. 43. Conditions of citizenship are: first, to be a Bolivian; secondly, to be more than 21 years of age; thirdly, to be able to read and write, and fourthly, to be inscribed in the civic register.

Art. 44 (as amended on 26 November 1947). Rights of citizenship are suspended: first, by carrying arms or giving service in an enemy army in time of war; secondly, for declaration of fraudulent bankruptcy or upon enforceable condemnation to corporal punishment; thirdly, for accepting employment from a foreign Government without permission of the Senate, except for university or other cultural offices.

Art. 45. In the formation of municipal governments, the right of election and eligibility of Bolivian women is recognized, under the same conditions as for men, besides the citizenship rights referred to in part 2 of article 42 of this Constitution.

SECTION VII

CHAMBER OF DEPUTIES

Art. 64. Deputies shall be elected directly by the people, by a simple majority of votes. They shall continue in their offices for four years, being renewed by half each biennium. In the first change, the deputies shall cast lots. The law will regulate the elections and fix the number of deputies.

Art. 65. A deputy must:

(1) Be a Bolivian by birth;

(2) Have completed his military service;

(3) Be inscribed in the civic register;

(4) Have completed twenty-five years of age;

(5) Not have been sentenced by a court to a punishment acting on the person or be the subject of a pending charge or uncompleted sentence.

SECTION VIII

CHAMBER OF SENATORS

Art. 70. A senator must have completed thirty-five years of age and have the other qualifications required for a deputy.

[1] English text of articles 42–45 in *Yearbook on Human Rights for 1947*, p. 16; English translation of the other articles by the United Nations Secretariat.

ELECTORAL ACT OF 31 JANUARY 1924, WITH SUBSEQUENT AMENDMENTS[1]

CHAPTER I

CITIZENSHIP AND CIVIL REGISTER

Art. 1. Citizenship is a status which qualifies those possessing it to:

I. Take part as voters or elected representatives in the constitution of the public authorities or the exercise of a public office;

II. Be admitted to public office without further requirements than aptitude for it, save for the exceptions established by the political constitution of the State.

III. Voting is compulsory only for citizens qualified to vote.

Art. 2. All citizens qualified to vote are bound to vote in the elections for the constitution of the public authorities.

Art. 4. In order to qualify for registration in the civil register a person must:

(*a*) Be a Bolivian national by birth or naturalization;

[1] Spanish text in *Ministerio de Gobierno, Justicia e Inmigración, Ley Electoral*, official edition, La Paz, 1949, pp. 1–5. Text received through the courtesy of Dr. Eduardo Anze Matienzo, Ambassador, Permanent Representative of Bolivia to the United Nations. English translation from the Spanish text by the United Nations Secretariat.

(*b*) Be twenty-one years of age if unmarried and eighteen years of age if married;

(*c*) Be able to read and write Spanish. A person who can only sign his name and write certain characters shall not be deemed to be able to write;

(*d*) Possess immovable property or an annual income of 200 bolivianos.

Art. 5. The following shall not be entered in the registers:

I. On account of physical or political incapacity:

(*a*) Lunatics, insane persons and deaf-mutes;

(*b*) Vagrants deemed to be such in conformity with the law;

(*c*) Traitors to their country on whom a judicial sentence has been passed;

(*d*) Habitual drunkards declared to be such by three reliable witnesses.

II. On account of incapacity in pursuance of the law:

(*a*) Persons who are naturalized citizens of a foreign country;

(*b*) Persons who have lost their citizenship by accepting posts in foreign countries, or foreign decorations without the requisite permission;

(*c*) Persons against whom a writ of accusation has been enforced;

(*d*) Members of the regular clergy.

III. On account of incapacity in pursuance of a decision of a law court or for moral reasons:

(*a*) Persons sentenced to a term of imprisonment or to loss of public employment or removal from a public office, until their rehabilitation;

(*b*) Persons convicted of perjury or electoral offences, until their rehabilitation;

(*c*) Persons deprived by a sentence of a law court of the trusteeship or guardianship of minors;

(*d*) Persons dismissed from the Army, with loss of rank, or for desertion, until their rehabilitation.

(*e*) Embezzlers of public funds, sentenced by a law court or in pursuance of an administrative order;

(*f*) The owners or managers of brothels;

(*g*) Debtors to the revenue authorities when the time limit for payment under an enforceable payment order has expired.

IV. For incompatibility of office.

CHAPTER XVII

DEPUTIES

Art. 124. Deputies shall be elected by the majority vote of the citizens qualified to vote.

I. Where only one deputy is to be elected, the candidate obtaining the majority of the votes shall be the titular deputy and the candidate with the next highest number of votes shall be the substitute, always provided that the number of votes obtained by the latter is not less than the fourth part of those obtained by the titular deputy.

II (*as amended 4 February 1929*). Where two or more deputies are to be elected for the same district and at the same time, the election shall be by the incomplete list system as follows: When two deputies are to be elected, votes shall be cast for one only; when three or four deputies are to be elected, votes shall be cast for two only, and those obtaining the majority of votes shall be proclaimed titular deputies. With respect to the representation of minorities, this majority of votes shall be at least the fourth part of the highest number of votes obtained in the election.

III (*as amended 4 February 1929*). In districts where an election is held for two or more deputies, the same procedure of the incomplete list shall be followed for the election of substitute deputies, if such substitute deputies were not elected because the remaining candidates failed to obtain one quarter of the votes of the titular deputies of the first category who obtained the lowest number of votes.

Art. 127. Candidates for election as deputies must satisfy the following conditions:

I. They must be entered in the civil registers;

II. They must have attained the age of twenty-five years and be Bolivian citizens by birth or naturalization with five years' fixed residence in the country;

III. They must possess an annual income of 400 bolivianos derived from a profession, trade or immovable property;

IV. They must not have been sentenced to imprisonment by the ordinary courts.

CHAPTER XVIII

SENATORS

Art. 132. Candidates for election as senators must satisfy the following conditions:

I. They must be Bolivian citizens by birth or naturalization with five years' fixed residence in the country and must be registered as citizens on the electoral rolls;

II. They must have attained the age of twenty-five years;

III. They must have an income of 800 bolivianos, derived either from immovable property or a trade or profession;

IV. They must not have been sentenced to imprisonment by the ordinary courts.

Art. 134. Senators shall be elected directly by majority vote . . . .

SUPREME DECREE OF 4 OCTOBER 1947

REGULATIONS TO IMPLEMENT THE DECREE CALLING MUNICIPAL ELECTIONS FOR 13 MARCH, POSTPONED UNTIL THE SECOND SUNDAY IN DECEMBER 1947[1]

Whereas it is necessary to issue regulations implementing the decree calling municipal elections for 13 March of the present year, postponed until the second Sunday in December by Decree No. 803 of 19 June last;

Whereas the Political Constitution of the State recognizes the right of Bolivian women to vote for, and to be elected to, municipal councils and boards under the same conditions as men,[2] with the further right of citizenship referred to in the said Political Charter;

It is hereby decreed:

Art. 1. The notaries public shall open special registers for women.

Art. 2. The requirements for the registration of women shall be those prescribed by article 4 of the Electoral Act,[3] with the exception of the military service book, which shall be replaced by the personal identity card. The disqualifications shall be the same as those prescribed in articles 5 and 6 of the same Act.

Art. 4. In accordance with article 13 of the Organic Act on Municipalities, the number of members to be elected to municipal councils and boards shall be twelve in the capitals of departments, six in the provinces and four in the municipal sections. Candidates shall be elected by popular suffrage by the "incomplete list" system; in accordance with which eight members shall be elected by the majority and four by the minority in the departmental capitals; four by the majority and two by the minority in the provincial capitals and three by the majority and one by the minority in the municipal districts.

The Minister of the Interior, Justice and Immigration shall be responsible for the execution and application of the present decree.

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[1] Spanish text in *Ministerio de Gobierno, Justicia e Inmigración, Ley Electoral*, official edition, La Paz, 1949, pp. 108–109. English translation from the Spanish text by the United Nations Secretariat.

[2] See article 45 of the Constitution, p. 279 of this *Yearbook*.

[3] See the preceding text. As regards the reference to the military service book, article 4 of the Electoral Act refers to the inscription on the civil register and article 21 lays down conditions for such inscription, among which the presentation of the military service book is listed.

UNITED STATES OF BRAZIL

CONSTITUTION OF THE UNITED STATES OF BRAZIL[1]
of 18 September 1946

TITLE I
THE FEDERAL ORGANIZATION
CHAPTER II
THE LEGISLATIVE POWER
Section I — Preliminary Provisions

Art. 37. The legislative power is exercised by the National Congress, which is composed of the Chamber of Deputies and the Federal Senate.

Art. 38. . . . . A member of the National Congress must:

I. Be a Brazilian as defined in article 129, nos. I and II;

II. Be in full possession of his rights;

III. Have attained twenty-one years of age for the Chamber of Deputies and thirty-five years for the Federal Senate.

Section II — The Chamber of Deputies

Art. 56. The Chamber of Deputies is composed of representatives of the people, elected by the system of proportional representation, in the States, the Federal District and the territories.

Section III — The Federal Senate

Art. 60. The Federal Senate is composed of representatives of the States and of the Federal District, elected on the majority principle.

TITLE IV
DECLARATION OF RIGHTS
CHAPTER I
NATIONALITY AND CITITZENSHIP

Art. 129. Brazilians are:

I. Persons born in Brazil, even though of foreign parents, if the latter are not residing in the service of the Government of their country;

II. Children of a Brazilian, man or woman, born abroad, if the parents are there in the service of the Government of Brazil, or, this not being the case, if they come to reside in the country. In the latter event, they must opt for Brazilian nationality, if they wish to preserve it, within a period of four years after attaining their majority; . . . .

Art. 130. A Brazilian loses his nationality if:

I. By voluntary naturalization he acquires another nationality;

II. He accepts pension, remunerated employment or commission from a foreign Government, without permission of the President of the Republic;

III. By judiciary sentence, in process established by law, he has his naturalization cancelled by reason of exercising activity inimical to the national interest.

Art. 131. Voters are Brazilians over eighteen years of age who register in the legally prescribed form.

Art. 132. The following may not register as voters:

I. Those who do not know how to read and write;

II. Those who cannot express themselves in the national tongue;

III. Those who are, temporarily or definitely, deprived of political rights.

Enlisted soldiers also cannot register as voters, save cadets, junior officers, sub-lieutenants, sergeants and students of the higher military schools.

Art. 133. It is obligatory for Brazilians of both sexes to register and to vote, save the exceptions defined by law.

Art. 134. Franchise is universal and direct; the vote is secret; and proportional representation of the national political parties is guaranteed in the form which the law may determine.

Art. 135. Political rights are suspended or lost only in the cases mentioned in this article.

1. They are suspended:

(*a*) By absolute civil incapacity;

(*b*) By criminal conviction, for such time as its effects last.

[1] English text in *Brazilian Constitution of 1946*, published by the British Chamber of Commerce, Rio de Janeiro.

2. They are lost: (*a*) in the cases set forth in article 130;

(*b*) By the refusal provided for in article 141, paragraph 8;[1]

(*c*) By the acceptance of a nobiliary title or foreign decoration which may imply restriction of rights or of duty towards the State.

Art. 136. The loss of political rights entails, simultaneously, that of public office or function.

Art. 137. The law shall establish the conditions of recovery of political rights and of nationality.

Art. 138. Persons who may not be registered (as voters) and those mentioned in the last paragraph of article 132 are ineligible.

[1] Article 141, paragraph 8, reads as follows: "No one shall be deprived of any of his rights by reason of religious, philosophic or political conviction, unless he invoke it in order to exempt himself from any obligation, duty or service required by law of Brazilians in general, or refuse others which the law may establish as substitutes for those duties, with the object of meeting a conscientious excuse."

BULGARIA

CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BULGARIA[1]

of 4 December 1947

Art. 2. In the People's Republic of Bulgaria all power emanates from the people and belongs to the people.

This power is exercised through freely elected representative organs and through referenda.

All representative organs of the State power are elected by the citizens, by a general, direct and secret ballot.

Art. 3. All citizens of the People's Republic who are above 18 years of age, irrespective of sex, national origin, race, religion, education, profession, social status or material situation, with the exception of those under judicial disability or deprived of their civil and political rights, are eligible to vote and to be elected.

All persons serving in the ranks of the Bulgarian People's Army can vote and can be elected on the same basis as all other Bulgarian citizens.

Art. 4. The people's representatives in all representative organs are responsible to their electors. They may be recalled before the expiration of the term for which they have been elected.

The manner in which elections are held and the rules for recalling people's representatives are determined by law.

[1] English text in *Yearbook on Human Rights for 1947*, p. 61.

DECREE-LAW OF 8 JUNE 1945 REGARDING THE ELECTION OF PEOPLE'S REPRESENTATIVES TO THE ORDINARY PEOPLE'S ASSEMBLY[1]

as amended and supplemented up to and including 24 September 1946

CHAPTER I

BASIC PROVISIONS

Art. 1. People's representatives to the Ordinary People's Assembly shall be elected in the manner set out in this decree-law.

[*Art. 5* states that for five days before the election and on the election day itself no elector may be mobilized, called up for military training or summoned to perform any compulsory service.]

CHAPTER II

ELECTORS AND ELECTORAL LISTS

Art. 8. All Bulgarian nationals of either sex over 19 years of age are electors under this decree-law.

Art. 9. The following may not be electors:

(1) Persons sentenced to loss of civil and political rights;

(2) Persons placed under interdiction.

Art. 10. An elector shall exercise his right to vote in the commune in which he is resident, and if the commune is divided into sections, then in the section in which he is included in accordance with the electoral list . . . .

Art. 11. Voting shall be in accordance with the electoral lists.

[Articles 12 to 35 contain detailed provisions in regard to the electoral lists.]

[Chapter III (art. 36–37) deals with electoral colleges.]

CHAPTER IV

RIGHT TO BE ELECTED

Art. 38. All electors over 23 years of age have the right to be elected.

(*As added 24 September 1946.*) Persons employed in the service of the State, an autonomous sub-division of the State or a commune have the right to stand as candidates for election as people's representatives on condition that they first resign from their employment. Ministers and professors at State universities may stand as candidates without resigning their posts.

[1] Bulgarian text published by the State Publishing House of the State Printing Press, Sofia, 1946. English translation from the Bulgarian text by the United Nations Secretariat. Text and information through the courtesy of Professor Anguel Angueloff, University of Sofia, Legal Counsellor to the Ministry of Foreign Affairs.

(*As amended 14 September 1945.*) Persons who have been shown to be Fascists may not be elected.

CHAPTER VII

LISTS OF CANDIDATES FOR ELECTION AS PEOPLE'S REPRESENTATIVES

Art. 72. Any Bulgarian citizen who has the right to be elected may be a candidate for election as people's representative in any electoral college he may choose irrespective of his place of residence.

(*As added 24 July 1945.*) No one may be a candidate on more than one list of candidates.

CHAPTER IX

VOTING PROCEDURE

Art. 84. Voting is personal and secret. No one may vote more than once or instead of another elector. An elector is required to enter the unlighted booth and there place the ballot form in the envelope, failing which he shall not be permitted to vote.

BURMA

CONSTITUTION OF THE UNION OF BURMA[1]

of 24 September 1947

CHAPTER VI

PARLIAMENT

Part I

GENERAL

74. (1) Any person who

(i) Is under any acknowledgement of allegiance or adherence to a foreign Power, or is a subject or citizen or entitled to the rights and privileges of a subject or a citizen of a foreign Power; or

(ii) Is an undischarged bankrupt or insolvent; or

(iii) Is of unsound mind and stands so declared by a competent court; or

(iv) Holds any office of profit in the service of the Union or of any unit other than an office declared by an Act of the Parliament not to disqualify its holder; or

(v) Whether before or after the commencement of this Constitution, has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of an offence or corrupt or illegal practice relating to elections which has been declared by an Act of the Legislature of Burma or of the Parliament to be an offence or practice entailing disqualification for membership of the Legislature or of the Parliament; unless such period has elapsed as may be specified in that behalf in the provisions of that Act; or

(vi) Whether before or after the commencement of this Constitution, has been convicted, in any of the territories included within the Union, of any other offence, and has, in either case, been sentenced to transportation or to imprisonment for not less than two years, unless a period of five years or such less period as the President may, in his discretion, allow in any particular case, has elapsed since his release; or

(vii) Having been nominated as a candidate for the Parliament or having acted as an election agent of any person so nominated, has failed to lodge a return of the election expenses within the time and in the manner required by any order made under this Constitution or by any Act of the Parliament, unless five years have elapsed from the date by which the return ought to have been lodged, or the President, in his discretion, has removed the disqualification;

shall be disqualified for being chosen as and for being a member of either Chamber:

Provided that a disqualification under paragraph (vii) of this sub-section shall not take effect until the expiration of one month from the date by which the return ought to have been lodged, or of such longer period as the President acting in his discretion may, in any particular case, allow.

(2) A person shall not be qualified for being chosen a member of either Chamber while he is serving a sentence of transportation or of imprisonment for a criminal offence:

Provided that, where the sentence does not exceed two years, the President may in his discretion remove such disqualification . . . .

76. (1) Every citizen who has attained the age of 21 years and who is not placed under any disability or incapacity by this Constitution or by law shall be eligible for membership of the Parliament.

(2) Every citizen, who has attained the age of 18 years and who is not disqualified by law and complies with the provisions of the law regulating elections to the Parliament, shall have the right to vote at any election to the Parliament.

(3) There shall be no property qualification for membership of the Parliament or for the right to vote at elections to the Parliament.

(4) No law shall be enacted or continued placing any citizen under disability or incapacity for membership of the Parliament on the ground of sex, race or religion or disqualifying any citizen from voting at elections to the Parliament on any such ground:

Provided that notwithstanding anything contained in section 21 (3), members of any religious order may by law be debarred from voting at any such elections or from being a member of either Chamber of Parliament.

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[1] English text in: Constituent Assembly of Burma, *The Constitution of the Union of Burma*, Rangoon, 1947. Information through the courtesy of Mr. Chan Htoon, Attorney-General, Rangoon.

(5) Voting shall be by secret ballot.[1]

77. Subject to the provisions of this Constitution, all matters relating to elections for either Chamber of Parliament, including the delimitation of constituencies, the filling of casual vacancies, and the decision of doubts and disputes arising out of or in connexion with such elections, shall be regulated in accordance with law.

78. The Parliament may by law prescribe the conditions under and the manner in which a member of either Chamber of Parliament may be recalled.

Part II

CHAMBER OF DEPUTIES

83. (1) The Chamber of Deputies shall be composed of members who represent constituencies determined by law. Provision shall, however, be made to reserve such number of seats as may be proportionate to the population of Karens to be filled by their representatives.

Part III

CHAMBER OF NATIONALITIES

87. There shall be one hundred and twenty-five seats in the Chamber of Nationalities as allocated in the Second Schedule to this Constitution.

SECOND SCHEDULE

COMPOSITION
OF THE CHAMBER OF NATIONALITIES
(see section 87)

Of the 125 seats in the Chamber of Nationalities:

(*a*) Twenty-five seats shall be filled by representatives from the Shan State;

(*b*) Twelve seats shall be filled by the representatives from the Kachin State;

(*c*) Eight seats shall be filled by representatives from the Special Division of the Chins;

(*d*) Three seats shall be filled by representatives from the Karenni State;

(*e*) Twenty-four seats shall be filled by representatives of Karens;

(*f*) Fifty-three seats shall be filled by representatives from the remaining territories of the Union of Burma.

[1] It may be mentioned here that the Union of Burma comprises considerable hill areas inhabited by people who had no previous experience in voting. In order to facilitate the procedure voting by tokens has been established under the Parliamentary Election Act and Rules. Under this system each candidate is allotted a coloured ballot box and each voter is given a voting token to be put into the ballot box of the candidate of his choice in a voting booth so as to secure the secrecy of the vote. It is intended, however, to introduce the vote by paper ballot when the electorate is sufficiently educated. (Information through the courtesy of Mr. Chan Htoon, Attorney-General, Rangoon.)

PARLIAMENTARY ELECTION ACT, 1948[1]

CHAPTER I

Part II

COMPOSITION OF PARLIAMENT

3. There shall be 250 seats in the Chamber of Deputies which shall be allocated as shown below:

(*a*) 25 seats shall be filled by representatives from the Shan State;

(*b*) 7 seats shall be filled by representatives from the Kachin State;

(*c*) 6 seats shall be filled by representatives from the Special Division of the Chins;

(*d*) 2 seats shall be filled by representatives from the Karenni State;

(*e*) 20 seats shall be filled by representatives of Karens;[2]

(*f*) 190 seats shall be filled by representatives (other than those of the Karens) from the remaining territories of the Union of Burma.

Total 250

4. The number of seats in the Chamber of Nationalities shall be as allocated in the Second Schedule[3] to the Constitution.

Part IV

QUALIFICATIONS FOR MEMBERSHIP

9. Every citizen who has completed the age of 21 years and who

(*a*) Is not disqualified under section 74 of the Constitution;

[1] English text: *Parliamentary Election Act*. Rangoon, 1948. Text and information through the courtesy of Mr. Chan Htoon, Attorney-General, Rangoon.

[2] Under the Constitution, Karens are the only minority for whom separate seats are reserved and separate elections are to be held, in respect of elections to the Chamber of Deputies. This provision was made in view of the fact that the Karens are the only minority whose population exceeds one-tenth of the population of any unit and by far the majority of the Karens are spread out in the areas where they are in the minority. For this purpose, two separate electoral rules have been compiled, one for the Karens and the other for non-Karens. Moreover, separate constituencies have been established for the Karens. (Information through the courtesy of Mr. Chan Htoon, Attorney-General, Rangoon.)

[3] Reproduced above.

(*b*) Possesses such, if any, of the other qualifications specified in this Act as may be appropriate in his case, and

(*c*) Is not otherwise disqualified under the provisions of the Act, shall be qualified to be chosen to fill a seat in either Chamber of Parliament.

10. Upon the expiration of the term for which a person is chosen as a member of either Chamber of Parliament, he shall be eligible to be chosen to serve a further term, if otherwise duly qualified.

11. A member of any religious order shall be debarred from being chosen as, and for being, a member of either Chamber of Parliament.

12. A person shall not be eligible for membership of the Parliament, unless he is entitled to vote at the election to either Chamber of Parliament.

CHAPTER II

FRANCHISE

22. Subject to the provisions of the Constitution, the qualifications of electors shall be the same for election to both the Chambers of Parliament.

23. Subject to the provisions of this Act, every citizen shall be qualified to be included in the electoral roll, if he is ordinarily resident in the constituency and has completed the age of 18 years, by reference to such date as may be directed by the President.

24. No person shall be included in the electoral roll for, or vote at any election, if he is of unsound mind and stands so declared by a competent court.

25. No person shall be included in the electoral roll for, or vote at any election, if he is for the time being disqualified from voting under chapter V of the Act with respect to corrupt practices and other offences in connexion with elections. The name of any person who becomes so disqualified shall forthwith be struck off the electoral rolls in which he may be included.

26. No person shall be entitled to vote in any election if he is, for the time being, undergoing imprisonment under a sentence of any competent court.

27. No member of any religious order shall be included in the electoral roll for, or vote in any election to, the Chambers of Parliament.

28. No person shall vote in more than one constituency, and such provisions, if any, as may be prescribed shall have effect for the purpose of preventing persons being included in the electoral roll for more than one constituency.

29. Whoever votes more than once in the same constituency at any one election, or votes in more than one constituency at the election held simultaneously, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that, if at an election more than one seat is to be filled, each person entitled to vote at the election shall be entitled to one vote for each of the seats to be filled, but shall not give more than one vote in favour of any one candidate.

CHAPTER V

DISQUALIFICATIONS FOR CORRUPT PRACTICES[1]

53. If any person

(*a*) Is convicted of an offence, under chapter IXA of the Penal Code, punishable with imprisonment for a term exceeding six months; or under section 29 of this Act, or

(*b*) Is, after an inquiry under chapter IV of this Act, reported as guilty of any such corrupt practice as is specified in the Schedule of this Act,

he shall, subject to the Constitution, be disqualified for a period of five years from the date of the conviction, or report, for being a member of either Chamber of Parliament, and for voting at any election.

54. If default is made in making the return of the election expenses of any person who has been nominated as a candidate at an election, to which chapter III of this Act applies, or if such a return is found, either by commissioners holding an inquiry into the election or by any court in a judicial proceeding, to be false in any material particular, the candidate and his election agent shall, subject to the provisions of section 74 (1) (vii) of the Constitution, be disqualified for voting at any election for a period of five years, from the date by which a return was required to be lodged.

[1] The schedule (not reproduced here) includes a list of corrupt practices.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

CONSTITUTION OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC[1]

of 19 February 1937, as amended and supplemented up to and including 11 July 1947

Art. 109. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Byelorussian Soviet Socialist Republic and the regional, district, city, settlement and rural Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 110. Elections of deputies are universal: all citizens of the Byelorussian SSR who have reached the age of 18, irrespective of race or nationality, sex, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the Byelorussian SSR who has reached the age of 21, irrespective of race or nationality, sex, religion, educational and residential qualification, social origin, property status or past activities, has the right to be elected as a deputy of the Supreme Soviet of the Byelorussian SSR.

Art. 111. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 112. Women have the right to elect and be elected on equal terms with men.

Art. 113. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 114. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the Byelorussian SSR, inclusive, are elected by the citizens by direct vote.

Art. 115. Voting at elections of deputies is secret.

Art. 116. Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 117. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon a decision of a majority of the electors in the manner established by law.

. . . . . .

[1] English text in *Yearbook on Human Rights for 1947*, pp. 69–70.

CANADA

THE DOMINION ELECTIONS ACT, 1938[1]

as amended 1944 and 1948

AN ACT RESPECTING THE FRANCHISE OF ELECTORS AND THE ELECTION OF MEMBERS OF THE HOUSE OF COMMONS

QUALIFICATION AND DISQUALIFICATIONS OF ELECTORS

14 (*as amended 30 June 1948*). (1) Except as hereinafter provided, every person in Canada, man or woman, is entitled to have his or her name included in the list of electors prepared for the polling division in which he or she was ordinarily resident on the date of the issue of the writ ordering an election in the electoral district, and is qualified to vote in such polling division if he or she

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

(*b*) Is a British subject by birth or naturalization;

(*c*) Has been ordinarily resident in Canada for the twelve months immediately preceding polling day at such election; and

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

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

[(*a*)–(*d*) refer to incompatibilities between membership in Parliament and other public office.]

(*e*) Every Esquimau person, whether born in Canada or elsewhere;

(*f*) (*as supplemented 24 July 1944 and amended 30 June 1948*) Every Indian person ordinarily resident on an Indian reservation who did not serve in the naval, military or air forces of Canada in the war of 1914–1918 or in the war that began on the tenth day of September 1939 (for the purpose of this provision, "Indian" means any person wholly or partly of Indian blood who is entitled to receive any annuity or other benefit under any treaty with the Crown).

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

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

(*i*) In any province, every person exempted or entitled to claim exemption or who on production of any certificate might have become or would now be entitled to claim exemption from military service by reason of the Order in Council of December sixth, 1898, because the doctrines of his religion make him averse to bearing arms, and who is by the law of that province disqualified from voting at an election of a member of the Legislative Assembly of that province.

[(*j*)[2] Every person who is disqualified by reason of race from voting at an election of a member of the Legislative Assembly of the province in which he or she resides and who did not serve in the military, naval, or air forces of Canada in the war of 1914–1918, or in the war that began on the tenth day of September 1939;]

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

(*k*)[2] [In any province, every person who is an inmate of an institution which is maintained by any government or municipality for the housing and maintenance of the poor, if such person is by the law of that province disqualified from voting at an election of a member of the Legislative Assembly of that province, and did not serve in the military, naval or air forces of Canada in the war of 1914–1918.]

(*l*)[2] [Every person who is disqualified from voting by reason of his employment for pay or reward in connexion with the election in the electoral district in which such person would otherwise be entitled to vote;]

(3) (*as added 30 June 1948*) Notwithstanding anything in this Act, any person, man or woman, who prior to the ninth day of August, nineteen hundred and forty-five, was a member of the naval, military, or air forces of Canada and has been discharged from such forces, and who, at a Dominion election, has not attained the full age of twenty-one years, is entitled to have his or her name included in the list of electors prepared for the polling division in which he or she

[1] *2 George VI.* Chap. 46 (assented to 1 July 1938). Amendments: *8 George VI.* (assented to 24 July 1944); *11–12 George VI.* Chap. 46 (assented to 30 June 1948) Ottawa, Law Printer to the King. See also the summary on p. 24 of this *Yearbook*. Text and information through the courtesy of the Canadian Delegation to the United Nations.

[2] Repealed on 30 June 1948.

ordinarily resides and is entitled to vote in such polling division, if such person is otherwise qualified as an elector.

(4) (*as added 30 June 1948*) Notwithstanding anything in this Act, a woman who is the wife of an Indian person, as defined in paragraph (*f*) of subsection two of this section, which Indian person has served in the naval, military or air forces of Canada in the war 1914–1918, or in the war that began on the tenth day of September, nineteen hundred and thirty-nine, is entitled to have her name included in the list of electors prepared for the polling division in which she ordinarily resides and is entitled to vote in such polling division, if such woman is otherwise qualified as an elector.

15. [Excludes from the right to vote every person employed by any person for pay or reward in reference to an election in the electoral district in which such person would otherwise be entitled to vote, and establishes certain exceptions to this rule.]

QUALIFICATIONS OF CANDIDATES

19. Except as this Act otherwise provides, any person, man or woman, who (*a*) is a British subject, (*b*) is a qualified elector under this Act and (*c*) is of the full age of twenty-one years, may be a candidate at a Dominion election.

PERSONS INELIGIBLE AS CANDIDATES

20. [Deals with persons ineligible as candidates because they have been found to have committed at an election any corrupt practice, and establishes certain incompatibilities between membership in the Dominion Legislature and other public office.]

THE POLL AND POLLING STATIONS

31. (2) Each polling station shall contain one or two compartments so arranged that each elector may be screened from observation, and may, without interference, or interruption, mark his ballot paper.

SECRECY

44. (1) Every candidate, officer, clerk, agent or other person in attendance at a polling station or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting; and no candidate, officer, clerk, agent or other person shall,

(*a*) At the polling station interfere with, or attempt to interfere with an elector when marking his ballot paper, or otherwise attempt to obtain information as to the candidate for whom any elector is about to vote or has voted.

[The following paragraphs contain other provisions designed to maintain the secrecy of the vote.]

TIME TO EMPLOYEES FOR VOTING

47. (1) (*as amended 30 June 1948*) Every employee who is a qualified elector shall, while the polls are open on polling day at a Dominion election, have three consecutive hours for the purpose of casting his vote; and if the hours of his employment do not allow for such three consecutive hours, his employer shall allow him such additional time for voting as may be necessary to provide the said three consecutive hours; no employer shall make any deduction from the pay of any such employee, nor impose upon or exact from him any penalty by reason of absence from his work during such consecutive hours; the additional time for voting above referred to shall be granted at the convenience of the employer.

. . . . . .

(3) (*as amended 30 June 1948*) Any employer who directly or indirectly, refuses, or by intimidation, undue influence, or in any other way, interferes with the granting to any elector in his employ, of the consecutive hours for voting, as in this section provided, is guilty of an illegal practice and of an offence against this Act punishable on summary conviction as in this Act provided.

CEYLON

CEYLON (CONSTITUTION) ORDER IN COUNCIL, 1946[1]

PART III

THE LEGISLATURE

GENERAL

7. There shall be a Parliament of the Island which shall consist of His Majesty, represented by the Governor, and two chambers to be known respectively as the Senate and the House of Representatives.

8. (1) The Senate shall consist of thirty senators, of whom fifteen (hereinafter referred to as "elected senators") shall be elected by the House of Representatives and fifteen (hereinafter referred to as "appointed senators") shall be appointed by the Governor acting in his discretion . . . .

9. (2) The election of senators shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote.

12. Subject to the provisions of this order, a person who is qualified to be an elector shall be qualified to be elected or appointed to either chamber.

13. (1) A senator shall be disqualified for being elected or appointed or for sitting or voting as a member of the House of Representatives.

(2) A person shall be disqualified for being elected or appointed as a senator or for sitting or voting in the Senate if he has not attained the age of thirty-five years.

(3) A person shall be disqualified for being elected or appointed as a senator or a member of the House of Representatives or for sitting or voting in the senate or in the House of Representatives:

(*a*) If he is not a British subject[2] or is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State;

[(*b*)–(*k*) contain other reasons for disqualification.]

[1] English text in *Ceylon Government Gazette, Extraordinary*, No. 9554 of 17 May 1946.

[2] See article 3: "'British subject' means any person who is a British subject according to the law for the time being of the United Kingdom, any person who has been naturalized under any enactment of any of His Majesty's dominions, and any person who is a citizen or subject of any of the Indian States as defined for the purposes of the Government of India Act, 1935."

THE CEYLON (PARLIAMENTARY ELECTIONS) ORDER IN COUNCIL, 1946[1]

PART I

PRELIMINARY

3. "British subject" means any person who is a British subject according to the law for the time being of the United Kingdom, any person who has been naturalized under any enactment of any of His Majesty's Dominions, and any person who is a citizen or subject of any of the Indian States as defined for the purposes of the Government of India Act 1935.

4. No person shall be qualified to have his name entered or retained in any register of electors in any year if such person:

(*a*) Is not a British subject, or is by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State; or

(*b*) Was less than 21 years of age on the first day of June of that year; or

(*c*) Has not, for a continuous period of 6 months in the 18 months immediately prior to the first day of June in that year, resided in the electoral district to which the register relates; or

(*d*) Is serving a sentence of imprisonment imposed by any court in any part of His Majesty's Dominions or in any territory under His Majesty's protection or in any territory in which His Majesty has from time

[1] *Ceylon Statutory Rules and Orders*, 1946, p. 2279. The *Parliamentary Elections (Amendment) Act*, No. 19 of 1948 (date of assent: 30 September 1948) left unchanged those parts of the Order in Council of 1946 reproduced here. Act No. 19 of 1948 confers a right of appeal on questions of law from the determination of an election judge in an election petition and provides for matters connected therewith.

to time jurisdiction, for an offence punishable with imprisonment for a term exceeding twelve months, or is under sentence of death imposed by any such court, or is serving a sentence of imprisonment awarded in lieu of execution of any such sentence; or

(*e*) Is, under any law in force in the Island, found or declared to be of unsound mind; or

(*f*) Is incapable of being registered as an elector by reason of his conviction of a corrupt or illegal practice or by reason of the report of an election judge in accordance with this order, or by reason of his conviction of an offence under section 52 of this order;[1] or

(*g*) Would have been incapable of being registered as a voter by reason of his conviction of a corrupt or illegal practice if the Ceylon (State Council Election) Order in Council, 1931, had remained in force . . . .

6. Any person not otherwise disqualified shall be qualified to have his name entered in a register of electors in any year if

(*a*) He is able to read and write English, Sinhalese or Tamil, and

(*b*) He has or holds one of the following qualifications, namely:

I. The possession or enjoyment of a clear annual income of not less than Rs. 600 during a continuous period of six months immediately prior to 1 June in that year;

II. The ownership of immovable property otherwise than as lessee of usufructuary mortgage, situate within the electoral district to which the register relates during a continuous period of six months in the 18 months immediately prior to the last day of June in that year, the value of which, after allowing for any mortgage debts thereon, is not less than Rs. 1,500;

III. The occupation, as owner or tenant, during a continuous period of 6 months in the 18 months immediately prior to the last day of June in that year of any house, warehouse, counting house, shop or other building . . . . situate within the electoral district to which the register relates, of the annual value of not less than Rs. 200, if situated within the administrative limits of any village committee, or Rs. 400 if situated elsewhere; . . . .

PART IV

ELECTIONS

28. Any person eligible for election as a member of Parliament may be nominated as a candidate for election.

42. (3) The voter . . . shall proceed to such place in the polling station as may be indicated by the presiding officer, and shall secretly mark such paper or papers as near as may be in accordance with the directions given for the guidance of voters under this order. The voter shall then fold the paper or papers so as to conceal his vote . . . .

[1] Section 52 lists electoral frauds and the penalties to be imposed upon offenders.

CHILE

POLITICAL CONSTITUTION OF THE REPUBLIC OF CHILE[1]
of 18 September 1925

CHAPTER II
NATIONALITY AND CITIZENSHIP

Art. 5. . . . . Naturalized persons shall have the right to hold public office by popular election only after being in possession of letters of naturalization for 5 years.

Art. 6. Chilean nationality is lost:

(1) By naturalization in a foreign country;

(2) By the cancellation of letters of naturalization;

(3) By entering the service, in time of war, of the enemies of Chile or of the allies of such enemies.

Persons who for any of the causes mentioned in this article have lost their Chilean nationality can be rehabilitated only by law.

Art. 7. Citizens with the right to vote are those Chileans who have completed 21 years of age, who can read and write and are inscribed in the electoral registers.

These registers shall be public and valid for the period laid down by law.

The inscriptions shall be continuous and shall be suspended only during the periods fixed by law.

In the popular elections the ballot shall always be secret.

Art. 8. The exercise of the right to vote is suspended:

(1) By reason of physical or mental incapacity which impedes free and responsible action;

(2) By reason of the indictment of a citizen for a punishable crime.

Art. 9. Citizenship, together with the right to vote, is lost:

(1) By having forfeited Chilean nationality;

(2) By condemnation to punishment involving loss of civic rights. Persons who for this reason have forfeited citizenship may petition the Senate for rehabilitation.

[1]English text in *British and Foreign State Papers*, vol. 121, 1925, pp. 1047—1074. Women's suffrage was introduced by an electoral law of 1949.

CHAPTER III
CONSTITUTIONAL GUARANTEES

Art. 10. The Constitution assures to all the inhabitants of the Republic:

. . . . . .

(8) Admission to all public offices and duties, subject to no other conditions than those imposed by the laws.

CHAPTER IV
THE NATIONAL CONGRESS

Art. 24. The National Congress is composed of two Chambers, the Chamber of Deputies and the Senate.

Art. 25. In the election of deputies and senators a system shall be employed which shall result in practice in the proportional representation of opinions and of the political parties.

Art. 27. To be elected a deputy or senator it is necessary to possess the requirements for citizenship, with the right to vote, and never to have been condemned to punishment involving the loss of civic rights.

Senators must, in addition, have completed 35 years of age.

[Articles 28 and 29 refer to incompatibilities between the office of deputy or senator and other public offices.]

THE CHAMBER OF DEPUTIES

Art. 37. The Chamber of Deputies is composed of members elected by the departments or by groups of adjacent departments within each province, as provided by law, by direct vote and in the manner laid down in the electoral law.

One deputy shall be elected for every 30,000 inhabitants and for any fraction thereof, not less than 15,000.

THE SENATE

Art. 40. The Senate is composed of members elected by direct voting by the nine provincial groups established by law, with due regard to the characteristics and interests of the different regions of the territory of the Republic. Each group may elect 5 senators.

CHINA

CONSTITUTION OF THE REPUBLIC OF CHINA [1]
of 1 January 1947

CHAPTER XII
ELECTION, RECALL, INITIATIVE AND REFERENDUM

Art. 129. The various kinds of elections stipulated in this Constitution, except as otherwise provided for by this Constitution, shall be carried out by the method of universal, equal and direct suffrage and by secret ballot.

Art. 130. Citizens of the Republic of China having attained the age of 20 years shall, in accordance with law, have the right of suffrage. Except as otherwise provided for by this Constitution and laws, all citizens having attained the age of 23 years shall, in accordance with law, have the right to be elected to office.

Art. 131. The candidates in all kinds of elections provided for in this Constitution shall campaign openly for the election.

Art. 132. In elections, duress and inducement by bribery shall be strictly forbidden. Suits arising out of elections shall be tried by a court of law.

Art. 133. A person who has been duly elected may, in accordance with law, be recalled by his or her constituency.

Art. 134. In the various kinds of elections, the quotas of women to be elected shall be fixed, and measures pertaining thereto shall be prescribed by law.

Art. 135. Measures with respect to the quota and to the election of delegates to the National Assembly from interior areas having peculiar conditions of living and habits shall be prescribed by law.

Art. 136. The exercise of the powers of initiative and referendum by the people shall be prescribed by law.

[1] English text in *Yearbook on Human Rights for 1947*, p. 80.

COLOMBIA

POLITICAL CONSTITUTION OF THE REPUBLIC OF COLOMBIA [1]

of 5 August 1885

TITLE II

INHABITANTS: NATIONALS AND ALIENS

Art. 14. Colombians who have completed twenty-one years of age are citizens.

Citizenship is lost, *de facto*, when nationality has been lost. It may also be lost, or suspended, by virtue of a judicial decision in the cases determined by law.

Those who have lost citizenship may request reinstatement.

Art. 15. The status of active citizenship is a prior indispensable condition for voting, being elected to office, and discharging public offices which carry authority or jurisdiction. The function of voting and the capacity of being popularly elected are reserved to males.

TITLE V

THE ORGANS OF THE PUBLIC POWER AND OF THE PUBLIC SERVICE

Art. 56. The Congress is formed by the Senate and the Chamber of Representatives.

TITLE VIII

THE SENATE

Art. 94. A senator must be a Colombian by birth, in full possession of citizenship, more than thirty years of age, and have discharged any of the offices of President of the Republic, Designate, member of the Congress, Minister of the Cabinet, chief of a diplomatic mission, governor of a department, magistrate of the court or of the superior tribunal, Councillor of State, Attorney-General of the nation, Comptroller-General of the Republic, a university professor for at least five years, or have exercised a liberal profession, with a university degree.

TITLE IX

THE CHAMBER OF REPRESENTATIVES

Art. 100. A representative must be a citizen in possession of full rights, not have been convicted of an offence deserving punishment acting on the person, and be more than twenty-five years of age.

TITLE XVII

ELECTIONS

Art. 171. All male citizens shall directly elect councillors, deputies to the departmental assemblies, representatives, senators and the President of the Republic.

Art. 172. In all popular elections or in those in a public body, in which more than two individuals are candidates for the same office, the system of the electoral quotient, or any other system shall be used which assures proportional representation of the parties. The law shall determine the manner in which this right shall be made effective.

Art. 179. The suffrage is exercised as a constitutional function. The person who votes or elects does not impose obligations on the candidate, nor does he confer any mandate upon the official elected.

Art. 180. The law shall determine all other matters concerning elections and the counting of votes, ensuring the independence of both functions, define offences which may impair the veracity and freedom of the suffrage, and establish the proper penalties.

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[1] Spanish text in *Constitución Política de la República de Colombia*, Bogotá, 1945. English translation based on the text in *The Constitutions of the Americas* (Russell H. Fitzgibbon, Editor-in-Chief; Cullen B. Gosnell, William A. Strozier, and William S. Stubbs, Associate Editors), Chicago, University of Chicago Press, 1948. The general organization of elections is governed by Act 39 of 16 December 1948 (*Diario Oficial* of 27 December 1948, pp. 948–953). It is declared in article 1 that the Act aims at creating an electoral organization independent of party influences from which no political party or group could benefit and which would guarantee by its rules the full responsibility and political impartiality of the officials assigned to it.

COSTA RICA

ELECTORAL CODE[1]

Legislative Decree Number 500 of 18 January 1946 as amended

Art. 1. All male Costa Ricans by birth or naturalization who have reached the age of 20, or 18 if they are married or are professors in any branch of learning, are electors, with the following exceptions:

(*a*) Those of unsound mind, provided that they are legally certified as such.

(*b*) Those undergoing a sentence involving loss of civil rights.

(*c*) Deaf mutes who cannot make themselves understood in writing.

(*d*) Those who have been declared insolvent or bankrupt.

Art. 2. It is compulsory for every elector to enter his name in the national electoral register and to vote in every public election.

Art. 3. The vote is a strictly personal act and shall be cast in a direct, universal, equalitarian and secret manner, subject to the exceptions provided in this decree, before the Electoral Boards appointed for the purpose, for the election of the President of the Republic, deputies to the Constitutional Congress, mayors or town councillors and, should the case arise, representatives to a National Constituent Assembly.

Art. 4. Each elector who can read and write is eligible for election to the offices mentioned in the preceding article, provided that, in each case, he also fulfils the requirements listed in the following paragraphs:

.....

(*b*) The following are the requirements which must be fulfilled by a candidate for election as a deputy to the Constitutional Congress or, should the case arise, to a National Constituent Assembly:

1. He must be a Costa Rican by birth or by naturalization and, in the latter case, he must have resided for at least four consecutive years in the country since his naturalization.

2. He must be a layman.

3. He must be more than 21 years of age.

4. He must possess a sum of not less than 500 colons or an annual income of not less than 200 colons.

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[1] Spanish text in: *Codigo Electoral, Decreto Legislativo No. 500 de 18 Enero de 1946 y sus reformas* (official publication). San José, November 1948. Text received through the courtesy of the Permanent Delegation of Costa Rica to the United Nations. English translation from the Spanish text by the United Nations Secretariat. See also the "Note on the Constitutional Situation", p. 47 of this *Yearbook*.

CUBA

CONSTITUTION OF THE REPUBLIC OF CUBA[1]
of 5 July 1940

TITLE VII
SUFFRAGE AND PUBLIC OFFICES

First Section
SUFFRAGE

Art. 97. Universal, equal, and secret suffrage is established as a right, duty and function of all Cuban citizens.

This function shall be obligatory, and all persons who, except because of obstacles admitted by law, fail to vote in an election or referendum, shall be subject to the penalties imposed by law, and shall be deprived of the capacity to hold a judgeship or any public office during the two years following the date of the infraction.

Art. 98. The people express their opinion upon the questions submitted to them by means of a referendum.

In every election or referendum, the absolute majority of validly cast votes shall decide, save for the exceptions established by the Constitution. The results shall be made public officially as soon as they are determined by the competent body.

A vote shall be counted solely and exclusively for the person in whose favour it was cast, and may not be accumulated to the benefit of any other candidate. Moreover, in cases of proportional representation, votes cast in favour of the candidate shall be counted in order to determine the party's quotient.

Art. 99. All Cubans of either sex, who have attained twenty years of age, are entitled to vote, except the following:

(*a*) Persons confined to institutions;

(*b*) Persons declared by a court to be mentally incapacitated;

(*c*) Persons deprived of the right to vote by a court on account of an offence;

(*d*) Members of the armed forces or police on active service.

Art. 100. The electoral code shall provide for an identification book, with a photograph of the voter, his signature, and fingerprints, and the other requirements necessary for adequate identification.

Art. 101. All forms of coercion to oblige a citizen to affiliate himself, vote, or manifest his choice in any voting operation, are punishable.

This violation shall be punished, and a double penalty shall be applied, in addition to permanent disqualification for the discharge of public office, when the coercion is practised by an authority or agent, official, or employee of such public office, by himself or through an intermediary person.

Art. 102. Organization of political parties and associations is free. However, no party may be organized which consists exclusively of persons of one race, sex, or class.

For the organization of new political parties, it is necessary to present, together with the corresponding application, a number of adherents equal to or greater than two per cent of the corresponding electoral census, depending upon whether such party is national, provincial, or municipal in character. A party that in a general or special election does not obtain a number of votes representing two per cent shall not be continued as such and shall be officially erased from the registry of parties. Candidacies may be presented only by those political parties which, having a number of affiliates not smaller than that fixed in this article, may have been organized or reorganized, as the case may be, before the election.

Political parties may be reorganized on one single day six months before each presidential, gubernatorial, mayoral, or conciliar election, or election of delegates to a constituent convention. The superior electoral tribunal shall officially erase all parties from the registry of parties, which have not been reorganized on such occasion.

The assemblies of the parties shall retain all their powers and may not be dissolved except by legal reorganization. In every case, the party assemblies shall be the only bodies in charge of making nominations, and this power may not in any case be delegated.

Art. 103. The law shall establish rules and proce dures that shall guarantee the participation of minorities in the formation of the census of voters, in the organization and reorganization of political associations and parties, and in the other electoral operations, and

[1] Spanish text in *Constitución de la República de Cuba*, Havana, 1944. English translation based on the text in *The Constitutions of the Americas* (cited above, p. 296), pp. 227-296.

shall assure them representation in the elective bodies of the State, provinces and municipalities.

Art. 104. All those provisions modifying electoral legislation that may be enacted after the calling of an election or referendum or before the persons winning an election take office, or final results of a referendum are known, are null.

Those modifications that are expressly sought by the superior electoral tribunal and are approved by a two-thirds vote of the Congress are excepted from this prohibition.

From the call for elections until the elected persons take office, the superior electoral tribunal shall have jurisdiction over the armed forces and over the police bodies for the sole purpose of guaranteeing the purity of the electoral function.

TITLE IX

THE LEGISLATIVE POWER

Second Section

THE SENATE, ITS COMPOSITION, AND ITS POWERS AND DUTIES

Art. 121. A senator must

1. Be Cuban by birth.

2. Have attained thirty years of age.

3. Be in full possession of his civil and political rights.

4. Not have belonged to the armed forces of the Republic in active service during the two years immediately prior to the date of his designation as candidate.

Third Section

THE CHAMBER OF REPRESENTATIVES, ITS COMPOSITION, POWERS AND DUTIES

Art. 124. A representative must:

1. Be a Cuban by birth or by naturalization, and in the latter case have completed ten years of continuous residence in the Republic, from the date of naturalization.

2. Have attained twenty-one years of age.

3. Be in full possession of his civil and political rights.

4. Not have belonged to the armed forces of the Republic in active service during the two years immediately prior to the date of his designation as candidate.

ELECTORAL CODE[1]

Law No. 17 of 31 May 1943

PART I

SUFFRAGE

Chapter II

THE RIGHT TO VOTE

Art. 2. All Cubans of either sex who have attained the age of twenty years are entitled to vote, except the following:

(*a*) Persons confined to institutions;

(*b*) Persons declared by a court to be mentally incapacitated;

(*c*) Persons deprived of the right to vote by a court on account of an offence;

(*d*) Members of the armed forces or police on active service.

Art. 3. Registration as an elector is compulsory for all Cubans of either sex who have attained the age of twenty years and are not included in the exceptions laid down in the preceding article.

Voting is compulsory for all electors.

Proof of any of the following impediments shall be a good defence in proceedings against an elector for failing to register as such or to vote in an election or referendum:

[Several justifying impediments are listed.]

Chapter III

THE RIGHT TO BE ELECTED

Art. 5. Every Cuban who is able to read and write, who is in possession of full civil and political rights, who has not been on active service in the armed forces of the Republic during the two years immediately preceding the date of his nomination as a candidate (except that for a candidate for the Presidency or Vice-Presidency the period shall be one year only) and who fulfils the respective conditions specified in the following paragraphs, is entitled to be elected:

.....

(*b*) A senator must

(1) Be a Cuban by birth, and

(2) Have attained the age of thirty years.

(*c*) A representative or delegate to the Constituent Convention must

[1] Spanish text in *Código Electoral de Cuba*, Havana, 1948. Text and information through the courtesy of Dr. Raúl Roa, Dean, Faculty of Social Sciences and Public Law, University of Havana. English translation from the Spanish text by the United Nations Secretariat.

(1) Be a Cuban by birth or naturalization, and in the latter case have completed ten years of continuous residence in the Republic from the date of naturalization; and

(2) Have attained the age of twenty-one years.

Art. 6. The following may not be elected:

1. Persons belonging to any of the classes excepted by article 2 of the present code.

2. Persons not possessing the respective legal qualifications for office required by article 5 of the present code.

[Items 3–5 and 7 refer to incompatibilities between the office of a senator or representative and other public offices.]

6. Persons not protected by any of the defences laid down in article 3 of this code who have within the preceding two years failed to vote in an election or referendum relating to any magistracy or public office.

PART II

POLITICAL PARTIES

Chapter I

ORGANIZATION OF PARTIES

Art. 27. Political parties may be organized freely, provided that no party may be organized or exist which consists exclusively of persons of one race, sex or class, or which has racial or class objectives, or is opposed to the representative democratic Government of the Republic, or Acts against full national sovereignty.

Subject to the foregoing exceptions, any citizens possessing electoral rights may meet as a political party for the purpose of voting or standing in any election, or of expressing their opinion in any referendum, held after the promulgation of this code.

.....

[The following articles contain detailed provisions about the constitution, articles of association etc., of political parties, and the task of the Superior Electoral Tribunal in authorizing the establishment of new parties.]

Chapter V

POLITICAL PROPAGANDA: GUARANTEES

Art. 62. Until the last week preceding an election, a political party may do any act of doctrinal or electoral propaganda such as holding meetings, demonstrations and the like, provided that in the course thereof no offence or contravention against the authorities of the State, individual rights, parliamentary inviolability, public order or decency or any other act punishable under the Social Defence Code is committed . . . .

[Part III deals with electoral jurisdiction and Part IV with electoral offences.]

CZECHOSLOVAKIA

CONSTITUTION

See the electoral provisions of the Constitution of 9 May 1948 on pp. 49 and 52 of this *Yearbook*.

CONSTITUTIONAL ACT No. 74
of 16 April 1948 [1]

Art. 1. (1) On the termination of the functions of the Constituent Assembly elected under Constitutional Act of 11 April 1946 concerning the Constituent National Assembly, legislative authority shall be exercised by the National Assembly elected under the present Act, either in accordance with the provisions of the new Constitution, or, if the new Constitution has not come into force, in accordance with the provisions of the present Act.

(2) The National Assembly shall consist of a single chamber of 300 members (deputies).

(3) It shall be elected for a term of six years.

Art. 2. (1) The National Assembly shall be elected by universal, equal, direct and secret ballot. Elections shall be conducted in accordance with the principle of proportional representation.

(2) Every citizen of the Czechoslovak Republic who has attained the age of 18 years and fulfils all other legal requirements shall have the right to vote.

(3) Any citizen of the Czechoslovak Republic who has attained the age of 21 years and who fulfils all other legal requirements may be elected a deputy.

[1] Texts of Acts Nos. 74 and 75 in *Sbírka zákonu a nařízeni (Collection of Laws and Decrees)* No. 30, of 24 April 1948. English translation from the Czech text by the United Nations Secretariat.

ELECTORAL ACT No. 75
of 16 April 1948

PART III
THE RIGHT TO VOTE AND TO BE ELECTED

Article 10

THE RIGHT TO VOTE

All citizens of the Czechoslovak Republic who fulfil the requirements for inscription in the electoral registers specified in article 2 (1) of Act No. 28, collection of 1946, and who are not disfranchised under article 11, shall have the right to vote for the election of deputies. The exercise of the franchise shall be conditional on inscription in the said electoral registers.

Article 11

PERSONS DEBARRED FROM THE RIGHT TO VOTE

(1) Persons debarred from inscription in the electoral registers or who have not registered their names therein shall be debarred from the right to vote (articles 3, 22 and 25 of Act No. 28, collection of 1946).

(2) No person who is noted in the permanent electoral register as debarred from exercising the franchise shall exercise voting rights (article 55).

Article 13

EXERCISE OF THE RIGHT TO VOTE

(1) Each elector shall have a single vote.

(2) He shall have the right to vote in one communal district only and shall cast his vote in person.

Article 15

ELIGIBILITY

(1) Any citizen of the Czechoslovak Republic who, on election day, fulfils the conditions prescribed by the Constitution and who has not been debarred from the right to vote under article 11, (1), may be elected a deputy or alternate deputy.

(2) No person shall be entered on a list of candidates

who, before the date for submission of the list of candidates (article 19), was noted in the electoral register as disqualified from exercising the right to vote (article 55).

Article 16

THE OBLIGATION TO VOTE

(1) Every elector shall be bound to take part in the poll.

(2) The following shall be exempted from this obligation:

(*a*) Persons over 70 years of age;

(*b*) Persons who are unable owing to sickness or physical disability to reach their polling station;

(*c*) Persons who are unable because of urgent official or professional obligations to go to the poll in time;

(*d*) Persons who on election day are not less than 100 km. distant from the polling station;

(*e*) Persons detained by an interruption of communications or other insuperable impediment.

(3) Employers must organize work in such a way as to enable employed personnel to take part in the poll and exercise the functions of members or alternate members of electoral organs.

(4) On election day, military duties shall, so far as service conditions permit, be organized so as also to enable military personnel not holding voters' cards to exercise the franchise away from their place of service. This applies similarly to personnel of the National Security Corps.

Article 24

. . . . . .

(3) The Chairman of the District Electoral Committee shall also arrange for the printing of blank voting papers (article 32) with the heading "Blank Paper" at the top and the seal of the District Electoral Committee at the bottom of the paper. The remaining blank surface shall be crossed by two diagonal strokes. They shall be issued on paper of the same colour, quality and size as voting papers, and in quantities corresponding to the provisions of the previous paragraph.

Article 29

VOTING

(1) Local electoral committees shall see that voting papers are properly handed in and that order is maintained in the polling station. Even if requested to do so by a voter, members of an electoral committee may not correct or complete a voting paper. Members of the electoral committee shall record the return of voting papers on two identical copies of the electoral register, against the names of the voters, and in the column designated for registering the votes cast in the election concerned.

(2) The local electoral committee, having been duly constituted, shall inspect the ballot box before the election begins. Only receptacles of sufficient size which can be closed with a lock may be used as ballot boxes.

(4) The elector himself shall place the voting paper in an envelope. He may for this purpose use a place separated off in such a way that he cannot be observed. He shall then place the envelope in the ballot box in the presence of the electoral committee, and shall deposit the remaining lists of candidates in a special receptacle so arranged that it cannot be ascertained how the elector has voted. The first to cast their votes in this way shall be the members of the local electoral committee and their alternates, the representatives of the supervisory organ and the office staff. Thereafter, votes shall be cast by all other voters in the order in which they present themselves at the polling station.

(5) Blind persons or persons who cannot because of physical disability cast their votes in person shall exercise their franchise in the company of an elector with whom they reside or whom they have freely chosen to accompany them. The guide shall hand in the voting paper or card of his principal, and the electoral committee shall ensure by enquiry that the voter has chosen his guide freely and knows his first name and surname, and shall make a special entry of this manner of voting in the voting record.

Article 32

CONTENTS OF VOTING PAPERS AND BLANK PAPERS

(1) An elector may hand in the list of candidates of any electoral group. Erasures, reservations and other alterations shall be invalid.

(2) An elector may hand in a blank paper (article 24, (3)).

Article 55

DISFRANCHISEMENT

(1) Disfranchisement shall be recorded in the permanent electoral lists against the name of:

(*a*) Any person sentenced for a criminal offence under any of the provisions specified in article 22 (1) of Act No. 28 (Collection of 1946), or under the Act of 19 March 1923 (No. 50 of the Collection) for the protection of the Republic, as amended and supplemented by the provisions issued before 30 September 1938, or under the Act of 13 May 1936 (No. 131 of the Collection) on the defence of the State, or under the Act of 13 February 1947 (No. 15 of the Collection) on the prosecution of black market activities and similar offences, or under the Act of 13 February 1947 (No. 27 of the Collection) on penal provisions for the protection of the two-year plan, if the sentence stipulated loss of the right to vote (forfeiture of civic rights, loss of civic dignity), but the judgment has not yet taken final effect;

(*b*) Any person sentenced for an offence under any of the provisions specified in article 22 (2) of Act No. 28 (1946 Legislative Series) by a decision or judgment of a criminal court which has not yet taken final effect;

(*c*) Any person sentenced with final effect, after 5 May 1945, for any criminal or administrative offence under any of the provisions specified in sub-paragraph (*a*) or (*b*), even if the sentence did not stipulate forfeiture of the right to vote or if the forfeiture of the right to vote has already lapsed;

(*d*) Any person sentenced under the Decree of the President of the Republic of 4 October 1945 (No. 105 of the Collection) on purge commissions for the investigation of the activities of public employees, as amended by the Act of 16 May 1946 (No. 130 of the Collection) and the Act of 19 December 1946 (No. 247 of the Collection), even if the judgment has not yet taken final effect; and, Slovakia, any person with regard to whom, in his capacity as a State or other public servant, it has not been decided, after making a loyalty check, whether he is to continue in his former office with retention of all service and salary claims, and any recipient of a pension or maintenance allowance not awarded his former level of pension or allowance after such check, even if the decision concerning the loyalty check has not yet taken final effect;

(*e*) Any person excluded from public and political life by a National Front Action Committee because he has been convicted in a criminal court under the Act for the protection of the Republic, or because criminal proceedings are pending against him under the same Act, or because he has committed an offence against the People's Democracy, or has actively and deliberately attempted to cause economic disorganization, or has abused his public or political functions for his own enrichment, in particular by accepting bribes.

(2) Notice of disfranchisement may be recorded, where this is necessary in the public interest, in the case of any person against whom criminal proceedings have been instituted in respect of a criminal offence under any of the provisions enumerated in (1) or against whom revisory criminal proceedings have been instituted under the Act of 25 March 1948 (No. 34 of the Collection) concerning the revision of criminal proceedings in certain cases of offences against the national honour.

(3) Decisions with regard to notices of disfranchisement under (2) shall be taken by the local National Committee acting through its local electoral committee (article 56). The Committee's decision shall be taken by a simple majority of votes, and shall be final.

(4) Notice of disfranchisement under (1) and (2) shall be inscribed in the permanent electoral registers by the local National Committee acting through its local electoral committee (article 56). Such notice of disfranchisement shall be subject to the relevant provisions of article 16 of Act No. 28 (Collection of 1946).

(5) Notice of disfranchisement shall be given and inscribed in the electoral registers not later than one day before the election. Where cause for such inscription ceases to exist, the notice shall be cancelled *ex officio* or on the application of the party; but no such action shall be taken after 31 December 1948.

(6) So long as notice of disfranchisement is recorded in the register, no voter's card may be issued to the person concerned. (Voter's cards issued to persons whose disfranchisement was recorded in the permanent electoral registers or pronounced on registration of their names therein shall be invalid even though the disfranchisement was recorded after the issue of the voter's card.) The local National Committee of the communal district mentioned in the voter's card, and in which the person concerned proposes to vote, shall at once be notified that the voter's card is invalid; where no communal district is mentioned on the voter's card, announcements of invalid voter's cards shall be published immediately in the *Official Gazette of the Czechoslovak Republic* and in Slovakia also in the *Official Journal*.

DENMARK

CONSTITUTION OF 5 JUNE 1915[1]

Art. 29. The *Rigsdag* consists of the *Folketing* and the *Landsting*.

Art. 30. Every man and woman who has the rights of citizenship, has completed his or her twenty-fifth year, and is domiciled in the Kingdom, has the right to vote for the *Folketing*, unless he or she

(*a*) Has by judgment been found guilty of a dishonourable offence and has not yet had his or her civil rights restored,

(*b*) Is or has been in receipt of parish relief and has neither repaid it nor been granted remission of payment,

(*c*) Is unable to dispose of his or her estate, owing to bankruptcy, or a decree pronouncing him or her unfit to manage his or her own affairs.

Art. 31. Every person who under article 30 is qualified to vote for the *Folketing* is eligible for election to the *Folketing* (see article 30).

Art. 32. (*as amended 10 September 1920*) . . . . The number of members of the *Folketing* shall be laid down by the Election Act, but shall not exceed 152 in number.

To secure a proportionate representation of the various opinions of the electorate the Election Act shall determine the manner of election, laying down detailed rules for the exercise of the right to vote, and deciding whether proportional representation shall be adopted concurrently with an election by a majority vote in each separate constituency.

In dividing the country into constituencies, account shall be taken not only of the number of inhabitants, but also of the number of electors and the density of the population.

Art. 34. Every elector for the *Folketing* who has completed his or her thirty-fifth year and has a permanent residence in his or her appropriate *Landsting* constituency, is qualified to vote for the *Landsting*.

Art. 35. Every person who is qualified to vote for the *Landsting* is eligible for election to it when he or she has a permanent residence in his or her appropriate *Landsting* constituency . . . .

[1] English text in *Act of Constitution of the Kingdom of Denmark* of 5 June 1915, with amendments of 10 September 1920, Copenhagen, Bureau of the *Rigsdag*. Information through the courtesy of Professor Max Sörensen, University of Aarhus. See also the "Note on the Development of Human Rights", par. 1 and 2, in this *Yearbook*, p. 55.

ELECTORAL ACT[1]

of 9 June 1948

I. LOWER HOUSE (*FOLKETING*)

THE RIGHT TO VOTE AND TO BE ELECTED

Art. 1. Every Danish citizen, of either sex, who has attained the age of 25 years and has a permanent residence in Denmark has the right to vote in elections to the Lower House, unless he or she:

(*a*) Has been found by a court guilty of an offence which in the public opinion is dishonouring, unless this effect of the judgment has lapsed. A punishable act—other than treason or any act harmful to the realm within the meaning of the addenda to the Penal Code—shall not be deemed to be dishonouring unless the offender has attained the age of 18 years and is sentenced unconditionally to imprisonment for a term of four months or more or to a penitentiary for habitual petty criminals (*Arbejdshus*) or to an establishment for the detention of dangerous criminals (*Sikkerhedsforvaring*); nor after the expiry of five years from the imposition of the penalty, or from final release from the penitentiary or preventive detention;

(*b*) Is in receipt of or has received public assistance constituting poor relief within the meaning of the law, or the disfranchising effect of which has not yet expired;

(*c*) Cannot dispose of his property because of bankruptcy or declaration of incapacity.

[1] Danish text in *Lovtidenden A*, No. 56 of 23 June 1948. English translation from the Danish text by the United Nations Secretariat. Article 123 provides for the repeal of earlier electoral provisions enacted between 1920 and 1947, and article 124 provides for the entry into force of the Act immediately upon publication.

A person shall not be entitled to vote if he is not registered in the electoral list.

Art. 2. A person who is entitled to vote under the provisions of article 1, paragraph 1, shall be eligible to the Lower House.

ELECTORAL LISTS

Art. 3. .... A voter having a permanent residence in two or more communes shall be registered in the electoral lists of that commune in which he was actually resident on 1 January of the year in question, provided that a voter shall be entitled to apply in writing before 10 February to the authorities of any other commune in which he has a permanent residence for registration in its electoral lists; a statement of his actual place of residence on 1 January shall be attached to his application. If such application is made, the voter shall be registered in the electoral lists of the commune in question, and the communal authorities shall give notice thereof in writing to the commune in which the voter was actually resident on 1 January; the voter shall not thereafter be registered in the electoral lists of the latter commune.

[Article 15 deals with judicial review of administrative decisions relating to electoral lists.]

ELECTORAL PARTIES AND CANDIDATES

Art. 24. A person shall not be eligible to the Lower House unless he is a candidate for a constituency and has been nominated by not less than 25 of the voters of the constituency in question. A candidate shall not be nominated by more than 50 voters.

II. UPPER HOUSE (*LANDSTING*)

THE RIGHT TO VOTE AND TO BE ELECTED

[Articles 35 and 112 deal with voting by correspondence.]

Art. 55. A person shall not take part, whether as voter or candidate, in the election of a member of the Upper House unless he satisfies the general conditions laid down in article 30 of the Constitution (article 1 of the Electoral Law) for election to the Lower House and has attained the age of 35 years.

A person who has a permanent residence in more than one commune may take part in an election to the Upper House only in that place in which he votes in elections to the Lower House (article 3).

In the Faröe Islands, election to the Upper House is carried out by an electoral meeting of the members of the Legislative Assembly (*Lagting*).[1]

Art. 56. A person shall be eligible for election to the Upper House in a constituency if he is entitled to vote in elections to the Upper House and has a permanent residence in the district.

A voter in elections for the Upper House shall be eligible for election as one of the other 19 members of the Upper House under the rules contained in article 89.

[1] About the right of Faröe Islanders to vote and to be elected, see also articles 10 and 14 of Act No. 137 of 23 March 1948, p. 56 of this *Yearbook*.

ACT No. 368 OF 6 JULY 1946 TO SUPPLEMENT THE CRIMINAL LAW RESPECTING TREASON AND OTHER OFFENCES AGAINST THE STATE[1]

Article 6

Sect. 1. If a person is found guilty of any act punishable under this Act he shall forfeit the rights mentioned below:

(1) The right to vote and to be elected to public office;

.....

Sect. 3. The forfeiture of rights shall last for five years, provided that the penalty fixed in the sentence is a term of imprisonment for less than four years. If the penalty is imprisonment for four years or more, the court shall decide whether the forfeiture of rights shall be permanent or for a fixed term of not less than five years. The rights shall be forfeited as from the day on which the sentence becomes definitive. It shall be stated in the sentence that the penalty carries forfeiture of rights together with the duration thereof.

[1] Danish text through the courtesy of Mr. Christian D. Holten-Eggert, Counsellor, Permanent Delegation of Denmark to the United Nations. English translation from the Danish text by the United Nations Secretariat. Information through the courtesy of Professor Max Sörensen, University of Aarhus.

DOMINICAN REPUBLIC

CONSTITUTION OF THE DOMINICAN REPUBLIC[1]

of 10 January 1942

TITLE III

POLITICAL RIGHTS

Section II

CITIZENSHIP

Art. 9. All Dominicans, of either sex, over 18 years of age, or below that age if they are or have been married, are citizens.

Art. 10. The rights of citizens are:

1. To vote.

2. To be eligible for elective office, subject to the limitations set forth in this Constitution.

Art. 11. The following entail the loss of the rights of citizenship:

1. Taking up arms against the Republic or furnishing aid in any attack upon it.

2. Sentence to a criminal penalty while the sentence is being served.

3. Deprivation of civil rights by a court.

4. Entering in Dominican territory the employment of any foreign Government without prior authorization of the Executive.

5. Adoption of another nationality.

TITLE V

Section I

THE LEGISLATIVE POWER

Art. 14. Senators and deputies shall be elected by direct vote.

Section II

THE SENATE

Art. 18. A senator must be a Dominican in full exercise of his political and civil rights and have attained the age stipulated in this Constitution.

Naturalized citizens may not be elected as deputies until ten years after acquiring Dominican nationality and subject to their having resided continuously in the Republic during the two years preceding their election.

Section III

THE CHAMBER OF DEPUTIES

Art. 21. A deputy must be a Dominican in full exercise of his political and civil rights and have attained the age stipulated in this Constitution.

Naturalized citizens may not be elected as deputies until eight years after acquiring Dominican nationality and subject to their having resided continuously in the Republic during the two years preceding their election.

TITLE XIII

ELECTORAL ASSEMBLIES

Art. 84 (as amended 10 January 1947). Elections shall be made by direct suffrage, the electors being registered and minorities being represented when more than one candidate is to be elected, in the manner prescribed by law.

TITLE XV

GENERAL PROVISIONS

Art. 101. A minimum age of 30 years is required to exercise the functions of.... senator, deputy, member of the revising assembly ....

[1] Spanish text in *Legislación electoral vigente*, official edition, Ciudad Trujillo, October 1946. Text and information through the courtesy of Mr. Horacio Vicioso, Under-Secretary of State for External Relations. English translation from the Spanish text by the United Nations Secretariat.

ELECTORAL ACT No. 386[1]

of 1 April 1926

with subsequent amendments

CHAPTER I

RIGHT OF SUFFRAGE

Art. 1 (as amended by Act No. 1134 of 23 May 1929). All citizens are entitled to vote, with the following exceptions:

1. Persons who have lost their rights of citizenship in accordance with article 11 of the Constitution, namely:

(*a*) Persons who have taken up arms against the Republic or have furnished aid in any attack upon it;

(*b*) Persons sentenced to penalty involving loss of liberty and civil disability or civil disability only, for the duration of the penalty;

(*c*) Persons sentenced by a court to loss of civil rights; and

(*d*) Persons in Dominican territory entering the employment of any foreign Government without the authorization of the chamber concerned.

[1] Spanish text in *Legislación electoral vigente*, official edition, Ciudad Trujillo, October 1946. Text and information through the courtesy of Mr. Horacio Vicioso, Under-Secretary of State for External Relations. English translation from the Spanish text by the United Nations Secretariat.

ECUADOR

NOTE ON THE RIGHT TO VOTE[1]

The right to vote is embodied in article 20 of the Political Constitution of Ecuador, which reads: There shall be direct and indirect elections in accordance with the Constitution and the laws.

Article 1 of the Electoral Act establishes the right to vote as a political right and a civic duty.

All natural-born or naturalized Ecuadorians, men and women, have the right to vote. An elector must be eighteen years of age and a citizen; a citizen must be able to read and write.

Voting is obligatory for men and optional for women.

The capacity to exercise political rights is different from civil capacity. To exercise the former it is necessary to be eighteen years of age, for the latter twenty-one years of age. Citizenship is an essential qualification for the exercise of political rights, but not for the exercise of civil rights—*e.g.*, executing a deed or making a contract.

In direct elections the vote is universal and secret; this right is exercised in electing the President, members of the Legislature, mayors, cantonal councils, and provincial councillors.

For the election of functionaries or officials, voting is indirect and is carried out through legislative and municipal representatives, or through representatives on such bodies organized under public or private law as are recognized by the Constitution.

Article 21 of the Constitution guarantees the representation of minorities in the election of more than two persons, legislators and councillors.

The Constitution also accords functional representation to institutions, universities, the armed forces and workers' organizations; the elections are carried out by these bodies themselves through electoral colleges.

The police guarantees regularity of popular elections; police officers are not entitled to vote.

Persons obliged to vote who do not do so incur sanctions provided by law.

The organs established in the electoral law have been set up to perform electoral functions independently of the executive power. In each province there is an electoral tribunal, and the supreme electoral tribunal acts in the capital of the Republic.

[1] Spanish text of the note received through the courtesy of Dr. Arturo Meneses Pallares, Counsellor, Permanent Delegation of Ecuador to the United Nations. English translation from the Spanish text by the United Nations Secretariat.

POLITICAL CONSTITUTION OF THE REPUBLIC OF ECUADOR[1]

of 31 December 1946

TITLE III

CITIZENSHIP

Art. 17. Every Ecuadorian, man or woman, who has completed eighteen years of age, knows how to read and write, and is a citizen, may as a general rule, vote and be elected or appointed to public office.

Art. 18. Rights of citizenship are lost:

1. By declaration of fraudulent bankruptcy.

2. By conviction in case of fraud in the management of public funds.

3. By conviction in case of violation of constitutional provisions, performed by public employees or officials, or

4. In other cases indicated by the Constitution and the laws.

Art. 19. Rights of citizenship are suspended:

1. By attempts against freedom of suffrage.

2. By a disability in pursuance of a judgment as long as the disability continues.

3. By a judgment giving reasons in support until final acquittal or until the sentence has been served in case of conviction.

4. By not having presented, within the legally prescribed period, the accounts of public funds, or by not having paid the balances declared in them, the disability lasting as long as the delay continues, or

5. In other cases indicated by law.

[1] Spanish text in *Registro Oficial*, Quito, 31 December 1946. English text based on the translation in *The Constitutions of the Americas* (cited above, p. 296), pp. 323-365.

TITLE IV
SUFFRAGE

Section I
ELECTIONS

Art. 20. There shall be direct and indirect elections, in accordance with the Constitution and the laws.

Art. 21. Representation of minorities is guaranteed in direct elections of more than two persons in the same action. The law shall determine the form in which such representation shall be made effective, and shall indicate the cases in which it shall be made to apply to indirect elections.

Art. 22. A voter must be in full possession of the rights of citizenship and possess the other qualifications required by law.

Subject to these qualifications, the vote in popular elections is obligatory for a man and optional for a woman. The law shall determine the penalty applying to the non-fulfilment of this duty.

The integrity of the electoral function is guaranteed by public forces which have no right of vote in universal suffrage and whose representation shall be functional.

Section II
ELECTORAL TRIBUNALS

Art. 23. There shall be a supreme electoral tribunal in the capital with jurisdiction throughout the Republic; it shall be organized in the following form:

Three members designated by the Congress;
Two by the President of the Republic, and
Two by the Supreme Court.
A double number of substitutes shall be designated.

The members shall continue four years in office and may be indefinitely re-elected; these offices shall be obligatory, and the members shall receive, for each session, an honorarium fixed by law.

Art. 24. The powers and duties of the supreme electoral tribunal are:

(*a*) To regulate and supervise, by itself or by means of its commissioners, the different acts of the electoral process, and to give instructions and take measures necessary for its proper fulfilment.

(*b*) To decide doubtful cases brought before it concerning the interpretation and correct application of the electoral law.

(*c*) To decide in second and final instance the complaints that any citizen may present with respect to violations of the law or inaccuracies in the voting, and to impose or order the corresponding penalties.

(*d*) To effect the reviews that according to the electoral law belong to it, and to issue the respective commissions, and

(*e*) To elect officials from among its members, to enact its by-laws, and to designate the members of the provincial electoral tribunals.

Art. 25. All officials of the administrative branch must give co-operation to the electoral tribunals in the fulfilment of their functions.

TITLE V
THE LEGISLATIVE FUNCTION

Section II
CHAMBER OF THE SENATE

Art. 42. The Chamber of the Senate is composed of two senators for each province of the sierra and of the littoral, elected by direct popular vote . . . .

Art. 44. A senator must:

1. Be an Ecuadorian by birth and be in full possession of the rights of citizenship.
2. Not be subject to any disqualification as provided for in this Constitution or in the electoral law, and
3. Have completed thirty-five years of age.

Section III
THE CHAMBER OF DEPUTIES

Art. 47. The Chamber of Deputies is composed of citizens whom the provinces of the Republic elect in conformity with the electoral law.

Art. 48. A deputy must:

1. Be an Ecuadorian by birth.
2. Be in full possession of the rights of citizenship.
3. Have completed twenty-five years of age, and
4. Not be subject to any disqualification as provided for in this Constitution or in the electoral law.

ELECTORAL ACT [1]
of 18 February 1947

PART I
THE RIGHT OF SUFFRAGE

Art. 1. The right to vote is a political right and a civic duty. Its exercise shall be subject to the provisions of this Act.

Art. 2. Every Ecuadorian, male or female, over 18 years of age, able to read and write, in full possession

[1] English text in *Yearbook on Human Rights for 1947*, pp. 89–92.

of his citizenship rights and fulfilling the requirements of this Act, is an elector.

Voting is obligatory for men and optional for women.

Art. 3. The status of elector confers the following rights:

(1) The right to elect those who are to exercise the functions of the public power; and

(2) The right to be elected and to fill the various offices deriving therefrom, in accordance with this Act.

Art. 4. There shall be direct and indirect elections. All citizens entered in the appropriate electoral register shall vote in the former, and the National Congress, organizations enjoying functional representation and such bodies of public or private law as are qualified to do so by the Constitution or the law shall vote in the latter.

Art. 5. The following shall be elected by popular direct and secret ballot: the President and the Vice-President of the Republic; provincial senators and deputies to the National Congress; provincial councillors; municipal councillors and mayors.

Functionaries and officials shall, as provided by law, be elected by indirect vote.

PART IV

THE POLITICAL PARTIES

Chapter I

ORGANIZATION OF THE PARTIES

Art. 54. The establishment and existence of political organizations are lawful, and it is the duty of the State to protect them.

Any act debarring a citizen from participation in the political life of the State or restricting him in the exercise of that right is punishable, with the exceptions set forth in the Constitution of the Republic.

Art. 55. The organization and activities of the political parties are free.

Art. 56. For electoral purposes, political parties must be entered in the Register of Parties, which shall be maintained by the Supreme Electoral Tribunal.

Art. 57. To be entered in that register, each party shall submit to the Supreme Electoral Tribunal an application signed by not less than 2,000 members, accompanied by a copy of its programme, which shall state the party's views on the problems confronting the Republic. These may not in any circumstances depart from the republican morality and institutions guaranteed by the Constitution.

When the requirements of the preceding paragraph have been fulfilled, the Supreme Electoral Tribunal shall enter the party concerned in the register, assigning a registration number in accordance with the date of approval.

Entry in the register and the registration number shall be valid for six years.

Art. 58. When an entry lapses, it may be renewed by again fulfilling the provisions of the previous article.

[Chapter II deals with political propaganda and its guarantees.]

PART VI

THE ELECTIONS

Chapter I

THE DIRECT POPULAR VOTE

Section I.—1. The Electoral Boards

Art. 82. The following shall be elected by direct popular vote: the President and Vice-President of the Republic, provincial senators, deputies, provincial councillors, and the municipal councillors and mayors.

Art. 83. The vote is a secret and personal act . . . .

[Part XI deals with electoral safeguards.]

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EGYPT

CONSTITUTION

Royal Rescript No. 42, dated 19 April 1923, establishing the Constitutional Regime of the Egyptian State [1]

II. THE CHAMBER OF DEPUTIES

82. The Chamber of Deputies shall be composed of members elected on the basis of universal suffrage in conformity with the provisions of the electoral law.

85. It shall be a condition, additional to the conditions set forth in the electoral law, that no person may be a deputy unless he is at least 30 years of age according to the Gregorian calendar.

[1] French text in Helen Miller Davis (cited above, p. 265), pp. 19–38. English translation from the French text by the United Nations Secretariat.

ELECTORAL LAW [1]

Legislative Decree No. 148, dated 19 December 1935

TITLE I

ELECTORS

1. Every male Egyptian who has attained the age of 21 according to the Gregorian calendar has the right to vote in elections for the Chamber of Deputies; every male Egyptian who has attained the age of 25 according to the Gregorian calendar has the right to vote in elections for the Senate.

3. No elector may exercise his right to vote more that once in the same election.

4. The following lose their electoral rights:

1. Anyone sentenced to a criminal penalty (*peine criminelle*);

2. Anyone sentenced to a correctional penalty for a criminal offence (*peine correctionnelle*).

In the case of the following, electoral rights shall be suspended for the periods stated, *viz.*:

(1) For a period of 15 years to run from the date of final conviction: anyone convicted for robbery, receiving of stolen goods, fraud, breach of trust, misappropriation of funds, bribery, fraudulent bankruptcy, forgery, use of forged documents, perjury, subornation of witnesses, indecent assault, incitement of minors to commit an immoral act, vagrancy and offences committed for the purpose of evading military service; the same shall apply to anyone convicted for attempt to commit any of the aforesaid offences referred to in the law.

(2) For a period of five years to run from the date of final conviction: anyone sentenced to a term of imprisonment for any of the offences or attempted offences against the electoral law referred to in articles 65, 66, 70, 71, 73 and 74 of the present law.[2]

(3) For a period of five years to run from the expiry of the sentence: anyone convicted for any of the offences referred to in Act No. 21 regarding Narcotic Drugs (1928). Sentences passed by courts other than the ordinary courts do not lead to loss of electoral rights.

5. The following are suspended from the exercise of electoral rights:

1. Persons under a disability and lunatics committed to an institution, such suspension to remain in effect for the period of the disability or committal (as the case may be);

2. Declared bankrupts, such suspension to remain in effect for five years from the date of the declaration of bankruptcy, or until prior discharge.

TITLE II

THE ELECTION OF MEMBERS OF THE CHAMBER OF DEPUTIES

23. To be elected a member of the Chamber of Deputies a person:

[1] French text in Helen Miller Davis, *op. cit.*, pp. 38–52. English translation from the French text by the United Nations Secretariat.

[2] These articles list electoral frauds, illicit electoral propaganda, untruthful allegations concerning the conduct of a candidate, false news, etc.

(1) Must be more than 30 years of age according to the Gregorian calendar;

(2) Must be registered on a roll of electors and must be able to read and write well;

(3) May not be an unattached officer or a soldier on leave;

(4) Must offer himself as candidate and pay into the Treasury of the *mudirīa* or Governorship, when declaring his intention to stand, a sum of 150 Egyptian pounds, which shall be used for local welfare in the electoral constituency if he withdraws or if he fails to obtain at least one-tenth of the votes regularly cast at the election. This sum shall be reduced by one-half in the case of candidates from *markaz* of El Derr and from the areas now under the Frontier Administration.

55. To be elected senator a person

(1) Must be more than 40 years of age according to the Gregorian calendar;

(2) Belong to one of the following categories:

[Certain categories are listed.]

(3) Must be able to read and write. The senator must also be registered on a roll of electors.

ETHIOPIA

CONSTITUTION OF 16 JULY 1931

Editor's Note on Electoral Provisions: According to section 31 of the Constitution, the members of the Senate are appointed by the Emperor, from among dignitaries who have served his empire over a long period of time in the ranks of princes, ministers, judges or chiefs of army.

According to section 32, provisionally, until the people will themselves be able to elect the members of the Chamber of Deputies, these members shall be chosen by the local chiefs.

FINLAND

DIET ACT [1]

of 13 January 1928

with subsequent amendments

CHAPTER I

GENERAL PRINCIPLES

Art. 4. Representatives are elected by direct and proportional suffrage; for these elections the country shall be divided into electoral districts numbering a minimum of twelve and a maximum of eighteen.

When local circumstances necessitate an exception to the proportional procedure, one or several districts, besides the number indicated above, can be established for the purpose of electing a single representative.

At elections every elector shall have the same right to vote.

The right to vote cannot be exercised by proxy.

Detailed provisions relative to districts, to dates, and to the procedure of elections shall be given by special law.

Art. 5. Whosoever shall seek to hinder freedom of the vote by persuasion or bribery shall be liable to a maximum of three months' imprisonment. If he has employed force or threats, he shall be liable to a prison term of one month to a year; if he is an official, he shall in addition be removed from office.

An official who takes advantage of his public authority to influence the election of representatives shall be removed.

An employer who does not grant an elector in his employment the opportunity to use his right to vote shall be liable to a fine.

Art. 6 (as amended 24 November 1944). Every Finnish citizen, man or woman, who before the year in which the election takes place has reached twenty-one years of age, shall be an elector.

The following shall be deprived of the right to vote; whoever

1. Is under guardianship;

2. Has not during the previous three years been carried present on the lists of the civil register as a Finnish citizen;

3. Has been committed to a workhouse or forced labour for vagrancy, until the expiration of the third year counting from the year in which he has been set free;

4. Has been deprived by judicial decree of his right to vote or of his civil rights, or has been declared unworthy of serving the country or of acting on behalf of another, whether or not the decree be final;

5. Is convicted of having, at the time of the election of representatives, bought or sold votes or of having made attempts in this direction, or has voted in more than one place, or has by force or threats disturbed the freedom of vote; he shall be deprived of his right to vote until the expiration of the sixth year counting from the year in which final judgment was rendered.

Art. 7 (as amended 24 November 1944). Every elector shall be eligible to become a representative, without regard to residence.

However, eligibility shall not extend to those who are in active military service.

Art. 8. Every person elected representative who loses his eligibility shall lose his mandate.

[1] Swedish text in: *Lilla Lagsamlingen*, No. 13, *Regeringsformen, Riksdagsordningen, ävensom andra Riksdagen berövande lagar*, Helsinki, 1946, pp. 38–41. Text, information and English translation through the courtesy of the Finnish Branch of the International Law Association.

ACT OF 31 JANUARY 1935 CONCERNING ELECTIONS TO THE *RIKSDAG* [1]

Sect. 39. The electoral committee shall be responsible for making all the necessary arrangements for conducting the election.

Special steps shall be taken to ensure that no person can obtain a ballot form before he has been proved to be entitled to vote, that voters are able to register their votes on the ballot forms in the conditions fully preserving the secrecy of the ballot, and that the necessary stationery is available.

[1] Swedish text in *Lilla Lagsamlingen*, No. 27, *Lagar angaende Riksdagsmannaval och val av Republikens President*, Helsinki, 1948, received through the courtesy of the Finnish Branch of the International Law Association. English translation from the Swedish text by the United Nations Secretariat.

The committee shall ensure that there is a sufficiently large space adjoining the polling room for voters waiting their turn to enter the polling room, and that this space is closed at the hour when the election is to be suspended or concluded. If a delay occurs during the day, the election committee shall decide whether the space shall be closed.

The council of State shall ensure that ballot boxes are provided from public funds for every polling district.

FRANCE

CONSTITUTION OF THE FRENCH REPUBLIC[1]
of 27 October 1946

PREAMBLE

. . .The law guarantees to women equal rights with men in all domains . . .

The Institutions of the Republic

TITLE I

SOVEREIGNTY

Art. 3. National sovereignty belongs to the French people.

No section of the people nor any individual may assume its exercise.

The people shall exercise it in constitutional matters by the vote of their representatives or by the referendum.

In all other matters they shall exercise it through their deputies in the National Assembly, elected by universal, equal, direct and secret suffrage.

Art. 4. All French citizens and nationals of both sexes, who are majors and enjoy civil and political rights, may vote under conditions determined by the law.

TITLE II

THE PARLIAMENT

Art. 5. The Parliament shall be composed of the National Assembly and the Council of the Republic.

Art. 6. The duration of the powers of each Assembly, its mode of election, the conditions of eligibility and the bases of ineligibilities and incompatibilities shall be determined by the law.

However, the two chambers shall be elected on a territorial basis, the National Assembly by universal, direct suffrage, the Council of the Republic by the communal and departmental bodies by universal, indirect suffrage. The Council of the Republic is renewable one-half at a time.

Nevertheless, the National Assembly may itself elect by proportional representation councillors whose number shall not exceed one-sixth of the total number of members of the Council of the Republic.

The number of members of the Council of the Republic may not be less than 250, nor more than 320.

Art. 8. Each of the two chambers shall pass upon the eligibility of its members and the regularity of their elections; it alone may receive their resignation.

TITLE III

THE OVERSEAS DEPARTMENTS AND TERRITORIES

Art. 77. An elective Assembly shall be instituted in each territory. The electoral regime, composition and powers of this Assembly shall be determined by law.

Art. 78. In the groups of territories, the management of matters of common interest shall be entrusted to an Assembly composed of members elected by the Territorial Assemblies.

Its composition and its powers shall be determined by law.

Art. 79. The Overseas Territories shall elect representatives to the National Assembly and to the Council of the Republic under the conditions determined by the law.

Art. 80. All nationals of the Overseas Territories shall have the status of citizens, in the same capacity as French nationals of Metropolitan France or the Overseas Territories. Special laws shall determine the conditions under which they may exercise their rights as citizens.

[1] French text in *Journal officiel* No. 253, of 28 October 1946 (Supplement). Official English translation by the Information Service of the French Embassy, New York. See also the survey "Electoral Rights" in the "Note on the Development of Human Rights" on p. 70 of this *Yearbook.*

ACT No. 46-2173 OF 1 OCTOBER 1946 FIXING AT 23 YEARS THE MINIMUM AGE OF ELIGIBILITY TO THE ASSEMBLIES AND ELECTORAL COLLEGES ELECTED BY UNIVERSAL AND DIRECT SUFFRAGE[1]

All Frenchmen of either sex who have attained 23 years of age can be candidates and be elected to the National Assembly and to any other assembly or electoral body which is elected by universal and direct suffrage.

[1] French text in *Journal officiel* No. 237, of 10 October 1946. English translation from the French text by the United Nations Secretariat.

NATIONAL ASSEMBLY ELECTION ACT[1]

No. 46-2151 of 5 October 1946

TITLE I

GENERAL PROVISIONS

Art. 1. The deputies to the National Assembly from Metropolitan France and the Departments of Guadeloupe, Martinique and Reunion shall be elected by list with one ballot, by proportional representation, without splitting of votes and without incomplete lists, in accordance with the provisions of the present Act.

Art. 2. The Department of Guiana shall constitute one electoral district electing one deputy.

The election shall be by uninominal list with one ballot.

Art. 3. The voting shall be by electoral districts....

Art. 4. No one may be elected Councillor of the Republic unless he has completed his thirty-fifth year of age. The reasons for ineligibility and incompatibility shall be the same as in the elections to the National Assembly.

TITLE III

ELECTION PROCEDURES AND DISTRIBUTION OF SEATS

CHAPTER I

ELECTION PROCEDURES

Art. 9. Each voter may cast one vote for one of the lists presented in each district.

TITLE IV

PROVISIONS RELATING TO ALGERIA

Art. 19. The provisions of the electoral law of Metropolitan France .... shall be applicable to Algeria under the conditions specified in the following articles.

Art. 20. The declarations required by article 5 of the present Act shall be addressed to the Prefect of the department.

Art. 21. The number of seats allocated to Algeria shall be 30, of which 15 shall be assigned to the first college and 15 to the second college.

The following groups of persons shall be included in the first college: Non-Moslem French citizens and Moslem French citizens already so defined by article 3 of the regulation of 7 March 1944; holders of a combatant's card in the war of 1914-1918; holders of the Croix de Guerre 1939-1940 for personal feats of arms; holders of the Croix de Guerre for the campaigns of Liberation; holders of the primary education certificate; alumni of secondary educational institutions who have completed the 6th to the 4th classes inclusive; and present or former elected members of the administrative councils of native benefit societies, artisans' guilds or agricultural organizations.

TITLE VI

PROVISIONS RELATING TO THE OVERSEAS TERRITORIES

Art. 38. The territories under the supervision of the Ministry of France Overseas shall be represented in the National Assembly by deputies whose number shall be determined in accordance with Table 3[2] appended to the present Act.

Art. 39. The voters shall be grouped either in single colleges or in two colleges (citizens with French civil status and natives), according to the nature of the territories and in accordance with Table 3[2] appended to the present Act.

Art. 40.[3] The following persons shall have the right to vote:

1. Persons registered on the electoral lists on the date of promulgation of the present Act.

2. Persons belonging to any one of the following categories:

(*a*) (*as supplemented 13 July 1948*). In French West Africa and Togoland, in French Equatorial Africa, the French Cameroons and in French Somaliland all French nationals and citizens of both sexes who are at least twenty-one years of age and belong to any one of the following categories:

(1) Educated notables as defined by the regulations in effect in each territory.

(2) Members and former members of local assemblies (governmental councils, administrative councils, municipalities, chambers of commerce, chambers of agriculture and industry, agricultural societies);

(3) Members and former members who can prove at least two years' membership in co-operative or producers' associations, members and former members of the administrative councils of native benefit societies;

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[1] French text in *Journal officiel* No. 253, of 28 October 1946 (Supplement). English translation by the Information Service of the French Embassy, New York.

[2] Not reproduced in this *Yearbook*.

[3] This article has been supplemented by the laws cited in the "Note on the Development of Human Rights", p. 70 of this *Yearbook*.

(4) Members of the national order of the Legion of Honour, *compagnons* of the Liberation, holders of the Military Medal, of the Medal of the French Resistance, the Croix de Guerre, the Colonial Medal, the order of agricultural merit or maritime merit, a French colonial order or local distinctions of which the lists shall be determined for each territory by a decree of the Governor-General or the Governor approved by the Minister of France Overseas;

(5) All regular or auxiliary Government functionaries, all those who hold or have held, for at least two years, a permanent position in a legally incorporated commercial, industrial, artisan or agricultural establishment or possess a regular work card;

(6) Regular and alternate presidents and assessors of native courts, former regular or alternate presidents or assessors who have not been removed or dismissed for a reason that implies unfitness to vote;

(7) Ministers of religion;

(8) Soldiers and former soldiers of the land, sea and air forces, persons classified in the first or the second part of the contingent;

(9) All merchants, manufacturers, planters, artisans, and in general, all holders of a licence;

(10) All chiefs or representatives of native communities and all village chiefs;

(11) All owners of property who hold a regular title-deed or a title established in accordance with the terms of the civil code;

(12) All holders of a hunting permit or a driver's licence;

(13) (*as added by Act No. 47-1606 of 27 August 1947*). All those who can prove ability to read either French or Arabic.

(*b*) In the French establishments in India, all persons of French nationality registered on the voters' lists;

(*c*) In Madagascar and the Comoro Islands:

(1) French citizens of both sexes who are at least twenty-one years of age and are registered in the voters' lists;

(2) Citizens who have retained their personal status and persons under French administration of both sexes, who are at least twenty-one years of age and meet the requirements specified in article 11 of the decree of 23 March 1945 creating a representative council, as well as soldiers and former soldiers of the land, sea and air forces and persons classified in the first or the second part of the contingent; all those who hold or have held, for at least two years, a permanent position in a legally incorporated commercial, industrial, artisan or agricultural establishment or who possess a regular work card; all merchants, manufacturers, planters, artisans and, in general, all holders of a licence; all chiefs or representatives of native communities and village chiefs, all owners of property to which is attached a title deed or a title established in accordance with the provisions of the civil code; all holders of a hunting permit or a driver's licence.

Art. 41. In districts that have the right to only one deputy, the election shall be by uninominal list with one ballot.

In case of a vacancy arising as a result of the invalidation of the election, or because of death, resignation or any other reason, an election must be held within three months of the day when the vacancy occurred. Vacancies which occur within the six months preceding the renewal of the National Assembly shall not be filled.

Art. 42. In districts that are entitled to at least two deputies, the election shall be by list with one ballot and by proportional representation, without splitting of votes and without incomplete lists.

The seats shall be distributed in each district among the various lists according to the rule of the highest average, in accordance with article 13 of the present Act.

Cases of vacancies, invalidation and total lack of representation shall be regulated by the terms of articles 17 and 18.

Art. 43. The electoral districts in the Overseas Territories shall be established according to Table 3[1] appended to the present Act.

[1] Not reproduced in this *Yearbook*.

COUNCILLORS OF THE REPUBLIC ELECTION ACT[1]

No. 48-1471 of 23 September 1948

TITLE I

COMPOSITION OF THE COUNCIL OF THE REPUBLIC

Art. 1. The Council of the Republic shall comprise 320 members:

(1) 253 councillors elected by the departments of Metropolitan France and the departments of Guadeloupe, Guiana, Martinique, and Reunion;

(2) 14 councillors elected by the Algerian departments;

[1] French text in *Journal officiel* No. 227, 24 September 1948. English translation by the Information Service of the French Embassy, New York.

(3) 44 councillors elected by the Overseas Territories and territories under trusteeship;

(4) 1 councillor representing the French citizens residing in Indochina;

(5) 5 councillors representing the French citizens residing in Tunisia and in Morocco—2 for Tunisia and 3 for Morocco;

(6) 3 councillors representing the French citizens living abroad.

TITLE IV

ELECTION OF COUNCILLORS OF THE REPUBLIC REPRESENTING OVERSEAS TERRITORIES AND TERRITORIES UNDER TRUSTEESHIP

Art. 51. In the Overseas Territories and the territories under trusteeship, the councillors shall be elected by the territorial or provincial assemblies or by the sections of these assemblies and the deputies representing the territories in question.

When the number of the councillors to be elected by a territorial or provincial assembly voting in a single college, or by a section of these assemblies, is less than three, the election shall be by majority vote on two ballots. On the first ballot, an absolute majority shall be required. On the second ballot, a relative majority shall be sufficient.

When the number of the councillors to be elected by a territorial or provincial assembly, voting as a single college, or by a section of these assemblies, is more than two, the election shall be by proportional representation, following the rule of the highest remainder, without split votes or preferential votes.

As for Madagascar, its five territorial assemblies shall constitute a single electoral body with two sections. The balloting shall take place on the same day, a Sunday, at the seat of each assembly. If a second ballot is needed, it shall take place on the following Sunday.

The forty-four councillors representing the Overseas Territories and the territories under trusteeship shall be distributed in accordance with Table No. 3[1] appended to the present Act.

The deputies elected by several territories must announce, at least two weeks before the date of the ballot, in the name of which territory they wish to exercise their right to vote.

The deputies elected in one or several territories where the Councillors of the Republic are designated by a double college shall exercise their right to vote in the section corresponding to the college which elected them. If they were elected by a single college and if they do not belong to the assembly of the territory where the election is taking place, they shall exercise their right to vote in the section of their choice.

TITLE V

ELECTION OF COUNCILLORS REPRESENTING THE FRENCH CITIZENS RESIDING IN TUNISIA, MOROCCO, AND INDOCHINA

Art. 55. The Councillors of the Republic representing the Frenchmen of Tunisia shall be elected by majority vote on two ballots, by the French members of the Grand Council of Tunisia and the French members of the municipal councils of Tunisia elected by universal suffrage.

The election shall be by a correspondence vote especially organized on the day set for the elections in Metropolitan France.

Art. 56. The three Councillors of the Republic who represent the citizens residing in Morocco shall be elected by the National Assembly, upon the nomination either of the French members of the Government Council or of the parliamentary groups that had members who represented French citizens residing in Morocco in the Council of the Republic.

The election of these councillors shall take place in public session, by majority vote on two ballots, within the week following the designation of the candidates.

Art. 57. Provisionally, the representatives in the Council of the Republic of the French citizens residing in Indochina shall be elected by the National Assembly, upon the nomination of the parliamentary groups.

The election shall take place in public session by majority vote on two ballots within the week following this nomination.

As soon as circumstances permit, an Act shall determine the manner of the election of the representatives of the French citizens residing in Indochina.

TITLE VI

ELECTION OF COUNCILLORS REPRESENTING FRENCH CITIZENS RESIDING ABROAD

Art. 58. Candidates numbering three times the number of seats to be filled shall be presented to the National Assembly by the following groups: Union of Frenchmen Abroad, Federation of French Teachers residing Abroad, Union of French Chambers of Commerce Abroad, National Federation of Veterans residing Abroad.

Art. 59. The National Assembly shall elect the three councillors representing the Frenchmen residing abroad in public session, by majority vote on two ballots, within the week following the designation of the candidates.

[1] Not reproduced in this *Yearbook*.

GERMANY

ELECTORAL PROVISIONS

Editor's Note: No electoral law governing a territory larger than any of the States of Germany was in force during 1948. Electoral provisions contained in the Constitutions and other enactments of German States have been printed in the *Yearbook on Human Rights for 1947* and in this *Yearbook.*[1]

[1] See *Yearbook on Human Rights for 1947*, pp. 104, 105, 112, 114, 119, 122, 124, and the present *Yearbook*, pp. 74, 76, 80.

GUATEMALA

CONSTITUTION OF THE REPUBLIC OF GUATEMALA[1]
of 13 March 1945

TITLE II
NATIONALITY AND CITIZENSHIP

Art. 9. Citizens are:

1. Male Guatemalans who have attained eighteen years of age.

2. Guatemalan women who have attained eighteen years of age and know how to read and write.

Rights and duties inherent in citizenship are: to elect, to be elected, and to choose for public office.

Suffrage is obligatory and secret for citizens who know how to read and write; optional and secret for women who are citizens; and optional and public for illiterate citizens.

All males who have attained eighteen years of age and know how to read and write have the obligation of being inscribed in the civic register during the year in which they obtain citizenship. Such inscription is a right of women and illiterates. Illiterates may exercise the suffrage six months after having been inscribed.

To be inscribed in the civic register, those who know how to read and write must appear before the respective authority with their documents of identity and sign the inscription; illiterates, in addition to presenting the documentation referred to in the previous clause, must be accompanied by two witnesses of good standing, citizens and residents of the vicinity, who shall guarantee the civic capacity of the person who appears, and his desire to exercise the right of suffrage.

No one may oblige a woman who is a citizen, or an illiterate, to be inscribed in the civic register or to vote. Nor may any citizen be compelled to vote for any particular candidate. Officials, public employees, and employers who violate any of the provisions contained in this paragraph shall suffer a punishment acting on the person and a fine as determined by law, and shall be suspended from their rights of citizenship and disqualified from holding public office for the time determined by law.

Illiterates are eligible only for municipal offices.

Art. 14. Citizenship is suspended:

1. By a warrant of arrest issued in the case of an offence punishable by correctional imprisonment and which is not bailable under bond; this shall not apply to political offences.

2. By final sentence of conviction issued in the case of an offence.

3. By a disability in pursuance of a judgment; or

4. In the other cases provided for by this Constitution.

Art. 15. Suspension of citizenship ceases:

1. By a decree of freedom which revokes that of imprisonment.

2. By a stay of proceedings.

3. By a final verdict of acquittal.

4. By having served the sentence, when rehabilitation is not necessary.

5. By amnesty; or

6. By rehabilitation.

Art. 16. Citizenship is lost:

1. By loss of nationality.

2. By assisting another country or a foreigner against Guatemala in any diplomatic claim or before an international tribunal.

3. In the other cases provided for by this Constitution.

Art. 17. Citizenship is recovered:

1. By residence in the territory of the Republic during the time determined by law after the recovery of nationality.

2. By administrative decision in the case of the second clause of the preceding article; or

3. In accordance with the law in other cases.

TITLE V
THE LEGISLATIVE POWER

Chapter I
CONGRESS

Art. 111. The Congress is composed of deputies

[1] Spanish text in *Constitución de la República de Guatemala*, Guatemala City, 1946. English translation based on the text in *The Constitutions of the Americas* (cited above, p. 296) pp. 398–441.

elected in conformity with the provisions of the Constitution and the electoral law . . . .

Art. 112. A deputy must be a native-born Guatemalan, in full possession of his rights of citizenship, of secular status, and have attained twenty-one years of age.

[Article 113 refers to the incompatibilities between the office of a deputy and other public office.]

ELECTORAL ACT[1]

of 9 July 1946

CHAPTER I

SUFFRAGE

Art. 1. Suffrage is compulsory and secret for male citizens who know how to read and write; consequently they shall be bound to enter their names on the civil register in the course of the year during which they acquire citizenship and to vote in elections.

Art. 2. Suffrage is optional and secret for female citizens; it is optional and public for illiterate citizens even if they can sign their names. Hence no person, political party or authority may compel these persons to enter their names as voters in the civic register or to vote.

Art. 3. Voting is a *strictly personal act*, and every citizen of either sex who is bound or entitled to vote shall do so personally, in accordance with the provisions of this Act.

Art. 4. Voters are free to vote for the candidate whom they prefer and they may not be compelled to vote for a specified person.

Art. 5. Illiterate citizens shall not be entitled to vote until six months after having entered their names as citizens in the civic register; in evidence thereof they shall be obliged to produce their citizenship book in which shall be entered the date of registration.

CHAPTER II

RIGHT TO VOTE AND TO BE ELECTED

Section I

ELECTORS

Art. 6. The following persons are entitled to vote:

(*a*) Male Guatemalans over the age of eighteen years; and

(*b*) Female Guatemalans over the age of eighteen years who know how to read and write.

Art. 7. Registration in the civic register constitutes qualification for voting, and the citizenship book issued by the office of the civic register in accordance with the law shall be deemed to be sufficient evidence of such qualification.

Art. 8. The following persons are not entitled to vote:

(1) A person against whom a writ of custody has been issued for an offence punishable by correctional imprisonment and who is not entitled to be released on bail, except in the case of political offences;

(2) A person who has been finally sentenced for an offence, except in cases where the penalty has been served, provided that reinstatement in civic rights is not required or that the person has been reinstated in such rights or has received an amnesty;

(3) A person who has been sentenced by a court to deprivation of civil rights;

(4) A person who has lost Guatemalan citizenship in the cases mentioned in article 16 of the Constitution of the Republic and has not recovered such citizenship as laid down in article 17 of the Constitution;

(5) A member of the armed forces;

(6) A person who has been convicted of treason as laid down in article 133 of the Constitution for an offence against the principle of non-immediate re-eligibility to the Presidency of the Republic;

(7) A person whose citizenship rights have been suspended in accordance with article 14 of the Constitution.

Art. 9. A voter who is under obligation to vote may abstain from doing so for one of the following causes: sickness, physical impossibility or *force majeure*, provided that he adduces satisfactory evidence that he was prevented from attending at the polls.

It shall not be lawful for public officials or authorities under any pretext whatsoever to prevent their subordinates who are qualified voters from attending at the polls.

Art. 10. Detention in a centre established for that purpose shall be deemed to be a sufficient excuse for failure to vote. This notwithstanding, the officials in charge of such centres shall be bound to provide the inmates who are qualified voters with the requisite facilities to enable them to exercise their suffrage.

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[1] Spanish text: *Ley Electoral* (Publications of the Ministry of the Interior), Guatemala, 1948. Text through the courtesy of Mr. Julio Camey Herrera, Chief of the Legal Department of the Ministry of External Relations, Guatemala City. English translation from the Spanish text by the United Nations Secretariat.

Section II

CANDIDATES

Art. 11. A candidate for office shall be bound to have all the qualifications required for such office by the Constitution of the Republic and the relevant laws, and no candidate may be nominated who does not possess the qualifications required by law.

Art. 12. All candidates must possess the following qualifications: they must know how to read and write; they must be of good repute and possess the special qualities requisite for the discharge of the office for which they desire to stand. This notwithstanding, an illiterate person may stand for a municipal office, provided that he is registered as a citizen.

No citizen may stand for the office of President of the Republic, deputy, mayor or councillor if it is proved that he has received or is receiving money from a foreign company or an international association or party for the purposes of his electoral campaign or party.

Similarly, no citizen may be elected to any office as mentioned above if he represents or has represented during the year immediately preceding the election a foreign company which ordinarily operates in Guatemala or operated there during the year preceding the election and which on account of its economic power is in a position to jeopardize the sovereignty of the State.

The acts mentioned in the second paragraph of this article and acceptance of candidature in the circumstances mentioned in the third paragraph of this article shall be deemed dishonourable conduct within the meaning of article 10 of the Constitution of the Republic.

Art. 13. Every citizen shall be entitled to challenge a candidate's qualifications in writing, provided that he submits documents in support of his allegations. Such a challenge may be submitted before the candidate's nomination, and shall be examined for the purposes of such nomination by the Congress or by the competent electoral board according to the office for which the election is held.

HAITI

CONSTITUTION OF THE REPUBLIC OF HAITI[1]
of 22 November 1946

TITLE II

CHAPTER II

CIVIL AND POLITICAL RIGHTS

Art. 7. Every Haitian who has completed his twenty-first year of age may exercise political rights, subject to the other conditions determined by the Constitution and the law.

Aliens may acquire Haitian nationality in conformity with the regulations established by law.

Aliens naturalized as Haitians are not admitted to the exercise of political rights until ten years after the date of their naturalization.

Art. 9. The exercise, possession, suspension, and loss of political rights are regulated by law.

TITLE III

CHAPTER II

THE LEGISLATIVE BRANCH
OR THE NATIONAL REPRESENTATION

Section I

THE CHAMBER OF DEPUTIES

Art. 38. Deputies are elected by a relative majority of the votes cast in the Primary Assemblies subject to the conditions and according to the procedure prescribed by law.

Art. 39. A member of the Chamber of Deputies must:

1. Be a Haitian by birth and never have renounced his nationality;

2. Have completed his twenty-fifth year of age;

3. Be in possession of his civil and political rights;

4. Have resided for at least one year in the *arrondissement* to be represented.

Section II

THE SENATE

Art. 42. The Senate is composed of twenty-one members, elected by the primary assemblies of each department . . . .

Art. 43. A senator must:

1. Be a Haitian by birth and never have renounced his nationality;

2. Have completed his thirtieth year of age;

3. Be in possession of his civil and political rights;

4. Have resided for at least two years in the department to be represented.

[1] French text in *Constitution de la République d'Haïti, Port-au-Prince, 1946.* English translation from the French text by the United Nations Secretariat.

ELECTION AND ELECTORAL PROCEDURE DECREE[1]
dated 12 February 1946, as amended by the decree of 18 February 1946

Art. 1. All male Haitians who have completed their twenty-first year and are entitled to exercise their civil and political rights are electors.

Art. 2. The right to exercise the franchise shall be lost if Haitian citizenship is lost, for the same reasons as cause the loss of the said citizenship, or in consequence of a final conviction following trial, if the sentence is for life or involves loss of liberty and civic rights.

Art. 3. The right to exercise the franchise shall be suspended for such time as the grounds for such suspension continue to exist; *viz.*:

[1] Text and information through the courtesy of Dr. Clovis Kernisan, Professor in the Faculty of Law, Port-au-Prince. English translation from the French text by the United Nations Secretariat. This decree, which was in force in 1948, was issued by the Military Executive Committee in which power was provisionally vested after the revolution of January 1946 and which adapted earlier legislation to the circumstances of the time.

1. In consequence of punishable or fraudulent bankruptcy;

2. On judicial suspension of civil rights;

3. On committal for trial by process of law;

4. On convictions following trial in a court of law by default if the sentence is for a term and involves loss of liberty or civic rights or if the sentence is for correctional penalties involving the suspension, wholly or in part, either of civil rights or of political rights only.

5. In consequence of conviction for refusal of jury service in circumstances entailing suspension of political rights;

6. In consequence of conviction for electoral fraud. Suspension shall in this case be for three years.

Art. 4. Naturalized Haitians shall not be allowed to exercise the franchise unless they furnish proof of five years' residence in the territory of the Republic.

Art. 5. The status of elector shall be established by registration in the electoral roll, either of the commune in which the elector has his civil domicile or in the commune where he has his present political domicile and by his elector's card.

Civil domicile is regulated by the Civil Code.

Political domicile is acquired by not less than one year's unbroken residence in the commune.

Persons required in the performance of public duties to reside in a commune may be registered in the electoral roll without regard to residence qualifications.

Art. 20. A member of the Chamber of Deputies must:

1. Have completed his twenty-fifth year;

2. Be entitled to exercise his civil and political rights,

3. Have resided for at least one year in the *arrondissement* to be represented.

[The following sub-paragraphs determine what public functions are irreconcilable with the office of deputy.]

Persons covered by one of the cases referred to in article 3 of the present decree are likewise ineligible.

Art. 42. .... The voter shall bring his ballot form, which shall be prepared outside the Assembly. The ballot form shall be handwritten or printed on white paper and shall not bear any marks on the outside. If the elector has not a prepared ballot form, the Vice-Chairman shall give him a blank form after first showing both sides of the form to the officers of the Assembly.

Art. 43. .... The ballot form shall be folded and handed to the Chairman, who shall, after ascertaining that no other ballot form is concealed therein, deposit the form in the ballot box.

HONDURAS

POLITICAL CONSTITUTION OF HONDURAS[1]
of 28 March 1936

TITLE II
NATIONALITY AND SOVEREIGNTY
Chapter III
CITIZENS

Art. 24. Citizens are:

1. All male Hondurans who have attained twenty-one years of age.

2. All male Hondurans who have attained eighteen years of age and are married.

3. All male Hondurans who have attained eighteen years of age and can read and write.

Art. 25. The rights of citizenship are: to exercise the suffrage and to be eligible for public offices, according to law.

Persons holding high positions in the Army or the police shall not exercise the suffrage, but shall be eligible in cases not prohibited by law.

Art. 26. The status of citizenship may be suspended, lost or re-established according to the following provisions:

It shall be suspended:

1. In case of a warrant of arrest, sentence of a court or declaration of just cause for suit.

2. In case of loss of political rights by a final sentence of a court.

3. In case of civil interdiction or for being declared a fraudulent bankrupt, or for vagrancy declared according to law.

It shall be lost:

1. For accepting, without the necessary permission, decorations which imply obedience or submission to the Government which confers them.

2. For accepting employment, either military or political, from a foreign nation without necessary permission.

3. For aiding an alien or a foreign Government against the nation in any diplomatic claim or before an international court.

It shall be regained:

1. By confirmed stay of proceedings.
2. By final acquittal.
3. By completion of sentence.
4. By amnesty or pardon.
5. By rehabilitation according to law.

Art. 27. The active vote is a public, obligatory and irrenounceable function.

Art. 28. Suffrage shall be exercised in a direct and secret manner. Elections shall be held in the form and under the conditions prescribed by law.

Art. 29. Only citizens who have attained twenty-one years of age, and are in possession of their rights, are eligible to vote, subject to the exceptions established by law.

TITLE V
THE LEGISLATIVE POWER
Chapter I
ORGANIZATION

Art. 89. The legislative power shall be exercised by a Congress of Deputies . . . .

Deputies must be citizens in full possession of their rights, who have attained twenty-five years of age, are Hondurans by birth and natives or residents of the department from which they are elected.

[Article 97 refers to incompatibilities between the office of a deputy and other public offices.]

[1] Spanish text in *Constitución Politica de la República de Honduras*, Tegucigalpa, 1936. English translation based on the text in *The Constitutions of the Americas* (cited above, p. 296), pp. 469–495.

HUNGARY

ELECTORAL ACT

Act No. VIII of 1945, as amended by Act No. XXII of 1947 [1]

Art. 1 (as amended by Act No. XXII of 1947). Upon the expiry of the term of office of the National Assembly constituted as a result of the elections held on 4 November 1945 pursuant to Act No. VIII of 1945, the functions of the National Assembly (*Nemzetgyülés*) shall be transferred to a State assembly (*országgyülés*) consisting of one chamber.

.....

The first elections to the State Assembly shall be held within sixty days of the dissolution of the National Assembly constituted on 4 November 1945 pursuant to Act No. VIII of 1945.

Art. 2 (as amended by Act No. XXII of 1947). The term of office of the State Assembly shall be four years from the date of its first meeting. Part of the deputies to the State Assembly shall be elected from the local lists of the parties by universal, secret, direct and equal suffrage in the proportion of one deputy to each fourteen thousand valid ballots; sixty more deputies shall be elected at the same poll from the national lists of the parties. In all cases in which Act No. VIII of 1945 prescribes the number of twelve thousand ballots for the allocation of one deputy's seat, such number shall, after the entry of this Act into force, be replaced by the number fourteen thousand.

Only those parties shall take part in elections whose right so to do has been recognized by the National Committee of Hungary after considering their objects, leaders and composition from a democratic point of view.

Art. 4 (as amended by Act No.XXII of 1947). All Hungarian citizens who have attained or will attain twenty years of age during the year in which the electoral rolls are drawn up or amended, and have on 1 May of the year in which the electoral rolls are drawn up or amended, a fixed place of residence within the frontiers of Hungary as delimited by the Peace Treaty, shall be entitled to vote in elections to the State Assembly. In determining entitlement to vote in elections to the State Assembly, the captivity of repatriated prisoners of war shall not be deemed to have put an end to their previous residence.

Subject to compliance with the requirements o paragraph 1, persons who have settled in Hungary in virtue of the Hungary-Slovakia Agreement on exchange of population and have been completely exonerated by screening (*igazolasi eljaras*) shall also be entitled to vote in elections.

For purposes of franchise persons born within the territory of Hungary as of 31 October 1918 and having their place of residence within the frontiers of Hungary as of 31 December 1937 shall, unless otherwise provided, also be deemed to be Hungarian citizens.

Persons satisfying the National Committee of Hungary that they took up arms in the campaign against the Germans or the Fascists shall be entitled to vote upon reaching the age of nineteen years or if they reach that age during the year in which the electoral rolls are drawn up.

Art. 5. The following shall not be entitled to vote:

(1) Persons disqualified by a judgment on account of mental illness;

(2) Insane persons who, not being disqualified, are declared insane by a judgment of provisional disqualification or by a certificate issued by a State medical practitioner;

(3) Persons charged with or accused of committing a crime or misdemeanour for gain and remanded under a judge's warrant or sentenced to imprisonment;

(4) Persons deprived of the exercise of their political rights by a final sentence of a court, for the term laid down in the judgment, except persons whose restoration must be declared under Orders 200/1945 M.E. and 285/1945 M.E.;

(5) Persons convicted by the People's Court or indicted by the People's Prosecutor;

(6*a*) (*as amended by Act No. XXII of 1947*) Persons placed in the custody of the police authorities (interned) at the time of the elections;

(6*b*) Persons placed for political reasons in the custody of the police authorities (interned) after the liberation and before 1 June 1947, unless such police action has been discontinued as groundless;

(6*c*) Persons placed under police supervision for political reasons on 1 June 1947;

[1] Hungarian text in *Évi Országos Törvénytar (Statutes)*, issues of 16 September 1945, pp. 53–73, and 24 July 1947, pp. 255–261. Text received through the courtesy of Mr. Andrew Sik, Minister of Hungary, Washington. Translation by the United Nations Secretariat.

(7) Persons placed under the supervision of the vice police for their professional activities, and other persons living with such persons.

(8) (*as amended by Act No. XXII of 1947*) Persons whose property has been confiscated under a final decision pursuant to article 4 of Order No. 600/1945 M.E. on the abolition of large estates and distribution of land to the peasants . . . .

(9) Persons who held office in any of the organizations, associations or parties enumerated in article 3 of Order No. 529/1945 M.E.,

[Here follows an enumeration of organizations, associations and parties.]

with the exception of persons completely exonerated by screening or persons who resigned their offices before 22 June 1941 and subsequently adopted an anti-Fascist attitude;

(10) (*as amended by Act No. XXII of 1947*) Persons affected by the exchange of population pursuant to Order No. 12.330/1945 M.E.;

(11) Persons in respect of whom one of the statutory screening commissions has given a decision requiring their retirement or dismissal, or prohibiting them from practising their profession, or withdrawing their qualifications for a term exceeding one year.

(12) Members of the former Royal Hungarian Gendarmerie who have not submitted themselves to screening as established by Order No. 1690/1945 M.E. or who have submitted themselves thereto and have not been exonerated;

(13) (*as added by Act No. XXII of 1947*) Persons who occupied leading positions in any of the organizations (parties, associations, societies, etc.) enumerated below and dissolved pursuant to article 6 of Order No. 529/1945 M.E.

Provided that this ground for disqualification shall not apply to persons resigning their offices before 22 June 1941 and subsequently adopting an anti-Fascist (democratic) attitude.

(14) (*as added by Act No. XXII of 1947*) Persons obliged to resign their offices pursuant to article 2 (*a*) of Order No. 5000/1946 M.E., unless reinstated under Order No. 9050/1946 M.E. or Order No. 6030/1947 M.E. or unless the decisions made in their regard under Order No. 5000/1946 M.E. have been annulled under Order No. 11.000/1946 M.E.

(15) (*as added by Act No. XXII of 1947*) Persons whose right to a retirement pension has been abolished or curtailed by a decision under article 3 of Order No. 6800/1946 M.E.

(16) (*as added by Act No. XXII of 1947*) Persons dismissed from private undertakings pursuant to article 1, paragraph 3, of Order No. 8660/1946 M.E.

(17) (*as added by Act No. XXII of 1947*) Persons who, upon the approach of the army of liberation, left the national territory for Germany or a German-occupied territory, unless they returned to Hungary before 31 October 1945.

(18) (*as added by Act No. XXII of 1947*) Persons who gave information false in a material particular when filling in the census forms provided for in article 10, paragraph 2, of Act No. VIII of 1945, or who failed to give information needed for the execution of articles 4 and 5 of Act No. VIII of 1945 as amended by articles 5 and 6 of this Act.

The grounds for disqualification enumerated in paragraphs 6*a*, 6*b*, 9, 11, 12, 13, 14, 15, 16 and 17 shall cease to have effect on 1 August 1951 and the grounds for disqualification referred to in paragraph 18 shall cease to have effect at the end of the civil year following the date of the offence.

Art. 6. (1) Persons entitled to vote at the time of the elections shall be eligible as deputies to the State Assembly, whether or not their names are entered in the electoral rolls. Serving members of the regular armed forces or police shall not be eligible.

(2) (*as added by Act No. XXII of 1947*) The following shall not be eligible as deputies: persons who have been members, or deputies or representatives to the State Assembly (*országgyülés*), of the following parties: *Nyilaskeresztes Part Hungarista Mozgalom* (Hungarian Party of the Cross and Arrow), *Magyar Nemzeti Szocialista Part* (Hungarian National Socialist Party), *Népakarat Partja* (Party of the People's Will), *Kaszaskeresztes Part* (Party of the Cross and Sickle), *Magyar Megujulas Partja* (Party of Hungarian Rebirth); persons who have been deputies or representatives to the State Assembly of the *Nemzeti Egység Partja* (Party of National Unity) or the *Magyar Elet Partja* (Party of Hungarian Life); persons who have been directors, editors, responsible managers or publishers of newspapers or periodicals with Fascist tendencies.

ICELAND

CONSTITUTION OF 17 JUNE 1944[1]

Art. 31. The *Althing* shall be constituted of not more than 52 members popularly elected by secret ballot. This number shall be made up as follows:

(*a*) 8 members for Reykjavik, elected by proportional representation. An equal number of deputy members shall be elected at the same time and in the same manner.

(*b*) 6 members, one for each of the following six towns . . . .

(*c*) 27 members for the existing non-urban single and double constituencies. Election in double constituencies shall be by proportional representation, and an equal number of deputy members shall be elected at the same time and in the same manner . . . .

(*d*) Not more than 11 members to be allotted to the various parties represented in the *Althing* by way of compensation so that their numbers shall be as nearly as possible proportional to the number of votes obtained by each of them at the general election. Parties may put forward a general party list in general elections provided that the electors vote either for a candidate for the constituency or for a general party list. The candidates of a party which puts forward a general list and obtains a compensatory seat occupy the seat according to the order in which they stand on the list at the end of the election. At least every other seat of the first ten persons on a general party list shall be filled by candidates of the party for constituencies other then Reykjavik. In other respects the compensatory seats are filled according to the provisions of the electoral law. An equal number of deputy members shall be elected for the compensatory seats at the same time and in the same manner.

Members shall be elected for a period of 4 years.

Art. 33. Every person, man or woman, who has attained his or her 21st year of age at the time of the election, and who is an Icelandic citizen, and has been domiciled in the country for five years prior to the election, shall have the right to vote. No person shall have the right to vote unless he or she is of unblemished character[2] and financially solvent.

A married woman shall be considered financially responsible even though her property be held in the name of her husband.

Further enactments regarding parliamentary elections shall be laid down in the Election Act.

Art. 34. Every citizen qualified to vote is eligible for the *Althing* . . . .

[1] English translation received through the courtesy of Professor Ólafur Jóhannesson, University of Iceland, Reykjavik.

[2] See the definition of the words "unblemished character" in article 2 of the Act of 1942, printed below.

ACT No. 80 OF 7 SEPTEMBER 1942 REGARDING ELECTIONS TO THE *ALTHING*[1]

Art. 2. A person convicted of an act generally looked upon as shameful shall not be deemed to be of unblemished character unless he has obtained rehabilitation.

Art. 61. Where polling takes place there shall be a room adjacent to the voter's meeting room and so arranged that it cannot be entered or observed from outside. This room is the polling booth. In the absence of such a room, a corner of the voters' meeting room may be curtained off so as not to be visible from the outside.

A curtain shall be fastened in front of every window of the polling booth so that the interior is not visible from the outside, and shall extend far enough beyond the window to prevent ballot papers from being passed round it to the window so as to be visible from the outside. The said curtain shall be fastened down at the edge in a suitable number of places with the seal of the local electoral board.

There may be more than one polling booth. Each polling booth shall contain a small table suitable for writing.

[1] Icelandic text through the courtesy of Professor Ólafur Jóhannesson, University of Iceland, Reykjavik. English translation from the Icelandic text by the United Nations Secretariat.

Art. 90. A voter, in whatsoever way he votes, shall take care to make no marks on the ballot paper other than those prescribed in the present Act.

Where the system of proportional representation does not apply, the voter may not delete the name of any candidate, and in constituencies where election takes place by proportional representation he may make no alteration to the lists for which he does not vote, nor delete, nor change the order of, a name in those lists.

A voter in a constituency where election takes place otherwise than by proportional representation may not vote both for a candidate and for a general party list, but only for one or the other, and in a constituency where election takes place by proportional representation he may not vote both for a constituency list and a general party list, but only for one or the other. If he votes for the general party list he may make no alteration to that part of the ballot paper containing the names of the candidates or to the constituency list.

Art. 91. A voter, after completing the ballot paper in the polling booth as provided above, folds it as it was folded when he received it, so that the writing is on the inside, leaves the polling booth, goes to the voting table and himself places the ballot paper in the ballot box through the slot in the lid, taking care that no one sees what is on the ballot paper even if he is handing it in blank.

Art. 92. If a voter notifies the returning officer that he is unable to vote in the prescribed manner owing to blindness or because he cannot use his hand, a member of the board of presiding officers selected by the voter shall assist him in the polling booth and is bound not to disclose what passes there between himself and the voter. The assistance shall be recorded in the poll-book with the reason. It is entirely unlawful for a member of the board of presiding officers to offer to help a person needing assistance under this article.

Art. 141. (2) No voter who has voted in an election to the *Althing* shall be required to state in court how he has cast his vote.

Art. 149. A person is liable to a fine of 50–1,000 kr. and disfranchisement for five years or, for a second or subsequent offence, for life if:

1. He gives or promises money or benefit to another person in order to influence whether or how such person votes, or deprives or threatens to deprive another person of employment or benefit for a like purpose;

2. He accepts money or benefit for voting, abstaining from voting or voting in a certain way.

Art. 150. A person is liable to correctional labour or imprisonment and disfranchisement if:

1. He uses measures of constraint or violence or threats of violence to disturb the freedom of another person in voting, either by hindering him from voting or by forcing him to vote otherwise than as he wishes.

2. He wilfully falsifies the voting, either by losing or altering votes, damaging or losing a consignment of votes, preparing ballot papers similar to those used at the election and using them or issuing them so that others may use them, confusing the results of the poll, or otherwise.

INDIA

DRAFT CONSTITUTION OF INDIA

Articles agreed to by the Constituent Assembly up to 8 January 1949 at the consideration stage[1]

PART III

FUNDAMENTAL RIGHTS

RIGHTS OF EQUALITY

10. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible or discriminated against for any employment or office under the State.

(2*a*) Nothing in this article shall prevent Parliament from making any law prescribing in regard to a class or classes of employment or appointment to an office under any State for the time being specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State prior to such employment or appointment. . . .

PART V

THE UNION

Chapter II—Parliament

GENERAL

66. There shall be a Parliament for the Union which shall consist of the President and two houses to be known respectively as the Council of States and the House of the People.

67. (1) The Council of States shall consist of not more than two hundred and fifty members, of whom—

(*a*) Twelve members shall be nominated by the President . . .

(*b*) The remainder shall be representatives of the States.

(3) The representatives of each State for the time being specified in Part I or Part III of the First Schedule[2] in the Council of States shall—

(*a*) Where the legislature of the State has two houses, be elected by the elected members of the lower house in accordance with the system of proportional representation by means of the single transferable vote;

(*b*) Where the legislature of the State has only one house, be elected by the elected members of that house in accordance with the system of proportional representation by means of the single transferable vote; and

(*c*) Where there is no house of the legislature for the State, be chosen in such manner as Parliament may by law prescribe . . .

(5) (*a*) Subject to the provisions of articles 292 and 293[2] of this Constitution, the House of the People shall consist of not more than five hundred members directly elected by the voters in the States.

(6) The election to the House of the People shall be on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or under any Act of Parliament on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections.

(7) Parliament may, by law, provide for the representation in the House of the People of territories other than States.

[1] English text in: Constituent Assembly of India, *Draft Constitution of India*, Articles agreed to by the Constituent Assembly up to 8 January 1949, at the consideration stage, New Delhi, Government of India Press, 1949. The Constitution had not yet been adopted at the end of 1948. Text and information through the courtesy of Sir Benegal N. Rau, Constitutional Adviser to the Government of India.

[2] Not yet agreed to and therefore not published in the printed text cited in footnote 1.

IRAN

See the "Note on the Development of Human Rights", paragraph 2, p. 112 of this *Yearbook*.

IRAQ

CONSTITUTION OF IRAQ[1]

of 21 March 1925, with subsequent amendments

PART III

THE LEGISLATURE

Art. 28. Legislative power is vested in Parliament and the King. Parliament is composed of the Senate[2] and the Chamber of Deputies . . . .

Art. 30 (as amended 27 October 1943). No person shall be a member of either Assembly of Parliament who:

(1) Is not an Iraqi national who has acquired Iraq nationality at birth or by virtue of the Treaty of Lausanne or by naturalization, provided that, if he is naturalized, he belongs to an Ottoman family ordinarily resident in Iraq before the year 1914, and has been an Iraq national for ten years.

(2) Is less than thirty years old in the case of a deputy, or less than forty in the case of a senator.

(3) Has been adjudged bankrupt and has not been reinstated.

(4) Has been interdicted by the court and the interdiction has not been removed.

(5) Has been sentenced to imprisonment for a term of not less than one year for an offence which is not of a political nature, or if he has been sentenced to imprisonment for any period for theft, bribery, breach of trust, forgery, fraud or any other offence adversely affecting his honour.

(6) Holds an official appointment in the Government or the departments connected therewith, or any office, appointment or employment under a person or institution which has a contract with a public department, or if he has any material interest, direct or indirect, with such contractor, unless the interest arise out of his being a share-holder in a company composed of more than twenty-five persons. From this rule are excepted the lessees of Government lands and property, and those who are engaged in the duties described in paragraph 2 of article 31 of this Act.

(7) Is mad or an idiot.

(8) Is a relative of the King, within such degree as may be prescribed by law.

A person cannot be a member of both Assemblies of Parliament.

Art. 36. The Chamber of Deputies shall be constituted by election on the basis of one deputy for every twenty thousand males.

Art. 37 (as amended 27 October 1943). The election of deputies shall be done under a special law, which shall prescribe the manner of proposing candidates, of secret voting at elections, and the necessary representation of the Christian and Jewish minorities.

Art. 42 (as amended 27 October 1943). Every male Iraqi national who has attained his thirtieth year of age, and is not disqualified in any manner set out in article 30, may be elected deputy. He shall not represent more than one of the electoral districts described in the Electoral Law and, if he is elected to more than one district, he must, within eight days after having been so informed, select the district which he desires to represent. Officials, not being Ministers or delegated senators or deputies, who are elected, may choose between accepting or refusing their seats, and those who accept must vacate their Government appointments within the period aforesaid.

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[1] English text in Helen Miller Davis, *Constitutions* . . . (cited above, p. 265), pp. 113–116.

[2] According to article 31, members of the Senate are appointed by the King [*Editor's note*].

IRELAND

CONSTITUTION OF IRELAND[1]

of 29 December 1937

THE NATIONAL PARLIAMENT

CONSTITUTION AND POWERS

Art. 15. 1. *1.* The National Parliament shall be called and known, and is in this Constitution generally referred to, as the Oireachtas.

2. The Oireachtas shall consist of the President and two houses, *viz.*: a house of representatives to be called Dáil Éireann and a senate to be called Seanad Éireann.

DÁIL ÉIREANN

Art. 16. 1. *1.* Every citizen without distinction of sex who has reached the age of twenty-one years, and who is not placed under disability or incapacity by this Constitution or by law, shall be eligible for membership of Dáil Éireann.

2. Every citizen without distinction of sex who has reached the age of twenty-one years who is not disqualified by law and complies with the provisions of the law relating to the election of members of Dáil Éireann, shall have the right to vote at an election for members of Dáil Éireann.

3. No law shall be enacted placing any citizen under disability or incapacity for membership of Dáil Éireann on the ground of sex or disqualifying any citizen from voting at an election for members of Dáil Éireann on that ground.

4. No voter may exercise more than one vote at an election for Dáil Éireann, and the voting shall be by secret ballot . . . .

2. *5.* The members shall be elected on the system of proportional representation by means of the single transferable vote.

SEANAD ÉIREANN

Art. 18. 1. Seanad Éireann shall be composed of sixty members, of whom eleven shall be nominated members and forty-nine shall be elected members.

2. A person to be eligible for membership of Seanad Éireann must be eligible to become a member of Dáil Éireann.

4. The elected members of Seanad Éireann shall be elected as follows:

i. Three shall be elected by the National University of Ireland.

ii. Three shall be elected by the university of Dublin.

iii. Forty-three shall be elected from panels of candidates constituted as hereinafter provided.

5. Every election of the elected members of Seanad Éireann shall be held on the system of proportional representation by means of the single transferable vote, and by secret postal ballot.

6. The members of Seanad Éireann to be elected by the Universities shall be elected on a franchise and in the manner provided by law.

7. *1.* Before each general election of the members of Seanad Éireann to be elected from panels of candidates, five panels of candidates shall be formed in the manner provided by law containing respectively the names of persons having knowledge and practical experience of the following interests and services, namely:

i. National language and culture, literature, art, education and such professional interests as may be defined by law for the purpose of this panel;

ii. Agriculture and allied interests, and fisheries;

iii. Labour, whether organized or unorganized;

iv. Industry and commerce, including banking, finance, accountancy, engineering and architecture;

v. Public administration and social services, including voluntary social activities.

2. Not more than eleven and, subject to the provisions of article 19 hereof, not less than five members of Seanad Éireann shall be elected from any one panel.

[1] English text in: *Constitution of Ireland* (in Gaelic and English). Dublin, Stationery Office, 1946.

ELECTORAL ACT, 1923[1]
with subsequent amendments

AN ACT TO REGULATE THE DÁIL AND SEANAD FRANCHISES IN SAORSTÁT ÉIREANN; TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE REGISTRATION OF ELECTORS AND THE CONDUCT OF ELECTIONS TO DÁIL ÉIREANN; AND TO REGULATE THE CONDUCT OF ELECTIONS TO SEANAD ÉIREANN AND OF A REFERENDUM AND FOR OTHER PURPOSES CONNECTED THEREWITH

(17 April 1923)

PART I

FRANCHISE

1. (1) Every person without distinction of sex who is a citizen of Saorstát Éireann and has attained the age of twenty-one years and is not subject to any legal incapacity imposed by this Act or otherwise shall be entitled to be registered once as a Dáil elector in one, but not more than one, constituency in Saorstát Éireann.

(2) Every such person as aforesaid may be registered as a Dáil elector in any one of the following constituencies, *viz.*:

(*a*) The constituency in which he or she is ordinarily resident on the qualifying date; or

(*b*) The constituency in which he or she occupies on the qualifying date business premises; or

(*c*) The university constituency comprising a university in which he or she has received a degree other than an honorary degree or, in the case of the University of Dublin, has received such degree as aforesaid, or obtained a foundation scholarship, or, if a woman, obtained a non-foundation scholarship.

.....

2. Every person, without distinction of sex, who is a citizen of Saorstát Éireann and has attained the age of thirty years and is not subject to any legal incapacity, whether imposed by this Act or otherwise, shall be entitled to be registered as a Seanad elector in the constituency in which he or she is registered as a Dáil elector.

3. (1) Every person registered as a Dáil elector for any constituency shall, while so registered, be entitled to vote at every Dáil election for that constituency, and also to vote in that constituency at every referendum.

(2) Every person registered as a Seanad elector in any constituency shall, while so registered, be entitled to vote in that constituency at every Seanad election.

4. (1) A person shall not be disqualified from being registered, or from voting as a Dáil or Seanad elector, or from voting at a referendum by reason that he or she or some other person for whose maintenance he or she is responsible has received poor relief or other alms.

(2) Nothing contained in this Act shall, except as expressly provided therein, confer on any person who is subject to any legal incapacity to be registered, or to vote either as a Dáil or Seanad elector, or to vote at a referendum any right to be so registered or to vote.

(3) A person shall not be disqualified from voting at any election as a Dáil or Seanad elector, by reason of being employed for payment by or on behalf of a candidate at such election so long as the employment is legal.

PART III

METHOD AND COSTS OF ELECTIONS

17. (1) A contested Dáil or Seanad election shall be according to the principle of proportional representation, each elector having one transferable vote.

28. (1) Every officer, clerk and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed to any person any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted or as to the number on the back of the ballot paper given to any voter at such station.

.....

[1] English text in: Saorstát Éireann, No. 12 of 1923, *Electoral Act, 1923*, Dublin, Stationery Office. Text through the courtesy of Mr. F. A. Coffey, Third Secretary of the Irish Legation, Washington.

PART VI

DÁIL CONSTITUENCIES

50 (*as amended by Act No. 31 of 1947 Sec. 2*). Dáil Éireann shall consist of one hundred and forty-seven members.

51 (*as amended by Act No. 14 of 1933*). (1) Every citizen of Saorstát Éireann without distinction of sex who is of full age and is not subject to any of the disqualifications mentioned in this section shall be eligible to be elected and (subject to compliance with the Standing Orders of Dáil Éireann) to sit as a member of the Dáil.

(2) Each of the following persons shall be disqualified from being elected or sitting as a member of the Dáil, that is to say:

(*a*) A person who is undergoing a sentence of imprisonment with hard labour for any period exceeding six months or of penal servitude for any term imposed by a court of competent jurisdiction in Saorstát Éireann;

(*b*) An imbecile and any person of unsound mind;

(*c*) An undischarged bankrupt under an adjudication by a court of competent jurisdiction in Saorstát Éireann;

(*d*) A person who is by the law for the time being in force in Saorstát Éireann in relation to corrupt practices and other offences at elections incapacitated from being a member of the Dáil by reason of his having been found guilty by a court of competent jurisdiction in Saorstát Éireann of some such practice or offence:[1]

Provided always that the disqualification effected by this sub-section on account of a sentence of imprisonment or penal servitude shall not, in the case of a person who is a member of the Dáil at the date of such disqualification, take effect until the expiration of thirty days from the date of the sentence, or in the event of an appeal, from the date of the order confirming such sentence.

(3) A person shall be incapable of being elected or sitting as a member of Dáil Éireann who is

(*a*) A member of the defence force of Saorstát Éireann on full pay;

(*b*) A member of any police force in Saorstát Éireann on full pay;

(*c*) A person either temporarily or permanently in the Civil Service of Saorstát Éireann unless he is by the terms of his employment expressly permitted to be a member of Dáil Éireann.

(4) If any person who has been duly elected a member of the Dáil should, while he is so a member, become subject to any of the disqualifications mentioned in this section he shall thereupon cease to be a member of the Dáil.

[1] Such offences are defined by the Prevention of Electoral Abuses Act (No. 38 of 1923), which was enacted on 8 August 1923.

PART VII

MEMBERSHIP OF SEANAD ÉIREANN

57 (*as amended by Act No. 14 of 1933*). (1) Every citizen of Saorstát Éireann without distinction of sex who is of the age of 35 years or upwards and is not subject to any of the disqualifications mentioned in this section shall be eligible to be elected and (subject to compliance with the Standing Orders of Seanad Éireann) to sit as a member of the Seanad.

(2) Each of the following persons shall be disqualified from being elected or sitting as a member of the Seanad, that is to say:

(*a*) A person who is undergoing a sentence of imprisonment with hard labour for any period exceeding six months, or of penal servitude for any term imposed by a court of competent jurisdiction in Saorstát Éireann;

(*b*) An imbecile and any person of unsound mind;

(*c*) An undischarged bankrupt under an adjudication by a court of competent jurisdiction in Saorstát Éireann;

(*d*) A person who is by the law for the time being in force in Saorstát Éireann in relation to corrupt practices and other offences at elections incapacitated from being a member of the Seanad by reason of his having been found guilty by a court of competent jurisdiction in Saorstát Éireann of some such practice or offence:

Provided always that the disqualification effected by this sub-section on account of a sentence of imprisonment or penal servitude shall not, in the case of a person who is a member of the Seanad at the date of such disqualification, take effect until the expiration of thirty days from the date of the sentence, or in the event of an appeal, from the date of the order confirming such sentence.

(3) A person shall be incapable of being elected or sitting as a member of Seanad Éireann who is

(*a*) A member of the defence force of Saorstát Éireann on full pay;

(*b*) A member of any police force in Saorstát Éireann on full pay;

(*c*) A person either temporarily or permanently in the Civil Service of Saorstát Éireann unless he is by the terms of his employment expressly permitted to be a member of Seanad Éireann.

(4) If any person who has been duly elected a member of the Seanad should while he is so a member become subject to any of the disqualifications mentioned in this section he shall thereupon cease to be a member of the Seanad.

ISRAEL

NOTE

Excerpts from the Constituent Assembly Elections Ordinance of 18 November 1948 appear on p. 117 of this *Yearbook*.

ITALY

CONSTITUTION OF THE ITALIAN REPUBLIC[1]

of 27 December 1947

PART I

RIGHTS AND DUTIES OF CITIZENS

TITLE IV

POLITICAL RELATIONSHIP

Art. 48. All citizens, male or female, who have attained their majority are electors.

The suffrage is personal, equal, free and secret. Its exercise is a civic duty.

The right to vote may be restricted only on the grounds of loss of civil rights or by reason of an irrevocable penal sentence or in cases of moral turpitude specified by the law.

Art. 49. All citizens have the right to associate freely in parties in order to help by democratic means in determining national policy.

Art. 51. All citizens of either sex may hold public offices or elective positions on a footing of equality in accordance with the requirements laid down by law.

For the purpose of admission to public offices and elective positions the law may place Italians who do not belong to the Republic on an equal footing with citizens.

Anyone who is called to public elective office is entitled to have the time required to discharge such office made available without forfeiting his employment.

PART II

THE ORGANIZATION OF THE REPUBLIC

TITLE I

THE PARLIAMENT

Section I

THE CHAMBERS

Art. 55. The Parliament is composed of the Chamber of Deputies and the Senate of the Republic.

Art. 56. The Chamber of Deputies is elected by universal and direct suffrage, in the proportion of one deputy for 80,000 inhabitants or for fractions greater than 40,000.

Eligible as deputies are all electors who on the day of election have reached their twenty-fifth birthday.

Art. 57. The Senate of the Republic is elected on a regional basis.

To each region is attributed one senator for 200,000 inhabitants or for a fraction greater than 100,000.

No region may have a number of senators less than six. The Valle d'Aosta has a single senator.

Art. 58. The senators are elected by means of universal and direct suffrage by the electors who have attained their twenty-fifth birthday.

Those electors are eligible as senators who have attained their fortieth birthday.

Art. 59. Whoever has been President of the Republic is by right senator for life unless he renounces the right.

The President of the Republic may nominate as senators for life citizens who have brought renown to the fatherland by merits of the highest order in the social, scientific, artistic, or literary fields.

Art. 65. The law determines cases of ineligibility for, and of incompatibility with, the office of deputy or that of senator.

No one may at the same time belong to both chambers.

TRANSITIONAL AND FINAL PROVISIONS

XII. The reorganization in any form whatsoever of the dissolved Fascist Party is prohibited.

For a period of not more than five years after the entry into force of the Constitution, temporary restrictions shall, as an exception to article 48, be statutorily imposed on the right to vote and eligibility for office of the responsible heads of the fascist regime.

XIII. Members and descendants of the House of Savoy are not electors and may not fill public offices or elective positions.

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[1] English text of articles 48, 49, 51 and final provisions XII and XIII in *Yearbook on Human Rights for 1947*, pp. 167–168; articles 55–59 and 65 in *Documents and State Papers* (published by the United States Department of State) Vol. I, No. 1 (April 1948), pp. 51–52.

ACT No. 1058 OF 7 OCTOBER 1947 TO ISSUE REGULATIONS GOVERNING THE RIGHT TO VOTE AND THE DRAFTING AND ANNUAL REVISION OF ELECTORAL LISTS[1]

TITLE I

ACTIVE VOTERS

Art. 1. All Italian citizens who have attained twenty-one years of age and do not come within the scope of the provisions of article 2 are electors.

Art. 2. The following shall not be electors:

(1) Persons debarred or disqualified by reason of mental disability;

(2) Bankrupt traders, for the duration of bankruptcy, provided this does not exceed five years from the date of the declaration of bankruptcy;

(3) Persons sentenced to police translocation or civic admonition, for the duration of the said sentences;

(4) Persons sentenced to forced residence or police supervision in accordance with the terms of article 215 of the Penal Code, for the duration of the said sentences;

(5) Persons sentenced to penalties including perpetual exclusion from public offices, for the duration of such exclusion;

(6) Persons sentenced to temporary exclusion from public offices, for the duration of such exclusion;

(7) [This paragraph contains all cases of exclusion from the right to vote of those who have been sentenced for speculation, malversation to the injury of private persons, slander, false testimony, false oath, judicial fraud, offences against sexual liberty, manslaughter, larceny, robbery, extortion and many other common crimes and offences.]

(8) Persons convicted for the crimes provided for in Title I of Emergency Decree-law No. 159 of 27 July 1944[2] on the punishment of fascism, and for the crimes referred to in article 1 of Emergency Decree-law No. 142 of 22 April 1945, and also persons convicted for the crimes provided for in Emergency Decree-law No. 195 of 26 April 1945 on the punishment of fascist activities;

(9) Keepers of brothels;

(10) Lessees of gaming-houses.

The provisions of paragraphs 5, 6, 7 and 8 shall not apply if the conviction has been annulled or declared void of legal effect on the basis of general legislative provisions, or if the crime has been annulled by amnesty, or if the convicted persons have been rehabilitated. Persons benefiting by amnesty may not be enrolled on the electoral lists unless an appropriate declaration is made by the competent judicial authority.

[1] Italian text in: *Ministero dell'Interno, Norme per la disciplina dell'elettorato attivo e per la tenuta e la revisione annuale delle liste elettorali*, Rome, 1947. The Act was promulgated by the Provisional Head of the State on 7 October 1947 and published in *Gazzetta Ufficiale* No. 235 of 13 October 1947, supplement. Text and information through the courtesy of Mr. G. Vitelli, Deputy Consul-General of Italy, Washington, and Mr. Oronzo Reale, Attorney-at-law, Rome.

[2] See Dr. Egidio Reale, "Human Rights in Italy", in *Yearbook on Human Rights for 1946*, p. 170.

ACT PROVIDING FOR THE ELECTION OF MEMBERS OF THE CHAMBER OF DEPUTIES[1]

approved by presidential decree No. 26 of 5 February 1948

TITLE I

GENERAL PROVISIONS

Art. 1. The Chamber of Deputies shall be elected by universal suffrage with direct, free and secret ballot, votes being cast for alternative lists of candidates. Representation shall be proportional.

Art. 3. Voting is an obligation which no citizen may evade without failing in a definite duty towards the nation . . . .

TITLE II

THE ELECTORATE

Chapter I

THE RIGHT TO VOTE

Art. 4. The right to vote, the drafting and annual revision of the electoral lists, the division of communes into balloting areas and the choice of electoral meeting places shall be governed by the regulations referred

[1] Italian text in: *Ministero dell'Interno, Le leggi elettorali*, Rome, 1948, pp. 5–60. The Act was promulgated by the President of the Republic on 5 February 1948 and published in *Gazzetta Ufficiale* No. 30 of 6 February 1948, supplement. Text and information through the courtesy of Mr. G. Vitelli, Deputy Consul-General of Italy, Washington, and Mr. Oronzo Reale, Attorney-at-law, Rome. English translation from the Italian text by the United Nations Secretariat.

to in Act No. 1058 of 7 October 1947,[1] and Act No. 1453 of 23 December 1947.

Chapter II

ELIGIBILITY

Art. 5. All electors who have attained 25 years of age by the day of election may be elected deputies.

TITLE IV

VOTING

Art. 31. On the day of elections, meetings and gatherings for the purpose of direct or indirect electoral propaganda in public places or places open to the public shall be prohibited.

All electoral propaganda shall be prohibited within a radius of two hundred metres from the entrance to the polling booth.

TITLE VII

[deals with penal provisions.]

TITLE VIII

FINAL PROVISIONS

Art. 90. A list of persons abstaining without legitimate reason from voting in elections to the Chamber of Deputies shall be posted for the duration of one month on the municipal notice-board of the commune.

For a period of five years the words "Did not vote" shall be inscribed on the good conduct certificate issued to a person who abstained from voting without legitimate reason . . . .

[An enumeration of reasons justifying non-voting follows.]

TITLE IX

TRANSITIONAL PROVISIONS

Art. 93. In addition to persons debarred for the same period from active voting rights, the following categories of persons may not be elected for a period of five years after the entry into force of the Constitution:

(1) Former members of federal directorates of the national fascist party, with the exception of persons who were members of such directorates by law or who exercised purely administrative or auxiliary functions in them;

(2) Former trustees or vice-trustees of the federations of women's *fasci*;

(3) Former political secretaries of *fasci* in communes having a population of more than 10,000 (1936 census) and former secretaries of women's *fasci* in similar communes;

(4) Former prefects or police superintendents appointed for their fascist qualifications;

(5) Former "Musketeers of the Duce" and former regular paid officers of the volunteer national security militia, with the exception of those responsible for religious, sanitary or welfare services and members of the Libyan Legions, the railway, post office and university militias, and of the forest, road and port militias;

(6) Any person who held a political office in the republican fascist party;

(7) Former officers who engaged in active military service in the armed forces of the so-called Social Republic, former members of the Black Brigades, the Autonomous Legions and the special detachments of the political police of the so-called Social Republic;

(8) Prefects (*presidi*) of provinces and mayors (*podesta*) of communes having a population of more than 10,000, with the exception of prefects and mayors appointed by the legitimate Italian Government after 25 July 1943;

(9) High-ranking and general officers of the armed forces of the State dismissed from the service with or without loss of pension rights by judicial decision under the procedure for the removal from State offices of former fascists, and officers of whatsoever rank struck off the strength with loss of rank for having collaborated after 8 September 1943 with the armed forces which fought against Italy;

(10) Civil servants occupying posts higher than grade 7 or the equivalent thereof in the State administration who were dismissed with or without loss of pension rights by judicial decision under the procedure for the removal of former fascists from State offices;

(11) Persons declared by final penal sentence or administrative decision to have collaborated with the German invaders;

(12) Members of the O.V.R.A. (Volunteer Organization for the Repression of Anti-Fascist Activities);

(13) Directors, co-directors, vice-directors and managing editors of fascist newspapers and political reviews;

(14) Deputy mayors (*commissari prefettizi*) appointed to communes of more than 10,000 inhabitants in the "Adriatic littoral" region and the former Pre-Alpine zone during the period of the self-styled Social Republic of Italy;

(15) Authors of school books and texts incorporating fascist propaganda and teachers in schools of fascist ideology.

Exclusion from the right to be elected is waived in the case of persons declared not punishable in accordance with the terms of the last paragraph of article 7

[1] See the preceding text.

of Decree-law No. 159 of 27 July 1944,[1] and of persons exonerated before 26 January 1948 by the special commission on electoral penalties, referred to in Decree-law No. 149 of 26 April 1945.

[1] See Dr. Egidio Reale, "Human Rights in Italy", in *Yearbook on Human Rights for 1946*, p. 170.

Exclusion from the right to be elected under the terms of paragraphs 1, 2, 3, 4, 5, and 8 above shall also be waived in the case of persons who, having held the posts and offices referred to in the above paragraphs before 3 January 1925, subsequently became members of the National Council or the Constituent Assembly.

ACT No. 28 OF 6 FEBRUARY 1948 PROVIDING FOR THE ELECTION OF MEMBERS OF THE SENATE OF THE REPUBLIC[1]

TITLE I

GENERAL PROVISIONS

Art. 1. The Senate of the Republic is elected in conformity with the rules laid down by the Constitution and the present Act.

Art. 5. All electors who have completed 40 years of age by the day of the election and who are not ineligible by virtue of articles 6, 7, 8 and 93 of the Act regarding the election of the Chamber of Deputies approved by presidential decree no. 26 of 5 February 1948[2] may be elected senators.

[1] Italian text in *Ministero dell'Interno, Le leggi elettorali*, Rome 1948, pp. 61–75. The Act was promulgated by the President of the Republic on 6 February 1948. Text and information through the courtesy of Mr. G. Vitelli, Deputy Consul-General of Italy, Washington, and Mr. Oronzo Reale, Attorney-at-law, Rome. English translation from the Italian text by the United Nations Secretariat.

[2] Article 93 reproduced above. Articles 6–8 refer to incompatibilities between membership in Parliament and other public office.

JAPAN

CONSTITUTION OF JAPAN[1]

of 3 November 1946

CHAPTER III

RIGHTS AND DUTIES OF THE PEOPLE

Art. 15. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any group thereof.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections, secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

CHAPTER IV

THE DIET

Art. 42. The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.

Art. 43. Both houses shall consist of elected members, representative of all the people.

The number of the members of each house shall be fixed by law.

Art. 44. The qualifications of members of both houses and their electors shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status, family origin, education, property or income.

Art. 47. Electoral districts, method of voting and other matters pertaining to the method of election of members of both houses shall be fixed by law.

[1] English text in: *The Constitution of Japan, effective May 3, 1947*, published by the Department of State, Publication 2836, Far Eastern Series 22 (no date).

ACT FOR ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES[1]

dated 1 April 1945, with subsequent amendments

CHAPTER I

THE ELECTION DISTRICT

Art. 1. The members of the House of Representatives shall be elected in each of the election districts . . .

CHAPTER II

VOTING RIGHT AND ELIGIBILITY

Art. 5. Any Japanese national who is over twenty years of age shall have the right to vote.

Any Japanese national who is over twenty-five years of age shall be eligible for election.

Art. 6. Any person who has been declared incompetent or quasi-incompetent, or who has been condemned to penal servitude or confinement and whose term of punishment has not been completed or is yet to be executed shall neither have the right to vote nor be eligible for election.

[Articles 8 and 9 deal with incompatibilities between membership in the House of Representatives and other public office.]

CHAPTER III

ELECTORAL LISTS

Art. 12. The Commissions for Overseeing the Election of the city, town, or village shall investigate annually, as on the fifteenth of September, all qualified persons who have been domiciled for more than six months without interruption in their respective

[1] English text in: General Headquarters Supreme Commander for the Allied Powers, Government Section, *Acts relating to House of Representatives' General Election*, 1948 (mim.), pp. 10–34. Text and information received through the courtesy of Mr. Alva C. Carpenter, Chief, Legal Section, General Headquarters of the Supreme Commander for the Allied Powers, Japan. An ordinance relating to the enforcement of the Act for the election of members of the House of Representatives is in force as amended by Cabinet Order No. 190 of 29 July 1948 (reproduced *ibid.*).

localities and prepare a list thereof by the thirty-first of October.

The age of an elector shall be counted as from the date when the electoral list is made final.

The persons disqualified under the residence requirements as provided in paragraph 1 shall not be registered in the electoral list . . . .

CHAPTER IV

ELECTION, VOTES AND POLLING-PLACES

Art. 19. Election shall be by ballot. Each elector shall cast one ballot only.

Art. 39. No elector is under obligation to state to any person the name of the candidate for whom he voted.

Art. 42. When, at the polling place, any person makes a speech, engages in discussion, causes an uproar, holds a conference, or uses persuasion as to voting, or otherwise disturbs the order of the polling place, the voting overseer shall caution him and if the caution is disregarded, shall cause him to leave the polling place.

Art. 43. A person who has been compelled to leave a polling place in accordance with the foregoing article, may be allowed to vote either at the end of the voting or earlier if it is deemed by the voting overseer that there is no danger of the polling place being disturbed thereby.

CHAPTER VII

CANDIDATES AND PERSONS ELECTED

Art. 68. The person who desires to enter for candidacy or who desires to recommend a candidate shall deposit 30,000 yen in cash or national bonds of the same face value for each candidate.

The deposit made in accordance with the preceding clause shall belong to the Government in case the total votes for the candidate are less than one-fifth of the number of the valid votes obtained by respective candidates, divided by the number of members to be elected in that electoral district . . . .

Art. 69. The candidate who has obtained the greatest number of valid votes shall be declared elected. However, the number of votes obtained shall not be less than one-fourth of the total number of the votes obtained by respective candidates, divided by the number of members to be elected from the district.

[Chapter X (The Election Campaign) and chapter XI (Election Expenses) deal with limitations placed on the amount of money that may be spent and the ways in which such funds may be used, as well as contributions to candidates and political parties. Limitations are placed on the use of campaign letters, posters and the like. Candidates must report at stated intervals during the campaign on their expenditure, this information then being made public.]

CHAPTER XII

PUNITIVE RULES

[Penalties are provided for all possible violations of election laws with fines or penal sentences as punishment. Offences include bribery, forgery, violence, intimidation, abduction, neglect of duty or abuse of authority by officials and the like. In the event of victorious candidates or their authorized representatives being found guilty of violations of the election law, elections are invalidated. Complaints may be filed with the appropriate court, which will have the power to invalidate an election. If such is done, criminal charges may then be preferred by the public procurator.]

ACT FOR THE ELECTION OF MEMBERS OF THE HOUSE OF COUNCILLORS[1]

dated 24 February 1947, with subsequent amendments

CHAPTER I

GENERAL PROVISIONS

Art. 1. The number of members of the House of Councillors shall be two hundred and fifty, to be divided into 150 members from the prefectural constituency and 100 members from the national constituency.

Members from the prefectural constituency shall be elected in each of the election districts. The election districts and the number of members to be returned for each of such districts shall be stipulated in the annex.

Members from the national constituency shall be elected in a single constituency comprising the metropolis, the district (Dō) and all the prefectures.

CHAPTER II

VOTING RIGHT AND ELIGIBILITY

Art. 3. Any person who has the right to vote in the election of members of the House of Representatives

[1] English text (mim.) through the courtesy of Mr. Alva C. Carpenter, Chief, Legal Section, General Headquarters of the Supreme Commander for the Allied Powers, Japan.

shall have the same right in the election of members of the House of Councillors.

Art. 4. Any Japanese national who is over thirty years of age shall be eligible for election of the members of the House of Councillors.

Art. 5. Any person who has been declared incompetent or quasi-incompetent, or who has been condemned to penal servitude or confinement and whose term of punishment has not been completed or is yet to be executed shall not be eligible for election.

CHAPTER III

ELECTION

Art. 10. Election shall be conducted by ballot.

Art. 11. The electoral lists for the election of members of the House of Representatives shall be used for the election of members of the House of Councillors.

CHAPTER VII

CANDIDATES AND PERSONS ELECTED

Section I

CANDIDATES FOR AND PERSONS ELECTED AS MEMBERS FROM THE PREFECTURAL CONSTITUENCY

Art. 56. The candidate who has obtained the greatest number of valid votes shall be declared elected; provided, however, that the number of votes obtained shall be one-fourth or more of the total number of valid votes in the electoral district concerned divided by the number of members to be returned for that district in a regular election.

Section II

CANDIDATES FOR AND PERSONS ELECTED AS MEMBERS FROM THE NATIONAL CONSTITUENCY

Art. 67. A person who has obtained the greatest number of valid votes shall be declared elected; provided, however, that the number of votes obtained shall be one-eighth or more of the total number of valid votes divided by the number of members to be returned in a regular election.

ACT OF 30 APRIL 1948 CONCERNING THE REGULATION OF POLITICAL CONTRIBUTIONS AND EXPENDITURE[1]

SUMMARY

The Act concerning the regulation of political contributions and expenditures, also called the "Corrupt Practices Act" was enacted with the aim of ensuring fair and impartial elections, both national and local. It increased the penalties for violations of the provisions of the Act for the election of members of the House of Representatives approximately threefold, and in some cases more. The Act establishes regulations which require all political parties, political organizations, and candidates to report contributions and expenditure; requires that certain appropriate records and vouchers pertaining to contributions and expenditure be maintained within the political parties and organizations. It prohibits certain types of contributions, while it amends the existing election laws to effect increases in penalties for violations.

[1] English text in: General Headquarters Supreme Commander for the Allied Powers, Government Section, *Acts relating to House of Representatives' General Election*, 1948 (mim.), pp. 7 and 87–101. Text and summary received through the courtesy of Mr. Alva C. Carpenter, Chief, Legal Section, General Headquarters of the Supreme Commander for the Allied Powers, Japan.

HASHEMITE KINGDOM OF THE JORDAN

CONSTITUTION OF JORDAN[1]

of 7 December 1946

PART III

THE LEGISLATURE

Art. 33. The legislative power is vested in the National Assembly and the King. The National Assembly shall consist of the Senate and the Chamber of Deputies. The Chamber of Deputies shall consist of representatives elected in accordance with the electoral law in which due regard has to be given to the fair representation of minorities. The duration of the Chamber of Deputies is four years.

Art. 35. No one shall be a member of either the Senate or the Chamber of Deputies who—

(*a*) Is not a Transjordanian;

(*b*) Claims foreign nationality or protection;

(*c*) Has not completed his thirtieth year in the case of a deputy, or his fortieth year in the case of a senator;

(*d*) Has been adjudged bankrupt and has not been discharged;

(*e*) Has been placed under interdiction by a competent court and has not been released;

(*f*) Has been sentenced to imprisonment for a period exceeding one year for an offence which is not of a political nature and who has not received a pardon for the offence for which he has been sentenced;

(*g*) Has a material interest arising from a contract other than that for the lease of land, with one of the public departments of Transjordan, unless his interest arises from his being a shareholder in a company consisting of more than ten persons.

(*h*) Is insane or an idiot.

(*i*) Is a relative of the King within such a degree as may be prescribed by a special law.

[1] English translation based on the text in *Middle East Journal*, Washington, Vol. I, No. 3 of July 1947, pp. 322–331.

KOREA

NOTE

See the Act for the election of representatives of the Korean People of 17 March 1948 on p. 130 of this *Yearbook*.

LEBANON

CONSTITUTION OF THE LEBANESE REPUBLIC[1]

of 23 May 1926, with subsequent amendments

PART II

PUBLIC POWERS

Chapter I

GENERAL PROVISIONS

Art. 21. Every Lebanese citizen who has attained his twenty-first year and fulfils the conditions laid down by the electoral law shall be an elector.

Chapter II

THE LEGISLATIVE POWER

Art. 24 (as amended 21 October 1947). The Chamber of Deputies shall consist of elected members. Their number and the electoral procedure shall be determined by the electoral laws which are in force.

Chapter III

PROVISIONS RELATING TO THE CHAMBER

Art. 29 (as amended 17 October 1927). The cases in which persons are disqualified from becoming deputies shall be determined by law.

Art. 30 (as amended 17 October 1927). Appointed deputies shall have the same rights, guarantees, immunities and obligations as elected deputies, and must fulfil the same conditions as the said elected deputies . . . .

[1] English text in Helen Miller Davis, *Constitutions* . . . (cited above, p. 265), pp. 170–185.

ELECTORAL LAW[1]

Decree No. 2/LR of 2 January 1934 concerning the election of Deputies of the Lebanese Republic

CHAPTER I

ALLOCATION AND DISTRIBUTION OF SEATS

Art. 1. The Chamber of Deputies of the Lebanese Republic shall consist of 18 elected members.

The District shall constitute the electoral ward.

Seats shall be allocated by decree of the President of the Republic in proportion to the number of adherents of the various religious denominations throughout the Lebanese Republic.

Art. 2. In order to distribute the seats amongst the districts, there shall be established an electoral quotient, obtained by dividing the total number of the population by the number of members to be elected to the Chamber of Deputies.

At least one seat in each district shall be allocated to any religious denomination having an electoral quotient. When the division of the total number of adherents of a religious denomination by the electoral quotient gives a fraction higher than half a unit, the religious denomination nevertheless has the right to be represented.

Similarly, if the result is a whole number plus a fraction higher than half a unit, the number of deputies allocated shall be equal to that number plus one unit.

One deputy's seat out of the number mentioned in article 1 shall be allotted to unrepresented minority denominations and allocated to Beirut.

No religious denomination can have either more or less representatives for the whole of the wards than the number to which they are entitled by the total number of their adherents in the State divided by the electoral quotient.

If the number of adherents of a religious denomination in the whole of the electoral wards of the State exceeds the number fixed in the above paragraph, the additional seat shall be suppressed in the district to which it is allocated by the smallest fraction and in which the denomination is already represented.

In the contrary case, the seat to be filled shall be allocated to the highest fraction.

Art. 3. All the electors in the electoral ward of each college, without distinction as to religion, shall vote for the candidate or candidates to be elected.

[1] French text in Helen Miller Davis, *Constitutions* . . . (cited above, p. 265) pp. 186–201. English translation from the French text by the United Nations Secretariat.

Art. 4. The number of the population shall consist of the citizens of Greater Lebanon listed on registers A and B of the Census, with the addition of all those who are listed in register E, and pay a direct tax to the State.

Art. 5. The decree passed in application of article 1, paragraph 3, shall remain in force until the completion of a new general census of the population.

Art. 6. Suffrage shall be universal and direct.

The ballot shall be secret.

According to whether the district is entitled to one or more elected members, the deputies shall be appointed by individual voting or by list voting under the conditions hereinafter laid down.

Art. 7. No one may be elected to the Chamber of Deputies unless he is a citizen of the Lebanese Republic, is an elector over twenty-five years of age, enjoys civil and political rights and is able to read and write.

Any deputy who incurs during his term of office a sentence involving deprivation of the right of enrolment on the electoral lists under article 13 shall be deprived of the status of deputy. Such deprivation shall be formally recognized by the Chamber of Deputies upon presentation of the relevant documents by the Government.

CHAPTER II

ELECTORAL LISTS

Art. 13. The following shall not be enrolled on the electoral lists:

(1) Persons sentenced to loss of civil rights, as a special penalty or together with other penalties;

(2) Persons sentenced to exclusion for life from all grades of public office. Persons who have been temporarily excluded from public office may not be enrolled until their sentence has expired;

(3) Persons sentenced to a *peine criminelle* or a *peine correctionnelle* involving loss of civil rights; the following offences shall be deemed to involve loss of civil rights: theft, fraud, breach of trust, public indecency, habitual incitement of minors to immorality, vagrancy, culpable bankruptcy;

(4) Persons sentenced for a crime at least to imprisonment;

(5) Persons temporarily deprived of civil rights, for the period of such deprivation;

(6) Bankrupts who have not been sentenced for culpable bankruptcy or fraudulent bankruptcy may not be enrolled on the electoral lists for three years from the date of the declaration of their bankruptcy. They shall be eligible only after their discharge;

(7) Persons sentenced to imprisonment for a minor offence or to a more serious penalty for any of the offences provided for in the present Decree.

CHAPTER III

SUFFRAGE AND ELIGIBILITY

Art. 24. All citizens of the Lebanese Republic who are over twenty-one years old, enjoy their civil and political rights, have their principal and actual domicile in the *cazas* and have resided there for at least six months, shall be enrolled on the electoral lists of the *cazas* and may therefore exercise their electoral rights in the place of their principal and actual domicile.

The following shall also be enrolled on the electoral lists of the *cazas*, under the above-mentioned conditions, but without regard to length of residence:

(1) Persons subject to obligatory residence either as ministers of religions recognized by the State or as public officials;

(2) Persons who did not fulfil the above-mentioned requirements as to age and residence at the time when the lists were drawn up but who will fulfil them before the final closure of the lists . . . .

LIBERIA

CONSTITUTION OF THE REPUBLIC OF LIBERIA[1]
of 26 July 1847

Article 1

Sect. 11. All elections shall be by ballot and every citizen (male and female) of twenty-one years of age, possessing real estate, shall have the right of suffrage.

Article 2

Sect. 1. The legislative power shall be vested in a legislature of Liberia, and shall consist of two separate branches, a House of Representatives and a Senate, to be styled the Legislature of Liberia . . . .

Sect. 2. The representatives shall be elected by and for the inhabitants of the several counties of Liberia . . . .

No person shall be a representative who has not resided in the county two whole years immediately previous to his election and does not own real and unencumbered estate of not less value than one thousand dollars in the county in which he resides and who shall not when elected be an inhabitant of the county, and who shall not have attained the age of twenty-three years. The representatives shall be elected quadrennially and shall serve for four years from the time of their election.

Sect. 5. The Senate shall consist of two members from Montserrado County, two from Bassa County, two from Sinoe County, and two from each county which may be hereafter incorporated into this Republic. The senators shall serve for six years and shall be elected quadrennially, and those elected May, A. D. 1905, shall retain their seats for six years, from the time of their election, and all who are afterwards elected, six years. No person shall be senator who shall not have resided three whole years immediately previous to his election in the Republic of Liberia, and who shall not when elected be an inhabitant of the county which he represents and who shall not have attained the age of twenty-five years, and who does not own real and unencumbered estate of not less than one thousand two hundred dollars in the county in which he resides.

Article 5

Sect. 8. All elections of public officers shall be made by a majority of the votes, except in cases otherwise regulated by the Constitution or by law.

[1] English text in Charles Henry Huberich, *The Political and Legislative History of Liberia*, New York, 1947, Vol. II, pp. 862, 1102–1106.

ACT OF 19 DECEMBER 1945 TO REGULATE ALL ELECTIONS IN THE REPUBLIC OF LIBERIA[1]

PART III
REGISTRATION

13. (1) Subject to the disqualifications listed hereinafter, every person twenty-one years of age and over, who:

(*a*) Is a natural-born [*male*][2] or naturalized [*male*] citizen of Liberia;

(*b*) Is an owner of real estate in fee simple or in the hinterland, or of a hut in the tribal area on the coast, shall be entitled, subject to the provisions of this Act, to be registered as a voter, and when registered, and so long as he continues to live in the precinct for which he is registered, to vote at any polling booth in said precinct at any election held there.

Provided that a voter who has changed his place of residence or living to another precinct, until his name is transferred to another poll, vote in the precinct in which his name continues registered . . . .

[1] English text in *Acts passed by the Legislature of the Republic of Liberia during the session 1945–46*, Monrovia, Government Printing Office, 1946. The Act became effective from the date of its publication. Text through the courtesy of Mr. George B. Stevenson, First Secretary of Embassy, Washington.

[2] About the introduction in 1946 of women's suffrage (art. I, sect. 11 of the Constitution), see p. 139 of this *Yearbook*.

(3) A person shall not be entitled to be registered at the same time on more than one registration roll.

14. Every person, nevertheless, shall be disqualified from being registered as a voter, or if registered as a voter, from voting at any election, who:

(*a*) Is of unsound mind; or

(*b*) Is wholly dependent on relief from the State, or from any charitable institution subsidized by the State, except as a patient under treatment for accident or disease in a hospital; it being expressly understood that any such person shall at the time have been wholly dispossessed of his property qualification; or

(*c*) Has been disfranchised.

PART IV

ELECTIONS

VOTING

(i) *In Absence*

56. (1) Any voter who has reason to believe that he will, on polling day, be absent from his precinct, may after the nominations shall have been published, apply to the sheriff of his precinct for a ballot paper, fill out same by marking the candidates for whom he intends to vote, sign same with usual signature or mark, place it in an envelope and seal it and deposit same with the sheriff, who shall not open same until the polling is taking place, when he shall hand same to the judges to be opened and placed in the ballot box.

(2) Such ballot may also be filled out and posted or otherwise sent to the sheriff.

(ii) *At the Poll*

.....

62. Polling places shall have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot papers.

PART VI

LIMITATION OF ELECTION EXPENSES

90. No election expense shall be incurred or authorized by a candidate or his agent or agents, in respect of any candidature,

(1) For a representative and his agent in excess of dollars 500.00;

(2) For a senator in excess of dollars 800.00;

91. "Election expense" includes all expenses incurred by or on behalf of any candidate at or in connexion with any election; excepting only the costs of stationery, printing, postage, telegrams, rents of halls, and personal reasonable living and travelling expenses of the candidate.

92. No election expense shall be incurred or allowed except in respect of the following:

(1) Printing, advertising, publishing, issuing and distributing addresses by the candidate and notice of meetings;

(2) Public meetings and hall therefor;

(3) Election agents and canvassers.

93. Each candidate or his agent or agents shall be required to file an account of his election expenses with the Elections Commission.

[Part VII deals with election offences.]

ACT OF 17 JANUARY 1946 TO PROVIDE FOR THE OPENING OF POLLS AND TO REGULATE VOTING IN THE HINTERLAND OF THE REPUBLIC OF LIBERIA [1]

Sect. 1. That from and immediately after the passage of this Act, the President be and he is hereby authorized to proclaim by Executive Proclamation voting precincts in the Eastern, Central and Western Provinces as will accord to the citizens of this Republic residing therein and entitled to the benefit of suffrage the privilege of voting.

Sect. 2. The election laws now in force within the Republic relating to registration shall apply to the new voting areas and the President is hereby authorized to appoint Commissioners of Election in each of the provinces in keeping with the above cited Act.

Sect. 3. This Act shall take effect immediately and be published in handbills.

[1] English text in *Acts passed by the Legislature of the Republic of Liberia during the session 1945–46*, Monrovia, Government Printing Office 1946. Text through the courtesy of Mr. George B. Stevenson, First Secretary of Embassy, Washington.

LIECHTENSTEIN

SURVEY OF ELECTORAL LEGISLATION[1]

Suffrage is universal and direct in all Principality and local elections. Votes in elections to the *Landtag* may be cast only by means of written ballot papers deposited in ballot boxes.

The elections are secret. Polling booths are provided for the *Landtag* elections and only the official ballot papers and voting lists may be used. These are placed in envelopes and deposited in the ballot boxes after the envelopes have been closed. Ballot papers bearing distinguishing marks are declared invalid.

The right to vote or to be elected extends only to men and not to women. Liechtenstein subjects who are over 21 years of age and have taken up residence in the Principality at least one month before the election, have the right to vote or to be elected.

Proportional representation was introduced under the Constitutional Amendment of 18 January 1939.

The following texts contain the electoral regulations now in force:

Constitution of 5 October 1921, with amendments of 18 January 1939 and 30 December 1947,

Constitutional Amendment of 18 January 1939,

Act of 31 August 1922 as amended 30 December 1947 regarding the exercise of political rights in Principality affairs,

Act of 18 January 1939 to introduce proportional representation,

Ordinance of 19 April 1945 on the introduction of ballot papers for *Landtag* elections and referendums;

Act amending the Penal Law of 1 June 1922;

Act of 4 December 1935 regarding the maintenance of persons reluctant to work and committed to workhouses.

[1] Survey received through the courtesy of Mr. Joseph Buechel, Secretary of the Government, Vaduz. English translation from the German text by the United Nations Secretariat.

CONSTITUTION[1]

of 5 October 1921

Art. 46 (as amended on 18 January 1939). The *Landtag* shall consist of 15 deputies elected by the people by universal, equal, secret and direct suffrage in accordance with the principle of proportional representation . . . .

[1] German text in *Verfassung des Fürstentums Liechtenstein* (official text), Vaduz. English translation from the German text by the United Nations Secretariat. See also the Act of 18 January 1939 in *Liechtensteinisches Landesgesetzblatt*, 1939, No. 3, 20 January 1939.

ACT OF 31 AUGUST 1922 REGARDING THE EXERCISE OF POLITICAL RIGHTS IN AFFAIRS OF THE PRINCIPALITY[1]

as amended 30 December 1947

Art. 2. 1. All male Liechtenstein citizens over 21 years of age, who are not legally disqualified, who have resided in the Principality for one month before the election or referendum and whose right to vote in elections or referendums has not been suspended, shall have the right to vote or to be elected . . . .

3. The right to vote or to be elected shall not apply to, or shall be suspended in the case of, the following persons:

(*a*) Persons not in full enjoyment of their civic rights (minors, persons under guardianship or trusteeship);

(*b*) Persons whose property is the subject of bankruptcy proceedings, for the duration of such proceedings;

[1] German text in *Liechtensteinisches Landesgesetzblatt*, 1922, No. 28, 6 September 1922. English translation from the German text by the United Nations Secretariat.

(*c*) Persons entirely dependent on public relief;

(*d*) Persons whose voting rights have been legally suspended in virtue of a criminal law or of a valid judicial or administrative sentence.[1]

4. [Contains provisions on the restoration of voting rights in certain cases.]

[1] Article 20 of the Act contains detailed provisions regarding disqualification on this count. The Act of 4 December 1935 (*Liechtensteinisches Landesgesetzblatt* 1935, No. 14, 12 December 1935) further provides that idle and profligate persons committed to forced labour institutions or reformatories shall be deprived of the right to vote or to be elected for a period equal to twice the original period of committal.

LUXEMBOURG

CONSTITUTION

See articles 51, 52 and 53 on p. 143 of the present *Yearbook*.

SUMMARY OF ELECTORAL PROVISIONS[1]

An elector must: (1) be a Luxembourg national; (2) enjoy civil and political rights; (3) be over 21 years of age; (4) be domiciled in the Grand Duchy. These conditions, except that of age, must be effective on 1 April of the year of revision of the electoral lists, and the condition of age on 1 January of the following year.

The following are debarred from voting: (1) persons who have lost Luxembourg nationality; (2) persons convicted for a criminal offence; (3) persons who have been sentenced to imprisonment for theft, receiving stolen goods, fraud or breach of trust, and persons convicted of forgery; use of forged documents, perjury, suborning of witnesses, experts or interpreters or one of the offences provided for in articles 372 to 382 and 387 to 391 of the Penal Code and in article 7 of the Law of 6 April 1881, and their accomplices; (4) persons sentenced to deprivation of electoral rights; (5) persons who are maintaining or who have maintained a disorderly house or brothel, or who have been convicted of breaches of governmental orders concerning disorderly houses and concerning persons engaged in prostitution; (6) persons who have been relieved of their duties as guardians for misconduct or dishonesty, or who have been deprived of parental authority; (7) persons adjudged insolvent and bankrupts, and, until they have fully paid their creditors, persons whose possessions have been legally assigned or who are unable to meet their liabilities; (8) persons under judicial interdiction and lunatics under restraint.

The right to vote may, however, be restored by pardon to persons sentenced to imprisonment for theft, fraud or breach of trust.

The following are also debarred from voting under the Grand Ducal Orders of 31 May 1949 (*Mémorial* 1945, p. 320) and 7 August 1945 (*Mémorial* 1945, p. 460):

(1) Persons sentenced for a crime or offence against the external security of the State;

(2) Persons dismissed under the Grand Ducal Order of 2 March 1945, establishing administrative investigation; persons debarred by final judgment from exercising their profession because of their anti-patriotic attitude and persons whose commercial, industrial or handicraft undertaking has been definitively closed by a decision of a cantonal court;

(3) Persons against whom proceedings are in progress for offences against the security of the State;

(4) The wives of persons enumerated in paragraphs 1 to 3, if they are not natural-born Luxembourg nationals.

(A provision concerning interned persons applied only to the preparation of the electoral lists drawn up in 1945 and valid for the years 1945 and 1946.)

[1] French text of this summary in: Grand Duchy of Luxembourg, *Annuaire officiel 1949*, Luxembourg, 1949, pp. 612–613. English translation from the French text by the United Nations Secretariat. The electoral Act is dated 31 July 1924. Information through the courtesy of Mr. Ferdinand Wirtgen, Government Councillor, Luxembourg.

UNITED STATES OF MEXICO

POLITICAL CONSTITUTION OF THE UNITED STATES OF MEXICO[1]

of 5 February 1917, with subsequent amendments

TITLE I

Chapter IV

MEXICAN CITIZENS

Art. 34. All Mexicans who possess the following qualifications are citizens of the Republic:

1. Those who have attained the age of eighteen years and are married, or twenty-one if unmarried; and

2. Those who have an honest means of livelihood.

Art. 35. Privileges of a citizen are:

1. To vote in popular elections.

2. To be eligible to all popularly elective offices and be qualified for any other position or commission, provided he has the qualifications prescribed by law . . . .

Art. 36. The duties of a citizen of the Republic are:

. . . . . .

3. To vote in popular elections in the electoral district to which he belongs.

Art. 37. . . . .

2. Mexican citizenship shall be lost:

I. By accepting or using titles of nobility which imply submission to a foreign Government.

II. By voluntarily serving a foreign Government officially, without permission of the federal Congress or of its permanent committee.

III. By accepting or using foreign decorations without permission from the federal Congress or its permanent committee.

IV. By receiving titles or offices from the Government of another country without previous permission from the federal Congress or from its permanent committee, excepting literary, scientific, or humanitarian honours, which may be freely accepted.

V. By aiding a foreigner or a foreign Government against the nation, in any diplomatic claim or before an international tribunal; and

VI. In the other cases established by law.

Art. 38. The rights or privileges of citizens may be suspended:

1. For failure to comply, without justifiable cause, with any of the obligations imposed by article 36. This suspension shall last one year and shall be imposed in addition to the other penalties prescribed by law for the same offence.

2. For being subjected to criminal prosecution for an offence punishable by imprisonment, such suspension to be reckoned from the time of the order for formal commitment.

3. During the term of imprisonment.

4. For vagrancy or habitual intoxication, as declared in the manner prescribed by law.

5. For being a fugitive from justice, from the date of issue of the warrant of arrest until the prescription of the criminal action; or

6. By an enforceable sentence imposing such suspension as a penalty.

The law shall define the cases in which citizenship is lost or suspended, as well as the manner of recovering it.

TITLE III

Chapter II

THE LEGISLATIVE POWER

Art. 50. The legislative power of the United States of Mexico is vested in a general Congress which shall consist of two chambers—the Chamber of Deputies and the Chamber of the Senate.

Art. 51 (as amended 29 April 1933). The Chamber of Deputies shall be composed of representatives of the nation elected biennially by the citizens of Mexico.

Art. 52. One deputy shall be chosen for each 150,000 inhabitants or for any fraction thereof exceeding 75,000 on the basis of the general census of the Federal District and of each State and territory. In no case, however, shall a State have less than two deputies, and a territory in which the population is less than that fixed by this article shall, nevertheless, elect one deputy.

[1] Spanish text in *Constitución Política Mexicana*, edited by Dr. Manuel Andrade, Mexico 1945. English text based on the translation in *The Constitutions of the Americas* (cited above, p. 296), pp. 498–553.

Art. 54. The election of deputies shall be direct and carried out in the manner prescribed by the electoral law.

Art. 55. A deputy must:

1. Be a Mexican citizen by birth, and in the possession of his rights.

2. Have attained twenty-five years of age on the date of the election.

3. Be a native of the State or territory from which he is elected, or have been domiciled therein for more than six months prior to the date of the election. Domicile shall not be lost through absence in the discharge of popularly elective public office.

[Points 4 to 7 refer to incompatibilities between the office of a deputy and other public office.]

Art. 56. The Senate shall consist of two senators from each State and two from the Federal District, chosen biennially in direct election.

Each State Legislature shall certify to the election of the candidate who shall have obtained a majority of the total number of votes cast.

Art. 58. A senator must have the same qualifications as a deputy, except that of age, which shall be more than thirty-five years on the day of election.

TITLE V

THE STATES OF THE FEDERATION

Art. 115 (as amended 12 February 1947) . . . .

Women shall participate in municipal elections on the same terms as men, having the right to vote and to be elected . . . .

ACT REGARDING THE ELECTION OF DEPUTIES AND SENATORS OF THE FEDERAL CONGRESS AND THE PRESIDENT OF THE REPUBLIC

dated 31 December 1945 [1]

CHAPTER IV

RIGHT TO VOTE AND TO BE ELECTED

Art. 40. Mexican males of 18 years of age, if married, and 21 years of age if unmarried, in the possession of their political rights and inscribed on the electoral register and lists, are electors.

Art. 41. It is the duty of every elector to cast his vote in the electoral district in which he resides. His vote shall be valid only in this district, save as otherwise provided by law.

Art. 42. Electors have the further duties of:

1. Entering their names on the electoral register and lists, with the help, if necessary, of the remedies provided by law;

2. Performing the electoral functions to which they are appointed, always with a view to the correct use of the franchise.

Electoral duties cannot be refused.

Art. 43. The following may not be electors:

1. Persons under a disability in pursuance of a judgment;

2. Persons committed to institutions for drug addiction or mental diseases;

3. Persons under indictment for an offence involving any form of punishment acting on the person as from the date of issue of the warrant of arrest;

4. Persons serving sentences involving any form of punishment acting on the person;

5. Fugitives from justice as from the date of issue of the warrant for their apprehension until such time as may be stipulated in the sentence;

6. Persons condemned by a final sentence of the courts to the penalty of suspension of the right to vote;

7. Persons found guilty of concealing or falsifying votes;

8. Persons deprived of guardianship for mismanagement of funds or breach of trust;

9. Habitual drunkards, vagrants and persons of dissolute habits;

10. Habitual beggars and persons living on public and private charity;

11. Persons keeping or who have kept public or clandestine houses of prostitution;

12. Gamblers; and

13. Souteneurs.

Art. 44. All electors who have the qualifications laid down in article 55 of the Federal Constitution may be elected deputies.

All electors who have the qualifications laid down in article 58 of the Federal Constitution may be elected senators.

[1] English translation in *Yearbook on Human Rights for 1947*, pp. 183–184. On 11 February 1949, a new electoral Act was adopted by the Mexican Congress. The relevant provisions of this Act will be reproduced in the *Yearbook on Human Rights for 1949*.

MONACO

CONSTITUTION OF MONACO

(Supreme Ordinance of 5 January 1911, as amended by the Ordinances of 18 November 1917, 17 October 1944 and 19 May 1945)

THE NATIONAL COUNCIL

21. The legislative power is exercised by the Prince and a National Council.

22 (*as amended by the Ordinance of 1944*). The National Council is composed of eighteen members elected for four years by universal suffrage and by the system of party lists.

THE COMMUNAL COUNCIL

39 (*as amended by the Ordinance of 1917*). The communal Council is composed of fifteen members elected for three years by direct universal suffrage and by the system of party lists.

FRANCHISE; ELIGIBILITY

55 *bis* (*as amended by the Ordinance of 1917*). No person is eligible for membership in the National Council and the Communal Council unless he is at least twenty-five years of age.

(*As added by the Ordinance of 1944.*) Members of the Council of Government and magistrates of the judicature may not be members of the National Council.

56 (*as amended by the Ordinance of 1944*). The elections to the National Council and to the Communal Council shall be governed by articles 6 to 75 of Act No. 30 of 3 May 1920 regarding municipal organization.[2] This shall not affect the application to the National Council of the new provisions resulting from the present ordinance.

An ordinance by the Prince shall determine the conditions under which women will be permitted to take part in elections, without prejudice to a later extension of their juridical capacity, which shall likewise be determined by ordinance.

A similar reservation is made with reference to the introduction of proportional representation.

[1] The texts and information relating to the electoral law in the Principality of Monaco were supplied through the courtesy of Mr. Louis Aureglia, Doctor of Law, National Councillor, Monte Carlo.

[2] See extracts from that law, *infra*.

SUPREME ORDINANCE No. 3020 OF 19 MAY 1945

Women of Monegasque nationality who fulfil the conditions required by the Municipal Organization Act of 3 May 1920 (Title II, chapter I, section I) are electors and are eligible for membership in the Communal Council.

MUNICIPAL ORGANIZATION ACT [1]

No. 30 of 3 May 1920

SECTION I
FRANCHISE AND ELIGIBILITY

Art. 6. All male Monegasques[2] who have reached majority and are not under any disability as defined by law are entitled to vote.

Art. 7. The following are deprived of the franchise:

1. Individuals who have lost their civic rights through being sentenced to penalties involving punishment acting on the person and loss of civil rights, or to penalties involving loss of civil rights only;

[1] Articles 6–75 of this text also apply to elections to the National Council. See article 56 of the Constitution, reproduced above.

[2] See the ordinance of 19 May 1945, reproduced above, which gave women the right to vote and made them eligible for election to the Communal Council; women are not entitled to participate in elections to the National Council [*Editor's note*].

2. Persons whose voting and electoral rights have been suspended by the courts in pursuance of laws authorizing such suspension;

3. Persons sentenced to prison for a criminal offence, under article 471 of the Penal Code;

4. Persons sentenced to a term of three months' imprisonment under articles 306, 435 and 437 of the Penal Code;

5. Persons convicted of robbery, fraud, breach of trust, embezzlement of public funds or immoral offences referred to in articles 325 and 331 of the Penal Code, regardless of the length of the term of imprisonment imposed on them;

6. Individuals sentenced to a term of imprisonment exceeding three months for offences against morality covered by and punishable under the laws relating to the Press;

7. Individuals sentenced to a term of imprisonment exceeding three months by virtue of articles 56, 57, 59, 60, 61, 62, 64, 65, 66, 67, 68, 71 and 72 of the present ordinance;[1]

8. Notaries, clerks and law officials removed from office in pursuance of judgments or judicial decisions;

9. Persons convicted of vagrancy and mendicancy;

10. Persons sentenced to a term of not less than three months' imprisonment in pursuance of articles 451, 452, 453, 454, 455 and 460 of the Penal Code;

11. Persons found guilty of the offences referred to in articles 417 and 422 of the Penal Code;

12. Persons who, having been convicted twice in courts of summary jurisdiction of the offence of drunkenness, have by the second judgment been sentenced to imprisonment;

13. Persons convicted of the offence of usury;

14. Persons under a disability;

15. Undischarged bankrupts who have been adjudicated bankrupt either by the courts of Monaco or by judgments granted abroad but enforceable in the Principality.

Sentences subject to a stay of execution do not cause the loss of the right to vote for so long as they do not become executory.

Art. 8. Persons sentenced to more than one month's imprisonment for resisting, insulting or behaving violently towards the agents of the authority or of the police, for publicly insulting a supplementary judge in the criminal tribunal because of his functions or a witness because of his evidence, or sentenced for offences referred to in articles 170 (3) and (4) and 171 of the Penal Code and persons sentenced to more than two months' imprisonment for wilful blows and injuries under article 298 of the Penal Code, may not exercise their right to vote for five years from the date of the expiration of their term of imprisonment . . . .

Art. 9. Subject to the exceptions contained in the following article, all electors over twenty-five years of age whose names appear on the electoral roll for the current year and for the preceding year as residents of the Principality may be elected to the Communal Council.

No residence qualification shall be required for the first election following the promulgation of the present ordinance.

Art. 10. The following may not be elected communal councillors:

. . . . . .

5. Persons receiving public relief;
6. Personal servants;
7. Persons unable to read or write.

SECTION III

ELECTORAL PROCEDURE

Art. 35. The vote is by secret ballot.

Each elector hands his ballot paper to the president after it has first been placed in a sealed envelope.

Only envelopes delivered for this purpose to the secretariat of the town hall may be used; failure to comply with this requirement renders the ballot papers void.

SECTION V

PENAL PROVISIONS

Art. 65. Persons who, by violent means, duress or threats against an elector, either by causing him to fear loss of employment or possible damage to his person, family or property, persuade him or attempt to persuade him to abstain from voting or who influence or attempt to influence his vote shall be punishable by imprisonment for one month to one year and a fine of 100 to 1,000 francs.

The penalty shall be doubled if the person guilty of the offence is a public official.

Art. 66. Persons who, through false information, slanderous rumours or other fraudulent machinations, fraudulently obtain or divert, or fraudulently attempt to obtain or divert votes, or who persuade or attempt to persuade one or more electors to abstain from voting, shall be punishable by imprisonment for one month to one year and a fine of 100 to 2,000 francs.

Art. 67. Whenever the operations of the electoral college are disturbed or the exercise of the franchise or the freedom of the vote is prejudiced by unlawful assembly, uproar and threatening demonstrations, those responsible shall be punishable by imprisonment

[1] These articles provide for the punishment of election fraud and other offences prejudicing free and honest voting. For the text of some of these articles, *vide infra.*

for three months to two years and a fine of 100 to 2,000 francs.

Art. 68. Any person who enters or attempts to enter by force polling premises with a view to preventing a free choice shall be punishable by imprisonment for one to five years and a fine of 1,000 to 5,000 francs.

Art. 69. If those guilty of the offence described in the foregoing article bore arms or if the balloting was tampered with, the penalty shall be solitary confinement with hard labour.

Art. 70. The penalty shall be forced labour for a term if the criminal offence was committed as a result of a conspiracy.

*

MONGOL PEOPLE'S REPUBLIC

CONSTITUTION (FUNDAMENTAL LAW) OF THE MONGOL PEOPLE'S REPUBLIC[1]

of 30 June 1940

CHAPTER IX

THE ELECTORAL SYSTEM

Art. 70. Elections of all organs of authority are conducted in the *khural* by voice vote. Each member of the *khural* may nominate candidates for membership in the executive organs and candidates as deputies for the above-mentioned *khurals*. The name of each candidate nominated must be submitted for discussion in the *khural* prior to the voting. Each member of the *khural* is guaranteed the right of free expression *for* or *against* the candidate nominated. Candidates who have received a simple majority of votes are considered elected.

Art. 71 (as amended 28 September 1944). All citizens of the Mongol People's Republic who have reached the age of 18 have the right to participate in elections and to be elected, irrespective of their sex, nationality, religion, education, nomadic or settled mode of life, and property status, with the exception of the insane and persons convicted by a court, whose sentence includes deprivation of electoral rights.

Art. 72. In elections all voters have equal rights; each voter has one vote. Members of the armed forces have the right to participate in the elections on an equal footing with all citizens.

Art. 73. Women have the right to elect and be elected on equal terms with men.

Art. 74. For the conduct of elections, central and local electoral commissions are appointed, which act in accordance with instructions and regulations approved by the Presidium of the Little Khural.

[1] English text in *Yearbook on Human Rights for 1947*, pp. 247–248.

NETHERLANDS

CONSTITUTION

See the electoral provisions of the Constitution on p. 148 of this *Yearbook*.

NETHERLANDS ELECTORAL ACT[1]

of 7 September 1896, with subsequent amendments

TITLE I
THE RIGHT TO VOTE

Section 1
ELECTORS

Art. 1. The members of the Second Chamber of the States-General shall be elected by Netherlanders or persons recognized by law as Netherlands subjects who are resident in the Realm and have attained the age of twenty-three years.

For the purposes of this Act the test of residence shall be the actual dwelling place.

Art. 3. The following persons shall be deprived of the right to vote:

Persons deprived of the right to vote by final sentence of a court of law;

Persons lawfully deprived of freedom;

Persons who, by virtue of a final sentence of a court of law, have lost the right to dispose of or administer their property because of unsoundness of mind or mental defectiveness or have been deprived of parental authority or guardianship over one or more of their children;

Persons condemned by final sentence of a court of law to imprisonment for more than one year, for three years after completion of their sentence and for life if a like penalty is imposed a second time;

Persons convicted by final sentence of a court of law of mendicancy or vagrancy, for three years after completion of their sentence, or for six years if a like penalty is imposed a second time, or for life a third time;

Persons convicted more than twice within a period of three years by final sentence of a court of law of a punishable act involving public drunkenness, for a period of three years after confirmation of the last sentence.

Lapse of the right of prosecution in accordance with the first paragraph of article 74 of the Penal Code shall be equivalent to a final sentence.

Art. 4. The exercise of the right to vote by members of the sea and land forces on active service may be suspended by Us throughout the whole Realm or part thereof for so long as all or part of the persons liable for service are retained in emergency with the colours, in virtue of article 185 (now 187) of the Constitution.

Art. 5. The right to elect members to the Provincial Estates shall be governed by the rules laid down in articles 1 to 4 (*a*) with regard to the right to elect members to the Second Chamber of the States-General, except that residence in the province shall be required in place of residence in the Realm.

Art. 6. The right to elect members to municipal councils shall be governed by the rules laid down in articles 1 to 4 (*a*) with regard to the right to elect members to the Second Chamber of the States-General, except that residence in the municipality shall be required in place of residence in the Realm.

Section 3
ELECTIONS

Art. 67. Outside the room provided for the public and in the polling booth there shall be placed one or more desks, completely separated one from another and having their approaches visible by the polling committee and the public, on which ballot papers can be completed in secrecy.

Art. 81. The chairman of the polling committee is responsible for the maintenance of order in the polling station.

No armed soldiers may be posted in the polling booth or in the approaches thereto except at his request, and then only for the purpose of controlling disorder. The civil and military authorities are required to comply with any such request made by the chairman of the polling committee.

[1] Dutch text in *Kieswet* (*Nederlandsche Staatswetten*), 1935 (with addenda, containing subsequent amendments). Text through the courtesy of the Netherlands Information Bureau, New York. Information through the courtesy of Dr. G. van den Bergh, Professor at the Municipal University of Amsterdam. English translation from the Dutch text by the United Nations Secretariat.

TITLE II

NOMINATION AND RETIREMENT OF MEMBERS—FIRST AND SECOND CHAMBERS OF THE STATES-GENERAL

Section 1

MEMBERS OF THE FIRST CHAMBER

Art. 111. Members of the First Chamber must be Netherlanders or persons recognized by law as Netherlands subjects who have attained the age of thirty years and have not been deprived of their eligibility or of the right to vote in accordance with the provisions of article 3, except in case of lawful deprivation of freedom and sentence to imprisonment otherwise than for mendicancy or vagrancy or for an act involving public drunkenness.

Art. 112. The members of the First Chamber shall be elected by the members of the Provincial States.

Section 2

MEMBERS OF THE SECOND CHAMBER

Art. 123. Members of the Second Chamber must be Netherlanders or persons recognized by law as Netherlands subjects who have attained the age of thirty years and have not been deprived of their eligibility or the exercise of the right to vote in accordance with the provisions of article 3, except in case of lawful deprivation of freedom and sentence to imprisonment otherwise than for mendicancy or vagrancy or for an act involving puplic drunkenness.

Art. 124. The members of the Second Chamber shall be elected by persons included in the list of electors for that Chamber.

NEW ZEALAND

THE ELECTORAL ACT, 1927[1]

(1927, No. 44)

[11 November 1927]

AN ACT TO CONSOLIDATE CERTAIN ENACTMENTS OF THE GENERAL ASSEMBLY RELATING TO THE REPRESENTATION OF THE PEOPLE IN THE HOUSE OF REPRESENTATIVES, 11 NOVEMBER 1927

PART I

CONSTITUTION OF HOUSE

3. *Power to summon a House of Representatives.* (1) It shall be lawful for the Governor-General from time to time as occasion requires, by Proclamation in His Majesty's name, to summon and call together a House of Representatives in and for New Zealand, consisting of seventy-six members, in addition to four Maori members[2] as provided in Part IV hereof.

7. (2) (*c*) New Zealand shall be divided into as many districts as there are members (not including Maori members) to be returned.

QUALIFICATION OF MEMBERS

15. *Registered electors, women, public servants, and contractors.* (1) Subject to the provisions of this Act, every person registered as an elector, but no other person, is qualified to be a candidate and to be elected a member of Parliament for any electoral district:

Provided that a person shall not be so elected—

(*a*) Who is disqualified as an elector under any of the provisions of this Act; or

(*b*) Who, being a bankrupt within the meaning of the Bankruptcy Act, 1908, has not obtained an order of discharge under that Act; or

(*c*) Who is a member of the Legislative Council; or

(*d*) Who is a public servant or a contractor.

(2) A woman shall not be disqualified by sex or marriage from being elected as a member of the House of Representatives, or from sitting or voting as a member thereof, anything to the contrary in any other Act notwithstanding . . . .

PART II

PRELIMINARY TO THE ELECTION

QUALIFICATION OF ELECTORS

28. *Adult qualification.* (1) The members of Parliament shall be chosen in every electoral district by the votes of the inhabitants of New Zealand who possess within the district the following qualification, that is to say:

(*a*) Every person lawfully on the existing roll of the district in respect of property qualification, so long as he retains such qualification;

(*b*) Every person lawfully on the existing roll of the district as provided by the next succeeding sub-section.

(2) Every adult person who has resided for one year in New Zealand, and who has resided in any electoral district for not less than three months immediately preceding the date of his application for registration as an elector of that district, and who is a British subject either by birth or by naturalization in New Zealand, is entitled, subject to the provisions of this Act, to be registered as an elector of that district:

Provided that Maoris (other than half-castes) shall not be entitled to be registered as electors under this sub-section . . . .

32. *Aliens, mental defectives, public offenders, etc.* (1) An alien or mentally defective person, or a person convicted of an offence punishable by death or by imprisonment for one year or upwards within any part of His Majesty's dominions, or convicted in New Zealand as a public defaulter, or under the Police Offences Act, 1927, as an idle and disorderly person or as a rogue and vagabond, unless such offender has received a free pardon or has undergone the sentence or punishment to which he was adjudged for such offence, shall not be entitled to be registered . . . .

[37–50 deal with registration of electors. Registration is compulsory; failure to register constitutes an offence and is punishable.]

[79. Names of persons who have been convicted within the preceding three years of a corrupt or illegal practice are to be removed from the roll of electors.]

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[1] English text in: The Public Acts of New Zealand, *Electoral*, Wellington 1932, received through the courtesy of Dr. W. B. Sutch, Counsellor, Secretary-General of the Permanent Delegation of New Zealand to the United Nations.

[2] See also *Yearbook on Human Rights for 1946*, p. 210.

POLLING AT ELECTIONS

128. *Day of election to be half-holiday* (as amended by Statutes Amendment Act, 1946). (1) Subject to the provisions of this section, all factories, shops, offices, and business premises in which any workers are employed shall be closed not later than two o'clock in the afternoon, for the remainder of the day, on the polling day at every election, and it shall not be lawful for any employer to make any deduction from any remuneration payable to any such worker in respect of any time after the time of closing as aforesaid. ...

(3) Where any worker is required to work after two o'clock in the afternoon on the polling day for the purpose of carrying on any essential work or service his employer shall on that day allow the worker to leave his work for a reasonable time for the purpose of recording his vote, and no deduction shall be made from any remuneration payable to the worker in respect of any time, not exceeding three hours, occupied in recording such vote as aforesaid. ...

BALLOT PAPERS

136. *Marking ballot paper and putting into ballot box.* (1) The voter, having received a ballot paper, shall retire into one of the inner compartments provided for the purpose, and shall there alone and secretly mark his ballot paper by striking out the names of the candidates for whom he does not wish to vote.

OFFENCES OF ELECTIONS

166. *Infringement of secrecy.* (1) Every officer, clerk, scrutineer, interpreter, and constable in attendance at a polling booth shall maintain and aid in maintaining the secrecy of the voting in such booth, and shall not communicate to any person, except for some purpose authorized by law, before the poll is closed, any information likely to defeat the secrecy of the ballot.

(2) No person, except as hereinbefore provided, shall interfere with or otherwise attempt to obtain in the polling booth information as to the candidate for whom any voter in such booth is about to vote or has voted, or communicate at any time to any person any information obtained in a polling booth as to the candidate for whom any voter at such booth is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such booth.

(3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper.

(4) No person shall directly or indirectly induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

(5) Every person who offends against this section is liable, on summary conviction before two justices, to six months' imprisonment with or without hard labour.

PART IV [1]

MAORI REPRESENTATION

180. *Four Maori members to be elected.* (1) In addition to the seventy-six members of the House of Representatives mentioned in section three hereof, there shall be four members of the said House to represent therein the inhabitants of New Zealand of the Maori race.

(2) Such members shall be chosen respectively by the votes of the Maoris inhabiting each of the several Maori electoral districts hereinafter mentioned.

181. *Disqualification of half-castes and Maoris (as amended by Act 71 of 1948).* (1) A half-caste who is for the time being registered as an elector of a European electoral district shall not be entitled to vote at any election of a member for a Maori electoral district. A half-caste who has voted as an elector of a European electoral district at any election (whether a general election or a by-election) shall not be entitled to vote as an elector of a Maori electoral district at any election before the general election, next following the election at which he so voted.

(2) A Maori of unsound mind, or a Maori convicted of an offence punishable by death or by imprisonment for one year or upwards within any part of His Majesty's dominions, or convicted in New Zealand as a public defaulter, or under the Police Offences Act, 1927, as an idle and disorderly person or as a rogue and vagabond, unless such offender has received a free pardon or has undergone the sentence or punishment to which he was adjudged for such offence, shall not be entitled to vote.

182. *Qualification of Maori electors.* Every adult Maori who is not disqualified under this Act is entitled to vote as an elector at any election of a member of Parliament for the Maori electoral district in which he resides.

183. *Qualification of Maori members.* Every such elector is qualified to be a member of Parliament for any Maori electoral district.

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[1] See also the Electoral Amendment Act, 1948, printed below.

186. *Conduct of Maori electoral poll.* (1) On the day of the poll the electors shall enter the polling booth one by one, and each elector, when requested to do so by the Deputy Returning Officer or his associate, shall state his full name, tribe, *hapu* and abode. The Deputy Returning Officer (or his associate as above mentioned) shall write such information on the counterfoil of the voting paper, after which the elector shall be requested to state the name of the candidate for whom he desires to vote; and, the elector having done so, the Deputy Returning Officer shall write such candidate's name upon the voting paper, and having affixed his name or initials thereto shall pass it to his associate, who shall place his name or initials on such voting paper as witness.

192. *Maintenance of secrecy.* (1) Every officer, clerk, scrutineer, associate, and constable in attendance in a polling booth shall maintain and aid in maintaining the secrecy of the voting in such booth, and shall not communicate to any person except for some purpose authorized by law, before or after the poll is closed, any information likely to defeat the secrecy of the poll.

(2) No person, except as hereinbefore provided, shall interfere with or attempt to interfere with a voter when engaged in recording his vote, or otherwise attempt to obtain in the polling booth information as to the candidate for whom any voter in such booth is about to vote or has voted, or communicate at any time to any person any information obtained in a polling booth as to the candidate for whom any voter at such booth is about to vote or has voted.

(3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular voting paper.

ELECTORAL AMENDMENT ACT, 1948[1]

1948, No. 71

[2 December 1948]

PART I

MAORI REPRESENTATION

3. Subject to the provisions of Part IV of the principal Act, the provisions of the principal Act relating to the registration of electors shall extend and apply to the registration of electors under Part IV of the principal Act, with the necessary modifications and as if the Chief Electoral Officer were the Registrar of each Maori electoral district.

4. (1) A half-caste Maori who possesses the qualifications prescribed in that behalf in Parts II and IV of the principal Act shall be entitled at his option, subject to the provisions of the principal Act, to be registered either as an elector of a Maori electoral district or as an elector of a European electoral district.

(2) A half-caste who has voted at an election of a member for a European electoral district (whether a general election or a by-election) shall not be entitled to be registered as an elector of a Maori electoral district for the purposes of any election before the general election next following the election at which he so voted.

(3) A half-caste who is registered as an elector of a European electoral district shall not be entitled to be registered as an elector of a Maori electoral district unless, upon an application in writing made by him in that behalf, his name is removed from the European roll.

(4) A half-caste who has voted at an election of a member for a Maori electoral district (whether a general election or a by-election) shall not be entitled to be registered as an elector of a European electoral district for the purposes of any election before the general election next following the election at which he so voted.

(5) A half-caste who is registered as an elector of a Maori electoral district shall not be entitled to be registered as an elector of a European electoral district unless, upon an application in writing made by him in that behalf, his name is removed from the Maori roll.

6. Every adult Maori who is entitled to be registered as an elector of any Maori electoral district (whether or not he is so registered) is qualified to be a member of Parliament for that or any other Maori electoral district.

[1] English text: 1948, No. 71, *An Act to amend the Electoral Act, 1927*, Wellington, Government Printer, 1948.

NICARAGUA

NOTE

See the electoral provisions of the Constitution of 22 January 1948 on pp. 161, 165 of this *Yearbook*.

NORWAY

CONSTITUTION

See the articles relating to electoral rights of the Norwegian Constitution on pp. 167–168 of this *Yearbook*.

ACT OF 17 DECEMBER 1920 REGARDING ELECTIONS TO THE *STORTING*[1]

with subsequent amendments

CHAPTER 2

ELECTIONS

[Articles 31–33 contain provisions respecting the secrecy of the vote to the *Storting*; the right to vote of persons included in the census list; voting by persons whose right to vote has been rejected by a voting board; and the form and content of voting papers (ballots).]

[1] Norwegian text in *Lover om Stortingsvalg*, Oslo 1945, received through the courtesy of the Department for municipal affairs and labour, Oslo. English translation from the Norwegian text by the United Nations Secretariat.

CHAPTER 3

INVALID ELECTIONS

Art. 50. Subject to the further conditions set forth in article 51, the voting results in an electoral parish shall be declared invalid when:

6. Any person has attempted in a criminal manner to influence an election.

SUSPENSION OF CIVIL VOTING RIGHTS ACT[1]

of 28 March 1912, with subsequent amendments

Civil voting rights shall be suspended in the case of public prosecution for:

(1) Offences punishable by a term of imprisonment for more than one year or, under the military penal law, for more than two years;

(2) Offences covered by the provisions of articles 105–108 of the ordinary Civil Penal Code.

The suspension shall commence from the date of issue of a declaration of public prosecution and shall continue, unless the case is withdrawn, until final judgment is given or until it is certain that the final judgment will not deprive the defendant of his right to vote.

(*As added by the Provisional Act of 21 February 1947.*) If the case concerns an infraction of the penal provisions of article 1, items 1 *a–c* of the Act (Provisional Order) respecting treason trials, the suspension shall commence upon issue of a declaration of public prosecution as provided in article 18 (article 10) of the said Act (Order). Unless the declaration is rescinded or the case withdrawn, the suspension shall continue until a fine has been imposed with final effect or an enforceable judgment pronounced, or until it is certain that the fine or judgment will not deprive the defendant of his right to vote.

[1] Norwegian text in *Lover om Stortingsvalg*, Oslo 1945, received through the courtesy of the Department for municipal affairs and labour, Oslo. English translation from the Norwegian text by the United Nations Secretariat.

PAKISTAN

NOTE ON ELECTORAL PROVISIONS[1]

A. CONSTITUENT ASSEMBLY

In 1947 the sub-continent of India was partitioned into two self-governing dominions, to be known as India and Pakistan. This partition plan was mutually agreed upon by the two major political parties in India, viz., the Congress and the Muslim League on the one hand, the British Government on the other. After the partition, a Constituent Assembly was set up in each Dominion in order to draft a new constitution for it. The procedure for electing members to these Assemblies was laid down in paragraph 18 of a statement made by some members of the British Cabinet on 16 May 1946. While the desirability was recognized of obtaining, through adult franchise, a representation of the whole population which would be as accurate as possible, and created on the broadest possible basis, it was evident that this method would result in a long delay which was considered unacceptable. The most practicable course appeared therefore to be to utilize the recently elected Provincial Legislative Assemblies as electing bodies; and, in order to eliminate inequalities resulting from varieties in the composition of the provincial legislatures, the following suggestions were made:

(*a*) To allot to each province a total number of seats proportional to its population, roughly in the ratio of one to a million, as the nearest substitute for representation by adult suffrage.

(*b*) To divide this provincial allocation of seats between the main communities (Muslim, Hindus and Sikhs) in each province in proportion to their population.

(*c*) To provide that the representatives allocated to each community in a province shall be elected by members of that community in its Legislative Assembly.

In accordance with these suggestions, the Constituent Assembly of Pakistan, which functions as the constitution-making body as well as the Dominion Parliament, was elected indirectly through the Provincial Legislative Assemblies, roughly in the ratio of one to a million.

B. PROVINCIAL LEGISLATIVE ASSEMBLIES

The franchise for Provincial Legislative Assemblies is based on section 61 and the 5th and 6th schedules of the Government of India Act 1935, as amended and adapted by the Pakistan Provisional (Constitution) Order 1947.

Section 61, dealing with the composition of provincial legislatures, reads as follows:

"61. *Composition of Provincial Legislatures.* (1) The composition of the legislative Assembly of a province shall be such as is specified in relation to that province in the fifth schedule of this Act.

"(2) Every legislative Assembly of every province, unless sooner dissolved, shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly."

The fifths chedule, mentioned in section 61, contains in its first part the following rules regarding general qualification for membership in provincial legislatures:

"1. A person shall not be qualified to be chosen to fill a seat in a provincial legislature unless he—

"(*a*) Is a British subject or the ruler or a subject of an Indian State which has acceded to the Federation, or if it is so prescribed with respect to any province, the ruler or a subject of any prescribed Indian State; and

"(*b*) Is not less than twenty-five years of age; and

"(*c*) Possesses such, if any, of the other qualifications specified in, or prescribed under, this schedule as may be appropriate in his case.

"2. Upon the expiration of the term for which he is chosen to serve as a member of a provincial legislature, a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term."

.....

The sixth schedule contains comprehensive provisions as to franchise, from which the following, included in Part I (General) are reproduced here:

"1. There shall be an electoral roll for every territorial constituency and no person who is not, and, except as expressly provided by this schedule, every

[1] The information on which this note is based, and the texts, were received through the courtesy of Colonel Rahat Said Chhatari, alternate representative of Pakistan to the United Nations.

person who is, for the time being included in the electoral roll for any such constituency, shall be entitled to vote in that constituency.

"2. The electoral rolls for the territorial constituencies shall be made up and from time to time in whole or in part revised by reference to such date, in this schedule referred to as 'the prescribed date', as may be directed in each case by the Governor.

"3. No person shall be included in the electoral roll for any territorial constituency unless he has attained the age of twenty-one years and is either—

(*a*) A British subject; or

(*b*) A ruler or a subject of a federated State; or

(*c*) If and so far as it is so prescribed with respect to any province, and subject to any prescribed conditions, the ruler or a subject of any other Indian State.

"4. No person shall be included in the electoral roll for, or vote at any election in, any territorial constituency if he is of unsound mind and stands so declared by a competent court.

"5. No person shall be included in the electoral roll for a Sikh constituency, a Muhammadan constituency, an Anglo-Indian constituency, or an Indian Christian constituency, unless he is a Sikh, a Muhammadan, an Anglo-Indian, or an Indian Christian, as the case may be.

"6. No person who is or is entitled to be included in the electoral roll for any Sikh constituency, Muhammadan constituency, Anglo-Indian constituency, or Indian Christian constituency in any province shall be included in the electoral roll for a general constituency in that province.

"7. No person shall in any province vote at a general election in more than one territorial constituency, and in each province such provisions, if any, as may be prescribed in relation to that province shall have effect for the purpose of preventing persons being included in the electoral roll for more than one territorial constituency in the province.

"Provided that, in any province in which territorial constituencies have been specially formed for the purpose of electing women members, nothing in this paragraph or in any such provisions shall prevent a person from being included in the electoral roll for, and voting at a general election in, one territorial constituency so formed and also one territorial constituency not so formed.

"If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies shall be void.

"8. No person shall be included in the electoral roll for, or vote at any election in, a territorial constituency if he is for the time being disqualified from voting under the provisions of any such Order in Council, Act of the provincial legislature or rules made by the Governor as may be made or passed under this Act with respect to corrupt practices and other offences in connexion with elections, and the name of any person who becomes so disqualified shall forthwith be struck off all the electoral rolls for territorial constituencies in which it may be included.

"9. No person shall vote at any election in any territorial constituency, if he is for the time being undergoing a sentence of transportation, penal servitude, or imprisonment.

"10. The following provisions shall have effect with respect to the enfranchisement of women in respect of the qualifications of their husbands—

"(*a*) A woman who, at the date of the death of her husband, is included in an electoral roll for a territorial constituency by virtue of his qualifications shall, notwithstanding anything in the subsequent provisions of this Schedule, continue to be on the roll for that constituency unless she remarries or becomes disqualified under the foregoing provisions of this Schedule for inclusion in that roll;

"(*b*) Not more than one woman shall at any one time appear in the electoral rolls for the territorial constituencies in a province in respect of the qualifications of any particular man and any question which of several women is to be selected for inclusion shall be determined in the prescribed manner:

"Provided that, if a woman who is entitled by virtue of sub-paragraph (*a*) of this paragraph to remain on the roll of a territorial constituency changes her place of residence, then, if she so desires, she may, on any subsequent revision of the roll, be transferred to the roll of such other territorial constituency as may be appropriate.

"11. For the purposes of this schedule any property owned, held, or occupied or payment made by, or assessment made on, a person as a trustee, guardian, administrator or receiver or in any other fiduciary capacity, shall, except as otherwise expressly provided in this schedule, be left out of account . . . ."

Other provisions which are particular to East Bengal (Part IV), to West Punjab (Part VI), the North-western Frontier Province (Part X), and Sind (Part XII), follow in the text of the Act.[1]

On the whole, the provisions may be condensed as follows:

As far as practicable, territorial constituencies are provided for Hindus (general seats), Muslim and others. An electoral roll is prepared for each constituency. No person may vote at a general election in more than one territorial constituency. Assignment to a territorial constituency is based on residence, but

[1] Not reproduced here.

ıe requirements vary. The qualification for the anchise in territorial constituencies is based on roperty, which may be determined by land revenue, y various conditions of agricultural tenancy, by ıcome tax assessment, and in the case of the urban :eas, by the amount of rent paid. There are also rescribed qualifications for the non-territorial ɔnstituencies.

A person is also qualified to be inscribed on the lectoral roll for any territorial constituency if he is roved to have passed any prescribed examination not lower than an intermediate school examination. Moreover, all officers of the armed forces and the police force are eligible to vote if they are living on pensions, are retired or discharged.

The following women have in general the right to vote, namely, those who have in their own right the property qualifications required for men; who are wives or widows of men so qualified; who are wives of men with service qualifications; who are pensioned widows or mothers of members of the armed forces or the police; or who possess a certain degree of education.

PANAMA

POLITICAL CONSTITUTION OF THE REPUBLIC OF PANAMA[1]
of 1 March 1946

TITLE IV
POLITICAL RIGHTS
Chapter I
GENERAL PROVISIONS

Art. 97. All Panamanians of either sex who have attained twenty-one years of age, are citizens.

Art. 98. Citizenship consists of the right to vote and to be elected to public positions of popular election and of the capacity to hold official positions with power and jurisdiction, subject to the provisions of article 192.[2]

Art. 99. Citizenship is lost:

1. By loss of Panamanian nationality, in conformity with this Constitution; or

2. By punishment in conformity with the law.

Art. 100. Citizenship is recovered by means of rehabilitation by the National Assembly.

Art. 101. Citizenship is suspended:

1. By a decision of a court, in the cases determined by law; or

2. Pending criminal action after the issue by a judge of a writ instituting action for offences on account of which no release from custody is allowed.

Chapter II
SUFFRAGE

Art. 102. Suffrage is a right and a duty of all citizens. The law shall regulate it on the following bases:

1. Suffrage is free. All official support to candidates for positions of popular election is prohibited, even though the means employed for such ends may be hidden.

2. The authorities shall be impartial guarantors of the voting and shall not be instruments of political compulsion, direct or indirect. All exaction of quotas or contributions from public employees, for political purposes, even on the pretext that they are voluntary, is prohibited to the authorities.

3. Any popular election, or election held by public corporations, shall be based on a system securing proportional representation of the parties, when the election of more than two citizens is involved.

4. Every citizen shall be provided with a personal, permanent cedula, the acquisition of which is obligatory and which shall serve for his identification in popular elections and in the other acts required for such elections; and

5. The vote is universal, equal, direct and secret.

Art. 103. The law shall regulate the manner of constituting political parties. It shall be unlawful to establish parties based on sex, race or religion, or the purpose of which is to overthrow the democratic form of government.

Art. 104. Violation of the provisions contained in article 102 constitutes an offence. The law shall provide for corresponding penalties, subject to the provisions of article 148.[3]

Chapter III
ELECTORAL ORGANIZATION

Art. 105. There shall be a national jury of elections in the Republic. The selection, composition and powers of this jury shall be determined by a law which shall guarantee the principle of proportional representation and the supervision of the functions of the jury by parties and political groups not represented on the jury and other electoral bodies.

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[1] Spanish text in *Constitución de la República de Panama* (official edition), Panama, 1946. Text through the courtesy of the Ministry of External Relations, Panama. English text based on the translation in *The Constitutions of the Americas* (cited above, p. 296) pp. 605–651.

[2] Article 192 deals with the right of aliens to vote to municipal councils after a certain period of residence.

[3] Article 148 lists the cases in which the President of the Republic alone is responsible. Paragraph 2 of the article lists "acts of violence or coercion in the course of the electoral process or which prevent the meeting of the National Assembly . . ."

TITLE V

THE LEGISLATIVE BRANCH

Chapter I

THE NATIONAL ASSEMBLY

Art. 108. Deputies and their substitutes shall be elected by direct, popular vote for a term of four years.

Art. 112. A Deputy to the National Assembly must be an active citizen and have attained twenty-five years of age.

POPULAR ELECTIONS ACT No. 39 OF 19 SEPTEMBER 1946[1]

PART I

GENERAL

Art. 1. All popular elections shall be by universal suffrage and the vote shall be equal, direct and secret.

Art. 2. Suffrage is a right and duty of all Panamanian citizens of both sexes who enjoy full rights of citizenship, and shall be exercised in conformity with the provisions of the present Act.

Citizens who possess the qualifications required by the Constitution and the laws are entitled to stand for election.

In exceptional circumstances foreigners may vote and be elected in municipal elections in accordance with the provisions of article 149 and 151 of the present Act.

Art. 3. The vote is personal, non-transferable and must be exercised in accordance with the law. The vote shall be cast unconditionally and therefore any injunctions, restrictions or reservations which it may contain shall be considered invalid, but the vote containing them shall be valid.

Art. 4. Electors may vote at any place within the national territory where they may happen to be.

Art. 5. No electoral rights may be exercised by:

1. Persons deprived by final sentence of the rights of citizenship or the right to vote;

2. Persons serving a sentence involving loss of liberty;

3. Persons on trial for offences on account of which no release from custody is allowed and

4. Persons whose civil rights have been suspended by a court of law.

PART II

ELECTORAL ORGANIZATION

CHAPTER II

PARTY CANDIDATURES

Art. 17. The formation or existence of political parties which aim to overthrow the democratic form of government shall not be permitted. Likewise parties organized on the basis of sex, race or religion shall not be permitted.

Art. 28. After the entry into force of the present Act, any political party which participates in an election and fails to obtain a minimum of seven thousand five hundred (7,500) votes shall be declared dissolved.

PART III

ELECTORAL PROCEDURE

CHAPTER II

SPECIAL PROVISIONS GOVERNING THE DIFFERENT ELECTIONS

Section II

ELECTION OF DEPUTIES

Art. 142. Only Panamanian citizens who have reached the age of 25 on the opening day of the National Assembly are entitled to stand for election as deputies and alternates.

Persons who do not fulfil the above conditions or who come under any of the conditions entailing incapacity mentioned in article 143 of the present Act are not entitled to stand for election.

Art. 143. Any person who has exercised, within the constituency for which he is nominated, any office having authority and jurisdiction, during the three months prior to the date of the election, shall not be entitled to stand for election as deputy or alternate to the National Assembly.

[1] Spanish text in "*Ley 39 (de 19 de Septiembre de 1946) sobre elecciones populares y sentencias dictadas por la honorable Corte Suprema de Justicia en relación con esta Ley.* Revised official edition, Panama 1948. Spanish text received through the courtesy of the Ministry of External Relations, Panama. English translation from the Spanish text by the United Nations Secretariat.

PARAGUAY

CONSTITUTION OF THE REPUBLIC OF PARAGUAY [1]

of 10 July 1940

NATIONALITY AND CITIZENSHIP

Art. 39. All citizens have the duty of suffrage on attaining the age of eighteen years, subject to the disqualifications as provided for in the following article.

Art. 40. Suffrage of a citizen is suspended:

1. For physical or mental incapacity of a nature such as to prevent free and considered action.

2. For soldiers, corporals or sergeants of troops in the infantry, national guard or police, as the case may be.

3. For persons who are under indictment for an offence punishable by imprisonment.

Art. 41. Citizenship is lost:

1. For fraudulent bankruptcy;

2. By accepting subsidies and pensions, or using decorations of a foreign Government without the permission of the Executive;

3. By making directly, or participating in, any attempt against the independence and security of the Republic; or

4. By becoming naturalized in a foreign country.

Those who have lost citizenship for any of the causes mentioned, with the exception of that expressed in clause 4, may obtain rehabilitation from the Chamber of Representatives.

THE CHAMBER OF REPRESENTATIVES

Art. 67. The Chamber of Representatives shall be composed of members elected directly by the people, in accordance with the electoral law to be duly enacted, in a ratio of one for each 25,000 inhabitants.

Art. 68. A representative or his substitute must have attained twenty-five years of age, and be a native-born citizen.

[1] Spanish text in Andrés María Lazcano y Mazón, *Constituciones políticas de America*, Havana, 1942, Vol. II, pp. 309–330. English text based on the translation in *The Constitutions of the Americas* (cited above p. 296) pp. 653–665.

PERU

NOTE ON ELECTORAL RIGHTS[1]

The Government of Peru has appointed a commission to draw up the law which will govern the next election. Earlier elections were governed by articles 84 to 88 of the Constitution of Peru, of 9 April 1933.

[1] Information through the courtesy of Mr. Carlos Holguin de Lavalle, Ambassador, Permanent Representative of Peru to the United Nations. See also the "Note on the Constitutional Situation" in this *Yearbook*, p. 172.

PHILIPPINES

CONSTITUTION OF THE PHILIPPINES[1]

of 1935

Article V

SUFFRAGE

Suffrage may be exercised by male citizens of the Philippines not otherwise disqualified by law, who are 21 years of age or over and are able to read and write, and who shall have resided in the Philippines for one year and in the municipality wherein they propose to vote for at least six months preceding the election. The National Assembly shall extend the right of suffrage to women, if in a plebiscite which shall be held for that purpose within two years after the adoption of this Constitution, not less than 300,000 women possessing the necessary qualifications shall vote affirmatively on the question.[2]

Article VI

LEGISLATIVE DEPARTMENT

Sect. 1. The legislative power shall be vested in a Congress of the Philippines, which shall consist of a Senate and a House of Representatives.

Sect. 2. The Senate shall be composed of twenty-four senators who shall be chosen at large by the qualified electors of the Philippines, as may be provided by law.

Sect. 3. The term of office of senators shall be six years and shall begin on the thirtieth day of December next following their election. The first senators elected under this Constitution shall, in the manner provided by law, be divided equally into three groups, the senators of the first group to serve for a term of six years; those of the second group for four years; and those of the third group, for two years.

Sect. 4. No person shall be a senator unless he be a natural-born citizen of the Philippines and, at the time of his election, is at least thirty-five years of age, a qualified elector, and a resident of the Philippines for not less than two years immediately prior to his election.

Sect. 5. The House of Representatives shall be composed of not more than one hundred and twenty members, who shall be apportioned among the several provinces as nearly as may be according to the number of their respective inhabitants, but each province shall have at least one member . . . .

Sect. 7. No person shall be a member of the House of Representatives unless he be a natural-born citizen of the Philippines and, at the time of his election, is at least twenty-five years of age, a qualified elector, and a resident of the province in which he is chosen for not less than one year immediately prior to his election.

Sect. 8. (1) Elections for senators and members of the House of Representatives shall be held in the manner and on the dates fixed by law.

[1] English text in: *Yearbook on Human Rights for 1947*, p. 267.

[2] The right of suffrage was accordingly extended to women after a plebiscite held within two years after the promulgation of the Constitution. (Information through the courtesy of Brigadier-General Carlos P. Romulo, Permanent Representative of the Philippines to the United Nations.) See section 98 of Republic Act No. 180, printed below.

REPUBLIC ACT No. 180[1]

of 21 June 1947

THE REVISED ELECTION CODE

Article III

CONTRIBUTIONS AND OTHER PRACTICES

[Sections 40–42 contain provisions securing that detailed and exact accounts be kept by treasurers of committees, associations or organizations with regard to contributions or expenditure for the purpose of influencing the election of candidates, including the names and addresses of contributors. Statements on contributions and expenditure are to be filed monthly during the six months preceding an election and within 30 days following, with the Commission on Elections which supervises the conduct of the elections.]

[1] English text in *Yearbook on Human Rights for 1947*, pp. 269–270.

Sect. 43. Statements by candidates. Within 30 days after the holding of the election, every candidate shall file with the Commission on elections, for such action as it may deem proper, a statement, complete as of the date next preceding the date of filing, which shall contain (1) a list of the contributions received by him or by another with his knowledge and consent, from whatever source, to help or support his candidacy or to influence the result of his election together with the name and address of the contributor; (2) a statement of the expenditure made by him or by another with his knowledge and consent, in aid or support of his candidacy or for the purpose of influencing the result of the election, together with the name of the person to whom such expenditure was made.

Sect. 46. Prohibited collections of funds. It shall be unlawful for any person to hold balls, beauty contests, entertainments, or cinematographic, theatrical, or other performances, during two months immediately preceding a regular or special election, for the purpose of raising funds for benefit purposes or for an election campaign, or for the support of any candidate.

Sect. 47. Prohibited contributions. It shall be unlawful for any corporation or entity operating a public utility or which is in possession of or is exploiting any natural resources of the nation to contribute or make any expenditure in connexion with any election campaign.

Sect. 48. Limitation upon expenses of candidates. No candidate shall spend for his election campaign more than the total amount of the emoluments for one year attached to the office for which he is a candidate.

Sect. 49. Unlawful expenditure. It is unlawful for any person to make or offer to make an expenditure, or to cause an expenditure to be made or offered to any person to induce one either to vote or withhold his vote, or to vote for or against any candidate, or any aspirant for the nomination or selection of a candidate of a political party, and it is unlawful for any person to solicit or receive directly or indirectly any expenditure for any of the foregoing considerations.

Sect. 54. Active intervention of public officers and employees. No justice, judge, fiscal, treasurer or assessor of any province, no officer or employee of the Army, no member of the national, provincial, city, municipal or rural police force, and no classified civil service officer or employee shall aid any candidate, or exert influence in any manner in any election or take part therein, except to vote, if entitled thereto, or to preserve public peace, if he is a peace officer.

Article VII

LIST OF VOTERS

Sect. 98. Qualifications prescribed for a voter. Every citizen of the Philippines, whether male or female, 21 years of age or over, able to read and write, who has been a resident of the Philippines for one year and of the municipality in which he has registered during the six months immediately preceding, who is not otherwise disqualified, may vote in the said precinct of any election.

Sect. 99. Disqualifications. The following persons shall not be qualified to vote:

(*a*) Any person who has been sentenced by final judgment to suffer one year or more of imprisonment, such disability not having been removed by plenary pardon.

(*b*) Any person who has been declared by final judgment guilty of any crime against property.

(*c*) Any person who has violated his allegiance to the Republic of the Philippines.

(*d*) Insane or feeble-minded persons.

(*e*) Persons who cannot prepare their ballots themselves.

Article XIII

PENAL PROVISIONS

Sect. 183. Election offences and their classification. Violation of any of the provisions of sections 43, 47, 48, 49, 98, 99 shall be serious election offences; and that of any of the provisions of section 54 shall be less serious.

Sect. 185. Penalties. Anyone found guilty of a serious election offence shall be punished with imprisonment of not less than one year and one day but not more than five years; and any one guilty of a less serious election offence, with imprisonment of not less than six months but not more than one year; in both cases the guilty party shall be further sentenced to suffer disqualification to hold a public office and deprivation of the right of suffrage for not less than one year, but not more than nine years; and to pay the costs; . . .

POLAND

REGULATIONS GOVERNING THE ELECTIONS TO THE CONSTITUENT DIET[1]

NOTE

The statute of 22 September 1946, containing the regulations governing the elections to the constituent diet, envisaged by the manifesto of the Polish Committee of National Liberation[2] of 22 July 1944 was a preparatory step on the basis of which the elections to the constituent diet were ordered by the ordinance of the State National Council of 12 November 1946 to be held on Sunday 19 January (*Journal of Laws* No. 58, item 322). The electoral statute constitutes an *ad hoc* law intended to govern only the elections to the constituent diet.[3]

Articles 1, 2 and 3 of the electoral statute deal with voters' qualifications, persons who are disqualified from voting and qualifications and disqualifications with regard to eligibility to the constituent diet.[4]

The electoral system is a proportional one and provides for immediate elections from district lists of the candidates of 372 deputies and for the election of 72 deputies from the State lists. An exactly analogous electoral system was in force in Poland under the Constitution of 17 March 1921, introduced by the statute of 28 July 1922, containing electoral regulations to the diet (*Journal of Laws* No. 66, item 590).

The proportional electoral system which was chosen was the so-called d'Hondt system; it was adopted in order to prevent the splitting of the Diet into many small fractions and parties. It awards in proportion to seats already gained additional seats (mandates) from State lists to those parties which are successful in the district elections.

The statute provides for the creation of a State Electoral Commission composed of representatives of the six parties sitting in the State National Council and of a general electoral commissioner who is a judge of the Supreme Court. District and circuit electoral commissions are composed of members nominated by organs of self-government (National Councils). The chairman of the district commission is appointed by the general electoral commissioner and the chairman of the circuit commission, by the chairman of the district commission.

The time and place where lists of voters may be checked, latest dates for presenting candidates for deputies, and for filing of objections and appeals are required to be made public by posters. Lists of persons entitled to vote are drawn up by town or city authorities. Objections and appeals filed by persons omitted from the lists or against the inclusion of unauthorized persons are finally decided by the Presidium of the District National Council.

100 signatures of persons residing in the electoral districts are necessary to nominate a person as candidate for deputy. The representative of a district list of candidates may state that he attaches the district list to a certain State list of candidates. In order to present a national list of candidates, 500 signatures of voters, residing in two electoral districts, are necessary (at least 250 from each district). The names of nominated persons are publicized by means of posters by the district electoral commission.

On the day of voting no electioneering is permitted within a radius of 100 metres from the polling place and no liquor may be sold during the two preceding days. The chairman of the circuit electoral commission is obliged to ensure the secrecy of voting, and the proper conduct of voting procedure. Voting sheets may bear only the number of the list of candidates for

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[1] Survey prepared by Professor Aleksander W. Rudzinski, LL.D., Ph.D., Legal Counsellor to the Polish Delegation to the United Nations.

[2] See *Yearbook on Human Rights for 1946*, p. 233.

[3] Before this statute was enacted, another statute had been enacted on 27 April 1946, concerning a referendum to be held on 30 June 1946 (*Journal of Laws of the Polish Republic*, No. 15, item 104 and item 105). A decree of 14 June 1946 (*Journal of Laws of the Polish Republic*, No. 26, item 166) contained additional provisions and modifications of minor importance to this statute. The referendum was decreed to enable the people "to express themselves directly on the principles of the future Constitution and on important social, economic and political changes which affected the foundations of the national existence after the victorious war against the Hitlerite aggressor", more particularly on the following questions: (*a*) Do you favour the abolition of the Senate? (*b*) Do you wish the future constitution to establish the economic order introduced by the land reform and by the nationalization of the basic branches of the national economy, while retaining, at the same time, the legal rights of private enterprise? (*c*) Do you wish the western frontiers of the Polish State established on the Baltic Sea and on the Odra and Nysa rivers?

All citizens, without distinction of sex, who had completed 21 years of age on the date of the referendum were entitled to vote, with the exception of (1) persons totally or partially deprived of the capacity to perform legal acts; (2) persons deprived since 22 July 1944 by an enforceable sentence of a court of the enjoyment of their civic rights, and (3) persons deprived of their liberty by a court or another judicial organ in the exercise of its powers.

[4] These articles are reproduced below.

which the voter wishes to vote. The sheet must be placed in an official envelope made of non-transparent paper. During the counting of the votes representatives entrusted by the respective lists of candidates may be present. They are authorized to file any objections against the correctness of the protocol drawn up by the electoral commission.

The assignment of mandates to the lists of candidates to the diet takes place proportionally to the number of votes polled for the respective lists. After the distribution of all 372 mandates by the district electoral commissions the State electoral commission proceeds to the distribution of the remaining 72 mandates to the State lists. Only State lists of those parties are authorized to take part in the distribution, which succeeded in gaining mandates in at least six electoral districts. The distribution takes place proportionally to the number of mandates achieved by the respective list in the districts. In case of the resignation of a deputy the next person succeeding him on the list becomes a deputy.

Every voter is authorized to file a protest against the election of a deputy or against the validity of the elections. The Supreme Court decides on the merits of the protest. The diet itself may question an election on the basis that the elected person lacks eligibility. The Supreme Court may decide to void a mandate as well as either national or district elections if it has been proved that essential provisions of the statute were violated or that misdemeanours were perpetrated which had a deciding influence on the voting or the counting of the votes. A mandate expires through the death of the deputy, by his resignation of the mandate, by his loss of eligibility, in case of his unexcused absence from five consecutive meetings of the diet or by his refusal to take an oath as deputy.

ACT CONCERNING ELECTIONS TO THE CONSTITUENT DIET [1]

dated 22 September 1946

CHAPTER I

SUFFRAGE

Art. 1. 1. All citizens of the Polish Republic, irrespective of sex, who have reached the age of 21 on the date of publication of the order for the holding of elections, and who have not been deprived of their electoral rights by virtue of the provisions of the present Act, shall have the right to elect deputies to the Constituent Diet.

2. Each elector shall have the right to cast his vote in the polling district in which he is registered in the electoral roll in accordance with the provisions of the present Act.

3. Votes may only be cast in person.

Art. 2. 1. The following shall not be entitled to vote:

(*a*) Persons deprived of their capacity to perform legal acts or restricted therein;

(*b*) Persons deprived of their civil rights by virtue of a legal court sentence pronounced after 22 July 1944;

(*c*) Persons who were Polish citizens during the period from 1 September 1939 to 9 May 1945 and announced their adoption of German nationality or were accorded privileges by the invaders, unless they have been reinstated or unless there are circumstances, provided for in articles 3 and 4 of the Decree of 28 June 1946 on criminal liability for relinquishment of nationality during the war of 1939–1945 (*Journal of Laws of the Polish Republic*, No. 41, item 237);

(*d*) Persons who, during the occupation, to the evident detriment of the Polish people, derived benefits from economic co-operation with the occupation authorities.

2. Persons co-operating with Fascist underground organizations or bands striving to overthrow the democratic structure of the State shall not participate in the voting.

CHAPTER II

ELIGIBILITY FOR ELECTION

Art. 3. 1. All citizens of the Polish Republic who have the right to vote, and who have reached the age of 25 on the date of publication of the order for the holding of elections, shall be eligible for election to the Constituent Diet.

2. The State Electoral Commission may recognize as eligible for election persons who have not reached the age of 25, but are entitled to vote, in cases where exceptional services have been rendered in the struggle against the invaders or in the reconstruction of the country.

3. Persons who are abroad on the date of publication of the order for the holding of elections are eligible for election, if they are abroad on the instructions or with the permission of the proper authorities.

[1] Polish text in *Journal of Laws of the Polish Republic*, No. 48, of 11 October 1946, item 274. English translation from the Polish text by the United Nations Secretariat. See also the preceding survey of the Act.

4. Persons who, during the occupation, held leading positions in the country or in the emigration and opposed the armed struggle against the invaders may be deprived of their right to election by decision of the State Electoral Commission. An appeal against the State Electoral Commission's decision may be lodged within seven days with the Presidium of the National People's Council, whose decision shall be final. Proposals regarding deprivation of the right to be elected shall, in the case of each person, be submitted by the district Electoral Commission or made on the initiative of the State Electoral Commission.

PORTUGAL

POLITICAL CONSTITUTION OF THE PORTUGUESE REPUBLIC of 19 March 1933

CONSTITUTIONAL PROVISIONS RESPECTING THE COMPOSITION OF THE NATIONAL ASSEMBLY

Art. 85 (as amended 17 September 1945). • The National Assembly is composed of one hundred and twenty deputies, elected for a term of four years by the direct vote of citizens having the right to vote.

1. A special law shall be issued to prescribe the conditions of eligibility of deputies, the organization of the electoral colleges and the electoral procedure.

2. A person shall not be simultaneously a member of the National Assembly and of the Corporative Chamber.

Art. 87. If the National Assembly is dissolved, elections shall be held within sixty days under the electoral law in force at the time of the dissolution.

[1] Portuguese text of all electoral provisions in *Legislação Eleitoral Actualizada*, Coimbra 1946. English translation from the Portuguese text by the United Nations Secretariat.

DECREE-LAW No. 34:938 OF 22 SEPTEMBER 1945 [1]

TO PRESCRIBE THE CONDITIONS OF ELIGIBILITY OF CANDIDATES FOR THE NATIONAL ASSEMBLY AND TO GOVERN THE EXERCISE OF THE RIGHT TO VOTE

Art. 1. The National Assembly is composed of one hundred and twenty deputies elected by the direct vote of citizens who are voters.

Art. 3. Portuguese citizens who are qualified to vote, can read and write and do not suffer from any disability as laid down in the following article may be elected members of the National Assembly.

As evidence of the educational qualifications required in the case of women candidates, an authenticated copy of the relevant diploma shall be produced or a certificate attesting that the candidate held a post for which the same qualifications are necessary.

Art. 4. The following persons shall not be eligible for election to the National Assembly:

1. Naturalized Portuguese citizens;

2. Persons whose actual place of residence for the preceding five years without interruption was not in Portuguese territory, except those persons who have been sent abroad in the service of the nation;

3. Persons who profess opinions which are contrary to social discipline and the existence of Portugal as an independent State.

[1] In addition to the constitutional provisions, the following decree-laws govern elections to the National Assembly: Decree-law No. 34:938, of 22 September 1945; Decree-law No. 34:963, of 2 October 1945; Decree-law No. 35:426, of 31 December 1945. Parts of Decree-laws No. 34:938 and No. 35:426 are reproduced here. Texts and information through the courtesy of Mr. J. Braga de Oliveira, Secretary of Embassy, Washington.

DECREE-LAW No. 35:426 OF 31 DECEMBER 1945

TO PRESCRIBE THE RULES TO BE FOLLOWED IN THE ELECTORAL CENSUS FOR THE ELECTION OF THE PRESIDENT OF THE REPUBLIC AND OF THE NATIONAL ASSEMBLY

Art. 1. The following persons shall be entitled to vote at the elections for the President of the Republic and of the National Assembly:

1. Male Portuguese citizens who have attained their majority, or have been emancipated and can read and write Portuguese;

2. Male Portuguese citizens who have attained their majority and have legal capacity, and who, although

they cannot read or write, contribute to the State and administrative bodies a sum of not less than one hundred escudos in payment of any of the following taxes: property tax, industrial tax, professional tax or tax on the use of capital;

3. Female Portuguese citizens who have attained their majority or have been emancipated, provided that as minimum qualifications they have attended the following courses:

(*a*) General secondary school course;

(*b*) Elementary teaching course;

(*c*) Courses at art schools;

(*d*) Courses at the National Conservatory or the Oporto Conservatory of Music; or

(*e*) Courses at industrial or commercial institutes.

4. Female Portuguese citizens who have attained their majority or have been emancipated and who, being heads of families, are covered by the provisions laid down in paragraph 2.

Art. 2. The following persons shall not be entitled to vote:

1. Persons who do not enjoy their political or civic rights;

2. Persons under a disability by a sentence of a court and persons reported to be lunatics even if not placed under a disability by a sentence of a court;

3. Undischarged bankrupts and insolvent persons;

4. Persons under a sentence with final effect and persons sentenced by a criminal court even if they have not served the sentence and are at liberty subject to conditions;

5. Indigent persons and inmates of charitable organizations;

6. Persons who less than two years before the elections have obtained Portuguese nationality by naturalization or marriage;

7. Persons who profess opinions which are contrary to social discipline and the existence of Portugal as an independent State.

ROMANIA

Note. See the electoral provisions of the Constitution of the People's Republic of Romania of 13 April 1948 on p. 178 of this *Yearbook*.

ELECTORAL ACT OF 15 JULY 1946[1]

as amended 22 January 1948

CHAPTER I

GENERAL PROVISIONS

Art. 1. The deputies shall be elected by Romanian citizens who have completed their twentieth year.

Art. 2. Romanian citizens who have completed their twenty-third year and are domiciled in Romania may be elected as deputies.

Art. 3. Women shall have the right to vote and to be elected to the Chamber of Deputies on the same conditions as men.

Art. 4. Public officials and military personnel may be elected to the Chamber of Deputies.

Exercise of the deputy's mandate shall not be incompatible with the exercise of public functions.

Art. 5. Persons who have acquired Romanian citizenship by naturalization shall not have the right to vote, and may not be elected to the Chamber of Deputies, until six years after the date of their naturalization.

Art. 6. The following persons shall not have the right to vote or to be elected: persons deprived of their civil rights, persons under guardianship or trusteeship in accordance with Law XX of 1877, and persons who have been declared bankrupt and have not been discharged.

Art. 7. The following persons shall be disqualified from voting or being elected:

(*a*) Persons convicted of crimes or of one of the following offences under the Penal Code: [there follows a list of such offences].

Art. 8. Persons disqualified under article 7 may not engage in any form of political propaganda, with a view to the elections, in favour of or against any of the lists of candidates or political groups, nor may they seek to influence electors by inciting them to abstain from voting or to render their votes void.

Art. 9. The elections shall be held by electoral districts. Suffrage shall be universal, equal, direct and secret, voting shall be by lists of candidates and on the basis of proportional representation.

No one shall have the right to seek to nullify the secrecy of the ballot whether by legal process, parliamentary inquiry or any other means.

Art. 10. Each department shall constitute an electoral district.

The Municipality of Bucharest shall constitute an electoral district in addition to the electoral district of the Ilfov department.

The number of deputies for each electoral district shall be fixed in proportion to the total population as determined by the latest official statistics. One deputy shall be elected for each 40,000 inhabitants included in the total population of the electoral district. The remainder of the population, if in excess of 20,000 inhabitants, shall have the right to one mandate, but smaller fractions shall not be taken into account.

[Chapter II deals with the electoral roll and electors' certificates; chapter III deals with preparations for the elections; chapter IV deals with electoral procedure and chapter V with the allocation of mandates and the proclamation of the deputies elected.]

CHAPTER VI

VALIDATION OF ELECTIONS

Art. 59. A deputy's mandate shall cease automatically if the deputy resigns or is expelled from the political group on whose list he was elected.

In such case the existence of a vacant seat shall be certified by the officers of the Chamber of Deputies.

[Chapter VII deals with penalties and chapter VIII contains final and transitory provisions.]

[1] It was not possible to obtain the Romanian text. Official French translation in *République populaire de Roumanie, Loi électorale* (published by the Ministry of Information), Bucharest, 1948. Text and information through the courtesy of Mr. I. Nitescu, Secretary of Legation, Washington. Elections on the basis of this Act were held on 28 March 1948.

SAARLAND

CONSTITUTION OF SAARLAND [1]

of 15 December 1947

ELECTIONS AND REFERENDA

Art. 65. Elections and referenda shall be universal, direct, secret, free and by equal ballot.

Polling day shall be a Sunday or a public rest-day.

Art. 66. The electorate shall include all Saarlanders of either sex who are over the age of 20 years, reside in the Saarland and are not excluded from the franchise. More detailed provisions shall be laid down by law.

The acquisition and loss of Saarland nationality shall be governed by law.[2]

[1] English text in *Yearbook on Human Rights for 1947*, p. 282.

[2] See the Saarland Nationality Act in the present *Yearbook*, p. 185.

EL SALVADOR

NOTE

At the end of the year 1948, no electoral law was in force in El Salvador.[1]

[1] Information through the courtesy of Dr. Hector David Castro, Ambassador Extraordinary of El Salvador, Washington.

SAUDI ARABIA

CONSTITUTION OF THE KINGDOM OF HEJAZ

of 29 August 1926

Editor's Note: Art. 28 of the Constitution provides for a Legislative Assembly the members of which are appointed by the King.

SWEDEN

RIKSDAG ORGANIC ACT[1]

of 22 June 1866, with subsequent amendments

CONSTITUTION OF THE CHAMBERS

(*a*) THE FIRST CHAMBER

9. A man or woman shall not be entitled to be elected a member of the First Chamber unless he or she has attained the age of 35 years and is entitled to vote on public matters in the commune. If, after a member of the *Riksdag* has been elected, conditions arise rendering such member ineligible as a member of the Chamber, he shall retire from office.

(*b*) THE SECOND CHAMBER

16. Every Swedish citizen irrespective of sex shall have the right to vote, provided that he attained the age of 21 years during or before the calendar year last preceding.

Nevertheless, a person who is placed under a guardian shall not exercise the right to vote.

An electoral list shall be drawn up for guidance in an election, and the right to vote shall be based as laid down in the electoral law upon conditions existing at the time when the electoral list is drawn up, notwithstanding that changes occur before the election.

18. Elections to the Second Chamber shall be direct and, when two or more members of the *Riksdag* are to be chosen, proportional. Every voter shall have an equal vote in these elections.

The electoral law shall contain more detailed provisions concerning the election.

19. A man or woman shall not be entitled to be elected a member of the Second Chamber unless he or she has attained the age of 25 years and is entitled to vote in a constituency or, in the case of a city consisting of more than one constituency, in one of several constituencies.

(*c*) COMMON PROVISIONS

24. The right to vote shall be exercised only by a qualified voter who in the manner specified in the electoral law appears personally to cast his vote, but a qualified voter who by reason of residence outside the Kingdom or professional or official duties is prevented from making such appearance may, to the extent and under the conditions laid down in the aforementioned law, record his vote before the election, and a married person may, in the manner laid down in the same law, record his vote through his spouse, provided that such spouse is a qualified voter.

25. It shall not be lawful for a person other than a Swedish citizen to hold office as a member of the *Riksdag*.

A person shall not be approved as a member of the *Riksdag* if he:

(*a*) Is placed under a guardian;

(*b*) Is bankrupt;

(*c*) Has been found guilty of attempting in an election to the *Riksdag* to obtain votes with money or gifts, or of selling his vote, or of interfering by violence or threat with the freedom to vote.

The provisions of general or special laws to the effect that in certain cases a person who receives a penal sentence shall also be deprived of public office or be ineligible to hold such office shall also apply with respect to the office of a member of the *Riksdag*.

ELECTORAL LISTS

38. An electoral list shall be drawn up each year before 30 June and shall, on the basis of the census list for the same year, include all those residents within the electoral district who have attained or will within the calendar year attain the age of 21 years. Each such person shall be included on the said list as a qualified voter, unless it is ascertained that on 10 June he fails to fulfil a condition prescribed by law as necessary to the right to vote; provided, however, that a person who during the calendar year has attained or will attain the age of 21 years shall not have the right to vote before the end of the calendar year in question.

The Crown shall issue more detailed regulations respecting the establishment of electoral lists and the obligation of the competent authorities to furnish necessary particulars for inclusion in such list.

42. A person who according to the list does not have the right to vote, but wishes to claim that right, or a person who considers that another is not entitled to be included therein as a qualified voter, shall have the right to submit his observations, in writing and accompanied by the evidence which he adduces, to

[1] Swedish text in Robert Malmgren, *Sveriges Grundlagar och tillhörande författningar*, 5th edition, Stockholm, 1947. English translation from the Swedish text by the United Nations Secretariat.

the chairman of the electoral board or to the magistrate not later than 18 July.

When an opportunity has been provided at a meeting to meet objections made (on which occasion a person whose right to vote was challenged under article 42 shall be entitled to refer to circumstances which existed after as well as before 18 July), the electoral board or the magistrate shall forthwith, or no later than the day following the conclusion of deliberations, give a decision on each objection presented within the proper time and shall endorse such decision together with a brief statement of the reasons for it on the document, to which consideration has been given, containing the objection.

PREPARATION, NOTICE AND CONDUCT OF ELECTIONS

60. Special ballot envelopes shall be used at elections. The provisions of article 96 shall apply with respect to the nature and supply of such envelopes.

Ballot forms shall be supplied at the polling booths.

Polling booths shall be provided with a suitable number of partitioned spaces to enable voters to insert their ballots in the ballot envelopes in secrecy. For this purpose the said spaces shall be equipped with screens or some similar device, but in such a manner that both the voting officer and the public shall be able to see whether a place is occupied. It shall be incumbent upon the electoral officer to ensure that no person may observe what a voter is doing in such space.

Ballot boxes shall be used for the deposit of ballot envelopes at elections. Immediately before the commencement of voting the chairman shall show the persons present that the boxes are empty.

61. . . . . If a voter owing to a physical disability is unable to record his vote in the prescribed manner, he shall be entitled to designate a person who will assist him in voting.

62. If a husband and wife are both qualified voters, the husband may submit his ballot paper through his wife and the wife may submit her ballot paper through her husband. If a husband or wife wishes to make use of the aforesaid right, arrangements shall be made to despatch the ballot paper within a period not to exceed 18 days before the election.

66. Where an election is interrupted, the ballot box shall be carefully sealed under the seal of at least two persons who are present and shall then be placed in safe keeping, and before the seal is removed when the elections are continued the electoral officer should publicly make sure that the seals are unbroken.

67. If an election is interrupted for religious services or for some other reason or if an election is about to be concluded and there are persons present in the polling place or, if there is not sufficient space there, at a designated place near by, who have not had an opportunity to vote, such persons shall have the right to deposit their ballot papers.

SWITZERLAND

FEDERAL CONSTITUTION OF THE SWISS CONFEDERATION [1]
of 29 May 1874

CHAPTER II
THE FEDERAL AUTHORITIES

I. *The Federal Assembly*

A. THE NATIONAL COUNCIL

73. Elections to the National Council are direct. They are conducted on the principles of proportional representation, each canton or half-canton forming an electoral constituency.

Federal legislation shall enact detailed provisions to give effect to these principles.

74. Every Swiss who has reached the age of twenty years, and who is not excluded from the rights of active citizenship by the legislation of the canton in which he is domiciled, has the right to take part in elections and referenda.

Federal legislation may nevertheless pass uniform regulations regarding the exercise of this law.

75. Every lay Swiss citizen entitled to vote is eligible for membership of the National Council.

The Council of States

80. The Council of States is composed of 44 deputies from the cantons. Each canton elects two deputies; in divided cantons, each half-canton elects one.

[1] English text in *British and Foreign State Papers*, 1929, Part II, Vol. 131, pp. 731–732.

FEDERAL ACT REGARDING FEDERAL ELECTIONS AND REFERENDA
of 19 July 1872 [1]

Art. 1. Elections for the Swiss National Council (articles 72–76 of the Federal Constitution), the election of federal juries (article 112) and referenda on the revision of the Federal Constitution (articles 122 and 123) shall take place in accordance with the regulations of the cantonal laws, subject to the following provisions of the present Federal Law.

Art. 2. Every Swiss citizen who has completed his twentieth year and is not otherwise excluded from his rights of active citizenship by the legislation of the canton in which he has his domicile is entitled to vote (article 74 of the Federal Constitution).

Art. 3. A Swiss citizen shall exercise his electoral rights in the place where he resides, either as a citizen of the canton or as an established or temporarily resident citizen.

Art. 8. Elections for the National Council and referenda on changes in the Constitution shall be carried out in writing and by secret ballot . . . .

Voting by proxy is prohibited.

Art. 12. Elections for the National Council shall be direct (article 73 of the Federal Constitution).

Art. 13. Any Swiss citizen who is a layman and entitled to vote may be elected as a member of the National Council.

[1] French text through the courtesy of Mr. Raymond Christinger, Secretary of Legation, Office of the Swiss Observer to the United Nations. English translation from the French text by the United Nations Secretariat.

SYRIA

CONSTITUTION OF THE STATE OF SYRIA[1]
of 14 May 1930

PART II
PUBLIC POWERS

Chapter I
GENERAL PROVISIONS

Art. 35. The Chamber of Deputies shall consist of members elected in conformity with the electoral law, which shall be framed in accordance with the principles laid down in the following articles:

Art. 36. Every citizen who has attained twenty years of age shall be entitled to the suffrage, provided that he has not been deprived of his civil rights and that he fulfils the conditions laid down in the electoral law.

Art. 37. The electoral law shall institute the system of the secret ballot and shall provide for the representation of religious minorities.

Art. 38. Deputies must be thirty years of age and must fulfil the conditions prescribed by law.

Art. 41. The method of balloting shall be prescribed by the law. Every candidate shall be entitled to take part in the supervision of the electoral procedure, under the conditions prescribed by the law.

[1] English translation transmitted through the courtesy of Mr. Faiz El-Khouri, Minister of Syria to the United States, Washington.

ELECTORAL ACT[1]
of 21 May 1947

CHAPTER I
GENERAL

Art. 1. Deputies of the Syrian Republic shall be elected by universal and direct suffrage.

Art. 2. The ballot shall be secret.

CHAPTER II
THE DETERMINATION OF THE NUMBER OF DEPUTIES

Art. 5. Each electoral ward shall elect one deputy for every 6,000 electors or fraction thereof exceeding 3,000.

A *caza*[2] in which the number of electors is less than the aforesaid figure, shall be counted in with the chief town of the nearest *caza* in the *mouhafazat*.[3]

Art. 6. Each religious community shall elect one or more deputies in proportion to the number of its electors and in conformity with the provisions of the foregoing article. If in any one *caza* the number of electors in the community is less than the established figure, the electors of that community shall be grouped with those of the same community in the neighbouring *caza* or *cazas* of the same *mouhafazat*. If the required figure is still not reached, the electors of the said *mouhafazat* shall be grouped with those of the neighbouring *mouhafazat*; if necessary, all the electors of that community present in the entire territory of the State shall be grouped together. If the required number is reached, one or more deputies' seats shall be allocated to the community; the seats thus created shall be assigned to the electoral wards with the largest number of electors belonging to that community.

If the total number of electors of a particular community in the State does not reach the figure laid down in article 4, such community shall be consolidated with other communities in the same position for the purpose of electing one or more deputies.

In cases where the electors of one community have been grouped together or two or more communities consolidated, any elector from these communities may stand for election without having to satisfy the requirement as to residence, provided he would have been eligible in his own electoral ward had an election taken place there.

[1] English text in *Yearbook on Human Rights for 1947*, pp. 295–297.

[2] Small town.

[3] Big city with surrounding district.

Art. 8. As a provisional measure and pending the completion of their census, six deputies' seats shall be reserved for the nomad Bedouin tribes of the Syrian Republic; one of these seats shall be allocated to the tribes of the Djebel Druse.

CHAPTER III

Section 1

QUALIFICATIONS OF ELECTORS

Art. 9. Every male Syrian who has reached the age of twenty on or before 1 January of the year of the election shall be an elector in the electoral ward in which he is given as resident in the census returns, provided he is in full possession of his civil and political rights and has not forfeited his franchise.

Art. 10. The following shall be deemed to have forfeited their franchise for life:

(*a*) Persons sentenced to loss of civil rights;

(*b*) Persons convicted for a criminal offence;

(*c*) Persons sentenced to the forfeiture of their offices for life.

The following persons shall be deprived of the franchise for a period of eight years to run from the date of final sentence:

Persons sentenced for an offence involving infamy (larceny, fraud, breach of trust, forgery, false evidence, perjury, indecent assault, inciting of minors to immorality or vagrancy).

The following persons shall be deprived of the franchise for a period of four years to run from the date of final sentence:

(*a*) Persons sentenced to imprisonment for more than one year;

(*b*) Persons sentenced for contravening the regulations on narcotic drugs;

(*c*) Convicted bankrupts.

Art. 11. The following persons shall be suspended from the franchise:

(*a*) Persons sentenced to temporary forfeiture of office, such suspension to be effective for the duration of forfeiture;

(*b*) Persons under a civil disability, such suspension to be effective while the said disability applies;

(*c*) Persons suffering from mental diseases, such suspension to be effective for the period of their disease;

(*d*) Persons declared bankrupt under the terms of the Trade Law, such suspension to be effective until their discharge;

(*e*) Officers, non-commissioned officers and soldiers, gendarmes, police and civil police officials, and all persons belonging to an organized military body, whatever their rank.

Section 2

QUALIFICATION OF CANDIDATES

Art. 12. A candidate must:

(*a*) Have been a Syrian for at least ten years;

(*b*) Have the right to vote and be inscribed on the electoral register;

(*c*) Have completed thirty years of age on 1 January of the year in which the elections take place;

(*d*) Be able to read and write . . . .

[Articles 13–16 refer to incompatibilities between membership in the Chamber of Deputies and other public offices.]

CHAPTER IX

TEMPORARY PROVISIONS

Art. 59. Syrian *moudjahids*[1] who, having been convicted by foreign authorities and having left the country for that reason, were recorded only in the last census, shall be entered in the rolls of electors of their electoral wards and may stand for election as deputies.

Art. 62. If the number of their respective electors does not reach the legal quota, two deputies' seats shall be reserved, one at Damascus and one at Aleppo, for the Greek Orthodox community, one seat shall be given to the Christian communities of the Djebel Druse, and the unrepresented minorities shall have one seat at Damascus and one at Aleppo.

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[1] Emigrants.

THAILAND

PROVISIONAL CONSTITUTION OF THAILAND
of 9 November 1947 [1]

CHAPTER II
HOUSE OF REPRESENTATIVES

Sect. 37. The House of Representatives is composed of members elected by the people in accordance with the Law on the Election of Members of the House of Representatives.

[1] English text through the courtesy of Mr. M. C. Dilokrit Kridakon, First Secretary of Embassy, Washington. The text of the electoral law could not be obtained. According to further information, due to Mr. Dilokrit Kridakon, persons of both sexes who have completed 20 years of age have the right to vote.

TURKEY

CONSTITUTIONAL ACT OF THE TURKISH REPUBLIC[1]

of 24 May 1924, with subsequent amendments

CHAPTER II

LEGISLATIVE POWERS

Art. 9. The Grand National Assembly of Turkey consists of deputies elected by the nation in accordance with the electoral law.

Art. 10 (as amended 5 December 1934). Every Turk, man or woman, who has attained twenty-two years of age, has the right to vote in the election of Turkish deputies.

Art. 11 (as amended 5 December 1934). Every Turk, man or woman, who has attained thirty years of age, is eligible for election as deputy.

Art. 12. The following persons are not eligible for election as deputies:

Persons in the service of a foreign State; persons who have received a sentence of a defamatory nature or a sentence for theft, fraud, swindling, abuse of confidence, or fraudulent bankruptcy; persons placed under guardianship; those claiming foreign citizenship; persons deprived of their civil rights and, lastly, those who are unable to read and write Turkish.

[1] English text in Helen Miller Davis, *Constitutions* ... (cited above, p. 265), p. 341.

ELECTION OF NATIONAL DEPUTIES ACT[1]

Act No. 4918 of 5 June 1946, as amended by Act No. 5258 of 9 July 1948

Art. 1. Deputies in the Turkish Republic shall be elected by provinces. Each province shall be an electoral district.

Art. 2. One deputy shall be elected for every 40,000 citizens of the Turkish Republic. An electoral district of fewer than 40,000 inhabitants shall also be entitled to elect one deputy. For electoral districts of more than 40,000 inhabitants the representation shall be as follows: up to 55,001—1 deputy; from 55,001 to 95,000 — 2 deputies; from 95,001 to 135,000 — 3 deputies, and from 135,000 to 175,000 — 4 deputies. The number of deputies shall be increased proportionately to the increase in the population.

QUALIFICATIONS OF VOTERS

Art. 7. The qualifications for an elector are:

1. He shall be a Turk.

2. He shall have completed his twenty-second year of age.

3. He shall not have been barred from public service.

4. He shall not have been deprived of his civil rights.

5. He shall not be in the official employ of a foreign Government.

6. He does not intend to become a citizen of a foreign State.

Art. 8. Serving soldiers, gendarmes, officers, policemen, military employees, military magistrates and students of military schools shall not vote.

PERSONS NOT ELIGIBLE FOR ELECTION AS DEPUTIES

Art. 10. (1) Persons in the official employ of a foreign Government;

(2) Persons under suspended sentence or convicted of any of the following offences: theft, forgery, fraud, abuse of trust or fraudulent bankruptcy;

(3) Persons deprived of civil rights;

(4) Persons intending to become citizens of a foreign State;

(5) Persons who have been barred from public service;

(6) Persons who cannot read and write Turkish;

(7) Persons who have not completed their thirtieth year.

. . . .

[1] Turkish text of the Act of 1946 in *Resmi Gazete* No. 6326, of 6 June 1946; of the Act of 1948, *ibid.*, No. 6957, of 14 July 1948. Texts and information through the courtesy of Mr. Nâzim Poroy, President of the United Nations Turkish Group for the establishment and protection of human rights and fundamental freedoms. English translation from the Turkish text by the United Nations Secretariat.

Art. 24 (as amended 9 July 1948).

Summary

[When the ballot box has been locked, each voter, upon identification, shall be given a stamped envelope. The ballot paper must be placed in the stamped envelope, closed, and dropped into the box. The ballot papers may be provided by the voters, or ballot or other papers previously prepared at the voting place may be used.

The election committee shall prepare a sufficient number of closed polling booths to accommodate the number of voters, in which voters will complete their ballot papers and place them in the envelopes. The size and type of the voting booths may vary according to the needs of the locality. The voter shall be required to place his ballot paper in the envelope in a closed booth unseen. No one shall be allowed to enter the polling booth while it is occupied by a voter. If, however, a voter appears to have remained in the polling booth longer than is necessary for writing down the names of the candidates, he shall be warned by the chairman of the election committee. If he remains, he may be removed by decision of the election committee, and the circumstance shall be noted in a report.]

UKRAINIAN SOVIET SOCIALIST REPUBLIC

CONSTITUTION OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC[1]

of 30 January 1937, as amended up to and including 28 June 1947

CHAPTER IX
THE ELECTORAL SYSTEM

Art. 114. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Ukrainian SSR and of the Soviets of Working People's Deputies of regions, areas, districts, cities, settlements and villages—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 115. Elections of deputies are universal: all citizens of the Ukrainian SSR who have reached the age of 18, irrespective of race, or nationality, religion, educational or residential qualifications, sex, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the Ukrainian SSR who has reached the age of 21, irrespective of race, or nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, may be elected as a deputy of the Supreme Soviet of the Ukrainian SSR.

Art. 116. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 117. Women have the right to elect and be elected on equal terms with men.

Art. 118. Citizens serving in the ranks of the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 119. Elections of deputies are direct: all Soviets of Working People's Deputies, from the Soviets of Working People's Deputies of villages and cities to the Supreme Soviet of the Ukrainian SSR, inclusive, are elected by the citizens by direct vote.

Art. 120. Voting at elections of deputies is secret.

.....

Art. 122. Candidates for elections are nominated according to electoral districts.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 123. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time upon decision of the majority of the electors in the manner established by law.

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[1] English text in *Yearbook on Human Rights for 1947*, p. 303.

UNION OF SOUTH AFRICA

SOUTH AFRICA ACT,[1] 1909

IV. PARLIAMENT

SENATE

26. The qualifications of a senator shall be as follows:

He must:

(*a*) Be not less than thirty years of age;

(*b*) Be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*c*) Have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;

(*d*) Be a British subject of European descent;

(*e*) In the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within, a colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

HOUSE OF ASSEMBLY

35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

44. The qualifications of a member of the House of Assembly shall be as follows:

He must:

(*a*) Be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*b*) Have resided for five years within the limits of the Union as existing at the time when he is elected;

(*c*) Be a British subject of European descent.

For the purposes of this section, residence in a colony before its incorporation in the Union shall be treated as residence in the Union.

[1] Printed text: 9 Edw. 7 Ch. 9. *An Act to Constitute the Union of South Africa* (20 September 1909).

REPRESENTATION OF NATIVES ACT, 1936[1]

Act No. 12 of 1936

TO MAKE SPECIAL PROVISION FOR THE REPRESENTATION OF NATIVES IN PARLIAMENT AND IN THE PROVINCIAL COUNCIL OF THE PROVINCE OF THE CAPE OF GOOD HOPE AND TO THAT END TO AMEND THE LAW IN FORCE IN THAT PROVINCE RELATING TO THE REGISTRATION OF NATIVES AS VOTERS FOR PARLIAMENT OR A PROVINCIAL COUNCIL; TO ESTABLISH A NATIVES' REPRESENTATIVE COUNCIL FOR THE UNION; AND TO PROVIDE FOR OTHER INCIDENTAL MATTERS

Sect. 2. (1) Subject to the provisions of subsections (2) and (3), there shall, for the purposes of the election of senators under this Act and of members of the Council, be the following four electoral areas in the Union:

(*a*) The Province of Natal;

[1] English text in: *Representation of Natives Act, 1936.* Pretoria, Government Printer.

(*b*) The Provinces of the Transvaal and the Orange Free State;

(*c*) The Transkeian Territories;

(*d*) The Province of the Cape of Good Hope, excluding the Transkeian Territories.

(2) Whenever the Governor-General is satisfied that civilization and local government amongst natives have progressed to such a stage as to justify an increase in the representation of natives in the Senate he may by proclamation in the *Gazette* increase the number of electoral areas into which the Union is at that time divided for the purposes of the election of senators under this Act and of members of the Council, and he shall by that proclamation define the limits of each electoral area: provided that:

(*a*) No increase in the number of electoral areas shall be made until after the expiration of seven years from the commencement of this Act;

(*b*) The total number of electoral areas shall not at any time exceed six;

(*c*) The Governor-General shall not at any time define the electoral area of the Transkeian Territories so as to consist of any area other than the area of jurisdiction of the United Transkeian Territories General Council.

Sect. 3. The electoral college for any electoral area shall consist of the voting units of that electoral area.

[*Sect. 4* deals with the voting units of the four original electoral areas, for the purposes of the election of senators under this Act or of members of the Council.]

Sect. 6. (1) The Governor-General shall by proclamation in the *Gazette* subject to the provisions of sub-sections (3) and (4), divide the Province of the Cape of Good Hope:

(*a*) Into three electoral circles, for the purpose of the election of members of the House of Assembly under this Act.

Sect. 7. (2) All natives who, but for the passing of this Act, would at any time after the commencement of this Act have been entitled, under the laws in force in the Province of the Cape of Good Hope at that commencement, to be registered in that province as voters at the election of members of the House of Assembly, shall, upon application in manner prescribed by regulation, be entitled to be registered in the Cape native voters' roll.

(5) The name of no native shall be included in any list (other than the Cape native voters' roll) of persons qualified to vote at elections of members of the House of Assembly or of a provincial council, framed after the commencement of this Act.

Sect. 8. The electoral college of each electoral area shall be entitled to elect one senator.

Sect. 11. (1) The qualifications for election as a senator under this Act shall be those prescribed for elected senators in section twenty-six of the South Africa Act.

Sect. 12. The persons whose names appear in the part of the Cape native voters' roll for any electoral circle shall be entitled to elect one member of the House of Assembly.

Sect. 15. (1) The qualifications for election as a member of the House of Assembly under this Act shall be those prescribed in section forty-four of the South Africa Act.

ELECTORAL CONSOLIDATION ACT, 1946[1]

Act No. 46 of 1946

(assented to 20 June 1946)

AN ACT TO CONSOLIDATE THE LAWS RELATING TO THE FRANCHISE, REGISTRATION OF VOTERS AND ELECTIONS OF MEMBERS OF THE HOUSE OF ASSEMBLY AND OF PROVINCIAL COUNCILS

CHAPTER I

FRANCHISE

Sect. 3. (1) Every white person who is a Union national, is of or over the age of twenty-one years and is not subject to any of the disqualifications mentioned in sub-section (1) or (3) of section six, shall, on compliance with the provisions of this Act, be entitled to be registered as a voter.

(2) Every person who was classified as a European on any voters' list in existence at the commencement of the Franchise Laws Amendment Act, 1931 (Act No. 41 of 1931), and was not otherwise classified on any earlier voters' list, shall be deemed to be a white person for the purposes of sub-section (1).

Sect. 4. (1) Every male non-European in the Province of the Cape of Good Hope who:

(*a*) Is a Union national of or over the age of twenty-one years and is not subject to any of the disqualifications referred to in section six; and

(*b*) Is able to sign his name and write his address and occupation without his hand being guided in any way by any person; and either

[1] English text: *Statutes of the Union of South Africa, 1946*, Cape Town (Government Printer), 1947, pp. 380–555.

(*c*) Has, in any part or parts of the Union or the Mandated Territory of South-West Africa, for the period of twelve months immediately preceding the date of completion of his application, been in actual occupation of a house, warehouse, shop or other building which is either separately or together with the land occupied therewith, of the value of not less than seventy-five pounds; or

(*d*) Has, for the said period, really and *bona fide* earned in any part or parts of the Union or the said territory, salary or wages at a rate of not less than fifty pounds per annum; or

(*e*) Has, for the period of six months immediately preceding the date of completion of his application, been the duly registered holder of a licence to dig and search for diamonds in any claim or portion of a claim in the Province of the Cape of Good Hope; or

(*f*) Has, for the said period of six months, been entitled in terms of a written permit granted to him by the holder of a certificate issued under the proviso to sub-section (1) of section two of the Precious Stones Act, 1927 (Act No. 44 of 1927), to dig for diamonds on the land within the said province in respect of which that certificate was issued, and is certified by the magistrate of the magisterial district in which that land is situated, after consultation with the mining commissioner for the mining district in which that land is situated, to be of good character and to be and during the said period of six months to have been engaged *bona fide* in digging for diamonds in alluvial,

shall, subject to the provisions of sub-sections (2) to and including (8), on compliance with the provisions of this Act, be entitled to be registered as a voter.

(2) Any person who has, during the whole of the period referred to in paragraph (*c*) of sub-section (1), been in actual occupation in immediate succession of a number of different premises of the required nature and value, shall be deemed to have complied with the requirements of the said paragraph.

(3) No person who shares in any communal or tribal occupation of lands or buildings shall be entitled to be registered in pursuance of the provisions of the said paragraph, unless he has, for the period referred to in that paragraph, been in actual occupation of a house or other building, whether or not situated on land held on communal or tribal tenure, which separately or together with the land occupied therewith (not being land held on communal or tribal tenure) is of the value of not less than seventy-five pounds.

[Paragraphs 4–8 contain further detailed provisions.]

Sect. 5. (1) Every male non-European in the Province of Natal, who:

(*a*) Is a Union national of or over the age of twenty-one years and is not subject to any disqualification referred to in section six; and

(*b*) Has, in the case of a native, obtained a certificate under sub-section (5) of this section or section five of Law No. 11 of 1865 of Natal; and either

(*c*) Possesses immovable property to the value of not less than fifty pounds or rents any such property of the yearly value of not less than ten pounds, in the division in question; or

(*d*) Has an income, inclusive of allowances, of not less than ninety-six pounds per annum and has resided in any part or parts of the Union or the Mandated Territory of South-West Africa for a period of three years or for periods which in the aggregate amount to three years,

shall, subject to the provisions of sub-sections (2), (3) and (4), on compliance with the provisions of this Act, be entitled to be registered as a voter.

[Paragraphs 2–4 contain further detailed provisions.]

(5) (*a*) Any male non-European in the said province who is a native and who:

(i) Has been resident therein for a period of not less than twelve years or for periods which in the aggregate amount to not less than twelve years; and

(ii) Has the qualification referred to in paragraph (*c*) or (*d*) of sub-section (1); and

(iii) Has been exempted from the operation of native laws, customs and usages for a period of not less than seven years,

may apply to the Governor-General for a certificate enabling him to be registered as a voter.

Sect. 6. (1) No person shall be entitled to be registered or to the continuance of his registration or to vote in any division:

(*a*) If he has been convicted in the Union or in the Mandated Territory of South-West Africa:

(i) of treason, if the conviction took place after the tenth day of June, 1931; or

(ii) of murder; or

(iii) of any other offence and sentenced therefor to a period of imprisonment (other than detention until the rising of the court) without the option of a fine or ordered to be detained under any law relating to work colonies, and the said period has not expired or such order has not finally ceased to be operative at least three years before the date of completion of his application to be registered or the date upon which it is decided whether or not his name is to be removed from the voters' list or polling day, as the case may be; or

(*b*) If he has been convicted of any corrupt or illegal practice under this Act and has been declared incapable of being registered or of voting at any election during any period, and the said period has not expired; or

(*c*) If he is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective or is lawfully detained as mentally disordered

or defective under the Mental Disorders Act, 1916 (Act No. 38 of 1916).

CHAPTER III

CONDUCT OF ELECTIONS

Sect. 95. (1) Every officer, candidate and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in that station, and shall not, before the poll is closed, communicate, except for some purpose authorized by law, to any person any information likely to defeat the secrecy of the voting . . . .

CHAPTER VII

MISCELLANEOUS AND GENERAL

Sect. 174. A white woman shall not be disqualified by sex or marriage for being nominated, elected or for sitting or voting as a senator or member of the House of Assembly or of a provincial council.

For the purposes of paragraph (*e*) of section 26 of the South Africa Act, 1909, a woman married in community of property shall be deemed to be the registered owner of any immovable property registered in the name of her husband.

ASIATIC LAND TENURE AND INDIAN REPRESENTATION ACT[1]

No. 28 of 1946

(assented to 3 June 1946)

ACT TO IMPOSE RESTRICTIONS WITH REGARD TO THE ACQUISITION AND OCCUPATION OF FIXED PROPERTY IN THE PROVINCE OF NATAL, TO AMEND THE LAW RELATING TO THE OWNERSHIP AND OCCUPATION OF FIXED PROPERTY IN THE PROVINCE OF TRANSVAAL, TO MAKE SPECIAL PROVISION FOR THE REPRESENTATION IN PARLIAMENT OF INDIANS IN THE PROVINCES OF NATAL AND TRANSVAAL AND FOR A REPRESENTATION IN THE PROVINCIAL COUNCIL OF NATAL, OF INDIANS IN THAT PROVINCE; AND TO PROVIDE FOR OTHER INCIDENTAL MATTERS

Sect. 40. In this chapter, unless the context otherwise indicates, "Indian" means any member of a race or tribe whose national home is in India or Ceylon . . . .

Sect. 41. Indians in the Provinces of Natal and Transvaal may be represented:

(*a*) In the Senate, by two senators;

(*b*) In the House of Assembly, by three members; and

(*c*) In the Provincial Council of Natal, by two members.

Sect. 43. Every male Indian who:

(*a*) Is a Union national of or over the age of twenty-one years and is not subject to any of the disqualifications referred to in sub-sections 2 or 4;[2]

(*b*) Has passed the sixth standard in a Government or provincial school in the Union or an examination recognized by the Governor-General by proclamation in the *Gazette* as equivalent thereto, and either

(*c*) Has an income of not less than 84 pounds per annum; or

(*d*) Is the registered owner of immovable property within the electoral division in question, to the value of not less than two hundred and fifty pounds over and above any mortgages thereon,

shall, upon application (which may be transmitted by post free of charge) in the form and manner prescribed by regulation, be entitled to be registered in the electoral division in which he has resided or retained his home for a period of not less than six months, and to vote at any election under this chapter in that division:

Provided that in the case of any such Indian who has made such application within a period of twelve months after the commencement of this chapter, the reference in paragraph (*b*) to the sixth standard shall be deemed to be a reference to the fourth standard.

Sect. 46. (1) The qualifications of senators for nomination or election under this chapter shall be those prescribed in section twenty-six of the South Africa Act, 1909.

Sect. 47. The voters in each electoral division . . . . shall be entitled to elect one member of the House of Assembly.

The members who may be so elected:

(*a*) Shall be elected in addition to the members of the House of Assembly for the election of whom provision is made by the South Africa Act, 1909, and the Representation of Natives Act, 1936 (Act No. 12 of 1936); and

(*b*) Shall not have the right to vote at an election of senators under paragraph 2 of section 25 of the South Africa Act, 1909.

Sect. 48. (1) The qualifications for election as a member of the House of Assembly under this chapter shall be those prescribed in section forty-four of the South Africa Act, 1909.

[1] English text: *Statutes of the Union of South Africa, 1946.* Cape Town (Government Printer), 1947, pp. 160–225.

[2] Sub-sections 2 and 4 deal with disqualifications on grounds of certain crimes and offences.

UNION OF SOVIET SOCIALIST REPUBLICS

CONSTITUTION OF THE UNION OF SOVIET SOCIALIST REPUBLICS[1]

of 5 December 1936, as amended up to and including 25 February 1947

CHAPTER III

THE HIGHER ORGANS OF STATE POWER IN THE UNION OF SOVIET SOCIALIST REPUBLICS

Art. 33. The Supreme Soviet of the USSR consists of two chambers—the Soviet of the Union and the Soviet of Nationalities.

Art. 34. The Soviet of the Union is elected by the citizens of the USSR voting by election districts on the basis of one deputy for every 300,000 of the population.

Art. 35. The Soviet of Nationalities is elected by the citizens of the USSR voting by Union Republics, Autonomous Republics, Autonomous Regions, and National Areas on the basis of twenty-five deputies from each Union Republic, eleven deputies from each Autonomous Republic, five deputies from each Autonomous Region and one deputy from each National Area.

Art. 37. The two chambers of the Supreme Soviet of the USSR, the Soviet of the Union and the Soviet of Nationalities, have equal rights.

CHAPTER XI

THE ELECTORAL SYSTEM

Art. 134. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the USSR, the Supreme Soviets of the Union Republics, the Soviets of Working People's Deputies of the Territories and Regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People's Deputies of the Autonomous Regions, and the area, district, city and rural (*stanitsa*, village, hamlet, *kishlak*, *aul*) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, equal and direct suffrage by secret ballot.

Art. 135. Elections of deputies are universal: all citizens of the USSR who have reached the age of 18, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities, have the right to vote in the elections of deputies, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the USSR who has reached the age of 23 is eligible for election to the Supreme Soviet of the USSR, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities.

Art. 136. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 137. Women have the right to elect and be elected on equal terms with men.

Art. 138. Citizens serving in the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 139. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the USSR, are elected by the citizens by direct vote.

Art. 140. Voting at elections of deputies is secret.

Art. 141. Candidates are nominated by election district.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 142. It is the duty of every deputy to report to his electors on his work and on the work of his Soviet of Working People's Deputies, and he may be recalled at any time upon decision of a majority of the electors in the manner established by law.

[1] English text in *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics*, published by Foreign Languages Publishing House, Moscow, 1947.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

REPRESENTATION OF THE PEOPLE ACT, 1948[1]

AN ACT TO AMEND THE LAW RELATING TO PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS AND TO CORRUPT AND ILLEGAL PRACTICES, AND FOR PURPOSES CONNECTED THEREWITH

(30 July 1948)

PART I

PARLIAMENTARY FRANCHISE AND ITS EXERCISE

Parliamentary Franchise and Distribution of Seats

1. (1) Subject to any Order in Council hereafter made under the House of Commons (Redistribution of Seats) Act, 1944, there shall for the purpose of parliamentary elections be the county and borough constituencies, each returning a single member, which are described in the first schedule to this Act,[2] and no other constituencies.

(2) The persons entitled to vote as electors at a parliamentary election in any constituency shall be those resident there on the qualifying date who, on that date and on the date of the poll, are British subjects of full age and not subject to any legal incapacity to vote: [3]

Provided that a person shall not be entitled to vote as an elector in any constituency unless registered there in the register of parliamentary electors to be used at the election nor, at a general election, to vote as an elector in more than one constituency.

(3) The qualifying date for parliamentary elections shall be determined by reference to the date fixed for the poll as follows:

(*a*) In Great Britain:

(i) Where the date fixed for the poll is between the fifteenth day of March and the second day of October in any year, the qualifying date shall be, in England and Wales, the twentieth day of the preceding November and, in Scotland, the first day of the preceding December;

(ii) Where the date fixed for the poll is between the first day of October in any year and the sixteenth day of the following March, the qualifying date shall in all parts of Great Britain be the fifteenth day of the preceding June;

(*b*) In Northern Ireland (subject to the following provisions of this Act)

(i) Where the date fixed for the poll is between the first day of April and the second day of October in any year, the qualifying date shall be the thirty-first day of October in the preceding year;

(ii) Where the date fixed for the poll is between the first day of October in any year and the second day of the following April, the qualifying date shall be the thirtieth day of the preceding April.

Supplementary

19. (1) Section four of the Ballot Act, 1872 (which penalizes infringements of the secrecy of voting), shall apply to a candidate or a candidate's election agent attending at a polling station in the exercise of the rights conferred on them respectively by that Act and this Act, and to all persons attending at the counting of the votes, as it applies to an officer or clerk so attending; and, when that section is read to a person to whom it applies by virtue of this sub-section on his making a declaration of secrecy under the said Act, it shall be read with such modifications as are necessary to show it applies to him.

(2) Every person attending the proceedings in connexion with the issue or the receipt of ballot papers for persons voting by post at parliamentary elections shall maintain and aid in maintaining the secrecy of the voting and shall not:

(*a*) Except for some purpose authorized by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; nor

(*b*) Except for some purpose authorized by law, communicate to any person at any time any information

[1] English text: *Representation of the People Act, 1948*, 11 and 12 Geo. 6. Ch. 65, London, H.M. Stationery Office, 1948.

[2] Not reproduced in the present *Yearbook*.

[3] Legal disqualifications apply to convicted felons under sentence and lunatics. They also apply to peers and returning officers (the officials responsible for the conduct of the poll). Persons guilty of corrupt or illegal practices in connexion with elections are debarred for five years (section 52); before the adoption of the Representation of the People Act, 1948, the period was seven years in the case of corrupt practices. [*Editor's note*].

obtained at those proceedings as to the number on the back of the ballot paper sent to any person; nor

(*c*) Except for some purpose authorized by law, attempt to ascertain at the proceedings in connexion with the receipt of the ballot papers the numbers on the back of any ballot paper; nor

(*d*) Attempt to ascertain at the proceedings in connexion with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings; and any person who acts in contravention of this sub-section shall be liable, on summary conviction, to imprisonment for any term not exceeding six months.

(3) Where any person fraudulently defaces, or fraudulently destroys, or attempts so to deface or destroy, any declaration of identity or official envelope used in connexion with voting by post at a parliamentary election, section three of the Ballot Act, 1872, (which penalizes the like offences in relation to ballot papers) shall apply as if the declaration or envelope were a ballot paper.

(4) The reference in the said section three to a clerk in attendance at a polling station shall include a reference to a clerk in attendance at the proceedings in connexion with the issue or receipt of ballot papers for persons voting by post at a parliamentary election.

PART III

CORRUPT AND ILLEGAL PRACTICES AND OTHER PROVISIONS AS TO ELECTION CAMPAIGN

Parliamentary Elections

32. (1) Parts III and IV of the first schedule to the Parliamentary Corrupt Practices Act (which limit the amount of election expenses) shall cease to have effect, and for any reference in that Act to the maximum amount specified in the said Part IV (which deals with the aggregate amount of the permitted expenses) there shall be substituted a reference to the following maximum amount, namely:

(*a*) In relation to an election in a county constituency, four hundred and fifty pounds together with an additional twopence for each entry in the register of parliamentary electors to be used at the election;

(*b*) In relation to an election in a borough constituency, four hundred and fifty pounds together with an additional penny halfpenny for each such entry as aforesaid:

Provided that, if the said register is not published before the day of publication of the notice of election, then for any reference in this sub-section to an entry in the register there shall be substituted a reference to an entry in the electors' lists therefor as first published which gives the name of a person appearing from those lists to be entitled to be registered.

(2) The said maximum amount shall not be required to cover the candidate's personal expenses as defined in the said Act, but shall cover the whole of any fee paid to the candidate's election agent.

37. (1) No person shall, with intent to influence persons to give or refrain from giving their votes at a parliamentary election, use, or aid, abet, counsel, or procure the use of, any wireless transmitting station outside the United Kingdom for the transmission of any matter having reference to the election otherwise than in pursuance of arrangements made with the British Broadcasting Corporation for it to be received and retransmitted by that corporation.

(2) No person shall for the purpose of promoting or procuring the election of any candidate at a parliamentary election issue any poll card or document so closely resembling an official poll card or document as to be calculated to deceive.

(3) Any offence under this section shall be an illegal practice within the meaning of the Parliamentary Corrupt Practices Act:

Provided that the court before whom a person is convicted of an offence under this section may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by section ten of that Act.

(4) Where any act or omission of an association or body of persons, corporate or unincorporated, is an illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Provisions applying to Parliamentary and Local Government Elections

42. (1) No expenses shall, with a view to promoting or procuring the election of a candidate at a parliamentary or local government election be incurred by any person other than the candidate, his election agent and persons authorized in writing by the election agent on account:

(*a*) Of holding public meetings or organizing any public display; or

(*b*) Of issuing advertisements, circulars, or publications; or

(*c*) Of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate:

Provided that paragraph (*c*) of this sub-section shall not:

(i) Restrict the publication of any matter relating to the election in a newspaper or other periodical; or

(ii) Apply to any expenses not exceeding in the aggregate the sum of ten shillings which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others, or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

(2) Where a person incurs any expenses required by this section to be authorized by the election agent, that person shall within fourteen days after the date of publication of the result of the election send to the appropriate officer a return of the amount of those expenses, stating the election at which and the candidate in whose support they were incurred, and the return shall be accompanied by a declaration made by the said person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officers thereof) verifying the return and giving particulars of the matters for which the expenses were incurred:

Provided that this sub-section shall not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.

45. (1) If at a parliamentary or local government election a candidate or his election agent personally engages as a canvasser or agent for the management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason:

(*a*) Of his having been convicted or reported of any corrupt or illegal practice within the meaning of the Corrupt Practices Act or of the law relating to elections for the Parliament of Northern Ireland; or

(*b*) Of his having been convicted more than once of an offence under the Public Bodies Corrupt Practices Act, 1889; the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held . . . .

46. (1) Where on an election petition it is shown that offences under the Corrupt Practices Act committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.

47. (1) No member of a police force shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy, at any parliamentary election for a constituency wholly or partly within the police area, or at any local government election for any electoral area wholly or partly within the police area, and a person acting in contravention of this sub-section shall be liable on summary conviction to a fine not exceeding one hundred pounds:

Provided that nothing in this sub-section shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

PARLIAMENT (QUALIFICATION OF WOMEN) ACT, 1918[1]

AN ACT TO AMEND THE LAW WITH RESPECT TO THE CAPACITY OF WOMEN TO SIT IN PARLIAMENT

(21 November 1918)

1. A woman shall not be disqualified by sex or marriage for being elected to or sitting or voting as a member of the Commons House of Parliament.

Persons under the age of twenty-one years are disqualified from being elected. Moreover, the following persons are under a disability: lunatics, bankrupts and convicts serving a sentence of penal servitude or imprisonment for more than 12 months, if the offence was treason or felony. Those found guilty of corrupt or illegal practices in connexion with elections are ineligible for five years. Peers (with the exception of Irish Peers, who are not members of the House of Lords), the clergy of the Church of England, the Church of Scotland and the Catholic Church are debarred. Persons may also be disqualified on account of their public office or employment (certain judicial officers, colonial governors, Government contractors, etc.) [*Editor's note*].

[1] English text in *The Public General Acts* . . . (8th session of the 30th Parliament), London, King's printer of Acts of Parliament, 1918, p. 349.—The general reasons for being disqualified from being elected, applying to men and women alike, are to be found in various legal instruments.

UNITED STATES OF AMERICA

CONSTITUTION OF THE UNITED STATES OF AMERICA OF 1789

Article I, section 2, clauses 1 and 2

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Article I, section 3, clauses 1 and 3

The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; and each senator shall have one vote.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

Article I, section 4, clause 1

The times, places and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the places of choosing senators.

Article IV, section 4

The United States shall guarantee to every State in this Union a republican form of government . . . .

Fourteenth Amendment, sections 1 and 5

Sect. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

. . . . . .

Sect. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Fifteenth Amendment

Sect. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, colour, or previous condition of servitude.

Sect. 2. The Congress shall have power to enforce this article by appropriate legislation.

Seventeenth Amendment, clause 1

The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

Nineteenth Amendment

Sect. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Sect. 2. Congress shall have power to enforce this article by appropriate legislation.

TABULAR SURVEY OF THE PROVISIONS OF THE CONSTITUTIONS AND LAWS OF THE STATES REGARDING QUALIFICATIONS FOR VOTING IN THE UNITED STATES*

State or territory	Minimum age	U.S.** citizen	Residence in			Literacy test	Poll tax[a]	Registration	Absentee voting
			State or territory	County	Voting precinct				
Alabama	21	Yes	2 yrs.	1 yr.	3 mos.	Yes	Yes	Yes	Yes
Alaska	21	Yes	1 yr.	—	30 days	Yes	No	Yes	No
Arizona	21	Yes	1 yr.	30 days	30 days	Yes	No	Yes	Yes
Arkansas	21	Yes	1 yr.	6 mos.	30 days	No	Yes	No	Yes
California	21	Yes	1 yr.	90 days	40 days	Yes	No	Yes	Yes
Colorado	21	Yes	1 yr.	90 days	15 days	No	No	Yes	Yes
Connecticut	21	Yes	1 yr.	—	[b]	Yes	No	Yes	Yes
Delaware	21	Yes	1 yr.	3 mos.	30 days	Yes	No	Yes	Yes
Florida	21	Yes	1 yr.	6 mos.	—	No	No	Yes	Yes
Georgia	18	Yes	1 yr.	6 mos.	—	Yes[c]	No	Yes	Yes
Hawaii	21	Yes	1 yr.	—	3 mos.	Yes	No	Yes	No
Idaho	21	Yes	6 mos.	30 days	—	No	No	Yes	Yes
Illinois	21	Yes	1 yr.	90 days	30 days	No	No	Yes	Yes
Indiana	21	Yes	6 mos.	60 days[d]	30 days	No	No	Yes	Yes
Iowa	21	Yes	6 mos.	60 days	10 days	No	No	[e]	Yes
Kansas	21	Yes	6 mos.	30 days[d]	30 days	No	No	[e]	Yes
Kentucky	21	Yes	1 yr.	6 mos.	60 days	No	No	Yes	Yes
Louisiana	21	Yes	2 yrs.	1 yr.	3 mos.	Yes[c]	No	Yes	Yes
Maine	21	Yes	6 mos.	—	[f]	Yes	No	Yes	Yes
Maryland	21	Yes	1 yr.	6 mos.	6 mos.	No	No	Yes	No
Massachusetts	21	Yes	1 yr.	—	[b]	Yes	No	Yes	Yes
Michigan	21	Yes	6 mos.	20 days[g]	—	No	No	Yes	Yes
Minnesota	21	Yes	6 mos.	—	30 days	No	No	[e]	Yes
Mississippi	21	Yes	2 yrs.	—	1 yr.	Yes	Yes	Yes	Yes
Missouri	21	Yes	1 yr.	60 days	60 days	No	No	[e]	Yes
Montana	21	Yes	1 yr.	30 days	30 days	No	No	Yes	Yes
Nebraska	21	Yes	6 mos.	40 days	10 days	No	No	[e]	Yes
Nevada	21	Yes	6 mos.	30 days	10 days	No	No	Yes	Yes
New Hampshire	21	Yes	6 mos.	—	6 mos.	Yes	No	Yes	Yes
New Jersey	21	Yes	1 yr.	5 mos.	—	No	No	Yes	No[h]
New Mexico	21	Yes	1 yr.	90 days	30 days	No	No	Yes	No[h]
New York	21	Yes	1 yr.	4 mos.	30 days	Yes	No	Yes	Yes
North Carolina	21	Yes	1 yr.	4 mos.	4 mos.	Yes	No	Yes	Yes
North Dakota	21	Yes	1 yr.	90 days	30 days	No	No	No	Yes
Ohio	21	Yes	1 yr.	30 days	28 days	No	No	[e]	Yes
Oklahoma	21	Yes	1 yr.	6 mos.	30 days	No	No	Yes	Yes
Oregon	21	Yes	6 mos.	..	..	Yes	No	Yes	Yes
Pennsylvania	21	Yes	1 yr.	2 mos.	2mos.	No	No	Yes	No
Puerto Rico	21	Yes	1 yr.	1 yr.[i]	..	No	No	Yes	No
Rhode Island	21	Yes	2 yrs.	..	[b]	No	No	Yes	Yes
South Carolina	21	Yes	2 yrs.	1 yr.	4 mos.	Yes[j]	Yes	Yes	No
South Dakota	21	Yes	1 yr.	90 days	30 days	No	No	Yes	Yes
Tennessee	21	Yes	1 yr.	6 mos.	..	No	Yes	Yes	Yes
Texas	21	Yes	1 yr.	6 mos.	..	No	Yes	No	Yes
Utah	21	Yes	1 yr.	4 mos.	60 days	No	No	Yes	Yes
Vermont	21	Yes	1 yr.	30 days	30 days	No	No	Yes	Yes
Virginia	21	Yes	1 yr.	6 mos.	30 days	Yes	Yes	Yes	Yes
Virgin Islands	21	Yes	1 yr.	6 mos.[i]	60 days	Yes	No	Yes	No
Washington	21	Yes	1 yr.	90 days	30 days	Yes	No	Yes	Yes
West Virginia	21	Yes	1 yr.	60 days	..	No	No	Yes	Yes
Wisconsin	21	Yes	1 yr.	..	10 days	No	No	[e]	Yes
Wyoming	21	Yes	1 yr.	60 days	10 days	Yes	No	Yes	Yes

[a] Poll or head taxes are levied in many States. Only those the payment of which is a pre-requisite for voting are here indicated.

[b] Six months' residence in the city or town.

[c] Good character and an understanding of the principles of, and duties of, and duties under the republican form of government are an alternative qualification.

[d] Township.

[e] In certain cities.

[f] Three months' residence in the city or town.

[g] In the county, city, or township.

[h] Except for members of the armed forces.

[i] Municipality.

[j] Ownership of property is an alternative to literacy.

* Information derived from the Constitution and laws of the particular States and Territories, and in case of basic laws of the Territories, from Title 48 of the United States Code.

** *The right of American Indians to vote.* Prior to 1887, Indians born within the United States were held not to be citizens though capable of naturalization by law or by treaty. An act of Congress of 8 February, 1887 accorded citizenship to certain Indians, including those who had left their tribes and adopted civilized life (24 Stat. 388). An act of 6 November 1919 granted the privilege of becoming a citizen, if he so desired, to every non-citizen Indian honourably discharged after serving in the armed forces of the United States in World War I (41 Stat. 350). By act of 2 June 1924, all Indians born in the United States who had not already become naturalized—numbering about 125,000—were made citizens (43 Stat. 253). As citizens of the United States, Indians automatically became citizens of the States in which they respectively resided. They did not, however, automatically receive the right to vote. By 1947 all the States except Arizona and New Mexico had conceded the right of Indians to vote on the same basis as non-Indians. The right of the Indians to vote in these States was recognized in 1948, as the result of court decisions.

URUGUAY

CONSTITUTION OF THE EASTERN REPUBLIC OF URUGUAY[1]

of 18 May 1934, with subsequent amendments

TITLE III

CITIZENSHIP AND ITS RIGHTS, SUSPENSION AND LOSS

Chapter II

Art. 68. Every citizen is part of the sovereignty of the nation; as such he is entitled to vote and eligible in the cases and manner such as provided for.

Suffrage shall be exercised in the form determined by law, based on the following principles:

1. Obligatory inscription in the civic register.
2. Secret and obligatory ballot.
3. Integral proportional representation.

[Points 4 and 5 list certain political activities from which officials holding judicial and administrative posts have to abstain.]

6. All elective bodies formed for the purpose of dealing with questions of suffrage shall be elected with the guarantees stated in this article.

7. Every new law of civic register or of elections, as well as every modification or interpretation of those in force, shall require a vote of two-thirds of all members of each chamber. This qualified majority shall be required only for the guarantees of voting and the election, composition, functions, and procedures of the electoral court and electoral boards. To decide matters of expenditure, budgets, and the internal organization of these bodies, a simple majority shall be sufficient . . . .

CHAPTER III

Art. 70. Citizenship is suspended:

1. For physical or mental incapacity of a nature such as to prevent free and considered action.

2. For soldiers of the line below the rank of corporal . . . .

3. For persons who are under indictment for a criminal act punishable by imprisonment.

4. For persons who have not attained eighteen years of age.

5. For a sentence that carries a penalty of exile, jail, imprisonment, or disqualification from the exercise of political rights during the term of punishment.

6. By the habitual practice of morally dishonourable activities as determined by law, in accordance with clause 7 of article 68.

7. By participation in social or political organizations that tend, by means of violence, to destroy the fundamental bases of the nationality. (The matters referred to in sections I and II[2] of the present Constitution shall be considered such, for the purposes of this provision.)

8. By failure to fulfil any of the requirements set forth in article 66[3] for the granting of legal citizenship. These last two causes for suspension shall apply only to legal citizens.

TITLE V

THE LEGISLATIVE POWER

Chapter II

Art. 78. The Chamber of Representatives shall be composed of ninety-nine members, elected directly by the people, in accordance with a system of proportional representation in which the votes cast in favour of each ticket in the whole country are taken into account.

Each department shall have at least two representatives.

The number of representatives may be modified by an Act, subject to its approval by a majority of two-thirds of the votes of the total of members of each chamber.

Art. 81. A representative must be a natural-born citizen in full possession of his rights, or a legal citizen who has been for five years in possession of his rights, and, in both cases, have attained twenty-five years of age.

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[1] Spanish text in *Constitución de la República* (official edition) Montevideo, no date. English text based on the translation in *The Constitutions of the Americas* (cited above, p. 296), pp. 713–761.

[2] Section I deals with the nation and its sovereignty; Section II deals with rights, duties and guarantees [*Editor's note*].

[3] Legal citizenship is granted aliens under certain conditions specified in article 66 [*Editor's note*].

[Articles 82 and 83 refer to incompatibilities between certain elective offices and other public office . . .]

Chapter III

Art. 85. The Chamber of Senators shall be composed of thirty members elected directly by the people in a single electoral district in accordance with the guarantees established for suffrage in title III and in conformity with the provisions of the following articles . . . .

Art. 86. The thirty senators shall be elected by a system of proportional representation.

Art. 89. A senator must be a natural-born citizen, or a legal citizen, who has been for seven years in full possession of his rights, and have attained the age of thirty years.

Art. 90. The exclusive qualifications imposed on representatives by articles 82 and 83 shall apply also to senators.

NATIONAL CIVIC REGISTER ACT[1]

of 9 January 1924, with subsequent amendments

PART I

THE NATIONAL CIVIC REGISTER

Chapter I

DEFINITION OF THE CIVIC REGISTER

Art. 1. The National Civic Register is a register containing the names of all citizens qualified to vote.

PART III

ORGANIZATION OF THE ELECTORAL RECORDS

Chapter VII

NATIONAL RECORDS

Art. 64. The "National Electoral Register" includes all the electoral records referring to persons who have obtained registration in the National Civic Register or whose application for registration is pending.

The electoral records shall be divided into three sections. The first shall include all electoral records of persons whose application for registration in the Civic Register is pending, the second the records of persons disqualified from voting under an enforceable sentence of a court or a decision issued by the Electoral Court in accordance with the present Act, and the third the records of persons qualified to vote.

The records in these three sections shall be grouped in series corresponding to each registration office.

Each series shall be numbered, so that, given the ordinal number of the registration, the record corresponding to each person registered can be found without difficulty.

Chapter XI

REQUIREMENTS FOR REGISTRATION

Art. 78. On the day and at the hour appointed for registration, the applicant shall appear before the registration officer and produce the following evidence:

(*A*) Evidence of citizenship, showing that the person whose name is to be entered in the register is able to prove the following facts concerning himself:

1. That he was born at a place in the Republic, or that his father or mother was of Uruguayan nationality, whatever the place of birth, or that he possesses a certificate of naturalization.

2. That the applicant has attained the age of eighteen years or will have attained the age of eighteen years on or before the date of the next election.

(*B*) Evidence of identity, showing that the applicant for registration is well known by the name and first name appearing in the evidence of citizenship.

(*C*) Evidence of domicile, showing that the applicant for registration is habitually resident in the electoral district corresponding to the register, whether or not it be his home.

(*D*) Evidence of residence, showing that the applicant for registration has been resident in the country for a period of three months previous to the date of registration.

Chapter XVI

CAUSES OF DISQUALIFICATION

Art. 125. The following disabilities shall be deemed to be causes for permanent or temporary disqualification:

1. Physical or mental incapacity, of a nature such as to prevent free and considered action;

2. The circumstance of being a private in the ranks of the regular Army or the Navy;

3. The circumstance of being the subject of legal proceedings for a criminal offence punishable by

[1] Spanish text in: *Corte Electoral, Secretaria, Leyes Electorales*, Montevideo, 1948. Text received through the courtesy of Dr. Justino Jiménez de Aréchaga, Professor of Constitutional Law, Montevideo. English translation from the Spanish text by the United Nations Secretariat.

imprisonment. This circumstance shall not be deemed to be a cause for disqualification if the accused person is at liberty upon bail or under recognizance;

4. The fact of having been sentenced to a term of imprisonment or to loss of political rights; disqualification shall continue for the duration of the sentence;

5. The circumstance of not having attained the age of eighteen on the date of, or before, the next election;

6. The circumstance of not being a Uruguayan citizen by birth or naturalization;

7. The circumstance of not being habitually resident at the domicile indicated at the time of registration, or at any domicile subsequently transferred to;

8. The circumstance of not having resided in the country for a period of not less than three months at the time of registration;

9. Failure of the person registered to produce satisfactory evidence at the time of registration of any of the details concerning citizenship, identity or domicile required by chapter XI of this Act.

Art. 126. Death, fraudulent registration or registration on more than one occasion, the loss or suspension of rights of the person registered or applying for registration in the National Civic Register, proved by summary proceedings, shall be a sufficient cause for refusal or cancellation of registration.

Art. 127. Orders of disqualification and cancellation shall be issued on a writ from a competent authority, by a disqualification tribunal.

ELECTORAL ACT[1]

of 16 January 1925, with subsequent amendments

PART I

Chapter I

VOTERS

Art. 1. All citizens entered on the National Civic Register, who by decision of the court are included at the time of the election in the section "Those qualified to vote", established by article 64 of the Act of 9 January 1924, are electors.[2]

Art. 2. The right to vote shall be exercised in accordance with the provisions of the present Act.

Art. 3. All citizens fulfilling the requirements of article 1 shall be qualified to vote in the elections for the President of the Republic, the National Administrative Council, the Electoral Colleges for Senators and National Representatives, Departmental Councils, Representative Assemblies and Electoral Boards.

Art. 5. Electors must record their votes in person.

PART III

VOTING

Chapter VIII

RECORDING A VOTE

Art. 84. The elector shall, on entering the secret room, close the door after him and immediately place his voting slip, containing the names of the candidates, in an envelope, which he shall then seal.

[1] Spanish text, *op. cit.*, p. 115. English translation from the Spanish text by the United Nations Secretariat.

[2] See also Act of 16 December 1932, printed below.

WOMEN'S SUFFRAGE ACT[1]

of 16 December 1932

PART I

Chapter I

VOTERS

Art. 1. The right of women to vote and be elected in national and municipal elections is hereby recognized.

Art. 2. All statutory provisions in force in respect of elections are hereby declared applicable to women.

[1] Spanish text, *op. cit.*, p. 115, footnote 2. English translation from the Spanish text by the United Nations Secretariat.

VENEZUELA

NOTE

See the Note on the constitutional situation on p. 251 of this *Yearbook*.

FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA

CONSTITUTION OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA [1]

of 31 January 1946

CHAPTER II

THE PEOPLE'S AUTHORITY

Art. 6. All authority in the Federal People's Republic of Yugoslavia derives from the people and belongs to the people.

The people exercise their authority through freely elected representative organs of State authority, the people's committees, which, from local people's committees up to the assemblies of the people's republics and the People's Assembly of the FPRY, originated and developed during the struggle for national liberation against Fascism and reaction, and are the fundamental achievement of that struggle.

Art. 7. All the representative organs of State authority are elected by the citizens on the basis of universal, equal and direct suffrage by secret ballot.

The people's representatives in all organs of State authority are responsible to their electors. It shall be determined by law in which cases, under what conditions and in what way the electors may recall their representatives even before the end of the period for which they were elected.

CHAPTER V

THE RIGHTS AND DUTIES OF CITIZENS

Art. 23. All citizens, regardless of sex, nationality, race, creed, degree of education or place of residence, who are over 18 years of age, have the right to elect and be elected to all organs of State authority.

Art. 24. Women have equal rights with men in all fields of State, economic and social-political life.

Citizens in the ranks of the Yugoslav Army have the same right to elect and be elected as other citizens.

The suffrage is universal, equal and direct and is carried out by secret ballot.

The suffrage is not enjoyed by persons under guardianship, persons deprived of electoral rights by sentence of a court of law for the duration of the sentence, and persons who have lost their electoral rights in accordance with federal law.

CHAPTER VII

THE SUPREME FEDERAL ORGANS OF STATE AUTHORITY

(a) *The People's Assembly of the Federal People's Republic of Yugoslavia*

Art. 52. The People's Assembly of the FPRY consists of two houses—the Federal Council and the Council of Nationalities.

Art. 53. The Federal Council is elected by all citizens of the Federal People's Republic of Yugoslavia. For every 50,000 inhabitants one deputy is elected.

Art. 54. The Council of Nationalities is elected in the republics, autonomous provinces and autonomous regions. The citizens of each republic elect thirty, of each autonomous province twenty, and of each autonomous region fifteen representatives.

Art. 57. Both houses of the People's Assembly of the FPRY have equal rights.

[1] English text in: *Constitution of the Federal People's Republic of Yugoslavia* (official translation), 1946.

PART II

INTERNATIONAL TREATIES AND AGREEMENTS

BASIC INSTRUMENTS OF SPECIALIZED AGENCIES

CONSTITUTION OF THE INTERNATIONAL LABOUR ORGANIZATION[1]

as amended by the 29th Session of the International Labour Conference, Montreal, 19 September to 9 October 1946

PREAMBLE

Whereas universal and lasting peace can be established only if it is based upon social justice;

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical and other measures;

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;

The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, and with a view to attaining the objectives set forth in this Preamble, agree to the following Constitution of the International Labour Organization:

CHAPTER I

ORGANIZATION

Art. 1. (1) A permanent organization is hereby established for the promotion of the objects set forth in the Preamble to this Constitution and in the Declaration concerning the aims and purposes of the International Labour Organization adopted at Philadelphia on 10 May 1944, the text of which is annexed to this Constitution.

.....

[1] The full English text of this document is to be found in *Yearbook of the United Nations 1946-47*, pp. 670-79.

ANNEX

Declaration concerning the Aims and Purposes of the International Labour Organization

The General Conference of the International Labour Organization, meeting in its twenty-sixth session in Philadelphia, hereby adopts, this tenth day of May in the year nineteen hundred and forty-four, the present Declaration of the aims and purposes of the International Labour Organization and of the principles which should inspire the policy of its Members.

I

The Conference reaffirms the fundamental principles on which the Organization is based and, in particular, that:

(*a*) Labour is not a commodity;

(*b*) Freedom of expression and of association are essential to sustained progress;

(*c*) Poverty anywhere consitutes a danger to prosperity everywhere;

(*d*) The war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of Governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

II

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organization that lasting peace can be established only if it is based on social justice, the Conference affirms that:

(*a*) All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;

(*b*) The attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;

(*c*) All national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;

(*d*) It is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;

(*e*) In discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

III

The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve:

(*a*) Full employment and the raising of standards of living;

(*b*) The employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;

(*c*) The provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;

(*d*) Policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;

(*e*) The effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;

(*f*) The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;

(*g*) Adequate protection for the life and health of workers in all occupations;

(*h*) Provision for child welfare and maternity protection;

(*i*) The provision of adequate nutrition, housing and facilities for recreation and culture;

(*j*) The assurance of equality of educational and vocational opportunity.

IV

Confident that the fuller and broader utilization of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations, to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full co-operation of the International Labour Organization with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world.

CONSTITUTION OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS[1]

signed on 16 October 1945, at the opening meeting of the First Session of the Conference of the Organization, in Quebec

PREAMBLE

The Nations accepting this Constitution, being determined to promote the common welfare by furthering separate and collective action on their part for the purposes of

Raising levels of nutrition and standards of living of the peoples under their respective jurisdictions,

Securing improvements in the efficiency of the production and distribution of all food and agricultural products,

Bettering the condition of rural populations, and thus contributing towards an expanding world economy,

hereby establish the Food and Agriculture Organization of the United Nations, hereinafter referred to as the Organization, through which the Members will report to one another on the measures taken and the progress achieved in the fields of action set forth above.

.....

[1] The full English text of this document is to be found in *Yearbook of the United Nations 1946–47*, pp. 693–698.

CONSTITUTION OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION[1]

as adopted by the Conference for the Establishment of an Educational, Scientific and Cultural Organization of the United Nations, London, 1 to 16 November 1945

The Governments of the States parties to this Constitution on behalf of their peoples declare,

That since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed;

That ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war;

That the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races;

That the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern;

That a peace based exclusively upon the political and economic arrangements of Governments would not be a peace which could secure the unanimous, lasting and sincere support of the peoples of the world, and that the peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind.

For these reasons, the States parties to this Constitution, believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communication between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other's lives;

IN CONSEQUENCE WHEREOF they do hereby create the United Nations Educational, Scientific and Cultural Organization for the purpose of advancing, through the educational and scientific and cultural relations of the peoples of the world, the objectives of international peace and of the common welfare of mankind for which the United Nations Organization was established and which its Charter proclaims.

Article I

PURPOSES AND FUNCTIONS

1. The purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

2. To realize this purpose the Organization will:

(*a*) Collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image;

(*b*) Give fresh impulse to popular education and to the spread of culture;

by collaborating with Members, at their request, in the development of educational activities;

by instituting collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social;

by suggesting educational methods best suited to prepare the children of the world for the responsibilities of freedom;

(*c*) Maintain, increase and diffuse knowledge;

by assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to

[1] The full English text of this document is to be found in *Yearbook of the United Nations 1946–47*, pp. 712–717.

the nations concerned the necessary international conventions;

by encouraging co-operation among the nations in all branches of intellectual activity, including the international exchange of persons active in the fields of education, science and culture and the exchange of publications, objects of artistic and scientific interest and other materials of information;

by initiating methods of international co-operation calculated to give the people of all countries access to the printed and published materials produced by any of them.

3. With a view to preserving the independence, integrity and fruitful diversity of the cultures and educational systems of the States Members of this Organization, the Organization is prohibited from intervening in matters which are essentially within their domestic jurisdiction.

.....

*

ARTICLES OF AGREEMENT OF THE INTERNATIONAL MONETARY FUND[1]

as adopted at the Bretton Woods Conference, 1 to 22 July 1944

Article I

PURPOSES

The purposes of the International Monetary Fund are:

(i) To promote international monetary co-operation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.

(ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.

(iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.

(iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.

(v) To give confidence to members by making the Fund's resources available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.

(vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.

The Fund shall be guided in all its decisions by the purposes set forth in this article.

.....

[1] The full English text of this document is to be found in *Yearbook of the United Nations 1946-47*, pp. 772-788.

INTERNATIONAL TELECOMMUNICATION CONVENTION[1]

Atlantic City, 1947

CHAPTER IV

GENERAL PROVISIONS RELATING TO TELECOMMUNICATION

Article 29

STOPPAGE OF TELECOMMUNICATIONS

1. Members and Associate Members reserve the right to stop the transmission of any private telegram which may appear dangerous to the security of the State or contrary to their laws, to public order or to decency, provided that they immediately notify the office of origin of the stoppage of any such telegram or any part thereof, except when such notification may appear dangerous to the security of the State.

2. Members and Associate Members also reserve the right to cut off any private telephone or telegraph communication which may appear dangerous to the security of the State or contrary to their laws, to public order or to decency.

Article 32

SECRECY OF TELECOMMUNICATION

1. Members and Associate Members agree to take all possible measures, compatible with the system of telecommunication used, with a view to ensuring the secrecy of international correspondence.

2. Nevertheless, they reserve the right to communicate such correspondence to the competent authorities in order to ensure the application of their international laws or the execution of international conventions to which they are parties.

Article 44

HARMFUL INTERFERENCE

1. All stations, whatever their purpose, must be established and operated in such a manner as not to result in harmful interference to the radio services or communications of other Members or Associate Members or of recognized private operating agencies, or of other duly authorized operating agencies which carry on radio service, and which operate in accordance with the provisions of the Radio Regulations.

2. Each Member or Associate Member undertakes to require the private operating agencies which it recognizes and the other operating agencies duly authorized for this purpose, to observe the provisions of the preceding paragraph.

3. Further, the Members and Associate Members recognize the desirability of taking all practicable steps to prevent the operation of electrical apparatus and installations of all kinds from causing harmful interference to the radio services or communications mentioned in paragraph 1 of this article.

[1] English text in *Final Acts of the International Telecommunication and Radio Conferences*, Atlantic City, 1947, International Telecommunication Convention, pp. 23 E, 24 E, 29 E.

RADIO REGULATIONS[1]

Atlantic City, 1947

CHAPTER IX

Art. 21. Secrecy

485. The administrations bind themselves to take the necessary measures to prohibit and prevent:

486. (*a*) The unauthorized interception of radiocommunications not intended for the general use of the public.

(*b*) The divulgence of the contents, simple disclosure of the existence, publication or any use whatever, without authorization, of information of any nature whatever obtained by the interception of the radiocommunications mentioned in 486.

[1] English text in *Final Acts of the International Telecommunication and Radio Conferences*, Atlantic City, 1947, Radio Regulations, p. 104 E.

CONSTITUTION OF THE WORLD HEALTH ORGANIZATION[1]

as adopted by the International Health Conference Paris, 18 March to 5 April 1946

The States parties to this Constitution declare, in conformity with the Charter of the United Nations, that the following principles are basic to the happiness, harmonious relations and security of all peoples:

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.

The health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States.

The achievement of any State in the promotion and protection of health is of value to all.

Unequal development in different countries in the promotion of health and control of disease, especially communicable disease, is a common danger.

Healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development.

The extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health.

Informed opinion and active co-operation on the part of the public are of the utmost importance in the improvement of the health of the people.

Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.

ACCEPTING THESE PRINCIPLES, and for the purpose of co-operation among themselves and with others to promote and protect the health of all peoples, the contracting parties agree to the present Constitution and hereby establish the World Health Organization as a specialized agency within the terms of article 57 of the Charter of the United Nations.

CHAPTER I

OBJECTIVE

Art. 1. The objective of the World Health Organization (hereinafter called the Organization) shall be the attainment by all peoples of the highest possible level of health.

[1] The full English text of this document is to be found in *Yearbook of the United Nations 1946–47*, pp. 793–800.

THE HAVANA CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION

as adopted by the United Nations Conference on Trade and Employment [1]
Havana, 21 November 1947 to 24 March 1948

CHAPTER I

PURPOSE AND OBJECTIVES

Article 1

Recognizing the determination of the United Nations to create conditions of stability and well-being which are necessary for peaceful and friendly relations among nations,

The Parties to this Charter undertake in the fields of trade and employment to co-operate with one another and with the United Nations.

For the purpose of

Realizing the aims set forth in the Charter of the United Nations, particularly the attainment of the higher standards of living, full employment and conditions of economic and social progress and development, envisaged in article 55 of that Charter.

. . . . . .

CHAPTER II

EMPLOYMENT AND ECONOMIC ACTIVITY

Article 2

IMPORTANCE OF EMPLOYMENT, PRODUCTION AND DEMAND IN RELATION TO THE PURPOSE OF THIS CHARTER

1. The Members recognize that the avoidance of unemployment or under-employment, through the achievement and maintenance in each country of useful employment opportunities for those able and willing to work and of a large and steadily growing volume of production and effective demand for goods and services, is not of domestic concern alone, but is also a necessary condition for the achievement of the general purpose and the objectives set forth in article 1, including the expansion of international trade, and thus for the well-being of all other countries.

. . . . . .

[1] The full English text of this document is to be found in the *Final Act and Related Documents* of the Conference, published in Havana, Cuba, March 1948, pp. 1–66.

Article 3

MAINTENANCE OF DOMESTIC EMPLOYMENT

1. Each Member shall take action designed to achieve and maintain full and productive employment and large and steadily growing demand within its own territory through measures appropriate to its political, economic and social institutions.

2. Measures to sustain employment, production and demand shall be consistent with the other objectives and provisions of this Charter. Members shall seek to avoid measures which would have the effect of creating balance-of-payments difficulties for other countries.

. . . . . .

Article 7

FAIR LABOUR STANDARDS

1. The Members recognize that measures relating to employment must take fully into account the rights of workers under inter-governmental declarations, conventions and agreements. They recognize that all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, and thus in the improvement of wages and working conditions as productivity may permit. The Members recognize that unfair labour conditions, particularly in production for export, create difficulties in international trade, and, accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory.

2. Members which are also members of the International Labour Organization shall co-operate with that organization in giving effect to this undertaking.

3. In all matters relating to labour standards that may be referred to the Organization in accordance with the provisions of articles 94 or 95, it shall consult and co-operate with the International Labour Organization.[2]

[2] Articles 94 and 95 of the Charter fall within chapter VIII thereof, entitled "Settlement of Differences", which sets out certain procedures which may be followed for the settlement of differences arising out of the operation of the Charter.

AGREEMENTS CONCLUDED UNDER THE AUSPICES OF SPECIALIZED AGENCIES OR BY OTHER INTER-GOVERNMENTAL ORGANIZATIONS

THE SOCIAL POLICY (NON-METROPOLITAN TERRITORIES) CONVENTION, 1947,[1]

as adopted by the Thirtieth Session of the International Labour Conference, Geneva, 19 June to 11 July 1947

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its thirtieth session on 19 June 1947, and

Having decided upon the adoption of certain proposals concerning social policy in non-metropolitan territories, which is included in the third item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this eleventh day of July of the year one thousand nine hundred and forty-seven the following Convention, which may be cited as the Social Policy (Non-Metropolitan Territories) Convention, 1947:

PART I

OBLIGATIONS OF PARTIES

Art. 1. 1. Each Member of the International Labour Organization which ratifies this Convention undertakes that the policies and measures set forth in the Convention shall be applied in the non-metropolitan territories for which it has or assumes responsibilities, including any trust territories for which it is the administering authority, other than the territories referred to in paragraphs 2 and 3 of this article, subject to the concurrence of the Governments of the territories concerned in respect of any matters which are within the self-governing powers of the territories.

2. Where the subject matter of this Convention is wholly or primarily within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

3. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

(*a*) By two or more Members of the Organization in respect of any territory which is under their joint authority; or

(*b*) By any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

PART II

GENERAL PRINCIPLES

Art. 2. 1. All policies designed to apply to non-metropolitan territories shall be primarily directed to the well-being and development of the peoples of such territories and to the promotion of the desire on their part for social progress.

2. Policies of more general application shall be formulated with due regard to their effect upon the well-being of the peoples of non-metropolitan territories.

Art. 3. 1. In order to promote economic advancement and thus to lay the foundations of social progress, every effort shall be made to secure, on an international, regional, national or territorial basis, financial and technical assistance to the local administrations in order to further the economic development of non-metropolitan territories.

2. The terms under which such assistance is granted shall provide for such control by or co-operation with the local administrations in determining the nature of the economic development and the conditions under which the resulting work is undertaken as may be necessary to safeguard the interests of the peoples of such territories.

[1] English text published in the *Official Bulletin* of the International Labour Office, Vol. XXX, No. 1, 31 July 1947, pp. 17–28.

3. It shall be an aim of policy for the responsible government authorities to arrange that adequate funds are made available to provide public or private capital or both for development purposes on terms which secure to the peoples of non-metropolitan territories the fullest possible benefits from such development.

4. In appropriate cases, international, regional, or national action shall be taken with a view to establishing conditions of trade which will encourage production at a high level of efficiency and make possible the maintenance of a reasonable standard of living in non-metropolitan territories.

Art. 4. All possible steps shall be taken by appropriate international, regional, national and territorial measures to promote improvement in such fields as public health, housing, nutrition, education, the welfare of children, the status of women, conditions of employment, the remuneration of wage earners and independent producers, the protection of migrant workers, social security, standards of public services and general production.

Art. 5. All possible steps shall be taken effectively to interest and associate the peoples of non-metropolitan territories in the framing and execution of measures of social progress, preferably through their own elected representatives where appropriate and possible.

PART III

IMPROVEMENT OF STANDARDS OF LIVING

Art. 6. The improvement of standards of living shall be regarded as the principal objective in the planning of economic development.

Art. 7. 1. All practicable measures shall be taken in the planning of economic development to harmonize such development with the healthy evolution of the communities concerned.

2. In particular, efforts shall be made to avoid the disruption of family life and of traditional social units, especially by:

(*a*) Close study of the causes and effects of migratory movements and appropriate action where necessary;

(*b*) The promotion of town and village planning in areas where economic needs result in the concentration of population;

(*c*) The prevention and elimination of congestion in urban areas;

(*d*) The improvement of living conditions in rural areas and the establishment of suitable industries in rural areas where adequate manpower is available.

Art. 8. The measures to be considered by the competent authorities for the promotion of productive capacity and the improvement of standards of living of agricultural producers shall include:

(*a*) The elimination to the fullest practicable extent of the causes of chronic indebtedness;

(*b*) The control of the alienation of agricultural land to non-agriculturists so as to ensure that such alienation takes place only when it is in the best interests of the territory;

(*c*) The control, by the enforcement of adequate laws or regulations, of the ownership and use of land and resources to ensure that they are used, with due regard to customary rights, in the best interests of the inhabitants of the territory;

(*d*) The supervision of tenancy arrangements and of working conditions with a view to securing for tenants and labourers the highest practicable standards of living and an equitable share in any advantages which may result from improvements in productivity or in price levels;

(*e*) The reduction of production and distribution costs by all practicable means and in particular by forming, encouraging and assisting producers' and consumers' co-operatives.

Art. 9. 1. Measures shall be taken to secure for independent producers and wage earners conditions which will give them scope to improve living standards by their own efforts and will ensure the maintenance of minimum standards of living as ascertained by means of official enquiries into living conditions, conducted after consultation with the representative organizations of employers and workers.

2. In ascertaining the minimum standards of living, account shall be taken of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education.

PART IV

PROVISIONS CONCERNING MIGRANT WORKERS

Art. 10. Where the circumstances under which workers are employed involve their living away from their homes, the terms and conditions of their employment shall take account of their normal family needs.

Art. 11. Where the labour resources of one area of a non-metropolitan territory are used on a temporary basis for the benefit of another area, measures shall be taken to encourage the transfer of part of the workers' wages and savings from the area of labour utilization to the area of labour supply.

Art. 12. 1. Where the labour resources of a territory are used in an area under a different administration, the competent authorities of the territories concerned shall, whenever necessary or desirable, enter

into agreements for the purpose of regulating matters of common concern arising in connexion with the application of the provisions of this Convention.

2. Such agreements shall provide that the worker shall enjoy protection and advantages not less than those enjoyed by workers resident in the area of labour utilization.

3. Such agreements shall provide for facilities for enabling the worker to transfer part of his wages and savings to his home.

Art. 13. Where workers and their families move from low-cost to higher-cost areas, account shall be taken of the increased cost of living resulting from the change.

PART V

REMUNERATION OF WORKERS AND RELATED QUESTIONS

Art. 14. 1. The fixing of minimum wages by collective agreements freely negotiated between trade unions which are representative of the workers concerned and employers or employers' organizations shall be encouraged.

2. Where no adequate arrangements exist for the fixing of minimum wages by collective agreement, the necessary arrangements shall be made whereby minimum rates of wages can be fixed in consultation with representatives of the employers and workers, including representatives of their respective organizations, where such exist.

3. The necessary measures shall be taken to ensure that the employers and workers concerned are informed of the minimum wage rates in force and that wages are not paid at less than these rates in cases where they are applicable.

4. A worker to whom minimum rates are applicable and who, since they became applicable, has been paid wages at less than these rates shall be entitled to recover, by judicial or other means authorized by law, the amount by which he has been underpaid, subject to such limitation of time as may be determined by law or regulation.

Art. 15. 1. The necessary measures shall be taken to ensure the proper payment of all wages earned and employers shall be required to keep registers of wage payments, to issue to workers statement of wage payments and to take other appropriate steps to facilitate the necessary supervision.

2. Wages shall normally be paid in legal tender only.

3. Wages shall normally be paid direct to the individual worker.

4. The substitution of alcohol or other spirituous beverages for all or any part of wages for services performed by the worker shall be prohibited.

5. Payment of wages shall not be made in taverns or stores, except in the case of workers employed therein.

6. Unless there is an established local custom to the contrary, and the competent authority is satisfied that the continuance of this custom is desired by the workers, wages shall be paid regularly at such intervals as will lessen the likelihood of indebtedness among the wage earners.

7. Where food, housing, clothing and other essential supplies and services form part of remuneration, all practicable steps shall be taken by the competent authority to ensure that they are adequate and their cash value properly assessed.

8. All practicable measures shall be taken:

(*a*) To inform the workers of their wage rights;

(*b*) To prevent any unauthorized deductions from wages; and

(*c*) To restrict the amounts deductable from wages in respect of supplies and services forming part of remuneration to the proper cash value thereof.

Art. 16. 1. The maximum amounts and manner of repayment of advances on wages shall be regulated by the competent authority.

2. The competent authority shall limit the amount of advances which may be made to a worker in consideration of his taking up employment; the amount of advances permitted shall be clearly explained to the worker.

3. Any advance in excess of the amount laid down by the competent authority shall be legally irrecoverable and may not be recovered by the withholding of amounts of pay due to the worker at a later date.

Art. 17. 1. Voluntary forms of thrift shall be encouraged among wage earners and independent producers.

2. All practicable measures shall be taken for the protection of wage earners and independent producers against usury, in particular by action aiming at the reduction of rates of interest on loans, by the control of the operations of money-lenders, and by the encouragement of facilities for borrowing money for appropriate purposes through co-operative credit organizations or through institutions which are under the control of the competent authority.

PART VI

NON-DISCRIMINATION ON GROUNDS OF RACE, COLOUR, SEX, BELIEF, TRIBAL ASSOCIATION OR TRADE UNION AFFILIATION

Art. 18. 1. It shall be an aim of policy to abolish all discrimination among workers on grounds of race,

colour, sex, belief, tribal association or trade union affiliation in respect of:

(*a*) Labour legislation and agreements which shall afford equitable economic treatment to all those lawfully resident or working in the territory;

(*b*) Admission to public or private employment;

(*c*) Conditions of engagement and promotion;

(*d*) Opportunities for vocational training;

(*e*) Conditions of work;

(*f*) Health, safety and welfare measures;

(*g*) Discipline;

(*h*) Participation in the negotiation of collective agreements;

(*i*) Wage rates, which shall be fixed according to the principle of equal pay for work of equal value in the same operation and undertaking to the extent to which recognition of this principle is accorded in the metropolitan territory.

2. Subject to the provisions of sub-paragraph (*i*) of the preceding paragraph, all practicable measures shall be taken to lessen, by raising the rates applicable to the lower-paid workers, any existing differences in wage rates due to discrimination by reason of race, colour, sex, belief, tribal association or trade union affiliation.

3. Workers from one territory engaged for employment in another territory may be granted in addition to their wages benefits in cash or in kind to meet any reasonable personal or family expenses resulting from employment away from their homes.

4. The foregoing provisions of this article shall be without prejudice to such measures as the competent authority may think it necessary or desirable to take for the safeguarding of motherhood and for ensuring the health, safety and welfare of women workers.

PART VII

EDUCATION AND TRAINING

Art. 19. 1. Adequate provision shall be made in non-metropolitan territories, to the maximum extent possible under local conditions, for the progressive development of broad systems of education, vocational training and apprenticeship, with a view to the effective preparation of children and young persons of both sexes for a useful occupation.

2. Territorial laws or regulations shall prescribe the school-leaving age and the minimum age for and conditions of employment.

3. In order that the child population may be able to profit by existing facilities for education and in order that the extension of such facilities may not be hindered by a demand for child labour, the employment of persons below the school-leaving age during the hours when the schools are in session shall be prohibited in areas where educational facilities are provided on a scale adequate for the majority of the children of school age.

Art. 20. 1. In order to secure high productivity through the development of skilled labour in non-metropolitan territories, training in new techniques of production shall be provided in suitable cases in local, regional or metropolitan centres.

2. Such training shall be organized by or under the supervision of the competent authorities, in consultation with the employers' and workers' organizations of the territory from which the trainees come and of the country of training.

PART VIII

MISCELLANEOUS PROVISIONS

Art. 21. 1. In respect of the territories covered by paragraph 1 of article 1 of this Convention, each Member of the Organization which ratifies this Convention shall append to its ratification, or communicate to the Director-General of the International Labour Office as soon as possible after ratification, a declaration stating:

(*a*) The territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;

(*b*) The territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(*c*) The territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(*d*) The territories in respect of which it reserves its decision.

2. The undertakings referred to in sub-paragraphs (*a*) and (*b*) of paragraph 1 of this article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraphs (*b*), (*c*) or (*d*) of paragraph 1 of this article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of article 27, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Art. 22. 1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraphs 2 and 3 of article 1 of

this Convention shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

2. The Members, Member or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of article 27, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Art. 23. In respect of each territory for which there is in force a declaration specifying modifications of the provisions of this Convention, the annual reports on the application of the Convention shall indicate the extent to which any progress has been made with a view to making it possible to renounce the right to have recourse to the said modifications.

Art. 24. If any Convention which may subsequently be adopted by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any territory in respect of which there has been communicated to the Director-General of the International Labour Office a declaration:

(*a*) Undertaking that the provisions of the said Convention shall be applied in pursuance of paragraph 2 of article 35 of the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization Instrument of Amendment, 1946, or

(*b*) Accepting the obligations of the said Convention in pursuance of paragraph 5 of the said article 35.

PART IX

FINAL PROVISIONS

Art. 25. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Art. 26. 1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Art. 27. 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for an other period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this article.

Art. 28. 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Art. 29. The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Art. 30. At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Art. 31. 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(*a*) The ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate

denunciation of this Convention, notwithstanding the provisions of article 27 above, if and when the new revising Convention shall have come into force;

(*b*) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Art. 32. The English and French versions of the text of this Convention are equally authoritative.

THE RIGHT OF ASSOCIATION (NON-METROPOLITAN TERRITORIES) CONVENTION, 1947[1]

as adopted by the Thirtieth Session of the International Labour Conference, Geneva, 19 June to 11 July 1947

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its thirtieth session on 19 June 1947, and

Having decided upon the adoption of certain proposals concerning the right of association and the settlement of labour disputes in non-metropolitan territories, which is included in the third item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this eleventh day of July of the year thousand nine hundred and forty-seven the following Convention, which may be cited as the Right of Association (Non-Metropolitan Territories) Convention, 1947:

Art. 1. This Convention applies to non-metropolitan territories.

Art. 2. The rights of employers and employed alike to associate for all lawful purposes shall be guaranteed by appropriate measures.

Art. 3. All practicable measures shall be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organizations.

Art. 4. All practicable measures shall be taken to consult and associate the representatives of organizations of employers and workers in the establishment and working of arrangements for the protection of workers and the application of labour legislation.

Art. 5. All procedures for the investigation of disputes between employers and workers shall be as simple and expeditious as possible.

Art. 6. 1. Employers and workers shall be encouraged to avoid disputes, and if they arise to reach fair settlements by means of conciliation.

2. For this purpose all practicable measures shall be taken to consult and associate the representatives of organizations of employers and workers in the establishment and working of conciliation machinery.

3. Subject to the operation of such machinery, public officers shall be responsible for the investigation of disputes and shall endeavour to promote conciliation and to assist the parties in arriving at a fair settlement.

4. Where practicable, these officers shall be officers specially assigned to such duties.

Art. 7. 1. Machinery shall be created as rapidly as possible for the settlement of disputes between employers and workers.

2. Representatives of the employers and workers concerned, including representatives of their respective organizations, where such exist, shall be associated where practicable in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by the competent authority.

Art. 8. 1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization Instrument of Amendment, 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organization which ratifies this Convention shall append to its ratification, or communicate to the Director-General of the International Labour Office as soon as possible after ratification, a declaration stating:

(*a*) The territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;

[1] English text published in the *Official Bulletin* of the International Labour Office, Vol. XXX, No. 1, 31 July 1947, pp. 47–52.

(*b*) The territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(*c*) The territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(*d*) The territories in respect of which it reserves its decision.

2. The undertakings referred to in sub-paragraphs (*a*) and (*b*) of paragraph 1 of this article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraphs (*b*), (*c*) or (*d*) of paragraph 1 of this article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of article 14, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Art. 9. 1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

(*a*) By two or more Members of the Organization in respect of any territory which is under their joint authority; or

(*b*) By an international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of article 14, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Art. 10. In respect of each territory for which there is in force a declaration specifying modifications of the provisions of this Convention, the annual reports on the application of the Convention shall indicate the extent to which any progress has been made with a view to making it possible to renounce the right to have recourse to the said modifications.

Art. 11. If any Convention which may subsequently be adopted by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any territory in respect of which there has been communicated to the Director-General of the International Labour Office a declaration:

(*a*) Undertaking that the provisions of the said Convention shall be applied in pursuance of paragraph 2 of article 35 of the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization Instrument of Amendment, 1946, or

(*b*) Accepting the obligations of the said Convention in pursuance of paragraph 5 of the said article 35.

Art. 12. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Art. 13. 1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Art. 14. 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this article.

Art. 15. 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Art. 16. The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Art. 17. At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Art. 18. 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(*a*) The ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of article 14 above, if and when the new revising Convention shall have come into force;

(*b*) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Art. 19. The English and French versions of the text of his Convention are equally authoritative.

THE FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANIZE CONVENTION, 1948[1]

as adopted by the Thirty-first Session of the International Labour Conference, San Francisco, 17 June to 10 July 1948

The General Conference of the International Labour Organization,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its thirty-first session on 17 June 1948;

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organize, which is the seventh item on the agenda of the session;

Considering that the Preamble to the Constitution of the International Labour Organization declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace;

Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress";

Considering that the International Labour Conference, at its thirtieth session, unanimously adopted the principles which should form the basis for international regulation;

Considering that the General Assembly of the United Nations, at its second session, endorsed these principles and requested the International Labour Organization to continue every effort in order that it may be possible to adopt one or several international Conventions;

Adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organize Convention, 1948:

[1] English text published in the *Official Bulletin* of the International Labour Office, Vol. XXXI, No. 1, 31 August 1948, pp. 1–6. See also Part III of this *Yearbook*, pp. 519–520.

PART I

FREEDOM OF ASSOCIATION

Art. 1. Each Member of the International Labour Organization for which this Convention is in force undertakes to give effect to the following provisions.

Art. 2. Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

Art. 3. 1. Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Art. 4. Workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority.

Art. 5. Workers' and employers' organizations shall have the right to establish and join federations and confederations and any such organization, federation or confederation shall have the right to affiliate with international organizations of workers and employers.

Art. 6. The provisions of articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organizations.

Art. 7. The acquisition of legal personality by workers' and employers' organizations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of articles 2, 3 and 4 hereof.

Art. 8. 1. In exercising the rights provided for in this Convention workers and employers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Art. 9. 1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organization the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Art. 10. In this Convention the term "organization" means any organization of workers or of employers for furthering and defending the interests of workers or of employers.

PART II

PROTECTION OF THE RIGHT TO ORGANIZE

Art. 11. Each Member of the International Labour Organization for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize.

PART III

MISCELLANEOUS PROVISIONS

Art. 12. 1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization Instrument of Amendment, 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organization which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating:

(*a*) The territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;

(*b*) The territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(*c*) The territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(*d*) The territories in respect of which it reserves its decision.

2. The undertakings referred to in sub-paragraphs (*a*) and (*b*) of paragraph 1 of this article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraph (*b*), (*c*) or (*d*) of paragraph 1 of this article.

4. Any Member may, at any time at which this Convention is subject to denunciation in accordance with the provisions of article 16, communicate to the Director-General a declaration modifying in any other

respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Art. 13. 1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

(*a*) By two or more Members of the Organization in respect of any territory which is under their joint authority; or

(*b*) By any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of article 16, communicate to the Director-General of the International Labour Office a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

PART IV

FINAL PROVISIONS

Art. 14. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Art. 15. 1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Art. 16. 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this article.

Art. 17. 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Art. 18. The Director-General of the International Labour Office shall communicate to the Secretary General of the United Nations for registration in accordance with article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Art. 19. At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Art. 20. 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(*a*) The ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate

denunciation of this Convention, notwithstanding the provisions of article 16 above, if and when the new revising Convention shall have come into force;

(*b*) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Art. 21. The English and French versions of the text of this Convention are equally authoritative.

RESOLUTION CONCERNING INTERNATIONAL MACHINERY FOR SAFEGUARDING FREEDOM OF ASSOCIATION[1]

as adopted by the Thirty-first Session of the International Labour Conference, San Francisco, 17 June to 10 July 1948

The Conference,

Recalling the Resolution concerning international machinery for safeguarding freedom of association adopted by the Conference at its thirtieth session (July 1947), requesting the Governing Body to examine this question in all its aspects and to report back to the Conference at its thirty-first session,

Having taken note of the report presented by the Governing Body in conformity with the above-mentioned Resolution,

Having taken note also of the Resolution adopted by the Economic and Social Council of the United Nations at its fifth session (August 1947), requesting the Secretary-General of the United Nations to arrange for co-operation between the International Labour Organization and the Commission on Human Rights on the question of enforcement of trade union rights,

Having taken note also of the Resolution adopted by the Assembly of the United Nations at its second session (September-November 1947), recommending to the International Labour Organization that it pursue urgently, in collaboration with the United Nations and in conformity with the Resolution of the International Labour Conference, the study of the control of the application of trade union rights,

Considering that the Constitution of the International Labour Organization provides adequate guarantees for the application of international labour conventions in general,

Recognizing, however, that the exercise of the right of the freedom of association as provided for in the Convention might be endangered by interference with other fundamental rights, the safeguarding of which lies outside the competence of the International Labour Organization but within the competence of the United Nations, especially that of the Commission on Human Rights,

Considering that additional international machinery for safeguarding freedom of association in all its aspects, established in collaboration with the United Nations, may be necessary effectively to complete the guarantees provided by the Constitution of the International Labour Organization, guarantees which may be neither abrogated nor suspended,

Requests the Governing Body, accordingly, to enter into consultations with the competent organs of the United Nations for the purpose of examining what developments to existing international machinery may be necessary to ensure the safeguarding of freedom of association, and to report back to the Conference at an early session.

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[1] English text published in the *Official Bulletin* of the International Labour Office, Vol. XXXI, No. 1, 31 August 1948, pp. 37–38.

AGREEMENT FOR FACILITATING THE INTERNATIONAL CIRCULATION OF VISUAL AND AUDITORY MATERIALS OF AN EDUCATIONAL, SCIENTIFIC AND CULTURAL CHARACTER [1]

as approved on 10 December 1948 at the Third General Conference of the United Nations Educational, Scientific and Cultural Organization at Beirut

The Governments of the States signatory to the present Agreement,

Being convinced that in facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character, the free flow of ideas by word and image will be promoted and the mutual understanding of peoples thereby encouraged, in conformity with the aims of the United Nations Educational, Scientific and Cultural Organization,

Have agreed as follows:

Art. I. The present Agreement shall apply to visual and auditory materials of the types specified in article II which are of an educational, scientific or cultural character.

Visual and auditory materials shall be deemed to be of an educational, scientific character,

(*a*) When their primary purpose or effect is to instruct or inform through the development of a subject or aspect of a subject, or when their content is such as to maintain, increase or diffuse knowledge, and augment international understanding and goodwill; and

(*b*) When the materials are representative, authentic, and accurate; and

(*c*) When the technical quality is such that it does not interfere with the use made of the material.

Art. II. The provisions of the preceding article shall apply to visual and auditory materials of the following types and forms:

(*a*) Films, filmstrips and microfilm in either negative form, exposed and developed, or positive form, printed and developed.

(*b*) Sound recordings of all types and forms.

(*c*) Glass slides; models; static and moving; wall charts, maps and posters.

These materials are hereinafter referred to as material.

Art. III. 1. Each of the contracting States shall accord, within six months from the coming into force of the present Agreement with respect to that State, exemption from all customs duties and quantitative restrictions and from the necessity of applying for an import licence in respect of the importation, either permanent or temporary, of material originating in the territory of any of the other contracting States.

2. Nothing in this Agreement shall exempt material from those taxes, fees, charges or exactions which are imposed on the import of all articles without exception and without regard to their nature and origin, even though such articles are exempt from customs duties; such taxes, fees and exactions shall include, but are not limited to nominal statistical fees and stamp duties.

3. Material entitled to the privileges provided by paragraph 1 of this article shall be exempt, in the territory of the country of entry, from all internal taxes, fees, charges or exactions other or higher than those imposed on like products of that country, and shall be accorded treatment no less favourable than that accorded like products of that country in respect of all internal laws, regulations or requirements affecting its sale, transportation or distribution or affecting its processing, exhibition or other use.

4. Nothing in this Agreement shall require any contracting State to deny the treatment provided for in this article to like material of an educational, scientific or cultural character originating in any State not a party to this Agreement in any case in which the denial of such treatment would be contrary to an international obligation or to the commercial policy of such contracting State.

Art. IV. 1. To obtain the exemption, provided under the present Agreement for material for which admission into the territory of a contracting State is sought, a certificate that such material is of an educational, scientific or cultural character within the meaning of article I shall be filed in connexion with the entry.

2. The certificate shall be issued by the appropriate governmental agency of the State wherein the material to which the certificate relates originated, or by the United Nations Educational, Scientific and Cultural Organization as provided for in paragraph 3 of this

[1] English text in *Records of the General Conference of the United Nations Educational, Scientific and Cultural Organization* Third Session, Beirut, 1948, Vol. II, Resolutions, Paris, 1949, p. 113.

article, and in the forms annexed hereto. The prescribed forms of certificate may be amended or revised upon mutual agreement of the contracting States, provided such amendment or revision is in conformity with the provisions of this Agreement.

3. Certificates shall be issued by the United Nations Educational, Scientific and Cultural Organization for material of educational, scientific or cultural character produced by international organizations recognized by the United Nations or by any of the specialized agencies.

4. On the filing of any such certificate, there will be a decision by the appropriate governmental agency of the contracting State into which entry is sought as to whether the material is entitled to the privilege provided by article III, paragraph 1, of the present Agreement. This decision shall be made after consideration of the material and through the application of the standards provided in article I. If, as a result of that consideration, such agency of the contracting State into which entry is sought intends not to grant the privileges provided by article III, paragraph 1, to that material because it does not concede its educational, scientific and cultural character, the Government of the State which certified the material, or UNESCO, as the case may be, shall be notified prior to any final decision in order that it may make friendly representations in support of the exemption of that material to the Government of the other State into which entry is sought.

5. The governmental agency of the contracting State into which entry is sought shall be entitled to impose regulations upon the importer of the material to ensure that it shall only be exhibited or used for non-profit-making purposes.

6. The decision of the appropriate governmental agency of the contracting State into which entry is sought, provided for in paragraph 4 of this article, shall be final, but in making its decision the said agency shall give due consideration to any representations made to it by the Government certifying the material or by UNESCO as the case may be.

Art. V. Nothing in the present Agreement shall affect the right of the contracting States to censor material in accordance with their own laws or to adopt measures to prohibit or limit the importation of material for reasons of public security or order.

Art. VI. Each of the contracting States shall send to the United Nations Educational, Scientific and Cultural Organization a copy of each certificate which it issues to material originating within its own territory and shall inform the United Nations Educational, Scientific and Cultural Organization of the decisions taken and the reasons for any refusals in respect of certified materials from other contracting States for which entry is sought into its own territory. The United Nations Educational, Scientific and Cultural Organization shall communicate this information to all contracting States and shall maintain and publish in English and French catalogues of material showing all the certifications and decisions made in respect of them.

Art. VII. The contracting States undertake jointly to consider means of reducing to a minimum the restrictions that are not removed by the present Agreement which might interfere with the international circulation of the material referred to in article I.

Art. VIII. Each contracting State shall communicate to the United Nations Educational, Scientific and Cultural Organization, within the period of six months following the coming into force of the present Agreement, the measures taken in their respective territories to ensure the execution of the provisions of the present Agreement. The United Nations Educational, Scientific and Cultural Organization shall communicate this information as it receives it to all contracting States.

Art. IX. 1. All disputes arising out of the interpretation or application of the present Agreement between States which are both parties to the Statute of the International Court of Justice, except as to articles IV and VI, shall be referred to the International Court of Justice unless in any specific case it is agreed by the parties to have recourse to another mode of settlement.

2. If the contracting States between which a dispute has arisen are not parties or any one of them is not party to the Statute of the International Court of Justice, the dispute shall, if the States concerned so desire, be submitted, in accordance with the constitutional rules of each of them, to an arbitral tribunal established in conformity with the Convention for the Pacific Settlement of International Disputes signed at The Hague on 18 October 1907, or to any other arbitral tribunal.

Art. X. The present Agreement is open to acceptance by the signatory States. The instrument of acceptance shall be deposited with the Secretary-General of the United Nations, who shall notify all the Members of the United Nations of each deposit and the date thereof.

Art. XI. 1. On or after January 1950 any Member of the United Nations not a signatory to the present Agreement, and any non-member State to which a certified copy of the present Agreement has been communicated by the Secretary-General of the United Nations, may accede to it.

2. The instrument of accession shall be deposited with the Secretary-General of the United Nations, who shall notify all the Members of the United

Nations and the non-member States, referred to in the preceding paragraph, of each deposit and the date thereof.

Art. XII. 1. The present Agreement shall come into force ninety days after the Secretary-General of the United Nations has received at least ten instruments of acceptance or accession in accordance with article X or article XI. As soon as possible thereafter the Secretary-General shall draw up a *procès-verbal* specifying the date on which, in accordance with this paragraph, the present Agreement shall have come into force.

2. In respect of each State on behalf of which an instrument of acceptance or accession is subsequently deposited, the present Agreement shall come into force ninety days after the date of the deposit of such instrument.

3. The present Agreement shall be registered with the Secretary-General of the United Nations on the day of its entry into force in accordance with article 102 of the Charter and the Regulations made thereunder by the General Assembly.

Art. XIII. 1. The present Agreement may be denounced by any contracting State after the expiration of a period of three years from the date on which it comes into force in respect of that particular State.

2. The denunciation of the Agreement by any contracting State shall be effected by a written notification addressed by that State to the Secretary-General of the United Nations who shall notify all the Members of the United Nations, and all non-member States referred to in article XI of each notification and the date of the receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Secretary-General of the United Nations.

Art. XIV. 1. Any contracting State may declare, at the time of signature, acceptance, or accession, that in accepting the present Agreement it is not assuming any obligation in respect of all or any territories, for which such contracting State has international obligations. The present Agreement shall, in that case, not be applicable to the territories named in the declaration.

2. The contracting States in accepting the present Agreement do not assume responsibility in respect of any or all non-self-governing territories for which they are responsible, but may notify the acceptance of the Agreement by any or all of such territories at the time of acceptance by such contracting States or at any time thereafter. The present Agreement shall, in such cases, apply to all the territories named in the notification ninety days after the receipt thereof by the Secretary-General of the United Nations.

3. Any contracting State may at any time after the expiration of the period of three years provided for in article XIII declare that it desires the present Agreement to cease to apply to all or any territories for which such contracting State has international obligations or to any or all non-self-governing territories for which it is responsible. The present Agreement shall, in that case, cease to apply to the territories named in the declaration six months after the receipt thereof by the Secretary-General of the United Nations.

4. The Secretary-General of the United Nations shall communicate to all the Members of the United Nations and to all non-member States referred to in article XI the declarations and notifications received in virtue of the present article, together with the dates of the receipt thereof.

Art. XV. Nothing in this Agreement shall be deemed to prohibit the contracting States from entering into agreements or arrangements with the United Nations or any of its specialized agencies which would provide for facilities, exemptions, privileges or immunities with respect to material emanating from or sponsored by the United Nations or by any of its specialized agencies.

Art. XVI. The original of the present Agreement shall be deposited in the archives of the United Nations and shall be opened for signature at Lake Success on 15 July 1949, where it shall remain open for signature until 31 December 1949. Certified copies of the present Agreement shall be furnished by the Secretary-General of the United Nations to each of the Members of the United Nations and to such other Governments as may be designated by agreement between the Economic and Social Council of the United Nations and the Executive Board of the United Nations Educational, Scientific and Cultural Organization.

UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND

AGREEMENTS WITH GOVERNMENTS

NOTE

The United Nations International Children's Emergency Fund was established by unanimous decision of the United Nations General Assembly[1] taken at the 56th plenary meeting, on 11 December 1946.

In conformity with this decision the Fund is to be utilized and administered:

(*a*) For the benefit of children and adolescents of countries which were victims of aggression and in order to assist in their rehabilitation;

(*b*) For the benefit of children and adolescents of countries at present receiving assistance from the United Nations Relief and Rehabilitation Administration;

(*c*) For child health purposes generally, giving high priority to the children of countries victims of aggression.

The Fund, in agreement with the Governments concerned, shall take such measures as are deemed appropriate to ensure the proper utilization and distribution of supplies or other assistance which it provides. Supplies or other assistance shall be made available to Governments upon approval by the Fund of the plans of operation drawn up by the Governments concerned.

Provision shall be made for:

(i) The submission to the Fund of such reports on the use of supplies and other assistance as the Fund may from time to time require;

(ii) Equitable and efficient dispensation or distribution of all supplies or other assistance, on the basis of need, without discrimination because of race, creed, nationality status or political belief.

The work of the Fund is being done on the basis of an agreement between the Fund and each Government in question. During 1947 and 1948 agreements were concluded with the Governments of the following countries and at the following dates:

Albania	20 November 1947
Austria	7 November 1947
Bulgaria	23 August 1947
China	21 May 1948
Czechoslovakia	3 October 1947
Finland	23 August 1947
France	19 February 1948
Greece	14 October 1947
Hungary	28 August 1947
Italy	29 September 1947
Philippines	20 November 1948
Poland	23 August 1947
Romania	28 August 1947
Thailand	1 December 1948
Yugoslavia	20 November 1947

Each of these agreements contains an article providing that "The Government undertakes to see that these supplies are dispensed or distributed equitably and efficiently on the basis of need, without discrimination because of race, creed, nationality status or political belief."

[1] See United Nations, *Resolutions adopted by the General Assembly* during the second part of the first session, from 23 October to 15 December 1946, Lake Success, 1947, pp. 90–93.

REGIONAL TREATIES AND AGREEMENTS

TREATY OF ECONOMIC, SOCIAL AND CULTURAL COLLABORATION AND COLLECTIVE SELF-DEFENCE [1]

signed at Brussels, 17 March 1948

His Royal Highness the Prince Regent of Belgium, the President of the French Republic, President of the French Union, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands and His Majesty the King of Great Britain, Northern Ireland and the British Dominions beyond the Seas,

Resolved

To reaffirm their faith in fundamental human rights, in the dignity and worth of the human person and in the other ideals proclaimed in the Charter of the United Nations;

To fortify and preserve the principles of democracy, personal freedom and political liberty, the constitutional traditions and the rule of law, which are their common heritage;

To strengthen, with these aims in view, the economic, social and cultural ties by which they are already united;

To co-operate loyally and to co-ordinate their efforts to create in western Europe a firm basis for European economic recovery;

To afford assistance to each other, in accordance with the Charter of the United Nations, in maintaining international peace and security and in resisting any policy of aggression;

To take such steps as may be held to be necessary in the event of a renewal by Germany of a policy of aggression;

To associate progressively in the pursuance of these aims other States inspired by the same ideals and animated by the like determination;

Desiring for these purposes to conclude a treaty for collaboration in economic, social and cultural matters and for collective self-defence; . . . .

Art. II. The High Contracting Parties will make every effort in common, both by direct consultation and in specialized agencies, to promote the attainment of a higher standard of living by their peoples and to develop on corresponding lines the social and other related services of their countries.

The High Contracting Parties will consult with the object of achieving the earliest possible application of recommendations of immediate practical interest, relating to social matters, adopted with their approval in the specialized agencies.

They will endeavour to conclude as soon as possible conventions with each other in the sphere of social security.

Art. III. The High Contracting Parties will make every effort in common to lead their peoples towards a better understanding of the principles which form the basis of their common civilization and to promote cultural exchange by conventions between themselves or by other means.

[1] English text in *Miscellaneous No. 2 (1948), Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence*, Brussels, 17 March 1948, London, H. M. Stationery Office, Cmd. 7367.

CONVENTION FOR EUROPEAN ECONOMIC CO-OPERATION [1]

signed at Paris, 16 April 1948

The Governments of Austria, Belgium, Denmark, France, Greece, Ireland, Iceland, Italy, Luxembourg, Norway, the Netherlands, Portugal, the United Kingdom, Sweden, Switzerland and Turkey, and the Commanders-in-Chief of the French, United Kingdom and United States Zones of Occupation of Germany:

Considering that a strong and prosperous European economy is essential for the attainment of the purpose of the United Nations, the preservation of individual liberty and the increase of general well-being, and that it will contribute to the maintenance of peace;

Recognizing that their economic systems are interrelated and that the prosperity of each of them depends on the prosperity of all,

[1] English text in *Miscellaneous No. 4 (1948), Convention for European Economic Co-operation*, Paris, 16 April 1948, London, H. M. Stationery Office, Cmd. 7388.

Believing that only by close and lasting co-operation between the Contracting Parties can the prosperity of Europe be restored and maintained and the ravages of war made good;

Resolved to implement the principles and to achieve the aims set forth in the General Report of the Committee of European Economic Co-operation, particularly the speedy establishment of sound economic conditions enabling the Contracting Parties as soon as possible to achieve and maintain a satisfactory level of economic activity without extraordinary outside assistance, and to make their full contribution to world economic stability;

Determined to combine their economic strength to these ends, to join together to make the fullest collective use of their individual capacities and potentialities, to increase their production, develop and modernize their industrial and agricultural equipment, expand their commerce, reduce progressively barriers to trade among themselves, promote full employment and restore or maintain the stability of their economies and general confidence in their national currencies;

Taking note of the generous resolve of the American people expressed in the action taken to furnish the assistance without which the aims set forth above cannot be fully achieved;

Resolved to create the conditions and establish the institutions necessary for the success of European economic co-operation and for the effective use of American aid, and to conclude a convention to this end; . . . .

*

CHARTER OF THE ORGANIZATION OF AMERICAN STATES[1]

signed at the Ninth International Conference of American States, Bogotá, 30 March–2 May 1948

In the name of their peoples, the States represented at the Ninth International Conference of American States,

Convinced that the historic mission of America is to offer to man a land of liberty, and a favourable environment for the development of his personality and the realization of his just aspirations;

Conscious that that mission has already inspired numerous agreements, whose essential value lies in the desire of the American peoples to live together in peace, and, through their mutual understanding and respect for the sovereignty of each one, to provide for the betterment of all, in independence, in equality and under law;

Confident that the true significance of American solidarity and good-neighbourliness can only mean the consolidation on this continent, within the framework of democratic institutions, of a system of individual liberty and social justice based on respect for the essential rights of man;

Persuaded that their welfare and their contribution to the progress and the civilization of the world will increasingly require intensive continental co-operation;

Resolved to persevere in the noble undertaking that humanity has conferred upon the United Nations, whose principles and purposes they solemnly reaffirm;

Convinced that juridical organization is a necessary condition for security and peace founded on moral order and on justice; and

In accordance with Resolution IX of the Inter-American Conference on Problems of War and Peace, held at Mexico City, have agreed upon the following:

PART ONE

Chapter I

NATURE AND PURPOSES

Art. 4. The Organization of American States, in order to put into practice the principles on which it is founded and to fulfil its regional obligations under the Charter of the United Nations, proclaims the following essential purposes:

(*a*) To strengthen the peace and security of the continent;

(*b*) To prevent possible causes of difficulties and to ensure the pacific settlement of disputes that may arise among the Member States;

. . . . . .

(*e*) To promote, by co-operative action, their economic, social and cultural development.

Chapter II

PRINCIPLES

Art. 5. The American States reaffirm the following principles:

(*a*) International law is the standard of conduct of States in their reciprocal relations;

. . . . . .

(*d*) The solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy;

. . . . . .

(*h*) Social justice and social security are bases of lasting peace;

(*i*) Economic co-operation is essential to the common welfare and prosperity of the peoples of the continent;

(*j*) The American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed or sex;

(*k*) The spiritual unity of the continent is based on respect for the cultural values of the American countries and requires their close co-operation for the high purposes of civilization;

(*l*) The education of peoples should be directed towards justice, freedom and peace.

Chapter III

FUNDAMENTAL RIGHTS AND DUTIES OF STATES

Art. 12. The jurisdiction of States within the limits of their national territory is exercised equally over all the inhabitants, whether nationals or aliens.

Art. 13. Each State has the right to develop its cultural, political and economic life freely and naturally. In this free development, the State shall respect the rights of the individual and the principles of universal morality.

[1] English text in *Charter of the Organization of American States*, Pan American Union, Law and Treaty Series—No. 23, Washington, 1948, pp. 23–44.

Chapter VII

SOCIAL STANDARDS

Art. 28. The Member States agree to co-operate with one another to achieve just and decent living conditions for their entire populations.

Art. 29. The Member States agree upon the desirability of developing their social legislation on the following bases:

(*a*) All human beings, without distinction as to race, nationality, sex, creed or social condition, have the right to attain material well-being and spiritual growth under circumstances of liberty, dignity, equality of opportunity, and economic security;

(*b*) Work is a right and a social duty; it shall not be considered as an article of commerce; it demands respect for freedom of association and for the dignity of the worker; and it is to be performed under conditions that ensure life, health and a decent standard of living, both during the working years and during old age, or when any circumstance deprives the individual of the possibility of working.

Chapter VIII

CULTURAL STANDARDS

Art. 30. The Member States agree to promote, in accordance with their constitutional provisions and their material resources, the exercise of the right to education, on the following bases:

(*a*) Elementary education shall be compulsory and, when provided by the State, shall be without cost;

(*b*) Higher education shall be available to all, without distinction as to race, nationality, sex, language, creed or social condition.

Art. 31. With due consideration for the national character of each State, the Member States undertake to facilitate free cultural interchange by every medium of expression.

INTER-AMERICAN CONVENTION ON THE GRANTING OF POLITICAL RIGHTS TO WOMEN[1]

signed at the Ninth International Conference of American States, Bogotá, 30 March–2 May 1948

NOTE[2]

The two conventions on political and civil rights for women in the Americas were drafted by the Inter-American Commission of Women for the Ninth International Conference of American States (Bogotá, Colombia, 1948) because the members of the Commission decided that "our Governments are mature enough to take responsibility for their pronouncements" concerning women's rights. International Conferences of American States since 1923 had approved resolutions and recommendations urging the member States to grant women the same civil and political rights as men. For more than two decades the status of women in the Americas had been improving gradually, and the Inter-American Commission of Women was convinced in 1948 that the time had come for more decisive action by the Governments on behalf of women's civil and political rights.

Once before the Inter-American Commission of Women had sponsored a treaty affecting the status of women, namely, the Convention on Nationality of Women adopted at the Seventh International Conference of American States at Montevideo in 1933. The convention was signed by 19 countries, and although it was ratified by only 11 American Republics, 14 of them adjusted their nationality laws to the new inter-American standards. This experience led the Inter-American Commission of Women to the conclusion that a multilateral convention, in addition to its recognized function of formalizing international commitments, might have more persuasive power than a resolution or recommendation.

As drafted by the Inter-American Commission of Women, a single convention was proposed calling for both civil and political equality for women. Introduced at the Ninth International Conference of American States by Uruguay, the draft convention in final form became two conventions, one for political rights, the other for civil rights. Fourteen nations signed, without reservations, the Inter-American Convention on the Granting of Political Rights to Women, and twenty nations signed the Inter-American Convention on the Granting of Civil Rights to Women. Ratification of the two conventions is in process.

The Governments represented at the Ninth International Conference of American States,

Considering:

That the majority of the American Republics,

[1] English text in *Inter-American Convention on the Granting of Political Rights to Women*, Pan American Union, Law and Treaty Series, No. 26, Washington 1948, pp. 3-4.

[2] This note was prepared in the Office of the Commission of Women of the Pan American Union, Washington.

inspired by lofty principles of justice, have granted political rights to women;

That it has been a constant aspiration of the American community of nations to equalize the status of men and women in the enjoyment and exercise of political rights;

That Resolution XX of the Eighth International Conference of American States expressly declares:

"That women have the right to political treatment on the basis of equality with men";

That long before the women of America demanded their rights they were able to carry out nobly all their responsibilities side by side with men;

That the principle of equality of human rights for men and women is contained in the Charter of the United Nations;

Have resolved:

To authorize their respective representatives, whose full powers have been found to be in good and due form, to sign the following articles:

Art. 1. The High Contracting Parties agree that the right to vote and to be elected to national office shall not be denied or abridged by reason of sex.

Art. 2. The present Convention shall be open for signature by the American States and shall be ratified in accordance with their respective constitutional procedures. The original instrument, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall transmit certified copies to the Governments for the purpose of ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States, which shall notify the signatory Governments of the said deposit. Such notification shall serve as an exchange of ratifications.

Reservation of the Delegation of Honduras

The Delegation of Honduras makes a reservation with respect to the granting of political rights to women, in view of the fact that the political Constitution of its country grants the prerogatives of citizenship to men only.

Declaration of the Delegation of Mexico

The Mexican Delegation, in expressing its appreciation of the spirit that inspires the present Convention, declares that it abstains from signing it inasmuch as, according to article 2, the Convention is open to signature by the American States. The Government of Mexico reserves the right to adhere to the Convention when, taking into consideration existing constitutional provisions of Mexico, it considers such adherence appropriate.

INTER-AMERICAN CONVENTION ON THE GRANTING OF CIVIL RIGHTS TO WOMEN [1]

signed at the Ninth International Conference of American States, Bogotá, 30 March–2 May 1948

The Governments represented at the Ninth International Conference of American States,

Considering:

That the majority of the American Republics, inspired by lofty principles of justice, have granted civil rights to women;

That it has been a constant aspiration of the American community of nations to equalize the status of men and women in the enjoyment and exercise of civil rights;

That Resolution XX of the Eighth International Conference of American States expressly declares:

"That women have the right to the enjoyment of equality as to civil status";

That long before the women of America demanded their rights they were able to carry out nobly all their responsibilities side by side with men;

That the principle of equality of human rights for men and women is contained in the Charter of the United Nations,

Have resolved:

To authorize their respective representatives, whose full powers have been found to be in good and due form, to sign the following articles:

Art. 1. The American States agree to grant to women the same civil rights that men enjoy.

Art. 2. The present Convention shall be open for signature by the American States and shall be ratified

[1] English text in *Inter-American Convention on the Granting of Civil Rights to Women*, Pan American Union, Law and Treaty Series No. 27, Washington, D.C., 1948, p. 3. See also the introductory note to the Inter-American Convention on the Granting of Political Rights to Women, on p. 438 of this *Yearbook*.

n accordance with their respective constitutional procedures. The original instrument, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall transmit certified copies to the Governments for the purpose of ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States, which shall notify the signatory Governments of the said deposit. Such notification shall serve as an exchange of ratifications.

AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN[1]

NOTE[2]

Resolution XL of the Inter-American Conference on Problems of War and Peace, held at Mexico City in 1945, called upon the Inter-American Juridical Committee "to prepare a draft Declaration of the International Rights and Duties of Man which shall be submitted, through the Pan American Union, to all the Governments of the continent" so that they might present such comments as they might consider pertinent, in order that the Committee might prepare a final draft of an inter-American instrument of that character.

In compliance with this request, the Juridical Committee prepared a preliminary draft, describing it as "Draft Declaration of the International Rights and Duties of Man".

Accompanying the draft declaration was an elaborate report describing in detail (1) the circumstances in which the Juridical Committee had undertaken the preparation of a draft declaration; (2) the background of the demand for the adoption of a declaration on the international rights and duties of man; (3) specific measures looking to the international promotion of fundamental human rights; (4) declarations previously elaborated by private associations; (5) the scope of an international bill of rights; (6) an analysis of detailed rights and duties; (7) political ideals and practical politics, and (8) administration of an international standard of fundamental rights.

Nine of the Governments—Argentina, Brazil, Chile, Cuba, Honduras, Mexico, Nicaragua, Paraguay, and Venezuela—formulated observations on the draft declaration submitted by the Juridical Committee; and taking into account the opinions thus expressed, the Committee proceeded to a revision of the draft declaration and prepared a final or "definitive project". At the same time it drew up a report explaining the changes introduced into the original text. The report is limited to such changes and it calls attention to the first report "as illustrative of a complete study of the subject".

Unfortunately, the Committee was unable to take into account the preliminary work undertaken by the United Nations Commission on Human Rights, information with respect to which did not reach it until after it has completed its labours.

The tentative draft prepared by the Juridical Committee served as a basis for Resolution XXX adopted at the Ninth International Conference of American States at Bogotá in 1948, designated as "American Declaration of the Rights and Duties of Man". The text adopted by the conference differs both in form and substance from the draft of the Juridical Committee. In form it departs from the draft by separate chapters on rights and duties; and in substance it differs in converting certain implied duties of the draft into positive ones.

In connexion with the American Declaration, attention should be called to Recommendation XXXI adopted by the Conference, entitled "Inter-American Court to protect the Rights of Man". This recommendation was adopted in respect to the demand of a number of the delegations to the Conference that some provision should be included for the enforcement of the Declaration. The recommendation proclaims that the protection of rights should be by a juridical organ and that "where internationally recognized rights are concerned, juridical protection, to be effective, should emanate from an international organ". The recommendation then calls upon the Inter-American Juridical Committee to prepare a draft statute providing for the creation of an inter-American court to guarantee the rights of man.

[1] English text in *Final Act* of the Ninth International Conference of American States, Bogotá, 30 March to 2 May 1948, Washington, Pan American Union, 1948, p. 39.

[2] This note was prepared by Professor Charles G. Fenwick, Director, Department of International Law and Organization of the Pan American Union, Washington.

PREAMBLE

All men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.

The fulfilment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.

Duties of a juridical nature presuppose others of a moral nature which support them in principle and constitute their basis.

Inasmuch as spiritual development is the supreme end of human existence and the highest expression thereof, it is the duty of man to serve that end with all his strength and resources.

Since culture is the highest social and historical expression of that spiritual development, it is the duty of man to preserve, practice and foster culture by every means within his power.

And, since moral conduct constitutes the noblest flowering of culture, it is the duty of every man always to hold it in high respect.

CHAPTER ONE

RIGHTS

Art. I. Every human being has the right to life, liberty and the security of his person.

Art. II. All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.

Art. III. Every person has the right freely to profess a religious faith, and to manifest and practise it both in public and in private.

Art. IV. Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

Art. V. Every person has the right to the protection of the law against abusive attacks upon his honour, his reputation, and his private and family life.

Art. VI. Every person has the right to establish a family, the basic element of society, and to receive protection therefor.

Art. VII. All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.

Art. VIII. Every person has the right to fix his residence within the territory of the State of which he is a national, to move about freely within such territory, and not to leave it except by his own will.

Art. IX. Every person has the right to the inviolability of his home.

Art. X. Every person has the right to the inviolability and transmission of his correspondence.

Art. XI. Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.

Art. XII. Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity.

Likewise, every person has the right to an education that will prepare him to attain a decent life, to raise his standard of living, and to be a useful member of society.

The right to an education includes the right to equality of opportunity in every case, in accordance with natural talents, merit and the desire to utilize the resources that the State or the community is in a position to provide.

Every person has the right to receive, free, at least a primary education.

Art. XIII. Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress, especially scientific discoveries.

He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific or artistic works of which he is the author.

Art. XIV. Every person has the right to work, under proper conditions, and to follow his vocation freely, in so far as existing conditions of employment permit.

Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family.

Art. XV. Every person has the right to leisure time, to wholesome recreation, and to the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit.

Art. XVI. Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.

Art. XVII. Every person has the right to be recognized everywhere as a person having rights and obligations, and to enjoy the basic civil rights.

Art. XVIII. Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

Art. XIX. Every person has the right to the nationality to which he is entitled by law and to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him.

Art. XX. Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

Art. XXI. Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connexion with matters of common interest of any nature.

Art. XXII. Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labour union or other nature.

Art. XXIII. Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.

Art. XXIV. Every person has the right to submit respectful petitions to any competent authority, for reasons of either general or private interest, and the right to obtain a prompt decision thereon.

Art. XXV. No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law.

No person may be deprived of liberty for non-fulfilment of obligations of a purely civil character.

Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay, or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

Art. XXVI. Every accused person is presumed to be innocent until proved guilty.

Every person accused of an offence has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

Art. XXVII. Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements.

Art. XXVIII. The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy.

Chapter Two

DUTIES

Art. XXIX. It is the duty of the individual so to conduct himself in relation to others that each and every one may fully form and develop his personality.

Art. XXX. It is the duty of every person to aid, support, educate and protect his minor children, and it is the duty of children to honour their parents always and to aid, support and protect them when they need it.

Art. XXXI. It is the duty of every person to acquire at least an elementary education.

Art. XXXII. It is the duty of every person to vote in the popular elections of the country of which he is a national, when he is legally capable of doing so.

Art. XXXIII. It is the duty of every person to obey the law and other legitimate commands of the authorities of his country and those of the country in which he may be.

Art. XXXIV. It is the duty of every able-bodied person to render whatever civil and military service his country may require for its defence and preservation, and, in case of public disaster, to render such services as may be in his power.

It is likewise his duty to hold any public office to which he may be elected by popular vote in the State of which he is a national.

Art. XXXV. It is the duty of every person to co-operate with the State and the community with respect to social security and welfare, in accordance with his ability and with existing circumstances.

Art. XXXVI. It is the duty of every person to pay the taxes established by law for the support of public services.

Art. XXXVII. It is the duty of every person to work, as far as his capacity and possibilities permit, in order to obtain the means of livelihood or to benefit his community.

Art. XXXVIII. It is the duty of every person to refrain from taking part in political activities that, according to law, are reserved exclusively to the citizens of the State in which he is an alien.

RECOMMENDATION OF THE NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES REGARDING WORKING CONDITIONS, HEALTH AND INFORMATION ON CO-OPERATIVES[1]

Whereas:

The common goal sought by the American States is the establishment of democracy on political, economic and social foundations that will serve to strengthen the peace of the continent;

The Economic Charter of the Americas, signed at the Mexico City Conference in 1945, states in substance that "the well-being of the people should be the principal aim of all economic activity";

The numerous resolutions approved at specialized congresses and conferences, principally Resolution XLIX of the Buenos Aires Conference of 1936, should be taken into consideration;

The American Republics have already made most praiseworthy efforts towards improving the living conditions of working classes, and it is desirable to facilitate the dissemination of information on the progress made in this field and to co-ordinate means of providing for the well-being of the greatest possible number of American workers.

The Ninth International Conference of American States

Recommends:

1. The creation within the Pan American Sanitary Bureau of an office that will be concerned especially with finding suitable means to give the working classes the benefit of all advances made in the prevention and cure of disease.

2. The creation within the Inter-American Economic and Social Council of a special office responsible for gathering and disseminating information relating to the establishment and development of co-operative societies.

[1] English text in *Final Act* (quoted above p. 440), p. 19.

RECOMMENDATION OF THE NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES REGARDING THE DEVELOPMENT AND IMPROVEMENT OF SOCIAL SERVICE[1]

Whereas:

It is the concern of the American Republics that assistance be provided to all elements of their population in meeting problems of poverty, ignorance, malnutrition and disease;

Governments have a major responsibility for providing social welfare programmes for meeting these problems, including social assistance and services, social insurance, health, education and other services related to the well-being of the individual;

The American Republics in developing and improving their social welfare programmes will require technical assistance and exchange of information, knowledge and skills, by means of bilateral programmes, and through inter-American organizations, the United Nations and its specialized agencies.

The Ninth International Conference of American States

Recommends:

I. That the Governments of the American Republics establish sound social welfare programmes within their own countries, including social assistance, social insurance and other programmes providing services contributing to the conservation of family life, services to children and youth, and social services to special groups and areas.

In recognition of this responsibility Governments should establish official national agencies so constituted as to be able to initiate, develop and administer sound programmes in the field of social welfare, including provisions for the training of personnel.

II. That the Governments of the American Republics develop and expand international programmes for mutual assistance and exchange of technical knowledge, information and skills in the field of social welfare, by the following means:

1. Bilateral exchange of information, knowledge and skills among the American Republics.

The American Republics should continue and expand co-operative programmes of consultation and interchange of information, technical knowledge and skills, initiated as a result of resolutions and recommendations of the Inter-American Conference for the Maintenance of Peace, Buenos Aires, 1936, and of the Eighth International Conference of American States, Lima, 1938, in such fields as social assistance and services, social insurance, family and child welfare, health, nutrition, education, labour standards and the training of technicians and specialists.

[1] English text in *Final Act* (quoted above p. 440), pp. 19–21.

2. Co-operation through the inter-American specialized organizations.

Special consideration should be given by the inter-American organizations concerned with social matters to the types of services needed by countries of the hemisphere; these organizations should receive support from the Governments and collaborate with them in providing such services; and their activities should be so related as to contribute to the continuous and balanced development of these services.

3. Strengthening of the facilities and services of the Pan American Union.

(*a*) The Pan American Union should bear in mind the desire of the American peoples for social progress, and its programme of work should give due emphasis to matters related to the field of social welfare.

(*b*) The staff of the Pan American Union and particularly of the Department of Economic and Social Affairs should be strengthened, as may be necessary, to enable the Union to give effective leadership in connexion with the development and improvement of social welfare services, and its facilities for exchange of information in this field should be increased.

(*c*) The Pan American Union should undertake, in consultation and co-operation with the Governments and appropriate specialized organizations, a study of the more urgent social needs of the American countries and ways of meeting them.

(*d*) The Pan American Union should study the facilities available through the inter-American specialized agencies for assistance to countries desiring to develop and improve their social welfare services and ways in which they should be strengthened, co-ordinated or supplemented.

(*e*) The Pan American Union should actively promote direct co-operation and mutual assistance among the American nations in connexion with the development and improvement of social welfare services.

4. Co-operation with the United Nations and its specialized agencies.

The Member States of the Organization of American States should, as far as possible, co-ordinate their efforts in carrying out the above-mentioned principles and programmes with similar efforts in the social field made by the United Nations and its specialized agencies.

And requests:

The Inter-American Economic and Social Council to make studies and recommendations as to the implementation of this resolution.

RESOLUTION OF THE NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES ESTABLISHING AN ORGANIC STATUTE OF THE INTER-AMERICAN COMMISSION OF WOMEN[1]

Whereas:

The Inter-American Commission of Women is an official institution created by the Sixth International Conference of American States of Habana of 1928, and established on permanent bases by the Eighth International Conference of Lima of 1938;

The Inter-American Conference on Problems of War and Peace, held at Mexico City in 1945, expressed the desire that the Inter-American Commission of Women be included among the institutions composing the Pan American Union;

The Charter of the United Nations reaffirms faith in the equality of rights for men and women;

The Eighth International Conference of American States entrusted to the Pan American Union the preparation of an organic statute to regulate the functioning of the Commission, and furthermore directed the Union to submit such statute to the Ninth International Conference of American States for approval,

The Ninth International Conference of American States

Resolves:

To approve the following Organic Statute:

CHAPTER I

THE INTER-AMERICAN COMMISSION OF WOMEN

Art. 1. The Inter-American Commission of Women is a permanent entity attached to the General Secretariat of the Organization of American States.

CHAPTER II

FUNCTIONS

Art. 2. The functions of the Inter-American Commission of Women are as follows:

(*a*) To work for the extension of civil, political, economic and social rights to the women of America; to study their problems and propose means of solving them;

[1] English text in *Final Act* (quoted above p. 440), pp. 21-25.

(*b*) To suggest to the Governments that resolutions approved at international conferences in regard to the interests of women be carried out;

(*c*) To serve as an advisory body to the Organization of American States and its Organs in matters relating to the aims of the Commission;

(*d*) To establish close relations with inter-American organizations, and also with those of world-wide scope, whose objectives are related to those of the Commission;

(*e*) To send reports to the Council of the Organization of American States on the principal activities that have been carried on in connexion with the work of the Commission.

(*f*) To submit official reports to the Inter-American Conferences on the civil, political, social and economic status of women in America and also on the problems that should, in its opinion, be considered; and to submit to those conferences any resolutions looking to their solution.

. . . . . .

DECLARATION OF THE NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES REGARDING SOCIAL JUSTICE[1]

Whereas:

One of the primary objectives of the State is to achieve social peace;

Social peace can be achieved only through equilibrium between the various social classes, arising from their respective well-being;

The moral and material well-being of individuals or social groups can be brought about only by eliminating the co-existence of great wealth and extreme poverty,

The Ninth International Conference of American States

Declares:

Its firm and definite determination to attain a state of social justice that, through the joint action of all national factors and the necessary progressive legislation, will eliminate extreme poverty and the neglect and exploitation of man by man, and will ensure the dignity of labour and the humanization of capital.

[1] English text in *Final Act* (quoted above p. 440), pp. 25–26.

RESOLUTION OF THE NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES REGARDING THE ECONOMIC STATUS OF WORKING WOMEN[1]

Whereas:

The raising of the standard of living of the working classes, of which women form a very important part, is an aspiration of the American States that has been solemnly proclaimed in the Economic Charter of the Americas and in the Declaration of the Social Principles of America;

Governments and associations of workers and of employers have the right to have at their disposal a comprehensive analysis of the economic situation of working women,

The Ninth International Conference of American States

Resolves:

To direct the Inter-American Commission of Women to carry out studies and investigations on the economic status of working women in the American Republics, as well as on the rights that they enjoy in each republic during the maternity period. Such studies and investigations shall be made with the financial aid of the Pan American Union; and

Recommends:

(*a*) That the studies and investigations referred to be carried out in co-operation with the Inter-American Economic and Social Council, the International Labour Office, the United Nations Commission on the Status of Women, the Inter-American Conference on Social Security, the Inter-American Statistical Institute and any other agency interested in the subject.

(*b*) That these studies be submitted to the Tenth International Conference of American States so that it may consider them in dealing with problems relating to rights and protective measures granted to workers.

[1] English text in *Final Act* (quoted above p. 440), p. 26.

INTER-AMERICAN CHARTER OF SOCIAL GUARANTEES[1]

NOTE[2]

The Conference held at Mexico City, February to March 1945, gave much of its attention to the economic and social problems of the American Republics. Chief attention was devoted to improving the conditions of the working classes, raising the standard of living, and increasing the stability and social security of the worker.

The "Declaration of Social Principles of America" adopted at the Conference sets forth in detail plans of inter-American co-operation for the solution of social problems, declaring the ideals of the American States in that respect and recommending specific measures to be taken to accomplish the ends sought. The resolution then calls upon the Inter-American Juridical Committee to prepare an "Inter-American Charter of Social Guarantees", collaborating with the International Labour Office and taking into account the agreements and recommendations of the latter and the social legislation of the American countries.

Pursuant to this resolution the Inter-American Juridical Committee prepared a draft charter setting forth certain fundamental principles believed to represent inter-American objectives in the field of the improvement of the conditions of the working classes, and it then specifies in more or less detail the particular rules which should govern the relations of workers with their employers. The representative of the United States on the Committee objected to the form given to the charter, stating that it was more in the nature of a "labour code" than a statement of fundamental principles. He felt that the details as to hours and conditions of labour should be left to the International Labour Organization.

Moreover, he warned that the Charter could not be accepted by the United States, because of the fact that the detailed regulation of labour conditions came within the jurisdiction of the several States of the Union.

The Bogotá Conference adopted the charter drafted by the Juridical Committee substantially as presented to it. Only the delegation of the United States entered a reservation pointing out that "although firmly adhering to the principle of appropriate international action in the interests of labour", it did not regard itself as bound by the specific terms of the Charter of Social Guarantees. In spite of the name "Charter" the document is not a treaty, but a resolution, and it comes into force among all the other American Republics by reason of its incorporation into the Final Act. No machinery is set up for the enforcement of the provisions of the Charter. Each State pledges itself to put the provisions into effect, and that is as far as the legal obligation goes.

The American States, desirous of making effective the constant and generous aspiration of the Inter-American Conferences that on the continent there be standards providing ample protection to workers;

Inspired by the aim of furthering the rehabilitation of the life, economy, ethical and social standards of the American peoples, strengthening them as an element of humanity, increasing their ability to work, adding to their productive value and raising their purchasing power in order that they may enjoy a better standard of living;

Convinced that the State attains its goals not only by recognizing the rights of citizens alone, but also by concerning itself with the fortunes of men and women, considered not only as citizens, but also as human beings;

Agreed, therefore, that the present stage of juridical evolution demands that democratic systems guarantee respect for political and spiritual freedoms, together with the realization of the postulates of social justice;

Encouraged by the fact that the countries of America fervently desire to achieve this social justice;

United in the belief that one of the principal objectives of the present international organization is to bring about the co-operation of the various States for the solution of labour problems, and that it is to the public interest, from the international point of view, to enact the most comprehensive social legislation possible, to give workers guarantees and rights on a scale not lower than that fixed in the Conventions and Recommendations of the International Labour Organization;

Agreed that economic co-operation, of such great importance for the American Republics, cannot be truly effective unless measures are taken to ensure the rights of workers and unless living and working conditions are improved as much as possible;

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[1] English text in *Final Act* of the Ninth International Conference of American States, Bogotá, 30 March to 2 May 1948, Washington, Pan American Union, 1948, pp. 29–38.

[2] This note was prepared by Professor Charles G. Fenwick, Director, Department of International Law and Organization of the Pan American Union, Washington.

Unanimous in realizing that the aggravation of social problems is an obvious factor of internal unrest, with international repercussions that endanger the maintenance of peace;

Conscious that Christian principles teach the duty of contributing to the material well-being of men and women and to their spiritual welfare by according to them a decent way of life that will provide for their liberty, dignity and security; and conscious that those principles successfully reconcile individual initiative with the undeniable worth that human labour has acquired in modern societies;

Desirous of giving effect to Resolution LVIII of the Inter-American Conference on Problems of War and Peace, which provides for the preparation of a "Charter of Social Guarantees",

Adopt the following Inter-American Charter of Social Guarantees as the declaration of the social rights of workers:

GENERAL PRINCIPLES

Art. 1. It is the aim of the present Charter of Social Guarantees to proclaim the fundamental principles that must protect workers of all kinds, and it sets forth the minimum rights they must enjoy in the American States, without prejudice to the fact that the laws of each State may extend such rights or recognize others that are more favourable.

This Charter of Social Guarantees gives equal protection to men and women.

It is recognized that the supremacy of these rights and the progressive raising of the standard of living of the community in general depend to a large degree upon the development of economic activities, upon increased productivity, and upon co-operation between workers and employers, expressed in harmonious relations and in mutual respect for and fulfilment of their rights and duties.

Art. 2. The following principles are considered to be fundamental in the social legislation of the American countries:

(*a*) Labour is a social function; it enjoys the special protection of the State and must not be considered as a commodity.

(*b*) Every worker must have the opportunity for a decent existence and the right to fair working conditions.

(*c*) Intellectual, as well as technical and manual labour, must enjoy the guarantees established in labour laws, with the distinctions arising from the application of the law under the different circumstances.

(*d*) There should be equal compensation for equal work, regardless of the sex, race, creed or nationality of the worker.

(*e*) The rights established in favour of workers may not be renounced, and the laws that recognize such rights are binding on and benefit all the inhabitants of the territory, whether nationals or aliens.

Art. 3. Every worker has the right to engage in his occupation and to devote himself to whatever activity suits him. He is likewise free to change employment.

Art. 4. Every worker has the right to receive vocational and technical training in order to perfect his skills and knowledge, obtain a greater income from his work, and contribute effectively to the advancement of production. To this end, the State shall organize adult education and the apprenticeship of young people, in such a way as to assure effective training in a given trade or work, at the same time that it provides for their cultural, moral and civic development.

Art. 5. Workers have the right to share in the equitable distribution of the national well-being, by obtaining the necessary food, clothing, and housing at reasonable prices. To achieve these purposes, the State must sponsor the establishment and operation of popular farms and restaurants and of consumer and credit co-operatives, and should organize institutions to promote and finance such farms and establishments, as well as to supply low-cost, comfortable, hygienic housing for labourers, salaried employees and rural workers.

INDIVIDUAL LABOUR CONTRACTS

Art. 6. The law shall regulate individual labour contracts, for the purpose of guaranteeing the rights of workers.

COLLECTIVE LABOUR CONTRACTS AND AGREEMENTS

Art. 7. The law shall recognize and regulate collective labour contracts and agreements. In the enterprises that are governed by these contracts and agreements, the provisions shall apply not only to the workers affiliated with the trade association that signed them, but also to the other workers who are or shall be employed in those enterprises. The law shall establish the procedure for extending collective contracts and agreements to all the activities in respect to which they were made and for widening the geographical sphere of their application

WAGES

Art. 8. Every worker has the right to earn a minimum wage, fixed periodically with the participation of the State and of workers and employers, which

shall be sufficient to cover his normal home needs, material, moral and cultural, taking into account the characteristics of each type of work, the special conditions of each region and each job, the cost of living, the worker's relative aptitude, and the wage systems prevalent in the enterprises.

A minimum occupational wage shall also be set up for those activities in which this matter is not regulated by a collective contract or agreement.

Art. 9. Workers have the right to an annual bonus; in proportion to the number of days worked during the year.

Art. 10. Wages and social benefits, in the amount fixed by law, are not subject to attachment, with the exception of payments for support that the worker has been ordered by a court to pay.

Wages should be paid in cash in legal tender. The value of wages and social benefits constitutes a privileged claim in the case of the bankruptcy of the employer, or a meeting of his creditors.

Art. 11. Workers have the right to a fair share in the profits of the enterprises in which they work, in the form and amount and under the conditions that the law provides.

WORK PERIODS, REST AND VACATIONS

Art. 12. The ordinary effective work period should not exceed eight hours a day or forty-eight hours a week. The maximum duration of the work period in agricultural, livestock, or forestry work, shall not exceed nine hours a day or fifty-four hours a week. The daily limits may be extended up to one hour in each case, provided that the work period of one or more days during the week is shorter than the indicated limit, without prejudice to the provisions with respect to a weekly rest period. The period for night work, and that for dangerous or unhealthful work, shall be less than the daytime work period.

The work period limitation shall not apply in cases of *force majeure.*

Overtime work shall not exceed a daily and weekly maximum. In work that is by nature hazardous or unhealthful, the limit of the work period may not be exceeded by means of overtime work.

The laws of each country shall determine both the length of the intervals that are to interrupt the work period when for reasons of health the nature of the task demands it, and the intervals that should come between two work periods.

Workers may not exceed the limit of the work period, whether working for the same or for another employer.

Night and overtime work shall give the right to extra pay.

Art. 13. Every worker has a right to a weekly paid rest period in the form established by the law of each country.

Workers who do not enjoy the rest period referred to in the foregoing paragraph shall be entitled to special pay for the services rendered on those days and to a compensatory rest period.

Art. 14. Workers shall also have the right to a paid rest period on the civil and religious holidays established by law, with the exceptions that the law itself may determine, for the same reasons that justify work on the weekly days of rest. Those who do not enjoy the rest period on these days have a right to extra pay.

Art. 15. Every worker who has to his credit a minimum of service rendered during a given period shall be entitled to paid annual vacations, on work days, the length of such vacations to be in proportion to the number of years of service. Monetary compensation may not be given in lieu of vacations, and the obligation of the worker to take them shall follow from the obligation of the employer to grant them.

CHILD LABOUR

Art. 16. Persons less than fourteen years of age, and those who, having reached that age, are still subject to the compulsory education laws of the country, may not be employed in any type of work. The authorities responsible for supervising the work of such minors may authorize their employment when it is essential for their own maintenance, or that of their parents or brothers and sisters, provided that the minimum compulsory education requirements are met.

The work period for those under sixteen years of age may not be greater than six hours daily or thirty-six hours weekly in any type of work.

Art. 17. Night work and work hazardous or injurious to health is forbidden for persons under eighteen years of age; exceptions concerning weekly rest set forth in the laws of the respective countries may not be applied to such workers.

THE WORK OF WOMEN

Art. 18. In general, night work is forbidden for women in industrial establishments, whether public or private, and in work that is hazardous or injurious to health, except in cases where only the members of the same family are employed, in cases of *force majeure* that render it necessary, in cases where women perform administrative or responsible duties not normally requiring manual labour, and in other cases expressly provided for by law.

By industrial establishments and by work that is hazardous or injurious to health are understood those so defined by law or by international labour conventions.

Exceptions concerning weekly rest set forth in the laws of the respective countries may not be applied to women.

TENURE

Art. 19. The law shall guarantee stability of employment, due consideration being given to the nature of the respective industries and occupations and justifiable causes for dismissal. In case of unjustified discharge, the worker shall have the right to indemnification.

APPRENTICESHIP CONTRACTS

Art. 20. Apprenticeship contracts shall be regulated by a law, to assure to the apprentice instruction in his trade or occupation, just treatment, fair pay and the benefits of social security and welfare.

WORK AT HOME

Art. 21. Work at home is subject to social legislation. Home workers have the right to an officially determined minimum wage, to compensation for time lost because of the employer's delay in ordering or receiving the work, or for arbitrary or unjustified suspension of the supply of work. Home workers shall be entitled to a legal status similar to that of other workers, due consideration being given to the special nature of their work.

DOMESTIC WORK

Art. 22. Domestic workers have a right to the protection of the law with respect to wages, work periods, rest periods, vacations, dismissal pay and social benefits in general; the extent and nature of this protection shall be determined with due regard to the conditions and special nature of their work. Those who render services of a domestic nature in industrial, commercial, social and other similar establishments should be considered as manual workers, and granted the rights to which such workers are entitled.

WORK IN THE MERCHANT MARINE AND AVIATION

Art. 23. The law shall regulate the contracts of those serving in the merchant marine and in aviation, in accordance with the special character of their work.

PUBLIC EMPLOYEES

Art. 24. Public employees have the right to be protected in their administrative careers by being guaranteed, so long as they perform their duties satisfactorily, permanent employment, the right to promotion, and the benefits of social security. Such employees also have the right to be protected by a special court of administrative-contentious jurisdiction and, in case penalties are imposed, the right to defend themselves in the respective proceedings.

INTELLECTUAL WORKERS

Art. 25. Independent intellectual workers and the product of their activity should be the subject of protective legislation.

THE RIGHT OF ASSOCIATION

Art. 26. Workers and employers, without distinction as to sex, race, creed or political ideas, have the right freely to form associations for the protection of their respective interests, by forming trade associations or unions, which in turn may form federations among themselves. These organizations have the right to enjoy juridical personality and to be duly protected in the exercise of their rights. Their suspension or dissolution may not be ordered save by due process of law.

Conditions of substance and of form that must be met for the constitution and functioning of trade and union organizations should not go so far as to restrict freedom of association.

The organization, functioning and dissolution of federations and confederations shall be subject to the same formalities as those prescribed for unions.

Members of boards of directors of trade unions, in the number established by the respective law and during their term of office, may not be discharged, transferred or given less satisfactory working conditions, without just cause having been previously determined by competent authority.

THE RIGHT TO STRIKE

Art. 27. Workers have the right to strike. The law shall regulate the conditions and exercise of that right.

SOCIAL SECURITY AND WELFARE

Art. 28. It is the duty of the State to provide measures of social security and welfare for the benefit of workers.

Art. 29. States should promote and provide for recreational and welfare centres that can be freely utilized by workers.

Art. 30. The State should take adequate measures to ensure healthful, safe and moral conditions at places of work.

Art. 31. Workers, including agricultural workers; home workers; domestic workers; public servants; apprentices, even when not receiving wages; and independent workers, when it is possible to include them, have the right to a system of compulsory social security designed to realize the following objectives:

(*a*) To provide for the elimination of hazards that might deprive workers of their wage-earning ability and means of support;

(*b*) To re-establish as quickly and as completely as possible the wage-earning ability lost or reduced as a result of illness or accident;

(*c*) To supply means of support in case of the termination or interruption of occupational activity as a result of illness or accident, maternity, temporary or permanent disability, unemployment, old age, or premature death of the head of the family.

Compulsory social security should provide for protection of the members of the worker's family and should establish additional benefits for those of the insured who have large families.

Art. 32. In countries where a social security system does not yet exist, or in those in which one does exist but does not cover all occupational and social hazards, employers shall be responsible for providing adequate welfare and assistance benefits.

Art. 33. Every working woman shall be entitled to have leave with pay for a period of not less than six weeks before and six weeks after childbirth, to keep her job, and to receive medical attention for herself and the child and financial assistance during the nursing period.

The law shall make it obligatory for employers to instal and maintain nurseries and playrooms for the children of workers.

Art. 34. Independent workers have a right to the co-operation of the State in joining associations of social protection organized to give them benefits equal to those of wage earners. Persons who practise the liberal professions and are not employed by third parties have a similar right.

SUPERVISION OF LABOUR CONDITIONS

Art. 35. Workers have a right to have the State maintain a service of trained inspectors to ensure faithful compliance with legal provisions in regard to labour and social security, assistance and welfare, to study the results of such provisions and to suggest the indicated improvements.

LABOUR COURTS

Art. 36. Each State shall have a special system of labour courts and an adequate procedure for the prompt settlement of disputes.

CONCILIATION AND ARBITRATION

Art. 37. It is the duty of the State to promote conciliation and arbitration as means of obtaining peaceful solutions for collective labour disputes.

RURAL WORK

Art. 38. Rural or farm workers have the right to be guaranteed an improvement in their present standard of living, to be furnished proper hygienic conditions and to have effective social assistance organized for them and their families.

The State shall carry on planned and systematic activity directed towards putting agricultural development on a rational basis, organizing and distributing credit, improving rural living conditions, and achieving the progressive economic and social emancipation of the rural population.

The law shall establish the technical and other conditions, consistent with the national interest of each State, under which effect shall be given to the exercise of the right which the State recognizes on behalf of associations of rural workers, and individuals suited to agricultural work who lack land or do not possess it in sufficient quantity, to be granted land and the means necessary to make it productive.

Art. 39. In countries where the problem of an indigenous population exists, the necessary measures shall be adopted to give protection and assistance to the Indians, safeguarding their life, liberty and property, preventing their extermination, shielding them from oppression and exploitation, protecting them from want and furnishing them an adequate education.

The State shall exercise its guardianship in order to preserve, maintain and develop the patrimony of the Indians or their tribes; and it shall foster the exploitation of the natural, industrial or extractive resources or any other sources of income proceeding from or related to the aforesaid patrimony, in order to ensure in due time the economic emancipation of the indigenous groups.

Institutions or agencies shall be created for the protection of Indians, particularly in order to ensure respect for their lands, to legalize their possession thereof, and to prevent encroachment upon such lands by outsiders.

Reservation of the Delegation of the United States

In view of the negative vote of the United States and of the reasons for which it was given, the United States, although firmly adhering to the principle of appropriate international action in the interests of labour, does not regard itself as bound by the specific terms of this Inter-American Charter of Social Guarantees.

BILATERAL TREATIES

TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHINA[1]

signed at Nanking on 4 November 1946
Ratifications exchanged on 30 November 1948

[Excerpts]

Introductory Note.[2] This treaty was signed at Nanking 4 November 1946; was submitted to the Senate 20 March 1947, with a presidential message of the same date; received the advice and consent of the Senate 2 June 1948; was ratified by the United States with a reservation 8 November 1948; ratifications were exchanged at Nanking 30 November 1948; and it was proclaimed 12 January 1949. Article 30 provided that it "shall enter into force on the day of the exchange of ratifications".

The Treaty of Friendship, Commerce, and Navigation between the United States and Italy which was signed at Rome on 2 February 1948, but which on 31 December 1948, had not yet entered into force, includes provisions quite similar to those here excerpted from the treaty with China, and it includes also a provision regarding freedom of the Press and free interchange of information (Senate Executive Document E, 80th Congress, 2nd session, articles 5, 6, and 11). Several score treaties of the United States, commencing with that signed with the Netherlands on 8 October 1782, have contained clauses guaranteeing to citizens of the one country in the territories of the other liberty of conscience and freedom of worship.

Art. VI. 1. Throughout the whole extent of the territories of each High Contracting Party the nationals of the other High Contracting Party shall receive the most constant protection and security for their persons and property, and shall enjoy in this respect the full protection and security required by international law. To these ends persons accused of crime shall be brought to trial promptly, and shall enjoy all the rights and privileges which are or may hereafter be accorded by the laws and regulations enforced by the duly constituted authorities; and nationals of either High Contracting Party, while within the custody of the authorities of the other High Contracting Party, shall receive reasonable and humane treatment . . . .

Art. VII. The dwellings, warehouses, factories, shops and other places of business, and all premises thereto appertaining, of the nationals, corporations and associations of either High Contracting Party, located in the territories of the other High Contracting Party, shall not be subject to unlawful entry or molestation. There shall not be made any visit to, or any search of, any such dwellings, buildings or premises, nor shall any books, papers or accounts therein be examined or inspected, except under conditions and in conformity with procedures no less favourable than the conditions and procedures prescribed for nationals, corporations and associations of such other High Contracting Party under laws and regulations enforced by the duly constituted authorities within the territories thereof. In no case shall the nationals, corporations or associations of either High Contracting Party in the territories of the other High Contracting Party be treated less favourably with respect to the foregoing matters than the nationals, corporations or associations of any third country. Any visit, search, examination or inspection which may be permissible under the exception stated in this article shall be made with due regard for, and in such a way as to cause the least possible interference with, the occupants of such dwellings, buildings or premises or the ordinary conduct of any business or other enterprise.

Art. XII. 1. The nationals of either High Contracting Party shall, throughout the territories of the other High Contracting Party, be permitted to exercise liberty of conscience and freedom of worship and to establish schools for the education of their children,

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[1] English text in *Treaties and Other International Acts Series* 1871; *United Nations Treaty Series* 359. See also p. 240 of this *Yearbook*.

[2] This note was prepared by the United States Government.

and they may, whether individually, collectively or in religious or educational corporations or associations, and without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct religious services and give religious or other instruction, either within their own houses or within any other appropriate buildings, provided that their religious and educational activities are not contrary to public morals and that their educational activities are conducted in conformity with the applicable laws and regulations, if any, which are or may hereafter be enforced by the duly constituted authorities.

TREATY OF AMITY BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE REPUBLIC OF ECUADOR [1]

done in Manila, 24 March 1948

The Republic of the Philippines and the Republic of Ecuador, animated by the desire to strengthen the friendly relations existing between them and to enhance the mutual interests of their peoples, have resolved to conclude a Treaty of Amity, ...

Art. II. The High Contracting Parties shall settle by peaceful means any dispute or controversy of any nature whatsoever that may arise between them. Should any dispute or controversy not be possible of adjustment by ordinary diplomatic procedures, the High Contracting Parties shall submit the same to arbitration or judicial settlement. This undertaking shall not apply to disputes relative to matters which the Philippines or Ecuador may deem as essentially pertaining to their national competence. The High Contracting Parties hereby agree that in no case shall they adopt hostile measures.

Art. V. The nationals of the Philippines in Ecuador and the nationals of Ecuador in the Philippines shall enjoy on the basis of reciprocity and subject always to the respective Constitutions and to the police, security and other laws and regulations promulgated by each High Contracting Party, in the territories of the Philippines, on one hand, and in the territories of Ecuador, on the other, the right to acquire, possess and dispose of movable and immovable property, to establish and maintain schools of learning, as well as the privilege to reside, travel and engage in trade, industry and other peaceful and lawful pursuits.

Art. VI. Each of the High Contracting Parties shall recognize the status of juridical persons legally constituted in the other, and shall accord them the same rights as are enjoyed by other juridical persons established in its territory, subject to the laws and regulations in force therein.

Art. VIII. The High Contracting Parties shall ratify the present Treaty in accordance with their respective constitutional or fundamental procedures

[1] English text through the courtesy of the Department of Foreign Affairs of the Philippines and of the Philippine Mission to the United Nations.

TREATY ON CIVIL RIGHTS AND CONSULAR PREROGATIVES BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE SPANISH STATE[1]

done at Manila on 20 May 1948

The Government of the Republic of th Philippienes and the Government of the Spanish State, being desirous of defining the rights, privileges, exemptions and immunities of the nationals and the consular officers of each High Contracting Party in the territories of the other, have decided to conclude a treaty for that purpose and, to that end, have agreed as follows: . . . .

Art. II. The nationals of each of the High Contracting Parties, who are lawfully admitted for permanent residence, may establish themselves in the territories of the other, in any place they deem convenient for the exercise of any peaceful or lawful pursuit, subject in all cases to compliance with local laws and regulations. They shall enjoy, in matters of procedure, the same treatment as is accorded to the nationals of the other, with respect to the protection and security of their persons and property and in regard to all judicial, administrative and other legal proceedings.

Art. III. The properties of Filipino citizens in Spain and the properties of Spanish nationals in the Philippines shall not be taken for public use without just compensation, except as a punishment for crime.

[1] English text received through the courtesy of the Department of Foreign Affairs of the Philippines and of the Philippine Mission to the United Nations.

PART III

THE UNITED NATIONS AND HUMAN RIGHTS

CHAPTER I

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS[1]

At its second session, held at Geneva from 2 to 17 December 1947 (see *Yearbook on Human Rights for 1947*, Part III, p. 431[2]), the Commission on Human Rights, as is known, decided on a terminology to be used in referring to the three documents which together were to constitute the International Bill of Human Rights, namely:

1. A Declaration of Human Rights, a draft of which the Commission had adopted,[3]

2. A Covenant on Human Rights, to take the form of an international convention,[4]

3. Measures of implementation. The Commission reserved its position on whether these measures, which had been studied by one of the three working groups it had appointed,[5] should be incorporated in the Covenant on Human Rights.

New developments in these three fields during 1948 will be dealt with in Chapters I–III of this Part, and those which concern the universal Declaration are the subject of the first chapter.

SECTION I

ECONOMIC AND SOCIAL COUNCIL

(Sixth session)[6]

At its sixth session the Economic and Social Council took no decision with regard to the draft Declaration of Human Rights elaborated by the Commission on Human Rights during its second session, held in December 1947, since this draft had been submitted to Governments for their observations.[7]

[1] This was the title under which the Declaration was finally approved and proclaimed, on 10 December 1948, by the General Assembly of the United Nations.

[2] Extracts from the report of the Commission on Human Rights will be found in the Annex to Part III, pp. 536 *et seq.*

[3] See *Yearbook on Human Rights for 1947*, p. 541, Annex A to the Report of the Commission.

[4] *Ibid.*, p. 546, Annex B to the Report of the Commission.

[5] *Ibid.*, Annex C to the Report of the Commission, p. 584.

[6] Resolutions adopted by the Economic and Social Council during its sixth session, 2 February–11 March 1948 (E/777, 12 March 1948). Summary Record (E/SR. 122–174).

[7] There was a discussion on the part of the report relating to the Draft Declaration of Human Rights at the 128th meeting of the Council, held on 5 February 1948 (E/SR. 128, 6 February 1948).

SECTION II

DRAFTING COMMITTEE TO THE COMMISSION ON HUMAN RIGHTS

(Second session)[8]

The Drafting Committee prepared and forwarded to the Commission on Human Rights a redraft of the draft International Declaration of Human Rights.

The Drafting Committee's report states that the Committee took into account, in the course of its work:

(*a*) The observations, suggestions and proposals of Governments on the draft of an International Declaration of Human Rights prepared by the Commission on Human Rights at its second session (E/CN.4/82/Rev. and E/CN.4/82/Add.1–10);

(*b*) The opinion of the United Nations Conference on Freedom of Information on articles 17 and 18 of the draft International Declaration of Human Rights;

(*c*) The suggestions made by the Commission on the Status of Women regarding the draft International Declaration of Human Rights (E/CN.4/81).

The draft Declaration was discussed at the Committee's 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st and 42nd meetings.

The new text of the Declaration reads as follows:

Art. 1. [The Drafting Committee did not have the time to consider this article.]

All men are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another like brothers.

Art. 2. [The Drafting Committee did not have time to consider this article.]

In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic State. The individual owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom.

Art. 3. [The Drafting Committee did not have time to consider this article.]

1. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race (which includes colour), sex,

[8] Report of the Committee (E/CN. 4/95, 21 May 1948). Summary records of meetings (E/CN. 4/AC. 1/SR. 20–44).

language, religion, political or other opinion, property status, or national or social origin.

2. All are equal before the law regardless of office or status and entitled to equal protection of the law against any arbitrary discrimination or against any incitement to such discrimination, in violation of this Declaration.

Art. 4. Everyone has the right to life, to liberty and security of person.

Art. 5 (formerly art. 8). Slavery is prohibited in all its forms.

Art. 6 (formerly art. 5). (*Geneva text*)

No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process. Everyone placed under arrest or detention shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release.

Art. 7 (formerly art. 6). (*Geneva text*)

Everyone shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

Art. 8 (formerly art. 7). (*Geneva text*)

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

2. Nothing in this article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

3. No one shall be subjected to torture, or to cruel or inhuman punishment or indignity.

[*Note 1*: The Drafting Committee drafted the following article, in substitution of articles 6, 7 and 8 above, and although it was rejected by a vote of 2 for, 3 against and 2 abstentions by the members of the Committee, it was decided to forward it nevertheless to the full Commission. The text of this alternative article reads as follows:

1. No one may be arbitrarily deprived of his liberty. Arrest, detention or imprisonment may be allowed only according to pre-existing law and in accordance with due process.

2. Everyone who has been deprived of his liberty has the right to be promptly informed of the reasons for his detention. Everyone placed under arrest, detention or imprisonment shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release.

3. No one shall be imprisoned merely on the grounds of inability to meet a contractual obligation.

4. Everyone has the right to compensation in respect of any unlawful arrest or deprivation of liberty.

5. The rights and obligations of each person and the criminal accusations against him must be determined or judged by independent and impartial tribunals, before which tribunals all persons are equal.

6. Everyone accused of an offence must be judged within a reasonable time by courts established beforehand and in accordance with pre-existing laws in a public trial. The foregoing provision shall not prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

During the trial, everyone is entitled to:

(*a*) The right to a fair hearing;

(*b*) The right, in all criminal cases, to be presumed innocent until proved guilty; and

(*c*) The right of defence. When any person who does not know the national language is prosecuted, he shall be assured full knowledge of all the material in the case through an interpreter and shall also have the right to address the court in his native language.]

(*Separate article.* No one shall be subjected to torture, or to cruel or inhuman punishment or indignity.)

[*Note 2*: The representative of the Soviet Union proposed the addition of the following to the second sentence of the first paragraph of article 8, after the word "trial" (unofficial translation):
"subject to exceptions prescribed by law in order to guarantee to the accused person the right of defence".]

Art. 9. Everyone is entitled to protection under the law from unreasonable interference with reputation, family, home or correspondence.

Art. 10. 1. Everyone is entitled to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Art. 11. 1. Everyone has the right to seek and may be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

[*Note.* The representative of the Soviet Union proposed that the following text be substituted for the above text of article 11 (unofficial translation):

"The right of asylum shall be granted to everyone persecuted because of his activity in defence of democratic interests, because of his activity in the field of science, or because of his participation in the struggle for national liberty."]

Art. 12. Everyone has everywhere the right to recognition as a person before the law.

Art. 13. 1. Men and women shall have equal rights as to marriage in accordance with the law. Marriage may not be contracted without the full consent of both intending spouses and before the age of puberty.

2. Marriage and the family shall be protected by the State and society.

Art. 14. Everyone has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.

Art. 15. Everyone has the right to a nationality.

[*Note.* The representative of the Soviet Union proposed the addition of the following text after the first sentence of article 15 (unofficial translation):

"The cases and the procedure of depriving a person of his nationality must be determined by national legislation."]

Art. 16. 1. Individual freedom of thought and conscience, to hold and change beliefs, is an absolute and sacred right.

2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in teaching, practice, worship and observance.

[*Note.* The representative of the Soviet Union proposed to replace article 16 by the following text (unofficial translation):

"Every person shall have the right to freedom of thought and freedom to practise religious observances in accordance with the laws of the country and the dictates of public morality."]

Art. 17 and 18.

I. Text submitted by the United Nations Conference on Freedom of Information

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

II. Text submitted by the Union of Soviet Socialist Republics

1. In accordance with the principles of democracy and in the interests of strengthening international co-operation and world peace, every person shall be guaranteed by law the right to the free expression of his opinions and, in particular, to freedom of speech and of the Press, freedom of assembly and freedom of artistic representation. The use of freedom of speech and of the Press for the purposes of propagating fascism and aggression or of inciting to war between nations shall not be tolerated.

2. In order to ensure the right of the free expression of opinion for large sections of the peoples and for their organizations, State assistance and co-operation shall be given in providing the material resources (premises, printing presses, paper, and the like) necessary for the publication of democratic organs of the Press.

Art. 19. Everyone has the right to freedom of peaceful assembly and to participate in local, national, international and trade union associations for the promotion, defence and protection of purposes and interests not inconsistent with this Declaration.

[*Note.* The representative of the Soviet Union proposed that the following be substituted for the text of article 19 (unofficial translation):

"In the interest of democracy the freedom of assembly, of public demonstration, of procession and of organization, of voluntary associations and unions and other organizations having a nazi, fascist or anti-democratic character, as well as their activity in whatever form, shall be forbidden under penalty of the law."]

Art. 20.

[*Note.* The Drafting Committee decided not to consider the following Geneva text until articles on implementation had been drafted:

Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.]

Art. 21 and 22. (*Geneva text*)

1. Everyone, without discrimination on grounds of race, sex, languages, religious belief or social origin and not under any legal disability, has the right to take

an effective part in the government of his country. The State shall conform to the will of the people as manifested by elections, which shall be periodic, free, fair and by secret ballot.

2. Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national.

3. Access to public employment shall not be a matter of privilege or favour.

Alternative text suggested by the United States

Everyone is entitled to:

(*a*) The right to take an effective part in the government of the State of which he is a national, including the right to participate in free and fair elections held periodically by secret ballot, and including opportunity to hold office and to engage in public employment; and

(*b*) The right to a government which conforms to the will of the people, with full freedom for minority opinion to persist and, if such is the people's will, to become the effective majority.

[*Note.* The Drafting Committee, not having had time to consider the following articles—23 to 33 inclusive—in detail, decided to transmit them to the Commission on Human Rights in the form as drafted by the Commission in Geneva, together with such alternative texts as members of the Drafting Committee expressly proposed for this purpose.]

Art. 23. (*Geneva text*)

1. Everyone has the right to work.

2. The State has a duty to take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

3. The State is bound to take all necessary steps to prevent unemployment.

Alternative text suggested by France

Everyone has the right to work.

States are bound to take such measures as may be within their power to prevent unemployment and to ensure that all persons ordinarily resident in their territory have an opportunity for useful work.

Every worker has the right to receive pay which shall be commensurate with his ability and skill and which shall secure for himself and his family a full, decent and dignified life. He also has the right to fair and satisfactory working conditions. He shall be free to join trade unions for the protection of his interests.

Women shall work with the same advantages as men and receive equal pay for equal work.

Alternative text suggested by the United Kingdom

Everyone has the right to work or maintenance.

Alternative text suggested by the United States for articles 23 and 24.

Everyone is entitled to the right to work under fair and just conditions, to choose a vocation freely, and to join trade unions of his own choice for the protection of his interests in securing a fair standard of living for himself and his family.

Art. 24. (*Geneva text*)

1. Everyone has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions and to join trade unions for the protection of his interests in securing a decent standard of living for himself and his family.

2. Women shall work with the same advantages as men and receive equal pay for equal work.

[*Note.* See alternative texts suggested for article 23 above.]

Art. 25. (*Geneva text*)

Everyone, without distinction as to economic and social conditions, has the right to the preservation of his health through the highest standard of food, clothing, housing and medical care which the resources of the State or community can provide. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.

Alternative text suggested by France

Everyone has a right to social security.

The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against various social risks. In particular, the individual shall be guaranteed against the consequences of unemployment, disability, old age, and the loss of livelihood in circumstances beyond his control.

Mothers and children shall be granted special care and assistance.

Everyone without distinction as to economic or social conditions has the right to protection of his health by all the appropriate means relating to food, clothing, housing and medical care to as great an extent as the resources of the State or community permit.

It is the duty of the State and the community to take all adequate health and social measures to meet the responsibilities incumbent upon them.

Alternative text suggested by the United States for articles 25 and 26

Everyone has the right to a standard of living necessary for health and general well-being, including social security and the opportunity to obtain adequate food, clothing, housing and medical care.

Art. 26. (*Geneva text*)

1. Everyone has the right to social security. The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against the consequence of unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.

2. Motherhood shall be granted special care and assistance. Children are similarly entitled to special care and assistance.

[*Note.* See alternative texts suggested for article 25 above.]

Art. 27. (*Geneva text*)

Everyone has the right to education. Fundamental education shall be free and compulsory. There shall be equal access for higher education as can be provided by the State or community on the basis of merit and without distinction as to race, sex, language, religion, social standing, financial means or political affiliation.

Alternative text submitted by France

Everyone has a right to education. Fundamental education shall be free and compulsory. Everyone shall have equal access to higher education so far as it can be provided by the State or community on the basis of merit and without distinction as to race, sex, language, religion, social standing, financial means or political affiliation.

Alternative text submitted by the United States

Everyone is entitled to the right to free fundamental education and to equal access on the basis of merit to higher education.

Art. 28. (*Geneva text*)

Education will be directed to the full physical, intellectual, moral and spiritual development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the combating of the spirit of intolerance and hatred against other nations or racial or religious groups everywhere.

Alternative text submitted by France

Education will be directed to the full physical, intellectual and moral development of the human personality, to the strengthening of respect for human rights and fundamental freedoms. It shall combat the spirit of intolerance and hatred against other nations or racial or religious groups everywhere.

Art. 29. (*Geneva text*)

1. Everyone has the right to rest and leisure.

2. Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

Alternative text submitted by France

Everyone has a right to rest and leisure.

Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific discoveries.

Art. 30. (*Geneva text*)

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific discoveries.

Alternative text submitted by France

Authors of creative works and inventors shall retain, apart from financial rights, a moral right over their work or discovery, which shall remain extant after the financial rights have expired.

Art. 31.

Text proposed by the Drafting Committee (first session)

In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right, as far as compatible with public order, to establish and maintain schools and cultural or religious institutions, and to use their own language in the Press, in public assembly and before the courts and other authorities of the State.

Text proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

In States inhabited by well-defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, to establish and maintain their school and cultural or religious institutions, and to use their own language and script in the Press, in public assembly and before the courts and other authorities of the State, if they so choose.

Alternative text submitted by France

In States inhabited by well-defined ethnic, linguistic or religious groups which are distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, and in conformity with the degree of legislative unity in the State, to establish and maintain their schools and cultural or religious institutions and to use their own language and script.

Alternative text submitted by the United Kingdom

Minorities shall be entitled to preserve their culture, religion and language.

Alternative text submitted by the United States (in lieu of articles 29 and 30, and also of article 31).

Everyone is entitled to obtain rest and leisure, to participate in the customs and the cultural life of the community and of groups in the community, to enjoy the arts, and to share in the benefits that result from scientific discoveries.

(*Additional article submitted by France*)

It is the duty of every State to establish an efficient judicial and administrative system to prevent, punish and remedy any violation of the principles stated in the present Declaration.

The United Nations, recognizing the necessity for establishing an international court of appeal, recommends the adoption of all the international conventions aimed at the full implementation of the provisions of the Charter and of the present Declaration and, with the assistance of Member States, will take all the necessary measures to safeguard these rights and freedoms throughout the world.

Art. 32. (*Geneva text*)

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, in so far as they deal with human rights.

Alternative text submitted by France

In all States no laws on human rights shall be considered equitable unless they are in conformity with the purposes and principles laid down in the Charter.

Art. 33. (*Geneva text*)

Nothing in this Declaration shall be considered to recognize the right of any State or person to engage in any activity aimed to the destruction of any of the rights and freedoms prescribed herein.

Alternative text submitted by France

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

[*Note.* The Drafting Committee decided to transmit to the Commission on Human Rights the Draft International Declaration on Human Rights, submitted by the representative of China, which follows:

Art. I. Every person has the right to life.

Art. II. Every person has the right to freedom of conscience and belief, to freedom of assembly and of association, and to freedom of information, speech and expression.

Art. III. Every person has the right to a decent living; to work and leisure, to health, education, economic and social security.

Art. IV. Every person has the right to take part in the affairs of his government directly or through his representatives.

Art. V. Every person has the right to equal protection under law.

Art. VI. Every person has the right to seek asylum from persecution.

Art. VII. No person shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Art. VIII. No person shall be subjected to arbitrary arrest or detention.

Art. IX. No person shall be held in slavery or involuntary servitude or be subjected to torture or to cruel or inhuman punishment or indignity.

Art. X. Every person is entitled to the human rights and fundamental freedoms set forth in this declaration without distinction as to race, sex, language or religion. The exercise of these rights requires recognition of the rights of others and the just requirement of the community in which he resides.]

SECTION III

THE COMMISSION ON HUMAN RIGHTS

(*Third session*)[1]

The Commission on Human Rights devoted almost its entire third session to the Declaration of Human Rights. It examined the draft submitted by the Drafting Committee[2] article by article and adopted a new text, which is reproduced below. This new draft was adopted by twelve votes to nil, with four abstentions.[3]

On 18 June 1948 the delegation of the Union of Soviet Socialist Republics made a statement on the results of the Commission's work, wherein it pointed out the defects or shortcomings, in its view, of the draft adopted by the Commission and enumerated the proposals it had made with regard to particular articles of the Declaration.[4]

[1] Report of the third session of the Commission on Human Rights (E/800, 28 June 1948). Summary records of meetings (E/CN. 4/SR. 46 to 81).

[2] E/CN. 4/95, 21 May 1948, pp. 5 to 15. This document is reproduced above.

[3] The representatives of the following countries voted for the draft: Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, United Kingdom, United States of America, Uruguay. The representatives of the following countries abstained: Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

[4] Report of the third session of the Commission on Human Rights (E/800, 28 June 1948, pp. 29 to 35).

Draft International Declaration of Human Rights

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights resulted, before and during the Second World War, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

Whereas it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Art. 1. All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.

Art. 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, property or other status, or national or social origin.

Art. 3. Everyone has the right to life, liberty and security of person.

Art. 4. 1. No one shall be held in slavery or involuntary servitude.

2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Art. 5. Everyone has the right to recognition everywhere as a person before the law.

Art. 6. All are equal before the law and are entitled without any discrimination to equal protection of the law against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Art. 7. No one shall be subjected to arbitrary arrest or detention.

Art. 8. In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.

Art. 9. 1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.

Art. 10. No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Art. 11. 1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Art. 12. 1. Everyone has the right to seek and be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Art. 13. No one shall be arbitrarily deprived of his nationality or denied the right to change his nationality.

Art. 14. 1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the full consent of both intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection.

Art. 15. 1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Art. 16. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Art. 17. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Art. 18. Everyone has the right to freedom of assembly and association.

Art. 19. 1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.

2. Everyone has the right of access to public employment in his country.

3. Everyone has the right to a government which conforms to the will of the people.

Art. 20. Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.

Art. 21. 1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.

2. Everyone has the right to equal pay for equal work.

3. Everyone is free to form and to join trade unions for the protection of his interests.

Art. 22. 1. Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and well-being of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.

2. Mother and child have the right to special care and assistance.

Art. 23. 1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.

2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

Art. 24. Everyone has the right to rest and leisure.

Art. 25. Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

Art. 26. Everyone is entitled to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Art. 27. 1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and the general welfare in a democratic society.

Art. 28. Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

[*Note.* The Commission has not considered the following article, since measures of implementation were not discussed in its third session.]

"Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations."

SECTION IV

ECONOMIC AND SOCIAL COUNCIL

(*Seventh session*)

At the seventh session of the Council lack of time prevented anything but a general debate, in plenary meeting, on the Bill of Human Rights. In the course of this debate the members of the Council expressed their views on the draft declaration submitted by the Commission on Human Rights.[1] It was agreed that the Council would take no decision on the draft, but merely transmit it to the General Assembly.

Resolution No. 15 (VII) of 26 August 1948 reads as follows:

"*The Economic and Social Council*

"*Decides* to transmit to the General Assembly the draft International Declaration of Human Rights submitted to the Council by the Commission on Human Rights in the Report of its third session; . . . ." (E/1065, p. 15).

[1] The Council discussed questions relating to the Bill of Human Rights at its 180th, 201st, 202nd, 215th and 218th meetings (E/SR. 180, 201, 202, 215 and 218).

SECTION V

GENERAL ASSEMBLY

(Third session, first part)

The question was dealt with by the General Assembly in its Third Committee and in plenary session.

A. *Third Committee*

The report of the Third Committee to the Assembly states (A/777):

3. The General Assembly, at its 142nd meeting held on 24 September 1948, referred to the Third Committee item 13 of the supplementary list of agenda items for the third regular session; this item concerned the draft declaration and related documents.

4. The Third Committee, at its 94th meeting, decided to consider only the draft declaration, as the other two documents (the Covenant and measures of implementation) were not yet in a state suitable for consideration.

5. The Third Committee spent eighty-four meetings in considering and discussing the draft prepared by the Commission on Human Rights. Most of the articles were adopted by unanimous votes. Representatives exercised their rights to explain their votes to a large extent and thus were able either to enter reservations or to indicate the meaning of their votes or the meaning which they attached to certain expressions. The summary records of these meetings (given in documents A/C.3/SR.88 to 116, A/C.3/SR.119 to 170 and A/C.3/SR.174 to 178) mention all these statements and reservations.

6. In view of the fact that a considerable number of amendments were adopted, and having regard to the difficulty of making the resulting texts correspond exactly in the official languages and to the wish to introduce a logical order, the Third Committee set up a Sub-Committee to consider the Declaration of Human Rights as a whole, including the twenty-nine articles and the preamble, solely from the point of view of arrangement, consistency, uniformity and style.

7. The report of the Sub-Committee was considered, discussed and adopted in the course of the 174th to 178th meetings of the Third Committee, resulting in the adoption of the following draft Universal Declaration of Human Rights (see text under A) which is recommended by the Third Committee to the General Assembly for adoption.

The draft declaration submitted to the General Assembly comprised thirty-one articles. The General Assembly having adopted, with only one alteration,[1] the draft submitted by the Third Committee, it has appeared unnecessary to reprint this text.

[1] This alteration concerned article 3 of the Commission's draft, which the Assembly deleted, and article 2, to which it added a new paragraph (see below, footnote 3).

B. *General Assembly in Plenary Session*

At its 181st, 182nd and 183rd meetings[2] the General Assembly discussed the first part of the report on the Declaration of Human Rights transmitted to it by the Third Committee. At the end of the 183rd meeting, held on 10 December 1948, the votes were taken.

Votes were taken first on each article separately, and thereafter on the whole Declaration.

1. *The vote by articles*

Preamble

The first considerandum was adopted unanimously, with two abstentions. The second, third, fourth, fifth, sixth and seventh consideranda were adopted unanimously.

Art. 1: Adopted by 45 votes to nil, with 9 abstentions.

Art. 2.[3]

Paragraph 1: adopted unanimously.

Paragraph 2: adopted by 36 votes to nil, with 8 abstentions.

Art. 4 (now art. 3):[4] adopted unanimously.
Art. 5 (now art. 4): adopted unanimously.
Art. 6 (now art. 5): adopted unanimously.
Art. 7 (now art. 6): adopted unanimously.
Art. 8 (now art. 7): adopted unanimously.
Art. 9 (now art. 8): adopted unanimously.
Art. 10 (now art. 9): adopted unanimously.
Art. 11 (now art. 10): adopted unanimously.
Art. 12 (now art. 11): adopted unanimously.
Art. 13 (now art. 12): adopted unanimously.
Art. 14 (now art. 13): adopted by 44 votes to 6, with 2 abstentions.
Art. 15 (now art. 14): adopted unanimously.
Art. 16 (now art. 15): adopted unanimously.
Art. 17 (now art. 16): adopted unanimously.
Art. 18 (now art. 17): adopted unanimously.
Art. 19 (now art. 18): adopted by 45 votes to nil, with 4 abstentions.
Art. 20 (now art. 19): adopted by 44 votes to 7, with 2 abstentions.
Art. 21 (now art. 20): adopted unanimously.

[2] See *Official Records of the Third Session of the General Assembly*, Plenary Meetings, pp. 852–934.

[3] Paragraph 1 simply reproduces the text of article 2 of the draft submitted by the Third Committee.

Paragraph 2 of article 2 was added in accordance with a United Kingdom amendment adopted by the Assembly, under which this second paragraph was added to article 2, and article 3 deleted.

Article 3 of the draft submitted by the Third Committee reads as follows:

"The rights set forth in this Declaration apply equally to all inhabitants of Trust and Non-Self-Governing Territories."

[4] Article 3 having been deleted in consequence of the adoption of a United Kingdom amendment, article 4 became article 3 and the numbers of all subsequent articles were reduced by one.

Art. 22 (now art. 21): adopted unanimously.
Art. 23 (now art. 22): adopted unanimously.
Art. 24 (now art. 23): adopted unanimously.
Art. 25 (now art. 24): adopted unanimously.
Art. 26 (now art. 25): adopted unanimously.
Art. 27 (now art. 26): adopted by 53 votes to nil, with 3 abstentions.
Art. 28 (now art. 27): adopted unanimously.
Art. 29 (now art. 28): adopted by 47 votes to nil. with 8 abstentions.
Art. 30 (now art. 29): adopted unanimously.
Art. 31 (now art. 30): adopted unanimously.

2. *Vote on the whole*

In favour: 48 votes:

Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Venezuela.

Against: Nil

Abstaining: 8 votes:

Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, Yugoslavia.

Text of the Universal Declaration of Human Rights

as approved and proclaimed on 10 December 1948 by the General Assembly of the United Nations in its Resolution 217 (III) A[1]

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Art. 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Art. 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Art. 3. Everyone has the right to life, liberty and security of person.

Art. 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Art. 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Art. 6. Everyone has the right to recognition everywhere as a person before the law.

[1] *Official Records of the Third Session of the General Assembly*, Part I, p. 71.

Art. 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Art. 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Art. 9. No one shall be subjected to arbitrary arrest, detention or exile.

Art. 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Art. 11. 1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act of omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Art. 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Art. 13. 1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Art. 14. 1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Art. 15. 1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Art. 16. 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Art. 17. 1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Art. 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Art. 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Art. 20. 1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Art. 21. 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Art. 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Art. 23. 1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Art. 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Art. 25. 1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Art. 26. 1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Art. 27. 1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Art. 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Art. 29. 1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Art. 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

CHAPTER II
THE COVENANT ON HUMAN RIGHTS

SECTION I
ECONOMIC AND SOCIAL COUNCIL
(*Sixth session*)[1]

At its sixth session the Economic and Social Council took no decision regarding the draft Covenant on Human Rights drawn up by the Commission on Human Rights during its second session, held in December 1947,[2] since this draft had been submitted to Governments for their observations.

SECTION II
DRAFTING COMMITTEE TO THE COMMISSION ON HUMAN RIGHTS
(*Second session*)[3]

The Drafting Committee prepared a re-draft of the International Covenant on Human Rights.

The report of the Drafting Committee states that the Committee took into account, in the course of its work:

(*a*) The observations, suggestions and proposals of Governments on the draft of an International Covenant on Human Rights prepared by the Commission on Human Rights at its second session (E/CN.4/82/Rev.1 and E/CN.4/82/Add.1 to 10);

(*b*) The opinion of the United Nations Conference on Freedom of Information on article 17 of the draft International Covenant on Human Rights (E/CN.4/84).

The draft covenant was discussed at the Committee's 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 34th, 42nd and 43rd meetings.

The new text of the Covenant reads as follows:

PART I
Preamble[4]

The States parties hereto, bearing in mind the general principles proclaimed in the United Nations Charter and in the Declaration of Human Rights, agree to give effect in this Covenant to certain of the principles specified in the Declaration, as follows:

Art. 1. The States parties hereto declare that they recognize the rights and freedoms set forth in Part II hereof as being among the human rights and fundamental freedoms founded on the general principles of law recognized by civilized nations.

Art. 2. Every State party hereto undertakes to ensure:

(*a*) Through adequate laws and procedures to all individuals within its jurisdiction, whether citizens, nationals, persons of foreign nationality or stateless persons, the rights and freedoms set forth in Part II of this Covenant, and further undertakes that such rights and freedoms where not now provided under existing laws and procedures be given effect in its domestic law through the adoption of appropriate laws and procedures;

(*b*) That any person whose rights or freedoms as herein defined are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(*c*) That such remedy shall be enforceable by a judiciary whose independence is secured; and

(*d*) That the police and executive authorities shall act in support of the enjoyment of these rights and freedoms.

Art. 3. [*Note.* The Drafting Committee decided not to consider the following Geneva text until articles on implementation had been drafted.]

On receipt of a request to this effect from the Secretary-General of the United Nations made under the authority of a resolution of the General Assembly, the Government of any party to this Covenant shall

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[1] *Resolutions adopted by the Economic and Social Council during its sixth session*, 2 February–11 March 1948 (document E/777, 12 March 1948); summary records (E/SR.122 to 174).

[2] The part of the report concerning the Draft Covenant on Human Rights was discussed at the 128th meeting of the Council, held on 5 February 1948 (E/SR.128, 6 February 1948).

[3] Report of the Committee (E/CN.4/95, 21 May 1948). Summary records of meetings (E/CN.4/AC/SR.20 to 44).

[4] [Footnote in the original text.] It was agreed by the Drafting Committee that the ideas contained in this text should be included in a preamble when one is written. It was also agreed to draw attention to the following text submitted by the representative of France: "The States parties hereto, being resolved to give effect to the general principles proclaimed in the United Nations Charter and specified in the International Declaration on Human Rights and Fundamental Freedoms adopted by the General Assembly of the United Nations on——, have agreed to conclude a preliminary convention, defining the practical scope of certain of these principles."

supply an explanation as to the manner in which the law of that State gives effect to any of the provisions of this Covenant.

Art. 4. [No decision was made as to which of the following alternative texts was preferred.]

I. *Text originally submitted by the Commission on Human Rights*

1. In time of war or other public emergency, a State may take measures derogating from its obligations under article 2 above to the extent strictly limited by the exigencies of the situation.

2. [Left over until implementation articles have been drafted.]

II. *Text submitted by the Representative of the United States*

The obligations imposed by articles 1 and 2 shall not affect the right of States parties to this Covenant to take action reasonably necessary for the preservation of peace, order or security or the promotion of the general welfare. Such action may be taken only by or pursuant to law, in conformity with article 20 hereof.

[*Note.* The delegation of the United States pointed out:

(1) That the limitations set forth in the Covenant without the addition suggested by other Governments are not all-inclusive;

(2) That certain Governments which have suggested further limitations have stated that their lists are not all-inclusive; and

(3) That the matter of restricting the rights and freedoms of the Covenant arises from many sources of law and that the Commission on Human Rights must find the solution for dealing with the problem caused by the omission of further probable limitations not yet enumerated.][1]

PART II

Art. 5. No one shall be deprived of his life save in the execution of the sentence of a court following his conviction of a crime for which this penalty is provided by law.

[*Note.* The Drafting Committee decided to forward this text to the Commission together with a list of possible additional limitations.

The list is as follows:

1. Suppression of rebellion or riots (Union of South Africa); deprivation of life by the military or State officers in a national emergency (United States of America);

2. Self-defence and defence of another (Union of South Africa; United States of America);

3. Killing in attempting to effect arrests for certain offences (Union of South Africa);

4. Killing by accident (United States of America);

5. Killing for violation of honour (United States of America);

6. Killing of persons caught in the commission of a elony (United States of America);

7. Killing to prevent an escape (United States of America);

8. Killing by medical operation in absence of gross negligence or malpractice (United States of America);

9. Killing through a voluntary medical experiment (United States of America);

10. Killing by officers of the law to prevent the commission of a crime (see also *supra* 6) (United States of America);

11. Killing by officers of the law in a local emergency (United States of America);

12. Killing by a military in time of war (United States of America).]

Art. 6. No one shall be subjected to any form of physical mutiliation or medical or scientific experimentation against his will.

[*Note.* The Drafting Committee decided to forward this text to the Commission together with a list of possible additional limitations.

This list is as follows:

1. Compulsory vaccination (United States of America);

2. Legitimate medical and scientific experimentation in hospitals for the insane, with the consent of parent or guardian of the patient (United States of America);

3. Emergency operations undertaken to save the life of patient, where the patient is unable to give his consent or where a person empowered to give consent on behalf of the patient gives such consent (United States of America);

4. Other limitations may be developed later (United States of America).]

Art. 7. No one shall be subjected to torture or to cruel or inhuman punishment or to cruel or inhuman indignity.

Art. 8.[2] 1. No one shall be held in slavery or servitude.

[1] [Footnote in the original text.] The limitations suggested by the representative of the United States were submitted in each case as illustrative of the problems arising in the absence of a general limitation clause, which the U.S.A. prefers.

[2] [Footnote in the original text.] The representative of the Union of Soviet Socialist Republics proposed that the following text be added after the first sentence of this article: "The slave trade is forbidden in all its forms."

2. No one shall be required to perform forced or compulsory labour except as a consequence of a conviction of crime by a competent court.

3. For the purposes of this article, the term "forced or compulsory labour" shall not include:

(*a*) Any service of a purely military character, or service in the case of conscientious objectors, exacted in virtue of compulsory military service laws, provided that the service of conscientious objectors be compensated with maintenance and pay not inferior to what a soldier of the lowest rank receives;

(*b*) Any service exacted in cases of emergencies or calamities threatening the life or well-being of the community;

(*c*) Any minor communal services considered as normal civic obligations incumbent upon the members of the community, provided that these obligations have been accepted by the members of the community concerned directly or through their directly elected representatives.

[*Note.* (1) The following text, which follows the wording of a relevant article of the International Labour Organization's Forced Labour Convention of 1930, was suggested by the representative of the International Labour Organization, and the Committee decided to forward it to the Commission as an alternative text for paragraph 3 (*c*):

"Minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services."

(2) The Committee also decided to forward to the Commission, as possible additions to paragraph 3, two further possible limitations submitted by the delegation of the United States:

(*d*) Service exacted from deserting seamen returned to their ships, having entered into voluntary contracts for a period of service;

(*e*) Services performed by minors, either in the course of normal family life or pursuant to contracts made in their behalf either by parents or guardians.]

Art. 9. [The Drafting Committee voted in favour of the first of the following three texts.]

I. *Text originally forwarded by the Commission on Human Rights, as amended*

1. No one shall be subjected to arbitrary arrest or detention.

2. In consequence, no person shall be deprived of his liberty save in the case of:

(*a*) The arrest of a person effected for the purpose of bringing him before a court on a reasonable suspicion of having committed a crime or which is reasonably considered to be immediately necessary to prevent his committing a crime;

(*b*) The lawful arrest and detention of a person for non-compliance with the lawful order or decree of a court;

(*c*) The lawful detention of a person sentenced after conviction to deprivation of liberty;

(*d*) The lawful detention of persons of unsound mind;

(*e*) The parental or quasi-parental custody of minors;

(*f*) The lawful arrest and detention of a person to prevent his effecting an unauthorized entry into the country;

(*g*) The lawful arrest and detention of aliens against whom deportation proceedings are pending;

3. Any person who is arrested shall be informed promptly of the charges against him. Any person who is arrested under the provisions of sub-paragraph (*a*) or (*b*) of paragraph 2 of this article shall be brought promptly before a judge, and shall be tried within a reasonable time or released.

4. Everyone who is deprived of his liberty by arrest or detention shall have an effective remedy in the nature of *habeas corpus* by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

[*Note.* A list of all the possible limitations suggested by various Governments, together with an analysis of this list, follows the text of this article proposed by the United States, below.]

II. *Text proposed by the delegation of the Union of Soviet Socialist Republics*

The inviolability of the human person shall be guaranteed by law. No person shall be subjected to arrest except by order of a court or a prosecuting authority.

Any person who is arrested shall be informed promptly of the charges against him. Every person who is deprived of his liberty shall be brought promptly before a court for an order for the trial of his case within a reasonable time or for his release.

Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

III. *Text proposed by the United States*

No one shall be deprived of liberty without due process of law.

No one shall be arrested or detained without being promptly informed of the reasons for the arrest or

detention and without being entitled to a fair hearing within a reasonable time or to release.

No one shall be denied the right to a fair hearing before an independent and impartial tribunal in the determination of any criminal charge against him or of any of his rights or obligations.

No one shall be convicted or punished for crime except after a public trial within a reasonable time before a fair, independent and impartial tribunal.

[*Note.* It will be observed that this text also includes the principle now contained in article 13.]

LIST AND ANALYSIS OF SUGGESTED LIMITATIONS TO ARTICLE 9 OF THE COVENANT ON HUMAN RIGHTS

I. In document E/CN.4/AC.1/23 of 7 May 1948 a list of items suggested by Governments for addition to the enumeration contained in article 9 (2) of the draft covenant (document E/600) was circulated, embodying the items suggested in written comments by Governments and, orally, by representatives in the twenty-third meeting of the Committee, on 6 May 1948. These limitations are as follows:

1. Arrest and detention of persons suffering from serious contagious disease (Netherlands, United Kingdom, Norway);

2. Arrest and detention of alcoholics (Norway);

3. Arrest *flagrante delicto* (Brazil); probably covered by item (*a*) of article 9 (2);

4. Arrest for the purpose of removal from one province to another (Union of South Africa);

5. Arrest for the purpose of removal of persons other than aliens (Union of South Africa);

6. Arrest of witnesses in order to bring them before a court (Union of South Africa) or for their protection (United States);

7. Detention of children in need of care (Union of South Africa);

8. Arrests for breach of military discipline (Chile; oral observation in the twenty-third meeting of the Committee, on 5 May 1948);

9. Arrest in civil cases usually involving wrongdoing (fraud, etc.), in the commencement of an action (United States, oral observations, 5 May 1948);

10. Arrest as a means of satisfaction of a judgment in such actions or by way of punishment in such cases (United States; oral observations, 5 May 1948);

11. Detention of persons listed under article 8, paragraph 3, of the Geneva draft of the Covenant (this relates to the class of persons who may be subjected to forced or compulsory labour in connexion with military or emergency service, etc.) (United States; oral observations, 5 May 1948);

12. Detention of enemy aliens (United States; oral observations, 5 May 1948);

Subsequently the French draft covenant was presented to the Committee (document E/CN.4/82/Add. 8) and in the meeting of the Drafting Committee, held on 12 May 1948, the Chairman in her capacity of United States representative suggested some additional specific limitations of the rights safeguarded in article 9 of the Draft Covenant.

II. The list of restrictions contained in article VIII of the French draft is as follows:

(*a*) The arrest and detention of a person effected for the purpose of bringing him before a court on suspicion of having committed a crime or of preventing the imminent commission of a crime or offence;

(*b*) The arrest and detention of a person, as provided by law, for non-compliance with the lawful order of a court;

(*c*) Lawful detention in pursuance of a sentence of imprisonment;

(*d*) The lawful detention of persons of unsound mind;

(*e*) The lawful arrest and detention of a person to prevent his effecting an unauthorized entry into a country;

(*f*) The lawful arrest and detention of aliens against whom deportation or extradition proceedings are pending;

(*g*) The educational supervision of minors.

III. The list of additional specific limitations prepared by the United States representative and presented on 12 May 1948 is as follows:

(*b*) The arrest and detention of a person suffering from a serious contagious disease;

(*i*) The arrest and detention of an alcoholic;

(*j*) The arrest of witnesses in order to bring them before a court or for their protection;

(*k*) Arrest and detention for breach of military discipline;

(*l*) Arrest and detention in civil cases (tort, or contract cases involving wrong-doing such as fraud, etc.) by way of commencing an action or as a means of satisfaction of a judgment in such cases or by way of punishment in such cases;

(*m*) The detention of enemy aliens;

(*n*) The detention of persons under the authority of article 8, paragraph 3, of the Covenant (relating to the classes of persons who may be subjected to compulsory labour in connexion with military or emergency service);

(*o*) Other situations to be enumerated.

IV. The Chinese Delegation suggested the following list of possible limitations (E/CN.4/AC.1/23/Add.2):

1. Arrest of persons who violate the provisions of the Covenant;

2. Arrest of persons suspected as spies;

3. Arrest of persons who trespass prohibited property or areas;

4. Arrest of persons who attempt to or destroy public property;

5. Arrest of persons for disturbing public order such as shouting "Fire" in a theatre when there is no fire;

6. Arrest of persons for speeding while driving through a crowded street in the city;

7. Arrest of persons who attempt to commit suicide.

V. This analysis is based on the following enumeration of limitations:

1. The limitations already contained in article 9, sub-paragraph 2 (*a*) to (*g*) of the draft Covenant as adopted at the second session of the Commission in Geneva;

2. The items suggested by Governments and enumerated in document E/CN.4/AC.1/23;

3. The additional specific limitations suggested by the United States of America on 12 May 1948;

4. The limitations suggested by France;

5. The limitations suggested by China.

According to these different lists the Covenant would contain the following limitations of the right to liberty:

(*a*) *Arrest for the purpose of criminal proceedings or prevention of a crime.*

This item covers item (*a*) of the Geneva draft, item (*a*) of the French draft and the Brazilian suggestion concerning arrest *flagrante delicto*, item 3 of document E/CN.4/AC.1/23. In formulating the final text the Commission may wish to have regard to items 2, 3, 4, 5 and 6 of the Chinese limitations.

(*b*) *Arrest and detention for non-compliance with a court order.*

This item covers item (*b*) of the Geneva draft and item (*b*) of the French draft. In formulating its text regard should be had of item 10 of document E/CN.4/AC.1/23, "arrest as a means of satisfaction of a judgment in civil actions or by way of punishment in civil cases" (United States) and the analogous item (1) of the United States list and further of item (9) of document E/CN.4/AC.1/23, "arrest in civil cases".

(*c*) *The detention of a person sentenced after conviction to deprivation of liberty.*

This item covers item (*c*) of the Geneva draft and item (*c*) of the French draft. In drafting the text, the Committee may wish to have regard to the Chilean proposal listed under item 8 of document E/CN.4/AC.1/23 and the United States proposal listed under (*k*), which are to the effect that arrests and detentions for breach of military discipline should also be covered.

(*d*) *Detention of persons of unsound mind.*

This item covers item (*d*) of the Geneva draft and item (*d*) of the French proposal. With regard to this item note should be taken of the Norwegian proposal, document E/CN.4/AC.1/23, item (2), and the United States proposal, item (*i*) above, suggesting that the Covenant should also cover the case of the arrest and detention of alcoholics.

(*e*) *The parental or quasi-parental custody of minors.*

This item corresponds to item (*e*) of the Geneva draft and to item (*g*) of the French proposal. It is submitted that, in its formulation, regard should be had to item 7 of document E/CN.4/AC.1/23, the South African proposal concerning the detention of children in need of care.

Restriction on Aliens

(*f*) *The lawful arrest and detention of a person to prevent his effecting an unauthorized entry into the country.*

(*g*) *The lawful arrest and detention of aliens against whom deportation proceedings are pending.*

In formulating these two items the Committee may wish to have regard to items (*e*) and (*f*) of the French proposal and to item (*m*) of the United States list. Closely connected with these two items are also the suggestions made by South Africa, items 4 and 5 of document E/CN.4/AC.1/23, suggesting an extension of these provisions to cover also arrests for the purpose of removal from one province to another and the removal of persons other than aliens.

VI. *Remaining Items*

The following three additional items remain:

1. *Arrest and detention of persons suffering from serious contagious disease (Netherlands, United Kingdom and United States).*

It covers item 1 of document E/CN.4/AC.1/23 and item (*b*) of the United States list.

2. *Arrest of witnesses (Union of South Africa and United States).*

Item 6 of document E/CN.4/AC.1/23 and item (*g*) of the United States list.

3. *Arrest and detention in connexion with services exacted under article 8 (3).*

The United States proposal, item 11 of document E/CN.4/AC.1/23 and item (*n*) of the United States list, concerns the detention of persons liable to military service, service in cases of emergency and minor communal services.

Here the Committee may wish to consider to what extent this limitation is covered by the provision to

be made for detentions for the breach of military discipline and further, whether services in an emergency, or "minor communal services", could be considered exceptions from a rule prohibiting arbitrary arrest or detention.

The United States list further contains the item:

4. *Other situations to be enumerated.*

Art. 10. No one shall be imprisoned merely on the grounds of inability to fulfil a contractual obligation.

Art. 11. [No decision was made as to which of these texts was preferred.]

Geneva text

1. Subject to any general law not contrary to the purposes and principles of the United Nations and adopted for specific reasons of security or in the general interest, there shall be liberty of movement and free choice of residence within the borders of each State.

2. Any person who is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service shall be free to leave any country, including his own.

Alternative text

1. No one shall be denied freedom of movement or residence within the borders of a contracting State.

2. Any one shall be free to leave any country, including his own.

[*Note 1.* The Drafting Committee decided to forward this text to the Commission together with a list of possible limitations. The list is as follows:

1. Restrictions imposed for the well-being of helpless or dependent persons (United States);

2. Restrictions imposed with respect to land or water constituting a public highway (United States);

3. Restrictions imposed in the interest of public order, morals, health (*e.g.* quarantine) or safety (United States);

4. Restrictions imposed in accordance with articles 8 and 9 (United States);

5. Restrictions imposed by reason of lawful detentions (France);

6. Restrictions imposed because criminal proceedings are pending against him (France);

7. Restrictions imposed because his departure must be prohibited in order to prevent the imminent commission of a crime or offence (France);

8. Restrictions imposed on individuals who are "subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service, tax liabilities or voluntarily contracted obligations binding the individual to the Government" (Netherlands);

9. Restrictions imposed on an individual because of national service, or of a judicial order restraining his departure without giving security on account of other alleged outstanding obligations (United Kingdom);

10. Restrictions imposed on emigration to assist a neighbour country to control illegal immigration (United Kingdom);

11. Restrictions imposed on emigration in the interest of protecting primitive or unsophisticated communities from exploitation abroad (United Kingdom);

12. Restrictions imposed where labour has to be controlled and individuals required to work in specified industries and even in specific localities (Union of South Africa);

13. Restrictions imposed where it is necessary in the interests of peace and good government to proclaim reserved areas in favour of the different sections of the population, and to restrict and control the free movement and free choice of residence on the part of individuals belonging to different sections of the population (Union of South Africa);

14. Restrictions imposed in the interests of the general welfare and good government to restrict the influx of large numbers of unskilled labourers into urban areas in circumstances where an adequate supply of labour already exists, and housing accommodation is inadequate (Union of South Africa).]

[*Note 2.* The representative of the Union of Soviet Socialist Republics suggested that the words "subject to the laws of his own country" be added to the second paragraph of this article.]

Art. 12. No alien legally admitted to the territory of a State shall be expelled therefrom except in accordance with procedure prescribed by law.

Art. 13. [The Drafting Committee voted in favour of the first of the following texts.]

A.

1. In the determination of any criminal charge against him or of any of his civil rights or obligations everyone is entitled to a fair hearing before an independent and impartial tribunal.

2. In the determination of any criminal charge against him everyone is entitled to:

(*a*) A public trial, though the Press and public may be excluded from all or some of the portions thereof, other than the judgment, where considerations of security or morals are involved or the preservation of order in the court requires. Exceptions may be made in the interest of juveniles;

(*b*) Legal assistance of his own choosing; and

(*c*) The services of an interpreter to assist the accused if he cannot understand or speak the language used in court.

B. *Text submitted by the Representative of the Union of Soviet Socialist Republics*

1. All persons shall be equal before the court or tribunals. Judges shall be independent and subject only to the law. Legal procedure in every State shall be based on democratic principles. The trial of cases in all courts shall be public, subject to exceptions prescribed by law for the protection of public morals and national security, and the accused person shall be assured the right of defence.

2. When any person who does not know the national language is prosecuted, he shall be assured full knowledge of all the material in the case through an interpreter and shall also have the right to address the court in his native language.

Art. 14. 1. No one shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

2. Nothing in this article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

Art. 15. No one shall be deprived of his juridical personality.

Art. 16. 1. No one shall be denied freedom of thought, belief, conscience and religion, including freedom to hold any religious or other belief, and to change his belief.

2. No one shall be denied freedom, either alone or in association, to manifest his belief in practice, and in worship and observance, and no one shall be required to do any act which is contrary to such worship and observance.

3. No one shall be denied freedom, either alone or in association, to give and receive any form of religious teaching, and to endeavour to persuade other persons of the truth of his beliefs.

4. The above rights and freedoms shall be subject only to such limitations as are prescribed by law and are necessary to protect public order and health, morals and the fundamental rights and freedoms of others.

[*Note.* The representative of the Soviet Union proposed to replace article 16 by the following text (unofficial translation):

"Every person shall have the right to freedom of thought and freedom to practise religious observances in accordance with the laws of the country and the dictates of public morality."]

Art. 17. [The Drafting Committee did not decide which of the following texts it preferred.]

A. *Text submitted by the Representative of France*

1. Speech is free. Every person shall be free to express and publish his ideas in any way he chooses.

2. Every person shall be free to receive and disseminate information of all kinds, including facts, critical comment and ideas, by the medium of books, newspapers, oral instructions or in any other manner.

3. The freedoms referred to in the preceding paragraphs may be subject only to the restrictions, penalties or liabilities provided by law for the protection of public order, national security, good morals, respect for law and the reputation or rights of other persons.

B. *Text submitted by the Representative of the Soviet Union*

1. In accordance with the principles of democracy and in the interests of strengthening international co-operation and world peace, every person shall be guaranteed by law the right to the free expression of his opinions and, in particular, to freedom of speech and of the Press, freedom of assembly and freedom of artistic representation. The use of freedom of speech and of the Press for the purposes of propagating fascism and aggression or of inciting war between nations shall not be tolerated.

2. In order to ensure the right of the free expression of opinion for large sections of the peoples and for their organizations, State assistance and co-operation shall be given in providing the material resources (premises, printing presses, paper, and the like) necessary for the publication of democratic organs of the Press.

C. *Text submitted by the United Nations Conference on Freedom of Information*

1. Every person shall have the right to freedom of thought and the right to freedom of expression without interference by governmental action; these rights shall include freedom to hold opinions, to seek, receive and impart information and ideas, regardless of frontiers, either orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices.

2. The right to freedom of expression carries with it duties and responsibilities, and may therefore be subject to penalties, liabilities or restrictions clearly defined by law, but only with regard to:

(*a*) Matters which must remain secret in the interests of national safety;

(*b*) Expressions which incite persons to alter by violence the system of government;

(*c*) Expressions which directly incite persons to commit criminal acts;

(*d*) Expressions which are obscene;

(*e*) Expressions injurious to the fair conduct of legal proceedings;

(*f*) Infringements of literary or artistic rights;

(*g*) Expressions about other persons natural or legal which defame their reputations or are otherwise injurious to them without benefiting the public;

(*h*) The systematic diffusion of deliberately false or distorted reports which undermine friendly relations between peoples and States.

A State may establish on reasonable terms a right to reply or a similar corrective remedy.

3. Measures shall be taken to promote the freedom of information through the elimination of political, economic, technical and other obstacles which are likely to hinder the free flow of information.

4. Nothing in this article shall be deemed to affect the right of any State to control the entry of persons into its territory or the period of their residence therein.

[*Note.* The Drafting Committee decided to forward this text to the Commission together with a list of possible additional limitations. The list is as follows:

1. The disclosures of professional secrets contrary to law;

2. Disclosures arising out of marital and personal relationships;

3. Expressions which are fraudulent or part of a fraudulent scheme;

4. Expressions detrimental to public decency or morals (for example, detailed crime stories, reports on executions and suicides, sensational court reports);

5. Matters of contract;

6. Control of advertising or economic matters;

7. Proper conduct of political elections or campaigns;

8. Matters affecting the civil service;

9. Disclosures of governmental information (other than in cases involving national safety, for example, in economic and social matters, such as crop reports, income tax reports, recipients of unemployment relief, and pending judicial decisions);

10. Communications with foreign Governments;

11. Profanity in public places;

12. Operation of radio broadcasting and similar media without a licence;

13. Statements by corporations, partnerships or individuals, in the issue of bonds and shares of stock;

14. Unforeseeable future matters relating to development of new media of information or new social practices.

(These fourteen possible limitations arose out of discussions at the United Nations Conference on Freedom of Information.)

15. Expressions about governmental or public authorities, or groups of persons who are all or in part nationals of a High Contracting Party or who belong all or in part to a certain race (Netherlands);

16. The prohibition of the dissemination of information calculated to engender feelings of hostility among inhabitants of various races (Union of South Africa);

17. The prohibition of notices of prohibited meetings (Union of South Africa);

18. The prohibition of opprobrious epithets, jeers or jibes in connexion with the fact that any person has continued or returned to work or has refused to work for any employer, or the sending of information as to any such fact to any person in order to prevent any other person from obtaining or retaining employment, etc. (Union of South Africa);

19. Other statements, expressions or publications which constitute offences or parts of offences under the common law or in terms of statutes, such as blasphemy, treasonable statements, uttering a forged instrument, perjury, contempt of court (covered in the drafts only to the extent to which it may be injurious to the independence of the judiciary or the fair conduct of legal proceedings), the use of indecent, abusive or threatening language in public places, fraudulent statements, statements amounting to *crimen injuriae*, false statements in a prospectus, the offer of any inducement to enter into a hire-purchase agreement (Union of South Africa);

20. The restrictions imposed upon the publication of preparatory examination and trial proceedings, where the offence charged involves any indecent act or an act in the nature of extortion, or upon the publication of information which is likely to reveal the identity of an accused person under nineteen years of age or of a child concerned in proceedings before a children's court (Union of South Africa);

21. The prohibition of the disclosure of information obtained in an official or semi-official capacity, whether or not the disclosure will affect the national safety or the "vital" interests of the State (Union of South Africa);

22. Restrictions upon the publication of a picture or a public entertainment, where the picture or entertainment is calculated to give offence to the religious convictions or feelings of any section of the public, or where it is calculated to bring any section of the public into ridicule or contempt, or is contrary to the public interest or good morals (Union of South Africa);

23. Restrictions upon the publication of certain electoral matters (Union of South Africa);

24. The restrictions imposed by the laws relating to copyright (Union of South Africa);

25. Restrictions which it may be considered necessary to impose in order to eliminate or control subversive ideological propaganda (Union of South Africa).]

Art. 18. All persons shall have the right to assemble peaceably for any lawful purpose including the discussion of any matter on which, under article 17, any person has the right to express and publish his ideas. No restrictions shall be placed on the exercise of this right other than those prescribed by law and necessary to assure:

(*a*) National security;

(*b*) The protection of persons or property;

(*c*) The prevention of the obstruction of traffic or the free movement of others; or

(*d*) The protection of health or morals.

[*Note 1.* An additional restriction was suggested as follows:

The prevention of foreign political interference (Netherlands).

Note 2. The Government of the Netherlands also suggested:

(*a*) That a clause be added making public meetings subject to official authorization; and

(*b*) That it should be understood that the right to assemble does not include the right to hold pageants or processions in the streets.

Note 3. The Government of the Union of South Africa pointed out that the exceptions did not cover prohibition of a public gathering where the Minister of Justice had reason to apprehend that the gathering would engender feelings of hostility between different sections of the population of the Union of South Africa.]

Art. 19. The right of association is recognized provided that right is exercised in whatever form may be appropriate under the law of the State and is directed to lawful aims including the defence and protection of the legitimate interests of the members of the association or the dissemination of information under article 17. Associations shall enjoy the rights and freedoms set forth in articles 16 and 17.

Art. 20. Equal protection of the law with respect to the enjoyment of any of the rights and freedoms set forth in Part II of this Covenant shall not be denied to anyone on account of race (which includes colour), sex, language, religion, political or other opinion, property status, or national or social origin.

Art. 21 (deleted). (Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State.)

Art. 22. Nothing in this Covenant shall be considered to give any person or State the right to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

PART III

Art. 23. 1. This Covenant shall be open for accession to every State Member of the United Nations or party to the Statute of the International Court of Justice and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations, and as soon as —— heads of the States Members of the United Nations have deposited such instruments the Covenant shall come into force between them. As regards any State which accedes thereafter, the Covenant shall come into force on the date of the deposit of its instrument of accession.

3. The Secretary-General of the United Nations shall inform all members of the United Nations and the other States referred to in paragraph 1 above of the deposit of each instrument of accession.

Art. 24. In the case of a federal State, the following provisions shall apply:

(*a*) With respect to any articles of this Covenant which the federal Government regards as wholly or in part appropriate for federal action, the obligations of the federal Governments shall, to this extent, be the same as those of parties which are not federal States;

(*b*) In respect of articles which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent States, provinces, or cantons, the federal Government shall bring such provisions, with favourable recommendation, to the notice of the appropriate authorities of the States, provinces or cantons at the earliest possible moment.

Art. 25. [The Drafting Committee voted in favour of the first of the following texts.]

A State party to this Covenant may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that this Covenant shall extend to any of the territories for the international relations of which it is responsible, and the Covenant shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification. The Contracting States undertake, with respect to those territories on behalf of which they do not accede to this Covenant at the time of their accession, to seek the consent at the earliest possible moment of the Governments of such territories and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

Text proposed by the Representative of the Soviet Union

The conditions of the present Covenant shall extend or be applicable both to the metropolitan territory which is signatory to the present Covenant, as well as to all the other territories (non-self-governing, trust, and colonial territories) which are being administered or governed by the metropolitan power in question.

Art. 26. [The Drafting Committee decided not to discuss the following Geneva text until the question of implementation had been considered.]

1. Amendments to this Covenant shall come into force when they have been adopted by a vote of two-thirds of the Members of the General Assembly of the United Nations and ratified in accordance with their respective constitutional processes by two-thirds of the parties to this Covenant.

2. When such amendments come into force they shall be binding on those parties which have ratified them, leaving other parties still bound by the provisions of the Covenant which they have accepted by accession, including earlier amendments which they have ratified.

Art. 27 (deleted). (In construing the articles of this Covenant the several articles shall be regarded in their relation to each other.)

Proposed additional article. [The Drafting Committee took no action on the following text, proposed as an additional article by the representative of the United States.]

The rights and freedoms set forth in Part II of this Covenant are in addition to and not in derogation of such rights and freedoms as may be guaranteed to all under the laws of any contracting State. In agreeing to this Covenant, the contracting parties recognize that there are other rights and freedoms which may be made the subject of future covenants or conventions.

SECTION III

COMMISSION ON HUMAN RIGHTS

(Third session)[1]

The Commission decided to forward to the Economic and Social Council the draft International Covenant on Human Rights submitted to it by the Drafting Committee, as it had not time to examine this draft.[2]

SECTION IV

ECONOMIC AND SOCIAL COUNCIL

(Seventh session)

At the seventh session of the Council lack of time prevented anything but a general debate, in plenary meeting, on the Bill of Human Rights. In the course of this debate members of the Council expressed their views on the draft Covenant on Human Rights.

By its resolution No. 151 (VII) of 26 August 1948,[3] the Economic and Social Council decided to transmit to the General Assembly, together with the draft International Declaration of Human Rights, the "remainder" of the report of the Commission on Human Rights on its third session. This embodied the draft Covenant on Human Rights drawn up by the Drafting Committee.

SECTION V

GENERAL ASSEMBLY

(Third session, first part)

The report of the Third Committee states:

"4. The Third Committee, at its 94th meeting, decided to consider only the Draft Declaration, as the other two documents (the Covenant and measures of implementation) were not yet in a state suitable for consideration" (A/777).

However, a number of speakers referred to the Covenant on Human Rights and its place in the International Bill of Human Rights during the general discussion preceding the vote on the Declaration of Human Rights by the General Assembly in plenary session.[4]

The resolution by which the General Assembly adopted the Universal Declaration of Human Rights states in conclusion:

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[1] *Report of the Third Session of the Commission on Human Rights* (E/800, 28 June 1948). Summary records of meetings (E/CN.4/SR.46 to 81).

[2] The report states:

"14. The Commission also decided to forward to the Economic and Social Council the draft International Covenant on Human Rights as it appeared in Annex B of the Report of the second session of the Drafting Committee on an International Bill of Human Rights; this draft International Covenant on Human Rights, which the Commission did not have the time to examine, is appended to this report as Annex B."

The question of the Covenant on Human Rights was dealt with by the Commission at its 80th meeting (E/CN. 4/SR.80, p. 14 *et seq.*)

[3] *Resolutions adopted by the Economic and Social Council* during its seventh session (E/1065, p. 15).

See *Official Records of the Economic and Social Council*, third year, seventh session, Supplement No. 2, and documents E/SR. 180, 201, 202, 215 and 218, corresponding to the meetings of the same numbers.

[4] *Official Records of the Third Session of the General Assembly*, Part I: 180th, 181st, 182nd and 183rd plenary meetings of the General Assembly (pp. 852 to 935).

PREPARATION OF A DRAFT COVENANT ON HUMAN RIGHTS AND DRAFT MEASURES OF IMPLEMENTATION[1]

The General Assembly,

Considering that the plan of work of the Commission on Human Rights provides for an International Bill of Human Rights, to include a Declaration, a Covenant on Human Rights and measures of implementation,

Requests the Economic and Social Council to ask the Commission on Human Rights to continue to give priority in its work to the preparation of a draft Covenant on Human Rights and draft measures of implementation.

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[1] *Official Records of the Third Session of the General Assembly*, Part I, Resolutions, p. 79.

CHAPTER III
MEASURES OF IMPLEMENTATION

SECTION I
ECONOMIC AND SOCIAL COUNCIL
(*Sixth session*)

At its sixth session the Economic and Social Council took the following decision (116 (VI)):

"*The Economic and Social Council,*

"*Directs* the Commission on Human Rights, through its Drafting Committee and at its next session, to give particular attention to the implementation aspect of the Bill of Human Rights, in order to ensure that draft articles on implementation may be submitted to Member Governments at the earliest possible date."[1]

SECTION II
DRAFTING COMMITTEE TO THE COMMISSION ON HUMAN RIGHTS
(*Second session*)[2]

Lack of time prevented the Drafting Committee from dealing with the measures of implementation during its second session.

SECTION III
COMMISSION ON HUMAN RIGHTS
(*Third session*)[3]

Owing to lack of time the Commission decided to refer the Economic and Social Council to Annex C, on measures of implementation, of the report of the Commission's second session (document E/600, 17 December 1947), and to certain other suggestions relating to the same question. These suggestions are incorporated in Annex C of the repor t on the Commission's third session.[4]

The question of measures of implementation was raised at the 73rd meeting, was taken up at the 80th meeting and was discussed more exhaustively at the 81st meeting.

SECTION IV
ECONOMIC AND SOCIAL COUNCIL
(*Seventh session*)

At the seventh session of the Council lack of time prevented anything but a general debate, in plenary meeting, on the Bill of Human Rights. During the debate measures of implementation were referred to on several occasions.

By its Resolution No. 151 (VIII), dated 26 August 1948,[5] the Economic and Social Council decided to transmit to the General Assembly, together with the draft International Declaration of Human Rights, the "remainder" of the report of the Commission on Human Rights on its third session. This referred the Council to Annex C of the report of the Commission on Human Rights on its second session and to Annex C

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[1] Resolutions of 1 and 2 May 1948: see *Resolutions adopted by the Economic and Social Council* at its sixth session, document E/777, 12 March 1948, p. 19.
The vote on the resolution and the discussion preceding it took place at the 159th meeting of the Council, held on 2 March 1948 (E/SR. 159, 5 March 1948).

[2] Report of the Committee (document E/CN. 4/95, 21 May 1948). Summary records of meetings, E/CN. 4/AC. 1/SR. 20 to 44.

[3] *Report of the Third Session of the Commission on Human Rights* (E/800, 28 June 1948). Summary records of meetings, E/CN. 4/SR. 46 to 81.

[4] The following is a list of these suggestions:
Australia. Draft proposals for an International Court of Human Rights (document E/CN. 4/AC. 1/27).
China and United States of America. Proposal on Implementation for the Covenant on Human Rights (document E/CN. 4/145).
France. Statement by Professor René Cassin on the Implementation of Human Rights (documents E/CN. 4/147 and E/CN. 4/82/Add. 10).
India. Proposed amendment to the China and United States Proposal on Implementation (document E/CN. 4/151).
India. Proposal on Implementation (document E/CN. 4/153).
Summary Record of the eighty-first plenary meeting of the Commission on Human Rights, where implementation was discussed (document E/CN. 4/SR. 81). After the adjournment of the Commission, the representative of the Union of Soviet Socialist Republics requested that his statement concerning the drafts and proposals on implementation, made in the eighty-first meeting of the Commission, on 18 May, be reproduced as a separate document, and that reference to this document be made in this Annex. This statement has been issued separately as document E/CN. 4/154.

[5] *Resolutions adopted by the Economic and Social Council* during its seventh session (E/1065, p. 15).
See *Official records of the Economic and Social Council*, seventh session (E/SR. 180, 201, 202, 215 and 218).

of the Commission's report on its third session, both of which related to measures of implementation.

SECTION V

GENERAL ASSEMBLY

(*Third session, first part*)

The report of the Third Committee states:

"4. The Third Committee, at its 94th meeting, decided to consider only the draft Declaration, as the other two documents (the Covenant and measures of implementation) were not yet in a state suitable for consideration" (A/777).

A number of speakers, however, referred to measures of implementation and their place in the International Bill of Human Rights during the general discussion preceding the vote on the Declaration of Human Rights by the General Assembly in plenary session.[1]

The resolution by which the General Assembly adopted the Universal Declaration of Human Rights states in conclusion:

PREPARATION OF A DRAFT COVENANT ON HUMAN RIGHTS AND DRAFT MEASURES OF IMPLEMENTATION[2]

The General Assembly,

Considering that the plan of work of the Commission on Human Rights provides for an International Bill of Human Rights, to include a Declaration, a Covenant on Human Rights and measures of implementation,

Requests the Economic and Social Council to ask the Commission on Human Rights to continue to give priority in its work to the preparation of a draft Covenant on Human Rights and draft measures of implementation.

The General Assembly also adopted a resolution concerning the right of petition:

The General Assembly,

Considering that the right of petition is an essential human right, as is recognized in the Constitutions of a great number of countries,

Having considered the draft article on petitions in document A/C.3/306 and the amendments offered thereto by Cuba and France,

Decides not to take any action on this matter at the present session;

Requests the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problems of petitions when studying the draft Covenant on Human Rights and Measures of Implementation, in order to enable the General Assembly to consider what further action, if any, should be taken at its next regular session regarding the problem of petitions.[3]

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[1] *Official Records of the Third Session of the General Assembly*, Part I, plenary meetings of the General Assembly, 180th, 181st, 182nd and 183rd meetings (pp. 852–935).

[2] *Official Records of the Third Session of the General Assembly*, Part I, Resolutions, p. 79.

[3] *Official Records of the Third Session of the General Assembly*, Part I, Resolutions, p. 77.

CHAPTER IV

THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

In its resolution 96 (I) of 11 December 1946 the General Assembly affirmed that "genocide is a crime under international law which the civilized world condemns," and requested the Economic and Social Council to undertake the necessary studies with a view to drawing up a draft convention on the crime of genocide to be submitted to the second regular session of the Assembly.[1]

The Economic and Social Council, by resolution 47 (IV), of 28 March 1947, instructed the Secretary-General to prepare a draft convention on the crime of genocide. In accordance with this resolution the Secretary-General prepared a draft convention (E/447) which was transmitted on 7 July 1947 to Member Governments for comments and which, together with comments received, was submitted to the second regular session of the General Assembly.

By resolution 180 (II) of 21 November 1947, the General Assembly reaffirmed its former resolution on the crime of genocide and requested the Economic and Social Council to continue the work on genocide, including the study of the draft convention prepared by the Secretariat.[2]

SECTION I

AD HOC COMMITTEE ON GENOCIDE

Acting upon resolution 180 (II) of the General Assembly, the Economic and Social Council, by resolution 117 (VI) of 3 March 1948, established an Ad Hoc Committee on Genocide (E/777). The text of the resolution reads as follows:

The Economic and Social Council,

Taking cognizance of General Assembly resolution 180 (II) of 23 November 1947,

Requests the Members of the United Nations which have not yet done so to transmit at the earliest possible date their comments on the draft Convention prepared by the Secretary-General (document E/477);

Establishes an *ad hoc* Committee composed of the following members of the Economic and Social Council: China, France, Lebanon, Poland, the United States of America, the Union of Soviet Socialist Republics and Venezuela;

Instructs the Committee:

(*a*) To meet at the Headquarters of the United Nations, in order to prepare the draft convention on the crime of genocide in accordance with the above-mentioned resolution of the General Assembly, and to submit this draft convention, together with the recommendation of the Commission on Human Rights thereon to the next session of the Economic and Social Council; and,

(*b*) To take into consideration in the preparation of the draft convention, the draft convention prepared by the Secretary-General, the comments of the Member Governments on this draft convention, and other drafts on the matter submitted by any Member Government;

Requests the Secretary-General to take appropriate measures to enable the Committee to carry out effectively the tasks entrusted to it.

The *Ad Hoc* Committee on Genocide met in Lake Success from 5 April to 10 May 1948 and prepared a Report (E/794) containing a draft Convention on the Prevention and Punishment of the Crime of Genocide. The text of the draft convention reads as follows:

PREAMBLE

The High Contracting Parties,

Declaring that genocide is a grave crime against mankind which is contrary to the spirit and aims of the United Nations and which the civilized world condemns;

Having been profoundly shocked by many recent instances of genocide;

Having taken note of the fact that the International Military Tribunal at Nürnberg in its judgment of 30 September-1 October 1946 has punished under a different legal description certain persons who have committed acts similar to those which the present Convention aims at punishing; and

Being convinced that the prevention and punishment of genocide requires international co-operation,

[1] See *Yearbook on Human Rights for 1947*, p. 461.

[2] See *Yearbook on Human Rights for 1947*, p. 527.

Hereby agree to prevent and punish the crime as hereinafter provided:

Art. I. Genocide is a crime under international law whether committed in time of peace or in time of war.

Art. II. In this Convention "genocide" means any of the following deliberate acts committed with the intent to destroy a national, racial, religious or political group, on grounds of the national or racial origin, religious belief, or political opinion of its members:

1. Killing members of the group;

2. Impairing the physical integrity of members of the group;

3. Inflicting on members of the group measures or conditions of life aimed at causing their deaths;

4. Imposing measures intended to prevent births within the group.

Art. III. In this Convention "genocide" also means any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or religious belief of its members such as:

1. Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;

2. Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.

Art. IV. The following acts shall be punishable:

(*a*) Genocide as defined in articles II and III;

(*b*) Conspiracy to commit genocide;

(*c*) Direct incitement in public (or in private) to commit genocide (whether such incitement be successful or not);

(*d*) Attempt to commit genocide;

(*e*) Complicity in any of the acts enumerated in this article.

Art. V. Those committing genocide or any of the other acts enumerated in article IV shall be punished whether they are heads of State, public officials or private individuals.

Art. VI. The High Contracting Parties undertake to enact the necessary legislation in accordance with their constitutional procedures to give effect to the provisions of this Convention.

Art. VII. Persons charged with genocide or any of the other acts enumerated in article IV shall be tried by a competent tribunal of the State in the territory of which the act was committed or by a competent international tribunal.

Art. VIII. 1. A party to this Convention may call upon any competent organ of the United Nations to take such action as may be appropriate under the Charter for the prevention and suppression of genocide.

2. A party to this Convention may bring to the attention of any competent organ of the United Nations any case of violation of this Convention.

Art. IX. 1. Genocide and the other acts enumerated in article IV shall not be considered as political crimes and therefore shall be grounds for extradition.

2. Each party to this Convention pledges itself to grant extradition in such cases in accordance with its laws and treaties in force.

Art. X. Disputes between the High Contracting Parties relating to the interpretation or application of this Convention shall be submitted to the International Court of Justice provided that no dispute shall be submitted to the International Court of Justice involving an issue which has been referred to and is pending before or has been passed upon by competent international criminal tribunal.

Art. XI. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of ——.

Art. XII. 1. The present Convention shall be open until 31 —— 194— for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. After 1 —— 194— the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State that has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Art. XIII. 1. The present Convention shall come into force on the ninetieth day following the receipt by the Secretary-General of the United Nations of not less than twenty instruments of ratification or accession.

2. Ratification or accession received after the Convention has come into force shall become effective as from the ninetieth day following the date of deposit with the Secretary-General of the United Nations.

Art. XIV. 1. The present Convention shall remain in effect for a period of five years dating from its entry into force.

2. It shall remain in force for further successive periods of five years for such Contracting Parties that

have not denounced it at least six months before the expiration of the current period.

3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Art. XV. Should the number of parties to this Convention become less than sixteen as a result of denunciations, the Convention shall cease to have effect as from the date on which the last of these denunciations shall become operative.

Art. XVI. 1. Upon receipt by the Secretary-General of the United Nations of written communications from one-fourth of the number of High Contracting Parties, requesting consideration of the revision of the present Convention and the transmission of the respective requests to the General Assembly, the Secretary-General shall transmit such communications to the General Assembly.

2. The General Assembly shall decide upon the steps, if any, to be taken in respect of such requests.

Art. XVII. The Secretary-General of the United Nations shall notify all Members of the United Nations and non-member States referred to in article XII of all signatures, ratifications and accessions received in accordance with articles XII and XIII, of the date upon which the present Convention has come into force, of denunciations received in accordance with article XIV, of the abrogation of the Convention effected as provided by article XV, and of requests for revision of the Convention made in accordance with article XVI.

Art. XVIII. The original of this Convention shall be deposited in the archives of the United Nations.

A certified copy thereof shall be transmitted to all Members of the United Nations and to the non-member States referred to under article XII.

Art. XIX. The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

SECTION II

THE GENERAL ASSEMBLY

(*Third session*)

At its seventh session, the Economic and Social Council decided, by resolution 153 (VII) of 26 August 1948, to transmit to the third session of the General Assembly the draft Convention on the Prevention and Punishment of the Crime of Genocide, together with the records of its own proceedings on the subject.

The General Assembly, on the basis of the report of its Sixth Committee, adopted on 9 December 1948 resolution 260 (III) concerning the prevention and punishment of the crime of genocide. The resolution was divided into three parts dealing respectively with the text of the Convention on the Prevention and Punishment of the Crime of Genocide, the question of an international criminal jurisdiction, and the application of the Convention with respect to dependent areas.

A. *The Text of the Convention on the Prevention and Punishment of the Crime of Genocide*

By resolution 260 (III) A, the General Assembly approved the following Convention on Genocide and proposed it for signature and ratification or accession in accordance with its article XI. The text of the Convention reads as follows:

The High Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required;

Hereby agree as hereinafter provided.

Art. I. The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Art. II. In the present Convention, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(*a*) Killing members of the group;

(*b*) Causing serious bodily or mental harm to members of the group;

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

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

(*e*) Forcibly transferring children of the group to another group.

Art. III. The following acts shall be punishable:

(*a*) Genocide;

(*b*) Conspiracy to commit genocide;

(*c*) Direct and public incitement to commit genocide;

(*d*) Attempt to commit genocide;

(*e*) Complicity in genocide.

Art. IV. Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Art. V. The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

Art. VI. Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Art. VII. Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Art. VIII. Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Art. IX. Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Art. X. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Art. XI. The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Art. XII. Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Art. XIII. On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal* and transmit a copy of it to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Art. XIV. The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Art. XV. If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Art. XVI. A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Art. XVII. The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(*a*) Signatures, ratifications and accessions received in accordance with article XI;

(*b*) Notifications received in accordance with article XII;

(*c*) The date upon which the present Convention comes into force in accordance with article XIII;

(*d*) Denunciations received in accordance with article XIV;

(*e*) The abrogation of the Convention in accordance with article XV;

(*f*) Notifications received in accordance with article XVI.

Art. XVIII. The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member States contemplated in article XI.

Art. XIX. The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

B. *The Question of an International Criminal Jurisdiction*

By resolution 260 (III) B, the General Assembly invited the International Law Commission to study this question in connexion with the Convention on Genocide. The text of the resolution reads as follows:

The General Assembly,

Considering that the discussion of the Convention on the Prevention and Punishment of the Crime of Genocide has raised the question of the desirability and possibility of having persons charged with genocide tried by a competent international tribunal.

Considering that, in the course of development of the international community, there will be an increasing need of an international judicial organ for the trial of certain crimes under international law,

Invites the International Law Commission to study the desirability and possibility of establishing an international judicial organ for the trial of persons charged with genocide or other crimes over which jurisdiction will be conferred upon that organ by international conventions;

Requests the International Law Commission, in carrying out this task, to pay attention to the possibility of establishing a Criminal Chamber of the International Court of Justice.

C. *Application of the Convention on Genocide with respect to Dependent Territories*

By resolution 260 (III) C, the General Assembly recommended that "Parties to the Convention on the Prevention and Punishment of the Crime of Genocide which administer dependent territories should take such measures as are necessary and feasible to enable the provisions of the Convention to be extended to those territories as soon as possible".

CHAPTER V
STATUS OF WOMEN

SECTION I
COMMISSION ON THE STATUS OF WOMEN
(*Second session*)

The second session of the Commission on the Status of Women was held at Lake Success from 5 to 19 January 1948. It adopted a number of resolutions and decisions (E/615) on political rights of women, educational opportunities for women, economic rights of women, amendments to the Draft Declaration on Human Rights, marriage, and other questions, as set out under the following headings A–N:

A. *Political Rights of Women*

The Commission on the Status of Women,

Recognizing that the dignity and worth of the human person, the equal rights of men and women and of nations large and small, which are referred to in the Charter of the United Nations, insistently call for the abolition of the political inequality of women which still prevails in many countries;

Considering that the equal participation of women in national, economic, cultural and social and political life is impossible unless women are granted equal rights with men;

Having regard to the General Assembly's decision of 11 December 1946 concerning the political rights of women and of the replies received from some of the Member Governments,

Notes that, although the vast number of these make no distinction between men and women as to the use of the franchise and eligibility for public office, some report limitations on women in this regard;

Recommends that the Economic and Social Council:

(*a*) *Instruct* the Secretary-General to address a communication to all Governments which have not replied and which do not now grant full political rights to women, inquiring as to their plans to give effect to the Charter affirmation of "equal rights for men and women", in regard to the franchise and eligibility to public office, and urging them to take appropriate and immediate action;

(*b*) *Request* the States Members of the United Nations where women have not yet been given the same political rights as men, to grant them such rights in all spheres of economic, national, cultural and social and political life. The Commission also draws attention to the fact that opportunities for the exercise of these rights and a greater measure of activity by women voters in making use of their right to take part in elections, as well as the introduction of a more general system of electing women to key posts in national, public, municipal and other institutions will serve as an effective method of stimulating the interest of women voters, will increase their interest in social and political work, and will ensure a fuller use by women voters of their right to take part in elections; and

Requests, in line with the resolution 56 (I) on the political rights of women presented by Denmark at the first regular session of the General Assembly, that document E/CN.6/30, relating to the franchise rights of women and their eligibility to public office, prepared by the Secretariat for the Commission, should be brought up to date so as to include reference to action by Governments since the signing of the Charter, and presented to the third regular session of the General Assembly; and that similar material should be presented annually to succeeding sessions of the Assembly until all women throughout the world have the same political rights as men.

B. *Participation of Women in International Activities of Governments*

The Commission on the Status of Women,

Noting that article 8 of the United Nations Charter provides that "The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs",

Expresses concern that the Secretary-General has as yet appointed very few women to key positions in the Secretariat;

Recommends that the Economic and Social Council:

(*a*) Request the Secretary-General to appoint women to key positions in the Secretariat of the United Nations;

(*b*) Suggest that Member Governments include women in increasing numbers as their representatives on organs and agencies of the United Nations and in international bodies and conferences; and

(*c*) Suggest that where such organizations do not now include women, special consideration be given to the appointment of women whenever vacancies occur.

C. *Equal Opportunities for Women at all Levels of Government Activity*

The Commission on the Status of Women,

Taking note that in some countries not all the positions in the civil service are open to women, that there is no representation of women on the civil service committees in charge of examinations and appointments, and that there are differences between men and women regarding qualifications, preference in appointment, remuneration, opportunities for advancement and promotion, and disqualifications, such as that married women are barred from appointment and continuation of office; and

Considering that in certain countries there is discrimination against women as to professional opportunities and access to diplomatic and consular posts and to judiciary posts, even if women are fully qualified,

Recommends that the Economic and Social Council instruct the Secretary-General to draw the attention of Member States to the pledges concerning the status of women undertaken when signing the United Nations Charter, with a view to granting women, married or unmarried, full and equal opportunities in the civil service, in all professions, in all diplomatic, consular, and judicial spheres, and at all levels of governmental activity.

D. *Nationality*

The Commission on the Status of Women,

Noting the many and varied discriminations against women that result from conflicts in national laws relating to nationality, domicile, marriage and divorce, and

Noting the Hague Convention on the Conflict of Nationality Laws (1930), the Montevideo Convention on the Nationality of Women (1933) and the studies in this field undertaken by the League of Nations,

Recommends that the Economic and Social Council instruct the Secretary-General:

(*a*) To obtain from all Member States an account of their present laws and administrative practices in the fields of nationality, domicile, marriage and divorce in so far as they affect women married or formerly married to husbands of a different nationality, and the anomalies arising therefrom, and as they affect children born to parents of different nationalities; to prepare a report thereon for the next session of the Commission; and to report on existing treaties and conventions in the field of nationality and the signatories thereto;

(*b*) To obtain the views of the International Law Commission, the Social Commission, the Commission on Human Rights, and various other United Nations bodies and specialized agencies on this subject and to make this information available to the Commission on the Status of Women for its use in making recommendations for a suitable Convention on nationality;

(*c*) To forward to Member Governments a request that married women should have the same rights as regards nationality as are enjoyed by men and single women.

E. *Educational Opportunities for Women*

The Commission on the Status of Women,

Bearing in mind the aims of affording women equal educational rights with men and securing a general education for all women in all countries;

Noting that there are considerable shortcomings in the achievement of these objectives, as shown by the lower educational level of women compared with men in many countries where serious attention is not being paid to the education of women;

Noting that in many countries sex discrimination is exercised against women in the matter of securing professional or technical education, and that the main reasons which militate against women receiving an education are the economic and social conditions existing in those countries and the fact that the educational rights of women are not constitutionally guaranteed,

Considers it its duty to draw the attention of the Economic and Social Council to the above situation prevailing in the sphere of women's education in many countries and recommends that the Economic and Social Council request the States Members of the United Nations to grant women, through the legislative channel, equal educational rights with men, and to ensure that they are afforded genuine educational opportunities; and furthermore

Recommends that these rights should be guaranteed them irrespective of nationality or race, by general compulsory education, free elementary education, a system of State bursaries for outstanding students in higher schools, school instruction in the indigenous language of the country, and the organization in enterprises and rural areas of free industrial, technical and agricultural instruction for women.

F. *Proposed Teachers' Charter*

The Commission on the Status of Women

Supports the suggestion made by UNESCO that the proposed teachers' charter include the phrase: "no bar founded on distinctions of race, colour, sex or creed should operate in any way in any branch of the teaching profession";

Urges that in view of widespread practices, additional suggestions be made that this charter support the principles of equal pay for men and women and of freedom from discrimination on the ground of marital status; and

Suggests further that, in view of a common interest in this field, UNESCO be requested to include in its annual report information on its progress and plans for improving educational opportunities for women.

G. *Economic Rights*

The Commission on the Status of Women,

Recognizing that any limitation in the matter of equal rights of men and women is a breach of fundamental human rights and is incompatible with the obligations assumed by Members of the United Nations under the Charter,

Noting the existence in a number of countries of discrimination as regards the economic and social status of women, as a result of which the dignity and worth of woman and the active part she plays in society are not given the legal recognition and opportunities they deserve, and that the development of social progress and the improvement of the standards of living of the population of these countries are thereby retarded,

Recommends that the Economic and Social Council request the States Members of the United Nations to ensure

(*a*) That, irrespective of their nationality, race, language or religion, women be granted equal rights with men to employment and remuneration therefor, leisure, social insurance and professional training;

(*b*) That in each country the rights of mothers and children be guaranteed by law.

H. *Equal Pay*

The Commission on the Status of Women

Affirms its support of the principle of equal pay for men and women, and *recommends* that the Economic and Social Council:

(*a*) Call upon Member Governments to encourage the establishment of this principle through all possible means, especially in their own publicly supported and civil services;

(*b*) Invite the International Labour Organization and non-governmental organizations in category A to compile memoranda setting forth what action they are taking to provide equal pay for men and women and so implement the principle of the United Nations Charter that there shall be no discrimination based on sex, these memoranda to be submitted to the Commission at its next session.

I. *Property Rights of Married Women*

The Commission on the Status of Women

Affirms its belief that all women should be assured full economic rights regardless of marital status;

Calls attention to variations in laws in this field, some of which operate to restrict married women in regard to their rights to act as guardians, to control property and earnings, to undertake independent business ventures and in other ways;

Recommends that the Economic and Social Council request the Secretary-General to complete, as promptly as possible, sections of the questionnaire pertinent to the economic rights of married women, now in preparation, for submission to Governments.

J. *Amendments to Draft Declaration on Human Rights*

The Commission considered the draft Declaration on Human Rights prepared by the Commission on Human Rights at its second session, and decided to recommend the following amendments to articles 1 and 13 of the draft declaration:

Art. 1. "All people are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in the spirit of brotherhood."

Art. 13. "Men and women shall have equal right to contract or dissolve marriage in accordance with the law."

K. *Marriage*

The Commission on the Status of Women decided to draw the attention of the Economic and Social Council to the following extract from the statement of aims adopted at its first session:

"Full equality in all civil rights, irrespective of nationality, race, language or religion, including:

(*a*) Marriage—freedom of choice, dignity of the wife, monogamy, equal right to dissolution of marriage . . . .

To this statement of aims the Commission decided to add the following observations:

"1. *Monogamy.* The Commission emphasizes its belief in the principle of monogamy and urges the United Nations to work for the acceptance of this principle.

"2. *Freedom of choice.* This right cannot be fully guaranteed unless it is recognized that individuals have the right to leave their country on marriage and to reside with the other partner in any country from which they cannot lawfully be excluded. The Commission therefore notes with satisfaction the terms of article 10 (2) of the draft declaration on human rights (document E/600) as recognizing a right essential for safeguarding freedom of choice in marriage."

L. *Trusteeship Questionnaire*

Upon the request of the Economic and Social Council, the Commission examined the Provisional

Questionnaire of the Trusteeship Council (T/44)[1] and decided to recommend that the Economic and Social Council suggest certain changes in respect of the legal status and treatment of women in the Trust Territories (pp. 13–15 of E/615).

M. *Means of Influencing Public Opinion*

The Commission recommended that the Economic and Social Council request the Secretary-General to call upon the world Press, radio, film and other information agencies to help in removing such prejudices as exist against the equality of men and women; recommended that a popular pamphlet on political rights accorded or denied to women should be published; and further recommended to the Economic and Social Council that the Commission be permitted to assist women voters in acquiring necessary information and making maximum use of the right to vote.

N. *Commercialized Prostitution and Venereal Disease*

The Commission considered a draft resolution on venereal disease. The subject matter being within the terms of reference of the Social Commission and the World Health Organization, it was decided to include it as an annex to its Report (E/615) for transmission to these bodies. Its terms are as follows:

The Commission on the Status of Women,

Considering that commercialized prostitution and State regulation of prostitution are a violation of human rights, are contrary to the principles of the United Nations, and bring the greatest dishonour, degradation and humiliation upon women;

Considering that it is known that in many countries powerful and wealthy interests are involved in commercialized vice and in the traffic in women, and oppose all efforts to eradicate this social evil;

Considering that the existence of brothels provides a market for women and therefore encourages traffic in women, which is contrary to international conventions;

Considering that registered brothels and registered prostitutes create a false sense of security from infection from venereal disease; and

Considering that the best-informed opinion today is that the evils of prostitution and venereal disease should be dealt with by social workers and doctors and that the most effective preventive of venereal disease is free and secret treatment of venereal disease accompanied by suitable education,

Requests the Economic and Social Council to forward this resolution to the Social Commission and the World Health Organization for their information.

[1] See *Yearbook on Human Rights for 1947*, pp. 473–477.

SECTION II

THE ECONOMIC AND SOCIAL COUNCIL

(Sixth session)

At its sixth session, from 2 February to 11 March 1948, the Economic and Social Council considered the Report of the second session of the Commission on the Status of Women (E/615), and adopted resolution 120 (VI) concerning political rights of women, educational opportunities for women, and the International Bill of Human Rights. It also adopted resolution 121 (VI) on the principle of equal pay for equal work for men and women workers. The texts of these resolutions (E/777) are as follows:

A. *Political Rights of Women*

The Economic and Social Council

Requests the Secretary-General:

(i) To bring up to date, including reference to action taken by Governments since the signing of the Charter, the memorandum supplementing his preliminary report on the political rights of women and their eligibility for public office, and present it to the third regular session of the General Assembly, in line with the resolution submitted by Denmark to the first regular session of the General Assembly on the political rights of women; and

(ii) To circulate similar material annually to Members of the United Nations until all women throughout the world have the same political rights as men.

B. *Educational Opportunities for Women*

The Economic and Social Council

Requests the Secretary-General:

(i) To invite Governments that have not already done so to reply to Part I, section D (Educational opportunities) of the Questionnaire on the Legal Status and Treatment of Women by 1 June 1948;

(ii) To prepare, on the basis of these replies, supplemented where necessary by other available material, and for circulation not later than six weeks before the third session of the Commission, a detailed comparative report, arranged by subjects, showing the existing disabilities of women in the field covered by the said section of the questionnaire; and

(iii) To make these replies available to UNESCO, with the consent of the Governments concerned, in order to facilitate its work in areas where women and girls suffer disabilities in the field of education.

C. *International Bill of Human Rights*

The Economic and Social Council

Transmits to the Commission on Human Rights and its Drafting Committee on an International Bill of

Human Rights the following suggestions of the Commission on the Status of Women for amendments to the Draft International Declaration of Human Rights:

Art. 1. "All people are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in the spirit of brotherhood."

Art. 13. "Men and women shall have equal rights to contract or dissolve marriage in accordance with the law."

D. *Principle of Equal Pay for Equal Work for Men and Women Workers*

The Economic and Social Council,

Having considered the question of the application of the principle of equal pay for equal work for men and women workers placed on its agenda at the request of the World Federation of Trade Unions, and the memorandum submitted on the subject by the Federation,

Having considered the recommendation on equal pay adopted by the Commission on the Status of Women,

Reaffirms the principle of equal rights of men and women laid down in the Preamble of the United Nations Charter and approves the principle of equal remuneration for work of equal value for men and women workers;

Calls upon the States Members of the United Nations to implement the latter principle in every way, irrespective of nationality, race, language and religion;

Decides to transmit the memorandum of the World Federation of Trade Unions to the International Labour Organization, inviting the latter to proceed as rapidly as possible with the further consideration of this subject and to report to the Council on the action which it has taken;

Further resolves to transmit the memorandum of the World Federation of Trade Unions to the Commission on the Status of Women for its consideration and for any suggestions it may wish to make to the Council; and

Invites non-governmental organizations in category A concerned to present their views on the subject to the ILO and to the Council.

SECTION III

THE COMMISSION ON HUMAN RIGHTS

(*Third session*)

The amendments to articles 1 and 13 of the draft Declaration of Human Rights proposed by the Commission on the Status of Women were considered by the Commission on Human Rights at its third session, from 24 May to 18 June 1948. The final draft (E/800) which the Commission on Human Rights prepared reflected the views of the Commission on the Status of Women.

Article 1 as redrafted by the Commission read as follows: "All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood."

Article 13 became article 14, paragraph 1 of which reads as follows: "Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage."

SECTION IV

THE ECONOMIC AND SOCIAL COUNCIL

(*Seventh session*)

At its seventh session, from 19 July to 29 August 1948, the Economic and Social Council further considered the Report of the second session of the Commission on the Status of Women (E/615), and adopted resolution 154 (VII) concerning political rights of women, access to public service, nationality, marriage, means of influencing public opinion, educational opportunities for women, and social and economic rights of women (E/1065).

A. *Political Rights of Women*

The Economic and Social Council,

Recognizing that the dignity and worth of the human person, the equal rights of men and women, and of nations large and small, which are referred to in the Charter of the United Nations, insistently call for the abolition of the political inequality of women which still prevails in many countries,

Considering that the equal participation of women in national, economic, cultural, social and political life is impossible unless women are granted equal rights with men,

Having regard to General Assembly resolution 56 (I) of 11 December 1946 concerning the political rights of women and the replies received from some of the Member Governments,

Notes that, although the vast number of these make no distinction between men and women as to the use of the franchise and eligibility for public office, some report limitations on women in this regard;

Requests the States Members of the United Nations, where women have not yet been given the same political rights as men, to grant them such rights in all spheres of economic, national, cultural, social and political life;

Requests the Secretary-General to address a communication to all Governments which have not replied to

the communication sent by him pursuant to General Assembly resolution 56 (I) (*b*) of 11 December 1946 and, in so far as they do not now grant full political rights to women, to inquire as to their plans to give effect to the Charter affirmation of "equal rights for men and women" in regard to the franchise and eligibility to public office; and to urge them to take appropriate and immediate action;

Draws attention to the fact that opportunities for the exercise of these rights and a greater measure of activity by women voters in making use of their right to take part in elections, as well as the introduction of a more general system of electing women to key posts in national, public, municipal and other institutions, will serve as an effective method of stimulating the interest of women voters, will increase their interest in social and political work, and will ensure a fuller use by women voters of their right to take part in elections; and

Further requests the Secretary-General to continue the collection of information, for the benefit of women who have recently acquired the vote, about effective programmes of political education, and to give favourable consideration to measures for technical advice to such countries; and to prepare for general use a popular pamphlet showing the extent to which women have been accorded equal political rights.

B. *Access to Public Service*

The Economic and Social Council,

Considering that, in certain countries, women do not have the same possibilities as men of access to public administration posts and to the exercise of all the professions, and

Considering that article 8 of the Charter of the United Nations lays down that "the United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs",

Resolves to recommend that Members:

(*a*) Grant women, whether married or unmarried, access on equal terms with men to posts in the public service at all levels, including diplomatic, consular, legal and judicial office, and to all liberal and other professions; and

(*b*) Consider women equally with men when appointing their delegations to organs and agencies of the United Nations and to international bodies and conferences.

C. *Nationality*

The Economic and Social Council,

Noting the views expressed by the Commission on the Status of Women with respect to the many and varied discriminations against women that result from conflicts between national laws relating to nationality, domicile, marriage and divorce, and

Noting the Hague Convention of 1930 on the Conflict of Nationality Laws, the Montevideo Convention of 1933 on the Nationality of Women, and the studies in this field undertaken by the League of Nations,

Requests the Secretary-General to prepare for the consideration of the Commission at its third session:

(*a*) A report based on replies to part I, section G of the questionnaire on the legal status and treatment of women, together with a report on existing treaties and conventions in the field of nationality; and

(*b*) A list of questions designed to elicit any further information which, after an examination of the replies of Governments, may be found to be required by the terms of the Commission's resolution on nationality.

D. *Marriage*

The Economic and Social Council

Deplores all legislative measures which forbid mixed marriages between persons differing as to colour, race, nationality, citizenship or religion, and in general such other legislative or administrative provisions as restrict the freedom to choose a spouse (with the exception of restrictions based on family relationships, age, the nature of the functions being exercised, or other similar reasons) as well as those legislative or administrative provisions which deny to a woman the right to leave her country of origin and reside with her husband in any other; and

Resolves to transmit the observations of the Commission on the Status of Women contained in paragraph 29 of the report, and also the Chilean proposal contained in document E/AC.27/W.16 and the USSR proposal contained in document E/AC.27/W.18, to the Commission on Human Rights.

E. *Means of influencing Public Opinion*

The Economic and Social Council,

Having considered the need to influence world public opinion in favour of equality between men and women,

Recommends that the Secretary-General:

(*a*) Call upon the world Press, radio, film and other information agencies to help in removing such prejudices as have been proved to exist in this respect; and

(*b*) Assist, in accordance with his means and possibilities, all such information agencies in these efforts to the fullest possible extent, and prepare suitable information material of all kinds for this purpose.

F. *Educational Opportunities for Women*

The Economic and Social Council,

Considering that the principle of the equality of rights of men and women enunciated in the preamble of the United Nations Charter should also be applied in the educational field and all its branches,

Having noted that this principle is not satisfactorily applied in certain countries, especially where the technical and professional education of women is concerned, due either to the lack of legislation guaranteeing the right of women to education or to the failure to apply such legislation,

Requests the States Members of the United Nations to grant women equal educational rights with men and to ensure that they are afforded genuine educational opportunities, irrespective of nationality, race or religion; and

Further suggests that the United Nations Educational, Scientific and Cultural Organization include in its annual reports information on its progress and plans for improving educational opportunities for women; and that the United Nations Educational, Scientific and Cultural Organization, upon request, be ready to make suggestions for programmes for the education of adults in the various countries where such programmes would help to solve the problem of illiteracy, and for other educational programmes, having in mind, when elaborating every educational programme, that the widest publicity of the political, social and civic rights of women and of the historical evolution and practical results of these matters is a question of vital importance, in order to teach the principle of equality of the sexes.

G. *Social and Economic Rights of Women*

The Economic and Social Council,

Recognizing that restrictions with regard to the equality of rights of men and women constitute an infringement of the fundamental rights of the human person and are incompatible with the obligations assumed by the States Members of the United Nations under the terms of the United Nations Charter,

Noting that there exist, in a certain number of countries, discriminatory practices with regard to the economic and social condition of women, which are not compatible with the dignity of woman and which make it more difficult for her to participate in the economic life of such countries,

Invites the States Members of the United Nations to adopt the necessary measures so that:

(*a*) Whatever their nationality, their race, their language or their religion, women shall benefit by the same rights as men in regard to employment and remuneration therefor, as provided for in Council resolution 121 (VI), leisure, social insurance and professional training; and

(*b*) In each country there should be legal safeguards for the rights of mothers and children;

Draws attention to divergencies in various local systems in this field, some of them restricting the right of married women to act as guardians, to control property and earnings, and to undertake independent business ventures, and to engage in various other activities.

SECTION V

THE GENERAL ASSEMBLY

(Third session, first part)

The draft Declaration of Human Rights prepared by the third session of the Commission on Human Rights was submitted to the Economic and Social Council at its seventh session. The Council in resolution 151 (VII) transmitted the draft Declaration to the General Assembly for its consideration at its third regular session (Part I).

The Universal Declaration of Human Rights adopted by the General Assembly on 10 December 1948 embodied the principle of complete equality between men and women as contained in the amendments proposed by the Commission on the Status of Women. The contributions of the Commission on the Status of Women may be seen especially in articles 1 and 16 (1):

Art. 1. "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

Art. 16. "Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution."

CHAPTER VI
FREEDOM OF INFORMATION

SECTION I
SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS
(*Second session*)

The Sub-Commission held its second session at Lake Success from 19 January to 3 February 1948. It considered articles 17 and 18 of the draft Declaration on Human Rights, article 17 of the draft Covenant on Human Rights, and the rights, obligations and practices to be included in the concept of freedom of information.[1]

A. *Articles 17 and 18 of the draft Declaration on Human Rights*

The Commission on Human Rights at its second session referred articles 17 and 18 of the draft Declaration on Human Rights[2] to the Sub-Commission for its consideration and report. The Sub-Commission decided to recommend to the Commission the following article:

"Everyone shall have the right to freedom of thought and expression: this shall include freedom to hold opinions without interference; and to seek, receive and impart information and ideas by any means and regardless of frontiers."

The Sub-Commission decided to recommend to the Commission the deletion of the words "thought and" in article 16 of the draft declaration.[2] The Sub-Commission recommended that, should this deletion prove unacceptable, the Commission could replace the word "thought" by the word "opinion" in the above article which it proposed to the Commission.

B. *Article 17 of the Draft Covenant on Human Rights*

The Commission on Human Rights at its second session remitted to the Sub-Commission, for its consideration and views, two texts of article 17 of the draft Covenant on Human Rights, one submitted by the United States of America and one by the Drafting Committee.[3] The Sub-Commission decided to recommend to the Commission the following article:

1. Every person shall have the right to freedom of thought and expression without interference by governmental action: this right shall include freedom to hold opinions, to seek, receive and impart information and ideas, regardless of frontiers, either orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices.

2. The right to freedom of expression carries with it duties and responsibilities. Penalties, liabilities or restrictions limiting this right may therefore be imposed for causes which have been clearly defined by law, but only with regard to:

(*a*) Matters which must remain secret in the vital interests of the State;

(*b*) Expressions which incite persons to alter by violence the system of government;

(*c*) Expressions which directly incite persons to commit criminal acts;

(*d*) Expressions which are obscene;

(*e*) Expressions injurious to the fair conduct of legal proceedings;

(*f*) Expressions which infringe rights of literary and artistic property;

(*g*) Expressions about other persons which defame their reputations or are otherwise injurious to them without benefiting the public.

Nothing in this paragraph shall prevent a State from establishing on reasonable terms a right of reply or a similar corrective remedy.

3. Previous censorship of written and printed matter, the radio and newsreels shall not exist.

4. Measures shall be taken to promote the freedom of information through the elimination of political, economic, technical and other obstacles which are likely to hinder the free flow of information.

The Sub-Commission decided to transmit to the Commission on Human Rights the following note on the relation of article 17 of the draft covenant to the power of expulsion:

1. The Sub-Commission has interpreted the Covenant as not intended to regulate the power of a State, party thereto, to determine what aliens shall enter or remain within its territory, except that article 12 prohibits arbitrary methods of expulsion. Therefore, the Sub-Commission has assumed that article 17, as herewith submitted, does not impair the power of such

[1] The Report of this session is contained in document E/CN. 4/80, 6 February 1948 or Economic and Social Council, *Official Records*, sixth session, Supplement No. 1. The Summary Records are contained in documents E/CN. 4/Sub. 1/SRs. 24 to 47.

[2] See *Yearbook on Human Rights for 1947*, p. 542.

[3] See *Yearbook on Human Rights for 1947*, p. 548.

States to refuse visas to foreign journalists and other writers and to order the departure of such persons in a humane manner.

2. If this interpretation is mistaken and if the first sentence of article 17 does impair the power of the States, parties thereto, over foreigners, then the Sub-Commission recommends that the limitation in that article be reconsidered and that additional provisions be inserted which will permit such States to retain such a width of control over foreign journalists and other writers as may be thought desirable by the Commission on Human Rights.

3. Although excluding the problems of immigration from article 17, the Sub-Commission believes that those problems are very important for freedom of information.

4. Therefore, the Sub-Commission hopes that the problems of liberalizing the temporary admission of journalists, authors, artists, scientists, scholars and students into foreign countries for purposes of receiving and imparting facts and ideas will subsequently receive careful attention from an appropriate body of the United Nations.

C. *The Rights, Obligations and Practices to be included in the Concept of Freedom of Information*

The Sub-Commission on Freedom of Information and of the Press presented a short interim report on the rights, obligations and practices which should be included in the concept of freedom of information. The Sub-Commission stated that its phrasing should not be taken to imply any binding, legal or restricted interpretation of its content. It was intended only as a broad statement of principles and its provisional character was emphasized, though it was hoped by the Sub-Commission that it might serve to focus future discussions and to present an introduction to the subject. The statement reads:

1. Freedom of information is a fundamental right and is the touchstone of all the freedoms to which the United Nations are dedicated.

2. Its establishment is essential to the maintenance, increase and diffusion of science and knowledge, and the strengthening of it will give fresh impetus to popular education and the spread of culture.

3. Freedom of information implies the right to think and to hold opinions without interference, to seek, receive and impart information and ideas by any means without fetters and regardless of frontiers.

4. For news personnel above all, but also for everyone so far as practical considerations permit, this freedom includes the right to have the widest possible access to the sources of information and to travel unhampered in pursuit thereof, and also to safeguard all sources of information honourably used.

5. The right to freedom of information and expression carries with it duties and responsibilities. These are so closely joined that their union justifies:

(*a*) Certain legal restrictions, the definition of which, together with the definition of the right itself, should be incorporated in an international covenant or other multilateral or bilateral agreements within the framework of the United Nations; and

(*b*) Certain moral obligations of equal importance.

6. The restrictions, penalties or liabilities referred to under subhead (*a*) of the preceding paragraph should, however, be imposed only for causes clearly defined by law. They should be confined to matters which must remain secret in the vital interests of the State; expressions which incite persons to alter by violence a system of government, except in cases of resistance to oppression; expressions which directly incite persons to commit criminal acts; expressions which are obscene; expressions injurious to the fair conduct of legal proceedings; expressions which infringe rights of literary and artistic property; and expressions about other persons which defame their reputation or are otherwise injurious to them without benefiting the public. Previous censorship of written and printed matter, the radio and newsreels shall not exist. Within the limits thus broadly described, the right to freedom of communication should be considered legally absolute. Any abridgment of it, as, for instance, by previous censorship, should be considered inimical to freedom.

7. The right to freedom of expression also confers upon all who enjoy it the moral obligation to tell the truth without prejudice and to spread knowledge without malicious intent, to facilitate the solution of the economic, social and humanitarian problems of the world as a whole through the free interchange of information bearing on such problems, to help promote respect for human rights and fundamental freedoms without any arbitrary discrimination, to help maintain international peace and security and to counteract the persistent spreading of false or distorted reports which provoke hatred or prejudice against States, persons or groups of different race, language, religion or philosophical conviction, confuse the peoples of the world, aggravate relations between nations or otherwise threaten and destroy the fruits of the common victorious struggle of nations against the nazi, fascist and Japanese aggressions during the last world war.

8. The legal form of censorship of the mass media of information is an element which must be taken into account as much as the spirit animating the owners. It is fundamental to the safeguarding of freedom of information that the use of the media should be governed by a willingness to express fairly differing points of view, especially on matters of importance, so that the public may have adequate facts on which to make decisions. Use of the media as an instrument of

power, and not as an agency of information, destroys their capacity to inform in this comprehensive and representative fashion.

9. To prevent the media of information from becoming instruments of exploitation of public opinion, whether in the service of Governments, financial interests or other private bodies, the following precautions or guarantees should be studied, either in whole or in part:

(*a*) Nomination of "boards of trustees";

(*b*) Measures aimed at fixing the responsibility of directors of organs of information and of information personnel in the event of serious professional misdemeanour;

(*c*) Compulsory or voluntary conversion of daily organs of information into co-operatives, trust foundations, joint stock companies or any other form of ownership facilitating control in the public interest;

(*d*) Measures preventing any preferential treatment and discrimination on the part of the State relating to: newsprint and technical supplies or the activities of news personnel, transmission or dissemination of publications or news;

(*e*) Measures preventing any special link between media of information and financial, commercial or industrial enterprises leading to an undesirable influence on the media of information or to their corruption;

(*f*) Organization of disciplinary councils in the profession of journalism and the promulgation of professional codes of honour;

(*g*) The training of information personnel in professional competence and in knowledge and understanding of public questions involved in their writing.

10. Experience proves that dangers arise when the media of information are in the hands of monopolies or quasi-monopolies, either public or private. In the former case, the State must deny itself effective control over all information media; otherwise, the function of criticism may be suppressed. In the latter case, information may be easily restricted or distorted to the detriment of the public interest.

11. The remedies for both situations deserve careful study. When the media are privately owned, attention should be directed to such measures as:

(*a*) The establishment of boards where complaints can be heard with assurance of adequate publication of their findings;

(*b*) Compulsory disclosure of ownership and other financial matters;

(*c*) Regulation of the source of capital;

(*d*) Removal of advertising pressures;

(*e*) Regulation or prevention of the formation of national and international cartels;

(*f*) Maintenance of diversity of sources of information and prevention of the standardization of news, especially on the part of governmental information services.

In all cases there should be provision for continuing and impartial studies of the actual performance of all mass media.

12. Physical facilities and technical equipment for the dissemination of information both nationally and internationally should be distributed on a reasonable and equitable basis. Without this, information will lack the comprehensive and representative qualities required. Reasonable and equitable access to means of transmission should also be established everywhere.

13. It is recognized that in time of war or proclaimed public emergency, a State may take measures derogating from the principles outlined in this paper, but only to an extent justified by the exigencies of the situation.

In its consideration of the rights, obligations and practices to be included in the concept of freedom of information and, especially in connexion with sub-paragraphs 4 and 7 above, the Sub-Commission voted favourably on the following resolution concerning the rights and duties of organs of information and the Press, submitted by Mr. J. M. Lomakin (Union of Soviet Socialist Republics):

1. The Sub-Commission considered it essential, in the interest of the spread of honest information, to provide telegraph agencies, newspapers and broadcasting companies with a broad access to the sources of information and to the means of communication on the territories of their own countries, as well as in other countries, within bounds that are compatible with the interests of national security.

2. The Sub-Commission considered essential the working out of such measures, which would secure the increasing availability of the communication of truly honest and objective information.

SECTION II

UNITED NATIONS CONFERENCE ON FREEDOM OF INFORMATION

The following is the text of the Final Act of the United Nations Conference on Freedom of Information (E/CONF. 679):

1. Pursuant to Resolution 74[1] of the Fifth Session of the Economic and Social Council, the United Nations Conference on Freedom of Information met at the European Headquarters of the United Nations, Geneva, Switzerland, during the period from 23 March to 21 April 1948.

[1] See *Yearbook on Human Rights for 1947*, pp. 509–513.

2. Delegations representing the following Governments attended the Conference:

1. Afghanistan
2. Albania
3. Argentina
4. Australia
5. Austria
6. Belgium
7. Brazil
8. Bulgaria
9. Byelorussian Soviet Socialist Republic
10. Canada
11. Chile
12. China
13. Colombia
14. Costa Rica
15. Cuba
16. Czechoslovakia
17. Denmark
18. Dominican Republic
19. Ecuador
20. Egypt
21. El Salvador
22. Ethiopia
23. Finland
24. France
25. Greece
26. Guatemala
27. Hungary
28. India
29. Italy
30. Lebanon
31. Luxembourg
32. Mexico
33. Netherlands
34. New Zealand
35. Nicaragua
36. Norway
37. Pakistan
38. Panama
39. Peru
40. Philippines
41. Poland
42. Portugal
43. Romania
44. Sweden
45. Switzerland
46. Turkey
47. Ukrainian Soviet Socialist Republic
48. Union of South Africa
49. Union of Soviet Socialist Republics
50. United Kindom
51. United States of America
52. Uruguay
53. Venezuela
54. Yugoslavia

Observers representing the following Governments attended:

Bolivia Iran Ireland

Observers and consultants from the following organizations attended:

Inter-Governmental

International Labour Office
International Telecommunication Union
United Nations Educational, Scientific and Cultural Organization.

Non-Governmental

International Co-operative Alliance
International Organization of Industrial Employers
International Organization of Journalists
Inter-Parliamentary Union
World Federation of United Nations Associations

3. The Conference elected Ambassador Carlos P. ROMULO (the Philippines) as president. Delegates representing the following countries were elected Vice-Presidents: Canada, China, Cuba, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America.

4. The Conference adopted as its Agenda the Provisional Agenda proposed by the Economic and Social Council with the addition of the two resolutions referred to the Conference by the General Assembly, on Measures to be taken against Propaganda and the Inciters of a New War and False or Distorted Reports; and two proposals made by the International Organization of Journalists.

5. The Conference adopted as its Rules of Procedure the draft Rules of Procedure prepared by the Secretary-General at the request of the Economic and Social Council. When challenged, the decision of the Council that voting rights at the Conference be exercised only by Members of the United Nations was reaffirmed.

6. The Conference set up the following committees:

(*a*) A General Committee (Bureau), comprising the President of the Conference, the Vice-Presidents, and the Chairmen of the four principal committees;

(*b*) Four principal committees, upon which each delegation was invited to be represented:

(i) *Committee I*, on the basic tasks of the Press and other media of information, and the basic principles of freedom of information, as well as general problems common to other committees.

This committee held thirty-one meetings. Dr. G. J. van Heuven GOEDHART (the Netherlands) was elected Chairman; Mr. Franco ROSSI (Uruguay), Vice-Chairman; and Mr. Nihat ERIM (Turkey), Rapporteur.

(ii) *Committee II*, on the gathering and international transmission of information.

This committee held twenty-two meetings. Dr. Vladislav RIBNIKAR (Yugoslavia) was elected Chairman; Mr. Jamil MIKAOUI (Lebanon), Vice-Chairman; and Mr. Sven DAHLMAN (Sweden), Rapporteur.

(iii) *Committee III*, on the free publication and reception of information.

This committee held eighteen meetings. Dr. Raul NORIEGA (Mexico) was elected Chairman; Mr. Christian CHRISTENSEN (Norway), Vice-Chairman; and Mr. S. M. IKRAM (Pakistan), Rapporteur.

(iv) *Committee IV*, on law and continuing machinery.

This committee held twenty-seven meetings. Sir Ramaswami MUDALIAR (India) was elected Chairman; Mr. Alexei ROMANOV (Byelorussian SSR), Vice-Chairman; and Professor Fernand DEHOUSSE (Belgium), Rapporteur.

(*c*) A Committee on Credentials, comprising the representatives of Argentina, Australia, Belgium, the Byelorussian Soviet Socialist Republic, Czechoslovakia, Denmark, Egypt, Pakistan and Venezuela, of which Mr. Emilio D. CIPOLETTI (Argentina) was elected Chairman and Rapporteur. This committee held three meetings, and reported to the Conference on the credentials of the Representatives.

7. The Conference resolved:

(i) That all documents passed by the Conference, Resolutions or draft Conventions, be referred to the Economic and Social Council for study at its next session;

(ii) That all Governments invited to this Conference be requested to forward to the Secretary-General of the United Nations before 5 July 1948 their comments on the draft conventions proposed by the Conference and proposals for other draft conventions based on the recommendation of this Conference;

(iii) That the Economic and Social Council be requested to examine, at its seventh session, the draft conventions referred to it by the Conference, in the light of such comments and other proposed draft conventions as provided in paragraph (ii); and to submit to the General Assembly, at its third session, draft conventions which may thereafter be opened at that session for signature or accession by those States entitled and willing to become parties thereto and remain open subsequently for additional accessions.

8. On the basis of the deliberations of the Conference and its committees, as recorded in the records and reports of the plenary meetings and the meetings of the respective committees, the Conference prepared and forwarded to the Economic and Social Council the draft conventions referred to above, which are appended to this Final Act as Annex A.

9. At the request of the Economic and Social Council, the Conference also prepared draft articles for the draft Declaration on Human Rights and the draft Covenant on Human Rights. These draft articles are appended to this Final Act as Annex B.

10. In addition, the Conference adopted the resolutions which are appended to this Final Act as Annex C.

11. The Conference authorized its Executive Secretary to bring this Final Act to the attention of the Economic and Social Council.

12. IN WITNESS WHEREOF the President and the Executive Secretary of the Conference have signed this Final Act in the English and French languages, in the City of Geneva, this 22nd day of April 1948, each text being equally authentic. Texts in the five official languages of the United Nations will be deposited with the Secretary-General of the United Nations, who will send certified copies to each of the Governments invited to send representatives to the Conference.

The President of the Conference
(*Signed*) Carlos P. ROMULO

The Executive Secretary of the Conference
(*Signed*) John P. HUMPHREY

Annex A

DRAFT CONVENTIONS

I. *Draft Convention on the Gathering and International Transmission of News*

The Contracting States,

Desiring to implement the right of their peoples to be fully informed,

Desiring to improve understanding between their peoples through the free flow of information and opinion,

Having resolved to conclude a Convention for this purpose,

Have agreed as follows:

Art. 1. For the purposes of the present Convention, the following expressions are to be understood in the sense hereinafter defined.

A. Information Agency

A press, radio or film organization, whether public or private, created or organized under the applicable laws and regulations within the territories of a Contracting State, regularly engaged in the collection and dissemination of news (including opinion) to the public, including Press associations, news feature services, newspapers, periodicals, radio and television broadcasting organizations, and newsreel companies.

B. Foreign Correspondent

An individual employed by an information agency, or a national of a Contracting State, who in either case is regularly engaged in the collection and reporting of news (including opinion) to the general public, and who is the holder of a valid passport identifying him as a correspondent or of a similar document internationally accepted identifying him as such.

C. News Material

All news material, whether of information or opinion, and whether visual or auditory, for public dissemination.

Art. 2. In order to encourage the freest possible movement of foreign correspondents in the performance of their functions, the Contracting States shall expedite, in a manner consistent with their respective laws and procedures, the administrative measures necessary for the entry, residence, movement and travel of foreign correspondents, together with their professional equipment, and shall impose no special discriminatory or unusual restrictions on such ingress or egress, nor upon the transit through or residence in their territories of such correspondents.

Art. 3. The Contracting States shall permit and encourage the widest possible access to news, official and non-official, for all foreign correspondents on the same basis as for national correspondents and shall not discriminate among foreign correspondents as regards such access.

Art. 4. The Contracting States shall permit egress from their territory of all news material of foreign correspondents and foreign information agencies without censorship, editing or delay; provided that each of the Contracting States may make and enforce regulations relating directly to the maintenance of national military security. Such regulations must, however, be communicated to foreign correspondents and apply equally to all foreign correspondents and foreign information agencies.

If the requirements of national military security should compel a Contracting State, in peace-time, to establish censorship for a certain period of time, it shall:

(1) Establish in advance such categories of news material for the use of an information agency in another country as are subject to previous inspection and publish the directives of the censor announcing forbidden matters;

(2) Carry out censorship as far as possible in the presence of the foreign correspondent;

(3) Where censorship in the presence of the person concerned is not possible:

(*a*) Fix the time-limit allowed the censors for the return of the news material;

(*b*) Require the return of news material submitted for censorship direct to the foreign correspondent or foreign information agency so that they may know at once what has been censored in their text and what use they may make of the censored information;

(*c*) Base the charge on the number of words composing a telegram after censorship;

(*d*) Return the total telegraph charges for telegrams submitted for censorship, the transmission of which has been delayed more than six hours.

Art. 5. The Contracting States, while recognizing that foreign correspondents must conform to the laws in force in the countries in which they are operating, agree that foreign correspondents legally admitted into their territories shall not be expelled on account of any lawful exercise of their right to seek, receive or impart information or opinion.

Art. 6. The Contracting States agree that foreign correspondents shall have access to all facilities generally and publicly used for the international transmission of news material and may transmit news material from one country to another on the same basis and at the same rates applicable to all other users of such facilities for similar purposes.

Art. 7. Each of the Contracting States agrees to permit all news material of foreign correspondents and information agencies of the other Contracting States to enter its territory and reach information agencies operating therein on the same conditions as are accorded to any other foreign information agencies.

Art. 8. Nothing herein contained shall be construed as depriving any Contracting State of its right to make and enforce regulations prohibiting obscene news material.

Art. 9. The present Convention shall not apply to foreign correspondents who, while not otherwise admissible under article 2 into the territory of a Contracting State, are nevertheless admitted conditionally in accordance with an agreement between that Contracting State and the United Nations, or a specialized agency thereof, in order to cover its proceedings, or pursuant to a special arrangement made by the Contracting State in order to facilitate the entry of such correspondents.

Art. 10. Nothing herein contained shall be interpreted as exempting foreign correspondents or foreign information agencies from public laws and regulations promulgated by any Contracting State for the protection of national security.

Art. 11. The present Convention shall be ratified on behalf of the States signatory hereto in conformity with their respective constitutional procedures. The instruments of ratification shall be deposited with the Secretary-General of the United Nations, who shall notify all signatory and acceding States of each such deposit.

Art. 12. The present Convention shall remain open for accession of all States which are not signatories. Instruments of accession shall be deposited with the Secretary-General of the United Nations, who shall notify all signatory and acceding States of each such deposit.

Art. 13. The present Convention shall come into force as soon as two States have deposited their respective instruments of ratification or accession. The convention thereafter shall come into force with respect to each other State on the date of the deposit of its instrument of ratification or accession.

Art. 14. (*a*) A State party to the present Convention may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to any of the territories for the international relations of which it is responsible, and the Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification.

The respective Contracting States undertake to seek immediately the consent of the Governments of such territories to the application of the present Convention to such territories, and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

(*b*) A State which has made a declaration under paragraph (*a*) above extending the present Convention may with the consent of the Government concerned at any time thereafter by notification to the Secretary-General of the United Nations declare that the Convention shall cease to extend to any territory named in the notification, and the Convention shall then cease to extend to such territory six months after the date of receipt by the Secretary-General of the United Nations of the notification.

Art. 15. The present Convention shall remain in force indefinitely, but may be denounced by any Contracting State, by means of six months' notice in writing given to the Secretary-General of the United Nations, who shall transmit a copy of the notice to each of the other Contracting States. After the expiration of this period of six months, the Convention shall cease in its effect as regards the State which denounces it, but shall remain in force for the remaining Contracting States.

IN WITNESS WHEREOF, the Plenipotentiaries of the respective States, being duly authorized thereto, have signed the present Convention.

DONE at —— this —— day of —— 1948 in the —— languages, each equally authentic, the original of which shall be deposited in the archives of the United Nations. The Secretary-General of the United Nations shall transmit certified copies thereof to all the signatory and acceding States.

II. *Draft Convention concerning the Institution of an International Right of Correction*

The Governments Parties to the present Convention,

Considering the danger to the maintenance of friendly relations between peoples and to the preservation of peace, presented by the publication of inaccurate reports;

Considering that at its second session, the General Assembly of the United Nations recommended the adoption of measures designed to promote friendly relations among nations and to combat the dissemination of false or distorted reports likely to injure the friendly relations between States;

Considering, however, that it does not at present appear possible or desirable to envisage the institution on the international level of a procedure for verifying the accuracy of a report such as might lead to the imposition of penalties for the publication of false or distorted reports;

Considering, moreover, that to prevent the publication of false or distorted news or to reduce its pernicious effects, it is above all necessary to sharpen the sense of responsibility of the various media of information and to promote the wide circulation of news;

That an effective means to this end is to give all those directly affected by a report which they consider false or distorted and which is spread by an organ of information the possibility of ensuring commensurate publicity for their corrections or replies; that the right of reply or correction had been embodied in the legislation of a large number of States and that its legitimacy is recognized in the draft of article 17 of the Covenant on Human Rights which the Sub-Commission on Freedom of Information and of the Press decided, at its second session, to recommend to the Commission on Human Rights; that failing the adoption, by all States, in their own legislation, of a like right available to foreign nationals under the same conditions as to their own nationals, it is particularly desirable to institute on the international level a right of correction; that it is necessary, however, in order to prevent any abuse, strictly to define the extent of the right of correction, and clearly to specify the conditions for its exercise;

Have adopted the following articles:

Art. 1. In cases where a Contracting State alleges that news reports likely to injure its relations with other States transmitted from one country to another country by foreign correspondents or by news agencies and disseminated abroad, are false or distorted, it may submit its version of the facts (hereinafter called *communiqué*) to the Contracting States within whose territories such reports have been published in one or more newspapers or periodicals or disseminated by radio. Such *communiqué* may be issued only with respect to news reports and must be without comment or expression of opinion. As far as possible the *communiqué* should not contain a larger number of words than the news report objected to, and in no case more than double the number of words in the news report to be corrected. The *communiqué* must be accompanied by a verbatim text of the report as published or disseminated, and by evidence that the report objected to has been transmitted from one country to another by a foreign correspondent or by a news agency.

Art. 2. 1. Any Government of a Contracting State receiving such a *communiqué* shall, whatever be its opinion concerning the facts in question, make available to the news enterprises functioning in the territory where it exercises its authority the *communiqué* of the Government exercising the right of correction and, within five clear days from the date of receiving this *communiqué*, shall facilitate its dissemination through customary channels in accordance with its procedure for releasing news concerning international affairs.

2. In the event of the failure of any Contracting State to discharge its obligation under this article with respect to the *communiqués* of another Contracting State, the latter may discharge on the basis of reciprocity its obligation with respect to any *communiqués* thereafter submitted to it by the defaulting State.

Art. 3. If any of the Contracting States to which this *communiqué* has been transmitted fails to fulfil, within the prescribed time-limit, the obligation laid down in the preceding article, the Government exercising the right of correction may submit the said *communiqué* to the Secretary-General of the United Nations who shall, within five clear days from the receipt thereof, give it appropriate publicity. This paragraph shall come into force as soon as the General Assembly of the United Nations has instructed its Secretary-General to perform this duty.

Art. 4. Every Contracting State may, to the extent strictly limited by the exigencies of the situation, derogate from its obligations under the present Convention.

(*a*) As long as a state of war or public emergency prevails in its own territory,

(*b*) As long as such a state prevails in the territory of one or other Contracting States, but only with regard to those States.

Art. 5. Any dispute between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiations shall be referred to the International Court of Justice for decision unless the Contracting States agree to another mode of settlement.

Art. 6. The present Convention shall be open for accession to every State invited to the United Nations Conference on Freedom of Information held at Geneva in March and April 1948, and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.

Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Art. 7. When any two of the States mentioned in article 6 have deposited their instruments of accession, the present Convention shall come into force between them on the thirtieth day after the date of the deposit of the second instrument of accession. It shall come into force for each State which accedes after that date on the thirtieth day after the deposit of its instrument of accession.

Art. 8. Any Contracting State may denounce the present Convention by notification of denunciation to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt by the Secretary-General of the United Nations of the notification of denunciation.

Art. 9. 1. A State party to the present Convention may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to any of the territories for the international relations of which it is responsible, and the Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification. The respective Contracting States undertake to seek immediately the consent of the Governments of such territories to the application of the present Convention to such territories, and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

2. A State which has made a declaration under paragraph 1 above extending the present Convention may with the consent of the Government concerned at any time thereafter by notification to the Secretary-General of the United Nations declare that the Convention shall cease to extend to any territory named in the notification, and the Convention shall then cease to extend to such territory six months after the date of receipt by the Secretary-General of the United Nations of the notification.

Art. 10. The Secretary-General of the United Nations shall notify each of the States referred to in article 6 of the date of the deposit of every instrument of accession and of the date on which this Convention comes into force and of any information received by him in accordance with the provisions of article 5 and of every notification received by him in accordance with the provision of articles 7 or 8.

III. *Draft Convention on Freedom of Information*

The States Parties to this Convention,

Considering that the free interchange of information and opinions, both in the national and in the international sphere, is a fundamental human right and essential in the cause of peace and for the achievement of political, social and economic progress, and

Desiring to co-operate fully with one another to promote the peace and welfare of mankind by this means,

Have accepted the following provisions:

Art. 1. Subject to the provisions of articles 2, 4, 5 and 6 of this Convention,

(*a*) Each Contracting State shall secure to all its own nationals and to the nationals of every other Contracting State lawfully within its territory freedom to impart and receive information and opinions, orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices without governmental interference;

(*b*) No Contracting State shall regulate or control the use or availability of any of the means of communication referred to in the preceding paragraph, in any manner discriminating against any of its own nationals or of the nationals of any other Contracting State on political or personal grounds or on the basis of race, sex, language or religion;

(*c*) Each Contracting State shall secure to all its own nationals and to the nationals of every other Contracting State, freedom to transmit and listen to information and opinions within its territories and across its frontiers by any legally operated means without governmental interference;

(*d*) Each Contracting State shall permit the nationals of other Contracting States as much freedom to seek information as it grants to its own nationals;

(*e*) The Contracting States shall encourage and facilitate the interchange between their territories of those of their nationals engaged in the gathering of information and opinions for dissemination to the public and shall deal expeditiously with applications by such persons to enter their territories.

Art. 2. 1. The freedoms referred to in paragraphs (*a*), (*c*) and (*d*) of article 1 carry with them duties and responsibilities and may therefore be subject to necessary penalties, liabilities and restrictions clearly defined by law, but only with regard to:

(*a*) Matters which must remain secret in the interest of national safety;

(*b*) Expressions which incite persons to alter by violence the system of government or which promote disorder;

(*c*) Expressions which incite persons to commit criminal acts;

(*d*) Expressions which are obscene or which are dangerous for youth and expressed in publications intended for them;

(*e*) Expressions which are injurious to the fair conduct of legal proceedings;

(*f*) Expressions which infringe literary or artistic rights;

(*g*) Expressions about other persons, natural or legal, which defame their reputations or are otherwise injurious to them without benefiting the public;

(*h*) Legal obligations resulting from professional, contractual or other legal relationships including disclosure of information received in confidence in a professional or official capacity;

(*i*) The prevention of fraud;

(*j*) The systematic diffusion of deliberately false or distorted reports which undermine friendly relations between peoples or States.

2. A Contracting State may establish on reasonable terms a right of reply or a similar corrective remedy.

Art. 3. Each Contracting State shall encourage the establishment and functioning within its territory of one or more non-official organizations of persons employed in the dissemination of information to the public, in order to promote the observance by such persons of high standards of professional conduct, and in particular:

(*a*) To report facts without prejudice and in their proper context and to make comments without malicious intent;

(*b*) To facilitate the solution of the economic, social and humanitarian problems of the world as a whole and the free interchange of information bearing on such problems;

(*c*) To help promote respect for human rights and fundamental freedoms without discrimination;

(*d*) To help maintain international peace and security;

(*e*) To counteract the persistent spreading of false or distorted reports which promote hatred or prejudice against States, persons or groups of different race, language, religion or philosophical conviction.

Art. 4. Nothing in the present Convention shall affect the right of any Contracting State to take measures which it deems necessary in order:

(*a*) To bring its balance of payments into equilibrium;

(*b*) To develop its national news enterprises until such time as such news enterprises are fully developed;

(*c*) To prevent agreements in restraint of the free flow of information or the cartelization in regard to information:

provided that such measures may not be used as a means of preventing the entry of nationals of other Contracting States who are engaged in the gathering of information and opinions for dissemination to the public.

Art. 5. Nothing in the present Convention shall prevent a Contracting State from reserving under its legislation to its own nationals the right to edit newspaper or news periodicals produced within its territory.

Art. 6. Nothing in the present Convention shall limit the discretion of any Contracting State to refuse entry into its territory to any particular person, or to restrict the period of his residence thereon.

Art. 7. As between the Contracting States which become parties to any general agreement on Human Rights sponsored by the United Nations and containing provisions relating to freedom of information, the present Convention shall be superseded by such agreement to the extent that the two instruments are inconsistent.

Art. 8. In time of war or other public emergency a Contracting State may take measures derogating from its obligations under the present Convention to the extent strictly limited by the exigencies of the situation.

Any Contracting State availing itself of this right of derogation shall promptly inform the Secretary-General of the United Nations of the measures which it has thus adopted and of the reasons therefor. It shall also inform him as and when the measures cease to operate.

Art. 9. Any dispute between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiations shall be referred to the International Court of Justice for decision unless the Contracting States agree to another mode of settlement.

Art. 10. 1. The present Convention shall be open for accession to every State invited to the United Nations Conference on Freedom of Information held at Geneva in March and April 1948, and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Art. 11. When any two of the States mentioned in article 10 have deposited their instruments of accession, the present Convention shall come into force between them on the thirtieth day after the date of the deposit of the second instrument of accession. It shall come into force for each State which accedes after that date on the thirtieth day after the deposit of its instrument of accession.

Art. 12. Any Contracting State may denounce the present Convention by notification of denunciation to

the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the Secretary-General of the United Nations of the notification of denunciation.

Art. 13. (*a*) A State party to the present Convention may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to any of the territories for the international relations of which it is responsible, and the Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification. The respective Contracting States undertake to seek immediately the consent of the Governments of such territories to the application of the present Convention to such territories, and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

(*b*) A State which has made a declaration under paragraph (*a*) above extending the present Convention may with the consent of the Government concerned at any time thereafter by notification to the Secretary-General of the United Nations declare that the Convention shall cease to extend to any territory named in the notification, and the Convention shall then cease to extend to such territory six months after the date of receipt by the Secretary-General of the United Nations of the notification.

Art. 14. The Secretary-General of the United Nations shall notify each of the States referred to in article 10 of the date of the deposit of every instrument of accession and of the date on which this Convention comes into force and of any information received by him in accordance with the provisions of article 11 and of every notification received by him in accordance with the provisions of articles 12 or 13.

Annex B

Draft Declaration and Draft Covenant on Human Rights

The United Nations Conference on Freedom of Information,

Having considered the resolution of the Economic and Social Council of 3 March 1948 referring to the Conference for its consideration and report articles 17 and 18 of the draft Declaration on Human Rights and article 17 of the draft Covenant on Human Rights with the recommendations of the Sub-Commission on Freedom of Information and of the Press,

Is of the opinion that:

I. Articles 17 and 18 of the Declaration may be embodied in one article as follows:

Everyone shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

II. Article 17 of the draft Covenant on Human Rights may be as follows:

(1) Every person shall have the right to freedom of thought and the right to freedom of expression without interference by governmental action; these rights shall include freedom to hold opinions, to seek, receive and impart information and ideas, regardless of frontiers, either orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices.

(2) The right to freedom of expression carries with it duties and responsibilities and may, therefore, be subject to penalties, liabilities or restrictions clearly defined by law, but only with regard to:

(*a*) Matters which must remain secret in the interests of national safety;

(*b*) Expressions which incite persons to alter by violence the system of Government;

(*c*) Expressions which directly incite persons to commit criminal acts;

(*d*) Expressions which are obscene;

(*e*) Expressions injurious to the fair conduct of legal proceedings;

(*f*) Infringements of literary or artistic rights;

(*g*) Expressions about other persons natural or legal which defame their reputations or are otherwise injurious to them without benefiting the public;

(*h*) The systematic diffusion of deliberately false or distorted reports which undermine friendly relations between peoples and States;

A State may establish on reasonable terms a right of reply or a similar corrective remedy.

(3) Measures shall be taken to promote the freedom of information through the elimination of political, economic, technical and other obstacles which are likely to hinder the free flow of information.

(4) Nothing in this article shall be deemed to affect the right of any State to control the entry of persons into its territory or the period of their residence therein.

III. *The Conference,* having considered the above articles of the Declaration and the Covenant, and the Second Report of the Sub-Commission,

Is of the opinion that article 17 of the Covenant is intended to apply to the freedom of expression of individuals as well as to the freedom of media of information and,

Considering there are particular provisions in many sources of law which restrict the freedom of expression and information other than those permitted by the draft article 17 suggested above,

Resolves that the problem created by the omission of such provisions be called to the attention of the Commission on Human Rights.

Annex C

RESOLUTIONS

CHAPTER I. GENERAL PRINCIPLES

Resolution No. 1

Whereas

Freedom of information is a fundamental right of the people, and is the touchstone of all the freedoms to which the United Nations is dedicated, without which world peace cannot well be preserved; and

Freedom of information carries the right to gather, transmit, and disseminate news anywhere and everywhere without fetters; and

Freedom of information depends for its validity upon the availability to the people of a diversity of sources of news and of opinion; and

Freedom of information further depends upon the willingness of the Press and other agencies of information to employ the privileges derived from the people without abuse, and to accept and comply with the obligation to seek the facts without prejudice and to spread knowledge without malicious intent; and

Freedom of information further depends upon the effective enforcement of recognized responsibilities,

The United Nations Conference on Freedom of Information resolves, therefore,

1. That everyone shall have the right to freedom of thought and expression: this shall include freedom to hold opinions without interference; and to seek, receive and impart information and ideas by any means and regardless of frontiers;

2. That the right of news personnel to have the widest possible access to the sources of information, to travel unhampered in pursuit thereof, and to transmit copy without unreasonable or discriminatory limitations, should be guaranteed by action on the national and international plane;

3. That the exercise of these rights should be limited only by recognition of and respect for the rights of others and the protection afforded by law to the freedom, welfare, and security of all;

4. That in order to prevent abuses of freedom of information, Governments in so far as they are able should support measures which will help to improve the quality of information and to make a diversity of news and opinion available to the people;

5. That it is the moral obligation of the Press and other agencies of information to seek the truth and report the facts, thereby contributing to the solution of the world's problems through the free interchange of information bearing on them, promoting respect for human rights and fundamental freedoms without discrimination, fostering understanding and co-operation between peoples, and helping maintain international peace and security;

6. That this moral obligation, under the spur of public opinion, can be advanced through organizations and associations of journalists and through individual news personnel;

7. That encouragement should be given to the establishment and to the functioning within the territory of a State of one or more non-official organizations of persons employed in the collection and dissemination of information to the public, and that such organization or organizations should encourage the fulfilment *inter alia* of the following obligations by all individuals or organizations engaged in the collection and dissemination of information;

(*a*) To report facts without prejudice and in their proper context and to make comments without malicious intent;

(*b*) To facilitate the solution of the economic, social and humanitarian problems of the world as a whole through the free interchange of information bearing on such problems;

(*c*) To help promote respect for human rights and fundamental freedoms without discrimination;

(*d*) To help maintain international peace and security;

(*e*) To counteract the spreading of intentionally false or distorted reports which promote hatred or prejudice against States, persons or groups of different race, language, religion or philosophical conviction;

8. That observance of the obligations of the Press and other agencies of information, except those of a recognized legal nature, can also be effectively advanced by the people served by these instrumentalities, provided that news and opinion reach them through a diversity of sources and that the people have adequate means of obtaining and promoting a better performance from the Press and other agencies of information.

Resolution No. 2

Whereas the peoples of the world have embodied in the United Nations their determination to protect mankind from the scourge of war and to prevent the recurrence of aggression from nazi, fascist, or any other source;

Whereas the attainment of a just and lasting peace depends in great degree upon the free flow of true and honest information to all peoples and upon the spirit of responsibility with which all personnel of the Press and other agencies of information seek the truth and report the facts; and

Whereas, by inaccurate reports, by defective or distorted presentation and deliberate or malicious misinterpretation of facts in various parts of the world, peoples have been misled and their mutual understanding has been seriously endangered;

The United Nations Conference on Freedom of Information

Endorses the resolutions of the second General Assembly on propaganda which is either designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression, and on the spreading of false and distorted reports;[1]

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[1] Resolutions 110 (II) and 127 (II) of the General Assembly, reproduced in *Yearbook of Human Rights for 1947*, p. 525.

Declares that all such propaganda and such reports:

(*a*) Are contrary to the purposes of the United Nations as defined in the Charter;

(*b*) Constitute a problem of the first importance calling for urgent corrective action on the national and international planes;

Condemns solemnly all propaganda either designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression, and all distortion and falsification of news through whatever channels, private or governmental, since such activities can only promote misunderstanding and mistrust between the peoples of the world and thereby endanger the lasting peace which the United Nations is consecrated to maintain;

Appeals vigorously to the personnel of the Press and other agencies of information of all the countries of the world, and to those responsible for their activities, to serve the aims of friendship, understanding and peace by accomplishing their task in a spirit of accuracy, fairness and responsibility;

Expresses its profound conviction that only organs of information in all countries of the world that are free to seek and to disseminate the truth, and thus to carry out their responsibility to the people, can greatly contribute to the counteracting of nazi, fascist or any other propaganda of aggression or of racial, national and religious discrimination and to the prevention of recurrence of nazi, fascist, or any other aggression;

And therefore recommends that all countries take within their respective territories the measures which they consider necessary to give effect to this resolution.

Resolution No. 3

Whereas the first Committee of the United Nations Conference on Freedom of Information on 9 April 1948 unanimously adopted a resolution declaring that all propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression, and also the spreading of false and distorted reports likely to injure friendly relations between States, constitute a problem of the first importance calling for urgent corrective action on the national and international planes, and

Whereas in the said resolution the first Committee expressed its profound conviction that only organs of information in all countries of the world which are free to seek and to disseminate the truth, and thus to carry out their responsibility to the people, can greatly contribute to the counteracting of nazi, fascist or any other propaganda of aggression or of racial, national and religious discrimination and to the prevention of recurrence of nazi, fascist, or any other aggression, and

Whereas, the said resolution having been adopted by this Conference, it is desirable that all appropriate steps should be taken to implement this resolution,

The United Nations Conference on Freedom of Information

Transmits the said Resolution to the Economic and Social Council, and

Recommends that all countries should promptly inform the Secretary-General of the United Nations of any measures taken by them to give effect to the Resolution;

Recommends that appropriate national bodies should supplement the work of information agencies and associations of journalists and of others engaged in the collection, publication and dissemination of news, in ensuring the impartial presentation of news and opinion;

Recommends that the United Nations should give consideration to means by which they may be able to assist in implementing the resolution; and further

Recommends that the Sub-Commission on Freedom of Information and of the Press in carrying out the functions which may be assigned to it in accordance with the recommendations of the Conference should consider appropriate means by which measures taken to give effect to the resolution may be co-ordinated.

Resolution No. 4

Considering that there are in some countries media of information which disseminateracial and national hatred,

The United Nations Conference on Freedom of Information

Recommends that the Governments of such countries should:

(*a*) Encourage the widest possible dissemination of free information through a diversity of sources as the best safeguard against the creation of racial and national hatred and prejudice;

(*b*) Encourage, in consultation with organizations of journalists, suitable and effective non-legislative measures against the dissemination of such hatred and prejudice; and

(*c*) Take, within their constitutional limits, appropriate measures to encourage the dissemination of information promoting friendly relations between races and nations based upon the purposes and principles of the United Nations Charter.

CHAPTER II. MEASURES TO FACILITATE THE GATHERING AND INTERNATIONAL TRANSMISSION OF INFORMATION

Resolution No. 5

The United Nations Conference on Freedom of Information

Resolves that:

1. Governments should encourage the freest possible movement of foreign correspondents in the performance of their functions; and that

2. Governments should expedite in a manner consistent with their respective laws and procedures the administrative measures necessary for the entry, residence, movement and travel of foreign correspondents, together with their professional equipment, and should impose no special, discriminatory or unusual restrictions on such ingress or egress, or upon the transit through or residence in their territories of such correspondents.

Resolution No. 6

Considering that a clear definition of which news personnel are to be regarded as professional foreign correspondents of newspapers, news agencies, periodicals, broadcasting enterprises and newsreel enterprises has not been established; and

Considering that the various recommendations adopted by this Conference are of particular importance in securing free and unhampered working conditions for foreign correspondents; and

Considering that the establishment of adequate means of identifying the professional foreign correspondents will facilitate for Governments the realization of their commitments for furthering the free flow of information;

The United Nations Conference on Freedom of Information

Recommends to the Economic and Social Council that the Sub-Commission on Freedom of Information and of the Press be requested to:

(1) Study the possibility of obtaining a clear and practically applicable definition of such news personnel as are to be given the status of professional foreign correspondents;

(2) Consider whether measures should be taken with a view to providing foreign correspondents with appropriate documents of identification as to their professional capacity;

(3) Consider whether additional administrative and technical facilities might be granted to foreign correspondents holding such documents of identification;

(4) Conduct this work in close collaboration with international and national professional organizations of the Press, radio and newsreel, especially by drawing upon the experience of news personnel actively engaged in the gathering and transmission of news; and

(5) Consider whether the task of handling any practical measures to be taken could be entirely or partially entrusted to a permanent organization collaborating with professional bodies of the Press, radio and newsreel, or to such professional bodies.

Resolution No. 7

The United Nations Conference on Freedom of Information,

While recognizing that all foreign news personnel must conform to the laws in force in the countries in which they are operating,

Declares that no such person legally admitted to a foreign territory should be expelled on account of any lawful exercise by him of his right to seek, receive and impart information or opinion.

Resolution No. 8

The United Nations Conference on Freedom of Information

Resolves

That Governments should permit and encourage the widest possible access to news, official and non-official, for all foreign correspondents on the same basis as for national correspondents;

And further resolves

That Governments should make no discrimination between foreign correspondents as regards access to news provided for in the above paragraph.

Resolution No. 9

Considering that the United Nations, in accordance with the aims and purposes of its Charter, should be prepared to grant all the necessary facilities for enabling media of information to function with full freedom and responsibility in following the course of its work and that of conferences called by it and its specialized agencies

The United Nations Conference on Freedom of Information

Recommends that the United Nations General Assembly adopt a resolution urging that accredited news personnel of all countries should have free access

(*a*) To countries where meetings of the United Nations or its specialized agencies or any conferences convened by them take place, in accordance with the terms and conditions of agreements made by the United Nations or its specialized agencies with the Governments of such countries; and

(*b*) To all sources of information connected with such meetings except in cases where, in accordance with the rules of procedure, meetings are held in private.

Resolution No. 10

Considering that one of the purposes and principles of the United Nations as enunciated in the United Nations Charter is the encouragement of respect for human rights and for fundamental freedoms for all without distinction as to race;

Believing that any racial discrimination is incompatible with freedom of information and that the latter can be facilitated by the unconditional application of the principle of racial equality; and

Considering that it is imperative that access to all sources of information and to public utilities should be available to foreign correspondents, within the framework of existing laws and regulations without distinction as to race;

The United Nations Conference on Freedom of Information

Declares that in order to ensure the application of this principle, it is essential that Governments and public utilities should not deny to foreign correspondents on racial grounds:

(*a*) Access to any sources of information within the framework of existing laws and regulations;

(*b*) Access to Press conferences, legislative bodies, public meetings and demonstrations, theatres, concerts, exhibitions, public lectures, and educational institutions, etc.;

(*c*) Access to communication facilities;

(*d*) Access to means of transport; and

(*e*) Access to facilities relative to accommodation and supplies.

Resolution No. 11

The United Nations Conference on Freedom of Information

Invites Governments to conclude bilateral or multilateral agreements with a view to eliminating unreasonable or discriminatory taxes affecting the operations of foreign information agencies and news personnel, being guided, in particular, by the results of the work of the Fiscal Commission of the Economic and Social Council concerning double taxation.

Resolution No. 12

The United Nations Conference on Freedom of Information

Resolves

That Governments should permit egress from their territory of all news material of foreign correspondents and foreign information agencies, whether of information or opinion, and whether visual or auditory, without censorship, editing or delay; provided that Governments may make and enforce regulations relating directly to the maintenance of national military security; and

That such regulations should, however, be communicated to foreign correspondents and should apply equally to all foreign correspondents and foreign information agencies.

Further resolves that if the requirements of national military security should compel Governments, in peace-time, to establish censorship for a certain period of time, they should:

(1) Establish in advance such categories of information or photographs for the use of a newspaper, news agency, broadcasting station or newsreel enterprise in another country, as are subject to previous inspection and publish the directives of the censor announcing forbidden matters;

(2) Carry out censorship as far as possible in the presence of the journalists; and

(3) Where censorship in the presence of the person concerned has not been possible:

(*a*) Fix the time-limit allowed the censors for the return of the copy or photograph;

(*b*) Require the return of copy submitted for censorship direct to the reporters or news agencies so that journalists may know at once what has been censored in their text and what use they may make of the censored information;

(*c*) Base the charge on the number of words composing a telegram after censorship; and

(*d*) Return the total telegraph charges for telegrams submitted for censorship, the transmission of which has been delayed more than six hours.

Resolution No. 13

Strongly convinced that freedom of information should be assured to everyone,

Holding that any form of censorship constitutes a curtailment of this freedom,

Considering that censorship deprives the information which it passes of its credibility and often gives information from unspecified sources an unwarranted value;

The United Nations Conference on Freedom of Information

Solemnly condemns the use in peace-time of censorship which restricts or controls freedom of information, and

Invites Governments to take the necessary steps to promote its progressive abolition;

And considers that nothing in this resolution shall, however, prevent Governments from maintaining regulation of newsreels provided their release may only be prohibited on grounds of public morality.

Resolution No. 14

The United Nations Conference on Freedom of Information

Recommends to the Economic and Social Council for suggestion to the International Telecommunication Union that where teleprinter lines have been installed on long-term lease between two or more news agencies, not only may the agencies bound by contract exchange news over these lines, but correspondents of the affiliated agencies may also use them without extra charge for transmitting news to the agencies for which they work.

Resolution No. 15

The United Nations Conference on Freedom of Information

Resolves that foreign correspondents should have access to all facilities generally and publicly used for the international transmission of news material and should be enabled to transmit news material from one country to another on the same basis and at the same rates applicable to all other users of such facilities for similar purposes.

Resolution No. 16

Believing that the widest possible publication, circulation, movement and interchange of news, newspapers, news periodicals, newsreels, and other media of a distinct news character are a necessary part of freedom of information, and

Recognizing that Governments should, to the extent of their abilities and within the limits of their currency positions, facilitate the securing of raw materials and equipment needed for the development of their domestic information agencies and organizations,

The United Nations Conference on Freedom of Information

Recommends that, as hard currencies and foreign exchange become increasingly available and more free, Governments should encourage and, as far as practicable, facilitate the necessary action which will ease quantitative, exchange and tariff restrictions on the importation of news, news publications and productions, and raw materials and equipment therefor, and

Further recommends that the Governments of countries which possess hard currencies encourage by appropriate steps the above-mentioned action.

Resolution No. 17

Considering that it is advisable to adopt measures relating to the free reception and exhibition of newsreels,

The United Nations Conference on Freedom of Information

Recommends that all States should take steps to foster the interchange of newsreels in proportion to each nation's productive capacity, and should at the same time study the disparities in the development of the production enterprises in the different countries and deal with the problem of the development of national enterprises by means of provisional measures; and

Further recommends that monopolistic practices, in all their forms, open or concealed, in relation to the showing of such films, be eliminated, in order to avoid any kind of restriction, exclusion or privilege.

Resolution No. 18

The United Nations Conference on Freedom of Information

Considers that Governments should permit all news material of foreign correspondents and foreign information agencies to enter their territories and reach information agencies operating therein on the same conditions as are accorded to any other foreign information agencies.

Resolution No. 19

With a view to encouraging wider and freer flow of information through the development of national news agencies in countries where such agencies are under-developed,

The United Nations Conference on Freedom of Information

Recommends that any foreign news agency operating within the territory of a country where national news agencies are under-developed, while it should enjoy full freedom as regards the international transmission of news, should refrain from releasing, at the locality of its operation, news concerning the country's domestic affairs, and further refrain from transmitting such news to any other locality in that country for publication, except by mutual arrangement with the national news agencies or with local newspapers.

Resolution No. 20

The United Nations Conference on Freedom of Information,

While affirming its conviction

That effective news agencies are a natural outgrowth of the vigour and co-operation of the organs of publication which they serve, and

That the dependence of news agencies on those organs themselves is an important factor in ensuring the objectivity of the information which they supply,

Is, however, of opinion that in countries where national news agencies are not sufficiently developed provisional measures may appropriately be taken by Governments to encourage their development as independent news agencies, and is further of opinion that at no time should the development of foreign news agencies by unfair or abnormal means be allowed to prejudice the normal development of national agencies.

Resolution No. 21

Considering that the increase in the amount of information should apply without exception and in equal measure to all countries with a view to obtaining an ever wider and more accurate knowledge of their problems, achievements and contributions to international co-operation and world peace; and

Considering that this aim has not been fully realized in the case of all nations, about some of which information is scanty and in many cases distorted or biased, and that as a result there is too often ignorance as to the true character of their civilizations and their importance in material progress, intellectual achievements and contribution to social justice, the defence of freedom and world harmony;

The United Nations Conference on Freedom of Information

Recommends that Press enterprises and agencies for the publication and dissemination of news be encouraged to establish an efficient information service dealing with all countries, and especially with their achievements and concern for human progress, for their own political, economic and social independence and for the closest friendship and harmony among peoples; and

Further recommends that stress be laid on the desirability of all Governments' making permanently available to such enterprises and agencies all information material likely to contribute to the above aim, and to the elucidation or rectification of news and comments which tend to hamper or prevent its realization.

Resolution No. 22

The United Nations Conference on Freedom of Information,

Considering the desirability for the full realization of freedom of information in all countries,

Resolves that all countries should co-operate in the procurement and advancement of the facilities for the transmission and dissemination of information.

Resolution No. 23

The United Nations Conference on Freedom of Information

Takes note of the secretariat document on International Communications and the Freedom of Information (E/CONF.6/29), and

Recommends that, in view of the highly technical nature of the matter, the Economic and Social Council refer it to the International Telecommunication Union for its consideration.

Resolution No. 24

The United Nations Conference on Freedom of Information,

Having given consideration to the problems involved in the establishment of governmental and semi-governmental information services in order to make information available in countries other than their own

Requests the Economic and Social Council to refer consideration of this matter to the Sub-Commission on Freedom of Information and of the Press, and to draw its attention to the views expressed at this Conference and to the proposal of the United Kingdom delegation on the subject.

CHAPTER III. MEASURES CONCERNING THE FREE PUBLICATION AND RECEPTION OF INFORMATION

Resolution No. 25

Considering that Governments should put no obstacles in the way of persons and groups wishing to express themselves through the means of mass communication,

The United Nations Conference on Freedom of Information

Recommends that all Governments should, to the extent that they make available materials and facilities for the mass media, undertake not to discriminate on political or personal grounds or on the basis of race, nationality, sex, language or religion, or against minorities.

Resolution No. 26

The United Nations Conference on Freedom of Information,

Considering that, in view of the diversity of the laws of libel in force in different countries, and the diversity of legal systems and conditions with reference to which laws are made, this Conference is not in a position to make a close study of such laws for the purpose of recommending specific improvements; and

Recognizing that all branches of law must be kept in accord with public opinion and that this is especially true of the laws relating to the liberty of discussion,

Recommends that States should from time to time review their laws of libel, taking into consideration the general conclusions of this Conference, in order to remove anomalies, and to secure to all persons the maximum freedom of expression compatible with the maintenance of order and with due regard to the rights of others; and

Considering it necessary to determine the fundamental principles in this matter which may serve as a uniform basis for the laws of the various countries,

Further recommends

(1) That the Economic and Social Council invite a committee of jurists or an international organization (such as the International Association of Criminal Law) to:

(*a*) Study the laws of libel of the various countries in order to note their defects and anomalies; and

(*b*) Formulate a body of fundamental rules and principles regarding libel, taking into account the role played by the Press in a democratic State; and

(2) That the Economic and Social Council draw the attention of the various Governments to this body of rules with a view to their being taken into consideration in the formulation of national laws of libel.

Resolution No. 27

The United Nations Conference on Freedom of Information,

Recognizing that there is a diversity in different countries in the ownership and control of media of information and that freedom can flourish under widely different systems;

Recommends that Governments should undertake to put no obstacles in the way of persons or groups wishing to express themselves through the means of mass communication, and should ensure in so far as they are able that persons do not suffer discrimination in the use of the media on political or personal grounds or on the basis of race, sex, language or religion, and

Further recommends the investigation by each country in its own way of public and private monopoly, in ownership and control of the media of information, where such monopoly exists.

Resolution No. 28

The United Nations Conference on Freedom of Information,

Considering that the free interchange of information and opinions promotes the welfare of all nations and is indispensable to the peace of the world,

Recommends that Governments grant the right to all nationals of their States to possess and operate radio receiving sets covering all the bands used for domestic and international broadcasts, free from intimidation or pressure and subject only to the accepted rules governing licensing and copyright.

Resolution No. 29

The United Nations Conference on Freedom of Information

Is of the opinion:

1. That the tax on the sale of receiving sets, valves and spare parts should be reduced to the maximum extent;

2. That the possession of receiving sets is necessary to assure a really free flow of information and is in no way a luxury;

3. That the annual, or monthly, charge payable by the possessors of such sets should be allocated exclusively to meet the operating costs of national radio organizations; and

4. That receiving sets installed in the schools of all countries should be exempt from all taxes and charges.

Resolution No. 30

Considering that in many countries the price of radio receiving sets is unduly high; and

Considering that one of the aims of the Conference is to recommend means to increase the amount of domestic and international information available to all peoples;

The United Nations Conference on Freedom of Information

Recommends to the Economic and Social Council that a study be made of all appropriate measures so that the general public can obtain radio receiving sets at low prices.

Resolution No. 31

Whereas one of the means of expanding interchange of information is by the reception of Press transmission by radio addressed to multiple destinations, and

Whereas thirty-seven nations now permit private reception of multiple-address newscasts;

The United Nations Conference on Freedom of Information

Takes note of the practice of private reception of multiple-address newscasts, and

Suggests to the Economic and Social Council that the problem be referred for further study to the International Telecommunication Union or any other competent body.

Resolution No. 32

The United Nations Conference on Freedom of Information,

Having considered the investigations of UNESCO into the technical needs of war-devastated countries,

1. *Expresses* the hope that UNESCO will proceed with the utmost speed to carry out the programmes it has prepared in this connexion;

2. *Notes* with satisfaction that UNESCO is taking expeditious steps for ascertaining the requirements of other countries, whose detailed wants have not been investigated so far, but which are handicapped, on account of material inadequacies, in making satisfactory arrangements for the provision of domestic and international information;

3. *Recommends* that the Economic and Social Council instruct its regional economic commissions and request the competent specialized agencies to assist UNESCO in its task of reducing the inequalities in information facilities caused by the devastations due to war, or other handicaps, and

4. *Further recommends* that very early arrangements may be made by UNESCO, with the help of other specialized agencies concerned in the matter, for dealing with the requirements of these countries.

Resolution No. 33

Taking cognizance of the conclusions concerning newsprint reached by UNESCO as the outcome of its enquiry carried out in 1947 in twelve war-devastated countries of Europe and the Far East, and of the decision of UNESCO to continue its enquiry in 1948 in other parts of the world,

The United Nations Conference on Freedom of Information

Draws the attention of the Economic and Social Council to the harm and dangers which inadequate production of newsprint, and unequal distribution thereof, have on the exercise of freedom of information;

Recommends that the Economic and Social Council consider as soon as possible, in the light of the enquiries carried out by the Council[1] and by UNESCO, practical measures to remedy the situation; and

Recommends that Governments give their support to the UNESCO plan for aid to war-devasted countries; and

Invites UNESCO to extend such aid to other countries suffering from an acute shortage of newsprint.

Resolution No. 34

The United Nations Conference on Freedom of Information,

Taking note of the proposal submitted directly by UNESCO to establish under the auspices of that agency an International Institute of Press and Information, and

Considering that such an Institute could be conducive to the improvement of the quality of information,

Requests the Economic and Social Council to invite Governments and professional organizations, national and international, to examine together the possibility of implementing this proposal and, if it is found practicable, to co-operate in carrying it out.

Resolution No. 35

The United Nations Conference on Freedom of Information,

Desiring to improve the quality of information,

Recommends

(1) That the curricula of schools of journalism, governmental and private, include

(*a*) Intensive study of the history and culture of other peoples as a background for correct interpretation of international news and events;

(*b*) Inculcation in future journalists of a keen sense of the moral and social responsibility of their profession, stressing the undesirability of commercialism, sensationalism and racial and religious intolerance; and

(*c*) Training in the habit of objectivity, accuracy and comprehensiveness in reporting and writing;

(2) That journalistic organizations exchange views concerning the desirable qualifications, technical requirements, and the working conditions of foreign correspondents;

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[1] In accordance with Economic and Social Council Resolution No. 74 (V) of 15 August 1947, the Secretary-General transmitted to Member Governments a Questionnaire on the Shortage of Newsprint (document E/598) together with a Statistical Questionnaire (document E/598/Add. 1). The replies of Governments to this questionnaire are contained in documents E/727 and Addenda.

(3) That systems of awards be established for news personnel for conspicuous service in upholding high journalistic ideals and for excellence in writing, especially in the field of international news and its interpretation, and in promoting the ideals of the United Nations, thereby strengthening friendship beween peoples.

Resolution No. 36

Considering that the task of drafting and enforcing an international code of honour for journalists and other information personnel requires as a principal condition the discussion in advance by the professional organizations active in this field; and

Considering also that any such code of honour should be sufficiently wide to include all media of information and to cover the activities of all information enterprises, including the activities of journalists, editors, managers, directors and publishers of such enterprises,

The United Nations Conference on Freedom of Information

Recommends:

1. That the question of drafting an international code of honour and of the possibility of establishing an international court of honour be referred to the Sub-Commission on Freedom of Information and of the Press:

2. That the Sub-Commission should also examine in this connexion the draft convention concerning an International Court of Honour proposed by the Delegations of Colombia and Peru, which the Conference has taken note of without pronouncing an opinion on its substance, and any other draft conventions on the subject referred to in paragraph 1 which may be proposed:

3. That national and international professional organizations be invited to contribute such material as they may consider to be of value to the Sub-Commission in its deliberations; and

4. That the Sub-Commission be requested to present the results of its investigations to the Economic and Social Council for consideration by any international conference of journalists, editors, managers, directors and publishers which may be convened by the United Nations to consider these specific matters.

Resolution No. 37

The United Nations Conference on Freedom of Information

Considering the desirability of encouraging the adoption of measures guaranteeing the independence of news personnel and consequently the freedom of information; and

Considering that to attain this end all those who derive their main livelihood from the practice of the profession should be assured freedom from want in their old age, or in the case of disability, sickness or unemployment, or for their families in the event of death,

Recommends that the Economic and Social Council invite Governments to include in their legislation a system of social security guaranteeing apart from the rights conferred on news personnel by their contracts of employment,

(*a*) Payment (pension or lump sum) during their old age and in the event of disability;

(*b*) Compensation for a certain period in the event of unemployment or sickness, including an adequate notice of discharge; and

(*c*) Payment (pension or lump sum) to the widow and dependent children; and

Further recommends that social benefits be financed by contributions made on the one hand by employers and on the other by news personnel themselves, and, possibly, by contributions from the State.

Resolution No. 38

Considering that the problem of freedom of information, in relation to the reception and transmission of true and objective news, is intimately bound up with the economic conditions under which professional news personnel work,

The United Nations Conference on Freedom of Information

Recommends that in all States Members of the United Nations and non-member States the advisability be considered of assuring, by free negotiation between employers and employees, or, where necessary, by law, the protection of news personnel whose main source of livelihood is the gathering or dissemination of news or opinion, whether they work for daily newspapers, news periodicals, news agencies, or news departments of broadcasting or motion-picture organizations; and

Further recommends that such provisions should cover the following points without exclusion of other benefits:

1. The initial emoluments of the professional journalist;

2. Automatic system of increase in salaries for seniority, taking into account previous experience;

3. Stability of employment and compensation in case of wrongful dismissal;

4. Superannuation and retirement;

5. Payment of salaries during vacations;

6. System of compensation for accidents at work and occupational diseases; and

7. Settlement of professional disputes.

CHAPTER IV. CONTINUING MACHINERY TO PROMOTE THE FREE FLOW OF INFORMATION

Resolution No. 39

Considering that the work of the various Committees has shown the need to set up continuing international machinery to carry on the work undertaken by the Conference on Freedom of Information and, in particular, to study the problems involved in the application of the resolutions adopted by this Conference and the implementation of the draft conventions recommended by it,

Considering that it is expedient, in order to avoid the multiplication of specialized agencies, to entrust this

task to the Sub-Commission on Freedom of Information and of the Press,

The United Nations Conference on Freedom of Information

Resolves:

1. That the Economic and Social Council be requested to continue the Sub-Commission on Freedom of Information and of the Press for a period of three years;

2. That the Sub-Commission's terms of reference include the consideration of issues and problems involved in the dissemination of information by newspapers and news periodicals, radio broadcasts and newsreels;

3. That, to carry out these terms of reference, the Sub-Commission may:

(*a*) Study and report to the Economic and Social Council on:

(1) Political, economic and other barriers to the free flow of information;

(2) The extent to which freedom of information is accorded to the various peoples of the world;

(3) The adequacy of the news available to them;

(4) The development of high standards of professional conduct;

(5) The persistent dissemination of information which is false, distorted or otherwise injurious to the principles of the Charter of the United Nations;

(6) The operation of any inter-governmental agreements in the field of freedom of information;

(*b*) Receive for its own information communications from any legally constituted national or international Press, information, broadcasting or newsreel enterprise or association relating to the items enumerated in paragraph 3 (*a*) above with a view to assisting it in the formulation of general principles and proposals in the field of freedom of information;

(*c*) Discharge with the approval of the General Assembly and the Economic and Social Council such other functions as may be entrusted to it by inter-governmental agreements on information; and

(*d*) Initiate studies and make recommendations to the Economic and Social Council concerning:

(1) The promotion of a wider degree of freedom of information and the reduction or elimination of obstacles thereto;

(2) The promotion of the dissemination of true information to counteract nazi, fascist or any other propaganda of aggression or of racial, national and religious discrimination;

(3) The conclusion or improvement of inter-governmental agreements in the field of freedom of information; and

(4) Measures to facilitate the work of foreign news personnel.

4. That the General Assembly be requested to make adequate funds available for the work of the Sub-Commission and in particular, funds for providing the Sub-Commission with the full-time expert staff, within the Secretariat of the United Nations, necessary for the discharge of its important functions.

CHAPTER V. MISCELLANEOUS

Resolution No. 40

Having considered the proposal of the International Organization of Journalists regarding a Day of Friendship and Mutual Understanding in the Press,

The United Nations Conference on Freedom of Information

Requests the Economic and Social Council to refer the proposal of the International Organization of Journalists to the Sub-Commission on Freedom of Information and of the Press for consideration and such action as may be considered desirable.

Resolution No. 41

The Conference requests the Secretary-General of the United Nations to convey to Dr. Lev Sychrava its appreciation of his memorandum on the Principles of Free Exchange of Information (document E/CN.4/Sub. 1/50) and the regret of the Conference that he could not be present at its meetings.

CHAPTER VI. POSSIBLE MODES OF ACTION BY MEANS OF WHICH THE RECOMMENDATIONS OF THE CONFERENCE CAN BEST BE PUT INTO EFFECT

Resolution No. 42

The United Nations Conference on Freedom of Information

Resolves that some of the recommendations of the Conference can best be put into effect in the form of Conventions.

Resolution No. 43

The United Nations Conference on Freedom of Information

Resolves:

1. That all documents passed by the Conference, resolutions or draft conventions, be referred to the Economic and Social Council for study at its next session;

2. That all Governments invited to this Conference be requested to forward to the Secretary-General of the United Nations before 5 July 1948 their comments on the draft conventions proposed by the Conference and proposals for other draft conventions based on the recommendations of this Conference;

3. That the Economic and Social Council be requested to examine at its Seventh Session the draft conventions referred to it by the Conference in the light of such comments and other proposed draft conventions as provided in paragraph 2, and to submit to the General Assembly at its third session draft conventions which may thereafter be opened at that session for signature or accession by those States entitled and willing to become parties thereto, and remain open subsequently for additional accessions.

SECTION III

THE ECONOMIC AND SOCIAL COUNCIL

(Seventh session)

In accordance with resolution 43 of the United Nations Conference on Freedom of Information, the Economic and Social Council, at its seventh session, 19 July to 29 August 1948, considered the Final Act of the Conference. The Council adopted resolution 152 (VII) concerning the Final Act of the United Nations Conference on Freedom of Information. The text of the resolution (pp. 15–16 of E/1065) reads as follows:

A

The Economic and Social Council

Decides to postpone until its eighth session consideration of resolution 39 of the Final Act of the United Nations Conference on Freedom of Information; and

Requests the Secretary-General:

1. To collate the replies of Governments to the request for information sent to Governments in accordance with Council resolution 74 (V);[1]

2. To prepare a suggested programme of work and priorities for submission to the third session of the Sub-Commission on Freedom of Information and of the Press.

B

The Economic and Social Council

Decides to transmit to the General Assembly the draft Conventions contained in the Final Act of the United Nations Conference on Freedom of Information, namely:

1. The draft Convention on the Gathering and International Transmission of News, as re-drafted by the Human Rights Committee of the Council;

2. The draft Convention on the Institution of an International Right of Correction;

3. The draft Convention on Freedom of Information; together with the remainder of the Final Act of this Conference (excepting resolution 39 which the Council postponed for consideration at its eighth session), and the records of the proceedings at the seventh session of the Council on this subject.[2]

[1] This Request for Information was based on the provisional agenda of the United Nations Conference on Freedom of Information, and was sent to all States Members of the United Nations and to all States not members of the United Nations invited to the Conference. The replies received were reproduced in documents E/CONF.6/9 and Addenda and will be published in collated form.

[2] See documents E/SR.180, 201, 202, 219, 221, 223 and documents E/AC.27/SR.13 to 26 inclusive.

Annex

DRAFT CONVENTION ON THE GATHERING AND INTERNATIONAL TRANSMISSION OF NEWS

as re-drafted by the Human Rights Committee of the Economic and Social Council

The Contracting States

Desiring to implement the right of their peoples to be fully informed,

Desiring to improve understanding between their peoples through the free flow of information and opinion,

Having resolved to conclude a Convention for this purpose,

Have agreed as follows:

Art. 1. For the purposes of the present Convention:

1. "Information agency" means any Press, radio or film organization created or organized under the laws and regulations of a Contracting State, regularly engaged in the collection and dissemination of news material, and includes Press associations, news feature services, newspapers, periodicals and radio, television, facsimile and any other broadcasting organizations and newsreel companies;

2. "Correspondent" means an individual employed by an information agency or a national of a Contracting State, who in either case is regularly engaged in the collection and reporting of news material, and who, when outside his State, is the holder of a valid passport identifying him as a correspondent or of a similar document internationally accepted identifying him as such;

3. "News material" means all news material whether of information or opinion and whether visual or auditory, for dissemination to the public.

Art. 2. In order to encourage the freest possible movement of correspondents in the performance of their functions, the Contracting States shall expedite, in a manner consistent with their respective laws and procedures, the administrative measures necessary for the entry into, residence in, travel through, and egress from their respective territories of correspondents of other Contracting States together with their professional equipment, and shall not impose restrictions which discriminate against such correspondents with respect to ingress into, residence in, travel through or egress from such territories.

Art. 3. Each Contracting State shall, within the limits compatible with national security, permit and encourage access to news, official and non-official, for all correspondents of other Contracting States so far as possible on the same basis as for its own correspondents, and shall not discriminate among correspondents of other Contracting States as regards such access.

Art. 4. The Contracting States shall permit egress from their territories of all news material of correspondents and information agencies of other Contracting

States without censorship, editing or delay; provided that each of the Contracting States may make and enforce regulations relating directly to the maintenance of national security. Such of these regulations as relate to the transmission of news material shall be communicated by the State to correspondents and information agencies of other Contracting States in its territory and shall apply equally to all correspondents and information agencies of other Contracting States.

If the requirements of national security should compel a Contracting State to establish censorship in peace-time it shall:

1. Establish in advance which categories of news material are subject to previous inspection; and publish the directives of the censor announcing forbidden matters;

2. Carry out censorship as far as possible in the presence of the correspondent or of a representative of the information agency concerned;

3. Where censorship in the presence of the person concerned is not possible:

(*a*) Fix the time-limit allowed the censors for the return of the news material to the correspondent or information agency concerned;

(*b*) Require the return of news material submitted for censorship direct to the correspondent or information agency concerned so that the correspondent or agency may know at once what has been censored in the text and what use may be made of the censored information;

(*c*) In the case of a telegram, base the charge on the number of words composing the telegram after censorship;

(*d*) Return the total telegraph charges for telegrams submitted for censorship, if the transmission has been delayed more than six hours by reason of censorship and the sender has cancelled the telegram before its transmission.

Art. 5. The Contracting States, while recognizing that correspondents must conform to the laws in force in the countries in which they are operating agree that correspondents of other Contracting States legally admitted into their territories shall not be expelled on account of any lawful exercise of their right to seek, receive or impart information or opinion.

Art. 6. Correspondents and information agencies of one Contracting State in the territory of another Contracting State shall have access to all facilities in that territory generally and publicly used for the international transmission of news material and may transmit news material from one territory to another (including transmissions between the metropolitan and non-metropolitan territories of any State) on the same basis and at the same rates applicable to all other users of such facilities for similar purposes.

Art. 7. Each Contracting State shall permit all news material of correspondents and information agencies of other Contracting States to enter its territory and reach information agencies operating therein on conditions which are not less favourable than those accorded to any correspondents or information agency of any other Contracting or non-contracting State.

Art. 8. The present Convention shall not apply to any correspondent of a Contracting State who, while not otherwise admissible under article 2 into the territory of another Contracting State, is nevertheless admitted conditionally in accordance with an agreement between that other Contracting State and the United Nations, or a specialized agency thereof, in order to cover its proceedings, or pursuant to a special arrangement made by that other Contracting State in order to facilitate the entry of such correspondents.

Art. 9. Nothing in this Convention shall be construed as depriving any Contracting State of its right to make and enforce laws and regulations for the protection of national security and public order.

Nothing herein contained shall be construed as depriving any Contracting State of its right to make and enforce laws and regulations prohibiting obscene news material.

Nothing in the present Convention shall limit the discretion of any Contracting State to refuse entry into its territory to any particular person, or to restrict the period of his residence therein, provided any such restriction does not conflict with the provisions of article 5.

Art. 10.[1]

Art. 11. In time of war or any other public emergency, a Contracting State may take measures derogating from its obligations under the present Convention to the extent strictly limited by the exigencies of the situation.

Any Contracting State availing itself of this right of derogation shall promptly inform the Secretary-General of the United Nations of the measures which it has thus adopted and of the reasons therefor.

It shall also inform him as and when the measures cease to operate.

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[1] [Footnote in the original text.] The delegations of France, the United Kingdom and the United States of America proposed that the following additional article be inserted:

"Any dispute between two or more Contracting States arising under the present Convention which has not been settled, and is not in process of settlement, by negotiation or otherwise, may be referred by any party to the dispute to a committee. Each State party to the dispute shall appoint a member of this committee and the Secretary-General of the United Nations shall appoint a member, a national of a State party to the Convention but not party to the dispute, who shall serve as Chairman of the committee. The committee shall investigate such dispute and issue a report and recommendation thereon, which shall be made public by the Secretary-General."

In the course of the discussions of the Human Rights Committee which are summarized in documents E/AC. 27/SR.23 and 24, this proposal was withdrawn by the three delegations which had submitted it. It was agreed that this proposal and the record of the discussions be drawn to the attention of the Council so that the latter might decide whether they should be drawn to the attention of the General Assembly.

Art. 12. The present Convention shall be ratified on behalf of the States signatory hereto in conformity with their respective constitutional procedures. The instruments of ratification shall be deposited with the Secretary-General of the United Nations, who shall notify all signatory and acceding States of each such deposit.

Art. 13. The present Convention shall remain open for the accession of all States which are not signatories. Instruments of accession shall be deposited with the Secretary-General of the United Nations, who shall notify all signatory and acceding States of each such deposit.

Art. 14. The present Convention shall come into force as soon as —— States have deposited their respective instruments of ratification or accession. The Convention thereafter shall come into force with respect to each other State on the date of the deposit of its instrument of ratification or accession.

Art. 15. 1. Each Contracting State undertakes to take as soon as possible the necessary steps with a view to extending the provisions of the present Convention to the territories for whose foreign relations it is responsible.

To this end, having due regard to the position of each territory and particularly to the constitutional practice applicable thereto, each Contracting State may, at the time of its accession or at any time thereafter, by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to any of the territories for the international relations of which it is responsible. The Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification.

2. Each State which has made a declaration under paragraph 1 above extending the present Convention may, subject to the same conditions, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to any territory named in the notification. The Convention shall then cease to extend to such territory as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification.[1]

Art. 16. The present Convention shall remain in force indefinitely, but may be denounced by any Contracting State by means of six months' notice in writing given to the Secretary-General of the United Nations, who shall transmit a copy of the notice to each of the other Contracting States. After the expiration of this period of six months, the Convention shall cease in its effect as regards the State which denounces it, but shall remain in force for the remaining Contracting States.

In witness whereof, the Plenipotentiaries of the respective States, being duly authorized thereto, have signed the present Convention.

Done at —— this —— day of —— 1948, in the —— languages, each equally authentic, the original of which shall be deposited in the archives of the United Nations. The Secretary-General of the United Nations shall transmit certified copies thereof to all the signatory and acceding States.

SECTION IV

THE GENERAL ASSEMBLY

(Third session, first part)

The resolutions of the Conference on Freedom of Information, except resolution 39, and the three draft Conventions were placed on the agenda of the third session of the General Assembly and referred to its Third Committee. At the first half of the third session no action was taken on these because of lack of time, and they therefore became a part of the agenda of the second half of the third session.

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[1] [Footnote in the original text.] The Committee decided that its vote on the above text and the note which follows be included in its report. The above text was approved by a vote of 9 to 4, with 5 abstentions.

The delegations of Lebanon, Poland and the Union of Soviet Socialist Republics had proposed the following text to replace article 14 (new article 15) as adopted by the United Nations Conference on Freedom of Information:

"The provisions of the present Convention shall extend both to the metropolitan territories of States signing the present Convention and to all the territories under the authority or administration of such metropolitan powers (non-self-governing, trust and colonial territories), and the provisions in question shall apply equally both to the territories of the metropolitan powers and to the dependent territories mentioned.

"(*a*) The Secretary-General of the United Nations will immediately inform of the present Convention the States representing other States and territories internationally, on behalf of such other States, such communication to be transmitted immediately to the authorities of non-self-governing, non-autonomous and similar territories.

"(*b*) Each State or territory for the international relations of which another State is responsible may accede to the present Convention by notification of accession addressed to the Secretary-General of the United Nations through the agency of the State representing it internationally, such notification of accession to be transmitted to the Secretary-General of the United Nations without delay.

"(*c*) The present Convention shall come into force with respect to any State or territory referred to in the preceding paragraph as from the date of deposit of its instrument of accession, even if the State which is responsible for its international relations does not ratify the Convention.

"(*d*) A State or territory which has acceded to the present Convention in accordance with the preceding paragraph may denounce it at any later date by means of six months' notice in writing given to the Secretary-General of the United Nations through the agency of the State representing it internationally.

"The Secretary-General of the United Nations shall transmit a copy of the notice to each of the other Contracting States. After the expiration of this period of six months, the Convention shall cease in its effects as regards the State or territory which denounces it."

A summary of the discussions of the Committee is contained in documents E/AC.27/SR.25 and 26.

CHAPTER VII

PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

On the basis of the Report of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities (E/CN.4/52), the Commission on Human Rights, at its second session, requested (Chapter VIII of E/600) the Economic and Social Council to ask the Secretary-General to study main types and causes of discrimination, and to invite the co-operation of UNESCO in the formulation of educational programmes in the fields of the prevention of discrimination and the protection of minorities; and drew the attention of the Council to the question of the validity of the minorities treaties and declarations in League of Nations document CL.110.1927.1 Annex.[1]

SECTION I

THE ECONOMIC AND SOCIAL COUNCIL

(Sixth session)

A. *Prevention of Discrimination and Protection of Minorities*

Acting upon the Report of the Commission on Human Rights (E/600), the Economic and Social Council, at its sixth session, adopted resolution 116 (VI) B concerning the prevention of discrimination and the protection of minorities, which read:

The Economic and Social Council

A. *Requests* the Secretary-General:

(i) To organize studies and prepare analyses designed to assist the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities in determining the main types of discrimination which impede the equal enjoyment by all of human rights and fundamental freedoms and the causes of such discrimination, the results of such studies and analyses to be made available to members of the Sub-Commission;

(ii) To keep in mind, in connexion with any studies he may make in the fields of the prevention of discrimination and the protection of minorities, the desirability of formulating effective educational programmes in these fields and to report any findings that might assist the Sub-Commission in making appropriate recommendations to this end;

B. *Advises* UNESCO of the interest of the United Nations in effective educational programmes in the fields of the prevention of discrimination and the protection of minorities, and

(i) *Requests* UNESCO to make available to the Sub-Commission any relevant material or analyses that might result from that organization's proposed study of social tensions or from any other UNESCO programme;

(ii) *Suggests* collaboration between the United Nations and UNESCO in the formulation of such a programme;

(iii) *Suggests* that UNESCO consider the desirability of initiating and recommending the general adoption of a programme of disseminating scientific facts designed to remove what is commonly known as racial prejudice; and

(iv) *Invites* UNESCO to consider the creation of a committee of world leaders in educational theory and practice, which should make it its business to study and select the most common and basic principles of a democratic and universal education in order to combat any spirit of intolerance or hostility as between nations and groups.

B. *Minorities Treaties*

The Council at the same time adopted resolution 116 (VI) C concerning minorities treaties, which reads:

The Economic and Social Council,

Taking note of chapter VIII, paragraph 37, of the report of the Commission on Human Rights,

Requests the Secretary-General to study the question whether and to what extent the treaties and declarations relating to international obligations undertaken to combat discrimination and to protect minorities, the texts of which are contained in League of Nations document CL.110.1927.1 Annex, should be regarded as being still in force, at least in so far as they would entail between contracting States rights and obligations the existence of which would be independent of their guarantee by the League of Nations; and to report on the results of this study to a later session of the Commsission on Human Rights with recommendations, if required, for any further action to elucidate this question.

[1] See *Yearbook on Human Rights for 1947*, pp. 539–540.

SECTION II

THE GENERAL ASSEMBLY

(*Third session, first part*)

During the debate in the Third Committee on the Draft Declaration of Human Rights, in the first part of the third session of the General Assembly, a number of delegations proposed articles concerning the protection of racial, national, religious and linguistic minorities (A/C.3/307/Rev.2). None of the proposed articles was incorporated in the Universal Declaration. On 10 December 1948, however, the General Assembly adopted resolution 217 (III) C on the fate of minorities, which reads:

The General Assembly,

Considering that the United Nations cannot remain indifferent to the fate of minorities,

Considering that it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises,

Considering the universal character of the Declaration of Human Rights,

Decides not to deal in a specific provision with the question of minorities in the text of this Declaration;

Refers to the Economic and Social Council the texts submitted by the delegations of the Union of Soviet Socialist Republics, Yugoslavia and Denmark on this subject contained in document A/C.3/307/Rev.2, and requests the Council to ask the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities.

CHAPTER VIII
PROCEDURES FOR DEALING WITH COMMUNICATIONS

The Economic and Social Council, at its fifth session, on 5 August 1947, adopted resolution 75 (V) and resolution 76 (V) which laid down the procedure by which communications concerning human rights and concerning the status of women should be dealt with respectively by the Commission on Human Rights and the Commission on the Status of Women.[1] In 1948 resolution 75 (V) underwent certain revisions.

SECTION I
THE ECONOMIC AND SOCIAL COUNCIL
(*Sixth session*)

The Economic and Social Council, at its sixth session, considered the Report of the Commission on Human Rights (E/600), paragraphs 29 and 30 of which read as follows:

"The Commission decided that the task of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities would be facilitated if the Economic and Social Council agreed to modify and extend its resolution of 5 August 1947, so as to give the members of the Sub-Commission, with respect to communications dealing with discrimination and minorities and at the request of the Commission on Human Rights in each case, the same facilities as are enjoyed by members of the Commission.

"The Commission requested the Economic and Social Council to reconsider the procedure for communications relating to human rights laid down in its resolution of 5 August 1947, in particular as regards points (*a*) and (*b*). It suggested that the Secretary-General be requested to compile, before each session of the Commission, two lists of communications received concerning human rights with a brief summary of the substance of each: (1) a non-confidential list of communications in which the authors state that they have already divulged or intend to divulge their names, or that they have no objections to their names being divulged; and (2) a confidential list which will be furnished to the Commission, in private meeting, without divulging the identity of the authors of the communications."

On 1 March 1948 the Council adopted resolution 116 (VI) A relating to communications concerning human rights, the text of which read:

The Economic and Social Council

Having reconsidered the procedure for communications relating to human rights laid down in resolution 75 (V), as regards points (*b*) and (*e*),

Decides to amend the procedure provided for in point (*b*) of the above resolution by adding to the text of point (*b*) the following words: "except in those cases where the authors state that they have already divulged or intend to divulge their names or that they have no objection to their names being divulged"; and in point (*e*) by adding the following words: "except as provided for in paragraph (*b*) above"; and

Resolves to give the members of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, with respect to communications dealing with discrimination and minorities, the same facilities as are enjoyed by members of the Commission under resolution 75 (V) and the present resolution.

SECTION II
THE COMMISSION ON HUMAN RIGHTS
(*Third session*)

At its third session the Commission recommended that "the Economic and Social Council request the Secretary-General, in the future, to ask the Governments sending replies to communications brought to their attention in accordance with paragraph (*e*) of resolution 75 (V) of the Economic and Social Council whether they wish their replies to be transmitted to the Commission on Human Rights in summary form, or presented in full as restricted or unrestricted documents".

SECTION III
UNITED NATIONS CONFERENCE ON FREEDOM OF INFORMATION

The Conference on Freedom of Information requested the Economic and Social Council by resolution No. 39 to authorize the Sub-Commission on Freedom of Information and of the Press to receive for its own information communications from any legally constituted national or international Press, information, broadcasting, or newsreel enterprise or association relating to the field of freedom of information, with a view to assisting it in the formulation of general principles and proposals.[1]

[1] See *Yearbook on Human Rights for 1947*, pp. 513–514.

[1] For the text of the resolution, see pp. 511–512 above.

CHAPTER IX
SOME SPECIFIC QUESTIONS

SECTION I
STATELESS PERSONS

On the basis of the resolution of the Commission on Human Rights concerning stateless persons (paragraph 46 of E/600), the Economic and Social Council, at its sixth session, adopted resolution 116 (VI) D, which read as follows:

The Economic and Social Council,

Taking note of the resolution of the Commission on Human Rights adopted at its second session regarding stateless persons,

Recognizing that this problem demands in the first instance the adoption of interim measures to afford protection to stateless persons, and secondly the taking of joint and separate action by Member nations in co-operation with the United Nations to ensure that everyone shall have an effective right to a nationality,

Requests the Secretary-General, in consultation with interested commissions and specialized agencies:

(*a*) To undertake a study of the existing situation in regard to the protection of stateless persons by the issuance of necessary documents and other measures, and to make recommendations to an early session of the Council on the interim measures which might be taken by the United Nations to further this object;

(*b*) To undertake a study of national legislation and international agreements and conventions relevant to statelessness, and to submit recommendations to the Council as to the desirability of concluding a further convention on this subject.

SECTION II
RIGHT OF ASYLUM

The Commission on Human Rights decided, at its second session, in December 1947, "to examine at an early opportunity the question of the inclusion of the right of asylum of refugees from persecution in the International Bill of Human Rights or in a special convention for that purpose" (paragraph 48 of E/600).

At the same time the Working Group on the Declaration of Human Rights prepared the first draft of the Declaration, article 11 of which stated: "Everyone shall have the right to seek and be granted asylum from persecution. This right will not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations." (Annex A of E/600.)

At its third session, 24 May to 18 June 1948, the Commission examined and revised the draft Declaration and submitted the revised draft to the Economic and Social Council. The Council, in its resolution 151 (VII), decided to transmit to the General Assembly the draft Declaration of Human Rights. Article 12 of that draft read as follows: "1. Everyone has the right to seek and be granted, in other countries, asylum from persecution. 2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution." (Annex A of E/800.)

The General Assembly, at its third session (Part I), adopted the Universal Declaration of Human Rights. The right of asylum was the subject of article 14 of the Universal Declaration. The article reads as follows: "(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crime or from acts contrary to the purposes and principles of the United Nations."

The right of asylum was still on the agenda of the Commission on Human Rights at the end of 1948. The question remained whether the right of asylum should be included as one of the rights to be regulated by the Covenant on Human Rights, and whether a separate international convention on this right should be drafted.

SECTION III
TRADE UNION RIGHTS (FREEDOM OF ASSOCIATION)

The General Assembly, in its resolution 128 (II) of 17 November 1947, declared that the "right of trade union freedom of association" was essential to the improvement of workers' standard of living and to their economic well-being, endorsed the principles proclaimed by the International Labour Organization in respect of trade union rights, transmitted the Report of the ILO to the Commission on Human Rights in

order that it may consider those aspects of the subject which might form part of the Bill or Declaration of Human Rights, and recommended to the ILO, in collaboration with the United Nations, to pursue the study of the control of the practical application of trade union rights.[1]

The draft Declaration of Human Rights, prepared by the Commission on Human Rights in its third session, contained two articles relating to trade union rights (freedom of association). Article 18 stated: "Everyone has the right to freedom of assembly and association." Article 21, paragraph 3, stated: "Everyone is free to form and to join trade unions for the protection of his interests." (Annex A of E/800.)

The Universal Declaration of Human Rights, as proclaimed by the General Assembly on 10 December 1948, contains two articles concerning trade union rights (freedom of association). Article 20 reads: "(1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association." Article 23, paragraph 4, reads: "Everyone has the right to form and to join trade unions for the protection of his interests."

In pursuance of the Preamble of the ILO Constitution and the Declaration of Philadelphia, and in pursuance of resolution 128 (II) of the United Nations General Assembly, the General Conference of the ILO adopted on 17 June 1948 the Freedom of Association and Protection of the Right to Organize Convention, 1948.[2]

SECTION IV

DECLARATION OF OLD AGE RIGHTS

The General Assembly, in its third session (Part I), adopted on 4 December 1948 resolution 213 (III) concerning a Declaration of Old Age Rights. The text of the resolution is as follows:

The General Assembly

Decides to communicate the draft Declaration of Old Age Rights submitted by the Argentine delegation (A/C.3/213/Rev.1) to the Economic and Social Council in order that the latter may make a study thereof and report thereon to the General Assembly at one of its future sessions.

The draft Declaration of Old Age Rights, submitted by the Argentine delegation, contains a list of ten rights: (1) right to assistance; (2) right to accommodation; (3) right to food; (4) right to clothing; (5) right to the care of physical health; (6) right to the care of moral health; (7) right to recreation; (8) right to work; (9) right to stability; (10) right to respect.

SECTION V

DECLARATION OF THE RIGHTS OF THE CHILD

At its second session, 28 August to 13 September 1947, the Social Commission adopted a resolution on child welfare in which, *inter alia*, the Secretariat was requested to prepare documentation on the Declaration of the Rights of the Child known as the "Declaration of Geneva" (1924), referring in particular to any changes and additions which it might be necessary to make with a view to its acceptance as the United Nations Charter of the Rights of the Child (paragraph 25 of E/578).

The Social Commission, at its third session, 5 to 23 April 1948, after having examined the documentation on the Declaration of Geneva prepared by the Secretariat (paragraphs 99–117 of E/CN.5/44), adopted a resolution, which read as follows:

The Social Commission,

Having considered the documentation on the proposed Charter of the Rights of the Child, and having regard to the development of the concept of child welfare since the Declaration of Geneva,

Recommends that the Secretary-General pursue the study of the subject, in consultation with Governments and interested organizations, in such a way that, whilst giving great weight to the principles of the Geneva Declaration, he should consider such additional significant principles as would transform the document into a United Nations Charter of the Rights of the Child, embodying the main features of the newer conception of child welfare, and report thereon to the fourth session of the Social Commission.

This resolution, as part of the work programme of the Social Commission, was approved by the Economic and Social Council at its seventh session.

SECTION VI

SUPPRESSION OF TRAFFIC IN WOMEN AND CHILDREN

On the basis of a proposal of the Social Commission (E/779), the Economic and Social Council, at its seventh session, adopted on 13 August 1948 resolution 155 (VII) E concerning the suppression of traffic in women and children. The text of the resolution is as follows:

I

The Economic and Social Council,

Considering that in resolution 43 (IV) of 29 March 1947 the Council instructed the Secretary-General, *inter alia*, to resume the study of the 1937 draft Con-

[1] See *Yearbook on Human Rights for 1947*, pp. 525–526.

[2] The text of the Convention appears on pp. 427–430 above.

vention regarding the exploitation of the prostitution of others, to make any necessary amendments in order to bring it up to date and to introduce any desirable improvement in view of the changes in the general situation since 1937,

Considering that in resolution 83(V) of 14 August 1947 the Council requested the Social Commission to consider the possibility of the unification of the 1937 draft Convention and the existing instruments for the suppression of the traffic in women and children, namely:

1. International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic;

2. International Convention of 4 May 1910 for the Suppression of the White Slave Traffic;

3. International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children; and

4. International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age;

Considering that developments in general conditions since 1937 make feasible the immediate formulation and conclusion of a new and comprehensive convention for the suppression of the traffic in women and children and the prevention of prostitution, and that such a convention should unify the above-mentioned instruments and also embody the substance of the 1937 draft Convention as well as any desirable improvement therein,

Requests the Secretary-General to prepare a draft of such a convention, to ascertain the views of Governments and international organizations specialized in this field regarding this draft, and to submit the draft Convention and any views expressed to the Social Commission at its fourth session;

Requests the Social Commission to give first priority to the examination of such a draft Convention and to submit its views thereon to the Council not later than the ninth session of the Council;

Suggests to the Social Commission that, in the event of it finding that it cannot complete its task in the time at its disposal, it should submit for the consideration of the Council at its ninth session a revision of the text of the draft Convention of 1937, including therein any necessary formal amendments and any additional amendments which the Commission may see fit to suggest, but excluding amendments with regard to which there is not, in the opinion of the Commission, likely to be a general measure of agreement.

II

The Economic and Social Council,

Recommends that, in anticipation of, and as a preparation for the conclusion of such convention as that referred to under I above, Member Governments be asked, where they have not already done so, to include or to encourage the inclusion in their public and voluntary social welfare services of provisions for combating the evil of prostitution both from the angle of prevention and rehabilitation, including free and confidential treatment for venereal disease in so far as medical care is not provided for otherwise; and, in so far as children and young persons are concerned, to consider the introduction of legislation, where such legislation does not already exist, which will empower the State to take re-educative and rehabilitative measures in regard to children and young persons who are in need of care and who threaten to become, or have already become, prostitutes.

CHAPTER X
QUESTIONS OF HUMAN RIGHTS IN CERTAIN TERRITORIES

SECTION I
THE DRAFT STATUTE OF THE CITY OF JERUSALEM

The General Assembly, in its resolution 181 (II) of 29 November 1947, recommended the adoption and implementation, with regard to the future government of Palestine, of the Plan of Partition with Economic Union.[1] Under that Plan the Trusteeship Council was instructed to elaborate and approve a Statute of the City of Jerusalem. In December 1947 the Trusteeship Council appointed a Working Committee on Jerusalem to draft a Statute of the City. On 23 January 1948 the Committee adopted a draft Statute and submitted it to the Trusteeship Council. The Council, in its resolution of 21 April 1948, transmitted the draft Statute to the General Assembly.

Article 7 of the draft Statute (T/118/Rev.2) has as its title "Human Rights and Fundamental Freedoms." It reads as follows:

1. All persons within the City shall enjoy freedom of conscience and shall, subject only to the requirements of public order, public morals and public health, enjoy all other human rights and fundamental freedoms, including freedom of religion and worship, language, education, speech and Press, assembly and association, and petition (including petition to the Trusteeship Council).

2. No discrimination of any kind on grounds of race, religion, language or sex shall be made against any person within the City.

3. All persons within the City shall be entitled to equal protection by the legislation of the City.

4. No person within the City may be arrested, detained, convicted or punished, except according to due process of law.

5. No person or property within the City shall be subject to search or seizure, except according to due process of law.

6. The legislation of the City shall ensure that accused persons shall have adequate rights of defence.

7. The legislation of the City shall neither place nor recognize any restriction upon the free use by any person of any language in private intercourse, in religious matters, in commerce, in the Press or in publications of any kind, or at public meetings.

8. Except as may be required for the maintenance of public order, good government and public health, no measure shall be taken to obstruct or interfere with the enterprise of religious or charitable bodies of all faiths. No measure shall be taken which discriminates on grounds of religion or nationality against any representative or member of such bodies.

9. The family law and personal status of the various persons and communities and their religious interests, including endowments, shall be respected.

[1] See *Yearbook on Human Rights for 1947*, pp. 527-529.

SECTION II
TRUST TERRITORIES

A. *Annual Reports of Trust Territories*

In the course of its second session (Part I), 20 November to 16 December 1947, and its third session, 16 June to 5 August 1948, the Trusteeship Council considered the annual reports of Ruanda-Urundi, New Guinea and Tanganyika, and adopted certain conclusions and recommendations (A/603), some of which related to questions of human rights, and of which the following are relevant instances:

With respect to Ruanda-Urundi, the Council recommended that the Administering Authority should introduce "some form of electoral system" and should "grant the indigenous inhabitants a progressively important share in the conduct of their own affairs and those of the Territory as a whole." The Council invited "the Administering Authority to study the desirability and feasibility of gradually establishing one system of government in which both Europeans and indigenous inhabitants would participate, and in which the indigenous inhabitants would assume eventually the principle functions and responsibilities". The Council also recommended that "the Administering Authority introduce a system of payments for labour performed by long-term prisoners to enable them to start a new life on discharge from prison". In addition, the Council considered that "the Administering Authority should assume responsibility for ensuring that adequate facilities for elementary education are made available to children of school age throughout the Territory".

With respect to New Guinea, the Council recommended that "conditions should be created which would lead to the establishment of organs of self-government"; that "the Administering Authority establish in the future wage rates which are not merely commensurate with the cost of living of the indigenous inhabitants according to their existing standards, but which will also enable them to improve their standards of living"; and that "in establishing rates of wages for indigenous and non-indigenous workers the Administering Authority be guided at all times by the principle of equal pay for equal work".

As to Tanganyika, the Council expressed the hope that "the Administering Authority will take further steps as may be appropriate to foster the participation of the indigenous inhabitants in political development so as to attain the objectives of Article 76 b of the Charter and article 6 of the Trusteeship Agreement"; and recommended that "the Administering Authority should introduce electoral legislation and stimulate political education among the indigenous inhabitants so as to attain the objectives of Article 76 b of the Charter and article 6 of the Trusteeship Agreement on this particular point, in order that institutions of local self-government should be established and the participation of the indigenous inhabitants in the legislative and executive bodies of the Territory be assured on the basis of a democratic electoral system"; drew "the attention to the importance of ensuring that there be no discrimination among the indigenous inhabitants particularly in such matters as employment, wages, and the provision of hospital facilities and medical services"; recommended that child labour should be prohibited and the employment of minors on plantations restricted; called to the attention of the Administering Authority "the disparity in expenditure and educational facilities for European, Asian and African children respectively"; and suggested that the Administering Authority "should take effective steps to expand primary and secondary education".

B. *Petitions*

During its third session the Trusteeship Council received and examined a number of petitions concerning (*a*) Togoland under British administration and Togoland under French administration, (*b*) Cameroons under British administration, (*c*) Tanganyika, and (*d*) Western Samoa. While most of these petitions were related in some way to human rights, one of them was a matter of direct concern to the Commission on Human Rights and the Commission on the Status of Women. In a petition dated 28 November 1947, the St. Joan's Social and Political Alliance, London, called the attention of the Trusteeship Council to the customs of compulsory marriage and child marriage in the Cameroons under British administration. The Council, at its third session, adopted on 7 July 1948 a resolution (T/189) which condemned the customs and requested the Administering Authority to keep the Council informed of the steps taken to end such practices. The Council also transmitted copies of the petition to the Commission on Human Rights and the Commission on the Status of Women. With respect to Western Samoa, "the Council resolved that at the present time the people of Western Samoa should be accorded such measures of self-government as were indicated in the report made by the Council's Visiting Mission, and that the people of Western Samoa should be encouraged and assisted to assume increasing responsibilities for self-government and ultimately be accorded full self-government as soon as they were capable of assuming the responsibilities involved".

C. *Visiting Mission to East Africa*

At its third session the Trusteeship Council sent a visiting mission to Ruanda-Urundi and to Tanganyika to observe the developing political, economic, social and educational conditions of the two Trust Territories. The mission, in its reports (T/217 and T/217/Add.1 on Ruanda-Urundi and T/218 and T/218/Add.1 on Tanganyika), made certain observations and conclusions, some of which were related to questions of human rights.

With respect to Ruanda-Urundi, the visiting mission expressed the opinion that "the Administering Authority should assist the native authorities in establishing or organizing local councils of various grades—hills, chiefdoms, territories, kingdoms—consisting of representatives chosen by the people and recognized by ordinance or statute as having certain powers and functions with regard to local matters"; expressed the view that "the people of Ruanda-Urundi today are enjoying a regime of peace and security, but in an atmosphere that is not quite so free as it could be," and hoped that "the ideal of liberty will be progressively fostered". The mission expressed the hope that the Administering Authority "at an early date will make a study of the ways and means of encouraging the Africans to participate in the commerce and industry of the Territory"; expressed the opinion that "the question of abolishing penal sanctions for breach of labour contracts by African workers should be considered"; urged "the necessity of an early examination of the problem of wages paid to African workmen with a view to increasing these wages considerably". The mission deplored "the practice of illegal and arbitrary whipping as a measure to compel people to obey orders" and recommended that "the Administering Authority take strong and effective measures to prevent it". It further recommended "the abolition of all legally permitted forms of whipping, except that in the case of whipping in prisons". The mission further stated that the Administering Authority should "review legislation involving discrimination with regard to Asians, particularly the laws on residence, land tenure, alcoholic beverages, firearms and

the penitentiary system". The mission also expressed the hope "that it will be possible to establish in Ruanda-Urundi, as soon as possible, three more full secondary schools, preferably official and secular, and a secondary Latin school in which students may qualify for entrance into the Belgian universities".

As regards Tanganyika, the visiting mission submitted "for consideration their opinion that a full system of district and provincial councils should be established as soon as possible for the purpose of bringing together Africans and the other communities for their co-operation in matters of common concern"; expressed the opinion that "the proposed provincial councils should be important organs whose jurisdiction should include broad legislative, executive and financial powers"; felt that "African representation on the proposed provincial councils should be considerably larger than that of the European or Indian community"; concurred "with the views expressed by numerous Africans and others that the present African members are not truly representative of all the Africans of the Territory"; expressed the opinion that "an electoral system should be introduced for the selection of African members of the Council, who will be truly representative and responsive to the needs and wishes of the people of the Territory"; felt that "the policy in respect of representation on the Legislative Council should be progressively towards a membership based upon a proportional electoral system" and expressed the hope that "the composition of the Council may be progressively modified towards that goal".

The mission suggested that "concurrent with the broadening of the Legislative Council, African members might also be accorded seats on the Executive Council as well"; expressed the opinion that "consideration might be given to the appointment of an adequate number of Africans as members of special committees and boards of the Government"; concurred, "with the policy of the Administering Authority to appoint Africans to higher administrative posts as soon as men with the proper qualifications become available" and felt that "this policy should be extended and accelerated".

The mission appreciated "the intention of the administering authority to build model communities in the groundnuts areas and to so treat the labourers as to set an example for private institutions" and suggested that "the Trusteeship Council should receive annual progress reports on: (1) wages and rations; (2) conditions of housing; (3) medical services; (4) social and educational services; and (5) self-government."

The mission expressed the opinion that there appeared "little doubt that labour generally in Tanganyika has a low standard of efficiency compared with that of European workers and perhaps even with African workers in other territories" and that it may be explained "as arising from several factors, the most important of which appeared to the mission to be: the comparatively low standard of living and lack of education of the vast majority of Africans and their consequent low level of needs; the general low standard of health due in a large extent to malnutrition and the prevalence of debilitating diseases; the low scale of wages and comparatively poor and unattractive conditions generally; and that the cultural values of the average African do not yet place the same emphasis upon rigidly enforced rules of work as those of the average European"; the mission felt that "an increase in educational, medical and public health facilities would undoubtedly raise the standards of efficiency"; the mission expressed the opinion that "one of the most important factors is the raising of the present low level of wages" and that "Africans are at present underpaid and that a rise in the wage level might help to induce employers to make the necessary effort to provide training and otherwise to transform the present type of labourer into a skilled, efficient, healthy and stable worker".

The mission urged the giving of immediate consideration to the application of the Minimum Wages Ordinance with the object of establishing a higher level of wages than at present exists in the Territory; felt "the desirability of legal machinery to regulate and control maximum hours of employment, daily and weekly, for all classes of labour"; expressed the opinion that "the Administering Authority might be urged to consider the abolition of penal sanctions in its laws relating to African labour"; felt that "the aims, structure and functions of the trade union system generally are little known throughout the Territory"; noted "with some concern provisions of the Labour Supply and Utilization Bill which appear to threaten the rights of labour"; expressed the hope that if this Bill is enacted that "its operation and influence will be closely watched by the Administering Authority"; recommended that "detailed annual reports on the effects of this legislation be requested by the Trusteeship Council"; noted "with considerable concern that the Commission to be created by the Bill would apparently be dominated by representatives of private industry"; urged that "larger representation be provided for African representatives of labour, and for Government officials experienced in Government welfare".

The mission found that racial discrimination existed in Tanganyika and suggested that the visiting mission might be instructed "to pay particular attention to this problem"; thought that "the Administering Authority should consider the statements on alleged discrimination in prisons" and urged that "corporal punishment in prisons be abolished as soon as possible".

The mission was aware "of the conditions which up to the present have led to the existence of separate education facilities for each of the three communities

of Tanganyika and suggested that the Administering Authority might consider the possibility of establishing in Dar-es-Salaam and other urban centres, a system of inter-racial primary and secondary education".

D. *Educational Advancement in Trust Territories*

The General Assembly, in its resolution 225 (III) of 18 November 1948, proposed to the Administering Authorities that "primary education should be free and that access to higher education should not be dependent upon means" (A/810). The General Assembly in its resolution 226 (III) of 18 November 1948 recommended that the Administering Authorities "take all possible steps to accelerate the progressive development towards self-government or independence of the Trust Territories they administer".

SECTION III

NON-SELF-GOVERNING TERRITORIES

Under Article 73 e of the Charter, Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government have undertaken to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories.

In 1948 a number of Members responsible for the administration of non-self-governing territories submitted information concerning human rights. Such information has been summarized as follows:[1]

Morocco under French administration. "The civil rights of Moroccans in respect of the person are determined by Moslem or Mosaic law. Their civil rights in respect of unregistered immovable property are determined by Koranic law. In respect of cases arising from registered immovable property, a *dahir* of 2 June 1915 grants jurisdiction to the French courts.

"No person may be deprived of his right to hold property except when it is needed for public purposes and in exchange for a just compensation paid in advance.

"Non-Moroccans who are nationals of a Moslem country retain their personal status as defined by their national law.

"From the point of view of individual liberty, an arrest may not be made without a warrant duly issued by the competent authority. A penal code and a code of criminal procedure are at present being studied.

"Both French nationals and Moroccans must obtain prior permission to hold public meetings.

"Though military censorship was abolished on 31 October 1945, organs of information are controlled. Arabic newspapers must be authorized by an order of the Vizir.

"The establishment of an association is subject, as in France, to the principle of the deposit of its articles in advance."

Tunisia under French administration. "Civil rights affecting the person are governed by the Moslem or Mosaic religious law. Non-registered real property is governed by the Koranic law. Registered real property is governed by a property code. No one may be deprived of his right to property except in the public interest and against prior payment of just compensation.

"Non-Tunisian nationals of a Moslem power retain the personal status defined under their national law.

"Individual freedom is guaranteed by the penal code and the code of criminal procedure. Administrative internment was abolished on the legal date of termination of hostilities.

"Public meetings, other than those held in public thoroughfares, are unrestricted.

"All newspapers or periodicals may be published without prior authorization or deposit of a guarantee. The censorship set up during the period of hostilities has been abolished.

"Though no authorization is required to form associations, they must be notified to the competent authorities."

Curaçao under Netherlands administration. "The following human rights are listed in the information transmitted: freedom of religion, of the Press, and of assembly; the right of petition; and protection against arrest and against search without a warrant."

Surinam under Netherlands administration. "Civil rights established by the Surinam Constitution are: freedom of the Press, assembly, religion, and education; and the right to own individual property."

Indonesia under Netherlands administration. "The Netherlands Constitution, the Netherlands Indies Government Act, and other laws and ordinances, contain various provisions which guarantee and regulate rights such as those in the draft International Covenant on Human Rights now being prepared by the Commission on Human Rights.

"These provisions include:

"(*a*) Protection of the individual, comprising: the right to life; the right to bodily inviolability; the prohibition of torture and cruel or inhumane treatment; the prohibition of slavery; the prohibition of arbitrary arrest; the prohibition of arrest for breach

[1] See *Non-Self-Governing Territories: Summaries and Analyses of Information transmitted to the Secretary-General during 1948.*

of contract; the right to freedom of movement; the prohibition of arbitrary expulsion; the right to a fair trial; the prohibition of arbitrary punishment; the prohibition of loss of civil rights; the freedom of religion and worship; the freedom to express ideas and thoughts; and the right of association and assembly.

"(*b*) Protection of property, comprising: the protection of property, and the freedom of profession and trade.

"(*c*) Protection of human rights, comprising: the prohibition of discrimination with regard to human rights; the prohibition of revealing feelings of hostility between different population groups; and the right of complaint and petition.

"At the outbreak of the war, on the proclamation of martial law, restrictions were imposed on some rights, and these are still in force in Java and Sumatra. In the greater part of East Indonesia and Borneo, however, martial law has been repealed. The most important of these temporary restrictions are those on (*a*) the prohibition of arbitrary arrest, whereby anyone may be arrested and placed in custody by the military authorities for a maximum period of ten days; (*b*) the right to freedom of movement, whereby the military authorities may forbid persons to reside in territory where martial law has been proclaimed or may require them to reside in specified places; and (*c*) the right of association and assembly, whereby all public political meetings have been forbidden and private political gatherings may be held only with the consent of the local authorities."

Niue Island under New Zealand administration. "The islanders enjoy full civil rights, and there is no discrimination of race or creed."

American Samoa under United States administration. "Freedom of speech, the Press, religion and assembly, and the enjoyment of other fundamental rights, are guaranteed by a bill of rights which is an integral part of the Code of American Samoa. Any Samoan chief who by reason of his rank interferes with any person in the free exercise of such rights is subject to fine and imprisonment."

Guam under United States administration. "Freedom of speech, the Press and religion, and other fundamental rights, are guaranteed under a bill of rights."

Hawaii under United States administration. "Protection of civil rights follows the pattern of the United States. All rights guaranteed by the Constitution or protected by laws of the United States, including civil rights statutes, are enjoyed by the inhabitants."

Puerto Rico under United States administration. "Civil rights are guaranteed by clauses in the Organic Act."

Virgin Islands under United States administration. "The Organic Act of 1936 includes among others the following human rights: due process and equal protection of the law; the right to counsel; the right to bail, except for capital offences; no imprisonment for debt; no unreasonable searches and seizures; freedom of speech, Press, and religion; and right of use of facilities in business places and public places of accommodation and amusement. Slavery, the employment of children under 14 years, or the denial of equal treatment because of race is prohibited."

INDEX

EXPLANATORY NOTE. The Index contains references to the constitutional provisions concerning human rights in Part I (States—National Law) of this issue of the *Yearbook*. The figure following the name of the State indicates the article of the constitution in which the respective provision is contained. For references relating to the constitutions printed in earlier *Yearbooks*, the reader should consult the Index of constitutional provisions in the *Yearbook on Human Rights for 1946*, pp. 431–450, and in the *Yearbook on Human Rights for 1947*, pp. 567–581.

Several of the constitutions printed in the *Yearbook* for 1946 or 1947 have been amended in 1948 or replaced by new constitutions. These new or amended texts, namely, the human rights provisions in the constitutions of Czechoslovakia, Luxembourg, Mexico (in part), Netherlands, Nicaragua, Norway and Romania are reproduced in this *Yearbook* and references to them are to be found in the Index.

In the Index, references to individual States of a federation are given under the name of the individual State, followed by the name of the federal State in parentheses. For the convenience of the reader, an alphabetical list of all the States included in the Index is given below, indicating the page on which the constitutional provisions of the State are to be found.

As the constitutions of the individual States do not always contain separate provisions on human rights, but refer to the relevant provisions in the federal constitution, or otherwise need elucidation, the reader should, in such cases, consult the text of the federal constitution which is reproduced in earlier issues of the *Yearbook* and the notes which precede the texts of the constitutional provisions of these States. (See for Brazil, *Yearbook for 1946*, p. 45, *Yearbook for 1947*, p. 18; Germany, *Yearbook for 1947*, p. 100; USSR, *Yearbook for 1947*, pp. 307–312; Venezuela, *Yearbook for 1947*, p. 350, *Yearbook for 1948*, p. 251.

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Cojedes (Venezuela) 9; Czechoslovakia 34; Karelia (USSR) 105, 106; Kazakh (USSR) 109, 110; Kirghiz (USSR) 103, 104; Korea 30; Latvia (USSR) 104, 105; Lithuania (USSR) 104, 105; Miranda (Venezuela) 10; Moldavia (USSR) 105, 106; Netherlands 83, 187, 188, 189, 194; Nicaragua 21, 53; Norway 109; Romania 36; Russian Soviet Federated Socialist Republic (USSR) 136, 137; Tachira (Venezuela) 12; Tadkij (USSR) 119, 120; Turkmen (USSR) 109, 110; Uzbek (USSR) 131, 132.

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MOVEMENT AND SETTLEMENT: Freedom of:

Brandenburg (Germany) 6; Cojedes (Venezuela) 9; Czechoslovakia 7; Korea 10; Mecklenburg (Germany) 9; Miranda (Venezuela) 10; Nicaragua 55; Saxony-Anhalt (Germany) 10; Tachira (Venezuela) 12.

N

NATIONALIZATION (see PROPERTY, NATIONAL).

NATIONALITIES (see MINORITIES).

NATIONALITY (see CITIZENSHIP).

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O

OPINION: Free expression of (*see also* SPEECH; PRESS: Freedom of):

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P

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Brandenburg (Germany) 2; Cojedes (Venezuela) 9; Czechoslovakia 23; Korea 21, 27; Luxembourg 27; Mecklenburg (Germany) 10; Miranda (Venezuela) 10; Netherlands 8; Nicaragua 29, 101; Romania 34; Saxony-Anhalt (Germany) 11; Tachira (Venezuela) 12.

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Brandenburg (Germany) 5; Czechoslovakia 146; Karelia (USSR) 4; Kazakh (USSR) 4; Kirghiz (USSR) 4; Latvia (USSR) 4; Lithuania (USSR) 4; Moldavia (USSR) 4; Romania 5, 11; Russian Soviet Federated Socialist Republic (USSR) 4; Tadjik (USSR) 4; Turkmen (USSR) 4; Uzbek (USSR) 4.

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R

RELIGION: Freedom of; Exercise of: (*see also* STATE RELIGION):

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Brandenburg (Germany) 7; Czechoslovakia III, 28; Karelia (USSR) 92, 95; Kazakh (USSR) 96, 99; Kirghiz (USSR) 90, 93; Latvia (USSR) 91, 94; Lithuania (USSR) 91, 94; Luxembourg 11; Mecklenburg (Germany) 16; Moldavia (USSR) 92, 95; Nicaragua 83; Romania 20; Russian Soviet Federated Socialist Republic (USSR) 123, 126; Saxony-Anhalt (Germany) 17; Tadjik (USSR) 106, 109; Turkmen (USSR) 96, 99; Uzbek (USSR) 118, 121.

S

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SEARCH AND SEIZURE (*see also* CRIMINAL CHARGES; PERSON: Inviolability of):

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T

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W

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Czechoslovakia III, 32; Karelia (USSR) 12; Kazakh (USSR) 12; Kirghiz (USSR) 12; Korea 17; Latvia (USSR) 12; Lithuania (USSR) 12; Mecklenburg (Germany) 15; Moldavia (USSR) 12; Romania 12; Russian Soviet Federated Socialist Republic (USSR) 12; Tadjik (USSR) 12; Turkmen (USSR) 12; Uzbek (USSR) 12.

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